

# Quickscribe Reporter

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Vol: XXI – Issue: 4 – April 2022

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## QUICKSCRIBE NEWS:

### Recent Legislative Activity

The following government bills were recently introduced:

- [Bill 10](#) – Labour Relations Code Amendment Act, 2022
- [Bill 16](#) – Transportation Amendment Act, 2022
- [Bill 20](#) – Municipal Affairs Statutes Amendment Act, 2022
- [Bill 21](#) – Professional Governance Amendment Act, 2022
- [Bill 22](#) – School Amendment Act, 2022
- [Bill 23](#) – Mental Health Amendment Act, 2022
- [Bill 24](#) – Anti-Racism Data Act

If you wish to be notified when these or other changes come into force, check out Quickscribe's customizable alerts via the [My Alerts](#) page. Quickscribe alerts are included with your subscription so feel free to select the alerts that work best for you!

### Latest Annotations

New annotations were recently added to Quickscribe:

- [Christopher Hirst](#), Alexander Holburn Beaudin + Lang LLP – [Builders Lien Act](#)
- [OnPoint Legal Research](#) – [Family Law Act](#), [Patients Property Act](#), [Workers Compensation 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:

### Hi-cost Credit Rules Kick in May 1st

Effective May 1st, changes to the [Business Practices and Consumer Protection Act](#) come into force that will provide for a new hi-cost credit regime that will regulate brokers and payday lenders. The new rules provide consumer protections to financially vulnerable British Columbians who rely on these high-cost financial services. For more information on these changes, [read the official government news release](#).

### A Critical Analysis of the Principal Income Tax Measures from Federal Budget 2022 (and Subsequent Legislative Proposals)

*Budget 2022: A Plan to Grow Our Economy and Make Life More Affordable* ("Budget 2022") was tabled by the Federal Government on April 7, 2022 ("Budget Day"). The government professed a desire to return to fiscal responsibility after two years of COVID-19 support measures, and introduced a number of significant income tax proposals in furtherance thereof. Our recent [post by Jennifer Flood and Greg DelBigio](#) reviewed the proposals designed to increase the CRA's enforcement powers and prosecute financial crime. In this post, we discuss certain key income tax proposals for individual and corporate taxpayers. This post also considers proposed legislation released by the Department of Finance on April 26, 2022, which cover several of the proposed measures. Read the [full article](#) by [Gloria Wang](#), [Sarah Faber](#), and [Alexander Demner](#) with Thorsteinssons LLP.

### British Columbia Court of Appeal Says Shotgun Offer Can't Be Revoked

Be careful before you pull the trigger – this is the main takeaway from the recent decision of [Blackmore Management Inc. v. Carmanah Management Corporation](#), in which the British Columbia Court of Appeal (BCCA) concluded that an "offer" made pursuant to a standard shotgun clause in a shareholders' agreement could not be unilaterally revoked.

#### Background

The respondent shareholders (Carmanah and Amphitrite; together, the Respondents) elected to invoke the shotgun clause in their shareholders' agreement. Pursuant to the clause, the Respondents delivered a "compulsory offer" to the other shareholder (Blackmore), who then had sixty days to elect whether to sell its shares to the Respondents or purchase the Respondents' shares at a valuation stipulated in the shotgun offer.

Read the [full article](#) by [Jonathan Buysen](#) and [Brendan Kennedy](#) with Stikeman Elliott LLP.

### Update on New Legislation for B.C. Credit Unions – Trade Names, Market Conduct Codes, Complaint Resolution Procedures and More

On November 28, 2019, the *Financial Institutions Amendment Act, 2019* (BC) ("[Bill 37](#)") received Royal Assent. Bill 37 modernizes the legislative framework of the [Financial Institutions Act](#) (BC) (the "FIA") and the [Credit Union Incorporation Act](#) (the "CUIA") and follows an extensive consultation process conducted by the Ministry of Finance in relation to its review of the FIA and CUIA. Bill 37 introduces significant changes to the regulation of financial institutions in British Columbia. These changes are being implemented in stages. The first set of changes came into force in 2020. On February 17, 2022, the Lieutenant Governor signed orders-in-council bringing into force several more provisions of Bill 37, with effective dates of February 17, 2022, and June 30, 2022. Read the [full article](#) by [Lauren Frederick](#) and [Peter Brown](#) of Edwards, Kenny & Bray LLP.

### Swimming Downstream: Supreme Court of British Columbia Clarifies Section 45 of the Competition Act

In [Part I](#) of this two-part series, we covered [Jensen v. Samsung Electronics Co. Ltd.](#), where the Federal Court refused certification because the plaintiffs failed to provide sufficient material facts to support a claim for conspiracy under sections 45 and/or 46 of the [Competition Act](#), R.S.C. 1985, c. C-34. This week, we consider the Supreme Court of British Columbia decision of [Latifi v. The TDL Group Corp.](#), [2021 BCSC 2183](#) where the court held that s. 45 – a prohibition on conspiracies between competitors – does not apply to "buy-side" or "upstream" agreements for the purchase of products. Read the [full article](#) by [Akiva Stern](#) of McCarthy Tétrault.

### BC Securities – Policies & Instruments

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

- [41-101](#) – CSA Notice and Request for Comment *Proposed Amendments and Proposed Changes to Implement an Access Equals Delivery Model for Non-Investment Fund Reporting Issuers*

- [94-101](#) – National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives Adoption - National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives*
- [43-401](#) – CSA Consultation Paper 43-401 *Consultation on National Instrument 43-101 Standards of Disclosure for Mineral Projects*
- [41-101CP](#) – CSA Notice of Changes to Companion Policy 41-101CP to National Policy 41-101 *General Prospectus Requirements Related to Financial Statement Requirements*
- [31-103](#) – Publication for comment: Proposed total cost reporting for investment funds and segregated funds
- [25-303](#) – Canadian Securities Administrators (CSA) Staff Notice 25-303 – *2021 CSA Annual Activities Report on the Oversight of Self-Regulatory Organizations and Investor Protection Funds*

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Practices and Consumer Protection Act	May 1/22	by 2019 Bill 7, c. 22, sections 1 (a), 3, 10 (part), 11, 13 to 15 and 16 (part) only (in force by <a href="#">Reg 289/2021</a> ), <a href="#">Business Practices and Consumer Protection Amendment Act, 2019</a> , as amended by 2021 Bill 21, c. 27, section 36 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
Business Practices and Consumer Protection Regulation (294/2004)	May 1/22	by <a href="#">Reg 289/2021</a>
High-Cost Credit Products Regulation (290/2021)	<b>NEW</b> May 1/22	see <a href="#">Reg 290/2021</a>
National Instrument 94-101 Mandatory Central Counterparty Clearing of Derivatives (129/2017)	Apr. 12/22	by <a href="#">Reg 104/2022</a>
Payday Loans Regulation (57/2009)	May 1/22	by <a href="#">Reg 289/2021</a>

## ENERGY & MINES

### Energy and Mines News:

#### Canada's Hydrogen Policy Landscape: A Comparative Overview

On April 7, 2022, Ontario released its first-ever Hydrogen Strategy (the "Ontario Strategy"), making it the latest province to address Canadian hydrogen sector growth through policy. The Ontario strategy is the culmination of a feedback process led by the Government of Ontario and was spurred by the November 2020 Discussion Paper. The article below provides a comparative analysis of current hydrogen policy initiatives across Canada, including a close look at the new Ontario Strategy. Read the [full article](#) by Paule Hamelin, Patrick Cajvan, Myron B. Dzulynsky, Jenna Kara, Luke Sabourin and Maya Stano with Gowling WLG.

