

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Spring Session to Resume February 6

The new 2023 [Parliamentary Calendar](#) is now available. The upcoming spring legislative session is scheduled to commence on February 6, with the budget to be announced on February 28. The Quickscribe team is looking forward to keeping you informed about important changes in 2023. If you would like to receive timely alerts about changes that matter most to you, visit your [My Alerts](#) page and select the alert that works best for you.

Latest Annotations

New annotations were recently added to Quickscribe:

- [Bill Buholzer](#), Young Anderson – [Local Government Act](#)
- [Katherine Hardie](#), Human Rights Tribunal – [Human Rights Code](#)
- [Deborah M. Cumberford](#) – [Business Corporations Act](#)
- [Ryan Bortolin](#), Stewart McDannold Stuart – [Community Charter](#)
- [OnPoint Legal Research Corporation](#) – [Arbitration Act](#), [Bankruptcy and Insolvency Act](#), [Builders Lien Act](#), [Business Corporations Act](#), [Canadian Charter of Rights and Freedoms](#), [Civil Resolution Tribunal Act](#), [Court of Appeal Rules](#), [Emergency Program Act](#), [Employment Standards Act](#), [Family Law Act](#), [Financial Administration Act](#), [Land Title Act](#), [Law and Equity Act](#), [Limitation Act](#), [Medicare Protection Act](#), [Personal Property Security Act](#), [Supreme Court Civil Rules](#), [Vancouver Charter](#), [Wills, Estates 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.

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

[\[Previous Reporters \]](#)

CATEGORIES

COMPANY & FINANCE	LOCAL GOVERNMENT
ENERGY & MINES	MISCELLANEOUS
FAMILY & CHILDREN	MOTOR VEHICLE & TRAFFIC
FOREST & ENVIRONMENT	OCCUPATIONAL HEALTH & SAFETY
HEALTH	PROPERTY & REAL ESTATE
LABOUR & EMPLOYMENT	WILLS & ESTATES

COMPANY & FINANCE

Company and Finance News:

Corporate Governance: New Corporate Rules and Enhanced Societal Expectations

There have been rapid developments in ESG-related corporate governance over the past year, including increased ESG-related activism, evolving expectations relating to mandatory climate-related disclosure and developments in diversity. We discuss these developments further in our [ESG article](#). At the same time, several ongoing and new corporate law changes are affecting, in a less dramatic fashion, the ways corporations are governed. These include changes to the [Canada Business Corporations Act](#) (CBCA) in relation to director elections and shareholder proposals, as well as amendments to the [Alberta Business Corporations Act](#) (ABCA) in relation to unanimous shareholder agreements, shareholder resolutions and other matters intended to reduce administrative burdens. We review the impact of these changes as well as a number of other developments in areas such as financial institution legislative reform, universal proxy requirements in the U.S. and board diversity. Read the [full article](#) by John Valley, Andrew MacDougall and Justin Sherman with Osler, Hoskin & Harcourt LLP.

Canadian Securities Administrators to Strengthen Rules for Crypto Trading Platforms

On [December 12, 2022](#), the Canadian Securities Administrators (CSA) announced the expansion of existing requirements for crypto trading platforms operating in Canada (CTPs) in an effort to strengthen its approach to oversight of such platforms, which changes are said to be in response to recent events in the crypto market. It is important to note that CTPs located outside of Canada but which are accessible by Canadians are regarded as operating in Canada for the purposes of securities regulation. Previously, on [August 15, 2022](#), the CSA announced that CTPs operating in Canada and pursuing registration are required to provide a pre-registration undertaking (PRU) in favour of their principal regulator, in which they agree to comply with terms and conditions that address investor protection concerns and are consistent with requirements applicable to registered CTPs. The CSA has announced that deadlines will soon be introduced with respect to the delivery of a PRU by a CTP and that if a CTP does not deliver a PRU to its principal regulator prior to such deadline or otherwise cease operating in Canada, then the CTP may face enforcement action. Read the [full article](#) by Sydney Kert with DLA Piper.

Revisiting the "New" Testamentary Donation Rules

The legal landscape for testamentary charitable gifts underwent a significant sea-change in 2015. In that year, amendments to the [Income Tax Act](#) (Canada), R.S.C. 1985, c.1 (5th Supp.) ("Tax Act") were implemented that apply to deaths occurring on or after January 1, 2016. Under what we now call the "old rules" – which applied to deaths occurring prior to January 1, 2016 – the Tax Act deemed a testamentary charitable gift made by will to have been made by the deceased taxpayer immediately before death, and the gift was valued as of the date of death. Since the gift was deemed to have been made immediately before death, the donation tax credits arising from the gift could be used to reduce or eliminate the deceased taxpayer's tax liability on their terminal tax return. The Tax Act also permitted the donation tax credit to be applied to the year immediately preceding the year of death. Read the [full article](#) by [Darren Lund](#) with Miller Thomson LLP.

Bank of Canada Releases Retail Payments Supervisory Framework

The Bank of Canada (the "BoC") has released its supervisory framework for retail payments under the [Retail Payment Activities Act](#) (the "RPAA"). In June 2021, the Federal Government enacted the RPAA, a new legislative framework to regulate retail payment activities in Canada. Pursuant to the RPAA, the BoC has been designated as the authority responsible for retail payments governance (see [Federal Government Releases Draft Legislation to Regulate Retail Payments](#)). The BoC's new [supervisory framework](#) explains how it will assess Payment Service Providers ("PSPs") for compliance with the RPAA, promote compliance, and monitor and evaluate trends and issues in the payment system. This framework covers three activities: (1) registration; (2) risk monitoring; and (3) enforcement. Read the [full article](#) by [Koker Christensen](#), [Kathleen Butterfield](#), [Nicolas Faucher](#), [Caitlin Sabetti](#) and [Sabrina Jackson-Nazereth](#) (Articling Student) with Fasken Martineau DuMoulin LLP.

Changes to the CRA's FATCA/CRS Guidance for Financial Accounts Held by Trusts

Canadian financial institutions (FIs) are subject to the due diligence and reporting obligations in Part XVIII (FATCA) and Part XIX (CRS) of the [Income Tax Act](#) (Canada). With respect to a financial account of a trust that is a non-financial foreign entity for FATCA or a non-financial entity for CRS (a trust), an FI must report the particular account on its FATCA information return or CRS information return if the trust has one or more "controlling persons" that are either (i) a citizen of the United States or (ii) a tax resident of a jurisdiction other than Canada. Controlling persons of a trust include its settlor, trustee, protector (if any), beneficiary and any other natural person exercising ultimate effective control over the trust. Read the [full article](#) by [Grace Pereira](#)

and [Tony Zhang](#) with Borden Ladner Gervais LLP.

ISS to Consider Racial and Ethnic Diversity in Making Voting Recommendations

Board diversity (gender, racial and ethnic), climate accountability, deferred share unit plans and venture-issuer overboarding are the focus of updates to Institutional Shareholder Services' (ISS) [Proxy Voting Guidelines](#) (the Guidelines) for the 2023 proxy season. Read the [full article](#) by [Philippe Tardif](#), [Laura Levine](#), [Jennifer Jiang](#), [Emma Ouellet Lizotte](#) with Borden Ladner Gervais LLP.

Canada Makes Welcome Amendments to the Income Tax Act for EIFEL Rules

In the [Federal Budget](#) tabled on April 19, 2021 (Budget 2021), the Government of Canada announced its intention to introduce legislation to implement limitations on interest deductibility. The relevance of introducing limits on interest deductibility legislation comes from a recommendation from the Organisation for Economic Co-operation and Development's project dealing with base erosion and profit shifting (BEPS Action 4) that Canada has yet to adopt. Read the [full article](#) by [Robert Nearing](#) with Borden Ladner Gervais.

