

# Quickscribe Reporter


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Vol: XX – Issue: X – October 2021

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## QUICKSCRIBE NEWS:

### New Supplemental Notes Feature

Quickscribe is pleased to announce a new [Supplemental Notes feature](#) that will provide helpful background information on the "how" and "why" a section came to be. Sections that include these notes will be identified by a clickable, blue information icon  adjacent to the section.

Supplemental Notes may include:

- Government news releases, explaining the rationale for why a section was added/changed
- Links to relevant consultation papers, reports and policy initiatives that resulted in new legislation
- References to ministry documents, guidelines, manuals and policies that refer to a section
- Convenient links to associated fines/penalties mentioned in a section
- Summaries and links to relevant legal blogs that focus on a particular section of law
- Court rulings that were a catalyst for legislative changes

By adding this supplemental layer of information at the section level, we hope to provide you with a better understanding of the intent and ultimately, how the law should be applied.

Quickscribe has brought on several individuals to assist with this initiative. To start, Supplemental Notes will be contributed by

- Mandy Ostick  
Mandy is a researcher and analyst based in Vancouver, British Columbia. She is an experienced researcher (legal, competitive intelligence, business development) and law library manager. She has worked in law firm, government, university law library, and courthouse library environments, as well as research consulting.
- Kristen Balcom  
Kristen is Research and Writing Lawyer at [Balcom Legal](#). Kristen provides contract research and writing services to other lawyers on an as-needed basis.
- Quickscribe Administration  
Quickscribe staff will begin actively publishing notes throughout the site shortly.

Please know that we are just getting started on this initiative, and you can expect to see more notes in the coming weeks/months ahead. To learn more about these notes, have a look this [video tutorial](#).

### Legislative Activity in Parliament

A number of new Bills were introduced in October:

- [Bill 17](#) – Protected Areas of British Columbia Amendment Act, 2021 (NYIF)
- [Bill 19](#) – Societies Amendment Act, 2021 (*partially in force*)
- [Bill 21](#) – Miscellaneous Statutes Amendment Act (No. 2), 2021 (*partially in force*)
- [Bill 22](#) – Freedom of Information and Protection of Privacy Amendment Act, 2021 (NYIF)
- [Bill 23](#) – Forests Statutes Amendment Act, 2021 (NYIF)
- [Bill 24](#) – Environmental Management Amendment Act, 2021 (NYIF)
- [Bill 25](#) – Education Statutes Amendment Act, 2021 (NYIF)
- [Bill 26](#) – Municipal Affairs Statutes Amendment Act (No. 2), 2021 (NYIF)
- [Bill 27](#) – Election Amendment Act, 2021 (NYIF)

The following members' bill was also introduced in October:

- [Bill M204](#) – Sexual Orientation and Gender Identity Protection Act (NYIF)

As well, several previously introduced bills received royal assent this month:

- [Bill 12](#) – Insurance (Vehicle) Amendment Act, 2021
- [Bill 14](#) – Early Childhood Educators Act
- [Bill 15](#) – Early Learning and Child Care Act
- [Pr 401](#) – United Church of Canada Amendment Act, 2021

If you would like to be alerted to new Bills or legislation that includes subject matter that is important to you, we recommend using the customizable [Keyword Alert](#) tool or the BC Legislative Digest alert, located in the My Alerts page.

### Latest Annotations

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

- [Mary Brunton](#), Reed Pope – [Strata Property Act](#)
- [Nancy Harwood](#), Harwood Safety Group – [Workers Compensation Act](#), [OHSR](#)
- [Kim Jakeman](#), Harper Grey LLP – [Public Health Act](#)
- [Stan Rule](#), Sabey Rule LLP – [Wills, Estate and Succession 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.

**Tip:** [Log in to Quickscribe Online](#) prior to clicking Reporter links....

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View [PDF](#) of this Reporter.

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

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[\[ Previous Reporters \]](#)

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### CATEGORIES

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<a href="#">ENERGY &amp; MINES</a>	<a href="#">MISCELLANEOUS</a>
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## COMPANY & FINANCE

### Company and Finance News:

#### **New Societies Act Amendments - Early Consolidation**

For your convenience, Quickscribe has published a red text [early consolidation of the Societies Act](#) as it will read when [Bill 19](#) comes into force. According to the government, the purpose of the proposed amendments is to address various issues that have come to light since the Act came into force. These proposed amendments will refine the *Societies Act* by making it more accessible, addressing uncertainties and omissions, and creating consistency within the act and with other legislation. Many of these issues were identified by members of the public, societies and the legal community. Feedback from a public consultation was carefully considered and incorporated into these amendments. The proposed amendments were also developed in close consultation with the corporate registry, which administers the Act. To help maintain consistency, related amendments to the

[Business Corporations Act](#) and the [Cooperative Association Act](#) are also being proposed. Refining the [Societies Act](#) will support and further empower societies in their vital work to strengthen our communities and deliver social services right across our province. Indigenous groups were also involved in this consultation process. On October 28th, 2021 Bill 19 received Royal Assent and several sections came into force; however, most of the sections of the bill will come into force by regulation at a future date.

### **Canadian Securities Administrators Seek Comment on Proposed National Instrument 51-107 - Disclosure of Climate-related Matters**

On October 18, the Canadian Securities Administrators ("CSA") proposed National Instrument 51-107 *Disclosure of Climate-related Matters* ("Instrument") and its companion policy ("Policy") that would introduce new climate-related disclosure obligations for reporting issuers in Canada (other than investment funds and certain specified issuers). The CSA has provided a 90-day comment period for stakeholders to address the proposed Instrument and Policy. The proposed Instrument would come into force on December 31, 2022. The disclosure mandated by the proposed Instrument comprises a modified version of the 2017 recommendations of the Task Force on Climate-related Financial Disclosure ("TCFD"). The TCFD was established by the Financial Stability Board in 2015, to develop recommendations for more effective climate-related disclosures to better inform the investment, credit and insurance industries as to their exposure to climate-related risks. The move by the CSA to adopt disclosure rules in line with the TCFD recommendations, follows similar moves by the UK's Financial Conduct Authority and Prudential Regulation Authority. Notably, the proposed Instrument does not require "scenario analysis" as per TCFD recommendations. Read the [full article](#) by Matthew Pollock and Jarrod Isfeld with DLA Piper.

### **Cyber Ransoms: To Pay or Not to Pay?**

Ransomware attacks are an increasingly prevalent form of cyber threat. COVID-19 has contributed to the increase in ransomware attacks, as remote workforces are increasingly dependent on email and therefore susceptible to phishing attacks. In a typical ransomware attack, the hacker encrypts key files and systems at the target organization to cripple its operations and demands a ransom in exchange for decryption keys to unlock the affected systems. In recent years, ransomware attacks have increasingly involved data exfiltration, where the attacker steals sensitive data from the target and threatens to publish it online if the ransom is not paid. The first question from an organization facing a ransomware attack is invariably: "should we pay the ransom?" Below are our top five tips for approaching that crucial decision point in an informed and practical manner. Read the [full article](#) by [Nicole Henderson](#) with Blake, Cassels & Graydon LLP.