#### Budget 2022 Highlights Carbon Capture Use and Storage as Part of Government Energy Transition Plan

##### Part 1: British Columbia's Evolving Regulation of Carbon Capture and Storage

The release of the federal government's 2022 budget highlights the tension between commitments to a net-zero economy and the enduring importance of fossil fuels in Canada. The government's 2030 Emissions Reduction Plan, published pursuant to the [Canadian Net-Zero Emissions Accountability Act](#) (which enshrines Canada's commitment to achieve net-zero greenhouse gas emissions by 2050 in law), noted that competing in a future that will see "continued oil and gas use globally, but with demand declining significantly in the coming decades"

will require that Canada "offer lower carbon oil and gas to the world." Read the [full article](#) by Laura Duke and Chat Ortvad with Lawson Lundell LLP.

### Government of Canada Trying to Focus Policies to Make Electric Vehicles Go [Mining/Mineral Exploration]

Budget 2022 Introduces:

- new "Super Flow-Through" Critical Mineral Exploration Tax Credit;
- funds to Support Critical Infrastructure; and
- further Support for Indigenous Partnerships.

Mining exploration and development is fraught with challenges: attracting risk capital, operating in remote locations and with limited infrastructure, permitting and regulatory certainty, to name a few. The extraction of critical minerals, indispensable in the electrification and high technology sectors, is particularly challenging, both for geographical reasons and from the perspective of financial viability.

Budget 2022 marked Canada's first meaningful steps towards prioritizing critical minerals. In this regard, highlights of the Budget include incentivizing private sector investment through a new "super flow-through" tax credit for critical minerals, infrastructure support for critical regions and investment in processing, manufacturing and recycling. In addition, the Budget announced further investment in development of a National Benefits-Sharing Framework for natural resources together with expansion of the Indigenous Partnerships Office and Indigenous Natural Resource Partnerships program. The key aspects of these initiatives for mining are outlined below. Read the [full article](#) by Sander Grieve, Abbas Ali Khan, Philip Ward, Nicholas Arrigo and Sharon Singh with Bennett Jones LLP.

### Canadian Negotiators Share Latest on Columbia River Treaty

The Province is hosting a virtual public information session to provide an update and answer questions about Canada-U.S. negotiations on the Columbia River Treaty. The session will be held on Monday, May 16, 2022, from 6-8 p.m. (Pacific time), and is open to anyone interested in learning more about the process for modernizing the treaty. A phone-in option will also be available for those not able to connect online. Read the government [news release](#).

### Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletin:

- [INDB 2022-07](#) – Advisory Systems Outage

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

Act or Regulation Affected	Effective Date	Amendment Information
Long Lake Exemption (232/2016)	Apr. 5/22	by <a href="#">Reg 88/2022</a>

## FAMILY & CHILDREN

### Family and Children News:

#### Parentage Committee Considers Legislation Allowing Multiple Parents for Children Conceived by Sexual Intercourse

BCLI's [Parentage Law Reform Project Committee](#) continued its review of the rules in part 3 of the [Family Law Act](#) that apply to parentage of children conceived by sexual intercourse. The committee completed its examination of a provision in the American Uniform Parentage Act 2017 ([PDE](#)) that sets out a court-based process to deny parentage to the perpetrator of a sexual assault that results in the birth of a child. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

#### Wrong Calculation Used for Spousal Support Award: B.C. Court of Appeal

The British Columbia Court of Appeal has found it erroneous for a judge to calculate periodic spousal support using a shared parenting range after he already ordered primary parenting in favour of one of the parents. In

*O.C. v. M.V.S.G.*, [2022 BCCA 140](#), the parties married in 1999 and separated in 2019. They had three teenage children. In 2020, the parties sought orders under the [Divorce Act](#) and B.C.'s [Family Law Act](#) in a summary trial meant to resolve all their outstanding family law matters. Read the [full article](#) by [Bernise Carolino](#) on *Canadian Lawyer*.

**Practice Direction 61 – BCSC**

from the BC Supreme Court:

Please be advised that [Practice Direction 61 – Applications to Commence Proceedings Anonymously](#) has been issued by Chief Justice Hinkson effective May 2, 2022. This Practice Direction sets out the procedure for commencing proceedings using initials or a pseudonym in a civil or family law case. Please visit the [BC Supreme Court website](#) for more information on this and other announcements.

Act or Regulation Affected	Effective Date	Amendment Information
Child, Family and Community Service Act	Apr. 12/22	by <a href="#">Reg 103/2022</a>
Supreme Court Civil Rules (168/2009)	Apr. 4/22	by <a href="#">Reg 321/2021</a>
Supreme Court Family Rules (169/2009)	Apr. 4/22	by <a href="#">Reg 321/2021</a>

**FOREST & ENVIRONMENT**

**Forest and Environment News:**

**The Forest Amendment Act, 2021: Bill 28 and Tenure Redistribution**

On November 25, 2021, the *Forest Amendment Act, 2021* (otherwise known as [Bill 28](#)) passed through the BC Legislature and received Royal Assent. While it also includes other miscellaneous changes to the [Forest Act](#) (the Act), the primary focus of Bill 28 is on the expropriation and redistribution of existing harvesting rights. As a government news release announced when Bill 28 was introduced into the Legislature, "government will be able to reduce the timber harvesting rights of existing forest tenure holders, compensate them and then redistribute the timber harvesting rights to First Nations, communities, and BC Timber Sales." One must marvel at the sense of irony in the government House Leader's office given how government's legislative agenda was scheduled so that Bill 28 received the same bill number as the old [Forestry Revitalisation Act](#) of 2003, the last substantial legislative take-back of harvesting rights in BC, and also known as Bill 28 (the Old Bill 28). Read the [full article](#) by [Jeff Waatainen](#) in the Spring 2022 issue of *BC Forest Professional*.