BC Securities – Policies & Instruments

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

- [13-315](#) – Securities Regulatory Authority Closed Dates 2023
- [23-329](#) – Joint CSA and IIROC Notice 23-329 Activist Short Selling Update
- [45-106](#) – CSA Notice of Amendments to National Instrument 45-106 *Prospectus Exemptions* and Changes to Companion Policy 45-106CP *Prospectus Exemptions Relating to the Offering Memorandum Prospectus Exemption*
- [24-101](#) – Proposed Amendments to National Instrument 24-101 *Institutional Trade Matching and Settlement* and Proposed Changes to Companion Policy 24-101 *Institutional Trade Matching and Settlement*
- [81-335](#) – Investment Fund Settlement Cycles [CSA Staff Notice]
- [BC Notice 2022/03](#) – Notice of Revised British Columbia Securities Commission Policy 15-601 Hearings [BCN]

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

Act or Regulation Affected	Effective Date	Amendment Information
Canada-Ukraine Authorization for Emergency Travel International Student Health Fee Remission Regulation (273/2022)	NEW Dec. 19/22	see Reg 273/2022
Film and Television Tax Credit Regulation (4/99)	Dec. 1/22	by Reg 253/2022
Food Delivery Service Fee Act	NEW Jan. 1/23	c. 30, SBC 2022, Bill 33 , whole Act in force by Reg 249/2022
Food Delivery Service Fee Regulation (249/2022)	NEW Jan. 1/23	see Reg 249/2022
Income Tax Act	Dec. 1/22	by 2022 Bill 4, c. 4, sections 65 to 73 only (in force by Reg 252/2022), Skilled Trades BC Act
	Jan. 1/23	by 2022 Bill 35, c. 32, section 1 only (in force by Royal Assent), Income Tax Amendment Act, 2022
Training Tax Credits Regulation (243/2007)	Dec. 1/22	by Reg 253/2022

ENERGY & MINES

Energy and Mines News:

Energy Resource Activities Act – Early Consolidation Published

Quickscribe has published [an early consolidation](#) of amendments to the *Oil and Gas Activities Act* by [2022 Bill 37, c. 42](#), the *Energy Statutes Amendment Act, 2022*, as it will read once all sections eventually come into force by regulation.

These amendments include renaming the Act to the *Energy Resource Activities Act*, and restructuring and renaming the BC Oil and Gas Commission as the British Columbia Energy Regulator. The Regulator's responsibilities as set out in the amendments will be expanded to include hydrogen, with the intention to provide a more cohesive framework for the regulation of hydrogen projects.

In addition, Bill 37 amendments expand liability beyond permit holders for orphaned oil and gas activity sites to include others who benefited from site operations, in order to help pay for restoration of the site. They also provide the Regulator with new powers to address orphaned sites, such as establishing registers of responsible persons and orphan sites, disposing of abandoned property at a site, and transferring permits or authorization in relation to orphan sites.

For more information, read [New Regulator in Town – More Than a Name Change](#), by [Alexander Baer](#) and [Matthew D. Keen](#) with Norton Rose Fulbright, as included in the November [Quickscribe Reporter](#).

BC Hydrogen Legislation: New Regulator for Hydrogen and Other Energy Resources

This article is part of a series on changes introduced with the passing of the Energy Statutes Amendment Act, 2022, which also covers [increased liability of directors and officers](#) and [changes to the regulation of carbon capture and storage](#).

British Columbia has passed legislation that will streamline the regulation of hydrogen and other energy resources in the province. Called the Energy Statutes Amendment Act, 2022, it introduces changes to the [Oil and Gas Activities Act](#) and the [Petroleum and Natural Gas Act](#).

With this new B.C. hydrogen legislation, the Oil and Gas Commission will be renamed the British Columbia Energy Regulator, with jurisdiction over oil, gas, hydrogen, ammonia and methanol. A single-window regulator gives businesses investing in hydrogen in British Columbia a clearer legal framework.

The [Energy Statutes Amendment Act, 2022](#) passed third reading and has received Royal Assent. However, many of the amendments that affect hydrogen will come into force through subsequent regulations, which we will monitor. Read the [full article](#) by [Roark Lewis](#) and [Rick Williams](#) with Borden Ladner Gervais LLP.

First Nations Challenge B.C. Mineral Claim Regime in Court

The principle of free, prior and informed consent embedded in UNDRIP must apply to mineral claims in B.C., First Nations will argue in court – something that has the mining and exploration industry in B.C. worried.

First Nations, environmental groups and mining and exploration industry associations are in court today seeking intervenor status in a case that could have wide-ranging implications for mineral exploration in B.C., as well as the federal government's critical minerals strategy, should the case succeed. Read the [BIV article](#).

Treaty Rights and Resource Development: The Cumulative Effects Claims Begin to Pile Up

Our [2021 Legal Year in Review update](#) discussed the landmark B.C. Supreme Court decision in [Yahey v. British Columbia \(Yahey\)](#) which held that the cumulative impacts of industrial development within the traditional territory of the Blueberry River First Nations (Blueberry River) amounted to an infringement of their rights under Treaty 8. As anticipated, *Yahey* led other First Nations communities and groups to file claims alleging treaty infringement based on cumulative impacts from industrial development.

The rise in cumulative effects treaty-infringement claims is an evolving area of Indigenous law with potentially critical implications for resource development and the regulatory frameworks governing project assessment

across Canada. Read the [full article](#) by [Maureen Killoran](#), [Richard King](#), [Sander Duncanson](#), [Sean Sutherland](#) and [Erin Bower](#) with Osler, Hoskin & Harcourt LLP.

Canada's New Critical Minerals Strategy – Recycling the Regulatory Regime

On Friday, December 9, 2022, the federal government released the Canadian Critical Minerals Strategy (the Strategy), a comprehensive multi-disciplinary government policy package designed to facilitate increased production and processing of critical minerals vital to the green and digital economy. The government committed to, among other things, reviewing the regulatory processes and red tape faced by Canadian-regulated mining companies attempting to bring mines from exploration to production, with a view to placing Canada at the forefront of the increasing global demand for clean energy. Supporting economic growth and job creation, continued reconciliation with Indigenous peoples, enhancing global security and fostering a "nature-forward" approach to sustainability are among the objectives outlined in the 58-page Strategy. Read the [full article](#) by [Sander A.J.R. Grieve](#), [Martin Ignasiak](#), [Christopher J. Doucet](#) and [Geoffrey Davis](#) with Bennett Jones LLP.

BC Introduces New Rules for Carbon Capture and Storage

This article is part of a series on changes introduced with the passing of the Energy Statutes Amendment Act, 2022, which also covers [increased liability of directors and officers](#) and [changes to clarify the regulation of hydrogen production in BC](#).

British Columbia has passed the [Energy Statutes Amendment Act, 2022](#), which addresses the regulatory framework for carbon capture and storage in the province. The Act amends the [Oil and Gas Activities Act](#) and the [Petroleum and Natural Gas Act](#) to clarify the licensing requirements for storage reservoirs and expand rights for the provincial government to explore for, access, develop and use storage reservoirs. Read the [full article](#) by [Roark Lewis](#) and [Rick Williams](#) with Borden Ladner Gervais LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Direction to the British Columbia Utilities Commission Respecting Cryptocurrency Mining Projects (281/2022)	NEW Dec. 21/22	see Reg 281/2022
Dormancy and Shutdown Regulation (112/2019)	Jan. 1/23	by Reg 266/2022
Drilling and Production Regulation (282/2010)	Jan. 1/23	by Reg 266/2022
Hydro and Power Authority Act	Dec. 19/22	by 1999 Bill 62, c. 15, section 12 only (in force by Reg 277/2022), Miscellaneous Statutes Amendment Act, 1999

FAMILY & CHILDREN

Family and Children News:

Changes to Provincial Court (Child, Family and Community Service Act) Rules on December 19, 2022

Under the [Child, Family and Community Service Act](#) judges conduct hearings to decide whether parents' care of a child should be supervised by a social worker, or whether children must be removed from their parents' care because of abuse or neglect. They also conduct Family Case Conferences to help families and social workers agree on what is necessary to reunite the family. The [Provincial Court \(Child, Family and Community Service Act\) Rules](#) set out procedures in these matters.

The Court has been working with the provincial government to modernize and fill some gaps in the rules. This eNews highlights some of the changes taking effect on Monday, December 19, 2022. Read the full Provincial Court of British Columbia [news article](#).

Man Wrongly Removed From Ex-Wife's

Insurance Plan: BC Supreme Court

A man should not be removed from his ex-wife's health, extended health, and dental insurance benefits plan as a result of a divorce order between them, the Supreme Court of British Columbia said in a recent case.

