

# Quickscribe Reporter

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Vol: XXI – Issue: 7 – July 2022

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## QUICKSCRIBE NEWS:

### New Keyword Alert Enhancements

Quickscribe's popular [Keyword Alert](#) tool now includes an option to track relevant words or subject matter referenced in news articles posted on Quickscribe's home page. Simply type in a word or phrase that is of interest to your profession and we will monitor any legislative activity, including new bills, orders, [Hansard](#) and news postings that reference those words. If there is a match, you will receive a timely email with a direct link to the source where your words appear. This is a great way to keep in formed on topics of interest. You can setup a Keyword Alert at any time via the [My Alerts](#) page. For those who have already created a Keyword Alert, you have the option to add the new "Quickscribe News" option to your existing tracking options.

### Latest Annotations

New annotations were recently added to Quickscribe:

- [Don Lidstone](#), Lidstone & Company Law Corporation LLP – [Land Title 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:

#### Cryptocurrency and Tax Reporting Obligations

Section 233.3 of the [Income Tax Act](#) (Canada) (the "ITA") requires Canadian resident taxpayers (subject to certain exceptions) and partnerships with Canadian resident members (subject to certain exceptions) (each referred to as a "specified Canadian entity") to report ownership of their "specified foreign property" if the total

cost of their "specified foreign property" exceeds \$100,000 in aggregate at any time during a taxation year. Taxpayers are required to file a Form T1135, "Foreign Income Verification Statement" ("Form T1135") in these circumstances. Read the [full article](#) by Molly Luu and Anish Kamboj with Miller Thomson LLP.

### CSA Releases Enforcement Report for 2021

The Canadian Securities Administrators ("CSA") recently released its [annual report](#) on the enforcement activities of its members (the "Report"). The Report provides a snapshot of the enforcement activities taken by Canadian securities regulators over the last 12 months.

The number of enforcement proceedings commenced have increased slightly from 2020 and are significantly higher than 2019. While the number of whistleblower complaints and the total quantum of fines, penalties and general compensation have decreased from 2020, we do not believe this signals any intention on the part of regulators to diminish their enforcement efforts. Read the [full article](#) by [René Sorell](#), [Sean D. Sadler](#), [Wendy Berman](#), [Shane C. D'Souza](#) and [Jonathan Nehmetallah](#) with McCarthy Tétrault.

### From Deadlock to Liquidation – A Cautionary Tale

[Petersen v. Hawley](#) serves as a stark reminder that "shareholders of closely-held companies who go into business together without providing for the resolution of future conflicts in a written agreement are courting disaster – even if (and perhaps especially if) they are related by blood." In Reasons released May 18, 2022, the British Columbia Court of Appeal upheld a decision by the Chambers Judge that it was "just and equitable" to order liquidation of a deadlocked company due to an ongoing and bitter conflict between identical twin brothers, each holding 50% of shares of the family company. Read the [full article](#) by Jordanna Cytrynbaum, Carey Veinotte, Jessica L. Lewis and Shayna L. Clarke with Cassels Brock & Blackwell LLP.

### Mind the Gap: Comments on Canada's Tax Gap

In June 2022, Canada published a report concerning its tax gap. A "tax gap" is the difference between (a) the amount of money a tax authority could collect, in theory, if everyone complied with the law; and (b) the amount in fact collected. Canada's tax gap has remained stable for the period 2014 to 2018, at 9% of tax revenue. This translates to between \$20 billion and \$24 billion for the years in question (because Federal tax revenue increased). This briefing note addresses an interesting aspect of the Canadian approach to reporting the tax gap, namely the decision to publish both the "gross" and "net" gap (described in detail below) and makes certain comparisons with the UK and the US. Read the [full article](#) by Gareth O. Williams with Lawson Lundell LLP.

### BCFSA Launches Capital Modernization Framework Project for Credit Unions

On June 28, 2022, BCFSA launched the Capital Modernization Framework Project with an information session for all B.C. credit unions. The Project to modernize the capital framework for B.C.'s credit unions is a multi-year initiative to ensure that capital adequacy requirements for credit unions continue to reflect underlying risks and, as appropriate, developments in international standards and best practices. The ultimate outcome of this initiative is expected to be a new Capital Rule that will replace the existing [Capital Requirements Regulation](#). Read the [news release](#) from BCFSA.

### BC Securities – Policies & Instruments

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

- [11-345](#) – CSA Consultation Paper 43-401 Consultation on National Instrument 43-101 Standards of Disclosure for Mineral Projects
- [94-102](#) – National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives* Adoption – National Instrument 94-102 *Derivatives: Customer Clearing and Protection of Customer Collateral and Positions*

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Regulation (65/2004)	July 4/22	by <a href="#">Reg 114/2022</a>
Cooperative Association Regulation (391/2000)	July 4/22	by <a href="#">Reg 114/2022</a>

Designated Accommodation Area Tax Regulation (93/2013)	July 1/22	by <a href="#">Reg 47/2022</a> and <a href="#">Reg 142/2022</a>
	Aug. 1/22	
Excluded Employees (Legal Proceedings) Indemnity Regulation (62/2012)	July 11/22	by <a href="#">Reg 162/2022</a>
Judicial Officers (Legal Proceedings) Indemnity Regulation (162/2022)	<b>NEW</b> July 11/22	see <a href="#">Reg 162/2022</a>
National Instrument 94-102 Derivatives: Customer Clearing and Protection of Customer Collateral and Positions (148/2017)	July 26/22	by <a href="#">Reg 177/2022</a>
Provincial Sales Tax Act	July 1/22	by 2022 Bill 6, c. 11, sections 47, 51, 54, 55, 57, 80 to 97, 101 and 102 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	July 1/22	by <a href="#">Reg 154/2022</a>
Provincial Sales Tax Regulation (96/2013)	July 1/22	by <a href="#">Reg 154/2022</a>
Societies Regulation (216/2015)	July 4/22	by <a href="#">Reg 114/2022</a>
Tobacco Tax Act	July 1/22	by 2022 Bill 6, c. 11, sections 109, 113 and 114 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>

## ENERGY & MINES

### Energy and Mines News:

#### Cap in Hand: Canada's Federal Government Considering Oil and Gas Emissions Cap

The Government of Canada recently published its [Discussion Paper](#) on options to cap and cut emissions from the country's oil and gas sector. The Discussion Paper is the latest step from a federal government that has been very active in introducing and implementing measures intended to curb Canada's greenhouse gas (GHG) emissions as part of the overall effort to meet its international commitments and to achieve "net-zero" emissions by 2050. Read the [full article](#) published by Dentons.

