

# Quickscribe Reporter

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Vol: XX – Issue: VI – June 2021

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## QUICKSCRIBE NEWS:

### Legislative Session

The BC legislature has adjourned for the summer and is expected to resume later this fall on October 4th. A handful of new Bills were introduced in June; however, with the exception of Bill 16 (Supply Act, 2021-2022), none of these bills progressed past first reading. The June bills include:

- [Bill 12](#) – Insurance (Vehicle) Amendment Act, 2021
- [Bill 14](#) – Early Childhood Educators Act
- [Bill 15](#) – Early Learning and Child Care Act
- [Bill 16](#) – Supply Act, 2021-2022

The following members' bills were also introduced in June:

- [Bill M202](#) – Health Professions Amendment Act, 2021
- [Bill M203](#) – Equal Pay Reporting Act

A reminder that if you would like to be notified on the progress of these bills or any other legislation, visit the [My Alerts](#) page to set up some custom alerts for laws that matter most to you. We recommend trying the BC Legislative Digest or the new [Keyword Alert](#) options.

### Faster Load Times

Quickscribe has recently completed a project to improve the efficiency of how quickly legislation loads on a page. We are pleased to inform you that the net result of these enhancements is that documents now load up to 40% faster.

### Latest Annotations

New annotations were recently added to Quickscribe. The annotations include contributions from the following individuals:

- [Kimberly Jakeman](#), Harper Grey LLP – [Health Professions Act](#)
- [OnPoint Legal Research Corporation](#) – [Expropriation Act](#), [Supreme Court Civil Rules](#), [Real Estate Services Act](#), [CRT Act](#), [Residential Tenancy Act](#), [Environmental Assessment Act](#), [Vancouver Charter](#)
- [Peter Roberts](#), Lawson Lundell LLP – [Property Law Act](#)


If you wish to be alerted when new annotations are published by our contributors, select "My Alerts" via the top navigation, then select the "View Expert Annotators". Here you can view and "follow" any contributor from the list.

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

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## CATEGORIES

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## COMPANY & FINANCE

### Company and Finance News:

#### **Seven Areas the Canada Revenue Agency is Scrutinizing**

The 2021 Federal Budget devoted an additional \$304.1 million to the CRA to help it combat tax evasion and aggressive tax avoidance. The federal government expects to recover \$810 million in revenues over five years.

Based on public documents and information gathered from the CRA and DOJ, we have generated the below list of CRA audit activities already underway and expected to increase over the next couple of years. Even if a taxpayer has done nothing wrong, they may still have to convince eager auditors that they have complied with the law. Read the [full article](#) by Jenny P. Mboutsiadis and Nicolas Simard with Fasken Martineau DuMoulin LLP.

#### **Senate Passes Significant Tax Bill Aimed at Facilitating Intergenerational Business Transfers**

On June 22, 2021, the Senate passed [Bill C-208](#) (following its previous passage in the House of Commons). A Private Members' Bill, Bill C-208 is aimed at facilitating intergenerational business transfers and follows similar Bills introduced by various political parties in previous Parliamentary sessions. [The Bill received Royal Assent and became law on June 29, 2021].

The Bill proposes to amend sections 55 and 84.1 of the [Income Tax Act](#) (Canada) by, in general:

- providing that siblings continue to be related for purposes of section 55 if a share of the corporation paying the subject dividend is a qualified small business corporation share (QSBCS) or share of the capital stock of a family farm or fishing corporation (SFFC), each as defined in s.110.6(1) of the ITA; and
- deeming, for purposes of section 84.1, a vendor to deal at arm's length with a purchaser corporation if the transferred shares are QSBCS or SFFC, the purchaser corporation is controlled by one or more children or grandchildren of the vendor who are 18 years of age or older, and the purchaser corporation does not dispose of the subject shares within 60 months after their purchase.

Read the [full article](#) by [Alexander Demner](#) of Thorsteinssons LLP.

#### **Cancelled Trips During COVID-19: Consumer Protection BC Weighs in on Travel Refunds under the *Business Practices and Consumer Protection Act***

Consumer Protection BC recently issued an [advisory](#) informing consumers about their rights under provincial law to receive refunds for travel. Specifically, the advisory suggests, "If eligible consumers take the proper steps to exercise their rights, they should be provided with a full refund in the same way they paid, as outlined in the law."

This advisory comes only days after Consumer Protection BC released a [step-by-step guide](#) that explains how consumers can claim refunds for cancelled travel. The guide requires consumers to first address refunds with their travel supplier, such as airlines and tour operators, before filing a complaint with the regulator. A consumer's right to a refund for travel is based on the [distance sales contract provisions](#) of the [Business Practices and Consumer Protection Act](#), S.B.C. 2004, c. 2 (the "BPCPA"). Read the [full article](#) by Miranda Lam, Kirsten Marsh and Heather Mallabone with McCarthy Tetrault LLP.

#### **British Columbia Securities Commission Proposes Rules to Require Disclosure of Promotional Activities**

BCSC's proposed disclosure rules would attempt to address "problematic promotional activity" and improve transparency for investors.

- The issue of potentially misleading promotional activities has been on the radar of Canadian regulators since at least 2018.
- Under proposed BCI 51-519, a person or company that conducted promotional activity would be required to disclose certain information at the time of the promotional activity.
- Those engaging third parties to conduct promotional activities would have to oversee the third party's compliance with the rules, and venture issuers would have additional disclosure requirements.
- Registrants, investment funds, and those conducting promotional activities on their own behalf would be exempted from the rules.
- The BCSC is accepting comments on the proposal until July 26, 2021.

Read the [full article](#) by [Michael G. Urbani](#) of Stikeman Elliott.

### BC Court Provides Commission Another Chance to Collect from Fraudster's Spouse

In March 2020, landmark amendments to the British Columbia [Securities Act](#), RSBC 1996, c. 418, (the "Act") came into force that conferred upon the British Columbia Securities Commission (the "Commission") some of the strongest enforcement powers in the country (the "[March 2020 Amendments](#)"). Notably, in certain circumstances, the March 2020 Amendments expanded the Commission's statutory authority to commence collection proceedings against family members and other third parties of persons found to have contravened the Act.

The recent decision [British Columbia \(Securities Commission\) v. Pasquill](#), 2021 BCSC 1047, ("Pasquill") highlights the impact the March 2020 Amendments could have on the Commission's ability to collect from fraudsters' families and their related holding companies. Read the [full article](#) by [Jordan Deering](#) and [Swetha Popuri](#) of DLA Piper LLP.