**Key Developments in British Columbia and Federal Environmental Law**

There were many important developments in environmental law in 2021. Reconciliation with Indigenous peoples, climate change, and managing industrial impacts were key topics that shaped judicial, legislative, and policy changes in British Columbia and across Canada.

With respect to judicial developments; jurisdictional disputes, approval of industrial developments, contaminated sites, and environmental prosecutions resulted in groundbreaking changes in environmental law. There were also important legislative developments: several significant amendments were proposed, introduced, and passed. At the provincial level, there are new regulations that require more rigorous procedures for operations using fossil fuels. Federally, developments include the introduction of new regulations respecting hazardous waste and recyclables, air pollutants, and gasoline. Read the [full article](#) by [Dionysios Rossi](#), [Alysha Flipse](#), [Marlena McMurtry](#) with Borden Ladner Gervais LLP. The article includes a link to the firm's recent publication of [Environmental Law](#).

**Water Security Will Be Growing Focus of ESG Issues in Mining Industry: Bennett Jones Lawyer**

BC government recently announced it is developing its first watershed security strategy. The increasing focus governments have put on water security, and water management means the mining industry will need to adapt to new environmental social and governance (ESG) standards, says Bennett Jones partner [Sharon Singh](#). "There have always been water-related issues within the mining industry," says Vancouver-based Singh. She says these issues don't only arise in locations where water is scarce but in regions like Canada where water is seen as

abundant. Read the [full article](#) by Zena Olijnyk on *Canadian Lawyer*.

### **BC Doubles Forestry Revenue Rates for First Nations as Long-term Plans Underway**

The BC government says it's doubling the amount of forestry revenue that eligible First Nations receive as the province works on a new forestry revenue-sharing model with First Nations leadership. This interim enhancement is expected to boost First Nations forestry revenue by \$63 million this year, as the shared revenue rates increase by five per cent – from three, four or five per cent to eight, nine, or 10 per cent. This shared revenue rate will be in effect until the province completes its new forestry revenue-sharing model, which is being co-developed with First Nations, and is expected to take at least two years to finalize. Read the *CTV* [article](#).

### **BC Announces \$19 Million in Funding to Forests Ministry to Fight Climate Change**

Both sides on the issue of old-growth logging in British Columbia are so polarized they "can't see the forest for the trees," Forests Minister Katrine Conroy said Thursday [April 28]. Conroy told those attending the BC Council of Forest Industries conference that, though old-growth logging has garnered passionate public debate, she believes the views of most residents fall somewhere in the middle of the extremes. Read the [full article](#) in the *National Post*.

### **Province Reveals Plans for BC's Upcoming Wildfire Season**

The province says it has learned from its mistakes and will apply those lessons to the looming wildfire season. MLA Murray Rankin, Minister of Indigenous Relations and Reconciliation, and Vernon Monashee MLA Harwinder Sandhu held a press conference Tuesday [April 20] to discuss what the province will be doing in 2022 to mitigate wildfires. [Budget 2022](#) provides more than \$2.1 billion to help people recover from the devastating floods and wildfires of last year, and to better protect communities against future climate disasters. Read the *BIV* [article](#).

### **Environmental Appeal Board Decisions**

No Environmental Appeal Board decisions were made in April. Visit the Environmental Appeal Board [website](#) for more information.

### **Forest Appeals Commission Decisions**

The following Forest Appeals Commission decision was made recently:

#### [Wildfire Act](#)

- [North Enderby Timber Ltd. and Canadian Cedar Oil Technologies Ltd. v. Government of British Columbia](#) [Final Decision – Appeals Allowed in Part]

Visit the Forest Appeals Commission [website](#) for more information.

<b>Act or Regulation Affected</b>	<b>Effective Date</b>	<b>Amendment Information</b>
Conservation Officer Service Authority Regulation (318/2004)	Apr. 4/22	by <a href="#">Reg 86/2022</a>
Lymantria Moth Eradication Regulation (100/2022)	<b>NEW</b> Apr. 11/22	see <a href="#">Reg 100/2022</a>
North American Gypsy Moth Eradication Regulation (102/2021)	<b>REPEALED</b> Apr. 11/22	by <a href="#">Reg 100/2022</a>
Water Sustainability Regulation (36/2016)	Apr. 1/22	by <a href="#">Reg 84/2022</a>

## **HEALTH**

### **Health News:**

### **New Legislation Aims to Clarify Rights under *Mental Health Act***

On April 28, the BC government introduced [Bill 23](#), *Mental Health Amendment Act, 2022*. According to Minister of Attorney General David Eby, the intent of this legislation is to ensure that those individuals who are involuntarily admitted under the *Mental Health Act* understand their legal rights. Under the Act, involuntary patients must be informed of their rights when they are involuntarily admitted, transferred to another designated facility, or when their involuntary status is renewed. The Bill also establishes the duties of rights advisers and the responsibilities of directors of designated mental health facilities in facilitating access to the service, which is expected to be available in 2023. Read the official government [news release](#) for more information.

### **Stigma [Mental Illness] Not the Foundation of a Class Proceeding**

In *K.O. v. British Columbia (Ministry of Health)*, the British Columbia Supreme Court dismissed an application for certification of a claim under BC's *Class Proceedings Act* ("CPA") in which the proposed representative plaintiff alleged systemic failures in the healthcare system impacting a proposed class of every BC resident since 1974 suffering from a recognized mental illness. The primary allegation by the plaintiff K.O. was that stigma against mental illness was systemic and structural and that the Defendant, the BC Ministry of Health's failure to tackle that stigma constituted both negligence and a violation of the *Canadian Charter of Rights and Freedoms* (the "Charter"). Read the [full article](#) by Ricki T. Johnston with Gowlings WLG.

### **Health Canada Announces Review of All MDMA Trials, as Complaint Alleges Major Flaws and Safety Issues**

Concerns about patient safety, reports of increased suicidal thinking, and allegations of flawed research are at the heart of a new complaint to Health Canada over the much-hyped clinical trials for the use of MDMA to treat post-traumatic stress disorder. The complaint about Health Canada-approved trials conducted by the U.S.-based Multidisciplinary Association for Psychedelic Studies (MAPS) was submitted to the federal agency on March 4 by a group of academics and journalists. Health Canada confirmed Wednesday [April 4] that it's now reviewing all trials involving MDMA to ensure patient safety and compliance with regulations. Read the CBC [article](#).

### **165 British Columbians Lost to Toxic Drug Supply in March 2022**

Toxic drugs have claimed the lives of more than 150 British Columbians for the 18th consecutive month, according to the latest preliminary data released by the BC Coroners Service. Read the full government [news release](#).