#### Natural Gas Is Officially Green in Europe

*Adding natural gas to EU's taxonomy could mean increased investment here*

European fund managers of sustainable portfolios who have, heretofore, shunned nuclear power and natural gas and LNG can now invest in those energy stocks with a clear conscience.

The EU Parliament this week voted to include both natural gas and nuclear power as sustainable energy sources in its taxonomy, which defines what is green and clean and what isn't for pension fund managers and other asset managers that have sustainable portfolios – sometimes known as ethical investments, or ESG investments (environmental, social and governance). Read the [BIV article](#).

#### Canadian Clean Fuel Regulations Are Now in Force

The long-awaited final [Clean Fuel Regulations](#) (the "Regulations"), developed by Environment and Climate

Change Canada ("ECCC") under the [Canadian Environmental Protection Act, 1999](#) ("CEPA"), were registered on, and are in force as of, June 21, 2022. They were published in the [Canada Gazette II](#) on July 6, 2022. Read the [full article](#) by [Alex Sadvari](#) with Gowling WLG.

### BC Company Wins Prize for Reducing Mine Water Use

Sepro Mixing and Pumping, a B.C. industrial equipment maker, has won a \$150,000 prize for technology that reduces the use of water at mine sites.

Foresight Canada and the Mining Association of BC (MABC) held a contest, the Mining Innovation Challenge, aimed at finding ways to reduce the use of water in mining operations. Mines use large amounts of fresh water to move mine waste (slurry), which must be stored in tailings ponds. Read the [BIV article](#).

### Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletin:

- [INDB 2022-12](#) – Changes to Management of Inspection Reports

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

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

## FAMILY & CHILDREN

### Family and Children News:

#### BC Ministry of Attorney General Seeking Comments on Reform of Property Division and Spousal Support Under the *Family Law Act*

As part of an ongoing project to review and update the [Family Law Act](#), the Ministry of Attorney General for BC has published a discussion paper on property division (part 5 of the act) and spousal support (part 7, division 4). The [Family Law Act Modernization project webpage](#) contains links to a survey, backgrounder, and full technical discussion paper.

As the discussion paper explains, the advent of the *Family Law Act* in 2013 introduced a new approach to property division. Since that time, "the courts of British Columbia have grappled with how to interpret the new provisions," which has led to new issues emerging that could be addressed through amended legislation. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

#### Child's Vacation Stay in BC Doesn't Affect Habitual Residence: BC Court of Appeal

A child's temporary accommodations during a vacation would not constitute their habitual residence under British Columbia's [Family Law Act](#), the BC Court of Appeal has ruled.

In *Aslanimehr v. Hashemi*, [2022 BCCA 248](#), the parties were Iranian citizens who got married and resided in Iran. They had one child. From 2016 to 2018, they visited Canada for long periods. The father had acquired Canadian citizenship as a teenager, while the mother obtained permanent resident status in Canada during one of these visits. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

#### BC Court of Appeal Orders Father to Return Child He Relocated Without Court Approval

Any change in child's residence that would significantly impact their relationship with one of their parents is considered "relocation" under the law, the British Columbia Court of Appeal has ruled.

The dispute in *R.P. v. G.U.*, [2022 BCCA 255](#) stemmed from a father's alleged act of "relocating" with his nine-year-old son to Victoria, which the mother opposed. The parties were married in 2010 and resided in White Rock, BC. They separated in 2016, with their parenting time fluctuating between them. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

## Decision on Child Support Agreements Will Be Useful for All Family Lawyers in BC, Counsel Says

B.C.'s family law legislation allows courts to retroactively vary child support payments outlined in a separation agreement, the province's top court has ruled.

Justice Bruce Butler, writing for a unanimous Court of Appeal in a decision issued July 4, held that an interpretation of the [Family Law Act](#) (FLA) to permit such a variation aligns with the provincial legislature's intention that child support agreements be variable in the face of changing circumstances for parent and child (*Hinz v. Davey* [2022 BCCA 232](#)). Read the [full article](#) by Ian Burns in *The Lawyer's Daily*.

Act or Regulation Affected	Effective Date	Amendment Information
Court of Appeal Act	<b>REPEALED</b> July 18/22	by 2021 Bill 11, c. 6, section 52 only (in force by <a href="#">Reg 120/2022</a> ), <a href="#">Court of Appeal Act</a>
Court of Appeal Act	<b>NEW</b> July 18/22	c. 6, SBC 2022, <a href="#">Bill 11</a> , whole Act in force by <a href="#">Reg 120/2022</a>
Court of Appeal Rules (297/2001)	<b>REPEALED</b> July 18/22	by <a href="#">Reg 120/2022</a>
Court of Appeal Rules (120/2022)	<b>NEW</b> July 18/22	see <a href="#">Reg 120/2022</a>
Interjurisdictional Support Orders Act	July 18/22	by 2021 Bill 11, c. 6, section 55 only (in force by <a href="#">Reg 120/2022</a> ), <a href="#">Court of Appeal Act</a>
Supreme Court Act	July 18/22	by 2021 Bill 11, c. 6, section 56 only (in force by <a href="#">Reg 120/2022</a> ), <a href="#">Court of Appeal Act</a>

## FOREST & ENVIRONMENT

### Forest and Environment News:

#### Forest Practices Board Releases 2021-22 Annual Report

The Forest Practices Board has released its 2021-22 annual report, which provides a summary of the board's work in each of its program areas. The annual report also highlights strategic accomplishments, including work on Indigenous engagement and reconciliation, and the introduction of changes to the [Forest and Range Practices Act](#), a number of which reflect past board recommendations. Read the [report](#) from the BC Forest Practices Board.

#### Competency and Authority: Two Sides of the Same Regulatory Coin

The die is cast and we now operate under the [Professional Governance Act](#) (PGA). It is in these nascent stages of professional governance and government oversight that forest professionals ought to take a moment to understand some terms being used that are cornerstone to our successful compliance and implementation of the PGA.

When the term "qualified registered professional" is used, what comes to your mind? For myself, it is the juxtaposition of competence and authority that give rise to being qualified, as they are two sides of the same regulatory coin. Read the [full article](#) by Garnet Mierau, published in the Summer 2022 issue of the *BC Forest Professional Magazine*.

#### Association of BC Forest Professionals Amends Code and Bylaws [Reflects PGA]

The [bylaws](#) governing the Association of BC Forest Professionals (ABC FP) have been amended to reflect

operational business needs and changes in authorities, terminology, and other provisions in the [Professional Governance Act](#).