### **Boguski – Crown Unsuccessful in Obtaining Section 174 Order to Bind Unrelated Taxpayers in Substantially Similar Transactions**

In *Canada (National Revenue) v. Boguski*, [2021 FCA 118](#) affirming [2018 TCC 236](#), the Federal Court of Appeal (the "FCA") affirmed the decision of the Tax Court of Canada (the "Tax Court") to dismiss the Minister's application for an order under section 174 of the [Income Tax Act](#) (Canada) (the "Act"). Pursuant to subsection 174(1) of the Act, the Minister may apply to the Tax Court for the determination of a question if the Minister is of the opinion that the question is common to assessments or proposed assessments in respect of two or more taxpayers and is a question of law, fact or mixed law and fact arising out of: Read the [full article](#) by [Gloria Wang](#) with Thorsteinssons LLP.

### **New Amendments to BC Securities Laws Could Be Challenged, Says Lawyer with Blakes**

A recent appeal court clarifies the limits of the BC Securities Commission's powers. Measures taken by the British Columbia Securities Commission under new and unprecedented amendments to the province's [Securities Act](#) are likely to be challenged in the courts, with the potential impact of reining in the regulator's powers, says Blake Cassels & Graydon lawyer Sean Boyle. He noted that a recent [Court of Appeal for BC decision](#) ruled that an asset freeze order made by the regulator must be based on an investigation into conduct that allegedly contravenes the [Securities Act](#) and could give rise to monetary claims against the asset owner. Read the [full article](#) by Zena Olijnyk, published on *Canadian Lawyer*.

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

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

- [81-101](#) – CSA Notice of Amendments Reducing Regulatory Burden for Investment Fund Issuers – Phase 2, Stage 1
- [51-107](#) – CSA Notice and Request for Comment Proposed National Instrument 51-107 *Disclosure of Climate-related Matters*

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	Oct. 28/21	by 2021 Bill 19, c. 24, sections 75, 77, 80 82, 84 and 88 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
Business Practices and Consumer Protection Act	Oct. 28/21	by 2021 Bill 21, c. 27, sections 35 and 37 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
Business Practices and Consumer Protection Authority Act	Oct. 28/21	by 2021 Bill 19, c. 24, section 89 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
Cooperative Association Act	Oct. 28/21	by 2021 Bill 19, c. 24, sections 91, 93, 96 and 98 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
Credit Union Incorporation Act	Oct. 28/21	by 2021 Bill 19, c. 24, section 99 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
Emergency Benefit for Workers Regulation (249/2020)	<b>RETRO to</b> May 1/20	by <a href="#">Reg 259/2021</a>
Income Tax Act	<b>RETRO to</b> May 1/20	by 2021 Bill 4, c. 18, sections 35, 36 and 38 only (in force by <a href="#">Reg 259/2021</a> ), <a href="#">Budget Measures Implementation Act, 2021</a>
Prescribed Classes of Property Regulation (438/81)	Oct. 29/21	by <a href="#">Reg 269/2021</a>
Provincial Sales Tax Act	Oct. 1/21	by 2021 Bill 4, c. 18, section 62 only (in force by <a href="#">Reg 259/2021</a> ), <a href="#">Budget Measures Implementation Act, 2021</a>
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	<b>RETRO to</b> Apr. 21/21	by <a href="#">Reg 260/2021</a>
	<b>RETRO to</b> Apr. 21/21	by <a href="#">Reg 261/2021</a>
	Oct. 1/21	by <a href="#">Reg 249/2021</a>
	Oct. 12/21	by <a href="#">Reg 262/2021</a>
Provincial Sales Tax Regulation (96/2013)	Oct.	by <a href="#">Reg 262/2021</a>

	12/21	
Ski Hill Property Valuation Regulation (291/2007)	Oct. 29/21	by <a href="#">Reg 270/2021</a>
Societies Act	<b>RETRO</b> to Nov. 28/16	by 2021 Bill 19, c. 24, section 65 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
	Oct. 28/21	by 2021 Bill 19, c. 24, sections 1, 4 to 7, 10, 11, 17, 19, 21 25 to 27, 46, 49, 54, 57, 60, 63 and 66 to 68 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
Wines of Marked Quality Regulation (168/2018)	Oct. 4/21	by <a href="#">Reg 254/2021</a>

## ENERGY & MINES

### Energy and Mines News:

#### BC Supreme Court Finds \$20,000 Mines Act Security Decision Unreasonable

Supreme Court of British Columbia in *Ignace v. British Columbia* (Chief Inspector of Mines), 2021 BCSC 1989 recently considered and provided guidance on two important facets of mining projects:

1. the adequacy of financial security for mine reclamation; and
2. the adequacy of Crown-Indigenous consultation at the final stages of the mine permit review process.

In its decision, the Court concluded that the Chief Inspector of Mine's decision was substantively unreasonable as it did not update the \$20,000 reclamation security requirement (imposed 25 years earlier, in 1996), despite \$27 million in recent anticipated reclamation costs. The Court also found that the Crown failed to adequately consult the Stk'emlupsemc Te Secwepemc Nation ("SSN") on potential adverse impacts of the [Mines Act](#) permit amendment on Indigenous rights and interests, and accordingly ordered the Crown to adequately consult to discharge its constitutional duty. Read the [full article](#) by Maya Stano, Wally Braul, Josh Jantzi, Mark Youden and Emma Hobbs with Gowling WLG.

#### Energy Transition Sparks Power Struggles

If the energy crisis currently gripping Europe and China has anything to teach the world about energy transitions, it's the importance of natural gas, which the Intergovernmental Panel on Climate Change (IPCC) calls a "bridge technology" for decarbonizing electricity.

When Canadian officials address COP26 later this month, one thing they need not apologize for is the natural gas that Canada produces. While its production contributes to Canada's greenhouse gases (GHG), it is already helping decarbonize Alberta's electrical grid, and as Canada develops as a liquefied natural gas (LNG) exporter, it can help other countries lower their emissions by using LNG to displace coal power and backstop unreliable wind power. Nor do Canadian officials need to worry that Canadian natural gas or LNG projects will become stranded assets, because the demand for gas and LNG is expected to continue to grow for at least another decade, especially in Asia. Read the BIV [article](#).

#### The Role of Critical Minerals in the Energy Transition: A Canadian Perspective (Part 1)

In its World Energy Special Report, *The Role of Critical Minerals in Clean Energy Transitions*, the International Energy Agency (IEA or Agency) mentions that "Canada holds some of the world's most substantial reserves of many minerals, including some 15 million tonnes of rare earth oxides (NRCAN, 2020)." For example, a typical electric car requires six times the mineral input of a conventional car; battery electric vehicles need lithium, cobalt, manganese and graphite, which are crucial to the performance, longevity and energy density of its battery. The Agency estimates that "a concerted effort to reach the goals of the Paris Agreement (climate stabilisation at 'well below 2° C global temperature rise,' as in the IEA Sustainable Development Scenario (SDS))

would mean a quadrupling of mineral requirements for clean energy technologies by 2040. An even faster transition, to hit net-zero globally by 2050, would require six times more mineral inputs in 2040 than today." The Agency writes that "[t]he prospect of a rapid increase in demand for critical minerals—well above anything seen previously in most cases—raises huge questions about the availability and reliability of supply." What are the clean energy technologies? Read the [full article](#) by Andre Durocher, Michael J. Bourassa, Ron Ezekiel and Shannon Snow with Fasken Martineau DuMoulin LLP.