### **'A Big Crisis': How BC's Family Doctor Shortage is Spreading**

Off a quiet road next to the local Lion's Club and skate park, the clinic offers a helicopter landing pad, part-time nurse practitioner, massage therapist and chiropractor, among other services. But in the end, said Kendall Kyle, chair of the Galiano Health Care Society, "The whole idea of the health care centre was to have a place that would encourage a doctor to come." Built three decades ago, for the last eight years, Dr. Erin Carlson has cared for the community, even as its population spiked by more than a third in the last national census. "It was a great time for health care on Galiano," said Linda Ruedrich, who manages the clinic as executive director. The model worked, at least for a while. Read the BIV [article](#).

### **BC PharmaCare Provides New, Expanded Coverage**

Thousands of people in BC will benefit from BC PharmaCare's new and expanded coverage of medications for ulcerative colitis and Crohn's disease, severe hypoglycemia, migraines, the treatment of low white blood cell levels, multiple sclerosis, heart failure, and birth control. Effective April 12, 2022, vedolizumab (Entyvio), which is used in the treatment of moderately to severely active ulcerative colitis and Crohn's disease, has a new method of administration (subcutaneous injection) covered through BC PharmaCare. This offers patients more convenience as they can administer the medication themselves. Currently, this treatment is administered in clinical settings intravenously (IV) and is also covered through BC PharmaCare. Read the full government [news release](#).

### **Supporting International Nurses into BC's Health System**

To meet the increasing demand for nurses in British Columbia, the Province is making it easier for eligible internationally educated nurses (IENs) to enter the province's health system so they can support British Columbians' health-care needs sooner. Together with the British Columbia College of Nurses and Midwives

(BCCNM), the Nursing Community Assessment Service (NCAS) and Health Match BC (HMBC), the Province is supporting IENs who want to work in B.C. by:

- consolidating the provincially based assessment processes for IEN candidates;
- offering approximately \$9 million in bursaries to help with assessment fees, which is expected to benefit approximately 1,500 IENs in the first year; and
- creating new nurse navigator positions to help IENs navigate the assessment and licensing process.

Read the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Accessible British Columbia Regulation (105/2022)	<b>NEW</b> Apr. 14/22	see <a href="#">Reg 105/2022</a>
Drug Schedules Regulation (9/98)	Apr. 19/22	by <a href="#">Reg 106/2022</a>
Enforcement Regulation (4/2015)	Apr. 27/22	by <a href="#">Reg 109/2022</a>
E-Substances Regulation (186/2020)	Apr. 4/22	by <a href="#">Reg 87/2022</a>
Medical and Health Care Services Regulation (426/97)	Apr. 22/22	by <a href="#">Reg 108/2022</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### **Labour Relations Code Amendments Introduce Single-step Certification**

On April 6, the government introduced [Bill 10](#), the *Labour Relations Code Amendment Act, 2022*, which proposes amendments to the [Labour Relations Code](#) with two main objectives. The first will establish a single-step (or "card-check") union certification system. In the current two-step system, certifying a union requires that 45% of workers sign union membership cards before holding a vote. The proposed amendments would allow certification if 55% of workers sign membership cards without a vote. However, if between 45% and 55% of employees sign membership cards, the second step of a secret ballot vote will then be required. The proposed amendments would also allow workers in the construction sector to change unions annually, rather than waiting the currently required three years. This amendment is intended to allow employees the opportunity to switch unions during the span of a construction project which may last less than three years. For more information on these proposed changes, please see the government [news release](#) or the article [No Bluff: British Columbia Government Introduces Card-Check Certification, Stacking the Deck in Favour of Unions](#) by Gary T. Clarke, Kris R. Noonan and David M. Price with Stikeman Elliott.

#### **Unsigned Employment Contracts Can Be Enforceable in Some Circumstances**

A recent BC Supreme Court [decision](#) demonstrates that an employment contract does not necessarily need to be signed by the employee in order to be enforceable as long as there is clear evidence that the employee agreed to the terms in the contract.

#### **Facts**

In *Asgari Sereshk v. Peter Kiewit Sons ULC*, 2021 BCSC 2570, the plaintiff, Mr. Sereshk worked for the defendant, Peter Kiewit Sons ULC (the "Company") as a project engineer from 2008 to 2015. He subsequently left to work for a competitor. In 2019, the Company again offered Mr. Sereshk employment as a project manager. The proposed contract had a clause which allowed the Company to terminate Mr. Sereshk's employment "for any reason, without cause or serious reason" upon giving the minimum amount of advance notice, or pay in lieu of notice, provided for under the applicable provincial employment/labour standards legislation.



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

**BC Court Confirms High Threshold for Proving Family Status Discrimination in Employment**

The BC Supreme Court recently confirmed the test for family status discrimination in the case of *Gibraltar Mines Ltd. v Harvey*, [2022 BCSC 385](#). Ms. Harvey and her husband were employed by Gibraltar Mines Ltd. near Williams Lake. They worked the same 12-hour shifts. After she gave birth to her first child, Ms. Harvey and her husband requested a change for one of their work schedules so they could access childcare. Read the [full article](#) by Scott Marcinkow with Harper Grey LLP.

**BC Case Deals with Enforceability of Handbook Termination Clause, When a Termination Took Place and Frustration under COVID**

In *Verigen v. Ensemble Travel Ltd.*, ([2021 BCSC 1934](#)) Justice Milman had a situation of a 55 year old Business Development Director (really more of a sales person) with 13 months service who was given a temporary layoff notice at the beginning of COVID. The plaintiff consented to the first time limited layoff and consented to a second one but did not consent to at third extension beyond August, 2020. Read the [full article](#) by [Barry B. Fisher](#), LLB on *First Reference*.

**Minimizing Biases in the Hiring Process**

Employers often make hiring decisions based on a multitude of objective and subjective factors. Given that personal biases often play a conscious or unconscious role in these decisions, employers face the risk of finding themselves the subject of a complaint to the British Columbia Human Rights Tribunal (the "BCHRT") where an applicant speculates that there has been some form discrimination in the hiring process. A recent complaint [[2022 BSHRT 41](#)] to the BCHRT highlights to employers the importance of mitigating the potential impact of biases through adopting a well thought out and documented hiring process. Read the [full article](#) by [Kirstin Mase](#) and [Hailey Pattenden](#) of Edwards, Kenny & Bray LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	May 1/22	by <a href="#">Reg 85/2022</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	May 1/22	by <a href="#">Reg 85/2022</a>
Firefighters' Occupational Disease Regulation (125/2009)	Apr. 22/22	by <a href="#">Reg 107/2022</a>

**LOCAL GOVERNMENT**

**Local Government News:**

**A Closer Look at the Study Paper on Public Hearings: Historical Legislation**

This post is part of a series highlighting BCLI's [Study Paper on Public Hearings: An Examination of Public Participation in the Adoption of Local Bylaws on Land Use and Planning](#). For other posts in the series click [here](#).