The ABCFP council approved the amended bylaws on June 9 and they were brought into force under the authority of the Superintendent of Professional Governance on July 4. Read the [notice](#) from Canadian Forest Industries.

### **Will the BC/Tahltan Project Consent Agreement Deliver on Its Promises?**

On June 6, 2022, Premier John Horgan announced that British Columbia (Province or BC) would be taking a historic step by entering into an agreement with the Tahltan Central Government (TCG) to review and, ultimately determine, whether the Eskay Creek Revitalization Project (Project) will be permitted to proceed. According to Premier Horgan, this "consent-based decision-making agreement" will:

- deliver on the promise of reconciliation;
- support predictability for business;
- encourage responsible investment for business in BC; and
- position BC as a preferred destination for ESG (environmental, social and governance) investors.

Read the [full article](#) by Arend J.A. Hoekstra and Viviana Berkman with Cassels Brock & Blackwell LLP.

### **Auditing Forest Professionals: Why and How Does the ABCFP Audit Registrants and Authorize Practice Reviews**

While most of you are generally aware the ABCFP conducts competence and professional conduct audits, the reasons for doing so and the audit process may not be well understood until you are notified by the ABCFP of audit selection. The why and how of auditing competence and professional conduct by the ABCFP has multiple scales.

At the smallest scale, the [Professional Governance Act](#) (PGA) requires the ABCFP to serve and protect the public interest with respect to the forestry profession, professional governance, and the conduct of registrants in regulated practice. At a larger scale, the PGA also establishes more specific responsibilities for the ABCFP to establish, monitor, and enforce standards of practice. The key objective at this scale is to enhance the quality of practice so registrants may avoid professional misconduct, conduct unbecoming a registrant, and incompetent performance of duties while engaged in the regulated practice of forestry. Read the [full article](#) by Paul Nuttall, published in the Summer 2022 issue of the *BC Forest Professional Magazine*.

### **Environmental Appeal Board Decisions**

The following Environmental Appeal Board decisions were made recently:

#### [Wildlife Act](#)

- [Paul Trepus v. Regional Manager of Recreational Fisheries and Wildlife Programs](#) [Final Decision – Appeal Dismissed]
- [James Horner v. Deputy Regional Manager, Fish and Wildlife Branch](#) [Consent Order – Send Back with Direction]
- [James \(Jim\) Munroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Program](#) [Preliminary Hearing on Method of Hearing – Granted in Part]

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

### **Forest Appeals Commission Decisions**

No Forest Appeals Commission decisions were made recently.

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

Act or Regulation Affected	Effective Date	Amendment Information
Annual Rent Regulation (122/2003)	July 11/22	by <a href="#">Reg 163/2022</a>
Closed Areas Regulation (76/84)	July 1/22	by <a href="#">Reg 157/2022</a>

Designation and Exemption Regulation (168/90)	July 1/22	by <a href="#">Reg 157/2022</a>
Hunting Regulation (190/84)	July 1/22	by <a href="#">Reg 157/2022</a>
Motor Vehicle Prohibition Regulation (196/99)	July 1/22	by <a href="#">Reg 157/2022</a>
Old Growth Designated Area No. 1 (228/2020)	July 20/22	by <a href="#">Reg 173/2022</a>
Park, Conservancy and Recreation Area Regulation (180/90)	July 1/22	by <a href="#">Reg 123/2022</a>
Refusal of Cutting Permit or Road Permit (252/2018)	July 1/22	by <a href="#">Reg 151/2022</a>
Wildlife Act Commercial Activities Regulation (338/82)	July 1/22	by <a href="#">Reg 157/2022</a>
Wildlife Act General Regulation (340/82)	July 1/22	by <a href="#">Reg 157/2022</a>

## HEALTH

### Health News:

#### British Columbia Court of Appeal Rules Against Expansion of Private Health Care

Recently, the British Columbia Court of Appeal (the "BCCA") released its decision in the case of [Cambie Surgeries Corporation v. British Columbia \(Attorney General\)](#). The case raised issues about the constitutionality of the [Medicare Protection Act](#) (British Columbia) (the "MPA"), which restricts the ability of residents in British Columbia to pay privately for medically necessary health care services. At trial, the Plaintiffs argued that this restriction violates the [Canadian Charter of Rights and Freedoms](#) (the "Charter") as it prevents residents in British Columbia from accessing private medical treatment when the public system cannot provide timely care. Read the [full article](#) by Victoria Mitrova, Julia Kindrachuk and Shawn Foster with Fasken Martineau DuMoulin LLP.

#### Ombudsperson Finds Only One-Third of Recommendations Are Implemented Three Years After Report Calling for Improved Safeguards for People Involuntarily Detained in B.C. Psychiatric Facilities

Recommendations to protect the legal rights of people involuntarily admitted to psychiatric facilities across the province are still not being adequately implemented according to an investigative update released by the British Columbia Ombudsperson today.

In an update to his 2019 report, [Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act](#), Ombudsperson Jay Chalke finds in the three years following the report, only 8 of 24 recommendations have been fully implemented. Read the [full article](#) from the Office of the Ombudsperson.

#### BC Receives Three-Year Exemption to Decriminalize Small-Scale Drug Possession

British Columbia has received a three-year exemption to decriminalize possession of small amounts of certain illicit drugs for personal use, the Ministry of Mental Health and Addictions [announced](#).

The ministry confirmed that BC is the first province in Canada to receive the exemption from Health Canada under the [Controlled Drugs and Substances Act](#). The exemption will provide another tool for the province to end the overdose crisis and reduce the stigma and harm associated with substance use. Read the [full article](#) by



[Katrina Eñano](#) in the *Canadian Lawyer*.

### Health Canada Implements New Labelling Standards for NHPs

Health Canada has implemented sweeping amendments to labelling requirements under the [Natural Health Products Regulations](#) (NHPR) as a result of challenges identified in recent years surrounding the widespread use of Natural Health Products (NHPs) by Canadians. The amendments imposing revised labelling standards are subject to a three year transition period and will come into force on June 21, 2025. NHPs licensed under the former Regulations, which are labelled in compliance with prior standards before the end of the three-year transition period, will have a further three years from that date to conform to the new requirements. Read the [full article](#) by [Julia Schatz](#), [Shelby Morrison](#) and Maximillian Pivetta with Bennett Jones LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Health Care Costs Recovery Act	July 18/22	by 2021 Bill 11, c. 6, section 54 only (in force by <a href="#">Reg 120/2022</a> ), <a href="#">Court of Appeal Act</a>
Health Professions Designation and Amalgamation Regulation (270/2008)	July 11/22	by <a href="#">Reg 164/2022</a>
Premises Identification Regulation (125/2022)	<b>NEW</b> July 1/22	see <a href="#">Reg 125/2022</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### The Federal Government Unveils the Proposed Regulations for Paid Sick Leave

On July 15, 2022 the federal government released its proposed [Regulations Amending Certain Regulations Made Under the Canada Labour Code \(Medical Leave with Pay\)](#) (the "Proposed Regulations"), with respect to paid sick leave for federally regulated employees. Read the [full article](#) by [Nicole K. Skuggedal](#) and [Miny Atwal](#) with Lawson Lundell LLP.