The parties were married in August 2000 and separated in January 2017. They executed a November 2018 separation agreement that covered parenting arrangements for their three children, support, and property division. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Child Custody When Parents Live in Different Countries

In international child custody matters, the "habitual residence" of the child is a critical factor in determining whether there has been wrongful removal or retention of a child in another country. The Hague [Convention on the Civil Aspects of International Child Abduction](#) (which has the force of law in BC pursuant to section 80 of BC's [Family Law Act](#)) states a child who has been wrongfully removed or retained in another country must be returned to their place of habitual residence. The underlying rationale for the Hague Convention is that disputes over custody of a child or the best interests of the child should be resolved by the courts in the jurisdiction where the child is habitually resident. Read the [full article](#) from the Onyx Law Group.

B.C. Court Gives Go-Ahead to Constitutional Challenge of Legal Aid System

A constitutional challenge to B.C.'s legal aid regime is going ahead after a judge gave standing to a single mothers' advocacy group which says the system discriminates against people fleeing abuse.

The challenge from the Single Mothers' Alliance was launched in 2017 and alleges that B.C. has responsibility under the Charter to ensure access to the justice system for women who are fleeing violent relationships or facing ongoing abuse from ex-spouses. The alliance, which is being represented by West Coast LEAF, argues that the province's legal aid system discriminates against women and children as family legal aid is often denied because a situation is deemed not violent enough or people working full-time at minimum wage are viewed as not needing it. Read the [full article](#) by [Jan Burns](#) in the *The Lawyer's Daily*.

Act or Regulation Affected	Effective Date	Amendment Information
Child Care Licensing Regulation (332/2007)	Jan. 1/23	by Reg 332/2007
Interjurisdictional Support Orders Regulation (15/2003)	Dec. 19/22	by Reg 275/2022
Provincial Court (Child, Family & Community Service) Rules (533/95)	Dec. 19/22	by Reg 216/2022
Representation Agreement Act	Jan. 1/23	by 2022 Bill 27, c. 31, section 16 to 18 only (in force by Reg 279/2022), Attorney General Statutes Amendment Act (No. 2, 2022)
Representation Agreement Regulation (199/2001)	Jan. 1/23	by Reg 279/2022

FOREST & ENVIRONMENT

Forest and Environment News:

New Coastal Marine Strategy Intentions Paper [Feedback]

The BC Government recently published a new [intentions paper](#) outlining a strategy to guide the development of the BC Coastline. The paper presents a vision for protecting the ecological, cultural, and economic benefits provided by the coastal marine environment. The Coastal Marine Strategy will focus on areas closer to shore, where estuaries, kelp beds, eelgrass meadows, rocky shorelines, and sandy beaches support an abundance and diversity of marine life. The strategy will concentrate on activities, uses and values that the Province is

accountable for. The government seeking public engagement and [feedback](#) can be submitted until April 14, 2023.

Investigation Examines Enforcement of the [Wildfire Act](#)

A new investigation report released looks at how well government is investigating, deciding compliance and recovering costs from those responsible for causing wildfires in B.C.

The investigation found government has a well-defined and consistent process. Most decisions are appropriate, but there are some opportunities for improvement. Read the full [news release](#) from the Forest Practices Board.

6 New Climate Policies Anticipated for B.C. in 2023

Will it be enough to meet the province's critical climate and biodiversity goals?

As the world continues to grapple with the climate and ecological crises a number of new environmental policies are anticipated for 2023 in 2023. But are they going to be enough to meet critical climate and biodiversity goals, and help us adapt to the increasingly frequent and severe impacts of global warming? Here's a look at a few changes coming:

Cap on emissions from oil and gas sector

This is a federal pledge that will affect the natural gas sector in B.C. Canada's Environment Minister Steven Guilbeault has said this cap will be ready by the end of next year, with draft regulations expected this spring.

Read the *Vancouver Sun* [article](#).

New Carbon-Reduction Requirements Lower Emissions on the Road

The Province is fulfilling a commitment identified as a key action in the CleanBC Roadmap to 2030 to increase the 2030 carbon-intensity reduction target for the diesel and gasoline fuel pools from 20% to 30% under the Low Carbon Fuel Standard (LCFS).

The LCFS was implemented in 2010, requiring fuel suppliers to progressively lower the average carbon intensity of the fuels they supply in British Columbia by 10% by 2020. In 2020, the Province extended the LCFS and increased the carbon-intensity reduction requirement to 20% by 2030.

Amendments to the [Renewable and Low Carbon Fuel Requirements Regulation](#) will now require fuel suppliers to reduce the carbon intensity of diesel and gasoline fuel pools supplied in B.C. to reach an overall reduction of 30% by 2030, relative to 2010 levels. Read the government [news release](#).

New GAR Order

Ministerial Order [M299/2022](#), made under the [Government Actions Regulation](#), sections 7(1) and (2) on September 15, 2022 and posted in the BC Gazette Part I on December 15, 2022, impacts the Visual Quality Objectives (VQOs) in the Sunshine Coast Natural Resource district as follows:

- a. scenic areas and Visual Quality Objectives (VQOs) in the Sunshine Coast Natural Resource District, which were established through a district manager's letter, dated May 16, 1997, under the provisions of the Operational and Site Planning Regulation, are cancelled;
- b. scenic areas and Visual Quality Objectives (VQOs) in Tree Farm Licence 39, Block 1, which were established under the Sunshine Coast Forest District VQO GAR Order, dated June 19, 2009, are cancelled; and
- c. scenic areas and VQOs for the Sunshine Coast Natural Resource District are established.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [93 Land Company v. Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]

[Wildlife Act](#)

- [Daniel Norton v. Acting Director of Wildlife, Ministry of Forests](#) [Preliminary Decision on the Method of Hearing – Appeal to Proceed by Written Submissions]
- [James \(Jim\) Monroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Program](#) [Preliminary

Decision Re: Application to Participate – Granted, Subject to Limitations]

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

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Neutral Government Regulation (392/2008)	Dec. 19/22	by Reg 271/2022
Environmental Assessment Act	Dec. 16/22	by c. 51, SBC 2018, section 79 (4)
Groundwater Protection Regulation (39/2016)	Dec. 1/22	by Reg 253/2022
Ozone Depleting Substances and Other Halocarbons Regulation (387/99)	Dec. 1/22	by Reg 253/2022
Professional Governance Act	Dec. 19/22	by Reg 276/2022
Professional Governance General Regulation (107/2019)	Dec. 1/22	by Reg 253/2022
Recycling Regulation (449/2004)	Jan. 1/23	by Reg 162/2020
Renewable and Low Carbon Fuel Requirements Regulation (394/2008)	Jan. 1/23	by Reg 280/2022

HEALTH

Health News:

Case Summary: Court of Appeal Upheld Mental Health Review Board's Decision that the Petitioner Continued to Meet the Criteria for Involuntary Detention under the Mental Health Act

A.T. v. British Columbia (Mental Health Review Board), [2022] B.C.J. No. 2090, [2022 BCSC 1905](#), British Columbia Supreme Court, November 1, 2022, M.B. Blok J.

The petitioner sought judicial review of a decision by a panel of the Mental Health Review Board (the "Board") that he be involuntarily detained under the [Mental Health Act](#), R.S.B.C. 1996, c. 288 (the "Act"). The petitioner had previously successfully sought judicial review of the panel's first decision, and in the present case sought judicial review of the panel's redetermination. Read the [full article](#) by Joanne Barnum with Harper Grey LLP.

Naturopathic Doctor Stopped from Exporting Fecal Microbiota Transplant Materials in BC Case

The Supreme Court of British Columbia upheld an interim order prohibiting a naturopathic doctor from producing, manufacturing, advertising, promoting, selling, or shipping certain materials to the public. The court found judicial review of the regulatory investigations premature. The petitioner in a recent case was a naturopathic doctor focusing on digestive health issues. He owned businesses manufacturing and exporting digestive health products, including fecal microbiota transplant (FMT) materials. Read the [full article](#) by [Bernise Carolino](#) on *Canadian Lawyer*.

