

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Expansion of Supplemental Notes

In October 2021, Quickscribe introduced a new [Supplemental Notes](#) feature that provides helpful background information about each section of law. We recently expanded this feature to allow us to place notes adjacent to bills, as well as on the "last updated" reference typically found on the table of contents of a law. Work is also underway to gradually incorporate "explanatory notes" to supplemental notes that get assigned to the section level. Explanatory notes are found on First Reading bills and provide a brief technical summary of an amendment – basically what an amendment does to a section. We believe that these explanatory notes, in conjunction with other supplementary information and Hansard (debates) will provide you with the layers of information you need to interpret the law more effectively.

Quickscribe Top 5

Have you ever struggled to explain the benefits of Quickscribe to a colleague? We get it. "It's a great site that has legislation on it" doesn't quite capture the true essence of the service. To help, we recently published this short, five-minute [video](#) that provides a brief overview of the top five benefits of the service. We hope this will help make it easier for you to explain to others what makes this made-in-BC service so unique.

PDF Section Printing Issue

We are aware that some users are experiencing issues printing off select sections of laws on Quickscribe. We are actively investigating this issue and hope to have a solution in place shortly. In the meantime, you may opt to use the main PDF tool located on the top (grey) menu, which will display a full PDF for the law. You can then print off the pages you require.

Latest Annotations

New annotations were recently added to Quickscribe:

- [Christopher Hirst](#), Alexander Holburn Beaudin + Lang LLP – [Builders Lien Act](#)

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

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

View [PDF](#) of this Reporter.

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

COMPANY & FINANCE**Company and Finance News:****Tax Alert | British Columbia PST Rules for Marketplace Facilitators Take Effect on July 1**

Businesses facilitating the sale or lease of certain goods, services, or software in British Columbia through online platforms are reminded that new Provincial Sales Tax (PST) obligations take effect on July 1, 2022. As announced in British Columbia Budget 2022, marketplace facilitators are required to collect and remit PST on all supplies of taxable goods shipped from within Canada for delivery in British Columbia. The new requirements also apply to most supplies of taxable services, accommodations, and software in British Columbia. In addition, certain services provided by marketplace facilitators to sellers are now subject to PST. Read the [full article](#) posted by Ryan, LLC.

New Push for Corporate Transparency - Private Corporations Must Soon Report Beneficial Ownership to Federal Government

It is expected that private federal business corporations must soon submit beneficial ownership information directly to the federal government. If enacted in its current form, [Bill C-19](#), also known as the *Budget Implementation Act, 2022, No. 1* will implement new disclosure requirements for companies governed by the [Canada Business Corporations Act](#) ("CBCA"). The bill has passed the House of Commons and is currently under consideration by the Senate. Read the [full article](#) by Cara Chu, Stephanie Lee, Guillaume Saliah and Dierk Ullrich with Fasken Martineau DuMoulin LLP.

BC Securities Commission Denies Driving Privileges to Enforce Securities Fraud Sanctions

A three-member panel of the BC Securities Commission dismissed an application by Paul Se Hui Oei to overturn the Executive Director's (ED) decision to deny Oei a driver's licence. The panel found that the necessary statutory conditions were present and that it was in the public interest for the ED to have exercised its power to notify the Insurance Corporation of British Columbia (ICBC) not to renew Oei's licence. The full decision can be found here. Read the [full article](#) by Samuel Bogetti, Brigeeta Richdale, Jeremy Jellis and Rebecca Sim with Cozen O'Connor LLP.

Supreme Court Releases Collins Family Trust Decision: Equitable Remedies Largely Unavailable to Correct Tax Mistakes

In 2016, the Supreme Court rendered its decision in [Fairmont](#), in which it restricted the availability of the equitable remedy of rectification in tax contexts to circumstances where the parties' actual agreement was not properly recorded in the written instrument governing their legal relations. In other words, the mere fact that a given agreement did not achieve its desired tax consequences would not be sufficient to be granted rectification. [Collins Family Trust](#) addresses the availability of the distinct equitable remedy of rescission in the context of mistakes that result in unanticipated and undesirable tax consequences. Unlike rectification, which allows parties to rectify mistakes in their written instruments that improperly recorded their actual agreement, rescission allows for the annulment of a transaction, where there was a sufficiently important mistake and it would be unconscionable not to allow the mistaken transaction to be annulled. Read the [full article](#) by [Adam Hirsh](#), [Marc Roy](#), and [Evan Belfer](#) with Osler, Hoskin & Harcourt LLP.

The New Qualifying Disbursements Rules for Charities

In [April 2022](#), we reported on important changes for charities arising from the 2022 Federal Budget. More recently, on June 23, 2022, the [Budget Implementation Act 2022, No. 1](#) (BIA 2022) received royal assent. Of particular importance to Canadian registered charities is the BIA 2022's new qualifying disbursement rules. These new rules provide an alternative option for charities to work with non-charities.

The Old Regime

Prior to the amendment of the [Income Tax Act](#) (Canada) (ITA) by the BIA 2022, a Canadian registered charity (Charity) was only able to carry on its "own charitable activities" or make gifts to qualified donees (that is, Canadian registered charities and certain other organizations that can issue Canadian tax donation receipts) (QDs). As such, a Charity could not simply give resources to foreign charities or non-profit organizations based in or outside of Canada that were not QDs.

Read the [full article](#) by [Linda J. Godel](#) and [Nathaniel Balakumaran](#) with Torkin Maines LLP.

Employer Health Tax Calculator Updated

The BC [employer health tax calculator](#) has been updated to include different scenarios for associated employers. The employer health tax is an annual tax on an employer's B.C. remuneration paid to employees and former employees in a calendar year beginning on January 1, 2019. Employers with [BC remuneration](#) greater than \$500,000 (exemption amount) in a calendar year must [register](#) for the employer health tax. Employers include an individual, a corporation, a partnership, a trust or a government.

GST/HST Input Tax Credit Claims: Does the Supporting Documentation Need to Be Issued by the Supplier?

On June 9, 2022, the Tax Court of Canada ("TCC") allowed CFI Funding Trust's ("CFI") appeal in relation with the input tax credits ("ITC") it claimed for prepaid rent paid in connection with the securitization of automobile dealer leases. The dispute had arisen when the Canada Revenue Agency ("CRA") disallowed CFI's ITC claims because it took the view that CFI had failed to meet the minimum documentation requirements under [subsection 169\(4\) of the Excise Tax Act](#) (the "ETA"). In allowing CFI's appeal, Justice Robert J. Hogan found that supporting documentation does not need to be issued or signed by the supplier and that the information could also be obtained through oral or electronic communication. Read the [full article](#) by [Jean-Guillaume Shooner](#) of Stikeman Elliott.

BC Securities – Policies & Instruments

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

- [31-103](#) – Amendments to NI 33-109 Registration Information, NI 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations and their companion policies – The CSA adopted amendments to registration information requirements to establish a more efficient registration and oversight process for firms, individuals and regulators. The changes also provide firms and individuals with greater clarity on the information required as part of the registration process, while improving the quality of information received by regulators. The amendments are effective June 6, 2022.
- [96-101](#) – Proposed Amendments to Multilateral Instrument 96-101 *Trade Repositories and Derivatives Data Reporting* and related documents
- [21-331](#) – This notice informs the public that the TMX Information Processor will continue to act as an information processor for exchange-traded securities under National Instrument 21-101 Marketplace Operation until June 30, 2026.
- [11-345](#) – CSA Consultation Paper 43-401 Consultation on National Instrument 43-101 Standards of Disclosure for Mineral Projects

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

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Vegetable Scheme (96/80)	June 30/22	by Reg 96/80
Budget Transparency and Accountability Act	June 2/22	by 2022 Bill 6, c. 11, sections 8 to 10 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Business Practices and Consumer Protection Act	June 2/22	by 2022 Bill 21, c. 19, section 63 only (in force by Royal Assent), Professional Governance Amendment Act, 2022
Clean Buildings Tax Credit Regulation (153/2022)	NEW RETRO to Feb. 23/22	see Reg 153/2022

