

Quickscribe Reporter

Vol: XXI – Issue: 3 – March 2022

QUICKSCRIBE NEWS:

Recent Legislative Activity

The following government bills, introduced in February, received Royal Assent on March 10:

- [Bill 2](#) – Municipalities Enabling and Validating (No. 4) Amendment Act, 2022 (*partially in force*)
- [Bill 3](#) – Protected Areas of British Columbia Amendment Act, 2022 (*partially in force*)
- [Bill 4](#) – Skilled Trades BC Act (*not yet in force*)
- [Bill 5](#) – Workers Compensation Amendment Act, 2022 (*partially in force*)

Several more bills were introduced during March and the first week of April, with some reaching Royal Assent on March 31. The status of each of these bills is as follows:

- [Bill 8](#) – Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act, 2022 (*partially in force*)
- [Bill 9](#) – Attorney General Statutes Amendment Act, 2022 (*partially in force*)
- [Bill 11](#) – Commercial Liens Act (*not yet in force*)
- [Bill 12](#) – Property Law Amendment Act, 2022 (*second reading*)
- [Bill 13](#) – Passenger Transportation Amendment Act, 2022 (*first reading*)
- [Bill 14](#) – Wildlife Amendment Act, 2022 (*first reading*)
- [Bill 16](#) – Transportation Amendment Act, 2022 (*first reading*)
- [Bill 17](#) – Miscellaneous Statutes Amendment Act, 2022 (*first reading*)
- [Bill 18](#) – Supply Act (No. 1), 2022 (*in force*)
- [Bill 19](#) – Employment Standards Amendment Act, 2022 (*in force*)
- [Bill M201](#) – British Columbia Transit Amendment Act, 2022 (*first reading*)
- [Bill M202](#) – Equal Pay Reporting Act (*first reading*)
- [Bill M203](#) – Assessment (Split Assessment Classification) Amendment Act, 2022 (*first reading*)
- [Bill M204](#) – Crown Land Residential Lease Act, 2022 (*first reading*)
- [Bill M205](#) – Name Amendment Act (No. 2), 2022 (*first reading*)
- [Bill Pr 401](#) – Sea to Sky University Amendment Act, 2022 (*first reading*)

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

Fourth Vaccine Doses Announced, Vaccine Passports to End

A second vaccine booster program is being rolled out for seniors in long-term care and assisted living facilities. Invitations will also be sent out to other seniors over 70 and Indigenous people over 55, as well as immunocompromised people.

Starting April 8, proof of vaccination will no longer be required for most public settings, though individual businesses and organizations will have the option to continue to require it. The Workplace Safety Order will expire, meaning that businesses will be able to transition back to a communicable disease plan. Post-secondary residence vaccination requirements will also end. Read the government [news release](#) for more information.

Hundreds of Gender-based Words Removed from Provincial Regulations

On March 30, the provincial government issued [Orders in Council 157/2022](#) and [158/2022](#), which amend many

regulations by replacing gendered language with non-gendered alternatives. Within the next few days, Quickscribe will be publishing these updated regulations to the site.

Latest Annotations


New annotations were recently added to Quickscribe:

- [Christopher Hirst](#), Alexander Holburn Beaudin + Lang LLP – [Builders Lien Act](#)
- [Nancy Harwood](#), The Harwood Safety Group – [Workers Compensation Amendment Act, 2022](#)
- [OnPoint Legal Research](#) – [Family Law Act](#), [Motor Vehicle Act](#), [Patients Property Act](#), [Workers Compensation Act](#)

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

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
LABOUR & EMPLOYMENT	WILLS & ESTATES

COMPANY & FINANCE

Company and Finance News:

CBCA Amendments Impacting Director Elections and Shareholder Proposals Are Coming into Force

Amendments to the [Canada Business Corporations Act](#) (CBCA) related to the election of directors and shareholder proposals will come into force this summer. These changes are the latest in a series of CBCA amendments to take effect in the past several years. As of August 31, 2022, the following amendments to the CBCA will be in effect:

- Annual Elections with a Separate Vote for Each Candidate [...]
- Majority Voting for Directors in Uncontested Elections [...]
- Shareholder Proposals

Read the [full article](#) by [Katherine Prusinkiewicz](#) of Norton Rose Fulbright.

BC Overhauls Lien Regime as New *Commercial Liens Act* Receives Royal Assent

On March 31, 2022, British Columbia passed new legislation that will reform and consolidate the law on commercial liens in British Columbia. [Bill 11 – 2022: Commercial Liens Act](#) (the "CLA") will modernize this area of the law and establish a framework for commercial liens that aims to be more consistent with other jurisdictions in Canada. While the CLA has received royal assent, the act will be brought into force by regulation at a yet to be determined date (likely 2023 at the earliest). Liens are an important tool used by business owners to ensure that they receive payment for the services they provide. Generally, liens grant service providers (such as repairers, warehousemen and common carriers) a legal right to retain a customer's property to secure payment or performance of an obligation. [For your convenience, Quickscribe has published a red text [early consolidation of the Commercial Liens Act](#) as it will read when Bill 11 comes into force.] Read the [full article](#) by Cobi Dayan and

Andrew Hefford with Miller Thomson LLP.

The Societies Amendment Act, 2021: Time to Update your Operating System

Every once in a while, my phone reminds me that it's time to update its operating system. As I have learned the hard way, ignoring those updates can only cause headaches later. Phones on older operating systems not only miss out on the newest features; they are also increasingly weighed down by old software bugs and glitches. In my case, after tapping "Remind me later" one too many times, my phone simply became unusable! A society's bylaws are the society's operating system. And with the passage of the [Societies Amendment Act, 2021](#) (the "Amendment Act"), it may be time for many British Columbia societies to update their operating systems. The Amendment Act received Royal Assent on October 28, 2021 and introduced a number of wide-ranging changes to the [Societies Act](#) [SBC 2015] Chapter 18 (The "Societies Act"). Like any good software update, the amendments clarify and clean up rules, patch up holes, and respond to the public's concerns since the *Societies Act* was first enacted in 2016. [For your convenience, Quickscribe has published a red text [early consolidation of the Societies Act](#) as it will read when [Bill 19](#) comes into force.] Read the [full article](#) by Stephen Hsia with Miller Thomson LLP.

Denso – FCA Dismisses Judicial Review Application of Minister's Refusal to Accept Late-filed GST/HST Election

Under the [Excise Tax Act](#) (the "Act"), the Minister of National Revenue ("Minister") and her delegates are granted discretion to make administrative decisions affecting taxpayers on a case-by-case basis, including powers to extend deadlines or waive compliance with certain requirements under the Act. However, while the Tax Court of Canada has exclusive jurisdiction over appeals from tax assessments, it is not able to hear taxpayer appeals from decisions involving the exercise of the Minister's discretion on administrative matters. Challenges to the Minister's administrative decisions must be brought by way of a judicial review application in the Federal Court. Judicial review is an important tool for taxpayers, as it allows them to challenge unreasonable decisions by the Minister. For more information on the legal framework that courts must follow on judicial review applications, please refer to our [prior blog post](#). Read the [full article](#) by [Rebecca Loo](#) with Thorsteinssons LLP.

Restart of BC Company Dissolutions Resuming April 5, 2022

Following the declaration of a provincial state of emergency by the BC government during the Covid-19 pandemic, the BC Registrar of Companies refrained from dissolving corporations that were not in good standing (ex: due to a failure to file annual reports for two years). The Registrar has advised that it will be resuming its dissolution process on April 5, 2022. The Registrar has also advised that dissolution notices will be distributed in batches; not all outstanding dissolutions will occur at once. Read the [full article](#) by Ingrid Tsui and Julia Kadow with the Business Law group of Alexander Holburn Beaudin + Lang LLP.

Case Summary: *Sonic Holdings Ltd., v Savage*, 2021 BCCA 441

The BC Court of Appeal [upheld](#) the trial judge's dismissal of an action against a corporation's shareholder for breach of fiduciary duties owed as a director and officer of the corporation (*Roussey v Savage*, [2019 BCSC 1669](#)).