#### Pregnancy and Employment – the Statutory Requirements

Pregnancy can create tricky issues in an employment relationship, triggering both requirements of the BC [Employment Standards Act](#) (the "Act") and considerations under the [Human Rights Code](#) (the "Code"), making termination or revision of the terms of employment fraught with difficulty.

The Act establishes the statutory requirements, setting the minimum standards for working conditions for all eligible employees in BC. With respect to pregnancy in particular, the Act includes a number of provisions placing responsibilities on employers. The Code provides that an employee cannot be treated differently because of pregnancy or childbirth. Differential treatment in such circumstances would be discrimination for the purposes of the Code. An employer cannot fire an employee because they are pregnant or because they have taken maternity or parental leave and they cannot unilaterally change a fundamental condition of employment because of a pregnancy. Read the [full article](#) by [Rose Keith, QC](#) with Harper Grey LLP, published in *The Verdict*.

#### Case Summary: Court Upholds Decision of the WCAT Dismissing Appeal for the Failure to File Claim Application Within the One-Year Limitation Period

*Aghili v. British Columbia (Workers' Compensation Appeal Tribunal)*, [2022] B.C.J. No. 778, [2022 BCSC 717](#), British Columbia Supreme Court, May 4, 2022, D. MacDonald J.

On May 1, 2019, the petitioner was allegedly injured while lifting heavy tubing at work. The [Workers' Compensation Act](#) requires an application for compensation to be commenced within one year of the date of the injury. The petitioner filed a claim application on June 25, 2020. After being informed that his application was late, the petitioner submitted a letter explaining that he was not able to meet the one year deadline because he



understood that the cause of the injury had to be known. The petitioner also claimed that he was unfamiliar with the application process and the one-year time limit. Read the [full article](#) by Jackson C. Doyle with Harper Grey LLP.

### **Employee or Independent Contractor? BC's Court of Appeal Reminds Employers That Employment Relationships Are Determined Based on a Fact-Specific, Contextual Approach**

Employment lawyers are often asked to consider whether an individual is an "employee" or an "independent contractor". This is an important distinction for employers as the consequences for misclassification can be significant. If independent contractors are misclassified, employers may face liabilities relating to (i) entitlements under applicable employment standards legislation – including unpaid wages, overtime pay, vacation pay and holiday pay; (ii) wrongful dismissal damages (i.e. pay in lieu of notice); (iii) Canada Pension Plan deductions and remittances; (iv), Employment Insurance deductions and remittances; (v) penalties, and interest, for failure to make income tax withholdings and failure to issue T4s; and (vi) retroactive workers' compensation premiums and penalties. Read the [full article](#) by Danielle Douglas and Reed D. Smith with McCarthy Tétrault.

### **Collective Agreement Allows New Federal Statutory Holiday To Be Added: B.C. Arbitrator**

A British Columbia employer must add the new National Day of Truth and Reconciliation to its collective agreement's list of statutory holidays, an arbitrator has ruled.

The company argued that it wasn't the intention of the agreement's holiday provision to add any new holidays proclaimed by government, but the language used left it open to such change, says James Kondopulos, a partner at Roper Greyell in Vancouver. Read the [full article](#) by [Jeffrey R. Smith](#) in the *Canadian HRReporter*.

### **Dismissed Employee's Pursuit of New Career Results in Reduced Notice Period**

In the wrongful dismissal context, a dismissed employee typically has a duty to mitigate their losses following a dismissal. That duty to mitigate most often requires an employee to search, apply for, and accept reasonable new employment to mitigate any claimed losses. A Court may reduce the notice period where a dismissed employee fails to take reasonable steps to mitigate, usually by failing to reasonably pursue new opportunities. At times, the Courts have held that an employee's attempt to train themselves for a new career can be considered an appropriate mitigation strategy, but only after the employee has first made reasonable and diligent efforts to test the market and find new employment in their area of expertise. This issue was revisited in *Okano v. Cathay Pacific Airways Limited*, [2022 BCSC 881](#), where the Supreme Court of British Columbia found that a dismissed employee had not properly sought employment in her field before looking for work outside of it. Read the [full article](#) by [Boris Subara](#) with Fasken Martineau Du Moulin LLP.

### **New Pension Plan Information & Records Guidelines Come into Effect September 30th**

As noted previously on [this blog](#), pension regulators have been working towards increasing guidance for pension plan administrators in relation to protecting pension plan information and records. The BC Financial Services Authority (FSA) issued drafts of its Information Security Guideline and its Outsourcing Guideline, invited consultation, and in October 2021, issued final versions of those guidelines, which can be found [here](#) and [here](#). It has advised that the guidelines are considered to be in effect on September 30, 2022. Read the [full article](#) by [Lisa Chamzuk](#) with Lawson Lundell LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	July 1/22	by <a href="#">Reg 159/2022</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	July 1/22	by <a href="#">Reg 159/2022</a>
Social Services Employers Regulation (84/2003)	July 11/22	by <a href="#">Reg 170/2022</a>

## LOCAL GOVERNMENT

### Local Government News:

#### New Reference Guide for Regional Districts

##### Published on Quickscribe

The [Community Charter](#) provides the statutory framework for most municipalities in BC, and sets out municipalities' core areas of authority. In order for certain provisions of the *Community Charter* to apply equally to regional districts, cross references were added to the [Local Government Act](#). For your convenience, Quickscribe has published [an updated guide](#) that provides a reference showing which provisions in the CC also apply to regional districts. The guide is accessible via the left navigation.

#### Pre-Campaign Period for B.C. Municipal Elections Begins Monday

*B.C. municipal elections are scheduled for October 15*

B.C. residents who come across political ads for the upcoming municipal election can now check if they comply with election laws.

Elections BC says the "pre-campaign period" for the 2022 General Local Elections begins Monday, July 18 and runs until Sept. 16, 2022. Election advertising rules come into effect at the start of the pre-campaign period and last until the election on October 15. Read the [BIV article](#).