Credit Union Complaint Resolution Regulation	NEW June 30/22	see Reg 34/2022
Designated Accommodation Area Tax Regulation (93/2013)	June 1/22	by Reg 47/2022 and Reg 115/2022
	July 1/22	by Reg 47/2022 and Reg 142/2022
Financial Administration Act	June 2/22	by 2022 Bill 6, c. 11, section 11 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Financial Institutions Act	June 20/22	by 2019 Bill 37, c. 39, sections 14 and 79 (a) (part) only (in force by Reg 34/2022), Financial Institutions Amendment Act, 2019 , as amended by 2021 Bill 8, c. 2, section 152 only (in force by Royal Assent), Finance Statutes Amendment Act, 2021
Income Tax Act	RETRO to Feb. 22/22	by 2022 Bill 6, c. 11, section 22 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	RETRO to Feb. 23/22	by 2022 Bill 6, c. 11, sections 18, 19 and 27 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	June 2/22	by 2022 Bill 6, c. 11, sections 20, 21, 23 to 26 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Mountain Caribou Partnership General Remission Regulation (No. 2) (150/2022)	NEW June 27/22	see Reg 150/2022
National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> (226A/2009)	June 1/22	by Reg 343/2021
	June 6/22	by Reg 126/2022
National Instrument 33-109: <i>Registration Information</i> (226B/2009)	June 6/22	by Reg 126/2022
National Instrument 81-101 <i>Mutual Fund Prospectus Disclosure</i> (1/2000)	June 1/22	by Reg 343/2021
National Instrument 81-105 <i>Mutual Fund Sales Practices</i> (131/98)	June 1/22	by Reg 343/2021
	RETRO to Apr. 1/13	by 2022 Bill 6, c. 11, sections 72 to 75 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	RETRO to Feb. 23/22	by 2022 Bill 6, c. 11, sections 49, 50, 56, 58, 61, 64, 67, 69, 76 and 78 only (in force by Royal Assent), Budget Measures Implementation Act, 2022

Provincial Sales Tax Act	RETRO to Apr. 1/ 22	by 2022 Bill 6, c. 11, sections 48, 60, 63, 66 and 71 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	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), Budget Measures Implementation Act, 2022
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	July 1/22	by Reg 154/2022
Provincial Sales Tax Regulation (96/2013)	June 6/22	by Reg 132/2022
	July 1/22	by Reg 154/2022
Tobacco Tax Act	July 1/22	by 2022 Bill 6, c. 11, sections 109, 113 and 114 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Trust and Deposit Business Exemption Regulation (173/2008)	June 1/22	by Reg 32/2022
Wines of Marked Quality Regulation (168/2018)	June 27/22	by Reg 158/2022

ENERGY & MINES

Energy and Mines News:

Canada Introduces 2030 Emissions Reduction Plan and Offset Credit Regulations

Environment and Climate Change Canada (ECCC) has published the [Greenhouse Gas Offset Credit System Regulations](#), the legally binding framework of Canada's first national carbon offset system and a step towards addressing the federal government's emission reduction goals, outlined in the 2030 Emissions Reduction Plan.

We recently wrote about the development of the 2030 Emissions Plan and a federal carbon offset system on [February 28, 2022](#). This Alert serves to update you on more recent developments.

On March 29, 2022, the Government of Canada (GOC) released the [2030 Emissions Reduction Plan](#). The 2030 Plan is the first version of a series of plans that the GOC will pass as directed by the 2021 [Canadian Net-Zero Emissions Accountability Act](#). In accordance with the requirements of the Act, the federal government is required to provide updated emissions reductions plans in the milestone years of 2030, 2035, 2040, and 2045, the ultimate goal being to cut Canadian emissions to 40 percent below 2005 levels by 2050. Read the [full article](#) by [Jonathan Fraser](#), [Jennifer Cleall, O.C.](#), [Michael Styczen, P.Eng.](#) and [Deanna R. Reitman](#) with DLA Piper.

British Columbia and Tahltan Nation Enter into Landmark Consent-Based Decision-Making Agreement

On June 6, 2022, the Tahltan Nation and the Province of British Columbia (the Province) entered into the first consent-based decision-making agreement (the [Agreement](#)) [PDF] negotiated under B.C.'s [Declaration on the Rights of Indigenous Peoples Act](#) (the Declaration Act). The landmark Agreement provides an important precedent for government, industry and First Nations as federal and provincial governments adopt and implement legislation incorporating consent-based decision-making in the project assessment and approval process. Read the [full article](#) by [Maureen Killoran, OC](#), [Martin Ignasiak](#), [Sander Duncanson](#), [Sean Sutherland](#) and [Ashley Light](#) with Osler, Hoskin & Harcourt LLP.

B.C. Mines Ministry Has Improved 'With Minor Exceptions,' Says Auditor General

British Columbia's auditor general has found that while the government has made progress on environmental oversight of major mining operations, there are concerns about the cost of cleaning them up when they close.

Michael Pickup told a news conference Tuesday that his office found the Mines Ministry has improved its "oversight activities, with minor exceptions."

His report highlights concerns about the costs of closing down large mines, noting the government holds \$2.3 billion in securities to reclaim the operations, but the estimate for cleanup is \$3.45 billion. Read the [CTV News article](#).

Partial Settlement with West Moberly First Nation Over \$16-billion Site-C Project

In an announcement released Monday [June 27], the province said the deal that includes an undisclosed one-time payment from B.C. Hydro and ongoing payments for 70 years, and 2,000 hectares of land, was a "partial" settlement to West Moberly First Nations' civil claim against the other parties.

West Moberly First Nations chief Roland Wilson said he was not in the mood to celebrate, as the settlement ended their fight to halt the controversial mega-project. Read the [Vancouver Sun article](#).

The Future of Mining: How Will the Mining Industry Adapt to a Changing World?

In the years ahead, the mining industry will experience unprecedented change on all fronts – particularly as companies embrace new environmental, social, and governance targets. With net zero on the horizon, the mining sector will be leading the exploration and production of critical minerals to meet the demands of new technologies, evolving regulations, and the shifting global economy. Explore the [Mining in Focus](#) video series from Gowling WLG.

Fortis B.C., Suncor to Partner on Port Moody Hydrogen Pilot Project

Fortis B.C. Energy Inc. says it will partner with Suncor Energy Inc. and Hazer Group Ltd. to build a hydrogen pilot project in Port Moody.

The \$11-million pilot project will also be supported with grant funding from the provincial government's Clean B.C. Industry Fund.

The project will be located at Suncor's Burrard Terminal site and will produce hydrogen from natural gas. The carbon byproduct produced will be stored as solid synthetic graphite that can be sold for manufacturing or industrial use. Read the [Vancouver Sun article](#).

Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletins:

- [INDB 2022-08](#) – Removal of Access to Crown land for Offsite Investigation Application Form
- [INDB 2022-09](#) – Data Issue with Leak Detection and Repair (LDAR) Site Selection
- [INDB 2022-10](#) – Dormancy and Shutdown Regulation Notification and Follow-up Obligations
- [INDB 2022-11](#) – Core Facility Opens for In-Person Bookings in July

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

Act or Regulation Affected	Effective Date	Amendment Information
Applicability (Accessible British Columbia) Regulation (129/2022)	NEW June 6/22	see Reg 129/2022
Direction to the British Columbia Utilities Commission Respecting Load Attraction and Low-Carbon Electrification (156/2022)	NEW June 27/22	see Reg 156/2022

Hydro and Power Authority Regulation (152/2022)	NEW June 27/22	see Reg 152/2022
Ministry of Energy and Mines Act	June 2/22	by 2022 Bill 17, c. 14, section 17 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2022

FAMILY & CHILDREN

Family and Children News:

Death of Father Suspends Appeal of Custody Order and Makes It Moot: BC Court of Appeal

The death of a father seeking to cancel a continuing custody order caused his appeal to abate because his death rendered the appeal moot, the BC Court of Appeal has found.