**Recent BCOGC Bulletins**

The BCOGC has recently issued the following bulletins:

- [INDB 2021-28](#) – BC and Blueberry River First Nations working together
- [IB 2021-05](#) – Commission Announces Vaccination Requirement for Staff and Contractors

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties ( <i>Fuel Price Transparency Act</i> ) Regulation (/2021)	<b>NEW</b> Nov. 1/21	see <a href="#">Reg 272/2021</a>
Oil and Gas Activities Act	Oct. 28/21	by 2021 Bill 21, c. 27, section 32 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
Shulus Exemption Regulation (263/2021)	<b>NEW</b> Oct. 13/21	see <a href="#">Reg 263/2021</a>

**FAMILY & CHILDREN**

**Family and Children News:**

**Parentage Law Reform Project Committee Completes Review of Court Orders Declaring Parentage at October 2021 Meeting [*Family Law Act*]**

At this month's meeting of BCLI's [parentage committee](#), the committee completed its review of [section 31 of the Family Law Act](#). This section deals with the powers of the BC Supreme Court to make an order declaring that a person is or is not a child's parent. In its review, the committee considered several improvements to clarify the section. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

**Why Courts Can Allow Children to Make up Their Own Minds about Getting Vaccinated**

As COVID-19 vaccines become available to children under 12, the issue of a child's capacity to consent to or refuse a vaccination will be tested. Whether a child should be vaccinated for COVID-19 is the latest conflict between separated parents now being determined by the courts. Notwithstanding that most Canadian public health agencies have advised parents of children 12 and up that "getting vaccinated is one of our best tools for this fourth wave of COVID-19 ... (and that) to protect all children, all eligible youth and adults should be vaccinated," this decision is not as simple as it seems. Legislation exists in many provinces that allows a child with "capacity" to make their own decision about treatment, whether or not one or both parents agree with that decision. Read the [full article](#) by [Laurie H. Pawlitz](#) with Torkin Manes LLP Barristers & Solicitors.

**Indigenous Families Disproportionately Affected by "Birth Alerts"; BC Lawsuit Seeks Damages**

Parenting coordination can be difficult work. The people for whom parenting coordination is a cost-effective alternative to litigation, because no one provides this sort of service for free and parenting coordination gets expensive quickly, tend to be overly invested in their dysfunctional relationship with the other parent; they usually prefer the all-or-nothing gamble of conflict over the humiliation of compromise, and happily see every



disagreement as the perfect hill upon which to die. I understand that resolving disputes about family law matters is trying and capable of triggering strong emotional responses, especially when a dispute concerns children and decisions about how they are parented. While it is almost always better to resolve a dispute with the informed, willing consent of the parties, the chances of this sort of outcome are badly undermined when these stressors and responses result in parties becoming angry, inflexible and intolerant, or result in them saying or doing things to purposefully hurt, wound or punish the other party. What makes parenting coordination so challenging isn't just resolving disputes in the middle of a knife fight, but the certainty that we too will become the target of our clients' ire and indignation when an all-or-nothing gamble is lost. Read the [full article](#) by [John-Paul Boyd, QC](#), published on Slaw.

**Using Codes of Conduct in Parenting Coordination**

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**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. Read the full [Vancouver Sun article](#). [Note: The [Early Learning and Child Care Act](#) received Royal Assent on October 28th, and will come into force by regulation in the future.]

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Act	Oct. 28/21	by 2021 Bill 21, c. 27, sections 24 and 25 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
Child, Family and Community Service Act	Oct. 28/21	by 2021 Bill 21, c. 27, sections 26 to 30 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>

**FOREST & ENVIRONMENT**

**Forest and Environment News:**

**Province Suspends some Old-growth Logging while It Works on Agreements with First Nations**

The province will stop logging of 26,000 square kilometres of B.C.'s most at-risk old growth forests for the next two years, while it works on agreements with First Nations on long term strategies for both permanent preservation and possible harvesting of those trees. The deferrals, the equivalent of 6,500 Stanley Parks, are the result of recommendations made by a five-member independent panel of experts. The panel identified 110,000 square kilometres of old growth forests in B.C. of which 76,000 square kilometres were considered to be areas where there was the highest risk of irreversible biodiversity loss. The panel concluded 22,000 square kilometres

of the high risk zones were already preserved. It recommended about half of the remainder be protected from logging for the next two years. Read the [full article](#) published by *The Province*.

### **Overhaul of Forest Practices in BC - Coming Soon!**

On October 20th, the BC Government introduced [2021 Bill 23](#) that proposes significant amendments to the [Forest And Range Practices Act](#) and will result in an overhaul of the forest management in BC. According to the government, the proposed amendments will align legislation with the [Declaration on the Rights of Indigenous Peoples Act](#) and introduce new tools to establish resilient forests. The amendments intend to improve processes for reforestation after large wildfires and more collaborative planning between Indigenous nations, government and industry. The changes to the Forest and Range Practices Act will establish a new forest landscape planning framework that will replace the current forest stewardship planning regime. With the proposed changes, companies with harvesting licences would be required to develop and submit their operational plans for the minister's approval, and they must meet the requirements of the broader landscape-level plans, which would be posted publicly. Please [contact us](#) if you would like Quickscribe to publish an early consolidation of the Act as it will look when these changes come into force.

### **Forest Practices Board Statement on FRPA Amendments**

Kevin Kriese, chair of B.C.'s Forest Practices Board, has issued the following statement in response to the tabling of [Bill 23](#), the *Forest Statutes Amendment Act*, in the legislature on Wednesday, Oct. 20, 2021:

"The Forest Practices Board is pleased to see the introduction of amendments to the [Forest And Range Practices Act](#) (FRPA) through Bill 23. For many years, the board has been recommending legislative changes to strengthen forest and range practices in the province. Our most recent recommendations for change were made in reports issued in 2017 and 2019, as well as two letters to the minister of Forests, Lands, Natural Resource Operations and Rural Development in the summer of 2019."

Read the [full article](#) on published by the Forest Practices Board.

### **Proposed Amendments to EMA Intend to Ban Prescribed Single-Use Products**

On October 26, the BC government introduced [Bill 24](#) which proposes amendments to the [Environmental Management Act](#). According to the government, the intent of these amendments will establish provincewide bans on the sale, distribution or use of prescribed single-use and short term products and to apply fees and alternatives to single-use products, where necessary, and/or require that businesses make an item available only by request. The changes are in addition to existing authority to make regulations prohibiting or restricting the use and nature of specified kinds of packaging, including plastic packaging. Plastic utensils and straws are among the items to be added to the growing list of banned items. If passed, this bill will come into force by Royal Assent; however, the associated regulations are not expected until 2023.

### **Reserved Practice Rights Under the PGA**

It is a pivotal time of change in the way forests are managed and professionals are regulated in BC. Forest policy changes are looming and wildfires, old growth management, reconciliation with Indigenous Peoples, and cumulative effects are at the forefront of much work. At the same time, the ABCFP governance under the [Professional Governance Act](#) (PGA) is changing. More than ever, the role of the forest professional must be clear and they must be recognized as independent advisors. It's also critical the knowledge, skills, and expertise of forest professionals is current and leveraged to inform these changes. Read the [full article](#) by Trevor Joyce, published in the *BC Forest Professional Fall 2021* issue.