Regulations Amending the Regulations for the Monitoring of Medical Assistance in Dying, SOR/2022-222

The Minister of Health recently made the *Regulations Amending the Regulations for the Monitoring of Medical Assistance in Dying*, [SOR/2022-222](#) (the "Amending Regulations") which will come into force on January 1, 2023. The *Amending Regulations* will impose a new array of procedural rules and reporting requirements relating to the provision of Medical Assistance in Dying ("MAiD") in Canada. Read the [full article](#) by [Jennifer Eshlemann](#) and [Jessica Park](#) with Alexander Holburn Beaudin + Lang LLP.

Resident Doctors Ratify Agreement under Shared Recovery Mandate

Members of Resident Doctors of BC and the Health Employers Association of BC have ratified a new agreement under government's Shared Recovery Mandate. Resident Doctors of BC represents more than 1,400 medical graduates who participate in a graduate educational program leading to qualification for independent practise as a family or specialist doctor. Key priorities of the 2022 mandate include:

- protecting the services that people in British Columbia depend on;
- improving health care and preparing for future needs and challenges; and
- supporting a strong economic recovery that includes everyone in BC.

Read the full government [news release](#).

Legal Issues in Healthcare: A Canadian Perspective for 2023

Our [Life Sciences and Healthcare Group](#) recently authored the "[Canada](#)" chapter in [Lexology's 2023 Life Sciences guide](#), published as part of the "Getting the Deal Through" series. This chapter provides an excellent overview of this rapidly developing area of law, including the following topics:

- Organization and financing of healthcare
- Healthcare services
- Advertising
- Healthcare data protection, privacy and digitization
- Competition and antitrust law in the health sector
- Pricing and reimbursement
- Trends to watch for

Read the [full article](#) by [Sara Zborovski](#) and [Jan Trimble](#) with Stikeman Elliott.

Health Canada's New Amendments on Cannabis Research, Testing and Cannabis Beverages

On Dec. 9, 2022, Health Canada announced the approval of the proposed amendments introduced by the [Regulations Amending Certain Regulations Concerning Cannabis Research](#) as well as the [Order Amending Schedule 3](#) to the [Cannabis Act](#). These amendments increase the public possession limit for cannabis beverages, and facilitate non-therapeutic cannabis research and testing. Health Canada anticipates publishing the amendments in Canada Gazette Part II on Dec. 22, 2022. Read the [full article](#) by [William Bjornsson](#), [Lewis Retik](#) and [Jon-Paul Powers, PhD](#) with Gowling WLG.

"Big Year" for BC Pharmacists with New Prescribing Powers, Drug Shortages

This spring, BC pharmacists will begin prescribing drugs for minor ailments like urinary tract infections and allergies, as well as contraception. In a year when pharmacists have stickhandled children's drug shortages and an extra-busy flu shot season, you'd think they might balk at the news in Ontario and BC that their powers to prescribe drugs are being expanded. Yet those in the field say the added responsibilities may make their jobs more fulfilling – so long as the changes are accompanied with appropriate funding. Read the [Vancouver Sun article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Accessible British Columbia Regulation (105/2022)	Dec. 1/22	by Reg 253/2022
Child Care Licensing Regulation (332/2007)	Jan. 1/23	by Reg 332/2007
Covid-19 Related Measures Act	REPEALED Dec. 31/22	by c. 8, SBC 2020, section 7
Hospital Act	Dec. 19/22	by Reg 274/2022

Hospital Insurance Act Regulations (25/61)

Dec. 29/22

by [Reg 274/2022](#)

LABOUR & EMPLOYMENT

Labour and Employment News:

Remorseful Worker Reinstated After Termination for Near-Miss Accident

"Anytime that you have [a serious accident or near-miss], the fundamental question is, was this a one-off accident – typically, labour law does not consider accidents to be culpable behavior – was this culpable behavior of such seriousness that one incident would merit termination?"

These are the questions that must be examined in the event of a serious safety breach in a high-risk workplace – and termination may not always be the solution, says Michael Penner, a labour lawyer at Kent Employment Law in Victoria. Read the [full article](#) by Jeffrey R. Smith in the *Canadian Lawyer*.

Tis the Season...for Triennial Assessments!

The [Pension Benefits Standards Act](#) requires B.C. registered pension plans to conduct triennial plan assessments which assess the administration of a pension plan with respect to compliance with the Act, governance, funding, investment, and the performance of trustees and administrators.

For most pension plans (those with a fiscal year of January to December), the next triennial assessment will need to be prepared as of December 31, 2022 (in respect of the three year period from January 1, 2019 to December 31, 2022), and be completed by December 31, 2023. As a reminder, the assessment needs to be complete and available to the BC Financial Services Authority upon request, but does not need to be filed with the regulator. Read the [full article](#) by [Lisa Chamzuk](#), [Meghan Popp](#) and [Jessica Kim](#) with Lawson Lundell.

Don't Give Up on Restrictive Covenants

If revising your employment and independent contractor agreements is on the "to do" list for 2023, the recent case of *Quick Pass Master Tutorial School Ltd. v Zhao*, [2022 BCSC 1846](#) is a good reminder to review any restrictive covenants in those agreements. The law in this area is always evolving and restrictive covenants can be difficult to enforce without careful drafting. However, as this case shows, B.C. courts are still willing to enforce properly drafted and reasonable covenants. Read the [full article](#) by [Cory Sully](#) and [Emily Raymond](#) with Lawson Lundell.

Breaking Down Bad-Faith Damages

In the context of workplaces, bad faith can be proven when an employer engages in unfair conduct in an employee's dismissal, to the extent that the conduct causes the employee to suffer serious and prolonged mental distress.

Bad faith claims are concerned with the events leading up to the termination, the termination itself, and the way the termination is conducted. Read the [full article](#) by Glen Stratton, published in the *Canadian HR Reporter*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Dec. 19/22	by Reg 272/2022
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Dec. 19/22	by Reg 272/2022
Employment Standards Act	Jan. 1/23	by 2019 Bill 8, c. 27, sections 7, 34 (c) and 35 (a) only (in force by Reg 200/2022), Employment Standards Amendment Act, 2019
Employment Standards Regulation (396/95)	Jan. 1/23	by Reg 63/2022 and Reg 200/2022 as amended by Reg 254/2022

Industry Training Authority Act	REPEALED Dec. 1/22	by 2022 Bill 4, c. 4, section 60 only (in force by Reg 252/2022), Skilled Trades BC Act
Labour Mobility Regulation (305/2009)	Dec. 1/22	by Reg 253/2022
Minister's Skilled Trades BC Regulation (256/2022)	NEW Dec. 1/22	see Reg 256/2022
Pension Benefits Standards Regulation (71/2015)	Dec. 31/22	by Reg 196/2022
Public Sector Employers Act	Dec. 1/22	by 2022 Bill 4, c. 4, section 74 only (in force by Reg 252/2022), Skilled Trades BC Act
Security Services Regulation (207/2008)	Dec. 1/22	by Reg 253/2022
Skilled Trades BC Act	Dec. 1/22	c. 4, SBC 2022, Bill 4 , whole Act in force by Reg 252/2022
Skilled Trades BC Regulation (252/2022)	NEW Dec. 1/22	see Reg 252/2022

LOCAL GOVERNMENT

Local Government News:

Bill 43 - Housing Supply Act

On November 24, 2022, [Bill 43](#) – 2022 the *Housing Supply Act* received Royal Assent, and will come into force by regulation. This legislation would enable the Province to set housing targets for specific municipalities, and to take certain actions if those targets are not met. Bill 43 allows the Province to impose a number of substantive and procedural requirements upon municipalities in seeking to reach housing targets. Municipalities may be required to provide information and reports to the Province, and where they fail to meet housing targets prescribed for the municipality by the Province, the Province is enabled to take several courses of action. The first is to appoint advisors with broad jurisdiction to review municipal records, and create a report with recommendations for meeting the housing target in the future. Alternatively, or as well, the Province is enabled to intervene in a municipality's bylaw-making and permit-issuing powers. Currently, the Province is able to alter bylaws under the [Local Government Act](#), but it does not presently have the authority to enact new bylaws or issue or refuse permits under the [Vancouver Charter](#), [Local Government Act](#), and [Community Charter](#). Finally, the legislation sets out a relatively deferential statutory standard of review when a decision made under this legislation is judicially reviewed. Read the [full article](#) by [Bill Buholzer](#) and Nathan Ruston with Young Anderson.