The appellant filed an application to cancel a continuing custody order governing his daughter under s. 54 of BC's [Child, Family and Community Service Act](#). In February 2020, the BC Provincial Court dismissed the application. The appellant appealed, seeking to set aside the Provincial Court's order pursuant to s. 81(7)(b) of the Act. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Parentage Committee Finishes Discussion of Multiparent Provisions for Children Conceived by Sexual Intercourse and Starts Discussion of Donors

In June, BCLI's [Parentage Law Reform Project Committee](#) finalized its discussion of whether multiparent configurations should be extended to conception by sexual intercourse. This topic has been the subject of discussion for several consecutive meetings starting in [March 2022](#), and continuing at the [April 2022](#) and [May 2022](#) meetings. Who should be made a parent by a multiparent agreement? Read the [full article](#) by Alison Wilkinson with BCLI.

Access to Justice BC Launches Initiative to Redesign Family Justice System

Access to Justice BC (A2JBC) has launched an initiative to redesign the family justice system by addressing the impacts of traumatic experiences of children whose families are going through parental separation and divorce.

The "[Transform the Family Justice System Collaborative](#)" is a multi-sectoral initiative to redesign the family justice system by focusing on achieving family well-being. The initiative seeks to collaboratively address the public health crisis of the "immediate, long-term, and intergenerational impacts" of adverse childhood experiences (ACEs) through a practical set of strategies. Read the [full article](#) by [Katrina Eñano](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Park, Conservancy and Recreation Area Regulation (180/90)	July 1/22	by Reg 123/2022

FOREST & ENVIRONMENT

Forest and Environment News:

Proposed Amendments to 2016 Great Bear Rainforest Land Use Order in the Great Bear Rainforest

The Ministry of Forests is proposing amendments to the [2016 Great Bear Rainforest Land Use Order](#) established by legal order pursuant to Sec 93.4 of the [Land Act](#). The 2016 Great Bear Rainforest Land Use Order is built upon the principle of continuous improvement and with monitoring and periodic reviews required in 2021, 2026 and then every ten years.

The proposed amendments are organized around four key themes: First Nations, Aquatic Habitat, Biodiversity and Wildlife. Specifically, amendments will include an increase in oversight by First Nations of forest planning and harvest activity including stronger protection and stewardship of Indigenous cultural heritage and use of forest resources. Requirements were strengthened for protection of important fisheries watersheds, maintenance of watershed health, and stewardship of fish-bearing rivers and streams and other important aquatic habitats and riparian forests. Improvements in the way Landscape Reserve Designs are being created to enable First Nations to take a stronger role in their development and expedite the protection of important forest values including rare and at-risk old growth. As well, increased requirements for the protection and stewardship of habitat for regionally important wildlife, particularly in relation to grizzly bears, Kermode (Spirit) bears and black bears. Read the [full notice](#) in the Gazette Part I, Volume CLXII, No. 23.

Environmental Compliance Audits:

Five Tips to Protect Your Company

With growing attention on Environmental, Social and Governance initiatives and escalating penalties for non-compliance with environmental laws, it is all the more important for companies to ensure compliance with environmental regulatory requirements. One way your company can satisfy stakeholders while appropriately managing risks of potential enforcement is to conduct a regular Environmental Compliance Audit ("ECA".) In this article we discuss the key features of ECAs and their rising importance in managing your company's environmental compliance and risk. Read the [full article](#) by [Mark Youden](#), [Harry Dahme](#), [Wally Braul](#), [Maya Stano](#) and [Quinn Rochon](#) with Gowling WLG.

Government Enforcement of Old Tree Harvesting on a Quadra Island Woodlot

In the spring of 2020, a Quadra Island resident (the complainant) noticed that old trees had been harvested in woodlot licence W2031. The complainant believed that the woodlot licensee was not permitted to harvest old trees, therefore filed a complaint with the Compliance and Enforcement Branch (CEB) of the Ministry of Forests in the spring of 2021.

CEB looked into the matter and found that the licensee had harvested the old trees legally. Visit the [Forest Practices Board website](#) to read this article and obtain access to the full report.

Interior Appraisal Manual Amendments

Quickscribe is in the process of consolidating the latest changes to July 1st 2022 version of the Timber Pricing Branch publication – [Interior Appraisal Manual](#). We anticipate having these changes published and available for you to view by this Friday, July 8th, so feel free to check back then to view the latest version.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [Norman Tapp v. Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]
- [West Coast Reduction Ltd. v. District Director, Metro Vancouver Regional District](#) [Consent Order – Permit Amended]
- [Peace River Coal Inc. v. Director, Environmental Management Act](#) [Preliminary Decision on Method of Hearing – To Proceed By Way of Written Submissions]
- [Gibraltar Mines Ltd. v. Director, Environmental Management Act](#) [Preliminary Decision: Request for Order – Granted]
- [Beacon Pacific Properties Ltd. v. Director, Environmental Management Act](#) [Application For Dismiss – Granted; Appeal Dismissed]

[Integrated Pest Management Act](#)

- [Dr. Evan Frangou, Diana Smardon, Jane Elizabeth Rollins, Joanna Wilkinson, Karen Forbes, Louise Sawyer, Kelly Lahti, and Katy Young v. Administrator, Integrated Pest Management Act](#) [Preliminary Decision – Appeals Summarily Dismissed]

[Mines Act](#)

- [Sunrise Resources Ltd. v. Chief Inspector of Mines](#) [Preliminary Decision on Limitation Period – Invalid In Part]

[Water Sustainability Act](#)

- [Judith Goplen v. Assistant Water Manager](#) [Final Decision – Appeal Dismissed]

Wildlife Act

- [Timothy James v. Deputy Regional Manager, Regional Fisheries and Wildlife Programs](#) [Consent Order – Resolved]

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
Closed Areas Regulation (76/84)	July 1/22	by Reg 157/2022
Designation and Exemption Regulation (168/90)	June 23/22	by Reg 143/2022
	July 1/22	by Reg 157/2022
Hunting Regulation (190/84)	June 27/22	by Reg 157/2022
	July 1/22	
Limited Entry Hunting Regulation	July 1/22	by Reg 157/2022
Motor Vehicle Prohibition Regulation (196/99)	July 1/22	by Reg 157/2022
Professional Governance Act	June 2/22	by 2022 Bill 21, c. 19, sections 2 to 8, 10, 11, 14, 16, 17, 19 to 45, 47 to 52 and 56 only (in force by Royal Assent), Professional Governance Amendment Act, 2022
Protected Areas of British Columbia Act	June 6/22	by 2022 Bill 3, c. 2, section 6 only (in force by Reg 131/2022), Protected Areas of British Columbia Amendment Act, 2022
	June 15/22	by 2022 Bill 3, c. 2, section 5 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act, 2022
Refusal of Cutting Permit or Road Permit Regulation (252/2018)	June 27/22	by Reg 151/2022
Required Consent (Eskay Creek Project) Regulation (139/2022)	NEW June 16/22	see Reg 139/2022
Water Sustainability Act	June 2/22	by 2022 Bill 21, c. 19, sections 65 and 66 only (in force by Royal Assent), Professional Governance Amendment Act, 2022

Wildlife Act Commercial Activities Regulation (338/82)	July 1/22	by Reg 157/2022
Wildlife Act General Regulation (340/82)	July 1/22	by Reg 157/2022

HEALTH

Health News:

Directly Affected Plaintiffs Not Necessary to Challenge BC Law on Charter Grounds: SCC [Mental Health Legislation]

The Supreme Court of Canada has reaffirmed the test for public interest standing, rejecting the British Columbia Attorney General's argument for a stricter standard. The court ruled Thursday [June 23] that the Council of Canadians with Disabilities (CCD) has public interest standing to challenge a BC law that allows doctors to forcibly administer psychiatric treatment to patients with mental disabilities. "[The decision] emphasizes a very generous and practical approach to the granting of public interest standing," says Michael Feder, who acted for the CCD. Read the [full article](#) by Aidan Macnab published in the *Canadian Lawyer*.

Recreational Psychedelics Remain Far behind on Legalization Path

It has been nearly four years since recreational cannabis was legalized in Canada, and many people may have thought grey-market dispensaries were a quirky part of Vancouver's past, but history may be repeating itself as dark-market dispensaries have begun sprouting up again, this time selling psychedelic drugs such as mushrooms and peyote. Read the full BIV [article](#).