### **Environmental Appeal Board Decisions**

The following Environmental Appeal Board decisions were made recently:

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

- [Nicola Mining Inc. v. Director, Environmental Management Act](#) [Consent Order – Administrative Penalty Determined]

#### [Wildlife Act](#)

- [Glen Miller v. Deputy Director, Wildlife and Habitat Branch](#) [Consent Order – Resolved; Sent Back with Directions]



[Water Sustainability Act](#)

- [Legacy Ridge Developments Squamish Ltd. v. Water Manager](#) [Application for Document Disclosure – Denied; Application for Particulars – Allowed in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
BC Timber Sales Regulation (381/2008)	Oct. 25/21	by <a href="#">Reg 267/2021</a>
Blueberry River First Nations Designated Area No. 1 (266/2021)	<b>NEW</b> Oct. 22/21	see <a href="#">Reg 266/2021</a>
Motor Vehicle Prohibition Regulation (196/99)	Oct. 19/21	by <a href="#">Reg 264/2021</a>

**HEALTH**

**Health News:**

**Full Vaccination Requirements Now in Effect**

Effective October 25, people must now be *fully vaccinated* where proof of vaccination is required. Venues where proof of vaccination is required can also return to full capacity, with the exception of the regions where additional health orders are in place, including Northern Health, Interior Health, and Fraser East. For most regions, the new rules apply to indoor sports and sporting events, theatres, indoor concerts, art classes, and indoor organized gatherings such as weddings, funeral receptions. Parties can now return to full capacity if everyone 12+ is fully vaccinated. The requirement for attendees to remain seated at indoor events has been lifted, but masks must be worn when moving about. Dancing continues to be not permitted.

**BC Asks Feds to Decriminalize Personal Possession of Illicit Drugs**

British Columbia is hoping to make history by applying to the federal government to remove criminal penalties for people who possess small amounts of illicit drugs for personal use. BC is the first province in Canada to seek an exemption from Health Canada under Section 56(1) of the [Controlled Drugs and Substances Act](#). If approved by the federal government, advocates say the exemption would help reduce the fear and shame associated with substance use that prevents people from seeking care. Read the [full article](#) published on CKPGToday.ca.

**BC Residents to Require Two Vaccine Cards, Health Ministry Says**

British Columbia residents will need to carry two proof of COVID-19 vaccination cards, one to attend non-essential activities and another for travel within Canada and internationally. Premier John Horgan said Thursday [October 21st] the current BC vaccine card is not compatible with the new national vaccine passport for domestic and international travel. BC's Ministry of Health said in a statement the province will issue the new government of Canada proof of vaccination card and it will be accessible as of Oct. 30. The ministry said the federal government has assured it that people in BC can continue to use the provincial vaccine card to travel as the new federal card is rolled out. Read the [Times Colonist article](#).

**Critics Hope New Cabinet Will Put a Stop to Drug-price Regulation Changes**

Critics of a major drug-price overhaul hope a fresh federal cabinet will put a temporary stop to the new regulations set to take effect in January. The Patented Medicine Prices Review Board (PMPRB) is set to change the way it sets a price cap on medicines in Canada in an effort to lower excessively expensive drug costs. The overhaul has drawn the disapproval of patient groups and drug manufacturers, as well as some pharmacists, doctors, academics and even provincial governments. Read the Canadian Press [article](#), published by the *Toronto Star*.

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 Related Measures Act	<b>RETRO</b> to Dec. 18/20	by <a href="#">Reg 253/2021</a>
Meat Inspection Regulation 349/2004	Oct. 1/21	by <a href="#">Reg 213/2021</a>
Provider Regulation (222/2014)	Oct. 1/21	by Reg 222/2014 and <a href="#">Reg 181/2019</a> as amended by <a href="#">Reg 77/2021</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### BC Government Implements BCLI on Recommendations

##### Child Employment

Young people working in British Columbia will benefit from recent changes in employment standards meant to bring the province in line with international standards for children's work. On 15 October 2021, the BC government implemented revisions to BC employment standards in line with recommendations contained in the BCLI's 2018 [Report on the Employment Standards Act](#). The amended legislation that took effect across the province last Friday will ensure that children and young workers are better protected, while also allowing regulators to determine which jobs and occupations are suitable for people under 16. Previously, B.C. had been the only province that permitted children as young as 12 to be employed in virtually any type of job with parental consent. The amendments that came into force are consistent with the recommendations made in our 2018 report. Our report recommended reforms such as: Read the [full article](#) published by the British Columbia Law Institute.

#### COVID-19 Vaccination Policies and Records of Employment:

##### New Guidance from Service Canada

As employers continue to implement vaccination policies in their workplaces, practical questions have arisen as to how to manage employee terminations should there be continued refusals to comply with such policies. Employment and Social Development Canada ("Service Canada") has recently updated its website to provide [guidance](#) on how to issue records of employment ("ROEs") for employees during the COVID-19 pandemic and in particular, in the context of employment impacts arising from vaccination policies. In particular, Service Canada is providing the following direction to employers in respect of the codes to be used in Block 16: Read the [full article](#) by Marco Fimiani and Todd Pribanic-White with McCarthy Tétrault LLP.

#### BC Supreme Court Rules against Employer Who Laid off, Then Fired, Worker because of Pandemic Impact

The Supreme Court of British Columbia recently ruled against a travel agency employer who laid off and ultimately terminated an employee's job during the pandemic, refuting the employer's argument that COVID-19 had frustrated the employment contract so that ETL owed no notice or severance. The decision in [Verigen v. Ensemble Travel Ltd.](#) noted that the pandemic is not necessarily a sufficient reason for a contract to be frustrated if the employer is cutting its costs but is still able to function. Justice Warren Milman wrote that the travel agency "chose to terminate a large part of its work force in the summer of 2020, at least some positions have been preserved and a recently-opened vacancy has been filled." Read the [full article](#) by Christopher Munroe with Roper Greyell LLP.

#### Two Complaints Brought in Relation to BC's Vaccination Card Program Dismissed by BC Human Rights Tribunal

Two recent preliminary screening decisions from the BC Human Rights Tribunal, dismissing complaints brought in relation to BC's vaccination card program, provide some insight into how tribunals may deal with complaints regarding vaccine mandates during the pandemic.

#### Complaint against Dr. Bonnie Henry

One [complaint](#) was brought against provincial health officer Dr. Bonnie Henry. The complainant said he had asthma, and also had pneumonia as a child and did not want the "experimental COVID vaccine" or want services limited because of it.

Read the [full article](#) by Neal Parker with Harper Grey LLP.

### An Employee's Failure to Mitigate Results in a Discounted Award for Notice

Whether an employee took reasonable steps to mitigate his wrongful dismissal damages was recently reviewed in the Supreme Court of British Columbia decision *Moore v. Instow Enterprises Ltd.*, [2021 BCSC 930](#). The 53-year-old employee, a commercial sales representative, with approximately 26 and a half years of service, was awarded twenty months of reasonable notice under the common law. However, this award was reduced by three months for the employee's failure to reasonably mitigate his losses. Read the [full article](#) by [Avneet Jaswal](#) with Fasken Martineau DuMoulin LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Oct. 1/21	by <a href="#">Reg 233/2021</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Oct. 1/21	by <a href="#">Reg 233/2021</a>
Employment Standards Act	Oct. 15/21	by 2019 Bill 8, c. 27, sections 1 (b), 6, 10, 34 (a) and (b), 35 (d) and 38 only (in force by <a href="#">Reg 215/2021</a> ), <a href="#">Employment Standards Amendment Act, 2019</a>
Employment Standards Regulation (396/95)	Oct. 15/21	by <a href="#">Reg 215/2021</a>
Health Care Employers Regulation (427/94)	Oct. 4/21	by <a href="#">Reg 258/2021</a>

## LOCAL GOVERNMENT

### Local Government News:

#### Significant Amendments to Local Government Legislation Proposed in Bill 26

The provincial legislature tabled [Bill 26 – Municipal Affairs Statutes Amendment Act \(No. 2\), 2021](#) on October 26, 2021. The proposed legislation, if adopted, would amend a number of statutes such as the [Local Government Act](#), the [Community Charter](#), and the [Islands Trust Act](#). Some of the more significant proposed changes include:

- Requirements for local government to consider developing or updating codes of conduct;
- Clarifying that no public hearing is required for a zoning bylaw, as long as it is consistent with an official community plan that is in effect for that area;
- Allowing for delegation of decisions on "minor" development variance permits;
- Enabling local governments to determine specific notice methods for public notice requirements;
- Amendments to the Islands Trust Act; and
- Removal of historic regulatory restrictions around Powell River's mill site area.