BC Supreme Court Finds that Re-zoning Approval with Variances Did Not "Create a New Zone"

Recently, the B.C. Supreme Court denied a judicial review petition challenging the approval of a re-zoning application for an apartment complex. In *Penticton Society for Transparent Governance and Responsible Development v Penticton (City)*, [2022 BCSC 2111](#), the Petitioner alleged that the City had effectively created a new, non-existent land use zone when it approved an amending bylaw that up-zoned a property to an existing zone but where the City was required to subsequently grant variances for aspects of the property that did not meet the requirements of that pre-existing zone. Read the [full article](#) by Josh Krusell with Stewart McDannold Stuart.

Vacancy Tax/Empty Homes Tax – Five Suggested Areas for Improvement

In 2017, the City of Vancouver introduced its annual residential vacancy tax (or "empty homes tax"). At that time, the tax rate was 1% of the assessed value of a subject property. The governing statute and administration

program were relatively simpler than more substantial taxes like income tax and GST/HST. However, the City has steadily increased the tax rate over the years. On January 1, 2023, it will hit 5%. This equals the rate of the federal GST and the highest rate of the province's property transfer tax. Crucially, however, those are largely one-time taxes imposed on homeowners (e.g., when buying or selling a home). By being levied annually, and not having regard to cost, the consequences to the annual vacancy tax can thus be significantly greater. The sophistication of the vacancy tax has not evolved at the same pace as its rate. This raises questions over what should be improved upon in the legislation, administration, and enforcement of the vacancy tax. Though not an exhaustive list, the following are five suggestions. Read the [full article](#) by [Noah Sarna](#) and [Zheting Su](#) with Thorsteinssons LLP.

From UBCM: Resources for Developing and Improving Codes of Conduct

Local governments in British Columbia are required by legislation to consider implementing or upgrading a Code of Conduct within the first six months of the first regular council/board meeting following a general local election. The Working Group on Responsible Conduct (WGRC) has developed a set of resources to assist local governments with the development and updating of Codes of Conduct, including necessary considerations for dealing with complaints, resolving conduct issues informally and establishing enforcement procedures. The conduct of local elected officials is central to governance and when conduct issues emerge, good governance can be impaired and public trust eroded. The guide [Forging the Path to Responsible Conduct](#) presents practical ways to help local governments prevent conduct issues and deal with them if they do arise. Read the full UBCM [article](#).

Significant Changes Coming in 2023 for BC's Freedom of Information and Protection of Privacy Act

The Provincial government has recently confirmed the latest in a series of long-anticipated and significant changes to BC's [Freedom of Information and Protection of Privacy Act](#) ("FIPPA"). As of February 1, 2023, [two new sections of FIPPA](#) and [associated regulations](#) will come into force. This will create two significant new requirements for all public bodies in this province:

1. Mandatory reporting requirements in the event of privacy breaches.
2. Requirement to develop and maintain a "privacy management program".

Privacy Breach Notifications

Public bodies will be required to report any privacy breach that "could reasonably be expected to result in significant harm to the individual". A "privacy breach" is broadly defined. It includes theft, loss, or any other unauthorized collection, use or disclosure of personal information.

Read the [full article](#) by [Keri L. Bennett](#) and [Jordan Michaux](#) with Roper Greyell LLP.

Local Government Fact Sheets

from UBCM

UBCM has updated a set of [fact sheets](#) that provide foundational information on local government operations in an easy-to-read format. Subjects include the role and powers of elected officials, taxation, planning process, policing, and bylaws. Fact Sheets are updated after each local government election cycle.

Everything You Need to Know about BC's 2023 Homeowner Grant

Eligible BC homeowners will continue to see reduced property taxes on residential properties through the homeowner grant program. This year, the provincial government announced the grant will continue to cover 92 per cent of residential properties with "the threshold set at \$2.125 million." Read the full [BIV article](#) by Carol Eugene Park.

Act or Regulation Affected	Effective Date	Amendment Information
Application by Owner and Occupier of Eligible Residential Property Regulation (262/2022)	NEW Dec. 1/22	see Reg 262/2022
Application by Owner and Occupier of Eligible Residential Property (240/96)	REPEALED Dec. 1/22	by Reg 262/2022

Cremation, Interment and Funeral Services Regulation	Dec. 1/22	by Reg 253/2022
Electrical Safety Regulation	Dec. 1/22	by Reg 255/2022
Financial Information Act	Dec. 1/22	by 2022 Bill 4, c. 4, section 62 only (in force by Reg 252/2022), Skilled Trades BC Act
Gas Safety Regulation (103/2004)	Dec. 1/22	by Reg 255/2022
Information Management Regulation (109/2016)	Dec. 1/22	by Reg 253/2022
Monetary Penalties Regulation (268/2021)	Dec. 1/22	by Reg 268/2021
Organized Crime Agency of British Columbia Operations Regulation (229/2002) (formerly Organized Crime Agency of British Columbia Complaints and Operations Regulation)	Dec. 31/22	by Reg 229/2022
Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation (104/2004)	Dec. 1/22	by Reg 255/2022
Prescribed Police Forces Regulation (70/99)	Dec. 31/22	by Reg 231/2022
School Act	Dec. 1/22	by 2022 Bill 4, c. 4, section 75 only (in force by Reg 252/2022), Skilled Trades BC Act

MISCELLANEOUS

Miscellaneous News:

BC FIPPA's Mandatory Privacy Breach Notification and Privacy Management Program Obligations Start February 1, 2023

Just over a year ago, the Government of British Columbia introduced [Bill 22](#) to amend the [Freedom of Information and Protection of Privacy Act](#) ("FIPPA"). More details are in our previous [blog post](#) summarizing the most significant changes to FIPPA. Bill 22 deferred details on two changes: mandatory privacy breach notification obligations and the requirement that public bodies have a privacy management program ("PMP"). Those obligations are now set to come into effect on February 1, 2023 and the Government of British Columbia has provided the details in two documents: Read the [full article](#) by [David Crane](#), [Jade Buchanan](#), [Kelsey Franks](#) and [Curtis Chance](#) with McCarthy Tétrault.

Trial Management Conferences to Return in Person on February 1, 2023

from the [BCSC](#)

Effective February 1, 2023, trial management conferences will resume in person. Until that date, trial management conferences will continue by telephone or Teams audio pursuant to [Rule 23.1-1\(1\)](#) of the *Supreme Court Civil Rules* and [Rule 22.1-1\(1\)](#) of the *Supreme Court Family Rules*. For more information, click [here](#). Chief Justice Hinkson has rescinded COVID-19 Orders No. 010 and No. 011 and made a related change to [COVID-19 Notice No. 54 – Masters Chambers Pilot](#).

BC Expands Public Interest Disclosure Act Whistleblower Protection to More Public-sector Groups

The BC government has expanded its [whistleblower protection law](#) to include more agencies, boards, commissions, and select Crown corporations through the new [Public Interest Disclosure Act](#) (PIDA). The PIDA allows current and former employees to confidentially report serious or systemic issues of wrongdoing that [affect the public interest](#) to direct supervisors, designated officers within the organizations or the Office of the

Ombudsperson. If an employee opts for the latter, they do not need to complete any internal process with their organization before contacting the ombudsperson's office. The amendments will also require ministries and the ombudsperson to practise transparency by reporting on the number of disclosures received and the results of the investigations taken for each year. Read the [full article](#) by Micah Guiao on *Canadian Lawyer*.

Ombudsperson Investigation Highlights Vital Statistics Agency's Overly Rigid Decision-making Resulting in Improper Discrimination of a Senior

The Ombudsperson released a report today with a cautionary message for public organizations – don't develop policies that are too narrow to serve the public fairly. In his report, *Making Amends*, Ombudsperson Jay Chalke highlights the case of a woman in her 70s who ran into bureaucratic roadblocks when she applied to the Vital Statistics Agency to amend her name on her BC birth certificate. Known as Elizabeth her whole life, her name was spelled Eliz"e"beth on her birth certificate in the 1940s. "The person on my original birth certificate never ever existed. They never did one thing in their life. They have no paper trail to their life," Ms. M (as she is referred to in the report) states. The [Vital Statistics Act](#) provides that a person may apply to amend their given name on their birth certificate by providing evidence that is "satisfactory to the Registrar General" of the Vital Statistics Agency that their correct name was used before their 12th birthday. Read the full [news release](#) on the Ombudsperson British Columbia website.