In order to fill out the corporation's irregular job pattern, the shareholders had agreed that the personal company of the defendant, a shareholder, would provide jobs to the corporation and compensate the corporation at cost plus a mark-up. After the corporation went bankrupt, the plaintiff brought an action claiming the defendant had misappropriated resources from the corporation for use by his personal company, failed to maintain proper oversight of, or adequate financial records for, the corporation, and failed to fully pay the corporation for the work. Read the [full article](#) by Una Radoja with Harper Grey LLP.

Federal Government Introduces Proposed Trust Reporting Rules

On February 4, 2022, the Department of Finance re-introduced legislative proposals with respect to the enhanced tax reporting rules for trusts first announced in Budget 2018 (the Draft Rules). The Draft Rules will increase the categories of trusts that are required to file a *T3 Trust Income Tax and Information Return* (the T3 Tax Return), expand the information that must be reported and impose significant penalties for non-compliance. The Draft Rules apply to trusts with taxation years ending on December 31, 2022 or later.

Background

Changes to the trust reporting rules were first announced in Budget 2018 to provide the Canada Revenue Agency (the CRA) with more information about trusts and their stakeholders. Although initially intended to apply to the 2021 taxation year, the CRA announced on January 14, 2022 that the implementation would be deferred (see [our prior article](#) for more information).

Read the [full article](#) by Grace Pereira and Tony Zhang with Borden Ladner Gervais LLP.

BC Securities – Policies & Instruments

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

- [81-525](#) – Temporary Exemptions from the OEO Trailer Ban to Facilitate Dealer Rebates of Trailing Commissions and Client Transfers

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

Act or Regulation Affected	Effective Date	Amendment Information
Auditor General Act	Mar. 11/22	by 2019 Bill 43, c. 42, section 153, Sch 1 only (in force by Reg 57/2022), Election Amendment Act, 2019
British Columbia Broiler Hatching Egg Scheme (432/88)	Mar. 30/22	by Reg 76/2022
British Columbia Chicken Marketing Scheme, 1961 (188/61)	Mar. 30/22	by Reg 76/2022
British Columbia Cranberry Marketing Scheme, 1968 (259/68)	Mar. 30/22	by Reg 76/2022
British Columbia Egg Marketing Scheme, 1967 (173/67)	Mar. 30/22	by Reg 76/2022
British Columbia Hog Marketing Scheme (109/80)	Mar. 30/22	by Reg 76/2022
British Columbia Turkey Marketing Scheme (174/66)	Mar. 30/22	by Reg 76/2022
British Columbia Vegetable Scheme (96/80)	Mar. 30/22	by Reg 76/2022
Cooperative Association Regulation (391/2000)	Mar. 30/22	by Reg 76/2022
Designated Accommodation Area Tax Regulation (93/2013)	Mar. 1/22	by Reg 47/2022
Disclosure of the Cost of Consumer Credit Regulation (273/2004)	Mar. 30/22	by Reg 76/2022
Egg Grading and Standards Regulation (306/2016)	Mar. 30/22	by Reg 76/2022
Enforcement Regulation (305/2016)	Mar. 30/22	by Reg 76/2022
Farmers and Womens Institutes Act Regulation (466/83)	Mar. 30/22	by Reg 76/2022

Film and Television Tax Credit Regulation (4/99)	Mar. 30/22	by Reg 76/2022
Financial Disclosure Act Form Regulation (235/96)	Mar. 30/22	by Reg 76/2022
Franchises Regulation (238/2016)	Mar. 30/22	by Reg 76/2022
Insurer Exemption Regulation (366/2007)	Mar. 30/22	by Reg 76/2022
National Instrument 52-108 <i>Auditor Oversight</i> (181/2014)	Mar. 30/22	by Reg 65/2022
Natural Products Marketing (BC) Act Regulations (328/75)	Mar. 30/22	by Reg 76/2022
Notaries Act	Mar. 31/22	by 2022 Bill 9, c. 6, sections 17 to 19 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2022
Payday Loans Regulation (57/2009)	Mar. 30/22	by Reg 76/2022
Seed Potato Regulation (219/84)	Mar. 30/22	by Reg 76/2022

ENERGY & MINES

Energy and Mines News:

2030 Emissions Reduction Plan

On March 29, 2022, the Government of Canada released the first of a series of emissions reduction plans, entitled "2030 Emissions Reduction Plan – Canada's Next Steps for Clean Air and a Strong Economy" (the ERP) under the [Canadian Net-Zero Emissions Accountability Act](#). The Act, which establishes in law Canada's 2030 emissions reduction target of 40 to 45 percent below 2005 levels and net-zero by 2050, requires Canada to set emissions reduction targets at five-year intervals and to publish credible plans to meet such targets (a more detailed overview of the Act and its requirements can be found in our previous insight, [Federal Government Introduces Bill C-12 to Mandate 2050 Net-Zero Emission Requirements](#)). Accordingly, the ERP lays out a high level sector-by-sector approach for Canada to reach its climate targets. Read the [full article](#) by Claire Lingley, Erik Coates, Brad Gilmour, Thomas McInerney and David Macaulay with Bennett Jones LLP.

BC Government Creates Hydrogen Office to Woo Energy Investors

Province has 40 hydrogen projects proposed or under construction.

The government of British Columbia has launched a new office to oversee the expansion of certain energy projects in the province. Premier John Horgan announced the creation of the B.C. Hydrogen Office during a Thursday [March 31] press conference. He said it will act as a "one-stop shopping" spot for hydrogen project investors looking to do business in the province. The plan is also for office staff to help streamline decisions on hydrogen projects and proposals. There are currently 40 hydrogen projects proposed or under construction in BC right now. According to the province, they represent \$4.8 billion in proposed investment. Read the [CBC article](#).

Vaughn Palmer: Secrecy over Site C Could Be Why NDP Willing to Cut Deal with First Nation

Opinion: West Moberly First Nations had won access to a secret government report on Site C. Now a lawsuit that would've discussed parts of that report is on hold pending negotiations.

BC Hydro's latest update on Site C includes major news on the litigation front, with the adjournment of a legal

action that was expected to shine an unflattering spotlight on the controversial project. Read the [Vancouver Sun opinion article](#).

Provinces Release Strategic Plan for the Deployment of SMRs

On March 28, 2022, the governments of Ontario, Saskatchewan, New Brunswick and Alberta (the "Provinces") agreed to a [joint strategic plan](#) (the "Strategic Plan") that outlines the path forward for small modular reactors ("SMRs") in the Provinces. As noted in our [2022 Power Perspectives publication](#), the Strategic Plan represents the third and final deliverable identified by the Provinces in their interprovincial memorandum of understanding on SMR development (the "Inter-Provincial MOU"). The Inter-Provincial MOU was first agreed to by the governments of Ontario, Saskatchewan and New Brunswick in December 2019, with Alberta joining the group in April 2021. Through the Inter-Provincial MOU, the Provinces agreed to collaborate on the advancement of SMRs as a clean energy option to address climate change and regional energy demands, while continuing to support economic growth and innovation. Read the [full article](#) by Chris Boettcher, Audrey Bouffard-Nesbitt, Gaetan Thomas, Stephen Furlan and Sean C. O'Neill with McCarthy Tétrault LLP.