Bill 26 introduces two new sections into the *Community Charter* that address codes of conduct for council members. Although these provisions do not make codes of conduct mandatory, they will require council to consider their adoption, and mark the first reference to codes of conduct in the *Community Charter*. Read the [full article](#) by Reece Harding, Guy Patterson, Timothy Luk and James Barth with Young Anderson Barristers & Solicitors.

## **Local Elections Campaign Financing Act – Early Consolidation**

Quickscribe has published [an early consolidation of the Local Elections Campaign Financing Act](#) as it will read when [2021 Bill 9](#) amendments come into force by regulation at a later date. According to the government, the changes will strengthen local election campaign financing rules. These changes include:

- establishing a pre-campaign period that runs from 89 days prior to election day to 29 days prior to election day;
- requiring third parties to register with Elections BC and report election advertising sponsored during the pre-campaign period;
- requiring candidates, elector organizations and third parties to include sponsorship information on election advertising during the pre-campaign period;
- limiting sponsorship contributions to \$1,200 to match the provincial campaign contribution limit set in 2017;
- requiring elector organizations to register with Elections BC and file annual financial reports; and
- providing Elections BC with new investigative tools to support investigations and additional penalties to fine people who do not comply with the new campaign financing and registration rules.

Consequential amendments to the [Local Government Act](#), [School Act](#) and [Vancouver Charter](#) include changes to ensure that candidates have access to residential properties, such as strata properties, to canvass voters and distribute candidate information; address the disenfranchisement of some individuals by removing the requirement that individuals must have been a resident of their community for at least 30 days in order to vote; and ensure constituency among the choices that a court has when declaring an election invalid to improve efficiency for local governments. Note that some of the sections of this Bill did come into force by Royal Assent on March 25, 2021; however, most sections of the Bill will come into force by regulation.

## **What the Supreme Court of Canada's Decision in *Nelson (City) v Marchi* Means for Local Government Policy Development and the Policy Immunity Defence**

This month the Supreme Court of Canada (SCC) released its judgment in [Nelson \(City\) v Marchi](#), 2021 SCC 4. The decision provides greater clarity on how to identify and assess "core policy decisions" of local governments. This is an important decision impacting on the availability of the "policy immunity defence", of which all local governments in Canada should take notice. In its decision, the SCC upheld the B.C. Court of Appeal's (BCCA) decision that the trial judge had erred in finding that the City of Nelson owed no duty of care to the plaintiff. Ms. Marchi had been injured while attempting to cross a snowbank between an angled parking stall on a downtown street and the sidewalk. The SCC's finding that the City owed Ms. Marchi a duty of care holds important implications for local governments and their approaches to "policy formulation" and risk management. This article discusses those implications below. Read the [full article](#) by Josh Krusell, Jeff Locke and Andrew Buckley with Stewart McDannold Stuart Barristers & Solicitors.

## **Government Tables Significant Updates to the *Freedom of Information and Protection of Privacy Act* [Local Government Perspective]**

The provincial government has revealed the most significant changes to the [Freedom of Information and Protection of Privacy Act](#) (FIPPA) in a decade. We believe local governments will be pleased with several of the proposed amendments, while others will introduce new burdens. Key highlights of those changes, found in [Bill 22 – 2021: Freedom of Information and Protection of Privacy Amendment Act, 2021](#) ("Bill 22"), are outlined below.

### **Repeal of the In-Canada Requirements for Personal Information**

A welcome and significant change will be the repeal of section 30.1, which at present prohibits storage of or access to personal information outside Canada. This change will enhance local governments' ability to adopt cloud-based technologies, which can help improve services while reducing costs.

Read the [full article](#) by David Loukidelis QC and Amy O-Connor with Young Anderson Barristers & Solicitors.

## **Recent Decisions from the Court of Appeal with Respect to Restrictive Covenants**

The British Columbia Court of Appeal has issued two recent decisions which provide important insight into the ways local governments may utilize restrictive covenants to manage risk and regulate specific uses of land.

### **1.0 *Rai v Sechelt*, 2021 BCCA 349**

The appeal in *Rai v Sechelt (District)*, 2021 BCCA 349 [*Sechelt*] concerned whether a covenant

registered pursuant to [section 219 of the Land Title Act](#), RSBC 1996, c 250 [LTA] authorizes the inclusion of a release of liability within the terms of the covenant. At the Supreme Court level, the chambers judge had concluded that section 219 did not authorize the inclusion of a release based on the "implied exclusion rule" as section 219 of the LTA explicitly permits an indemnity but is silent as to a release. The implied exclusion rule provides that where the piece of legislation includes a list of permitted items, anything not listed is implied to have been intentionally excluded.

The BC Court of Appeal disagreed with the chambers judge's analysis. Section 219 of LTA is part of a statutory scheme for management and allocation of risk. The Court considered that the choice of the broad language in section 219(2)(a)(i), that a covenant may include "provisions in respect of the use of the lands", demonstrated an intent to capture a wide variety of covenant terms. Accordingly, the Court of Appeal concluded that the intention of the legislature was to permit the inclusion of a release in a section 219 covenant as a provision "in respect of the use of the lands". Read the [full article](#) by Heidi Boudreau with Stewart McDannold Stuart Barristers & Solicitors.

**Case Summary: Petitioners Successfully Sought Judicial Review of a Decision Made by the Agricultural Land Commission, which Had Refused a Subdivision Request**

*Bajich Estate v Provincial Agricultural Land Commission*, [2021] B.C.J. No. 1938, [2021 BCSC 1755](#), British Columbia Supreme Court, September 3, 2021, W.A. Baker J.

In October 2019, Ms. Mary Bajich applied to the respondent, Agricultural Land Commission (ALC), seeking to subdivide her land into two parcels for her two adult sons to continue farming on the family farm. Ms. Bajich had owned the land since 1966. In January 2020, the ALC refused the application. The ALC issued a short decision denying the application on two bases. First, the ALC considered whether the subdivision proposal met the criteria under the Homesite Severance on ALR Lands policy. The ALC found that Ms. Bajich did not meet the criteria because she was living in a care home at the time of making the application, and the policy required the applicant to be living on the property at the time of the application. Read the [full article](#) by [Scott J. Marcinkow](#) with Harper Grey LLP.

**Rail Proximity Guidelines Questionnaire**

from UBCM:

Local governments are invited to [complete a brief survey](#) to indicate awareness and use of rail proximity guidelines. The Federation of Canadian Municipalities (FCM) and the Railway Association of Canada (RAC) are preparing to update the guidelines for 2023, and are seeking input to identify areas for improvement and change. In 2003 FCM and RAC established Proximity Guidelines for new developments in proximity to railway operations. The aim was a common approach to prevent and resolve issues that may arise when people live and work near railway operations. The guidelines were made available for use by local and provincial governments, railways, developers, and property owners. Read the UBCM [article](#) for further details.