### BC Securities – Policies & Instruments

The following policies and instruments were recently published on the BCSC website:

- [21-326](#) – CSA Staff Notice 21-326 *Guidance for Reporting Material Systems Incidents*
- [45-110](#) – CSA Notice of Publication of National Instrument 45-110 *Start-up Crowdfunding Registration and Prospectus Exemptions*
- [33-708](#) – *Transitional Relief Related to the Elimination of the Deferred Sales Charge Option in respect of Client Focused Reforms Enhanced Conflicts of Interest and Client First Suitability Provisions of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.*
- [31-103](#) – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Practices and Consumer Protection Regulation (294/2004)	July 1/21	by <a href="#">Reg 127/2021</a>
Carbon Tax Act	<b>RETRO to</b> Apr. 1/21	by 2021 Bill 4, c. 18, sections 11 and 12 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 1 to 8 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Climate Action Tax Credit Regulation (135/2008)	June 7/21	by <a href="#">Reg 144/2021</a>
Designated Accommodation Area Tax Regulation (93/2013)	July 1/21	by <a href="#">Reg 63/2021</a>

Exemptions from Tax Regulation (287/2019)	July 1/21	by <a href="#">Reg 162/2021</a>
Fairness Officer Regulation	<b>NEW</b> June 4/21	see <a href="#">Reg 142/2021</a>
Income Tax Act	<b>RETRO to</b> Mar. 13/20	by 2021 Bill 4, c. 18, sections 23, 27, 28 and 30 to 32 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	<b>RETRO to</b> Mar. 25/20	by 2021 Bill 4, c. 18, sections 22 and 24 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	<b>RETRO to</b> May 1/20	by 2021 Bill 4, c. 18, sections 26, 34 and 37 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	<b>RETRO to</b> Dec. 18/20	by 2021 Bill 4, c. 18, sections 39 and 41 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	<b>RETRO to</b> Mar. 31/21	by 2021 Bill 4, c. 18, section 29 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 33 and 40 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Insurance Corporation Act	June 4/21	by 2021 Bill 5, c. 3, sections 1 and 2 only (in force by <a href="#">Reg 142/2021</a> ), <a href="#">Insurance Corporation Amendment Act, 2021</a>
Insurance Premium Tax Act	June 17/21	by 2021 Bill 4, c. 18, sections 42 and 43 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
International Business Activity Act	June 17/21	by 2021 Bill 4, c. 18, section 44 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Probate Fee (Memorial Grant for First Responders) Remission Regulation	June 15/21	see <a href="#">Reg 152/2021</a>
Provincial Sales Tax Act	<b>RETRO to</b> Apr. 1/21	by 2021 Bill 4, c. 18, sections 63 to 65 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 61, 66 to 69 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>

Special Accounts Appropriation and Control Act	<b>RETRO to</b> Mar. 31/21	by 2021 Bill 4, c. 18, section 70 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Speculation and Vacancy Tax Act	<b>RETRO to</b> Nov. 27/18	by 2021 Bill 4, c. 18, sections 71, 73, 76 and 77 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 72, 75 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Tobacco Tax Act	June 17/21	by 2021 Bill 4, c. 18, section 82 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	July 1/21	by 2021 Bill 4, c. 18, section 81 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Tobacco Tax Act Regulation (66/2002)	July 1/21	by <a href="#">Reg 147/2021</a>

## ENERGY & MINES

### Energy and Mines News:

#### **BC Carbon Offsets Update – Methane Management Offset Protocol**

The British Columbia Ministry of Environment and Climate Change Strategy has introduced a [draft offset protocol](#) regarding methane from waste, and is seeking public comment on the draft. Once implemented, the protocol would form part of the legislative framework for meeting the Province's greenhouse gas (GHG) reduction targets.

The BC government has enacted various climate action legislation that frames BC's approach to reducing emissions and transitioning to a low-carbon economy. Under the [Climate Change Accountability Act](#), BC has legislated targets for reducing GHG emissions by 40% below 2007 levels by 2030, 60% by 2040, and 80% by 2050. Under the [Carbon Neutral Government Regulation](#), the province also requires provincial public sector organizations to achieve carbon neutrality every year either through emissions reduction or purchasing of BC carbon offsets. Read the [full article](#) by [Dean Dalke](#) of DLA Piper LLP.

#### **Updated Tailings Code after Mount Polley an Improvement: BC Mines Auditor**

Columbia's chief auditor of mines has found changes to the province's requirements for tailings storage facilities made after the Mount Polley disaster have generally improved the management of mining waste. Many of the revisions made in 2016 to BC's health, safety and reclamation code on tailings management align the regulatory framework with the industry's best practices, "with a few exceptions," says the auditor's report released Friday [June 18]. The changes stemmed from recommendations by an independent engineering investigation into the 2014 failure of the tailings dam at the Mount Polley copper and gold mine in BC's Interior, which sent more than 20 million cubic metres of mining wastewater into the surrounding waterways. The audit focused on the clarity, enforceability and consistency of the code revisions with best practices, as well as on industry compliance and government enforcement, finding they have helped, but there is room for improvement. Read the *Canadian Press* [article](#) published on MSN.

#### **BC Court of Appeal Provides Guidance on the Relevance of Climate Change Impacts in Administrative Decision Making [Mines Act]**

In *Highlands District Community Association v. British Columbia (Attorney General)*, the British Columbia Court of Appeal considered whether a mines inspector's decision to approve a proposed small-scale rock quarry under the [Mines Act](#) was unreasonable because he declined to consider climate change impacts. In upholding the inspector's decision, the court concluded that, while the statute permitted the inspector to consider climate

change impacts, it did not require him to do so. Highlands illustrates that courts will generally review discretionary administrative decisions on a deferential standard – even where climate change impacts are concerned – and that the relevance of such impacts will depend on the particular factual and statutory context. Read the [full article](#) by Connor Bildfell with McCarthy Tétrault LLP.

### International Energy Agency Roadmap Raises Questions for BC Gas Industry

The path the IEA charts is an ambitious and aspirational course, but illustrates what it could take for governments to meet climate commitments. Thousands of workers continue construction on LNG Canada's \$18 billion natural gas liquefaction plant at [Kitimat](#) on [British Columbia](#)'s north coast, just as the International Energy Agency (IEA) has posed new questions about future markets for its product. The [IEA](#), last week, published a landmark report outlining a potential pathway for the world's governments to achieve their commitments to reduce greenhouse-gas emissions to net zero levels by 2050. Read the *Vancouver Sun* [article](#).

### Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletins:

- [INDB 2021-20](#) – New Vent Data Collection Template Released
- [INDB 2021-21](#) – New Glycol Dehydrator Data Collection Template
- [INDB 2021-22](#) – Reclamation Guidance for the Use of Ecologically Suitable Species
- [IB 2021-03](#) – Integrity Management Program Audits Show Improvement; Room for Growth

Visit the [BCOGC website](#) to view this and other bulletins.

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (35/2011)	June 1/21	by <a href="#">Reg 136/2021</a>
Applicability (Professional Governance) Regulation (159/2021)	<b>NEW</b> June 30/21	see <a href="#">Reg 159/2021</a>
Clean Energy Act	June 17/21	by 2021 Bill 11, c. 17, section 9 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>
Consultation and Notification Regulation (279/2010)	<b>REPEALED</b> June 1/21	by <a href="#">Reg 50/2021</a>
Direction to the British Columbia Utilities Commission respecting the Customer Crisis Fund	<b>NEW</b> June 21/21	see <a href="#">Reg 163/2021</a>
Emergency Management Regulation (217/2017)	June 1/21	by <a href="#">Reg 50/2021</a>
Fee, Levy and Security Regulation (9/2014)	June 1/21	by <a href="#">Reg 50/2021</a> and <a href="#">Reg 79/2021</a>
Hydro and Power Authority Act	<b>RETRO to</b> Jan. 1/19	by 2021 Bill 4, c. 18, section 21 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Mineral Tax Act	June 17/21	by 2021 Bill 4, c. 18, sections 48 and 49 only (in force by Royal Assent), <a href="#">Budget Measures</a>

		<a href="#">Implementation Act, 2021</a>
Oil and Gas Road Regulation (56/2013)	June 1/21	by <a href="#">Reg 50/2021</a>
Requirements for Consultation and Notification Regulation (50/2021)	<b>NEW</b> June 1/21	see <a href="#">Reg 50/2021</a>
Service Regulation (199/2011)	June 1/21	by <a href="#">Reg 52/2021</a>

## FAMILY & CHILDREN

### Family and Children News:

#### Colucci v. Colucci

*The Supreme Court rejects parent's bid to reduce or cancel \$170,000 child support debt.*

The parties were married in 1983 and divorced in 1996. The mother was awarded sole custody of the couple's two daughters, and the father was ordered to pay child support in the amount of \$115 per child on a weekly basis. For 16 years, the father failed to make any voluntary child support payments, did not disclose his income, and moved to two different countries without notifying the mother. His obligation to pay child support ended in 2012, but by that time, he owed the mother almost \$170,000 in unpaid child support. Read the full Supreme Court of Canada [Case in Brief](#).