Recent BCOGC Bulletins

The BCOGC has recently issued the following bulletin:

- [INDB 2022-06](#) – Cyber Security Threat Heightened

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

Act or Regulation Affected	Effective Date	Amendment Information
Agricultural Mineral Land Regulation (458/78)	Mar. 30/22	by Reg 76/2022
Direction No. 8 to the British Columbia Utilities Commission (24/2019)	Mar. 7/22	by Reg 56/2022
Improvement Financing Regulation (236/2012)	Mar. 11/22	by Reg 59/2022
Mineral Land Tax Adjustment Regulation (825/74)	Mar. 30/22	by Reg 76/2022
Mining Rights Compensation Regulation (19/99)	Mar. 30/22	by Reg 76/2022
Natural Gas Price Act Regulation No. 2 (241/90)	Mar. 30/22	by Reg 76/2022
Oil and Gas Processing Facility Regulation (48/2021)	Mar. 5/22	by Reg 48/2021
Surrender of Interests in Mineral Land Regulations (826/74)	Mar. 30/22	by Reg 76/2022

FAMILY & CHILDREN

Family and Children News:

FPD 18 – Applications Made by Requisition Pursuant to Supreme Court Family Rules 7-1(4), 14-3(4), 22-1(3) and (4) and 22-6(4)

[from the BCSC](#)

Please be advised that Family Practice Direction 18 - Applications made by Requisition pursuant to Supreme Court Family Rules 7-1(4), 14-3(4), 22-1(3) and (4) and 22-6(4), has been issued by Chief Justice Hinkson effective March 31, 2022. [Family Practice Direction 18](#) rescinds and replaces Family Practice Direction 13.

Early Resolution Process in Victoria "Effective" in Addressing Family Law Disputes: BC Report

Victoria Provincial Court experienced a 63 per cent reduction in family court time

Adopting an early resolution process in Victoria was "effective" in addressing family law disputes, [a new report](#) from the British Columbia government revealed. On Jan. 31, the provincial government released the report evaluating the results of the pilot testing of the [Early Resolution and Case Management Model](#) (ER-CM Model) in the court registry in Victoria. The ER-CM Model allows parties to meet a family justice counsellor and receive early information, assistance and resolution regarding their family law disputes. Read the [full article](#) by [Katrina Eñano](#) on *Canadian Lawyer*.

Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act

Bill 8, the [Attorney General Statutes \(Hague Convention on Child and Family Support\) Amendment Act](#) was introduced on March 2 and received March 31. The bill will amend the [Interjurisdictional Support Orders Act](#) in order to implement the 2007 Hague Child Support Convention, which applies to cross-border child support duties. These amendments will come into force in future by regulation. Changes to the [Family Law Act](#), intended to provide for the expansion of the Child Support Recalculation Service, are now in force.

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Regulation (291/96)	Mar. 30/22	by Reg 75/2022
Child Care Licensing Regulation (332/2007)	Mar. 30/22	by Reg 76/2022
Coroners Regulation (298/2007)	Mar. 30/22	by Reg 77/2022
Correction Act Regulation (58/2005)	Mar. 30/22	by Reg 76/2022
Family Law Act	Mar. 31/22	by 2022 Bill 8, c. 5, sections 13 and 14 only (in force by Royal Assent), Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act, 2022
Family Law Act Regulation (347/2012)	Mar. 1/22	by Reg 14/2022
Independent School Regulation (262/89)	Mar. 30/22	by Reg 79/2022
Interjurisdictional Support Orders Act	Mar. 31/22	by 2022 Bill 8, c. 5, sections 13 and 14 only (in force by Royal Assent), Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act, 2022
Notice to Mediate (Family) Regulation (296/2007)	Mar. 30/22	by Reg 76/2022
Notice to Mediate (General) Regulation (4/2001)	Mar. 30/22	by Reg 76/2022

Provincial Court (Adult Guardianship) Rules (30/2001)	Mar. 30/22	by Reg 75/2022
Representation Agreement Regulation (199/2001)	Mar. 30/22	by Reg 76/2022
Statutory Property Guardianship Regulation (115/2014)	Mar. 30/22	by Reg 76/2022
Supreme Court Act	Mar. 5/22	by 2020 Bill 13, c. 14, section 16 only (in force by Reg 55/2022), Miscellaneous Statutes Amendment Act, 2020
Youth Custody Regulation (137/2005)	Mar. 30/22	by Reg 76/2022

FOREST & ENVIRONMENT

Forest and Environment News:

Majority of First Nations Agree to Old Growth Deferrals

Of the 188 First Nations who responded so far to the BC government's request for a response to its plans to protect at-risk old growth forests from logging, 75 have agreed with the deferral plan, according to the Ministry of Forests. Seven have said no to the plan, and more than 60 said they want more time before responding to the government's plan to make old growth off limits to logging in their traditional territories. Originally, in November 2021, when the BC government announced its plans for a moratorium on old growth logging, it announced 2.6 million hectares of old growth forest would be "deferred." Read the [BIV article](#).

Wildlife Amendment Act Introduced

[Bill 14](#), the *Wildlife Amendment Act, 2022* was introduced in the legislature on March 9. The proposed amendments are intended to address First Nations concerns by making it a requirement to consider and protect relevant Indigenous knowledge. It also introduces a process to recognize traditional practices and hunting agreements between First Nations.

A New Tool for Victims of Environmental Contamination

The BC Supreme Court has provided some guidance on injunctive relief available in environmental contamination cases. In [Ward v. Cariboo Regional District](#), the plaintiffs owned a rural residential property near Williams Lake that used a gravity sewage system operated by the Cariboo Regional District. The property suffered from two floods in 2015 and 2020, which resulted in raw sewage flooding the property. After the first flood, the District paid to restore the plaintiffs' basement and chlorinate the plaintiffs' well, but they did not take any steps to remove the sewage from the pasture or ponds. The District denied liability for the second flood. Read the [full article](#) by [Richard E. Bereti](#) and [Nicola Virk](#) with Harper Grey LLP.

BC Climate Plan Fails to Detail How It Will Hit Emission Targets, Allege Court Documents

A B.C. environmental group has launched a judicial review against the provincial government alleging it has failed in its legal duty to disclose detailed emission reduction plans to fight climate change. In court documents filed March 30, 2022, in the Supreme Court of British Columbia, Sierra Club BC took aim at the province's [CleanBC Roadmap](#) to 2030, released last year as part of the Ministry of Environment and Climate Change Strategy's [plan to cut emissions](#) by 40 per cent by 2030. Read the [BIV article](#).

Taan Forest Ltd. Partnership & Taan Forest Ltd. – TFL 60 and FLC A87661

An audit of Taan Forest Limited Partnership's tree farm licence 60 and Taan Forest Ltd.'s forest licence A87661 on Haida Gwaii has found the company complied with almost all requirements of the [Forest and Range Practices Act](#) (FRPA) and the [Wildfire Act](#). The audit examined forestry activities carried out between September 2019 and September 2021. Activities included harvesting on 36 cutblocks, construction of 45 kilometres and maintenance of more than 1,700 kilometres of road, planting on 54 cutblocks and ensuring forests are regenerating on more than 170 cutblocks. These activities were assessed for compliance with FRPA, the *Wildfire Act*, applicable regulations and legal orders. Read the full Forest Practices Board [news release](#).

March Forest Safety Newsletter

The 2022 spring edition of the FSN is now [available for downloading](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Wildlife Act](#)

- [Mountainside Quarries Group Inc. v. Resource Manager, Ministry of Forests, Lands, Natural Resource Operations and Rural Development](#) [Summary Dismissal – Dismissed]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decisions were made recently:

[Wildfire Act](#)

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

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (Integrated Pest Management Act) Regulation (134/2014)	Mar. 30/22	by Reg 76/2022
Bacterial Ring Rot Regulation (92/59)	Mar. 30/22	by Reg 76/2022
British Columbia Housing Management Commission Regulation (490/79)	Mar. 30/22	by Reg 76/2022
Class C Parks Regulation (227/67)	Mar. 30/22	by Reg 81/2022
Designation and Exemption Regulation (168/90)	Mar. 30/22	by Reg 76/2022
Domestic Bacterial Ring Rot Regulation (93/59)	Mar. 30/22	by Reg 76/2022
Enforcement Regulation (262/2016)	Mar. 30/22	by Reg 76/2022
Fish and Seafood Licensing Regulation (261/2016)	Mar. 30/22	by Reg 76/2022
Forest Service Road Use Regulation (70/2004)	Mar. 30/22	by Reg 76/2022
Fort St. John Pilot Project Regulation (278/2001)	Mar. 30/22	by Reg 76/2022
Freshwater Fish Regulation (261/83)	Mar. 30/22	by Reg 76/2022