#### Wildfire Act Review

The BC Wildfire Service is assessing provincial wildfire legislation and policy framework to determine whether improvements could be made to better support local governments with preventing human-caused wildfires. Local governments are encouraged to complete the [survey](#). Read the [notice](#) from UBCM.

#### The Future of Builder's Lien Law

The BC Court of Appeal recently clarified builder's lien law in [JVD Installations](#). The court also hinted at ways the law may develop in the coming years. The decision has significant implications for both owners and builders. So, let's dig into what the decision says. Then, let's discuss what it means and how you can prepare. Read the [full article](#) by Sheldon Falk with Civic Legal LLP.

#### City Councillor's Restaurant Ownership Not Part of Common Interest: BC Court of Appeal

The British Columbia Court of Appeal has ruled that a councillor had a conflict of interest when he participated in and voted for a program meant to ease pandemic restrictions while having pecuniary interest in a restaurant that was among the first to secure permits for the programs.

In *Redmond v. Wiebe*, [2022 BCCA 244](#), Michael Wiebe was an elected member of the Vancouver City Council who also had interest in a restaurant and a pub. When indoor attendance at restaurants was restricted due to the COVID-19 pandemic, the city adopted a program that allowed an extension of outdoor seating. This program required restaurants to secure permits. Read the [full article](#) by [Jason Tan](#) in the *Canadian Lawyer*.

#### Local Election Resources for Candidates

General local elections in B.C. are held every four years on the third Saturday in October. The next general local elections will be held on October 15, 2022. Resources for the elections are now available on the [Ministry of Municipal Affairs website](#). Read the [full article](#) from UBCM.

#### Ombudsperson Renews Call for Oversight of Municipal Jails in RCMP Policed Communities

In the wake of a recent investigation by the Independent Investigations Office into a case that identified serious concerns about the conduct of a civilian jail guard who failed to provide adequate care to a man in custody, the Ombudsperson is renewing calls for independent oversight of jail guards in municipalities policed by the RCMP. Read the full [news release](#) from the Office of the Ombudsperson.

Act or Regulation Affected	Effective Date	Amendment Information
Bylaw Notice Enforcement Regulation (175/2004)	July 13/22	by <a href="#">Reg 166/2022</a>

Cannabis Licensing Regulation (202/2018)	July 8/22	by <a href="#">Reg 160/2022</a>
<b>MISCELLANEOUS</b>		
<p style="text-align: center;"><b>Miscellaneous News:</b></p> <p><b>Small Claims Rules Changes Coming October 3rd – Early Consolidation/Summary</b>  <a href="#">Order in Council No. 401</a> was approved and ordered on July 11, 2022. The Order makes changes to the Small Claims Rules. For your convenience, Quickscribe has published <a href="#">an early consolidation</a> of the Rules as they will read when these amendments come into effect on October 3, 2022. Among other changes, the Order increases the time required for the submission of documents on which a party intends to rely at various types of hearings, including for settlement conferences, mediation sessions, trials, payment hearings, and default hearings. Greater detail regarding some of these changes is provided below.</p> <p>Each party must file all documents it intends to rely on at a settlement conference with the registry at least 14 days before the conference takes place, and must serve the documents on the opposing party at least 7 days before the conference. A defendant who receives a medical report from medical practitioner must submit the report to the registry at least 14 days before the settlement conference, and must serve it on the claimant at least 7 days before the settlement conference. At a settlement conference, the judge will have the jurisdiction to order that the trial be attended by telephone, video conference, or other electronic means. The Order contains transition provisions that set out what rules apply during the transition from the old to new provisions.</p> <p>Documents that will be relied on in a mediation session must be provided to the mediator and all parties before the mediation session, whereas under the current Rules parties must simply bring copies of documents to the mediation session.</p> <p>A defendant must now file a copy of a medical report received from a medical practitioner with the registry 14 days before trial, and serve a copy on the claimant 7 days before trial.</p> <p>The amendments to the rules permit judges hearing trial conferences to order that trials be attended by telephone, video, or other means of electronic communication. If this type of order is made, the judge must also make orders regarding how and when documents to be relied on at trial are to be served by the parties. The amendments also provide for transition provisions related to these rules.</p> <p>If a judge makes an order changing a witness's method of attendance, the judge must then make orders regarding how the witness must serve documents and how the witness must attend. The judge may make orders that the witness return money paid for travelling expenses if no travel is required, and that the party summoning the witness pay for the expenses of the new method of attendance if applicable.</p> <p>The amendments require that a creditor requesting a payment hearing must do so by completing Form 12 and filing it at the registry no later than 14 days before the date of the payment hearing. The person named in the summons must now be served 14 days before the payment hearing, an increase from 7 days under the current Rules. A person summoned to a payment hearing must now file records and a statement of finances with the registry at least 7 days before the hearing, as opposed to simply bringing the records to the hearing, and must serve the records on the creditor at least 2 business days before the hearing. A debtor also has an obligation to file an updated statement of finances if any material change occurs after the original statement of finances is filed, and must do so before the hearing takes place. The amendments also include new subrules that provide for a judge to order a payment hearing, and details of what may take place at a payment hearing.</p> <p>The notice required to be provided to a person summoned to a default hearing is increased from 7 to 14 days. A person summoned to a default hearing must now file records and a statement of finances with the registry at least 7 days before the hearing, as opposed to simply bringing the records to the hearing, and must serve the records on the creditor at least 2 business days before the hearing. A judge may direct that a debtor swear or affirm the truth of the contents of a statement of finances that has been filed.</p> <p>A new subrule has been added stipulating that an order changing a person's method of attendance at trial, a payment hearing, or a default hearing may not be made by consent.</p> <p>Another subrule has been added setting out the types of orders that may be made without a hearing: changing a person's method of attendance; an order extending or shortening a time limit; an order correcting an accidental</p>		

slip or omission in another order; and any other order that a judge has the power to make that does not require notice to another party.

A person who applies for an order that requires a hearing must file all documents on which they intend to rely at the hearing at least 7 days before the hearing, and must also serve them 7 days before the hearing. However, a final decision of the Civil Resolution Tribunal must not be filed. If a person served with documents in relation to a hearing wishes to rely on responsive documents at the hearing, they must file and serve them at least 2 business days before the hearing. As soon as practicable after an order is made, the person who applied for the order must serve it on all parties who did not attend the hearing and on any witness affected by the order who was not given notice of the hearing.

A number of Forms in Schedule B are repealed and replaced, including Forms 1, 2, 3, 3.1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 23, 26, 32, 34, 35, 36, 37, 39 and 40. Quickscribe would like to thank [Kristen Balcom](#) for putting together this summary.