BC Serves Cap on What Food Delivery Services Can Charge Restaurants

Starting Jan. 1, 2023, Canada's first permanent delivery-fee cap will give BC restaurant owners more certainty about their costs. "We all have a favourite local restaurant, somewhere we celebrate as families and friends, eat our favourite foods, or get a taste of home," says Brenda Bailey, Minister of Jobs, Economic Development and Innovation. "When restaurants were being charged unfair fees, our government acted fast to implement a temporary cap on delivery-service fees." During the pandemic, delivery companies were charging fees to restaurants as high as 30 per cent of an order's value. The [Food Delivery Service Fee Act](#) was passed on Nov. 3 and will limit the fees that delivery companies can charge restaurants to no more than 20 per cent of the dollar value of an order. Read the BIV [article](#).

Mother Who Sued Port Alberni School Board over First Nations Smudging Ceremony Ordered to Pay Costs

The Court of Appeal for British Columbia has ruled against a Port Alberni mother who claimed two school events about Indigenous culture violated her children's religious freedoms. The court of appeal panel of judges also ordered Candace Servatius to pay costs, contrary to what a trial judge had ruled in 2020 when he dismissed the case. Read the [full article](#) by [Zena Olijnyk](#) on *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Assistance to Shelter Regulation (291/2008)	Dec. 31/22	by Reg 229/2022
College and Institute Act	Dec. 1/22	by 2022 Bill 4, c. 4, section 61 only (in force by Reg 252/2022), Skilled Trades BC Act
Committees of the Executive Council Regulation (268/2022)	NEW Dec. 7/22	see Reg 268/2022
Committees of the Executive Council Regulation (150/2021)	REPEALED Dec. 7/22	by Reg 268/2022
Designated Policing and Law Enforcement Units Complaints Regulation (230/2022)	NEW Dec. 31/22	see Reg 230/2022
Election Act	Dec. 31/22	by c. 106, RSBC 1996, section 283 (3)

Freedom of Information and Protection of Privacy Act	Dec. 1/22	by 2022 Bill 4, c. 4, sections 63 and 64 only (in force by Reg 252/2022), Skilled Trades BC Act
	Dec. 31/22	by Reg 244/2022
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	Dec. 1/22	by Reg 243/2022 and Reg 253/2022
Information Management Systems (Digital Evidence Management System) Regulation (309/2021)	Dec. 31/22	by Reg 229/2022
Lobbyists Transparency Regulation (235/2019)	Dec. 1/22	by Reg 253/2022
Organized Crime Agency of British Columbia Operations Regulation (229/2002) (<i>formerly Organized Crime Agency of British Columbia Complaints and Operations Regulation</i>)	Dec. 31/22	by Reg 229/2022
Prescribed Police Forces Regulation (70/99)	Dec. 31/22	by Reg 231/2022
South Coast British Columbia Transportation Authority Police Service Regulation (454/2004)	Dec. 31/22	by Reg 454/2004
South Coast British Columbia Transportation Authority Police Service Operations Regulation (484/2004) (<i>formerly South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation</i>)	Dec. 31/22	by Reg 229/2022
Stl'atl'imx Tribal Police Service Operations Regulation (385/99) (<i>formerly Stl'atl'imx Tribal Police Service Complaints and Operations Regulation</i>)	Dec. 31/22	by Reg 229/2022

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Don't Forget: ELD Mandates Beginning Enforcement on January 1, 2023

Electronic logging devices ("ELDs") are devices installed into commercial motor vehicles that use a computer-based software to monitor the activities of the vehicle's driver to ensure compliance with hours of service legislation. The use of ELDs has been required for federally-regulated motor carriers in Canada since June 12, 2021, but this requirement has not yet been enforced to allow for a period of education and awareness, as well as time for motor carriers to obtain and install ELDs.

Beginning on January 1, 2023, enforcement of this mandate will begin in the majority of provinces and territories, including Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Nova Scotia, Prince Edward Island, Yukon and Northwest Territories. Some provinces have also created ELD mandates concerning provincially-regulated commercial motor vehicles which will simultaneously be enforced with the federal regulations. Read the [full article](#) by [Louis Amato-Gauci](#), [Jaclyne Reive](#) and [Ellen Kim](#) with Miller Thomson LLP.

Classification of Patient Specimens [TDG]

from Transport Canada

This document does not change, amend or suggest deviations from the [Transportation of Dangerous Goods \(TDG\) Regulations](#). The purpose of this document is to provide clarity and regulatory guidance on the

classification of patient specimens and to assist health care professionals who are responsible for preparing patients specimens for transport. This document is meant to be read with the [TDG Bulletin – Shipping Infectious Substances](#).

Autonomous Vehicles – Canada's Current Legal Framework: Liability in Motor Vehicle Accidents

As autonomous vehicle (AV) technology continues to grow in functionality and sophistication, it is only a matter of time before AVs become commercially available across Canada. The arrival of autonomous vehicles in Canada will raise a number of liability-related questions that touch on the areas of owner liability, product liability, and auto insurance. In this post, we discuss the allocation of liability in incidents involving AVs and the future of auto insurance. Read the [full article](#) by [Suzie Suliman](#) and [Imran Ahmad](#) with Norton Rose Fulbright LLP.

More People Will Train to Be Professional Truck Drivers

As many as 30 eligible participants will receive training to prepare them for jobs as professional truck drivers in the Lower Mainland.

"This training will help people gain the necessary skills and education for employment as truck drivers, which is in high demand," said Sheila Malcolmson, Minister of Social Development and Poverty Reduction. "For newcomers and immigrants, this training is a pathway to rewarding employment and stability for their families."

Big Rig Driving School is receiving more than \$660,000 to prepare participants for employment as professional truck drivers in the Lower Mainland. Read the official government [news release](#).

Government of Canada Announces Proposed Regulations Imposing Requirements for the Sale of Zero-Emission Light-Duty Vehicles

On December 21, 2022, Environment and Climate Change Canada ("ECCC") announced new proposed regulations in relation to zero-emissions light-duty vehicles (the "ZEV Regulations"). The ZEV Regulations would amend the Passenger Automobile and Light Truck Greenhouse Gas Emission Regulations, which set greenhouse gas emission standards for light-duty vehicles of specified model years. Read the [full article](#) by [Steven F. Rosenhek](#) and [Daniella Murynka](#) with Fasken Martineau DuMoulin LLP.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [CVSE Decal Ordering Step-by-Step Guide](#) – New Online Ordering Process for Facility Large Station and Interim Decals
- [Circular 06-17](#) – Deadline for Planned Trailer Axle Weight Reductions Extended to December 31, 2024
- [Circular 07-17](#) – Temporary Increase to Steer Axle Weights for Specified Pre-Approved Logging Truck Configurations by General Authorization. This extended authorization is valid until December 31, 2024
- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [NSC Bulletin 01-2021](#) – Electronic Logging Devices (ELDs) in British Columbia – UPDATED
 - [Quick Links to Provincial and Territorial Jurisdictional Resources re: ELDs](#)
- [CVSE1016](#) – 9-Axle Logging Truck Routes

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 Passenger Transportation Board:

Industry Updates & Advisories

- [Final Deadline to Activate Additional Taxis Extended](#)
Considering recent feedback, the final activation deadline is extended to July 1, 2023. Licensees will have until this date to activate additional vehicles, or they will no longer be valid.
- [Board to Conduct Follow-up Investigation on the Current State of COVID-19 recovery for BC Passenger Transportation Industry](#)
The Board will be undertaking a follow-up study to the 2021 COVID-19 investigation, to better understand the current economic landscape. For further information, please read the [Industry Advisory](#) and the [Q&As](#).