Greenhouse Gas Emission Reporting Regulation (249/2015)	Mar. 30/22	by Reg 76/2022
Hazardous Waste Regulation (63/88)	Mar. 30/22	by Reg 76/2022
Hunter Safety Training Regulation (53/98)	Mar. 30/22	by Reg 76/2022
Landfill Gas Management Regulation (391/2008)	Mar. 30/22	by Reg 76/2022
Little Cherry Control Regulation (34/83)	Mar. 30/22	by Reg 76/2022
Livestock Identification Regulation (69/81)	Mar. 30/22	by Reg 76/2022
Livestock Regulations (67/81)	Mar. 30/22	by Reg 76/2022
Log Salvage Regulation for the Vancouver Log Salvage District (220/81)	Mar. 30/22	by Reg 76/2022
Metal Dealers and Recyclers Regulation (101/2012)	Mar. 14/22	by Reg 61/2022
Municipal Wastewater Regulation (87/2012)	Mar. 30/22	by Reg 76/2022
Open Burning Smoke Control Regulation (152/2019)	Mar. 30/22	by Reg 76/2022
Organic Matter Recycling Regulation (18/2002)	Mar. 30/22	by Reg 76/2022
Performance Based Harvesting Regulation (175/95)	Mar. 30/22	by Reg 76/2022
Permit Regulation (253/2000)	Mar. 30/22	by Reg 76/2022
Permit Regulations (79/71)	Mar. 30/22	by Reg 76/2022
Protected Areas of British Columbia Act	Mar. 10/22	by 2022 Bill 3, c. 2, sections 1 to 4 only (in force by Royal Assent), Protected Areas of British Columbia Amendment Act, 2022
Range Regulation (116/2005)	Mar. 30/22	by Reg 76/2022
Scaling Regulation (446/94)	Mar. 30/22	by Reg 76/2022
Solid Fuel Burning Domestic Appliance Regulation (218/2016)	Mar. 30/22	by Reg 76/2022

Spotted Owl Designated Area No. 2 (54/2022)	NEW Mar. 3/22	see Reg 54/2022
Stillwater Pilot Project Regulation (96/2001)	Mar. 30/22	by Reg 76/2022
Summit Creek Campground and Recreation Area Regulations (164/73)	Mar. 30/22	by Reg 76/2022
Timber Marking and Transportation Regulation (253/97)	Mar. 30/22	by Reg 76/2022
Water Sustainability Regulation (36/2016)	Apr. 1/22	by Reg 84/2022
Waste Discharge Regulation (320/2004)	Mar. 30/22	by Reg 76/2022
Weed Control Regulation (66/85)	Mar. 30/22	by Reg 76/2022
Wildfire Regulation (38/2005)	Mar. 30/22	by Reg 83/2022
Woodlot Licence Regulation (68/2006)	Mar. 30/22	by Reg 76/2022

HEALTH

Health News:

BC Doctor Alleged to be Opposed to COVID-19 Regulations Suspended during Probe

The College of Physicians and Surgeons of BC says it has suspended a doctor from practising while it completes an investigation into allegations that he circumvented COVID-19 public health orders. The interim suspension order, effective March 24 but posted on the college's website on Monday [March 28], affects Dr. Stephen Malthouse, a family practitioner on Denman Island. The order says an inquiry panel hasn't decided on the merits of the allegations, but it has determined there would be "a real risk of harm to the public" if Malthouse continued to practise without restriction. Read the *Vancouver Sun* [article](#).

Expert Panel Urges Safer Supply, Evidence-based System of Care to Reduce Deaths from Illicit Drugs

A panel of subject-matter experts convened by the BC Coroners Service is calling for increased access to a safer supply of drugs and creation of an evidence-based continuum of care to better support substance users and reduce the number of illicit drug-related deaths in BC. The recommendations are included in a report examining the circumstances around 6,007 deaths from illicit drug toxicity between Aug. 1, 2017 and July 31, 2021. The report BC Coroners Service Death Review Panel: A Review of Illicit Drug Toxicity Deaths reveals that the primary cause of these deaths was the increasingly toxic and unpredictable illicit drug supply in the province, and that the current drug policy framework of prohibition is forcing substance users to access the unregulated market, leading to increased numbers of substance-related emergencies and deaths. Read the government [news release](#).

New Guidance Documents and Regulatory Amendments Regarding Therapeutic Product Shortages

As [we have previously reported](#), in response to the COVID-19 pandemic, the Minister of Health had made interim orders pursuant to the [Food and Drugs Act](#) to address the significant risk to health posed by shortages in 2020 and 2021. In anticipation of the expiry of Interim Order No. 2, [Regulations Amending Certain Regulations Concerning Drugs and Medical Devices](#) (Shortages) (the "Regulations") were promulgated in 2021, with some provisions set to come into force later. Health Canada has issued a [Notice regarding the Regulations](#), which includes an explanation of how the amendments differ from the previous now-expired interim orders. On March

2, 2022, provisions of the Regulations regarding the following subjects, among others, came into force: Read the [full article](#) by Urszula Wojtyra with Smart & Biggar LLP.

Health Workers Fired over Vaccine Refusal Take Province to Court over Alleged Charter Violations

A group of workers fired from BC health authorities and health care facilities for refusing to get vaccinated against COVID-19 are taking the provincial government and Dr. Bonnie Henry to court, claiming their terminations are unconstitutional and in violation of the [Human Rights Code](#). In a petition filed in BC Supreme Court on March 16, the workers claim various personal and religious reasons for not following provincial vaccine mandates requiring employees to get COVID-19 shots. The petitioners include Phyllis Tatlock, Laura Koop, Monika Bielecki, Scott MacDonald, Ana Mateus, Darold Sturgeon, Lori Nelson, Ingeborg Keyser; Lynda Hamley, Melinda Parenteau and Dr. Joshua Nordine. The petition names the Attorney General of British Columbia and Dr. Bonnie Henry, in her capacity as provincial health officer, as respondents. Read the [BIV article](#).

BC Launches Review of Pandemic Response

British Columbia is launching an independent review and public consultation on the province's operational response to the COVID-19 pandemic with an aim to better inform preparations and responses to future emergencies. The review, which was unveiled by Minister of Public Safety and solicitor general Mike Farnworth March 16, will focus on operational responses to the pandemic by the BC government from January 2020 into 2022. It will include looking at what aspects of preparedness, engagement, communications and implementation worked well, what changes were made to improve operational effectiveness as the pandemic evolved and what improvements can be made to better prepare for pandemics and emergencies. Read the [full article](#) by Ian Burns, published in *The Lawyer's Daily*.

Advancing MAiD

The CBA's End of Life Working Group offers recommendations to clarify the law about end-of-life decision-making. The Canadian Bar Association is committed to clarifying the law about end-of-life decision-making, especially for persons with mental illness, mature minors and advanced requests for medical assistance in dying, or MAiD. To this end, the CBA's End of Life Working Group recommends that the [Criminal Code](#) be amended in a way that aligns with the criteria established by the Supreme Court of Canada in *Carter*. Read the [full article](#) by [Brigitte Pellerin](#) published in the Canadian Bar Association *National*.