Dix Says BC Could Be Distributing Vaccines Widely in Fall Due to Third Omicron Wave

BC Health Minister Adrian Dix is considering making COVID-19 shots widely available in the fall, as experts predict a third Omicron wave is on the way. The provincial health-care system is getting ready for a fall wave and looking at a [federal advisory body's recommendations](#) that booster doses be made widely available, Dix said speaking at a news conference Monday [July 4]. Meanwhile, the BC COVID-19 Modelling Group, made up of interdisciplinary experts who work independently from the government, warns that [a wave of COVID-19](#) driven by the more infectious and immune-evasive BA.5 sub-variant of Omicron is emerging. Read the CBC [article](#).

Settlement Reached with Purdue Pharma (Canada) for Opioid Damages

Opioid manufacturer Purdue Pharma (Canada) (Purdue Canada) has agreed to a first of its kind settlement in Canada resulting from BC-led efforts to recover health-care costs related to the sale and marketing of opioid-based pain medicines. The settlement was reached in the context of a proposed class-action lawsuit brought by British Columbia on behalf of all Canadian governments. Read the official government [news release](#).

BC Keeping Vaccine Mandates for Public Servants, Health-care Workers

BC is sticking with its COVID-19 vaccine mandate for public servants and health-care workers, even though the federal government has suspended its two-shot requirement for federally regulated workers and travellers. BC Health Minister Adrian Dix said he continues to support both last year's provincial health order requiring all health-care workers in hospitals, long-term care homes and community health centres to be vaccinated, as well as the order in council that made vaccinations a condition of employment for public service employees. Read the [BIV article](#).

Updates to Health Canada's Regulatory Initiatives for 2022-2024, and Amendments to Food and Drug Regulations (Exports and Transshipments of Drugs)

Health Canada has updated its Forward Regulatory Plan: 2022-2024, providing information on regulatory initiatives Health Canada aims to propose or finalize over the next two years. Some of the new and updated initiatives pertaining to the [Food and Drugs Act](#) are highlighted below: Read the [full article](#) by Urszula Wojtya with Smart & Biggar LLP.

Act or Regulation Affected

Effective

Amendment Information

	Date	
Premises Identification Regulation (125/2022)	NEW July 1/22	see Reg_125/2022

LABOUR & EMPLOYMENT

Labour and Employment News:

Employee's Use of Company Email Leads to Lawsuit Against Former Employer

Employers should ensure that they have policies in place governing use of work emails for non-work-related purposes. The issue of employee use of a work email for a personal matter was recently addressed by the BC Supreme Court in the decision of [Kassam v. Dream Wines Corporation](#).

In this case, an individual, Brian Gunsten, who was an employee of Dream Wines Corporation, sold 138 bottles of wine to Moez Kassam. The \$85,000 payment was sent directly from Mr. Kassam to Mr. Gunsten's personal bank account. Read the [full article](#) by [Andrea Raso](#) with Clark Wilson LLP.

Why You Need to Use the Correct Pronouns for Your Employees

In the recent *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*, [2021 BCHRT 137](#) case, the BC Human Rights Tribunal ("Tribunal") considered a complaint by an employee who asked to be addressed by "they/them" pronouns.

The employee, Jessie Nelson, was a non-binary person who used they/them pronouns. Jessie worked at a restaurant on the Sunshine Coast in BC for 4 weeks. Jessie Nelson was the first non-binary person to work at the restaurant. Read the [full article](#) by [Scott Marcinkow](#) with Harper Grey LLP.

Judges Reduces Notice Period for Failing to Look for a Job in Same Field That Plaintiff Spent 25 Years in and Then Discounts Go Forward Damages by a Further 15%

In *Okano v. Cathay Pacific Airways* ([2022 BCSC 881](#)) Justice Weatherill had a situation where the following events occurred regarding mitigation.

1. Plaintiff is given working notice of two months so that she can shut down the department she managed. She does not look for a job in this period.
2. For two months after final day of work she also does not look for a job as she says she is depressed.
3. Then she takes career coaching for 3 months because she refuses to look for a job in the airline industry, the only area she has ever worked in.
4. She then applies for 50 non airline jobs, with no success.

The Judge made the following rulings. Read the [full article](#) by Barry Fisher, with Barry Fisher Arbitration & Mediation.

Are B.C. Employees Legally Protected from Negative References?

Many employers and workers alike have been told at one time or another that negative references could be considered defamatory and result in legal action. Generally speaking, Canadian employers are protected from such action to the extent that any such negative reference is made in good faith. This is different than the reality in the United States, where suing for negative references is appropriate for a defamation case. That said, there are some circumstances where negative references could give rise to a dispute. Read the [full article](#) from Overholt Law LLP.

B.C. Ruling Provides Certainty on Limitation Periods in Employment Standards Cases, Lawyer Says

British Columbia's top court has clarified the test for limitation periods in a provincial employment standards determination, with a lawyer saying the decision makes dealing with such determinations consistent with the approach taken to findings by other provincial tribunals.

Kuen Yu Kwok, also known as Joseph Kwok, brought forward the case to determine which of three limitation

periods for enforcement would govern a determination made by B.C.'s director of employment standards: a 10-year period under the [Limitation Act](#) for an order of the provincial Supreme Court, a six-year limitation under the [Financial Administration Act](#) (FAA) for government claims, or two-year time frame under the *Limitation Act* if the determination is a "claim" that is neither a "judgment, order or award of the Supreme Court of British Columbia" nor a "government claim." Read the [full article](#) by [Ian Burns](#) in *The Lawyer's Daily*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment Standards Regulation (396/95)	June 1/22	by Reg 63/2022
Fishing Collective Bargaining Act	June 2/22	by 2022 Bill 10, c. 22, section 10 only (in force by Royal Assent), Labour Relations Code Amendment Act, 2022
Labour Relations Code	June 2/22	by 2022 Bill 10, c. 22, sections 1 to 9 only (in force by Royal Assent), Labour Relations Code Amendment Act, 2022
Public Service Labour Relations Act	June 2/22	by 2022 Bill 20, c. 15, section 88 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022

LOCAL GOVERNMENT

Local Government News:

The Legislation, it is a Changin': Recent Legislative Changes of Note

There have been a number of changes to the [Community Charter](#) and [Local Government Act](#) over the last twelve months. The changes are meant to address matters as diverse as modernizing how public notices can be provided, streamlining development approval procedures, requiring codes of conduct, and introducing new consequences for elected officials charged and convicted of indictable offences. The purpose of this article is not to address all recent changes to local government legislation – only the ones that in my view have the widest impact. Read the full article by [Ryan Bortolin](#), published in the latest [Stewart McDannold Stuart bulletin](#).

WHADDAYAMEAN? - A Ramble Through the BC Interpretation Act [Bill Buholzer]

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

We start with [section 2](#), which says that the [Interpretation Act](#) applies to every enactment, unless a contrary intention appears in the enactment; this takes us to the *Interpretation Act's* definitions of enactment, meaning an Act of the Legislature or a regulation, and regulation, meaning (among other things) a bylaw or other instrument enacted in execution of a power conferred under an Act. Read the [full article](#) by [Bill Buholzer](#) with Young Anderson Barristers & Solicitors, published in the firms LGMA Conference Newsletter.

New Local Government Code of Conduct Requirements - Now in Force

Last fall, we informed you about the newly introduced [Bill 26](#) – *Municipal Affairs Statutes Amendment Act (No. 2)*, 2021, which proposed a number of significant amendments to local government legislation including:

- a new requirement for local governments to consider developing or updating codes of conduct,

- the enabling of local governments to determine specific notice methods for public notice requirements, and
- streamlining the development approvals process.

The majority of these amendments, impacting the [Local Government Act](#), the [Community Charter](#) and the [Islands Trust Act](#), came into force on February 28, 2022 by regulation; however, sections of the Bill dealing with the new code of conduct requirements just came into force as of June 13, 2022. These most recent amendments to the *Community Charter* include the addition of sections [113.1 Requirement to consider code of conduct](#) and section [113.2 Reconsideration of decision respecting code of conduct](#). These sections have been added to Quickscribe. Codes of conduct are intended to create a culture of respectful dialogue and behavior at the council table. Some critics suggest that these codes may potentially be used inappropriately to remove councillors.