### **B.C. Court of Appeal Provides Guidance on Proper Procedure for Bringing *Charter* Challenges**

The B.C. Court of Appeal's recent decision in *The Redeemed Christian Church of God v. New Westminster (City)*, [2022 BCCA 224](#), provides guidance on the proper procedure for bringing a *Charter* challenge in British Columbia. The court held that a *Charter* challenge in British Columbia must be brought via action, not via petition. This decision has important implications for future *Charter* challenges in British Columbia because actions and petitions are subject to different procedural rules that can influence the course – and outcome – of *Charter* litigation. Read the [full article](#) by [Connor Bildfell](#) and [Patrick D. Sheppard](#) with McCarthy Tétrault LLP.

### **Be Aware, Switch Contractors with Care**

Determining when a construction contract is terminated is important for all parties involved in a project. For contractors and subcontractors, it can dictate lien filing deadlines. For owners, it can determine holdback obligations.

#### ***The case and decision***

In May 2022, Justice Lamb of the British Columbia (BC) Supreme Court released a decision that a mid-project termination of the general contractor did not result in a termination of the head contract for the purposes of the BC [Builders Lien Act](#). The court found that by hiring a new replacement contractor to complete all of the original work, the owner intended to assign, rather than terminate, the original head contract. As a result, the owner was required to continue to retain the holdback from the original head contract while the project was completed by the new replacement contractor.

Read the [full article](#) by [Chelsea A. Wilson](#) with Dentons.

### **Abuse and Harassment Survivors 'Silenced' By Non-Disclosure Agreements Fight for Change to B.C. Law**

*PEI brought in legislation to limit use of NDAs, and B.C.'s attorney general says changes possible here*

Not even the death of her father could free Susan MacRae from the legal restraints that prevent her from talking about the sexual abuse she allegedly suffered as a child.

Four years ago, a B.C. judge dismissed MacRae's application to nullify the non-disclosure agreement she'd signed in 1997 as part of a legal settlement, court documents show. Not only that, MacRae was ordered to pay her father's estate \$500 in court costs.

"It's so insulting," the Vancouver woman said. Though she is legally forbidden to speak about what happened to her when she was a child, MacRae's 84-year-old mother Marie is not and has confirmed MacRae told her about the alleged sexual abuse long before the NDA. Read the [CBC article](#).

### **The Benefits of Bespoke Drafting: BC Court Upholds Arbitration Provision and Class Action Waiver in Consumer Context**

Video gamers are accustomed to accepting terms and conditions as part of their gameplay. Whether for the platform through which they access the game, the hardware on which they play it, the operating system that commands the hardware, the internet service that enables their play, or for the game itself, different terms of service apply to nearly every interaction in games. While a consumer may be under the impression that they are purchasing a copy of a game (an artifact from a simpler time) in reality (and legally speaking) the gamer is purchasing a *licence* to play the game in accordance with limited, and often detailed, licence terms. Read the [full](#)

[article](#) by [Ryan J. Black](#), [Rebecca von Rüti](#), [Tyson Gratton](#) and Jason Lin (Summer Student) with DLA Piper.

### First Round of Competition Act Amendments Now in Force

On April 26, 2022, the government of Canada revealed significant proposed amendments to the [Competition Act](#) (the Act) as part of the [Budget Implementation Act, 2022, No. 1](#) (the BIA). As expected, these amendments have now come into force with the BIA receiving Royal Assent on June 23, 2022. The changes constitute the first step in the federal government's plan for comprehensive reform to the Act, characterized by the government as an initiative to improve the effectiveness of the Act, and better protect Canadian consumers and the integrity of the marketplace. Read the [full article](#) by [Randal Hughes](#), [Melanie Aitken](#), [Adam Kalbfleisch](#), [Zirjan \(Zee\) Derwa](#) and [Christina Skinner](#) with Bennet Jones LLP.

### Four BC First Nations Sign Education Jurisdiction Agreements with Canada

The Department of Crown-Indigenous Relations and Northern Affairs [announced](#) that four First Nations in British Columbia have recently signed agreements with the federal government to strengthen their right to establish and control their own school systems.

Under the newly signed "education jurisdiction agreements," Cowichan Tribes, Lil'wat Nation, ʔaqḥam, and Seabird Island will now have law-making authority over their K-12 basic education systems, particularly in the following areas: teacher certification, school certification, graduation requirements, curriculum, and course approvals. Moreover, they will be allowed to establish a "Community Education Authority" – the legal equivalent of a school board – on their own or together with other First Nations. Read the [full article](#) by [Katrina Eñano](#) in the *Canadian Lawyer*.

### Campbell: BC Supreme Court Confirms There Is No Tort of Intrusion Upon Seclusion in BC, But Still Certifies a Data Breach Action Not Certified in Ontario

In the latest chapter in the evolving area of privacy class actions, the BC Supreme Court has concluded that the tort of intrusion upon seclusion still does not exist in British Columbia, despite recent musings by the Court of Appeal about whether it should reconsider the existence of a common law privacy tort.

In *Campbell v. Capital One Financial Corporation*, [2022 BCSC 928](#) the BC Supreme Court certified a class proceeding against Capital One related to a data breach on narrower terms than those sought by the plaintiff. The court found that some of the pleaded causes of action (including intrusion upon seclusion) were bound to fail while others (negligence, breach of contract and breach of consumer protection laws) should be certified. The decision is consistent with the restrained approach that Canadian courts have taken to the certification of privacy class actions in recent months, as we reported in [March](#) and [April](#) of this year. Read the [full article](#) by [Kevan Hanowski](#) and [Matthew P. Jensen](#) with McCarthy Tétrault.

### COVID-19 Notice No. 54 – Masters Chambers Pilot Starting August 15, 2022

#### [BC Supreme Court Announcement:](#)

As set out in [COVID-19 Notice No. 54](#), the Masters Chamber Pilot, commencing on August 15, 2022, will provide a means by which counsel can submit electronic chambers application records in PDF format through Court Services Online. Initially the Pilot will be available for matters 30 minutes or less at registries on Vancouver Island (Campbell River, Courtenay, Duncan, Nanaimo, Port Alberni, and Victoria) and Powell River. If the Pilot is successful, it will be expanded to other areas of the province and to longer matters. Detailed instructions about working with PDFs can be found [here](#).