Act or Regulation Affected	Effective Date	Amendment Information
Assisted Living Regulation (189/2019)	Mar. 30/22	by Reg 76/2022
Disclosure Directive Regulation (172/2009)	Mar. 30/22	by Reg 76/2022
Drug Plans Regulation (73/2015)	Mar. 30/22	by Reg 76/2022
Emergency Intervention Disclosure Regulation (33/2013)	Mar. 30/22	by Reg 76/2022
Enforcement Regulation (4/2015)	Mar. 30/22	by Reg 76/2022
Food Premises Regulation (210/99)	Mar. 30/22	by Reg 76/2022
Health Care Consent Regulation (20/2000)	Mar. 30/22	by Reg 76/2022
Health Care Costs Recovery Regulation (397/2008)	Mar. 30/22	by Reg 76/2022
Hospital Act Regulation (121/97)	Mar. 30/22	by Reg 76/2022

Hospital Insurance Act Regulations (25/61)	Mar. 30/22	by Reg 76/2022
Identification Card Regulation (4/2013)	Mar. 30/22	by Reg 76/2022
Meat Inspection Regulation (349/2004)	Mar. 30/22	by Reg 76/2022
Medical and Health Care Services Regulation (426/97)	Mar. 30/22	by Reg 76/2022
Patients Property Act Rules (311/76)	Mar. 30/22	by Reg 75/2022
Provider Regulation (222/2014)	Mar. 30/22	by Reg 76/2022
Public Health Impediments Regulation (50/2009)	Mar. 30/22	by Reg 76/2022
Public Health Inspections and Orders Regulation (52/2009)	Mar. 30/22	by Reg 76/2022
Residential Care Regulation (96/2009)	Mar. 30/22	by Reg 76/2022
Sewerage System Regulation (326/2004)	Mar. 30/22	by Reg 76/2022
Voluntary Blood Donations Regulation (72/2019)	Mar. 30/22	by Reg 76/2022

LABOUR & EMPLOYMENT

Labour and Employment News:

British Columbia, Canada: Bill 19 Amends Personal Illness or Injury Leave

On March 28, 2022, British Columbia introduced [Bill 19 - 2022, Employment Standards Amendment Act, 2022](#) (Bill 19) for first reading, and the Bill received Royal Assent on March 31, 2022. Bill 19 made the following amendments to the ESA:

"Calendar Year" to Replace "Employment Year"

Previously, [section 49.1 of the ESA](#) entitled an eligible employee to eight personal illness or injury leave days, five paid and three unpaid, "in each employment year." Bill 19 amends section 49.1 so that the employee's entitlement to the eight personal illness or injury leave days will be "in each calendar year."

Read the [full article](#) by By Rhonda B. Levy and Barry Kuretzky with Littler Mendelson P.C.

Age Discrimination in the Employment Context in British Columbia

This is the second of a three-part series discussing age discrimination and older people. The [first post](#) focused on the human rights process and age discrimination generally. This post looks at age-discrimination in employment settings. The [final post](#) reviews other settings where age related discrimination occurs. This blog post:

- Explores age discrimination in hiring, accommodation, termination, and hours reduction.
- Lists items to think about to help decide if discrimination occurred in the above listed areas.

Read the [full article](#) by Nicole Freeman, Monika Steger, and Alison Wilkinson with the BC Law Institute.

BC Pursuing Pay Transparency Legislation in Attempt to Eliminate Gender Wage Gap

BC is in the initial stages of bringing in pay transparency legislation to address the wage gap between men and women in the province, which, according to Statistics Canada, is historically one of the widest in Canada. The province has been criticized for not addressing the issue sooner. In 2018, StatsCan found British Columbia women made 18.6 per cent less than men, the widest gender pay gap in the country. It is one of four provinces, along with Alberta, Saskatchewan and Newfoundland, that doesn't have pay transparency or pay equity legislation. Read the [CBC article](#).

British Columbia, Canada Court Decides CERB Payment Should be Deducted from Damage Award for Wrongful Dismissal

In *Reotech Construction Ltd. v Snider*, [2022 BCSC 317](#) (Reotech), the Supreme Court of British Columbia found that the trial court erred when it did not deduct the employee's \$9,000 [Canada Emergency Response Benefit](#) (CERB) payment from his damage award for wrongful dismissal.

Background

The employee began working for Reotech in February 2018. He was placed on a temporary layoff in March 2020, never recalled, and terminated without cause. He was paid two weeks' salary as compensation in accordance with the termination provision in a policy and procedure manual, which he received and signed after his employment began.

Read the [full article](#) by Rhonda B. Levy and Barry Kuretzky with Littler Mendelson P.C.

Secret Recordings May Amount to Just Cause for Dismissal

The British Columbia Supreme Court's decision in *Shalagin v Mercer Celgar Limited Partnership*, [2022 BCSC 112](#) illustrates when an employee's secret workplace recordings will amount to just cause for dismissal.

Background

The employee worked for Mercer Celgar Limited Partnership for over 10 years and was a certified professional accountant at the time of his dismissal. The employer initially dismissed him without cause, but reversed course after discovering that the employee had been secretly recording his colleagues.

Read the [full article](#) by Matthew Allard with Fasken Martineau DuMoulin LLP.

British Columbia, Canada Court Awards Employee Aggravated Damages after Employer Makes Unfounded Allegations after Commencement of Litigation

In a successful wrongful dismissal claim for \$18,647, the Supreme Court of British Columbia in *Austin v Kitsumkalum First Nation*, [2020 BCSC 2298](#), awarded the employee an additional \$15,000 for aggravated damages because the employer engaged in conduct during the dismissal that was unfair and in bad faith, and caused the employee mental distress.

Background

The employee began working at Kitsumkalum First Nation (Employer) in 2005 as a teacher and was promoted to principal in 2017. At the end of 2018, the employee wrote to the Employer stating that she wanted to end her employment on November 30, 2019; she would continue as principal until June 30, 2019, and remain for the first three months of the next school year to facilitate a smooth transition to a new principal.

Read the [full article](#) by Rhonda B. Levy and Barry Kuretzky with Littler Mendelson P.C.

BC Employer Fails to Do Homework on Worker's Absenteeism

A British Columbia employer discriminated against a worker when it terminated him for absenteeism after it should have known that a mental disability was in play, the BC Human Rights Tribunal has ruled. And it's a reminder that employers should be alert to their duty to accommodate even if an employee is reluctant to reveal such a disability, says Nicole Toye, a partner with Harris and Company in Vancouver who practises employment law. Read the [full article](#) by Jeffrey R. Smith published on *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
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Ambulance Paramedics and Ambulance Dispatchers Bargaining Association Exclusion Regulation (191/2019)	REPEALED Mar. 31/22	by Reg 191/2019
Employment Standards Act	Mar. 31/22	by 2022 Bill 19, c. 8, sections 1 and 2 only (in force by Royal Assent), Employment Standards Amendment Act, 2022
Employment Standards Regulation (396/95)	Mar. 30/22	by Reg 76/2022
Group Life Insurance Regulation (No. 1) (408/97)	Mar. 30/22	by Reg 76/2022
Labour Relations Regulation (7/93)	Mar. 30/22	by Reg 76/2022
Long Term Disability Plan Regulation (409/97)	Mar. 30/22	by Reg 76/2022
Workers Compensation Act	Mar. 10/22	by 2022 Bill 5, c. 3, sections 2, 4 to 7 and 12 only (in force by Royal Assent), Workers Compensation Amendment Act, 2022

LOCAL GOVERNMENT

Local Government News:

Let's Talk About Tax Sales [Local Governments]

In December 2021, the Ombudsperson of British Columbia released a report with the dramatic title "A Bid for Fairness: How \$10,000 in Property Tax Debt Led to a Vulnerable Person Losing Their Home". The report focused on the challenging situations and potential for unfairness that can occur in the outer edges of tax collection, specifically the mandatory tax sale of properties belonging to people who may not understand the significant risk of loss. The report made a number of recommendations related to helping owners understand tax sales, but also suggested that legislative amendments were necessary to address the unjustness of the statutory regime. Municipal collectors should be on the lookout for new measures that could impact their dealings with all owners, not just the vulnerable. Read the [full article](#) by Michael Moll & Elizabeth Anderson with Young Anderson Barristers & Solicitors, published in the recent firm newsletter.