**Town Planning Act (1925)**

In the early 20th century British Columbia's local governments had rudimentary land use-planning powers that were "tightly worded to equip local governments to deal only with particular land use issues," which meant that the governing provincial "legislation thereby reflected a prevailing view that local governments should be empowered to interfere with private land use decisions only sparingly." But in 1925, BC changed course by enacting "[t]he first comprehensive delegation of legislative power to regulate land use in BC."

Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

## **Bill 20 - Municipal Affairs Statutes Amendment Act, 2022 Introduced**

On April 7, the BC government introduced [Bill 20](#), which proposes amendments to several Acts including the [Local Government Act](#), [Community Charter](#) and others. According to the government, the intent of these changes will be to achieve five objectives:

- Remove redundant legislation that is no longer required
- Clarify local government's authority on electronic meeting and subdivision of land that is not agricultural land
- Accommodate gender-neutral language
- Provide the city of Vancouver the same authority all other local governments have, to do energy benchmarking
- Implement a new requirement for local elected officials who are charged with or convicted of criminal offences. The requirement will be for the official to go on a mandatory paid leave when charged with a serious criminal offence until the criminal process is complete or the charges resolved.

These changes will come into force if and when this Bill reaches Royal Assent. If you would like to be notified when these or other changes come into force, we suggest using the BC Legislative Digest or Keyword Alert tools, both located on the [My Alerts](#) tab.

### **Province Releases DRIPA Action Plan: Implications for Local Governments**

On March 30, 2022, the Province released its highly-anticipated Action Plan for implementing the [Declaration of the Rights of Indigenous Peoples Act](#) ("DRIPA"). The overarching purpose of DRIPA is to implement the objectives of the United Nations Declaration on the Rights of Indigenous Peoples (the "UNDRIP"), including to facilitate the alignment of provincial laws with UNDRIP. The Action Plan, which was developed in consultation with Indigenous peoples, outlines 89 specific action items that various provincial ministries will be responsible for implementing over the years of 2022 to 2027. As required by [section 5 of DRIPA](#), progress on the Action Plan will be reviewed and reported annually. Read the [full article](#) by Julia Tikhonova and Reece Harding with Young Anderson Barristers & Solicitors.

### **Review of Police Act Suggests BC Get Rid of RCMP, Move to Provincial Police Force**

Mike Farnworth, Minister of Public Safety and Solicitor General, has released the following statement in response to the [report](#) by the Special Committee on Reforming the Police Act: "The recommendations from the Special Committee on Reforming the [Police Act](#) echo our government's belief that everyone deserves equal treatment by the police. "This has not always been the case for many Indigenous, Black and other people of colour. Public trust requires that the delivery of police services is fair, equitable and responsive to all British Columbians. Read the full government [news release](#).

### **Victoria Council Unanimously Passes Motion for Affordable Housing Construction**

This makes it the first municipality in the province to approve a citywide expedited process for building affordable housing. Some affordable housing projects in Victoria will now be able to skip rezonings or public hearings after city council unanimously passed a motion at a meeting Friday [April 15]. The city says the new legislation will accelerate construction for non-profit, government or co-op housing projects that are consistent with the city's community plan and design guidelines. Plans that meet the criteria will be delegated to staff for approval, which the city estimates will reduce project timelines by about nine months. This makes it the first municipality in the province to approve a citywide expedited process for building affordable housing. Read the [Vancouver Sun article](#).

### **Bonding Strategy Proposed for Industrial Projects**

The Ministry of Environment and Climate Change Strategy has released a [discussion paper](#) on the Public Interest Bonding Strategy. The objective of the Strategy is to ensure that owners of industrial projects pay the full costs of environmental clean-up and remediation, even if projects are abandoned. Read the full UBCM [article](#).

### **Recent Changes to Date Calculator**

On February 28, [B.C. Reg. 17/2022](#) brought into force sections of the [Municipal Affairs and Statutes Amendment Act \(No. 2\), 2021](#), SBC 2021, c. 30. The changes include

- revised public notice requirements, allowing local governments to establish, by bylaw, alternative notice methods, such as providing online notice (providing notice via newspaper remains an option); and
- amendments to the [Islands Trust Act](#) which make notice requirements consistent with those in the

[Community Charter.](#)

Some of the changes amend the dates and events in the Quickscribe Date Calculator tool, accessible via the left navigation when you login to your Quickscribe Online (CivicLaws) account. The events affected include the Notice of Council Hearing in Relation to Suspension or Cancellation of a Business Licence, Deadline for Electoral Responses in An Alternate Approval Process, Public Hearings and Public Notice in Accordance with Section 94 of the Community Charter. The Date Calculator references have been updated to reflect these changes. It is worth noting that the requirements that local governments consider developing a code of conduct for council members, or updating an existing code have [not yet come into force](#). Quickscribe would like to thank [Ryan Bortolin](#), partner with [Stewart McDannold Stuart Barristers & Solicitors](#) (SMS), for his efforts to help us consolidate these changes. Stewart McDannold Stuart is a Victoria-based law firm devoted to providing legal services to local governments in British Columbia.

**School Amendment Act, 2022 Introduced to Support Francophone Education**

[Bill 22](#), introduced on April 26, proposes amendments to the [School Act](#) to meet the province's constitutional obligations under the [Canadian Charter of Rights and Freedoms](#), clarified and defined in a 2020 Supreme Court of Canada decision. The amendments will assist the province in delivering francophone educational programs to children of minority language education rights holders by allowing the implementation of capital strategy to support the Conseil scolaire francophone in acquiring land and school facilities for francophone education programs.

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Authority Act	Apr. 1/22	by 2020 Bill 10, c. 1, section 2 only (in force by Royal Assent), <a href="#">Municipal Affairs and Housing Statutes Amendment Act, 2020</a>
Home Owner Grant Regulation (100/2002)	Apr. 11/22	by <a href="#">Reg 93/2022</a>
Liquor Control and Licensing Regulation (241/2016)	Apr. 7/22	by <a href="#">Reg 89/2022</a>
	Apr. 11/22	by <a href="#">Reg 97/2022</a> and <a href="#">Reg 98/2022</a>
	Apr. 30/22	by Reg 241/2016
Taxation (Rural Area) Act Regulation (387/82)	Apr. 11/22	by <a href="#">Reg 102/2022</a>

**MISCELLANEOUS**

**Miscellaneous News:**

**New Anti-Racism Data Act Introduced**

On May 2, [Bill 24](#), the *Anti-Racism Data Act*, was introduced. The Act proposes to address systemic racism and discrimination by collecting data to help identify how systemic racism affects programs and services in sectors like policing, health care, employment, housing and education. The intent of the Act is to set requirements to identify, prevent, mitigate and minimize community harm and ensure collaboration with Indigenous peoples and racialized communities, as well as to allow the creation of data standards and directives for the use and sharing of data. According to the government, this legislation is the first of its kind in Canada to be co-developed with Indigenous communities.