#### BC to Make Child Care Registry Public in Move to Improve Accountability, Transparency

*New legislation is also intended to speed up the registration process to allow early childhood educators from outside of BC to be able to practise here.*

BC parents will soon be able to get information about daycares and daycare providers and the minister responsible will report annually on what's being done to improve [child-care services](#), under two bills introduced Tuesday [June 8] at the legislature. The government says its proposed [Early Learning and Child Care Act](#) will increase transparency and accountability by requiring the province to produce annual reports on its progress and will include how the province is collaborating with Indigenous peoples to support Indigenous-led child care. [Note, this bill did not progress past first reading; however, it is expected to achieve Royal Assent in the fall session.] Read the full *Vancouver Sun* [article](#).

#### A Closer Look at the Report on Modernizing the Child, Family and Community Service Act: Emotional Harm

This post is part of a series highlighting recommendations in the [Report on Modernizing the Child, Family and Community Service Act](#). For other posts in the series [click here](#).

Should the ground for protection relating to emotional harm of a child be expanded from circumstances in which a child is emotionally harmed to embrace circumstances in which a child has been or is likely to be emotionally harmed?

The [Child, Family and Community Service Act's](#) ground for protection relating to emotional harm of a child only applies if the child is emotionally harmed. That is, its focus is only on past or ongoing current events, which place the child at need of protection. In contrast, four other grounds for protection apply to past, current, and future events, by virtue of language stating, *if the child has been, or is likely to be*. Should the ground for protection for emotional harm be amended to adopt similar language, which would expand its reach to embrace events that may occur in the future? Read the [full article](#) by Kevin Zakreski with BCLI.

Act or Regulation Affected	Effective Date	Amendment Information
Family Law Act	June 17/21	by 2021 Bill 11, c. 17, sections 4 and 5 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>

## FOREST & ENVIRONMENT

### Forest and Environment News:

#### Will BC's UNDRIP Action Plan Create Compliance Challenges under the US Foreign Corrupt Practices Act, the UK Bribery Act or the Criminal Code of Canada?

Government news releases issued on a Friday are known to receive the least attention – and thus warrant the most scrutiny. On Friday, June 11, 2021, the Government of British Columbia issued a news release entitled "Province seeks input from Indigenous peoples to shape future reconciliation." Surely, that could not involve anything controversial, could it? The news release refers to a draft plan that could significantly change who governs resource development in BC and potentially affect the legality of corporate payments to First Nations. The draft action plan contains many commitments. One of them is as follows:

"the Province will take the following actions in collaboration with Indigenous peoples from 2021 to 2026...

2.5 Negotiate new joint decision-making and consent agreements under section 7 of the [[Declaration on the Rights of Indigenous Peoples Act](#) ("DRIPA")] that include clear accountabilities, transparency and administrative fairness between the Province and Indigenous governing bodies. Seek all necessary legislative amendments to enable the implementation of any section 7 agreements. (Ministry of Indigenous Relations and Reconciliation)"

Read the [full article](#) by Robin M. Junger, Guy Pinsonnault and Timothy Cullen with McMillan LLP.

#### Huu-ay-aht First Nation Sets Road Map for Forest Partnership

Understanding the land and the will of the people and establishing a strong relationship with the big players in the forest industry are key elements to establishing any First Nation as an equal player in the industry, according to the chief of a Vancouver Island First Nation that is already doing it. Robert Dennis, elected chief of the Huu-ay-aht First Nation, told the B.C. First Nations Forestry Conference that becoming a full partner in the industry and controlling the fate of its territory doesn't happen by accident. Read the *Times Colonist* [article](#).

#### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

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

- [Richardson International Limited v. District Director, Environmental Management Act](#) [Consent Order – Appeal Dismissed]

##### [Mines Act](#)

- [Mountainside Quarries Group Inc. v. Ministry of Energy, Mines, and Petroleum Resources](#) [Consent Order – Resolved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Conservation Officer Service Authority Regulation (318/2004)	June 7/21	by <a href="#">Reg 143/2021</a>
Disposition and Change of Control Regulation (351/2004)	June 15/21	by <a href="#">Reg 153/2021</a>
Fairy Creek Watershed Designated Area No. 1 (148/2021)	<b>NEW</b> June 9/21	see <a href="#">Reg 148/2021</a>
		by 2021 Bill 4, c. 18, section 19 only (in force by



Forest Act	June 17/21	Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Logging Tax Act	June 17/21	by 2021 Bill 4, c. 18, sections 46 and 47 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
New Tree Fruit Varieties Development Council Regulation (44/2002)	June 30/21	by Reg 44/2002
Professional Governance General Regulation (107/2019)	June 30/21	by <a href="#">Reg 160/2021</a>

## HEALTH

### Health News:

#### As COVID-19 Outbreaks in Long-term Care Continue, BC Rethinks Voluntary Vaccines Policy

Ninety-five per cent of seniors at Kelowna's Spring Valley long-term care home have been vaccinated to protect them against COVID-19, but only two-thirds of caregivers at the facility had rolled up their sleeves for their shot when an outbreak was declared in mid-May. Over the past month, 11 residents have died because of the virus. Since British Columbia began its [vaccine](#) program in December, workers in [long-term care](#) homes have had the choice over whether to be vaccinated. Employers are not even allowed to require employees to say if they have been vaccinated. Read *The Globe and Mail* [article](#).

#### BCLI & CCEL Issue Study Paper On Health Care Consent and Capacity Assessment Tribunals

BCLI and CCEL have released the [Study Paper on Health Care Consent and Capacity Assessment Tribunals](#), which examines informal tribunals operating in Canada and Australia that review findings of mental incapacity to consent to health care or admission to a care facility and resolve disputes about substitute decision-making in health care. Read the [full statement](#) by Greg Blue, Q.C. published on the British Columbia Law Institute website.