Province Considers Law Allowing It to Intervene when Cities Reject Affordable-housing Projects

A lack of housing availability and affordability has the province looking into how it can intervene when municipalities refuse to build more homes. Last week, Housing Minister David Eby said there is a "huge amount of pressure" for BC to create more housing as migration from other parts of the country is at a 30-year high and vacancy rates are at an all-time low. He said his government is looking at legislation that would allow the province to override municipalities' decisions not to approve affordable housing projects. BC is looking at other countries such as New Zealand, which has banned single-family home zoning in its major cities. Read the [CBC article](#).

Case Summary: Court of Appeal Confirms a Municipal Body's Interpretation of Their Statutory Powers Is Reviewable on a Reasonableness Standard

G.S.R. Capital Group Inc. v. White Rock (City), [2022] B.C.J. No. 180, [2022 BCCA 46](#), British Columbia Court of Appeal, February 4, 2022, H. Groberman, J. Dewitt-Van Oosten and J.C. Grauer JJ.A.

The petitioner owned property in the City of White Rock, with an area designated as a "development permit area," that it wanted to develop. The petitioner applied for a development permit. In July 2018, the City issued a development permit; however, in late 2018, a new council was elected, resolutions were passed reducing the

allowable height of buildings in the area, and in March 2019, the City refused to grant a building permit, because the proposed development no longer conformed with zoning bylaw. The petitioner brought an application for judicial review. That application was dismissed. The petitioner appealed. Read the [full article](#) by Joel A. Morris with Harper Grey LLP.

Document Sheds Light on BC Government's 2021 Emergency Communication Breakdown

Too many emergencies in too many places and not enough people trained to warn the public. That is why the BC NDP government failed to implement local alerts via mobile phones and radio and TV stations last summer, according to an Emergency Management BC (EMBC) briefing note for Deputy Minister Tara Richards. "The lack of subject matter expertise and defined scope has resulted in little progress being made toward implementing a Public Alerting Solution," said the July 29, 2021 document, obtained through a freedom of information request. "Specifically, the focus on alerting for all emergencies, rather than those that were most significant, overcomplicated the problem set resulting in no clear path forward." Read the [BIV article](#).

Land Owner Transparency Act Requirements and Deadline for Pre-existing Owners to File a Transparency Report

The deadline for pre-existing owners of certain interests to file a transparency report with the Land Owner Transparency Registry is November 30, 2022. Local governments, corporations incorporated by a municipality under [section 185 of the Community Charter](#), and corporations incorporated by a regional district under [section 265 of the Local Government Act](#) are exempt from the filing requirement. However, societies of which a local government may be a member and some other corporations related to a local government may be captured by the definition of a "reporting body" and, therefore, responsible for filing a transparency report by the prescribed deadline. Read the [full article](#) by Alexandra Greenberg & Kathleen Higgins with Young Anderson Barristers & Solicitors published in the recent firm news bulletin.

Loss of Profit Claims and Cost Estimates: Clarification on How Future Losses are Proven

The planning and approval process, manpower, equipment, insurance, materials, and other associated costs related to building make construction projects a costly undertaking. Whether the owners are a public organization, private corporation, or individuals they will have some varying sensitivity to unanticipated changes in cost related to their project. As a result, disputes related to construction costs are a common cause of relationship breakdowns between owners and contractors and can serve as a catalyst for legal action. Read the [full article](#) by David Giroday with Civic Legal.

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Authority Act	Apr. 1/22	by 2020 Bill 10, c. 1, section 2 only (in force by Royal Assent), Municipal Affairs and Housing Statutes Amendment Act, 2020
Cannabis Licensing Regulation (202/2018)	Mar. 14/22	by Reg 60/2022
Cremation, Interment and Funeral Services Regulation	Mar. 30/22	by Reg 76/2022
Elections in Special Circumstances (COVID-19) Regulation (218/2021)	REPEALED Mar. 31/22	by Reg 218/2021
Electoral Boundaries Commission Act	Mar. 11/22	by 2019 Bill 43, c. 42, section 153, Sch 1 only (in force by Reg 57/2022), Election Amendment Act, 2019
Elevating Devices Safety Regulation (101/2004)	Mar. 31/22	by Reg 184/2019

Fare Infraction Review Referral Regulation (88/2013)	Mar. 30/22	by Reg 76/2022
Francophone Education Authorities Regulation (212/99)	Mar. 30/22	by Reg 76/2022
Greater Vancouver Transit Conduct and Safety Regulation (87/99)	Mar. 30/22	by Reg 76/2022
Municipalities Enabling and Validating Act (No. 4)	Mar. 10/22	by 2022 Bill 2, c. 1, sections 1 and 3 only (in force by Royal Assent), Municipalities Enabling and Validating (No. 4) Amendment Act, 2022
Public Notice Regulation (52/2022)	NEW Mar. 1/22	see Reg 52/2022
Public Notice (<i>Vancouver Charter</i>) Regulation (53/2022)	NEW Mar. 1/22	see Reg 53/2022
School Calendar Regulation (314/2012)	Mar. 15/22	by Reg 64/2022
Sechelt Indian Government District Property Taxation Suspension Regulation (126/88)	Mar. 30/22	by Reg 76/2022
Victoria Regional Transit Commission Regulation No. 43-2022 (74/2022)	NEW Mar. 31/22	see Reg 74/2022

MISCELLANEOUS

Miscellaneous News:

Recap on Changes to *Freedom of Information and Protection of Privacy Act*

On November 25, 2021, British Columbia's provincial legislature passed [Bill 22-2021](#), making several amendments to the [Freedom of Information and Protection of Privacy Act](#), R.S.B.C. 1996, c. 165 ("FOIPPA"). FOIPPA is the legislation that governs BC's public bodies' storage, use, and dissemination of British Columbians' personal information. A full list of public bodies subject to FOIPPA can be found [here](#). Several of the amendments came into force immediately, including those:

- allowing public bodies to store British Columbians' personal information outside of Canada ([s. 33.1](#));
- prohibiting disclosure of information that may harm the rights of Indigenous people to control the disclosure and use of their culture and traditional knowledge ([s. 18.1](#));
- creating new privacy offences and increasing maximum penalties ([ss. 65.2 to 65.7](#)); and
- imposing a new application fee for requests for information ([s. 75\(1\)\(a\)](#)).

Some details regarding these amendments were provided via Ministerial Orders and Directions on November 26, 2021. Perhaps of greatest interest to public bodies are the Directions issued by Minister of Citizen's Services, Lisa Beare, regarding privacy impact assessments ("PIAs"). Read the [full article](#) by Karen Zimmer and Nicholas Russel with Alexander Holburn Beaudin + Lang LLP.

Election Act Amendments - Now in Force

On March 11, [B.C. Reg. 57/2022](#) brought into force provisions of the [Election Amendment Act, 2019](#). The changes to the [Election Act](#) implement recommendations from the chief electoral officer including:

- improving accuracy of the voters list by granting the CEO greater access to certain data held by the

- Ministry of Citizens' Services;
- modernizing the voting process with new tools: electronic voting books, vote-counting machines and ballot printers;
- enabling youths aged 16 and 17 to apply to be included on a list of future voters; and
- extending the campaign period for unscheduled elections to maintain Saturday as the final voting day and help reduce administrative costs.

BC Unveils Actions to Fulfill UN Declaration on the Rights of Indigenous Peoples Commitments

The BC government has outlined 89 specific actions every ministry will take to create a better province for Indigenous Peoples.

The action plan, released on Wednesday [March 30], was developed in consultation and cooperation with Indigenous Peoples as the province seeks to bring government policy in line with the [United Nations Declaration on the Rights of Indigenous Peoples](#), also known as UNDRIP. Read the *Global News* [article](#).

BC Announces Plan to Consolidate Regulation of Lawyers, Notaries, and Paralegals

The British Columbia government has announced its plan to modernize the regulatory framework for legal professionals across the province. According to the BC Ministry of Attorney General, modernizing the regulatory framework for legal professionals, such as lawyers, notaries, and paralegals, will protect people accessing legal services and improve access to justice. Read the [full article](#) by Katrina Eñano, published in the *Canadian Lawyer*.