**Amendments to Professional Governance Act Introduced**

[Bill 12](#), the *Professional Governance Amendment Act, 2022*, was introduced on April 25, proposing amendments to the [Professional Governance Act](#). Included are changes identified by the Office of the Superintendent of

Professional Governance (OSPG) intended to improve oversight for the professions included in the Act and the possibility to allow more professions to operate under the Act. These proposed amendments include provisions to allow implementation of best practices in professional governance and to allow regulatory bodies to address non-compliance with administrative matters, as well as ensuring that the Act does not impact Indigenous traditional knowledge and practices. The amendments would also allow the option of an external funding source for the OSPG.

### **B.C. Court of Appeal Confirms That Claims Bound to Break Down into Individualized Inquiries Cannot be Certified in a Class Action**

The B.C. Court of Appeal's recent decision in *Ewert v. Canada* (Attorney General), [2022 BCCA 131](#), provides an important reminder that claims bound to break down into individualized inquiries cannot be certified in a class action. *Ewert* also reminds courts that the preferability analysis is a requirement under the BC [Class Proceedings Act](#) and cannot be overlooked – and suggests that, in cases where any common issues are too entangled with individual ones, a class proceeding may not be the preferable procedure for resolving the claims. *Ewert* is a proposed class action relating to allegedly unlawful strip searches of inmates. In January 2010, the Correctional Service of Canada received information that an improvised gun had been smuggled into Kent Institution, a maximum-security prison in British Columbia. In response, the warden of the institution authorized two exceptional strip searches conducted under lockdown conditions. During this lockdown, inmates were restricted to their cells, except when removed for strip searches, and programs and visits were suspended. No gun was recovered through either search. Jeffrey Ewert was one of about 215 inmates who were searched. He filed a proposed class action against Canada alleging that the strip searches were tortious and breached inmates' [Charter](#) rights. Read the [full article](#) by Connor Bildfell and Alexandra Comber with McCarthy Tétrault LLP.

### **The Unruly Horse of Public Policy: BC Supreme Court Considers Whether the Public Policy Exception Extends to Post-Arbitral Domestic Enforcement**

In *Enrox Energy and Mining Group v Saddam*, [2022 BCSC 285](#), Justice Crerar of the British Columbia Supreme Court had to determine whether the potential for double recovery justified refusing to recognize and enforce a foreign arbitral award based on the public policy exception. Although the Court found that the public policy exception was not necessarily limited to the integrity and fairness of the foreign arbitral process, Justice Crerar also held that the facts did not require him to determine whether the exception could be extended to encompass situations where the effect of local enforcement offends public policy. As such, this important issue remains a question for another day. Read the [full article](#) by Jennifer K. Choi with McCarthy Tétrault LLP.

### **Extra-territoriality: When Can a Foreign Court Transfer Title to Land in Canada?**

The Supreme Court of Canada has recently granted leave to appeal from the British Columbia Court of Appeal's decision in *Lanfer v Eilers*, [2021 BCCA 241](#) ("Lanfer"). The Plaintiffs/Appellants, the Lanfers, sought to enforce a foreign judgment granting specific performance for the transfer of land in British Columbia.

#### **Facts**

The Plaintiffs/Appellants are resident in Germany. They entered into an inheritance contract which provided that certain real property in Kelowna, British Columbia would be inherited by them upon the death of Herr Lanfer. However, in breach of the inheritance contract, the property in British Columbia was transferred to the Defendant/Respondent, Eilers (also a German resident), who refused to re-convey the property.

Read the [full article](#) by Patricia Chehadé with WeirFoulds LLP.

### **Proposed Competition Law Amendments in Canada Set to Significantly Expand the Scope of the Competition Act**

Following recent announcements by the Minister of Innovation, Science and Industry, the Government of Canada has now proposed amendments that would significantly expand the scope of the Canadian [Competition Act](#) (Act). These amendments are included in the Canadian Government's budget legislation and are therefore likely to be enacted by the end of June. The proposed changes and key takeaways for businesses are included in [the bulletin](#) by the [Competition, Antitrust & Foreign Investment](#) group of Blake, Cassels & Graydon LLP.

### **BC Court of Appeal Reinforces Need for Proper Jury Instruction, Says Lawyer**

A unanimous decision by the Court of Appeal for *British Columbia in R. v. Subramaniam*, [2022 BCCA 141](#), has sent a strong message to trial judges that flawed jury instructions can result in their rulings being tossed and

having to start all over again. Read the [full article](#) by Jeff Buckstein published by *The Lawyer's Daily*.

Act or Regulation Affected	Effective Date	Amendment Information
Compensation and Disaster Financial Assistance Regulation (124/95)	Apr. 28/22	by <a href="#">Reg 110/2022</a>
Freedom of Information and Protection of Privacy Act	Apr. 1/22	by <a href="#">Reg 73/2022</a>
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	<b>NEW</b> Apr. 1/22	see <a href="#">Reg 58/2022</a>
	Apr. 8/22	by <a href="#">Reg 90/2022</a>

## MOTOR VEHICLE & TRAFFIC

### Motor Vehicle and Traffic News:

#### Notice – New Edition of CAN/CGSB 43.146 Is Published

A new edition of the following standard has been developed by the Canadian General Standards Board (CGSB) Technical Committee and was published in March 2022:

**CAN/CGSB 43.146** "Design, manufacture and use of intermediate bulk containers (IBCs) for the transportation of dangerous goods, Classes 3, 4, 5, 6.1, 8 and 9".

Read the [full notice](#) on the Transport Canada website.

#### Transportation Act Amendments Aim to Increase Housing and Services near Transit Hubs

[Bill 16](#), the *Transportation Amendment Act, 2022*, was recently tabled in the legislature. The bill proposes amendments to the [Transportation Act](#) that would allow the BC Transportation Financing Authority to acquire land for transit-related development near transit stations and bus exchanges. Currently, BCTFA may purchase land only for transportation projects. The Bill 16 amendments would enable BCTFA to also purchase or improve land near stations and exchanges for related purposes, including building housing and community amenities such as child care centres, commercial services, schools, health-care centres, public gathering spaces and recreation centres. The amendments are intended to increase the amount of housing and number of services close to public transit in order to create more accessible communities and increase transit use.