Act or Regulation Affected	Effective Date	Amendment Information
Bylaw Notice Enforcement Regulation (175/2004)	Oct. 6/21	by <a href="#">Reg 257/2021</a>
Islands Trust Regulation (119/90)	Nov. 1/21	by <a href="#">Reg 275/2021</a>
Liquor Control and Licensing Regulation (241/2016)	Oct. 4/21	by <a href="#">Reg 256/2021</a>
	Oct. 29/21	by <a href="#">Reg 271/2021</a>
Prescribed Classes of Property Regulation (438/81)	Oct. 29/21	by <a href="#">Reg 269/2021</a>
Ski Hill Property Valuation Regulation	Oct.	

(291/2007)	29/21	by <a href="#">Reg 270/2021</a>
Safety Authority Act	Oct. 28/21	by 2021 Bill 19, c. 24, section 103 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>
Safety Standards Act	Oct. 28/21	by 2021 Bill 21, c. 27, sections 20 and 21 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>

## MISCELLANEOUS

### Miscellaneous News:

#### **New Proposed Changes to FOIPPA**

Today, October 18th, the BC government introduced [Bill 22](#), which includes some of the most significant changes to the [Freedom of Information and Protection of Privacy Act](#) since 2011. According to the government, the intent of these changes is to keep pace with the latest technology and growing need to ensure enhanced privacy protection for online services. The bill intends to strengthen government accountability and transparency by adding new public bodies and will charge new offences for destroying records to evade FOI. The government also plans to enhance public sector privacy protections and increase accountability by implementing mandatory privacy breach reporting and increasing penalties for general and privacy offences under the Act. Critics point out that the government is dropping a legal requirement that restricts public agencies from sending personal information outside of Canada. A new \$25 fee will be applied to all FOI requests for anything other than an applicant's own personal information. If you would like to track the progress of this or any other Bill, we recommend using the BC Legislative Digest tool via the [Alerts](#) tab on the top menu bar.

#### **The Enforceability of Class Action Waivers: Are They Fair Game or Unconscionable and Contrary to Public Policy?**

As class actions become more prevalent, many businesses are actively taking steps to avoid such potential claims. One such step may include the use of a "class action waiver" in a standard form contract. Businesses who take these steps may be viewed as more favourable "risks" by underwriters as they take proactive steps to manage their potential exposure to class actions. However, underwriters should be aware of a recent decision from the British Columbia Court of Appeal with respect to the enforceability of class action waivers. This decision casts doubt on the utility and enforceability of class action waivers, at least in the consumer protection context. Read the [full article](#) by [George A.G. Anderson](#) with Miller Thomson LLP.

#### **"Progressive" Handcuffing Policy Ordered by Vancouver Police Board**

An interim, "progressive" policy requiring Vancouver police officers to reconsider handcuffing those accused of crimes was approved by the Vancouver police board on Thursday [October 21]. "This is going to be a progressive route (in comparison) to other departments across the country," said Deputy Chief Howard Chow. Other Canadian police departments' handcuffing policies are "minimalistic," outlined in "a grand total of two paragraphs," said Drazen Manojlovic, director of the planning research and audit section of Vancouver police. The interim change in Vancouver will direct officers to use discretion when detaining individuals and consider the nature of the alleged crime, their age and ethnicity, and any medical conditions, injuries or disabilities they may have. Read the *Vancouver Sun* [article](#).

#### **Legislation to Ban Conversion Practices Tabled in BC Legislature**

Law would penalize anybody who tries to administer so-called treatments. The B.C. Green Party has tabled legislation that would ban conversion practices across the province. The [legislation](#) introduced Thursday [October 28] would prohibit any attempts to forcibly change another person's sexual orientation, gender identity, or expression, penalizing anybody who tries it. "Many conversion practices are targeted to young people and have devastating and lasting effects on their mental well-being. This bill would protect the LGBTQIA2S+ community from the harms of these false treatments," Leader Sonia Furstenau wrote on Twitter after tabling the legislation herself. Read the CBC [news article](#).

#### **Bureaucrat Beware: BC Court Refuses to Strike Novel Tort of Breach of Statutory Duty**



On September 10, 2021, the Supreme Court of British Columbia dismissed an application by the Attorney General of Canada to strike a claim by a plaintiff alleging a novel "tort of breach of statutory duty". In *Frazier v. Kendall*, [2021 BCSC 1791](#), the court held that the plaintiff's allegation that regulators owe a duty of care to the general public had a reasonable prospect of success, and could proceed to trial. This is not a final decision, and only allows the plaintiff to advance her claim to trial. However, more broadly, *Frazier* represents a potential departure from the narrow scope of tort liability currently available against government regulators. Read the [full article](#) by Luke Dineley, Justine Blanchet and Douglas (Doug) O. Smith with Borden Ladner Gervais LLP.

**Court of Appeal Clarifies When Cross-Examination on Affidavits May Be Permitted in Pre-Trial Applications**

In British Columbia, cross-examination on affidavits in the context of pre-trial applications is not as of right, as is the case in many other Canadian jurisdictions. Absent agreement, a party seeking to do so in BC litigation must apply to the Court, which retains discretionary power. BC practitioners have generally accepted, as a conventional understanding, that such applications succeed only where there is a conflict in affidavit evidence. The BC Court of Appeal's recent decision in *Stephens v Altria Group, Inc.*, 2021 BCCA 396 departs from this conventionally understood principle, holding that such cross-examination may be permitted where there are conflicting material facts, which may be grounded in pleadings as well as affidavit evidence. Read the [full article](#) by David Gruber, Roy Lou and Larissa Sakumoto with Bennett Jones LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Civil Resolution Tribunal Act	Oct. 28/21	by 2021 Bill 21, c. 27, sections 1 to 3 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
COVID-19 Related Measures Act	<b>RETRO</b> to Dec. 18/20	by <a href="#">Reg 253/2021</a>
Treaty First Nation Taxation Act	Oct. 28/21	by 2021 Bill 21, c. 27, sections 33 to 34 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>

**MOTOR VEHICLE & TRANSPORTATION**

**Motor Vehicle & Transportation News:**

**Government of Canada Mandates COVID-19 Vaccination for Federally Regulated Transportation Employees and Travellers**

On October 6, 2021, the Government of Canada announced that as of October 30, 2021, it will:

1. require employers in the federally regulated transportation sector to establish mandatory vaccination policies for their employees; and
2. require travellers departing from Canadian airports, travellers on VIA Rail and Rocky Mountaineer trains and travellers on non-essential passenger vessels on voyages of 24 hours or more, such as cruise ships, to be vaccinated.

Read the [full article](#) by Justine Lindner and Marco Fimiani with McCarthy Tétrault LLP.

**BC Court of Appeal Orders New Trial for ICBC Case Involving Two Car Accidents**

Injured person was passenger in police cruiser that was rear-ended by unidentified driver. In a case involving two motor vehicle accidents, British Columbia's appellate court has found the issue of whether certain injuries were divisible was critical given the limited statutory liability of the Insurance Corporation of British Columbia for the unidentified driver involved in one accident. *Neufeldt v. Insurance Corporation of British Columbia*, [2021 BCCA 327](#) concerned a damages claim arising from injuries sustained in two motor vehicle accidents. In September 2012, the respondent, a police officer, suffered injuries when a vehicle he was pursuing reversed and

struck the police cruiser that he was driving. The respondent stopped working as advised by his doctor, returned to full-time desk work in May 2015 and received clearance for full active duties in June 2015, although he continued experiencing headaches and pain in his middle and lower back. Read the [full article](#) published in the *Canadian Lawyer*.