Act or Regulation Affected	Effective Date	Amendment Information
Civil Resolution Tribunal Act	July 1/22	by 2022 Bill 9, c. 6, sections 1, 3, 4, 6, 7 and 10 only (in force by Royal Assent), <a href="#">Attorney General Statutes Amendment Act, 2022</a>
Class Proceedings Act	July 18/22	by 2021 Bill 11, c. 6, section 53 only (in force by <a href="#">Reg 120/2022</a> ), <a href="#">Court of Appeal Act</a>
<b>MOTOR VEHICLE &amp; TRAFFIC</b>		

## Motor Vehicle and Traffic News:

### Changes to Passenger Transportation

#### Act – Coming September 1st

The [Passenger Transportation Amendment Act, 2022](#), was originally introduced in March 2022 and is now scheduled to come into force on September 1st. The bill amends the [Passenger Transportation Act](#) by making permanent two transitional authorities that were established in 2019. These provisions establish a process which allows people who were deemed ineligible to drive a passenger directed vehicle to appeal that decision, as well as requiring that passenger-directed vehicle drivers operating under a temporary operating permit meet record-check requirements. The Act applies to drivers of commercial vehicles that carry passengers, such as taxis, limousines and ride-hail vehicles.

### Limits on Recoverable Costs in Motor Vehicle

#### Cases Unconstitutional, B.C. Judge Rules

British Columbia has been dealt another blow in its fight to defend a massive revamp of the provincial automobile insurance system after a regulation limiting recoverable costs in car accident cases was found to be unconstitutional.

In a decision released July 11, B.C. Supreme Court Justice Nathan Smith wrote the regulation would prevent or discourage some plaintiffs from accessing the court for a decision of their case on its merits (*Le v. British Columbia (Attorney General)* [2022 BCSC 1146](#)). Read the [full article](#) by Ian Burns in *The Lawyer's Daily*.

### B.C. Government Appealing Decision

#### Striking Down Cap on ICBC Costs

The B.C. government says it intends to appeal a court decision striking down a recently enacted regulation that limits how much a plaintiff can be reimbursed for expert testimony and other expenditures arising from motor vehicle accident claims.

The regulation caps reimbursement of fees, such as those charged by experts, at 6% of either the total damages awarded by the court or of the amount agreed to in a settlement. Read the *BIV* [article](#).

### A Review of Ammonium Nitrate Regulations and Best Practices in Canada

Read the [review](#) published by [Transport Canada](#) on July 6th.

### CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [CVSE1016](#) – 9-Axle Logging Truck Routes
- [Notice 05-21](#) – Oversize Restriction for Travel on Highway 1 on Vancouver Island
- [Notice 01-22](#) – Oversize and Overweight Restrictions for Hwy 1 Between Hope and Spences Bridge
- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [CVSE1014](#) – LCV Operating Conditions & Routes (July 2022)
- [NSC Bulletin 02-2022](#) – Recording Hours of Service for Taxis waiting in the queue at Airport, Ferry or Cruise Ship Terminals

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](#)  
The Board is issuing a final activation deadline of December 31, 2022. Licensees will have until this date to activate additional vehicles, or they will no longer be valid.
- **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

- [14713-22](#) – Ali Farbehi (YVRTransfer.ca Transportation)
- [15318-22](#) – Andre Louis Joseph Cyr (Driverseat, Driverseat Kamloops)
- [15352-22](#) – Pacific Western Charters Ltd. (Pacific Western Charters, Ebus, & Red Arrow)

#### Application Decisions

- [15480-22 TOP](#) – Penticton Eco Taxi Ltd. [Approved]
- [15498-22 TOP](#) – Williams Lake Taxi Ltd. [Approved]
- [Combined Decisions 14922-22, 15021-22, 14949-22, 14924-22 & 14923-22](#) – Yellow Cab Company, Black Top Cabs Ltd., Maclure's Cabs (1984) Ltd., Vancouver Taxi Ltd. (PT 70538) & Vancouver Taxi Ltd. (PT 70546) [Approved]
- [14109-22](#) – Royal City Taxi Ltd. [Approved]
- [15572-22 TOP](#) – Elite Limousine Service (2003) Ltd. [Refused]
- [14721-22](#) – 1151905 B.C. Ltd. (Helix Limousine) [Approved in Part]
- [14303-22](#) – Avent Charter Inc. [Approved]
- [14491-22](#) – 2 Brown Dogs Sidecar Adventures Incorporated [Refused]
- [13854-21](#) – Green Coast Ventures Inc. (Whistle!) [Refused]
- [15230-22](#) – Tofino Bus Services Inc. (VI Connector, Tofino Bus, Island Bus Company) [Approved]
- [15677-22 PS TOP](#) – Presidential Limousines Ltd. [Approved]
- [14168-22](#) – Mauricio Varas (Freewest Tours Services) [Approved]
- [14107-22](#) – Transfer from the Estate of Randell Arthur Ralph (RRR Transportation) to RRR Limousine Services Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Fuel Tax Regulation (414/85)	July 11/22	by <a href="#">Reg 167/2022</a>
Zero-Emission Vehicles Act	July 30/22	by SBC 2019, c. 29

## OCCUPATIONAL HEALTH AND SAFETY

### Occupational Health & Safety News:

#### Are Employers Liable for Injuries When Working from Home?

The COVID-19 pandemic has made remote work the "new normal". The increase of remote work in British Columbia and worldwide has led to many important discussions regarding the rights of remote workers and employers' corresponding obligations. An important question that has come up concerning remote work, is regarding employers' liability for employees' work injuries while they [perform their work duties remotely](#). Read the [full article](#) from Overholt Law LLP.

#### Notices and Reports: How to Properly Report a Workplace Incident in B.C.

*What are employers' obligations with regards to reporting, investigations?*

When it comes to OHS regulations hierarchy, B.C. is a little different than any other province because the overarching Act regulating workplace safety is the [Workers' Compensation Act](#) (WCA). This provides the legal authority and framework for all of WorkSafeBC's activities – including their occupational health and safety activities (which is under Part 2 of the Act).

Part 2 is made up of eight parts and schedules, which are beefed up with supporting regulations (33 sections in total). Most of these additional regulations are hazard-based legal requirements which get their authority from

the Act. Read the [full article](#) by [Maia Foulis](#) in *Canadian Occupational Safety*.

### Harassment Investigation Protocols Under Scrutiny

In [Ahluwalia v. British Columbia \(Workers' Compensation Board\)](#), a worker's appeal was dismissed after the Court of Appeal determined that the WorkSafeBC Review Division had properly applied law and policy in relation to a bullying and harassment investigation conducted by the employer. Read the [full article](#) by [Cathy Chandler](#) with Fasken Martineau DuMoulin LLP.