Act or Regulation Affected	Effective Date	Amendment Information
Accessible British Columbia Act	June 17/21	c. 19, SBC 2021, <a href="#">Bill 6</a> , sections 1 to 10 , 13 to 20 and 28 to 32 only (in force by Royal Assent)
COVID-19 Related Measures Act	<b>RETRO to</b> July 10/20	by 2021 Bill 11, c. 17, section 1 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>
	June 17/21	by 2021 Bill 11, c. 17, sections 2 and 3 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>
	June 30/21	by <a href="#">Reg 172/2020</a> and <a href="#">Reg 165/2021</a>
Sewerage System Regulation (326/2004)	June 30/21	by <a href="#">Reg 160/2021</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

## **BC Accessibility Legislation Now in Force**

On June 17, 2021, the BC Legislature passed the [Accessible British Columbia Act](#) (the "Act") into law. The Act will create new responsibilities for organizations.

### **What Does the Act Do?**

The Act allows the provincial government to establish "accessibility standards" aimed at identifying, removing and preventing barriers to accessibility and inclusion. A "barrier" is defined as "anything that hinders the full and equal participation in society of a person with an impairment".

### **Development of Accessibility Standards**

An accessibility standard is a rule that government and organizations must follow to remove barriers in a specific sector.

The government may establish accessibility standards in a range of sectors, including employment, delivery of services, the built environment, information and communications, transportation, health, education, and procurement, among others.

Read the [full article](#) by David G. Wong, Matthew Allard and Fabian Jankovic with Fasken Martineau DuMoulin LLP.

## **Employees Cannot Collect Twice – CERB Payments Deducted from Wrongful Dismissal Awards**

In the case of *Hogan v 1187938 BC Ltd.*, [2021 BCSC 1021](#), the BC Supreme Court confirmed that an employee's receipt of Canada Emergency Response Benefit ("CERB") payments after termination should be deducted from an award of damages for wrongful dismissal.

### **Facts**

Mr. Hogan started working at the defendant's automotive dealership in 1998 as a technician. He was gradually promoted over the years to the position of assistant service manager. He, along with several other employees, was placed on a temporary layoff in March 2020 because of the significant downturn in business due to the COVID-19 pandemic. Mr. Hogan was ultimately not recalled for work after March 2020 and he was terminated in August 2020.

Read the [full article](#) by Scott Marcinkow with Harper Grey LLP.

## **BC Financial Services Authority Revises Their Information Security and Outsourcing Guidelines**

In response to industry feedback after its initial release of the Information Security Guideline, BC Financial Services Authority (BC FSA) has issued:

1. A revised version of the [Information Security Guideline](#) and
2. The new [Outsourcing Guideline](#).

BC FSA advised in its [Advisory 21-015](#) that accompanied the revised Information Security Guideline that the revisions reflect the response from the pension sector. The revised Information Security Guideline distinguishes between BC credit unions, insurance and trust companies on the one hand and pension plan administrators on the other. The prior version of the Information Security Guidelines applied equally to all of those entities, despite the differences in their scope, purpose and operational structures. Read the [full article](#) by [Lisa Chamzuk](#) with Lawson Lundell LLP.

## **From Bad to Worse: Court of Appeal Significantly Increases Damages Award Due to Egregious Conduct of Employer**

While all legal decisions have something interesting to tell us about employment law, there are those cases that lawyers keep in their back pocket to serve as a cautionary tale for clients about the potential cost of HR blunders. [Ojanen v Acumen Law Corporation](#), a decision of the British Columbia Court of Appeal, is, without question, one of those cases. We often see appeal courts reducing damage awards on appeal, in order to bring them more in line with established case law. *Ojanen* is certainly an exception – in this case, the behaviour of the employer in question was so egregious that the Court of Appeal was compelled to more than triple the award granted at trial. Read the [full article](#) by the team at Rudner Law, published on the website *First Reference*.

## **Employer Reimbursement Program Launches COVID-19 Paid Sick Leave**

Starting Thursday, June 17, 2021, employers can apply for reimbursement of wages paid to workers who have taken sick leave related to COVID-19. The temporary reimbursement program is retroactive to May 20, when

legislation was passed, to ensure sick workers can stay home for up to three days without losing wages, while supporting businesses during the pandemic.

The amendments to the [Employment Standards Act](#) (ESA) require employers to pay sick workers their regular wages. Employers can then apply for reimbursement up to \$200 per day, to a maximum of three days per worker. Any employer whose workers are covered under the ESA but does not currently provide paid sick leave benefits to its employees will be eligible. Read the full government [new release](#).

**Howard Levitt: Here Are Some Ways Employers Can (Legally) Get People Back to Work**

Employers might require employees to remain in the province of the company or require them to be available to attend work the following day at any time. I am arguing cases at live hearings in both British Columbia and Alberta this coming week, a sign the Grand Reopening has unofficially commenced. You see it everywhere. Previously repressed Canadians out and about, spending the money they saved at unprecedented rates during the past 15 months. They are re-enacting the lives they fondly remembered and have been desperate to have return: dining, travelling, visiting their friends and fully returning to work. But threats remain. Irresponsible fiscal policy has led to inflationary risks which could ultimately hemorrhage the employment market. Employees have been incentivized to stay home with stimulus cheques paying close to what they earned working. Employers, particularly of lower income workers, have had trouble recruiting, and that was before the economy sprung fully to life. But those stimulus cheques are getting smaller, driving more employees back into the workforce. Read the *Financial Post* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Employment Standards Act	June 17/21	by 2021 Bill 11, c. 17, section 7 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>
Employment Standards Regulation (396/95)	June 1/21	by <a href="#">Reg 12/2018</a> and <a href="#">Reg 80/2018</a>
Employer Health Tax Act	<b>RETRO to</b> Mar. 30/21	by 2021 Bill 4, c. 18, sections 13, 15 and 18 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 14 and 16 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Health Care Employers Regulation (155/2021)	June 15/21	by <a href="#">Reg 155/2021</a>
Salary Range Regulation (152/2017)	June 24/21	by <a href="#">Reg 164/2021</a>

**LOCAL GOVERNMENT**

**Local Government News:**

**BC Court of Appeal Restores the City's Decisions Regarding Expiration of Building Permits**

On June 9, 2021, the BC Court of Appeal released reasons for judgment in *Yu v. Richmond (City)*, [2021 BCCA 226](#). In this case, the Court overturned two decisions of the BC Supreme Court in *Minster Enterprises Ltd. v. City of Richmond*, [2020 BCSC 455](#) and *Yu v. City of Richmond*, [2020 BCSC 454](#).

In both cases, the respondents had obtained building permits from the City to construct large single-family homes on ALR land (15,006 and 13,482.77 square feet, respectively). The permits, issued prior to the Province's

move to restrict the size of non-farm buildings on ALR land, were marked with an expiration date of six months from their issuance "if no construction activity" were to occur. Read the full client [news bulletin](#) by Nick Falzon and Alexandra Greenberg, Articled Student with Young Anderson Barristers & Solicitors.

### **Claiming Privilege Over Records of Closed Meetings of Council**

In *McGraw v. Southgate (Township)*, 2021 ONSC 2785 the Ontario Superior Court of Justice considered the appropriateness of disclosing a recording of a closed council meeting. The disclosure was sought in a wrongful dismissal suit brought by a former employee of the Township and the recording contained discussions related to the Township's decision to terminate the Plaintiff's employment. The Township opposed the disclosure of the recording on a number of grounds of privilege. The judge assessed the merits of each claim of privilege over the recording before ultimately ordering the disclosure of a part of the recording.