Surprise, You're Ostracized! The Necessity of Procedural Fairness in the Discipline of Elected Officials

How should a council or board respond when one of its members has engaged in inappropriate or undesirable conduct? What sort of process is required? Controversial social media posts by the mayor, public fallout, and the disciplinary steps council attempted to take in response, are at the heart of the BC Supreme Court's recent ruling in *Michetti v. Pouce Coupe (Village)*, [2022 BCSC 472](#) ("Michetti"). Read the [full article](#) by Michael Hargraves, with Stewart McDannold Stuart.

West Kelowna (City) v. The Owners, Strata Plan EPS2459 – 2022 BCSC 1020

Reasons in *West Kelowna (City) v. The Owners, Strata Plan EPS2459* [2022 BCSC 1020](#) were published by the British Columbia Supreme Court today [June 17] in which the City of West Kelowna was successful in obtaining an interlocutory injunction against a strata corporation that had erected gates with no trespass signage on a public walkway next to Lake Okanagan. The walkway ran across the strata property pursuant to an agreement that the property developer had entered with the City for the approval of a re-zoning application that permitted the development of this property into a townhome complex. The walkway was conceived as part of the City's waterfront plan, adopted in 2011, which envisioned the construction and dedication of a public walkway along the entire beach fronting Lake Okanagan. Read the [full article](#) by David Giroday, with Civic Legal LLP, published in the firm's latest edition of *CIRCUIawR*.

Victoria Bylaw Makes Builders Pay for Not Salvaging Demolition Material

Facing the spectre of a rapidly filling Hartland Landfill, Victoria, BC, councillors have unanimously passed a bylaw designed to divert more construction material from the dump by rewarding those who salvage wood rather than scrapping it. According to a staff report, as much as 37 per cent of Victoria's landfilled material is generated by the construction sector. Under the new bylaw, which will be phased in, applicants will pay a fee of \$19,500 for a demolition permit. If they salvage at least 40 kilograms of wood per above-ground square metre of floor area during deconstruction, they will get all the money back. Read the BIV [article](#).

BC Releases Climate Preparedness and Adaptation Strategy

The Province has released [B.C.'s Climate Preparedness and Adaptation Strategy](#). The strategy looks to strengthen the collective capacity to anticipate, prepare for, and respond to the impacts of climate change. This includes sudden events like wildfires, floods and heatwaves as well as changes that happen more slowly like rising sea levels, receding glaciers and shifting ecosystems. The strategy outlines a range of government actions designed to help people and communities prepare including: Read the full UBCM [article](#).

Reasons for Reconsideration Refusals: BC Supreme Court Reviews the Sufficiency of Reasons in the Context of a Reconsideration of a Business Licence Refusal

The BC Supreme Court recently added to the volume of caselaw regarding the procedural fairness requirements that are applied in reviewing decisions of municipal governments. In *BC/Yukon Association of Drug War Survivors v. Surrey (City)* [2022 BCSC 855](#), Justice Skolrood reinforced the common law understanding that decisions of municipal councils are not subject to the same requirement to provide reasons as many other decision-making bodies. The Court also confirmed that the quality of the materials (including staff reports) which a municipal council considers in coming to their decision, as well as careful recording of minutes, can serve to protect decisions of council from judicial review. Public policy arguments remain of little value in the context of reviews of procedural fairness. Read the [full article](#) by Paige Gibson of Stewart McDannold Stuart.

Courts Confirm Local Government Powers to Protect Tenants

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

[2021 BCSC 573](#) the BC Supreme Court confirmed that the residential rental tenure zoning power at [section 481.1 of the Local Government Act](#) ("RRT Zoning") could be used to preserve existing rental units. Read the [full article](#) by Nick Falzon with Young Anderson Barristers & Solicitors, published in the firms LGMA Conference Newsletter.

Law Firm Asks BC Municipalities to Back Class Action Lawsuit against Oil Companies

Environmental advocates are calling on British Columbians and local governments to back a plan to take oil companies to court for their role in climate change. West Coast Environmental Law launched a campaign called "Sue Big Oil" on Wednesday [June 15], asking people to sign a declaration encouraging municipalities to offer up \$1 per resident to go toward a class action lawsuit against fossil fuel companies. In BC, the costs of climate change have been dire. Just last year, the wildfire that destroyed the Village of Lytton cost insurance companies an estimated \$102 million, and major flooding in the province a few months later caused hundreds of millions of dollars in damage. Read the CBC [news article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Auditor General for Local Government Act	REPEALED June 2/22	by 2022 Bill 20, c. 15, section 1 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
Bylaw Notice Enforcement Regulation (175/2004)	June 8/22	by Reg 130/2022
Cannabis Licensing Regulation (202/2018)	June 24/22	by Reg 144/2022
Community Charter	June 2/22	by 2022 Bill 20, c. 15, sections 2 to 14 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
	June 13/22	by 2021 Bill 26, c. 30, section 5 only (in force by Reg 135/2022), Municipal Affairs Statutes Amendment Act, 2021
Interpretation Act	June 2/22	by 2022 Bill 21, c. 19, section 64 only (in force by Royal Assent), Professional Governance Amendment Act, 2022
Islands Trust Act	June 2/22	by 2022 Bill 20, c. 15, section 15 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
Local Government Act	June 2/22	by 2022 Bill 20, c. 15, sections 16 to 27 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
	June 13/22	by 2021 Bill 26, c. 30, section 20 only (in force by Reg 135/2022), Municipal Affairs Statutes Amendment Act, 2021
Local Government Elections Regulation (360/93)	June 13/22	by Reg 137/2022

Local Government Oath of Office Regulation (137/2022)	NEW June 13/22	see Reg 137/2022
Local Government Officers Oath Regulation (315/98)	REPEALED June 13/22	by Reg 137/2022
Municipalities Enabling and Validating Act (No. 4)	June 2/22	by 2022 Bill 20, c. 15, sections 28 to 30 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
Principles for Codes of Conduct Regulation (136/2022)	NEW June 13/22	see Reg 136/2022
Principles for Codes of Conduct (Vancouver Charter) Regulation (138/2022)	NEW June 13/22	see Reg 138/2022
Railway Safety Adopted Provisions Regulation (210/2004)	June 9/22	by Reg 134/2022
Regional District of Kootenay Boundary Regulation (240/91)	June 20/22	by Reg 141/2022
School Act	RETRO to Apr. 1/22	by 2022 Bill 22, c. 20, sections 4 and 5 only (in force by Royal Assent), School Amendment Act, 2022
	June 2/22	by 2022 Bill 6, c. 11, section 103 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
		by 2022 Bill 22, c. 20, sections 1 to 3, 6 and 7 only (in force by Royal Assent), School Amendment Act, 2022
Statistics Act	June 2/22	by 2022 Bill 24, c. 18, section 34 only (in force by Royal Assent), Anti-Racism Data Act
The Cultus Lake Park Act	June 2/22	by 2022 Bill 20, c. 15, section 31 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
	June 13/22	by 2021 Bill 26, c. 30, section 47 only (in force by Reg 135/2022), Municipal Affairs Statutes Amendment Act, 2021
Vancouver Charter	June 2/22	by 2022 Bill 20, c. 15, sections 32 to 77 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
	June 13/22	by 2021 Bill 26, c. 30, sections 53 and 54 only (in force by Reg 135/2022), Municipal Affairs Statutes Amendment Act, 2021

MISCELLANEOUS

Miscellaneous News:

Professional Regulation in BC:

Amendments to the *Professional Governance Act*

The [Professional Governance Act](#) ("PGA") came into force on February 5, 2021, codifying professional governance requirements and establishing the Office of the Superintendent of Professional Governance ("OSPG"). The PGA was amended by the [Professional Governance Amendment Act](#) (the "Amendment"), which came into force on June 2, 2022. Although the Amendment received royal assent, some sections will only come in to force by regulation. Some of the key updates and additions in the Amendment include:

- Changes to the disciplinary process for certain administrative matters;
- An annual fee;
- The incorporation of traditional Indigenous knowledge; and
- Change to the conflict of interest declaration process.

In addition to these changes, the Architectural Institute of British Columbia ("AIBC") is transitioning to the PGA. Read the [full article](#) by Menka Sull with Alexander Holburn Beaudin + Lang LLP.