Applications Received

- No applications were received

Application Decisions

- [16481-22 PS TOP](#) – KJ Limousine Services Inc. [Approved]
- [16075-22](#) – Transfer from Gertzen Ventures Ltd. (Adventure Charter and Rentals) to Pacific Western Charters Ltd. [Approved]
- [16554-22 TOP](#) – Excel Limousine Service Ltd. [Approved]
- [16545-22 TOP](#) – Luxury Transport Inc. [Approved]
- [15632-22](#) – P.G. Airport Shuttle Service Ltd. [Approved]
- [15839-22](#) – Transfer from J. Nijjer Holdings Ltd. (Sun Star Shuttle) to 1123910 B.C. Ltd. (Contractor Post Office) [Approved]
- [16049-22](#) – Chandel Holding Limited (Victoria Taxi) [Approved]
- [16183-22](#) – City Star Limousine Service Ltd. [Approved in Part]
- [15091-22](#) – Charles Keay Inc. [Approved]
- [16191-22](#) – Transfer from Ovan Charles Wilson and Karen Louise Herle (Gabriola Taxi) to Gabriola Taxi Ltd. [Approved]
- [14294-22](#) – TCB Holdings Ltd. [Refused]
- [16290-22](#) – Transfer from Gurbhupinder Singh Bhela (Bluebird Cabs) to Bluebird Cabs, Ltd. [Approved]
- [16607-22 PS TOP](#) – Whistler Eco Tours Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation (60/2021)	Dec. 1/22	by Reg 253/2022
Passenger Transportation Regulation (266/2004)	Jan. 1/23	by Reg 195/2022
Special Direction IC2 to the British Columbia Utilities Commission (307/2004)	Dec. 12/22	by Reg 269/2022
Violation Ticket Administration and Fines Regulation (89/97)	Dec. 31/22	by Reg 228/2022

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

End-of-Year Refresher: BC Employers' OHS Obligations to Address Workplace Bullying and Harassment

Workplace bullying and harassment is a significant issue for employers in British Columbia. In 2021 alone, WorkSafeBC received [3400 inquiries](#) related to workplace bullying. The organization also noted that most employers did not know how to handle complaints effectively. This blog post focuses on BC employers' occupational health and safety ("OHS") obligations to address workplace bullying and harassment under British Columbia's [Workers Compensation Act](#) (the "Act"), and related complaints or claims that employees may file with WorkSafeBC. (This post does not address other potential legal issues arising from alleged workplace bullying and harassment, such as claims of constructive dismissal, human rights complaints, or grievances filed under a collective bargaining agreement.) Read the [full article](#) by Laura DeVries and Diana Wang with McCarthy Tétrault LLP.

Hazardous Work for Youth Rules Come into Effect Jan. 1

New regulations on the types of work that are not suitable for young workers take effect on Sunday, Jan. 1, 2023. Following public and stakeholder consultations and analyses of injury data, a number of jobs within several industries were identified as too hazardous for young workers. This includes some jobs within construction, forestry, food processing, oil and gas and power, and asbestos removal. [Amendments to the Employment Standards Regulation](#) were announced in October 2022. Read the government [news release](#).

Board of Directors Approves Amendments to the Occupational Health and Safety Regulation

On October 26, 2022, WorkSafeBC's [Board of Directors approved amendments](#) on two regulatory items related to crane safety in the [Occupational Health and Safety Regulation](#) (OHSR):

- Part 14, Cranes and Hoists – Inconsistent Crane Misadventure, and
- Part 14, Cranes and Hoists, and Part 19, Electrical Safety – Zone-Limiting Devices in Tower Cranes

The OHSR will now require a professional engineer to supervise the inspection of equipment and certify the equipment as safe for use when a crane is subject to a misadventure, or following contact with loads and structures. Read the [full WorkSafeBC bulletin](#).

Consultation on Proposed BC Exposure Limits Based on the New or Revised 2019 and 2020 ACGIH TLVs for Selected Chemical Substances

Each year, the American Conference of Governmental Industrial Hygienists (ACGIH) publishes a list of substances for which they have set new or revised Threshold Limit Values (TLVs). A TLV is the airborne concentration of a chemical substance where it is believed that nearly all workers may be exposed over a working lifetime and experience no adverse health effects. TLVs may be expressed as an 8-hour time-weighted average (TWA), 15-minute short-term exposure limit (STEL), or ceiling limit. Before adopting new or revised TLVs published by the ACGIH, WorkSafeBC reviews relevant data on health effects and the availability of validated sampling methods. WorkSafeBC also consults with stakeholders on potential implementation issues. WorkSafeBC's existing B.C. Exposure Limits (ELs) continue to be in effect until the Board of Directors makes a decision on which new or revised ACGIH TLVs to adopt as B.C. ELs. See additional information on [WorkSafeBC's EL review process](#). Feedback will be accepted until 4:30 p.m. on Friday, January 20, 2023. Read the [full article](#) on WorkSafeBC.

New Public Health Orders

The Public Health Office (PHO) recently issued the following orders:

- [Residential Care Facilities Staff Information Collection – December 16, 2022 \(PDF, 425KB\)](#)
 - [Schedule 1 Information of Staff – December 16, 2022 \(PDF, 104KB\)](#)

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

OHS Policies/Guidelines – Updates

Guidelines – Workers Compensation Act

January 1, 2023

Editorial revisions were made to the following guideline:

- Part 2 Division 12 – Enforcement
 - [G-P2-94-1 OHS citations](#)

Guidelines – Occupational Health and Safety Regulation

January 1, 2023

Editorial revisions were made to the following guideline:

- Part 7 Radiation
 - [G7.33-1 Cold exposure](#)

Policies – Workers Compensation Act

January 1, 2023

The following policies were updated to reflect CPI adjustments, effective January 1, 2023:

- [P2-94-1 – OHS Citations](#)
- [P2-95-4 – Non-Exclusive Ways to Impose Financial Penalties](#)
- [P2-95-5 – OHS Penalty Amounts](#)
- [P5-251-1 – Claims Costs Levies](#)

Visit the [WorkSafeBC website](#) to explore these and previous updates.

Act or Regulation Affected	Effective Date	Amendment Information
Accessible British Columbia Regulation (105/2022)	Dec. 1/22	by Reg 253/2022
Electrical Safety Regulation	Dec. 1/22	by Reg 255/2022
Gas Safety Regulation (103/2004)	Dec. 1/22	by Reg 255/2022
Monetary Penalties Regulation (268/2021)	Dec. 1/22	by Reg 268/2021
Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation (104/2004)	Dec. 1/22	by Reg 255/2022

PROPERTY & REAL ESTATE

Property and Real Estate News:

Tenant's Claim against Arbitrator Struck for Being Vexatious, Unnecessary

The Supreme Court of British Columbia struck a tenant's civil claim against an arbitrator of the Residential Tenancy Branch (RTB) upon finding that the allegations were unnecessary and vexatious and that the action was an abuse of process. Starting in October 2019, the plaintiff was a tenant in a rental unit in the lower floor of a single detached house at West 54th Avenue, Vancouver. Another person resided in a suite on the lower floor, while the landlord occupied the upper floor. Read the [full article](#) by [Bernise Carolino](#) on the *Canadian Lawyer*.

EU's Judicial Consideration of Corporate Transparency Sides with Protecting Privacy: Implications for BC's LOTA

Many jurisdictions are enacting legislation requiring public disclosure of the identity of beneficial owners of real property and maintaining that information in publicly accessible registries. In British Columbia, as of November 30, 2022, beneficial and other indirect owners of numerous categories of interests in land in British Columbia had to complete filings pursuant to the [Land Owner Transparency Act](#) in a provincial government registry that include the disclosure of personal information. In the United Kingdom, the UK Companies House maintains the "Register of Overseas Entities" and requires overseas entities that own land or property in the UK to declare their beneficial owners and/or managing directors. The registry recently came into effect and there is a January 31, 2023, deadline for such entities who already own or lease land or property in the UK to complete their filings. Read the [full article](#) by [Max Collett](#), [Alexis Kerr](#) and [Yu Meng Zhu](#) with Norton Rose Fulbright.