#### BC Driver Who Took Speed Limit Sign as "Suggestion", Despite Bad Weather, Tries to Sue over Crash into Truck

A British Columbia driver who was injured in a car crash several years ago said in a lawsuit involving the provincial auto insurer that she took a speed advisory sign as a "suggestion," despite poor weather conditions. The driver was hurt in a crash near Pender Harbour on BC's Sunshine Coast the summer of 2016. The court heard, in her attempt to sue, that she lost control of her vehicle and struck an oncoming truck head-on. The driver took her insurer and those who maintain the stretch of highway where she'd crashed to court, even naming the Province of British Columbia initially. Read the *CTV news article*.

#### CVSE Bulletins & Notices

No bulletins or notices by CVSE for April. For more information on these and other items, visit the [CVSE website](#).

#### Passenger Transportation Board Bulletins

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

##### Industry Updates & Advisories

- **2022 Taxi Limo Cost Index (TLCI)**

The Board has concluded its [Taxi and Limousine Cost Index \(TLCI\) review](#) for this year and a 5.3%

increase will be made available for taxis to [request](#) upon July 31, 2022. More information on the TLCI can be found in the [Q&As](#). Further information about the TLCI process is posted on the Board's [TLCI Page](#).

• **Vancouver Cruise Ship Schedule for TNS and Taxi Operators**

As the 2022 cruise season commences in Vancouver, TNS and Taxi Licensees are reminded to [review their terms and conditions of licence and the cruise schedule](#). The Board will continue its efforts to ensure that any changes or amendments are posted in the Weekly Bulletin and on the website.

• **TOPs Processing Reminder**

With grad and summer fast approaching, licensees planning to apply for a Temporary Operating Permit (TOP) should do so well in advance and not wait until the day before or the day of the requested TOP start date. Processing cannot be guaranteed in this short a time period. To learn more about TOPs (including Peak Season and Regular), please see [Reference Sheet 17](#)

Applications Received

- [14107-22](#) – Transfer of Licence: PDVA (Limo) from The Estate of Randell Arthur Ralph to RRR Limousine Services Ltd.
- [14489-22](#) – New PDVA (Taxi): Rajbir Singh Kahlon (Bluebird Cabs)
- [14168-22](#) – Amendment of Licence: PDVA (Other PDV) – Mauricio Varas (Freewest Tours Services)

Application Decisions

- [13420-21](#) – Waivin Flags Taxi [Approved]
- [14654-22 TOP](#) – Cold Comforts Lodgings Ltd. [Refused]
- [13954-21](#) – Cold Comforts Lodgings Ltd. [Approved]
- [14691-22 UPN](#) – Diversified Transportation Ltd. [Approved]
- [13973-21](#) – Transfer of Licence from Matthew Charles Bone and Krysta Rahel Lachowski (Sicamous Taxi) to Michelle Gail Wolff [Approved]
- [14772-22 UPN](#) – Lightning Transport Systems Ltd. [Approved]
- [14791-22](#) – Robert Charles and Leticia Natalie Darwin [Refused]
- [14804-22 UPN](#) – Savannah Marie Swaisland (Grape Savvy Wine Tours, Grape Savvy Trolley Co.) [Approved]
- [14837-22 PS TOP](#) – Elite Limousine Service (2003) Ltd. [Approved]
- [14169-22](#) – New PDVA (Taxi): Foley, Brian Lawrence (Bluebird Cabs) [Approved]
- [14119-22](#) – New PDVA (Limo): RDY Enterprises Ltd. [Approved]
- [14469-22](#) – Transfer of Licence from Diversified Transportation Ltd. to Pacific Western Charters Ltd. [Approved]
- [12621-21](#) – MTR Western, LLC
- [13562-21](#) – Transfer of Licence from Campbell River Cabs Ltd. to Waivin Flags Taxi
- [14846-22 PS TOP](#) – Vanride Shuttle Services Ltd.
- [14875-22 TOP](#) – Elite Limousine Service (2003) Ltd.
- [13997-21](#) – Robert Charles and Leticia Natalie Darwin

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

Act or Regulation Affected	Effective Date	Amendment Information
Basic Vehicle Damage Coverage Regulation (4/2021)	RETRO to May 1/21	by <a href="#">Reg 95/2022</a>
	RETRO to Nov. 1/21	
	Apr. 11/22	
Enhanced Accident Benefits Regulation (59/2021)	RETRO to May 1/21	by <a href="#">Reg 96/2022</a>
	Apr. 11/22	

Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation (60/2021)	<b>RETRO to</b> May 1/21	by <a href="#">Reg 94/2022</a>
Insurance (Vehicle) Regulation (447/83)	<b>RETRO to</b> May 1/21	by <a href="#">Reg 96/2022</a>
	May 1/22	by Reg 447/83
Lien on Impounded Motor Vehicles Regulation (72/2022)	Apr. 1/22	by <a href="#">Reg 72/2022</a>
Motor Vehicle Act Regulations (26/58)	May 1/22	by <a href="#">Reg 24/2022</a>

## OCCUPATIONAL HEALTH AND SAFETY

### Occupational Health & Safety News:

#### Proposed Policy Amendments Regarding Industry Group Movement

WorkSafeBC adopted a new rate-setting model on January 1, 2019. Policy changes are needed to align policy with the current model and ensure WorkSafeBC's timely ability to place and move industry groups into appropriate rate groups. Our Policy, Regulation and Research Department is releasing a discussion paper, with options on proposed amendments to policy relating to industry group movement, for public consultation. You're invited to provide feedback on the options until 4:30 p.m. on Friday, June 3, 2022. Read the [notice](#) on the WorkSafeBC website.

#### Mines Audit Provides Steps to Increase Safety Near Water

The Province's mines chief auditor has released the Mining Audit Report, Worker Protection in Mobile Equipment Near Water to support the safety of workers. The audit found the ministry has regulatory requirements in place for workers operating mobile equipment near water at BC mines. The chief auditor also determined the ministry is inspecting mobile equipment and has developed processes, systems and tools to learn from past incidents. The chief auditor has provided three recommendations for strengthening and clarifying regulatory requirements, managing incident files and conducting outreach and education related to past incidents. Read the government [news release](#).

#### Worksite Asbestos Exposure Results in \$20,000 Fine

A WorkSafeBC investigation found the owner of a drywall recycling company knowingly exposed between 13 and 15 workers to asbestos-containing material. Charges were consequently laid in provincial court against Vivesh Kochher. After pleading guilty, Kochher was fined \$20,000 – plus a victim surcharge – and is banned from owning or operating a waste transfer facility, or any other business that involves asbestos, for three years. WorkSafeBC also found Kochher defied a stop-work order, issued in September 2019 after an inspection found asbestos at the worksite. Read the *BIV* [article](#).