This decision is a good reminder to local governments that even discussions which occur during closed meetings may not remain confidential in all circumstances. As such, it is important to remain conscious that any recordings or notes of the closed meeting may one day be put before a Court. It is therefore prudent on local governments to maintain appropriate record-keeping practices in order to preserve as much confidentiality as possible. Read the [full article](#) by David Giroday with Stewart McDannold Stuart.

### **BC Waives Income Requirements for Farm Operations**

For the second consecutive year, the Province is waiving the income requirements normally required for existing BC farm operations when qualifying for farm classification.

"The pandemic has been very difficult for everyone, including the thousands of British Columbians who are involved in putting food on our tables," said Lana Popham, Minister of Agriculture, Food and Fisheries. "Over the past year, the trend of buying BC food has grown instinctively in families and communities around our province. By maintaining this change for another year, we are letting BC farmers know that we have their back, so they can continue to focus on providing their amazing and delicious products we all enjoy."

If the Province had not taken action with a regulatory amendment last year, more than 400 farm properties with a history of sub-threshold income and many developing farms would have been at risk of losing their farm class for 2021. By once again eliminating the income requirement as BC recovers from COVID-19, farmers will not have to worry about the possibility of losing their farm classification and having an increase in property taxes in 2022. Read the full government [news release](#).

### **RCMP Union Agrees to Tentative Deal**

The Government of Canada and National Police Federation, the bargaining unit representing RCMP members, have tentatively reached a six-year [collective agreement](#). Details of the agreement will not be made public until RCMP members have an opportunity to examine and potentially ratify the agreement later this summer. Read the UBCM [article](#).

### **BC Lends Support to Temporary Patios Going Permanent**

Updated on June 16, 2021

More than 2,000 temporary patios authorized to serve liquor during the COVID-19 pandemic can apply to become permanent under amended provincial liquor regulations. This includes prospective patios that are supported by local governments and meet local bylaws.

"Temporary patios have been a lifeline for so many businesses and workers in the hospitality sector, and we're committed to making these expanded serving areas part of their long-term recovery and beyond," said Mike Farnworth, Minister of Public Safety and Solicitor General. Read the full [news release](#).

### **Community Wildfire Resiliency Funding**

Applications are now being invited for the 2022 Community Resiliency Initiative FireSmart Community Funding & Supports program. Local governments and First Nations in BC are eligible to apply for funding to undertake community-based FireSmart planning and activities that reduce the community's risk from wildfire. The intake is open until October 8, 2021. Eligible applicants may apply for up to \$50,000 or \$150,000, depending on their specific risk of wildfire. There are opportunities to apply for additional funding for regional districts, and for fuel management proposals that include Provincial Crown land within and adjacent to community boundaries. Read the UBCM [article](#).

### **Courts Confirm Local Government Powers to Protect Tenants**

In two recent decisions, released only one month apart, the BC Court of Appeal and BC Supreme Court gave local governments two big wins in relation to their ability to protect tenants.

In *VIT Estates v. New Westminster*, [2021 BCSC 573](#), the BC Supreme Court confirmed that the residential rental tenure zoning power at [section 481.1](#) of the [Local Government Act](#) ("RRT Zoning") could be used to preserve existing rental units. In that case, the City applied an RRT Zoning Bylaw to six stratified buildings which were wholly owned by various corporate entities. The Bylaw specified that those units – which had always been occupied by tenants – could henceforth only be occupied in that same manner. No owner of any such unit would be able to occupy it while the Bylaw was in force. Read the [full article](#) by Nick Falzon with Young Anderson Barristers and Solicitors published in the firm's LGMA Conference newsletter.

### WHADDAYAMEAN? – A Ramble Through the BC Interpretation Act

Artisans of all sorts have a go-to tool that they find themselves using more often than any other. For chefs, it's likely the so-called chef's knife; for carpenters, perhaps a try square or marking gauge; for barbers, a particular pair of scissors. For many public law lawyers, it's the [Interpretation Act](#). A quick stroll through the BC *Interpretation Act* viewed through a local government lens will give an idea of how important this tool is to lawyers in our firm. (There's also an *Interpretation Act* applicable to federal enactments, that we consult less frequently.) Read the [full article](#) by Bill Buholzer in the LGMA Conference Issue of the Young Anderson Newsletter.

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Act	June 17/21	by 2021 Bill 4, c. 18, sections 1 to 8 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Assessment Authority Act	July 1/21	by 2020 Bill 10, c. 1, section 3 only (in force by Royal Assent), <a href="#">Municipal Affairs and Housing Statutes Amendment Act, 2020</a>
Cannabis Control and Licensing Act	June 17/21	by 2021 Bill 8, c. 15, sections 23, 34 to 37, 52 and 53 only (in force by Royal Assent), <a href="#">Public Safety and Solicitor General Statutes Amendment Act, 2021</a>
	June 30/21	by 2021 Bill 8, c. 15, sections 1 to 22, 24 to 33 and 38 to 51 only (in force by <a href="#">Reg 172/2021</a> ), <a href="#">Public Safety and Solicitor General Statutes Amendment Act, 2021</a>
Cannabis Control Regulation (204/2018)	June 30/21	by <a href="#">Reg 172/2021</a>
Cannabis Control and Licensing Transitional Regulation (203/2018)	<b>REPEALED</b> June 30/21	by <a href="#">Reg 172/2021</a>
Cannabis Distribution Act	June 30/21	by 2021 Bill 8, c. 15, sections 54 to 58 only (in force by <a href="#">Reg /2021</a> ), <a href="#">Public Safety and Solicitor General Statutes Amendment Act, 2021</a>
Cannabis Licensing Regulation (202/2018)	June 17/21	by <a href="#">Reg 156/2021</a>
	June 30/21	by <a href="#">Reg 172/2021</a>
		by 2021 Bill 4, c. 18, section 20 only (in force by

Home Owner Grant Act	June 17/21	Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Independent School Act	July 1/21	by 2020 Bill 8, c. 4, sections 2 to 6 only (in force by Royal Assent), <a href="#">Education Statutes Amendment Act, 2020</a>
Liquor Control and Licensing Act	June 30/21	by 2021 Bill 8, c. 15, section 60 only (in force by <a href="#">Reg 173/2021</a> ), <a href="#">Public Safety and Solicitor General Statutes Amendment Act, 2021</a>
Liquor Control and Licensing Regulation (241/2016)	June 6/21	by Reg 241/2016
	June 15/21	by <a href="#">Reg 154/2021</a>
	June 30/21	by <a href="#">Reg 169/2021</a> and <a href="#">Reg 173/2021</a>
Local Government Act	June 17/21	by 2021 Bill 10, c. 16, sections 5 to 8 only (in force by Royal Assent), <a href="#">Municipal Affairs Statutes Amendment Act, 2021</a>
Ports Property Tax Act	June 17/21	by 2021 Bill 4, c. 18, section 55 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
School Act	July 1/21	by 2020 Bill 8, c. 4, sections 7, 9 to 13, 19, 20 25, and 30 only (in force by Royal Assent), <a href="#">Education Statutes Amendment Act, 2020</a>
School Tax Remitting Regulation (109/2019)	June 21/21	by <a href="#">Reg 161/2021</a>
Taxation (Rural Area) Act	June 17/21	by 2021 Bill 4, c. 18, sections 79 and 80 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Vancouver Charter	June 17/21	by 2021 Bill 4, c. 18, section 83 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 10, c. 16, sections 19 and 20 only (in force by Royal Assent), <a href="#">Municipal Affairs Statutes Amendment Act, 2021</a>
Worker Qualification Regulation,	<b>REPEALED</b> June 17/21	by <a href="#">Reg 156/2021</a>

## MISCELLANEOUS

### Miscellaneous News:

**New BC Law Banning Ticket-buying Bots Takes Effect July 1**

BC's [Ticket Sales Act](#) comes into effect just as COVID-19 restrictions start to lift for live shows and events. New BC legislation to make it easier for fans to buy tickets to live events without getting gouged on the secondary market comes into effect July 1. The new [Ticket Sales Act](#) aims to help level the playing field by banning bots that scoop up large quantities of tickets to concerts, sports events and other live performances for resale purposes. It will also increase transparency by requiring businesses to spell out refund requirements and terms and conditions of the sale. Read the [Vancouver Sun article](#).