### **Aerosol Containers and Gas Cartridges for Transport of Dangerous Goods (CAN/CGSB-43.123)**

Open on October 18, 2021 and will be closed on December 16, 2021. The Canadian General Standards Board (CGSB) has released the final draft of Safety Standard CAN/CGSB-43.123 for a 60-day consultation period. This standard is incorporated by reference within the [Transportation of Dangerous Goods Regulations](#) (TDG Regulations) and the new edition will come into force once published with a six-month phase-in (transitional) period. From: [Transport Canada](#)

### **Autonomous Vehicles: Cross Jurisdictional Regulatory Perspectives**

The use of autonomous vehicles is expected to grow precipitously, and with it, novel legal questions will undoubtedly arise. As a result, robust legislative and industry responses are viewed by some as a prerequisite to increased adoption of this revolutionary shift in technology. In this article, we summarize recent regulatory developments in Canada, Japan, the U.K., the European Union, the U.S., and China, and highlight the state of the autonomous vehicles regulatory landscape across these jurisdictions. Read the [full article](#) by Edona Vila, Yi Liu and Marin Leci with Borden Ladner Gervais LLP ("BLG").

### **Passenger Transportation Board Bulletins**

The following updates were recently published by the BC Transportation Board:

#### Industry Updates & Advisories

- [The Board Concludes Investigation on Effects of Covid-19 Pandemic on the BC Passenger Transportation Industry](#)
  - The investigation has concluded and the Investigator's Report is available [here](#).

#### Applications Received

- [13353-21](#) – Ship 2 Shore Transportation Ltd.

#### Application Decisions

- [10403-20](#) – Rider Express Transportation Corp. [Approved in part]
- [12416-21](#) – Transfer of Licence: PDVA (Limousine) [Approved]
- [13422-21 PS TOP](#) – Vanride Shuttle Services Ltd. [Approved]

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

### **CVSE Bulletins & Notices**

The following notices were posted recently by CVSE:

- [Notice 03-21](#) – Barriere River Bridge Overweight Restriction

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

Act or Regulation Affected	Effective Date	Amendment Information
Basic Vehicle Damage Coverage Regulation (4/2021)	Nov. 1/21	by <a href="#">Reg 273/2021</a>
Enhanced Accident Benefits Regulation (59/2021)	Nov. 1/21	by <a href="#">Reg 273/2021</a>
	<b>RETRO</b> to May 1/21	by 2021 Bill 12, c. 23, sections 1, 3 to 30 only (in force by Royal Assent), <a href="#">Insurance (Vehicle) Amendment Act, 2021</a>

Insurance (Vehicle) Act	Oct. 28/21	by 2021 Bill 12, c. 23, section 2 only (in force by Royal Assent), <a href="#">Insurance (Vehicle) Amendment Act, 2021</a>
Insurance (Vehicle) Transitional Regulation (/2021)	<b>NEW RETRO to May 1/21</b>	by <a href="#">Reg 274/2021</a>
Lien on Impounded Motor Vehicles Regulation (25/2015)	Oct. 1/21	by <a href="#">Reg 248/2021</a>
Motor Vehicle Act	Oct. 18/21	by 2020 Bill 2, c. 9, sections 18 and 19 only (in force by <a href="#">Reg 235/2021</a> ), <a href="#">Motor Vehicle Amendment Act, 2020</a>
Motor Vehicle Act Regulations (26/58)	Oct. 18/21	by <a href="#">Reg 100/2021</a> and <a href="#">Reg 235/2021</a>
Offence Act Forms Regulation (422/90)	Oct. 18/21	by <a href="#">Reg 235/2021</a> and <a href="#">Reg 238/2021</a>
Passenger Transportation Act	Oct. 28/21	by 2021 Bill 21, c. 27, section 39 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
Violation Ticket Administration and Fines Regulation (89/97)	Oct. 1/21	by <a href="#">Reg 213/2021</a>
	Oct. 18/21	by <a href="#">Reg 238/2021</a>
Use of Electronic Devices While Driving Regulation (308/2009)	Oct. 18/21	by <a href="#">Reg 235/2021</a>

## OCCUPATIONAL HEALTH AND SAFETY

### Occupational Health & Safety News:

#### New Legislation to Extend Key Covid-19 Orders Beyond 2021

Due to the ongoing fourth wave of the pandemic, the Province intends to introduce amendments to the [COVID-19 Related Measures Act](#) to extend it beyond the repeal date of December 31, 2021. The act provides statutory authority for various COVID-19 related orders that were introduced to respond to and minimize the effect of the pandemic. This includes orders: witnessing of the signing of key legal documents;

- to allow for remote witnessing of the signing of key legal documents;
- to allow the courts to specify that court proceedings can be conducted remotely; and
- to support orders of the provincial health officer that impose conditions on the number of long-term care facilities staff are permitted to work at to help reduce COVID-19 transmission.

Additionally, the act provides civil liability protection to certain individuals or businesses that are providing an essential service, operating a business or engaged in an activity that benefits the community, as long as they are following the necessary public health orders. The Province is providing notice of this planned amendment to assist affected organizations and businesses in planning for the possibility that existing orders that apply to their

operations will continue beyond December 31, 2021. Read the official government [news release](#) posted October 21, 2021.

**BC Construction Firm Hit with Huge Six-figure Fine**

B.C. employer Richmond Plywood Corporation Limited, otherwise known as Richply, was charged \$547,080 after one of its workers was injured in the workplace. On the day of the incident, a worker was positioning paper on panels and loading them onto a press. The worker climbed a ladder to realign one of the sheets. However, the press was activated and the worker was caught in the press. The worker sustained serious injuries. Investigation by WorkSafeBC found that the worker had been out of sight of the press operator when the press was activated, and the Richply’s work practices for the task did not adequately address this risk. Read the [full article](#) by Jim Wilson, and published on Canadian Occupational Safety website.

**New Public Health Orders**

The Public Health Office (PHO) recently issued the following Orders, Notices & Guidance:

Orders:

- [Face Coverings \(COVID-19\) – October 29, 2021 \(PDF, 419KB\)](#)
- [Gatherings and Events – October 25, 2021 \(PDF, 422KB\)](#)
- [Food and Liquor Serving Premises – October 25, 2021 \(PDF, 402KB\)](#)
- [Hospital and Community \(Health Care and Other Services\) COVID-19 Vaccination Status Information and Preventive Measures – October 21, 2021 \(PDF, 524KB\)](#)
- [Guidelines for Request for Reconsideration \(Exemption\) Process – October 8, 2021 \(PDF, 420KB\)](#)
- [Medical Deferral Form – October 8, 2021 \(PDF, 258KB\)](#)
- [Residential Care COVID-19 Preventive Measures – October 21, 2021 \(PDF, 517KB\)](#)
- [Guidelines for Request for Reconsideration \(Exemption\) Process – October 8, 2021 \(PDF, 420KB\)](#)
- [Medical Deferral Form – October 8, 2021 \(PDF, 258KB\)](#)
- [Residential Care COVID-19 Vaccination Status Information – October 6, 2021 \(PDF, 506KB\)](#)

Medical Health Officer Order:

- [Gatherings and Events COVID-19 Order for Northern Health Authority – October 21, 2021 \(PDF, 149KB\)](#)

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

Act or Regulation Affected	Effective Date	Amendment Information
COVID-19 Related Measures Act	RETRO to Dec. 18/20	by <a href="#">Reg 253/2021</a>

**PROPERTY & REAL ESTATE**

**Property and Real Estate News:**

**Land Owner Transparency Registry Filing Deadline Extended to 2022**

The B.C. government announced on November 2, 2021 that it will be extending the deadline for pre-existing owners to file with the Land Owner Transparency Registry, giving reporting bodies with an interest in land more time to file a transparency report without incurring penalties. The Province has heard from lawyers (including Lawson Lundell lawyers) and others that pre-existing owners need more time to gather information about ownership and prepare to file with the registry. The Land Owner Transparency Registry represents a significant change for land owners in B.C. and the Province acknowledged the pandemic has also placed additional administrative strain on the resources of businesses in B.C. Therefore, the deadline for filing has been extended to Nov. 30, 2022. Read the [full article](#) by [Edward L. Wilson](#) and [Stephanie Wong](#) with Lawson Lundell LLP.