Condo Smarts: How Rental Bylaws for Strata Corporations Change under Bill 44

Dear Tony:

If a strata corporation has a bylaw that permits 25% rentals, will that continue under the change in legislation? Our understanding is that the changes removed bylaws that prohibited rentals. Some of the online chatter and information from real estate agents has made this confusing. Are we able to limit rentals to a minimum of one year to ensure there are stable tenants? Read the [full article](#) published in *The Province*.

Act Prohibiting Non-Canadians from Purchasing Residential Property Comes into Force in the New Year

On January 1, 2023, the *Prohibition on the Purchase of Residential Property by Non-Canadians Act*, S.C. 2022, c. 10, s. 235 (the "[Act](#)") will come into force, which will prohibit non-Canadians from purchasing, directly or indirectly, residential property in Canada. As announced in the 2022 Federal Budget, the Act is intended to be in force for a period of two years. Earlier this year, the Government undertook a consultation process to solicit public feedback on these new rules. Although we expect that many of the rules will be refined by future regulations, it is prudent to review what we do know based on the wording of the current Act as well as the

intentions of the Government as disclosed during the consultation process.

What types of properties are subject to the Act?

Most residential real properties situated in Canada are within the scope of the prohibition. Specifically, the term "residential property" under the Act means:

- A detached house or similar building containing not more than three dwelling units, and
- The part of a building that is a semi-detached house, rowhouse unit, residential condominium unit or other similar premises.

Read the [full article](#) by [Mark Potechin](#), [Jenny Du](#), [Katie Taylor](#) and [David Gore](#) with DLA Piper.

BC Government Amendments to Strata Property Act Impact Strata Corporation Bylaws and Developer Disclosure Statements to Purchasers

After being sworn in as Premier of British Columbia on November 18, 2022, former Attorney General and Minister Responsible for Housing, David Eby, made swift work of introducing amendments to the [Strata Property Act](#) (the SPA) which are purported to open up more rental and homeownership options for people in British Columbia. On November 24, 2022, the [Building and Strata Statutes Amendment Act](#) (the BSSAA) received Royal Assent, just three days after it was first [announced](#) by the Office of the Premier. Concurrently, the BC Financial Services Authority (the BCFSA) amended [Policy Statement 1](#) and [Policy Statement 2](#) under the [Real Estate Development Marketing Act](#) (REDMA), which set out the required form and content for a developer's disclosure statement to purchasers in relation to marketing strata lots in a development property, in order to align with the amendments to the SPA. Developers and strata corporations should familiarize themselves with these amendments and consider the impact on their disclosure statements and bylaws going forward, including the following key changes: Read the [full article](#) published by Dentons.

BC Court of Appeal Rules Against Owners Who Sold Property through Misrepresentation

The BC Court of Appeal found property owners liable for tort and breach of contract when they misrepresented to the buyers the true condition of the house they were selling. In *Kuhnke v. Karner*, [2022 BCCA 399](#), Matthew and Dawn Kuhnke owned a residential property located on Ker Avenue in Saanich. The property is a two-storey structure with a second-storey back deck. In 2017, the deck was damaged when several large rocks fell from a rockface abutting the property. Matthew Kuhnke obtained a geotechnical report that advised a large and unstable wedge rock remained perched above the deck and that emphasized the need for timely remedial action. A second report estimated the cost of a potential remedial solution to be approximately \$70,000. Instead of conducting any remediation work, Matthew and Dawn decided to sell the property. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

Cooling Off Period Comes to Coldest Housing Market in Years

Effective January 3, 2023, a BC homebuyer has three business day to cancel a sales agreement. Amid BC's coldest housing market in years, where it now takes weeks for the average home to sell, the province has brought in a cooling-off period for home buyers. The [legislation](#), first in Canada's resale housing market, came into effect January 3, 2023. Read the *BIV* [article](#) by [Frank O'Brien](#).

CRA Audits Substantial Alterations to Subleases

Context: The capital cost of acquiring a leasehold interest is included in Class 13 of Schedule II of the Regulations. The cost of alterations to a leasehold interest are also included in Class 13 under Reg. 1102(4) unless the contract between the landlord and tenant vests legal title to these alterations in the tenant (see *R. v Mount Robson Motor Inn Limited*, 81 DTC 3188) or the rule in Reg. 1102(5) applies. The latter rule applies if the tenant: (1) erects a building or structure on leased land, (2) makes an addition to a leased building or structure, or (3) makes alterations to a leased building or structure that "substantially changes the nature of the property". In these latter three instances, Reg. 1102(5) says that the tenant is deemed instead to have acquired ownership of "a building or other structure", such that the related cost can potentially fall within other depreciable property classes in Schedule II of the Regulations. Read the [full article](#) by Ian J. Gamble with Thorsteinssons LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Speculation and Vacancy Tax Regulation (275/2018)	Jan. 1/23	by Reg 174/2022

WILLS & ESTATES

Wills and Estates News:

BC Case Comment: Court of Appeal Affirms No Binding Agreement to Leave Estate to Niece

I previously wrote about a case in which the B.C Supreme Court found that there was no binding agreement by an aunt to leave her estate to her niece. The case was *Angelis v. Siermy* [2022 BCSC 31](#), and the post can be found [here](#). The B.C. Court of Appeal has now dismissed an appeal of that decision.

A person may enter into a contract, whereby they agree to leave their estate to another person in exchange for some consideration. However, the court in *Angelis* found that no such agreement existed in that case. The case was unusual because the aunt (the will-maker) was still alive, denied the existence of any agreement, and defended against the claim. Read the [full article](#) by [James Zaitsoff](#), published on the *BC Estate Litigation Blog*.

Parentage Committee Discusses Inheritance and Parentage for Posthumously Conceived Children

In December, BCLI's Parentage Law Reform Project Committee continued its discussion of posthumous conception. The committee focused on one issue relating to who can be named a parent for a posthumously conceived child under BC's [Family Law Act](#) and two issues relating to inheritance for posthumously conceived children under BC's [Wills, Estates and Succession Act](#). Read the [full article](#) by Sara Pon with BCLI.

Stopping the Flow – A Look at Pour-Over Trusts in Canada

What is a Pour-Over Trust

A pour-over trust in a Will occurs when a testator creates a trust during their lifetime and then, in their Will, includes a clause that names that trust as a beneficiary. The legal issue is created when this trust is amendable and revocable. For example, let's say a testator creates a trust (ex. it names A and B as beneficiaries) and then signs a Will naming the trust as the beneficiary of their Estate (effectively making A and B beneficiaries of their Estate). Later, a testator amends the beneficiaries of that trust (so A and B are no longer beneficiaries) and names new beneficiaries (C and D). This, in turn, means the Estate beneficiaries through the Will are now, effectively, different (they are now C and D). In several Canadian jurisdictions, you can only amend a Will through certain formalities defined under the legislation. In Alberta, unless a Will is holographic (i.e., handwritten by the Testator), two witnesses must be present when there is an amendment. Therefore, the issue with using a pour-over trust in a Will is that it may effectively allow a person to alter their Will by altering their trust without complying with the required formalities, like making that alteration in the presence of witnesses. Read the [full article](#) by [Michelle Fong](#) and [Graem White](#) (Student) with McLennan Ross.

Spousal Rights After Death in BC

BC's [Family Law Act](#) provides that, upon separation, each spouse has a right to an undivided half interest in all family property as a tenant in common, and is equally responsible for family debt. What happens if a spouse dies after separation but before family property issues have been settled? Does the deceased spouse's claim for division of family property die with them? That was the question for the court in *Weaver Estate v. Weaver*, [2021 BCSC 881](#). Read the [full article](#) published by the Onyx Law Group.

Act or Regulation Affected	Effective Date	Amendment Information
Power of Attorney Act	Jan. 1/23	by 2022 Bill 27, c. 31, section 6 to 8 only (in force by Reg 278/2022), Attorney General Statutes Amendment Act (No. 2, 2022)
Power of Attorney Regulation (20/2011)	Jan. 1/23	by Reg 278/2022
Representation Agreement Act	Jan. 1/23	by 2022 Bill 27, c. 31, section 16 to 18 only (in force by Reg 279/2022), Attorney General Statutes Amendment Act (No. 2,

		2022)
Representation Agreement Regulation (199/2001)	Jan. 1/23	by Reg 279/2022
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