#### Three Cancers Added to List of Covered Work-related Cancers for BC Firefighters

"It goes without saying that firefighters face a lot of hazards in their work," said Labour Minister Harry Bains in a statement. "When it comes to the workers' compensation system, they shouldn't have to prove that certain long-term illnesses are work-related in order to access supports. "B.C.'s firefighters have been asking for this protection, and I am proud to support these people who do so much to keep British Columbians safe." The three cancers being added to the list are ovarian, cervical and penile cancer. If a firefighter is diagnosed with one of the now 16 listed cancers after working as a firefighter for a certain period, they will be able to access workers' compensation without having to prove the cancer is directly work-related. Read the *Vancouver Sun* [article](#).

#### 6 Effective Ways to Identify Workplace Safety Issues

A key part of the role of a safety professional is identifying and addressing workplace health and safety issues.

What are they? Where do they stem from? Are they routine issues? All of these questions need to be addressed and taken into account when looking into hazard controls and creating a safety plan. Lack of understanding or knowledge of these issues is one of the fundamental causes of safety issues in the workplace. While this list is certainly non-exhaustive, here are six effective ways to get started in identifying workplace health and safety issues. Read the [full article](#) by Maia Foulis published by Canadian Occupational Safety.

### What Jobs Are Too Hazardous for Young Workers?

British Columbians are invited to provide feedback on what types of work are too hazardous to be done by youth under age 16, and in some cases, under 19. The Province has launched a consultation site where stakeholders and the public can review and comment on a proposed framework that outlines the types of jobs that could be defined as hazardous and unsuitable for young workers. The consultation can be accessed through government's engagement site at: <https://engage.gov.bc.ca/govtogetherbc>. Read the government [news release](#).

### New Public Health Orders

The Public Health Office (PHO) issued no new orders or guidance during April. Visit the [PHO website](#) to view these and other related orders and notices.

### OHS Policies/Guidelines – Updates

Guidelines – OHS Regulation:

April 14, 2022

The following guideline was issued:

- Part 4 General Conditions
  - [G4.72 Design and operation](#)

Editorial changes were made to the following guidelines:

- Part 6 Chemical Agents and Biological Agents – Lead
  - [G6.67 Health protection](#)
- Part 11 Fall Protection
  - [G11.6-2 Anchor Selection and use](#)
- Part 30 Laboratories
  - [G30.8 Fume hoods](#)
  - [G30.29 Electrophoresis](#)

Check the [WorkSafeBC website](#) to explore these and other important OHS updates.

Act or Regulation Affected	Effective Date	Amendment Information
Accessible British Columbia Regulation (105/2022)	<b>NEW</b> Apr. 14/22	see <a href="#">Reg 105/2022</a>
Firefighters' Occupational Disease Regulation (125/2009)	Apr. 22/22	by <a href="#">Reg 107/2022</a>

## PROPERTY & REAL ESTATE

### Property and Real Estate News:

#### CHOA – Condo Smarts: Are Audits Required by the Act?

*Dear Tony:* Thank you for last week's column on fraud. Our strata had a similar situation in 2005 and since imposed strict financial approvals to prevent any such problem again. Our strata corporation just completed a \$1.8 million repair on balconies and roofing. The property management company provided us with a detailed



summary of the project, which ended on budget, but several owners have been requesting an audit of the special levy account. Is there a specific threshold or value where an audit is a requirement of the Act or where a strata corporation should consider an audit? The strata council are very satisfied with the completed scope of work which was supervised and approved by the engineer. At this point of the transactions, if the council chooses to conduct an audit, are we authorized to proceed? Read the [full article](#) by Tony Gioventu, published in the CHOA bulletin Condo Smarts.

**Licensees: What You Need to Know about Cryptocurrencies and Real Estate**

Cryptocurrencies are an evolving financial innovation that BC Financial Services Authority ("BCFSA") has a close eye on as a part of our role in monitoring risk in the financial services sector on an ongoing basis. As BCFSA endeavors to safeguard confidence and stability in B.C.'s financial services sector, it is important for licensees to understand cryptocurrencies and how you might encounter them in a real estate transaction. Read the full [news release](#) on the BCFSA website.

Act or Regulation Affected	Effective Date	Amendment Information
Mortgage Brokers Act Regulations (100/73)	Apr. 1/22	by <a href="#">Reg 260/2019</a>

**WILLS & ESTATES**

**Wills and Estates News:**

**Beneficiary's Interest Dictates Security from Sale of Property following Litigation Cancellation**

The British Columbia Court of Appeal has ruled that when cancelling certificates pending litigation over an estate's property, the amount of security from the sale should be proportionate to the interest claimed by the suing beneficiary. In *Wosnack v. Ficych*, [2022 BCCA 139](#), Kevin Wosnack, Barry Wosnack, Roger Ficych, and Sharon Kjos were stepchildren of Donald Daken. Donald passed away in 2017, and his will named Kevin as executor. In dividing his estate, a dispute arose involving the family home. Read the [full article](#) by [Jason Tan](#) on *Canadian Lawyer*.

**BC Case Comment: Does the Doctrine of Unconscionable Procurement Apply in BC?**

The transfer of property into joint ownership with right of survivorship is a common estate planning tool. But can you take back the transfer after you have made it? You can make a new will changing the distribution of your estate, but can you undo the transfer of property into joint ownership? This is what a 91 year old father tried to do (unsuccessfully) in the recent B.C. Supreme Court decision of *Sandwell v. Sayers* [2022 BCSC 605](#). The father tried to argue that the doctrine of unconscionable procurement applied. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

**Dementia Raises Suspicion that Late-in-Life Will Not Valid**

A late-in-life Will that disinherits certain children. Dementia and cognitive decline of the will-maker. Secrecy surrounding preparation of the new will. All of this led to a dispute over the estate of an elderly BC woman in *Re Singh Estate*, [2019 BCSC 272](#). In this case, the will-maker's eight children and most of their spouses became embroiled in litigation. The BC Court concluded that comments regarding the deceased's capacity in her medical records and her abrupt decision to disinherit two of her sons based on events that would have occurred years prior suggested, on a balance of probabilities, suspicious circumstances. The woman lacked testamentary capacity to execute the new will and it was declared of no force and effect. Read the [full article](#) by Janis Ko with ONYX Law Group.

**BC Case Comment: Court Again Refuses to Force Elderly Person to Undergo Capacity Assessment**

I have previously written about committees. All adults are presumed to have legal capacity over their personal care and finances, unless the contrary is demonstrated. On hearing an application under the [Patients Property Act](#), the court may declare a person incapable and appoint a committee to manage a person's care, finances, or both. The application must be supported by the affidavits of two medical practitioners setting out

their opinion that the person is incapable. But what if the proposed patient disputes that they are incapable and opposes the application? What if they refuse to submit to medical examinations and so the person making the application cannot obtain the two affidavits that are required? Read the [full article](#) 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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