BC Court of Appeal Offers Guidance for Judicial Review of Administrative Appeals

In *College of Physicians and Surgeons of British Columbia v. The Health Professions Review Board*, [2022 BCCA 10](#), the British Columbia Court of Appeal (BCCA) clarified how courts should review decisions of administrative appeal bodies that are subject to statutory standards of review. In this case, the Review Board's home statute required it to review the "adequacy" of the College of Physicians and Surgeons of British Columbia's (CPSBC) investigation into a complaint against a physician, and to review the "reasonableness" of the CPSBC's disposition of the complaint. Read the [full article](#) by Brodie Noga and W. David Rankin with Osler, Hoskin & Harcourt LLP.

"Best Efforts" Clauses – B.C. Court of Appeal on the Consequences of Failing to Fulfill a Condition Precedent

A recent decision of the British Columbia Court of Appeal, *Sutter Hill Management Corporation v Mpire Capital Corporation [Sutter Hill]*, [2022 BCCA 13](#), offers an illustration of the potentially harsh consequences that can arise where a party fails to fulfill a clause that requires it to make "best efforts" to fulfill a condition precedent.

Background

The litigation arose over an agreement of purchase and sale (the APS) the parties entered into on January 14, 2016. Pursuant to the APS, Mpire Capital Corporation (the Purchaser) agreed to purchase certain companies owned by Sutter Hill Management Corporation and Sweet Investments Ltd. (the Vendors), the primary asset of which was a large care home and real estate, contracts, and licenses related to the care home.

Read the [full article](#) by David Gruber and Benjamin Reedijk with Bennett Jones LLP.

BC Court Refuses to Strike Lawsuit Raising Novel Issue on Limitation Rules

Indigenous youth unaware that assault claim could be filed against RCMP officer. The B.C. Court of Appeal has refused to strike a claim because of a novel issue it raised in relation to the discoverability rule under the [Limitation Act](#). In *Aubichon v. Grafton*, [2022 BCCA 77](#), Cuyler Richard Aubichon was arrested and allegedly assaulted by Constable Grafton of the Royal Canadian Mounted Police. Despite the beating, Aubichon did not take any legal action until four years after the incident, when the Crown approved criminal charges against Grafton following an independent investigation conducted in relation to Aubichon's arrest. Read the [full article](#) by [Angelica Dino](#), published in the *Canadian Lawyer*.

B.C. Court of Appeal Decision Illustrates Distinction between Factual and Legal Causation in Negligence Cases

The B.C. Court of Appeal's recent decision in [Tellini v. Bell Alliance](#) illustrates how proving causation in negligence cases is not always easy. The plaintiff must prove not only that the defendant's carelessness caused the plaintiff to suffer loss ("factual causation"), but also that the loss suffered was a reasonably foreseeable

result of the defendant's carelessness ("legal causation"). As *Tellini* illustrates, disputing causation can be an effective defence strategy in cases where the connection between the alleged carelessness and the alleged loss is either factually non-existent or legally too remote. Below, we summarize *Tellini* and our key takeaways from the decision. Read the [full article](#) by Connor Bildfell and Christian Spillane with McCarthy Tétrault LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Ballot Form Regulation (66/2022)	NEW Mar. 18/22	see Reg 66/2022
Civil Resolution Tribunal Act	Mar. 31/22	by 2022 Bill 9, c. 6, section 8 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2022
Constitution Act	Mar. 11/22	by 2019 Bill 43, c. 42, section 153, Sch 1 only (in force by Reg 57/2022), Election Amendment Act, 2019
Cremation, Interment and Funeral Services Regulation (298/2004)	Mar. 30/22	by Reg 76/2022
Election Act	Mar. 11/22	by 2019 Bill 43, c. 42, sections 1 (a) to (c), (e) to (j), (m), and (p) to (r), 3, 4, 15, 23, 26, 27, 29, 31 to 78, 125, 126, 129 to 131, 136, 137, 139, 154, Sch 2 and 155 only (in force by Reg 57/2022), Election Amendment Act, 2019
Evidence Act (60/2005)	Mar. 30/22	by Reg 75/2022
Firearm (Authorization) Regulation (373/80)	Mar. 30/22	by Reg 76/2022
Freedom of Information and Protection of Privacy Act	Apr. 1/22	by Reg 73/2022
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	NEW Apr. 1/22	see Reg 58/2022
Initiative Petition Administration Regulation (70/95)	Mar. 30/22	by Reg 76/2022
Interjurisdictional Support Orders Act	Mar. 31/22	by 2022 Bill 8, c. 5, section 5 only (in force by Royal Assent), Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act, 2022
Jury Regulation (282/95)	Mar. 30/22	by Reg 75/2022
Legal Profession Act	Mar. 31/22	by 2022 Bill 9, c. 6, sections 15 and 16 only (in force by Royal Assent), Attorney General Statutes Amendment Act, 2022

Legislative Assembly Management Committee Act	Mar. 11/22	by 2019 Bill 43, c. 42, section 153, Sch 1 only (in force by Reg 57/2022), Election Amendment Act, 2019
Members' Remuneration and Pensions Act	Mar. 11/22	by 2019 Bill 43, c. 42, section 153, Sch 1 only (in force by Reg 57/2022), Election Amendment Act, 2019
Missing Persons Regulation (111/2015)	Mar. 30/22	by Reg 80/2022
Motion Picture Act Regulations (260/86)	Mar. 30/22	by Reg 76/2022
Personal Information Protection Act Regulations (473/2003)	Mar. 30/22	by Reg 76/2022
Recall and Initiative Act	Mar. 11/22	by 2019 Bill 43, c. 42, sections 153, Sch 1 and 156 only (in force by Reg 57/2022), Election Amendment Act, 2019
Recall Petition Administration Regulation (69/95)	Mar. 30/22	by Reg 76/2022
Regulations Regulation (394/83)	Mar. 30/22	by Reg 76/2022
Sound Recording Regulation (249/78)	Mar. 30/22	by Reg 75/2022
Vital Statistics Act Regulation (69/82)	Mar. 30/22	by Reg 76/2022
Vote Counting Regulation (67/2022)	NEW Mar. 18/22	see Reg 67/2022
Voting Opportunities Regulation (68/2022)	NEW Mar. 18/22	see Reg 68/2022
Voting Options Regulation (69/2022)	NEW Mar. 18/22	see Reg 69/2022

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Passenger Transportation Act Amendments Introduced

The [Passenger Transportation Amendment Act, 2022](#), introduced on March 8, proposes amendments to the [Passenger Transportation Act](#) that would make 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.

Illegal Ride-hailing Easy to Access in Richmond

If you're looking to hail a cheap ride, Richmond is the place to be - if the word on the street is anything to go by. Some believe the city has become the hub for a host of ride-hailing apps that can take you from point A to point

B for about two-thirds the price of an Uber – never mind a cab. However, there are a couple of catches. One, to use some of the apps, you have to be able to speak Chinese and, two, they're illegal. To test the theory a couple of Richmond News reporters called two of the better-known ride-hailing apps that do not have a license to operate anywhere in Metro Vancouver – something regulated by the Passenger Transportation Branch. Read the [BIV article](#).

Motorists, Pedestrians Obligated to Exercise Due Care to Avoid Collision: B.C. Supreme Court

Driver found not responsible for injuries of person who stepped into traffic. A motorist who hit an intoxicated pedestrian had the right of way and was entitled to assume that other highway users would follow traffic rules, the British Columbia Supreme Court has ruled. In *Johal v. Dhaliwal*, [2022 BCSC 444](#), Gurminder Singh Johal was hit by a vehicle as he stepped into a traffic lane at a mid-block location on King George Boulevard, a major street in Surrey, BC. It was dark out and Johal was wearing dark clothing at the time of the accident. He was also heavily intoxicated with a blood alcohol concentration (BAC) level three times the legal limit for the operation of a vehicle. Read the [full article](#) by [Angelica Dino](#), published in the *Canadian Lawyer*.