### **Group Denied Status under Canada's Indian Act Claim "Discriminatory" Registration Provisions Violate Charter**

A group of descendants of Indigenous men who gave up their status under Canada's [Indian Act](#), in part to keep their children out of the country's abusive residential school system, are suing the Attorney General of Canada, claiming the Act's registration provisions are discriminatory and unconstitutional.

The group, made up of 16 individuals from the Haida Nation, the Pinaymootang First Nation and the Campbell River Indian Band, filed a notice of civil claim in B.C. Supreme Court June 10. The lawsuit details the legislative history and evolution of Canada's [Indian Act](#) regarding "Indian enfranchisement," where Indigenous peoples in the late 19th and early 20th century were made Canadian citizens if they gave up their status under the Act. Read the BIV [article](#).

### **Is a Receiver Bound by an Arbitration Agreement?**

On June 10, 2021, the Supreme Court of Canada (SCC) granted leave to appeal the decision of the British Columbia Court of Appeal in *Petrowest Corporation v Peace River Hydro Partners*, [2020 BCCA 339](#). The main issue in this case is the enforceability of arbitration agreements as against a court-appointed receiver. Here, the court-appointed receiver brought a claim against the appellants arising out of contracts between the appellants and the debtor. The appellants responded by applying for a stay of the litigation pursuant to section 15 of the (then) [Arbitration Act](#), RSBC 1996, c. 55 (the *Arbitration Act*), on the basis that the contracts contained arbitration agreements. The chambers judge concluded the receiver was bound by the arbitration clauses, but exercised "inherent jurisdiction" to allow the litigation to proceed. The British Columbia Court of Appeal (BCCA) dismissed the appeal, but for different reasons, finding that the receiver was not bound by the arbitration agreements and could disclaim the arbitration agreements while still suing on the substantive provisions of the contracts. In arriving at such decision, the BCCA applied the well-established principle of separability in arbitration. Read the [full article](#) by Josef Krüger, Robyn Gurofsky, Jessica Cameron, Jack Maslen, Tiffany Bennett, Nanditha Iyer with Borden Ladner Gervais.

### **BC Shifts to Step 3 of Restart Plan**

With British Columbians achieving nearly 80% adult Dose 1 vaccine coverage and COVID-19 case counts continuing to decline, the Province is safely moving to Step 3 of its four-step restart plan on July 1, 2021.

"British Columbians have stepped up at every stage throughout this pandemic," said Premier John Horgan. "We've helped our neighbours stay safe, we've sacrificed time with friends and family and we have diligently registered to get vaccinated. We've now reached a point in our vaccination efforts when we can begin to remove restrictions. Let's continue to respect everyone's comfort level as we safely take another step toward putting this pandemic behind us."

Moving to Step 3 will signal the end to the longest provincial state of emergency in BC's history. The emergency will be lifted on June 30 at 11:59 p.m. Read the full [news release](#).

<b>Act or Regulation Affected</b>	<b>Effective Date</b>	<b>Amendment Information</b>
Committees of the Executive Council Regulation (156/2017)	<b>REPEALED</b> June 10/21	by <a href="#">Reg 150/2021</a>
Committees of the Executive Council Regulation (150/2021)	<b>NEW</b> June 10/21	see <a href="#">Reg 150/2021</a>
Electoral Boundaries Commission Act	June 17/21	by 2021 Bill 7, c. 20, sections 1 and 2 only (in force by Royal Assent), <a href="#">Electoral Boundaries Commission Amendment Act, 2021</a>

Jury Act	June 17/21	by 2021 Bill 8, c. ?, section 59 only (in force by Royal Assent), <a href="#">Public Safety and Solicitor General Statutes Amendment Act, 2021</a>
Police Act	June 1/21	by 2019 Bill 31, c. 18, section 2 only (in force by Royal Assent), <a href="#">Police Amendment Act, 2019</a>
Police Tax Regulation (164/2007)	June 30/21	by <a href="#">Reg 171/2021</a>
Ticket Sales Act	July 1/21	by 2019 Bill 27, c. 13, sections 1 (part), 3 to 17, 20 to 29 (in force by <a href="#">Reg 129/2021</a> ), Ticket Sales Act
Ticket Sales Regulation (129/2021)	July 1/21	see <a href="#">Reg 129/2021</a>

## MOTOR VEHICLE & TRANSPORTATION

### Motor Vehicle & Transportation News:

#### U.S. Agency Orders Automated Vehicle Makers to Report Crashes

The U.S. government's highway safety agency has ordered automakers to report any crashes involving fully autonomous vehicles or partially automated driver assist systems. The move Tuesday [June 29] by the National Highway Traffic Safety Administration indicates the agency is taking a tougher stance on automated vehicle safety than in the past. It has been reluctant to issue any regulations of the new technology for fear of hampering adoption of the potentially life-saving systems. The order requires vehicle and equipment manufacturers and companies that operate the vehicles to report crashes on public roads involving fully autonomous vehicles, or those in which driver assist systems were operating immediately before or during a crash. Read the CTV [news article](#).

#### Canadians Face Increased Fine Amounts for Trespassing onto Railway Property and Interfering with the Safe Operations of the Railway System

Railways are a crucial part of our national transportation network, delivering important products and commodities to Canadians, or to ports for export. The Government of Canada is taking action to enhance the safety and security of Canada's railway system, railway employees, railway passengers, as well as those living and working near Canada's rail corridors. Today [June 23], the Minister of Transport, the Honourable Omar Alghabra, announced amendments to the [Contraventions Regulations](#), with regard to provisions under the [Railway Safety Act](#) that increase the fine amounts for trespassing onto property where railway lines are located and for not giving way at railway crossings. Read the full government [news release](#).

#### Defendant Obligated to Yield to Plaintiff's Car which Entered Intersection Ahead: BC Case

The Supreme Court of British Columbia has recently rejected the defendant's version of events in a personal injury case featuring a motor vehicle accident, on the basis of this version's inconsistency with the recorded damage to the vehicle.

In *Kim v. Dresser*, [2021 BCSC 1032](#), the plaintiff and the defendant were involved in a March 2015 collision at an intersection, which was a four-way stop with stop signs visible in every direction. The plaintiff filed an action seeking compensation for numerous injuries sustained due to the accident, but the defendant denied liability. Read the [full article](#) by [Bernise Carolino](#) on the *Canadian Lawyer*.