SC Civil Rules/Family Rules Amendments Effective Oct 3

Orders in Council Nos. [356](#) and [357](#) were approved and ordered on June 27, 2022. The Orders make changes to the [Supreme Court Civil Rules](#) and [Supreme Court Family Rules](#) which will come into effect on October 3, 2022. The following provides an overview of the changes.

Order 356 amends the provisions of Part 25 of the Supreme Court Civil Rules dealing with estates. The amendments include changing the categories of people who must be served with notice of an intended application for estate grant or resealing, removing the jurisdiction of the court to order that a person must live for longer than five days after the deceased dies to be deemed "surviving" in Form P2 of Appendix A.1, replacing Forms P3 and P5 in Appendix A.1, and amending Forms P4, P6, P7, P9, P10, P11, P14, P15, P21, P22, P23, P25, P26, P29, and P45 of Appendix A.1.

Schedule 1 of Order 357 amends various provisions of the Supreme Court Civil Rules dealing with witness lists, approval of court orders by parties of record, appointments to settle, and expert reports in petition proceedings. Specifically, Schedule 1 of Order 357 repeals and adds a new definition of "witness list", adds Subrules 1.1-1.4 to Rule 13-1 which provide additional guidance on party approval of court orders, and adds Subrules 6.1-6.3 to Rule 16-1 which confirm the application of expert report rules in petition proceedings. Schedule 1 of Order 357 also amends Forms 15, 21, and 118 in Appendix A of the Supreme Court Civil Rules, and adds Form 33.1 to Appendix A.

Schedule 2 of Order 357 amends various provisions of the Supreme Court Family Rules dealing with protection orders, approval of court orders by parties of record, appointments to settle, and expert reports in petition proceedings. Specifically, Schedule 2 of Order 357 adds Subrules 2.1-2.4 to Rule 15-1 which provide additional guidance in circumstances where a protection order is issued pursuant to section 183 of the [Family Law Act](#), adds Subrules 3.1-3.4 to Rule 15-1 which provide additional guidance on party approval of court orders, adds Subrules 6.1-6.2 to Rule 17-1 which confirm the application of expert report rules in petition proceedings. Schedule 2 of Order 357 also adds Form F32.1 to Appendix A of the Supreme Court Family Rules and amends Forms F37, F54, and F95 and repeals and replaces Form F54.1 in Appendix A. Quickscribe would like to thank [Kristen Balcom](#) for putting together this summary.

BC Court of Appeal to Adopt New Rules Simplifying Civil Appeals Process

New rules to take effect on July 18

The British Columbia Ministry of Attorney General has announced that the BC Court of Appeal will adopt [new rules](#) to simplify the civil appeals process for lawyers and self-represented litigants. According to the ministry, the new rules consist of changes to the court of appeal rules to clarify existing procedures, create efficiencies, and improve access to justice for litigants in the court of appeal. The ministry added that it based these changes on feedback from public consultations conducted between July and August 2021. Read the [full article](#) by [Katrina Eñano](#), published on the *Canadian Lawyer*.

2022 Bill 9 Civil Resolution Tribunal Act

Amendments Now in Force

As mentioned in the [February Reporter, Bill 9](#), the *Attorney General Statutes Amendment Act, 2022*, makes amendments to the [Civil Resolution Tribunal Act](#). On July 1, 2022, some of the amendments came into force, removing the current Notice of Objection process for small claims disputes in the civil resolution tribunal that could lead to an entire rehearing of a matter. Parties who disagree with a final decision can now ask the B.C. Supreme Court for judicial review, the same mechanism used for all other areas of the tribunal's jurisdiction. Effective September 1, 2022, the remaining provisions will come into force, granting authority to the tribunal to decide claims involving ICBC's determination on whether a person is responsible for a motor vehicle accident.

BC Report on Money Laundering Calls for Sweeping Change, Including More Rules from Legal Regulator

Sweeping changes are needed to tackle "dirty money," says the final report on money laundering in BC, and that includes more stringent law society rules governing matters that could involve money laundering. "Given the potential for privilege to attach to trust account transactions, the Law Society [of British Columbia] should further limit what can enter a trust account in the first place, in order to ensure that trust accounts are used only when truly necessary," former B.C. Supreme Court Justice Austin Cullen said in his report, released Wednesday [June 15] three years after his inquiry began. Read the [full article](#) by Zena Olijnyk published by *Canadian Lawyer*.

Procedure, Policy and Practice: Continued Commentary on the BC Builders Lien Act

This year our courts have made many decisions that provide comment and clarity on certain procedural requirements of the [Builders Lien Act](#) (the "Act"). Our previous articles can be viewed [here](#). Recently, our courts have released a further decision, *Frontier Kemper Constructors, Inc v Rio Tinto Alcan Inc.*, [2022 BCSC 868](#), which provides comment and direction on the time limits applicable for filling lien claims, as well as the circumstances in which a court may direct that security to discharge a lien be reduced or apportioned in the context of denying an application to cancel a lien brought by the defendant owner. Throughout the Court's reasoning, emphasis was placed on the policy objectives of the Act, namely, to give commercial certainty to the parties involved in lien claims. Read the [full article](#) by Rosalie Clark and Kim Do with Clark Wilson LLP.

BC Supreme Court Grants Injunction Preventing the Sale of the Nasoga Lands to the Nisga'a Nation

On May 25, 2022 the BC Supreme Court (BCSC) released its judgement in *Reece v. Canada (Attorney General)* [2022 BCSC 865](#), a dispute involving the sale of the Nasoga Lands in northwestern British Columbia to the Nisga'a Nation by the Province, to which the "Allied Tribes" (a group comprised of members of the Lax Kw'alaams and the Metlakatla Nations) are opposed. The sale of the Nasoga Lands and their addition to the Nisga'a Treaty is subject to the consent of the Province and Canada.

The BCSC addressed two issues in this decision:

1. Is an injunction available to the Allied Tribes prior to proof of Aboriginal title?
2. Are the Allied Tribes entitled to an injunction?

The court held that injunctive relief is available prior to proof of Aboriginal title, but that whether an injunction will be issued depends on the facts. The court went on to grant an injunction preventing the Province and Canada from moving forward with the proposed sale of the Nasoga Lands and consenting to add them to the Nisga'a Lands for a period of 18 months. Read the [full article](#) by Kevin O'Callaghan and Marie Aspiazu (Articling Student) with Fasken Martineau DuMoulin LLP.

Privacy Legislation Overhaul: Canada Takes a Second Shot at the CPPA

In a second attempt at overhauling Canada's federal privacy legislation, today [June 16] Canada's Minister of Innovation, Science and Industry François-Philippe Champagne introduced a new bill called the [Digital Charter Implementation Act, 2022](#) ("2022 Bill"). It aims to create three new pieces of legislation:

- The [Consumer Privacy Protection Act](#) ("CPPA");
- The [Personal Information and Data Protection Tribunal Act](#) ("PIDPTA"); and
- The [Artificial Intelligence and Data Act](#) ("AIDA").

CPPA and PIDPTA are updated versions of legislation which the Government introduced in November of 2020 (the "2020 Bill") and which ultimately died when Parliament was dissolved for the 2021 Canadian federal election. AIDA is an entirely new piece of legislation. As a consequential amendment, the *Personal Information Protection and Electronic Documents Act* ("PIPEDA") will become the [Electronic Documents Act](#), losing the

privacy provisions but retaining the provisions regarding electronic documents. Read the [full article](#) by Jade Buchanan, Kaherine Booth, Daniel G.C. Glover, Karine Joizil and Charles S. Morgan with McCarthy Tetrault LLP.