**Case Summary: Residential Tenancy Branch Decision Failed to Adequately Articulate the Reasons for Its Decision and the Matter Was Remitted Back to the Residential Tenancy Branch**

*Shahcheraghi v. Divangahi*, [2021] B.C.J. No. 1760, [2021 BCSC 1576](#), British Columbia Supreme Court, August 13, 2021, K. Horsman J.

The landlord/petitioner sought a judicial review of an order from the Residential Tenancy Branch (RTB) which found that the tenant owed unpaid rent of \$13,474, but not the amount sought by the landlord, and dismissed the landlord's application seeking compensation for damage to the unit. The RTB ordered the landlord to reimburse the tenant double the amount of security deposit for the landlord's failure to return the deposit in a timely manner. The tenancy began on December 1, 2018 with a monthly rent of \$6,000 and \$3,000 security deposit. On July 23, 2019, the landlord issued a notice to end tenancy for unpaid rents or utilities. On July 26, 2019, the tenant filed a notice of dispute and remained in the premises. Following the dispute, the tenant provided the landlord with cheques that could not be cashed. The tenant vacated the property on January 6, 2020 and, according to the landlord, required cleaning and repair costs. The tenant provided the landlord a cheque for the remaining rent and damages that could not be cashed. Read the [full article](#) by [Jackson C. Doyle](#) with Harper Grey LLP.

**Condo Smarts: Is Airbnb Rental Covered under a 50-year Bylaw Exemption? [Condo Smarts]**

*Dear Tony:*

We bought our townhouse in 2014. At the time, it was a new development in Burnaby and the owner developer filed a rental disclosure document that exempted all strata lots, 1-68, from rental bylaws until June 1, 2064. Basically, our building is exempt for 50 years. We decided to rent our unit out on Airbnb and were informed by the strata council that there was a bylaw that prohibited short term rentals and we would be subject to a fine of \$1,000 per day if we proceeded. They gave us a 30-day warning to honour our bookings and allow us to comply. We requested a copy of the bylaw and then discovered older bylaws that make the whole issue confusing. Because the bylaw refers to rentals do we not have the same exemption under the owner developer exemption? Read the [full article](#) published in the *Times Colonist* by Tony Gioventu, executive director of the Condominium Home Owners Association of BC.

**BC Takes Note as New Zealand Moves to Ban Single-family Zoning in Cities**

New Zealand will allow three homes on formerly single-family lots in five major cities, a move B.C. should consider, say housing advocates.

New Zealand's government has ordered an end to single-family zoning in its five biggest cities, drawing the attention of B.C. housing advocates and planning experts. Housing advocates think it is an example worth considering in B.C.'s most expensive markets, but others caution it might have unintended consequences. Legislation introduced last week would require the New Zealand cities to apply "medium density residential standards" to single-family areas by next August. Read the *Vancouver Sun* [article](#).

**Constructive Trusts and Certificates of Pending Litigation: Latest Update on Pleading Requirements**

In a recent decision *Zou v Khatkar*, [2021 BCSC 1931](#), the court revisited the topic of pleading requirements in claiming constructive trust to maintain a valid Certificate of Pending Litigation (CPL). In this case, the defendants sought to cancel CPLs registered by the plaintiff against five investment properties owned by the defendants. The underlying dispute involved a purchase by the plaintiff of a residential property from the defendant builders. The plaintiff alleged that shortly after taking possession of the property she discovered various deficiencies with the property. The plaintiff sued the sellers, claiming damages for breach of purchase contract, and misrepresentations relating to the condition of the property. The plaintiff later amended her claim to seek "remedial and/or substantive constructive trust" over the defendants' properties, and registered five CPLs against those properties. Read the [full article](#) by Anna Sekunova with Clark Wilson LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Land Owner Transparency Regulation (250/2020)	Oct. 4/21	by <a href="#">Reg 255/2021</a>
Land Title and Survey Authority Act	Oct. 28/21	by 2021 Bill 19, c. 24, section 101 only (in force by Royal Assent), <a href="#">Societies Amendment Act, 2021</a>

**WILLS & ESTATES**

**Wills and Estates News:**

**Testamentary Intent Prevails over Statutory Provision  
Voiding Gift to Signatory Witness: BC Case**

*Will maker stated that gifts were meant to thank his parents*

The B.C. Supreme Court recently allowed the signing witnesses to receive certain bequests in the will as gifts despite the applicable legislation automatically voiding gifts to signatory witnesses, an estate litigation lawyer has noted. The court made this decision on the basis that this was what the deceased wanted, said Trevor Todd, a Vancouver-based lawyer, in a post titled Gifts to Witnesses of a Will ([S. 43 WESA](#)). In *Walk v Walk*, [2021 BCSC 1881](#), Dawson, who was in a recovery program for his substance abuse issues, started living with his parents, who provided him with the stability and support to stay in recovery, helped him pay his debts and became the primary caretakers of his younger daughter, born in 2013. In August 2016, Dawson told his parents how much he loved them and appreciated their emotional and financial support, then read them a draft of his will, which would leave them his estate. Read the [full article](#) published on the Canadian Lawyer website.

**Court Orders BC Will Valid Though  
Will-maker Died Before Signing**

In March 2020, the world ground to a halt as a result of the COVID-19 pandemic. Offices were shuttered and in-person meetings were only permitted for essential purposes. In light of the pandemic, Marilyn Bishop cancelled her March 20th appointment at her lawyer's office to execute her new will. She had already given her instructions, reviewed the draft, and made a few minor clarifications. All that remained was to have the will signed and witnessed. Unfortunately, Ms. Bishop passed away four months later, before she could execute the will. Could her unsigned document be a valid will? In the unique circumstances of *Bishop Estate v. Sheardown*, [2021 BCSC 1571](#), the BC Court used its power to order that her unexecuted will was fully effective. Read the [full article](#) by Janis Ko with ONYX Law Group.

**BC to Allow Electronic Wills and  
Remote Witnessing of Wills**

The [Wills, Estates and Amendment Act, 2020](#) will significantly change how a person may make a will in British Columbia, effective December 1, 2021. Previously, a will had to meet all of the following requirements in order to be valid in British Columbia:

1. It had to be in writing;
2. It had to be signed at the end by the will-maker, or the signature at the end had to be acknowledged by the will-maker as his or hers, in the presence of two or more witnesses present at the same time, and
3. It had to be signed by two or more of the witnesses in the presence of the will-maker.

The amendments will allow for the execution of electronic wills, which are wills that:

1. Are recorded or stored electronically, which means in a digital or other intangible form by electronic, magnetic, or optical means or by any other similar means;
2. Can be read by a person; and
3. Are capable of being reproduced in a visible form.

Read the [full article](#) by James Zaitsoff, published in on BC Estate Litigation Blog.

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

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