#### New Fairness Officer at Insurance Corporation of British Columbia to Be in Place by End of 2021

The Insurance Corporation of British Columbia's new fairness officer, which seeks to ensure that the corporation's decisions, actions and practices are transparent and fair, has been approved, announced the province on June 4.

BC intends for the fairness officer to be in place by the end of 2021, [said a news release](#). The related amendments to the [Insurance Corporation Act](#) received royal assent on Mar. 25 and the applicable regulations, which impose additional parameters to the fairness officer's role, received approval on June 2. Read the [full](#)



[article](#) by [Bernise Carolino](#) on the *Canadian Lawyer*.

### CVSE Bulletins & Notices

The following notices were posted recently by CVSE:

- [Circular 04-21](#) – Changes to Pilot Car Requirements and Travel Times for Oversize Loads
- [CVSE 1016](#) – 9-Axle Logging Truck Routes

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

Act or Regulation Affected	Effective Date	Amendment Information
Fairness Officer Regulation (142/2021)	June 4/21	see <a href="#">Reg 142/2021</a>
Insurance Corporation Act	June 4/21	by 2021 Bill 5, c. 3, sections 1 and 2 only (in force by <a href="#">Reg 142/2021</a> ), <a href="#">Insurance Corporation Amendment Act, 2021</a>
Lien on Impounded Motor Vehicles Regulation (25/2015)	July 1/21	by <a href="#">Reg 125/2021</a>
Motor Fuel Tax Act	<b>RETRO to</b> Apr. 20/21	by 2021 Bill 4, c. 18, section 50 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 51 and 52 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Motor Vehicle Act	June 7/21	by 2020 Bill 2, c. 9, section 1 only (in force by <a href="#">Reg 145/2021</a> ), <a href="#">Motor Vehicle Amendment Act, 2020</a>
	July 1/21	by 2021 Bill 11, c. 17, sections 10 to 12 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>
Motor Vehicle Act Regulations (26/58)	June 1/21	by <a href="#">Reg 100/2021</a>
	June 7/21	by <a href="#">Reg 145/2021</a>
	June 30/21	by <a href="#">Reg 170/2021</a>
Special Direction IC2 to the British Columbia Utilities Commission (307/2004)	June 10/21	by <a href="#">Reg 151/2021</a>
Use of Electronic Devices While Driving Regulation (308/2009)	June 7/21	by <a href="#">Reg 145/2021</a>
Violation Ticket Administration and Fines Regulation (89/97)	June 7/21	by <a href="#">Reg 145/2021</a>
	June 30/21	by <a href="#">Reg 166/2021</a>

## OCCUPATIONAL HEALTH AND SAFETY

### Occupational Health & Safety News:

#### **Adverse Reactions to COVID-19 Vaccinations May Be Compensable**

As more of the population becomes vaccinated against COVID-19, an issue to be considered is whether a worker or employee who has an adverse reaction to the COVID-19 vaccine is entitled to any compensation under BC workers' compensation benefits (WorkSafeBC).

WorkSafeBC has recently commented on this topic stating that if a worker experiences an adverse reaction, injury or death from the COVID-19 vaccination, it may be compensable where the worker can show that injury or death arose in the course of their employment. Read the [full article](#) by [Kirstn Mase](#) of Edwards, Kenny & Bray LLP.

#### **7 Signs of Sleep Deprivation at Work**

Lack of sleep can have a devastating effect on worker health – and on an organization's bottom line. It is common knowledge that humans need on average seven to eight hours of sleep a night to properly function. Researchers at Hult International Business School have found however that most professionals only get around six hours and 28 minutes of sleep a night – which maybe doesn't seem so bad but ultimately builds up in the long-run.

While short term sleep loss may be caught up, chronic issues with sleep are a huge problem – not just for worker health but job performance as well. The National Institute for Working Life estimated that sleep deprivation among workers costs businesses around USD\$350 billion worldwide annually. Read the [full article](#) by Maia Foulis with Canadian Occupational Safety.

#### **Consultation on Proposed Amendments to Part 3 of the Occupational Health and Safety Regulation**

– from WorkSafeBC

Our Policy, Regulation and Research Division is requesting feedback on proposed amendments to Part 3, Rights and Responsibilities, new section 3.12.1 – Reassignment of refused work, of the [Occupational Health and Safety Regulation](#). The consultation phase provides stakeholders an opportunity to share feedback before the proposed amendments are taken to public hearing. View the [proposed regulatory amendment](#) and information on how to provide feedback. Read the official WorkSafeBC [news release](#) for more information including feedback deadlines and contact information.

#### **New Public Health Orders**

The Public Health Office (PHO) recently issued the following Orders & Guidelines:

Orders:

- [Food and Liquor Serving Premises – June 30, 2021 \(PDF, 338KB\)](#)
  - Read related [Public Health guidance](#)
- [Gatherings and Events – June 30, 2021 \(PDF, 244KB\)](#)
  - Read related [Public Health guidance](#)
- [Agricultural Temporary Foreign Workers – June 20, 2021 \(PDF, 286KB\)](#)
- [Workplace and Post-Secondary Institution Safety – June 14, 2021 \(PDF, 360KB\)](#)
- [Coverage of Electoral Area J of the Cariboo Regional District – June 10, 2021 \(PDF, 272KB\)](#)
- [Overnight Camps for Children or Youth – June 7, 2021 \(PDF, 310KB\)](#)

Notices:

- [Notice of Repeal of the Workplace and Post-Secondary Institution Safety Order – June 29, 2021 \(PDF, 215.8KB\)](#)
- [Notice of Repeal of the Workplace Safety Plans Order – June 29, 2021 \(PDF, 192.1KB\)](#)

Guidance:

- [Guidance for Courthouse Users During the COVID-19 Pandemic & BC Restart Plan – June 30, 2021 \(PDF, 401KB\)](#)
- [Guidance for Episodic Markets – June 24, 2021 \(PDF, 657KB\)](#)

- [Guidance for Retail Food and Grocery Stores – June 24, 2021 \(PDF, 657KB\)](#)
- [Guidance for Food and Liquor Serving Premises – June 24, 2021 \(PDF, 687KB\)](#)
- [Guidance for Holding Low Risk Worship Services – June 15, 2021 \(PDF, 427KB\)](#)
- [Guidance for Holding Low Risk Stand-Alone Lifecycle Events – June 15, 2021 \(PDF, 428KB\)](#)

Visit the [PHO website](#) to view these and other related orders and notices.