More Speed and More Haste: Significant Amendments to Canada's Competition Act Come Into Force

Just two months after the announcement of a series of significant amendments to the [Competition Act](#) (the "Act") in the Canadian federal government's 2022 budget, the [Budget Implementation Act, 2022](#) (the "BIA") has now received royal assent. As in prior years, the government has pushed the BIA – an omnibus bill covering various policy objectives – through the legislative process prior to the start of Parliament's summer recess, meaning that several noteworthy changes to Canada's competition law regime are now in effect. Read the [full article](#) by Jason Gudofsky, Dominic Therien and Michael Caldecott with McCarthy Tetrault LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Anti-Racism Data Act	NEW June 2/22	c. 18, SBC 2022, Bill 24 , whole Act in force by Royal Assent
Balanced Budget and Ministerial Accountability Act	RETRO to Apr. 1/21	by 2022 Bill 6, c. 11, sections 2 to 7 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	June 2/22	by 2022 Bill 6, c. 11, section 1 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
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), Attorney General Statutes Amendment Act, 2022
Freedom of Information and Protection of Privacy Act	June 2/22	by 2022 Bill 17, c. 14, section 18 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2022
		by 2022 Bill 20, c. 15, sections 86 and 87 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2022
Tribunal Small Claims Regulation (232/2018)	June 27/22	by Reg 147/2022

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Transport Canada Creates New Mandatory Registry for Dangerous Goods Sites

The Government of Canada is creating a new Transportation of Dangerous Goods Registration Database and will require persons who import, offer for transport, handle or transport dangerous goods in Canada to register themselves and the sites where they carry out such activities. Registered persons will have to provide administrative information about themselves and information about the dangerous goods and operations at the sites where dangerous goods are imported, offered for transport, handled or transported (called a TDG site). It is estimated there are anywhere from 42,000 to 82,000 TDG sites operating across Canada. Read the [full article](#) by [Alan Harvie](#) with Norton Rose Fulbright.

Two More Illegal Ride-Hailing Drivers Caught Near YVR

Two drivers of illegal ride-hailing services were caught by law enforcement officers Thursday afternoon close to the airport and given fines, with one car being towed.

But the app developers – who could receive fines of \$100,000 per day – have been trickier to find. These apps appear to be based off-shore, explained Perry Dennis, deputy registrar with the Passenger Transportation Branch (PTB) but the PTB hasn't had success in locating them. Read the [BIV article](#).

Party in BC Personal Injury Case Can Call Witness for Limited Opinion and Fact-Based Evidence

The British Columbia Court of Appeal has rejected an argument that a party calling a witness who is able to provide both expert opinion evidence and fact evidence should decide which type of evidence that witness should offer, finding that each type of evidence is governed by particular rules.

In *Ford v. Lin*, [2022 BCCA 179](#), the respondent's vehicle rear-ended and pushed Connie Merai's vehicle into the appellant's vehicle. The appellant, who sustained soft tissue injuries, sued the respondent, who admitted liability. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Port of Vancouver Truckers Threaten Strike to Oppose Truck-Age Program

A group of truckers operating Port of Vancouver's drayage fleet is threatening job action in a bid to stop a program mandating the retiring of older trucks due to higher pollution levels. Read the [BIV article](#).

Transport Canada Renews Temporary Certificate for Transportation of COVID-19 Test Samples

Throughout the COVID-19 pandemic, Canada's federal government has periodically waived certain rules normally applicable to the transportation of COVID-19 test samples, which qualify as dangerous goods and are therefore subject to the requirements of the federal [Transportation of Dangerous Goods Act, 1992](#) (the "TDG Act"). That waiver has just been reintroduced as of May 30, 2022, and is set to remain in force for one year.

Section 31(2.1) of the TDG Act authorizes Transport Canada to issue what is known as a "temporary certificate," thereby allowing any activity to be carried on in a manner that would normally violate the provisions of the TDG Act, if it is deemed to be in the "public interest" to do so. Read the [full article](#) by [James Manson](#) with Miller Thomson LLP.

CVSE Bulletins & Notices

There were no notices or bulletins posted by CVSE this month.

For more information, 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](#).
- [2022 Taxi Limo Cost Index \(TLCI\)](#)
The Board has concluded its [Taxi and Limousine Cost Index \(TLCI\) review](#) for this year and a 5.3% increase will be made available for taxis to [request](#) upon July 31, 2022. More information on the TLCI can be found in the [Q&As](#). Further information about the TLCI process is posted on the Board's [TLCI Page](#).

Applications Received

- [15230-22](#) – Tofino Bus Services Inc.

- [14294-22](#) – TCB Holdings Ltd. (Insert TCB Limo)

Application Decisions

- [14576-22](#) – Westwind Cabs Ltd. [Approved]
- [14111-22](#) – Landsea Tours Ltd. [Approved]
- [14374-22](#) – Donald Gordon Miller, Wendy Lynne Margaret Miller (Miller's Grateful Wine Tours) [Refused]
- [14549-22](#) – Infinity Limousine Inc. [Approved]
- [15413-22 PS TOP](#) – Red Carpet Transportation Inc. [Approved]
- [15397-22 TOP](#) – Xclusive Limousine Service Ltd. [Approved]
- [15387-22 TOP](#) – Gunter Lothar Schlieper (Classic Livery & Coach) [Approved]
- [14489-22](#) – Rajbir Singh Kahlon (Bluebird Cabs) [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Basic Vehicle Damage Coverage Regulation (4/2021)	June 20/22	by Reg 140/2022
Insurance (Vehicle) Act	June 20/22	by 2022 Bill 17, c. 14, sections 19 to 22 only (in force by Reg 140/2022), Miscellaneous Statutes Amendment Act, 2022
Motor Fuel Tax Act	June 2/22	by 2022 Bill 6, c. 11, sections 37 and 40 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Transportation Act	June 27/22	by 2022 Bill 16, c. 16, sections 1 to 5 only (in force by Reg 155/2022), Transportation Amendment Act, 2022
Transportation Act Regulation (546/2004)	June 27/22	by Reg 155/2022

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

2022 New or Revised ACGIH Threshold Limit Values and B.C. Exposure Limits

The [Occupational Health and Safety Regulation](#) provides that, except as otherwise determined by WorkSafeBC, an employer must ensure no worker is exposed to a substance exceeding the Threshold Limit Values (TLVs) prescribed by the [American Conference of Governmental Industrial Hygienists](#) (ACGIH). Each year, the ACGIH publishes a list of substances for which they have set new or revised TLVs. When the new or revised TLVs for substances are adopted, these TLVs are referred to as B.C. Exposure Limits (ELs). Read the full WorkSafeBC [article](#).

11 Ways Natural Lighting Increases Safety in the Workplace

While working in natural lighting is not a privilege afforded to every worker, it potentially should be because there are multiple advantages. Certainly this is something that OHS professionals may want to consider as there are many ways in which natural lighting can increase health and safety in the workplace. A recent Harvard Business Review story shared research by its HR advisory firm, Future Workplace, called 'The Employee Experience'. The research revealed that employees want natural light. Polling 1,614 workers, the study found that North American employees enjoy access to natural light and views of the outdoors more so than other perks. Read the [full article](#) by Maia Foulis with Canadian Occupational Safety.

RCMP, WorkSafeBC Investigating Workplace Accident in BC

The Royal Canadian Mounted Police (RCMP) is investigating a "workplace accident" involving an excavator which happened at a work site in Burnaby, B.C., last Friday morning [June 17], according to a report. The incident took place at around 8 a.m. on 4th Avenue near Burnaby Road. "Police are engaged with WorkSafe BC to determine the circumstances of the accident involving a man and [an] excavator," the RCMP said in an emailed statement to CTV News. Read the [full article](#) by Jim Wilson with Canadian Occupational Safety.

Permanent Psychological Disability Benefits Policy Review

On May 25, 2022, WorkSafeBC's Board of Directors approved policy changes to remove procedures specific to the assessment of permanent psychological disability benefits. The amended policies apply to all decisions made on or after July 1, 2022. You may also review the [complete Resolution](#).

Proposed Amendments to Schedule 2, Non-Traumatic Hearing Loss

Our Policy, Regulation and Research Department is releasing a discussion paper on proposed amendments to Schedule 2, Non-Traumatic Hearing Loss, to stakeholders for comment. Schedule 2 of the [Workers Compensation Act](#) is used to determine compensation for workers who have developed hearing loss gradually over time as a result of exposure to occupational noise. The schedule, which was last updated over 40 years ago, is now considered outdated as it no longer reflects the current scientific and medical literature, and requires revision. As part of this review, amendments to policies that relate to updating outdated scientific information are also proposed. You're invited to provide feedback on the draft policy amendments until 4:30 p.m. on Friday, August 19, 2022. Read [more](#) on WorkSafe BC.