### What You Need to Know About Workplace Inspections

Even for the most compliant workplaces, inspections can be a daunting prospect. Workplace inspections are conducted by whichever regulatory board in the province enforces legislation (in B.C. this would be WorkSafeBC, in Ontario inspections are conducted by the Ministry of Labour).

Workplaces cannot refuse an inspection, "they have to let the inspector in, and they have to provide whatever documentation they're asking for," says Catherine Bergeron. "They basically have all the rights when coming to your workplace." Bergeron is Health and Safety Team Lead at HR and safety consultancy Peninsula Canada. Read the [full article](#) by [Maia Foulis](#) in *Canadian Occupational Safety*.

### New Public Health Orders

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

Order:

- [Industrial Camps – July 8, 2022 \(PDF, 398KB\)](#)

Guidance:

- [Industrial Camps and Communicable Diseases Guidelines – July 8, 2022 \(PDF, 638KB\)](#)

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

### OHS Policies/Guidelines – Updates

No OHS updates were posted in July.

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

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

## PROPERTY & REAL ESTATE

### Property and Real Estate News:

#### Residential Tenancy Act Amendments

On July 11, part of the [Tenancy Statutes Amendment Act, 2018](#) was brought into force, amending the [Residential Tenancy Act](#). The amendment adds section 51.5, regarding tenant compensation and requirement to vacate, which:

- adds an amount of compensation payable to a tenant if the reason for including, in a fixed term tenancy agreement, a requirement to vacate at the end of the term is not accomplished or is accomplished but not maintained for at least the prescribed period of time, and
- authorizes the director to excuse the landlord from paying that compensation amount in extenuating circumstances.

#### The New Homebuyer Protection Period: What It is and How It Works

On Thursday, July 21, 2022, the British Columbia Provincial Government released details on its latest real estate consumer protection initiative – the Homebuyer Protection Period.

Effective January 1, 2023, purchasers of residential properties in British Columbia will be provided with a

mandatory 3 business day 'Homebuyer Protection Period'. During this protection period, buyers may choose to walk away from an accepted offer to purchase a residential real estate property for any reason. Read the [full article](#) by Ephraim Fung and Michael Switzer with Alexander Holburn Beaudin + Lang LLP.

### **Case Summary: Petition for Judicial Review Struck as Improper Attack on Administrative Proceedings**

*Deng v. Real Estate Council of British Columbia*, [2022] B.C.J. No. 927, [2022 BCSC 879](#), British Columbia Supreme Court, May 25, 2022, K.W. Ball J. (In Chambers)

The petitioner was a licensed realtor. She attempted to arrange the purchase of a strata unit for her clients. The clients were interested in Unit 59; however, it had an accepted offer in place. The petitioner then showed the clients Unit 134. After the clients made an offer on Unit 134, but before that offer was accepted, the petitioner was advised that the conditions precedent on the offer on Unit 59 had not been satisfied and Unit 59 was available. The petitioner never communicated that information to her clients. Read the [full summary](#) by Joel A. Morris with Harper Grey LLP.

### **BC to Expand Speculation and Vacancy Tax to Six Additional Municipalities**

British Columbia is set to expand its speculation and vacancy tax (SVT) to six additional municipalities, the Ministry of Finance announced. The SVT will soon be imposed on municipalities of North Cowichan, Duncan, Ladysmith, Lake Cowichan, Lions Bay, and Squamish. At present, it applies only to areas of Metro Vancouver, Fraser Valley, Victoria, Kelowna, Nanaimo, and Lantzville. Read the [full article](#) by [Katrina Eñano](#) in the *Canadian Lawyer*.

### **BC Supreme Court Awards Damages for an Improperly Filed Lien**

Under the British Columbia [Builders Lien Act](#), a contractor may be liable to an owner for the wrongful filing of a claim of lien, but there have been very few cases where this remedy has been awarded. In a recent case, the BC Supreme Court ordered a contractor to pay an owner's costs and damages suffered as a result of a lien that was filed after the 45-day time limit set out in the Act. Read the [full article](#) by Edward Hulshof and Karen Martin with Dentons.

Act or Regulation Affected	Effective Date	Amendment Information
Residential Tenancy Act	July 11/22	by 2018 Bill 12, c. 11, section 8 only (in force by <a href="#">Reg 171/2022</a> ), <a href="#">Tenancy Statutes Amendment Act, 2018</a>
Residential Tenancy Regulation (477/2003)	July 11/22	by <a href="#">Reg 171/2022</a>

## **WILLS & ESTATES**

### **Wills and Estates News:**

#### **B.C. Case Comment: Will Varied to Give Disinherited Adult Child 30% of Father's Estate**

The B.C. Supreme Court recently considered a classic wills variation scenario: an adult independent child from a deceased's earlier relationship seeks to vary their parent's will, which makes no provision for them, and instead provides for their second spouse. It is very common to see wills variation claims in blended families.

In *Pascuzzi v. Pascuzzi* [2022 BCSC 907](#), the plaintiff was 32 years old when her father died. Her parents had a short relationship, which ended before the plaintiff was born. A few years later, the deceased met the person who would later become his wife, and he remained married to her until his death. He had two children with her, and she had two children from a prior relationship. Read the [full article](#) by [James Zaitsoff](#), published on the *BC Estate Litigation Blog*.

#### **Marriage-Like Relationships and Intestate Succession in BC: *Coad v. Lariviere* [2022 BCCA 222]**

Pursuant to British Columbia's [Wills, Estates and Succession Act](#), S.B.C. 2009, c. 13 ("WESA"), when a person dies without a will, that person's surviving spouse is entitled to inherit either the entirety of the estate (if there are no descendants) or a preferential share of it (if there are descendants). Section 2 of WESA defines two persons as "spouses" if they were married to each other, or if "they had lived with each other in a marriage-like relationship for at least 2 years." What constitutes a "marriage-like relationship" however is not defined in WESA. Fortunately, a recent decision by the British Columbia Court of Appeal has gone a long way to clarify the threshold requirement to be considered a spouse in a marriage-like relationship. Read the [full article](#) by [Alexander Swabuk](#) and [Taylor Lanthier](#) with Miller Thomson LLP.

#### **Evidence of Statements Made by the Deceased in Estate Litigation**

One would be hard-pressed to find estate litigation cases in which there is no evidence about something the deceased said. In many cases, such evidence determines the outcome. Yet, evidence of out-of-court statements raise hearsay concerns. The deceased obviously cannot be cross examined (at least not in this world). When should such evidence be admitted? And when should it be rejected as hearsay? What follows is a brief discussion about the admissibility and weight of evidence of what the deceased said in estate litigation cases. Read the [full article](#) by [Stan Rule](#), published in *The Verdict*.

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

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