### **OHS Policies/Guidelines – Updates**

WorkSafeBC recently issued the following OHS Updates:

OHS Guidelines – Occupational Health and Safety Regulation

The following guideline was issued:

- Part 8 Personal Protective Clothing and Equipment
  - [G8.13 Use of safety headgear with bicycles and skates](#) (new)

The following guideline was retired:

- Part 8 Personal Protective Clothing and Equipment
  - [G8.21\(2\)-1 Leg protection – WorkSafeBC standards](#) (new)

Editorial revisions were made to the following guidelines:

- Part 8 Personal Protective Clothing and Equipment
  - [G8.5\(b\) Special program option for pulp and paper industry](#)
  - [G8.12-8.13 Use of safety headgear for workers on ATVs & similar eqpt in agricultural ops](#)
  - [G8.26\(3\) Buoyancy equipment and fall protection](#)
  - [G8.28 Working alone or in isolation with a hazard of drowning](#)
  - [G8.38\(2\) Respiratory protection and use of contact lenses](#)
  - [G8.42 Medical assessment](#)
- Part 10 De-energization and Lockout
  - [G10.3 Worker entry into J-bar sorting systems in sawmills](#)
  - [G10.4\(1\) Lockout of multiple control devices](#)
  - [G10.10\(2\) Approval of control system isolating devices](#)
- Part 11 Fall Protection
  - [G11.1 Definitions – Anchor and anchorage](#)
- Part 13 Ladders, Scaffolds and Temporary Work Platforms
  - [G13.1 Types of work platforms](#)
  - [G13.2\(1\)\(b\) Ladders in manholes](#)
  - [G13.19 When and how to ground metal scaffold](#)
  - [G13.25 Warning devices](#)
- Part 19 Electrical Safety
  - [G19.28 Emergency work](#)
  - [G19.35 Tree pruning and falling equipment](#)
- Part 20 Construction, Excavation and Demolition
  - [G20.77 Mechanical equipment](#)
- Part 24 Diving, Fishing and Other Marine Operations
  - [G24.13 Principal performers using underwater diving equipment](#)
  - [G24.26 Breathing mediums](#)
  - [G24.29 Gauges and meters](#)
  - [G24.37 Restrictions on scuba](#)

New and revised guidelines are posted for a 60-day preliminary period, during which time the stakeholder community may [comment and request revisions](#).

Check the [WorkSafe BC Updates page](#) to explore these and other important OHS updates.

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

## PROPERTY & REAL ESTATE

### Property and Real Estate News:

#### BC Homeowner's Court Challenge Threatens to Open "Floodgates" to Assessment Appeals

Judge says appeal board failed to consider allegation of institutional bias by BC Assessment. A B.C. Supreme Court judge has sided with a Whistler homeowner in a court battle the provincial body responsible for property valuations warned could open the "floodgates" for British Columbians to challenge the assessment process in court.

In a [decision released last week](#), Justice Lindsay Lyster found the Property Assessment Review Panel (PARP) failed to give a fair hearing to a property owner who asked the members of the panel to recuse themselves because they were paid through taxes levied according to the same property values they were tasked with deciding. Read the CBC news [article](#).

#### To Stay, You Have to Pay: B.C. Supreme Court Again Rules in Favour of Landlords in Covid-19 Dispute

Once again the courts have confirmed that commercial tenants must pay their rent, despite arguments about the effect of COVID-19.

In a recent decision, *Cherry Lane Shopping Centre Holdings Ltd v. Hudson's Bay Company ULC*, [2021 BCSC 1178](#), the Supreme Court of British Columbia found that the provisions of the lease requiring Hudson's Bay to pay rent were "clear, unequivocal and unambiguous." The court dismissed the tenant's set-off argument based on the effect of the pandemic.

HBC is a tenant in the Cherry Lane Shopping Centre in Penticton, where it has leased retail space since 1996. In May 2020, HBC wrote to the landlord advising that they would not be paying rent due to the COVID-19 pandemic. Each month that HBC failed to pay rent, the landlord issued a notice of default demanding payment. On November 9, 2020, the landlord issued a notice to quit and a notice to terminate the lease in accordance with the terms of the lease. Read the [full article](#) by [Thomas D. Boyd](#) and [Natasha Sanders](#) with Lawson Lundell LLP.

#### BC Court of Appeal: Inconsequential Defect in Builders Lien Form Does Not Invalidate Claim of Lien

In the recent decision of *A.W. Kennedy Construction Inc. v. Wan*, [2021 BCCA 175](#), the BC Court of Appeal had an opportunity to consider whether a non-substantive error on a Claim of Lien form rendered the claim of lien invalid under sections 15 and 22 of the [Builders Lien Act](#) ("BLA").

Section 15 (1) of the BLA provides that "... a claim of lien is made by filing in the land title office a claim of lien in the prescribed form" [emphasis added] and section 22 states that "a lien in respect of which a claim of lien is not filed in the manner and within the time provided in this Act is extinguished."

The Claim of Lien in question deviated from the prescribed form in that the first paragraph of the Claim of Lien was left blank. This section of the form requires the lien claimant to set out its name and address. However, this information was not missing from the Claim of Lien, as the lien claimant had included the company name and address in the preamble of the form. Read the [full article](#) by [Scott Harcus](#) with Alexander Holburn Beaudin + Lang LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Land Tax Deferment Act	June 17/21	by 2021 Bill 4, c. 18, section 45 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>

Property Transfer Tax Act	<b>RETRO to</b> Apr. 20/21	by 2021 Bill 4, c. 18, sections 57 and 58 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
	June 17/21	by 2021 Bill 4, c. 18, sections 56, 59 and 56 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2021</a>
Residential Tenancy Act	June 17/21	by 2021 Bill 11, c. 17, section 6 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2021</a>
	July 1/21	by 2021 Bill 7, c. 1, sections 13 to 18 only (in force by Royal Assent), <a href="#">Tenancy Statutes Amendment Act, 2021</a>

## WILLS & ESTATES

### Wills and Estates News:

#### **Nova Scotia Court of Appeal Allows Appeal in Lawen Estate**

Both Nova Scotia and British Columbia allow independent adult children to apply to court to vary their parents' wills. Although other provinces in Canada have legislation allowing spouses, minor and dependent children to apply for dependant's relief on the death of a spouse or parent who has provided little or no inheritance, the provisions allowing independent adult children to apply are not common.

British Columbia has had this legislation under various titles for over 100 years now. The Supreme Court of Canada has decided cases and outlined principles that are to applied to claims made under British Columbia's legislation, including claims by independent adult children. Read the [full article](#) by [Stan Rule](#), with Sabey Rule LLP and published on his blog *Rule of Law*.

#### **No Posthumous Removal or Use of Reproductive Material Without Consent**

Can human reproductive material removed from a deceased donor who had not given prior written consent to its removal or use be used to create embryos to allow his partner to have a child fathered by him? The definitive answer is no, per the BC Court of Appeal in *L.T. v. D.T. Estate*, [2020 BCCA 328](#). Canadian law clearly and unequivocally prohibits the removal or use of genetic material unless the donor gave prior, informed, written consent to its removal and use for that purpose in accordance with formal consent requirements. Read the [full article](#) by Janis Ko with Onyx Law Group.

#### **BC Case Comment: Creditor Entitled to Shares that Deceased tried to Settle into a Trust**

June 25, 2021

A creditors may make a claim against a debtor's estate. However, a creditor is sometimes disappointed to find that the debtor's estate is insolvent or has insufficient assets to satisfy their claim. The creditor may look at other steps taken by the deceased debtor to strip their estate of assets. While the courts have recognized alter ego trusts, transfers into joint tenancy, etc.. as valid estate planning tools, creditors still have remedies available if the deceased has taken steps to defeat the claims of their creditors.

In the recent case of *Lau v. McDonald* [2021 BCSC 1207](#), the B.C. Supreme Court was asked to determine who owned shares of 319344 B.C. Ltd. ("319344") which were previously held by the deceased. A creditor of the deceased wanted to execute against the shares to satisfy a debt owed by the deceased. Read the [full article](#) posted by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

**Act or Regulation Affected**

**Effective Date**

**Amendment Information**

*There were no amendments this month.*

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