New Public Health Orders

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

Order:

- [Health Professionals COVID-19 Vaccination Status Information and Preventative Measures – June 10, 2022 \(PDF, 477KB\)](#)

Guidance:

- [Guidance for Courthouse Users During the COVID-19 Pandemic – June 30, 2022 \(PDF, 384KB\)](#)
 - [Courthouse Public Health Incident and Communication Response Protocol – June 30, 2022 \(PDF, 357KB\)](#)

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

OHS Policies/Guidelines – Updates

Guidelines – OHS Regulation:

June 22, 2022

- Part 5 Chemical Agents and Biological Agents
 - [Table of Exposure Limits for Chemical and Biological Substances](#)
The table has been updated to reflect changes to OHS Policy R5.48-1 (amended June 22, 2022). Deletions are shown as strikethrough; additions and revisions are highlighted in green.

June 28, 2022

The following guideline was revised:

- Part 21 Blasting Operations
 - [G21.8.1 Continuing professional development – Blasters](#)

Policies – OHS Regulation:

June 22, 2022

OHS Policy R5.48-1 has been amended to reflect the current exposure limits for substances listed on the new or revised Threshold Limit Values for 2022 from the American Conference of Governmental Industrial Hygienists (effective June 22, 2022).

- [R5.48-1 Controlling Exposure – Exposure Limits](#)

Check the [WorkSafeBC website](#) to explore these and other important 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:

"Alleged Agreement" to Buy Vancouver Home Not Legally Binding, Court Rules

A Vancouver man who sued the would-be buyer of his home for \$600,000, claiming he was owed a deposit for that amount despite the deal falling through, has had his claims dismissed by the B.C. Supreme Court. In [a decision issued Tuesday](#) [June 14] and published online Wednesday [June 15], Justice Andrew P. A. Mayer found that an agreement signed by homeowner Mark Angus and prospective buyer John Williams is not an enforceable contract. Mayer's decision details several months of negotiations in 2019 and 2020 between Angus, Williams and CDRW Holdings Ltd. – a property holding company owned by Williams' wife – for the sale of a home on East 5th Avenue in Vancouver. Read the [full CTV article](#).

BC Strata Ordered to Stop Enforcing Hot Tub Ban

A Vancouver strata has been told to stop enforcing its anti-hot tub bylaw, meaning an owner can keep his patio hot tub – for now. Doug Fleming had installed a hot tub on his ground-level patio in a side-by-side triplex. While tribunal member Micah Carmody said it's not clear when Fleming installed the hot tub on limited common property, the June 27 decision said it came to the strata manager's attention May 7, 2020, when he was asked to stop using it and seek council approval for it. Read the BIV [article](#).

Can a Mortgage Secure Funds that Have Been Previously Advanced to a Borrower?

In a typical mortgage scenario, a lender advances funds to a borrower at the time the mortgage agreement is signed (e.g., to allow the borrower to purchase a home). In exchange for the borrowed money, the lender is given an interest in the borrower's property. But what happens when a lender has advanced increasing amounts of money to a borrower over an extended period of time? Can the lender secure their prior advances through a mortgage agreement with the borrower sometime in the future? The BC Supreme Court recently addressed these questions in the case of *Derencinovic v. 7 West Homes Ltd.*, [2021 BCSC 1481](#). Read the [full article](#) published by McQuarrie Hunter LLP.

What BC's Money Laundering Inquiry Said about Real Estate Prices and Regulations

Despite being unable to determine the exact impact money laundering has on home prices, the real estate sector is of top concern to the Commission of Inquiry into Money Laundering in BC. Of the 101 recommendations Commissioner Austin Cullen made in his June 15 final report, 40 are directly related to real estate, and several others are ancillary, such as proposals to strengthen anti-money laundering (AML) policies within financial institutions and the asset forfeiture legal regime, as well as greater controls on notaries and lawyers, who process transactions. Read the BIV [article](#).

BC Court of Appeal Reduces Damages for Lost Profits from Real Estate Agent's Negligence by Two-third

Trial judge awarded lost profits for years before development plan would have started. The British Columbia Court of Appeal has reduced the damages that a trial judge awarded for lost profits suffered by a land purchaser due to a real estate agent's failure to disclose an upcoming boundary review, but denied the appellants' challenge to the liability findings between the individual real estate agent, his corporation, and the brokerage

firm. In *Luminary Holding Corp. v. Fyfe*, [2022 BCCA 185](#), the respondents bought a 160-acre property near Fernie, B.C. Before the purchase, the respondents knew that around 100 acres of the land was in an agricultural land reserve. Read the [full article](#) by [Bernise Carolino](#) on *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Land Tax Deferment Act	RETRO to Apr. 1/22	by 2022 Bill 6, c. 11, section 32 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	June 2/22	by 2022 Bill 6, c. 11, sections 30 and 31 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Property Transfer Tax Act	RETRO to Apr. 1/22	by 2022 Bill 6, c. 11, section 44 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Speculation and Vacancy Tax Act	RETRO to Nov. 27/18	by 2022 Bill 6, c. 11, section 106 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	RETRO to Nov. 1/21	by 2022 Bill 6, c. 11, section 104 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	June 2/22	by 2022 Bill 6, c. 11, section 105 only (in force by Royal Assent), Budget Measures Implementation Act, 2022

WILLS & ESTATES

Wills and Estates News:

Collins Family Trust

In a decision released June 17, 2022, [Canada \(Attorney General\) v. Collins Family Trust](#), a majority of the Supreme Court of Canada held that taxpayers could not rely on equitable rescission of transactions to avoid unintended tax consequences. The decision involved two different, but similar transactions. I will refer to just one of them, the Collins Family Trust.

After receiving professional tax and legal advice, Todd Collins, the principal of a company called Rite-Way Metals Ltd. (the "operating company") undertook some transactions in order to move assets out of the operating company and into a trust in order to protect the assets from future creditors of the operating company. Based on his advice, the was structured in a way that would not (or so they thought) trigger any tax. Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP.

Man Had Marriage-Like Relationship with Deceased, Inherits Estate: BC Court of Appeal

A party living with a deceased woman at the time of her death was her spouse under BC's succession legislation and was entitled to inherit her estate, the British Columbia Court of Appeal has ruled.

In *Coad v. Lariviere*, [2022 BCCA 222](#), Coad moved into Lariviere's Vancouver home in 2013 and was living with

her when she died in 2016. He argued that that Lariviere died intestate and that at the time of her death she was living with him in a marriage-like relationship, which would make him her estate's sole beneficiary and administrator. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

DIY Will Declared Valid, as Were Gifts to Signing Witnesses

In *Wolk v. Wolk*, [2021 BCSC 1881](#), a BC man named Dawson Wolk prepared his own will in 2016 and signed it in front of three witnesses. Two of the witnesses – Dawson's mother and father – were beneficiaries of the entire estate under his will. After Dawson's death in 2017, the BC Court concluded that the will Dawson prepared on his own was valid. The Court also ruled that the bequests to Dawson's parents were valid, despite the default rule that a gift to a signatory witness is automatically void. The evidence satisfied the Court that Dawson made the gifts to his parents with "considered testamentary intent." He meant to give his estate to them, even though they were witnesses to his will. Read the [full article](#) by Candace Cho, published by Onyx Law Group.

B.C. Case Comment: Applications for Standing to Bring Claims on Behalf of Estate Against Executor

What happens if you are a beneficiary and you believe that the estate ought to make a claim against the person who happens to be the executor of the estate? This is a common scenario. Often, the person that a will-maker chooses to be their executor is a person who was involved in their affairs during their lifetime, for example under a power of attorney. This presents opportunity for undue influence, or for the person who later becomes executor to otherwise benefit from their position of control. In such a case, the beneficiary will want "the estate" to investigate or pursue claims against the executor, but the executor has no incentive to investigate themselves (and is in a conflict of interest).

This is what happened in the recent B.C. Court of Appeal decision of *Hoggan v. Silvey* [2022 BCCA 176](#). Read the [full article](#) by [James Zaitsoff](#), published on the *BC Estate Litigation Blog*.

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

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