Brake Failure, Cold Weather Caused Fatal BC Derailment

The locomotive's brakes failed with prolonged exposure to cold temperatures, and this led to the fatal train derailment near the British Columbia-Alberta boundary in 2019, found the Transportation Safety Board of Canada. The agency on Thursday [March 31] released the findings of its investigation into the incident that killed three Canadian Pacific Railway employees in February 2019. Conductor Dylan Paradis, engineer Andrew Dockrell and trainee Daniel Waldenberger-Bulmer died in the incident. The train was parked on a grade near Field, BC, when it started rolling on its own, *The Canadian Press* reported, citing the findings. The train gained speeds far above the limit for the mountain pass. Read the [full article](#) by Jim Wilson with Canadian Occupational Safety.

CVSE Bulletins & Notices

The following notice was posted recently by CVSE:

- [VI Notice 01-22](#) – Facility Large Station and Interim Decal Sales
- [Notice 01-22](#) – Oversize and Overweight Restrictions for Hwy 1 Between Hope and Spences Bridge
- [NSC Bulletin 01-2021](#) – Electronic Logging Devices (ELDs) in British Columbia – UPDATED
 - [Quick Links to Provincial and Territorial Jurisdictional Resources re: ELDs](#)

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

Passenger Transportation Board Bulletins

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

Industry Updates & Advisories

- **2022 Taxi Limo Cost Index (TLCI)**
The Board has concluded its [Taxi and Limousine Cost Index \(TLCI\) review](#) for this year and a 5.3% increase will be made available for taxis to [request](#) upon July 31, 2022. More information on the TLCI can be found in the [Q&As](#). Further information about the TLCI process is posted on the Board's [TLCI Page](#).
- **Deadline Extended to Activate Additional Taxis**
In light of the ongoing impact of the COVID-19 pandemic, the Board is further extending the deadline to activate additional taxis until **May 12, 2022**. This extension applies to Taxi Modernization vehicles or additional vehicle decisions made by the Board after March 2020 and the vehicles were not activated due to COVID-19. The Board previously issued advisories granting extensions until [August 2021](#) and [February 2022](#).

Applications Received

- [14469-22](#) – Transfer of Licence from Diversified Transportation Ltd. to Pacific Western Charters Ltd.
- [14169-22](#) – New PDVA (Taxi): Foley, Brian Lawrence (Bluebird Cabs)
- [13973-21](#) – Transfer of Licence: PDVA (Taxi) from Bone, Matthew Charles and Lachowski, Krysta Rahel to Wolff, Michelle Gail (Sicamous Taxi)
- [14114-22](#) – Amendment of Licence: PDVA (Taxi) – Cheam Taxi Ltd.
- [13562-21](#) – Transfer of Licence: from Campbell River Cabs Ltd. to Waivin Flags Taxi
- [14300-22](#) – Change of Rates: PDVA (Taxi) – Creston Cab Company Inc.
- [14109-22](#) – Amendment of Licence: PDVA (Taxi - SSPV) – Royal City Taxi Ltd.
- [14132-22](#) – Amendment of Licence: PDVA (Limo) – Marchetti, Bernard David (Explore Your BC Tours)

Application Decisions

- [14455-22 POS TOP](#) – VIP Limousine Inc. (VIP Limo) [Approved]
- [13773-21 & 13913-21](#) – Transfer of Licences from Joginder Singh Gill (13773-21) and Therese Hayek Akouri (13913-21) to Bluebird Cabs. Ltd. [Approved]
- [13547-21](#) – Xclusive Limousine Service Ltd. [Refused]
- [13424-21](#) – Michael David Hathaway (Mountain Man Mike's) [Approved in Part]
- [14574-22 TOP](#) – Current Taxi Ltd. [Approved]
- [13129-21](#) – Dixon, Edison (Vernon Tour and Shuttle) [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Appeals and Show Cause Hearings Regulation (414/97)	Mar. 30/22	by Reg 76/2022
Commercial Transport Regulations (30/78)	Mar. 30/22	by Reg 76/2022
Emergency Vehicle Driving Regulation (133/98)	Mar. 30/22	by Reg 76/2022
Insurance (Vehicle) Regulation (447/83)	Mar. 25/22	by Reg 71/2022
Lien on Impounded Motor Vehicles Regulation (72/2022)	Apr. 1/22	by Reg 72/2022
Motor Vehicle Act Regulations (26/58)	Mar. 17/22	by Reg 62/2022
	Mar. 30/22	by Reg 76/2022
Motor Vehicle Fees Regulation (334/91)	Mar. 30/22	by Reg 76/2022
Notice to Mediate Regulation (127/98)	Mar. 30/22	by Reg 76/2022
Offence Act Forms Regulation (422/90)	Mar. 30/22	by Reg 75/2022
Off-Road Vehicle Regulation (193/2015)	Mar. 30/22	by Reg 76/2022
Special Direction IC2 to the British Columbia Utilities Commission (307/2004)	Mar. 25/22	by Reg 70/2022
Transit Conduct and Safety Regulation (377/85)	Mar. 30/22	by Reg 76/2022
Vehicular Traffic on Industrial Roads Regulations (450/59)	Mar. 30/22	by Reg 76/2022

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

Proposed Policy Amendments Regarding Industry Group Movement

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

Keep Wearing Masks, Advise Researchers

A group of researchers advising the Canadian government is recommending that workers and the general population continue to wear face masks even if provincial governments have been lifting this restriction. According to the Coronavirus Variants Rapid Response Network (CoVaRR-Net), the BA.2 subvariant is expected to soon start spreading across Canada, and therefore mask use is important, CBC reported. Read the [full article](#) by Jim Wilson with Canadian Occupational Safety.

Workers Compensation Act Amendments for Asbestos Safety Now Partially in Force

As reported last month, amendments to the [Workers Compensation Act](#) were introduced in [Bill 5](#), the *Workers Compensation Amendment Act, 2022*. These amendments establish a requirement for asbestos abatement contractors to be licensed to operate in BC, and authorize WorkSafeBC to create a mandatory safety training program for workers and contractors who work with materials that may contain asbestos. The bill received Royal Assent on March 10.

Creating a Mentally Healthy Workplace

COVID-19 has brought to the forefront the need for employers to prioritize wellness and mental health in the workplace – both to ensure workplace safety and promote productivity and job satisfaction. Under human rights legislation, employers must also accommodate mental disabilities. While not intended to provide an exhaustive review, employers should bear in mind the following factors when dealing with mental health issues in the workplace, whether brought on by the pandemic or otherwise. Read the [full article](#) by Michael Murphy published on the Canadian Bar Association *National*.

New Public Health Orders

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

Orders:

- [Workplace Safety Order – March 10, 2022 \(PDF, 395KB\)](#)
- [Food and Liquor Serving Premises – March 10, 2022 \(PDF, 490KB\)](#)
- [Gatherings and Events – March 10, 2022 \(PDF, 499KB\)](#)
- [Health Professionals COVID-19 Vaccination Status Information and Preventative Measures – March 7, 2022 \(PDF, 457KB\)](#)
 - [Medical Deferral Form – March 23, 2022 \(PDF, 693KB\)](#)

Notices:

- [Notice of Repeal of the Overnight Camps for Children and Youth Order – March 11, 2022 \(PDF, 194KB\)](#)
- [Notice of Repeal of the Post-Secondary Institution Housing Preventive Measures Order – March 11, 2022 \(PDF, 215KB\)](#)
- [Notice of Repeal of the Face Coverings Order – March 10, 2022 \(PDF, 232KB\)](#)
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Guidance:

- [Guidance for Courthouse Users During the COVID-19 Pandemic – March 24, 2022 \(PDF, 384KB\)](#)
- [Ministry of Health – Overview of Visitors in Long-Term Care and Seniors' Assisted Living – March 18, 2022 \(PDF, 589KB\)](#)

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

OHS Policies/Guidelines – Updates

Guidelines – OHS Regulation:

March 1, 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 March 1, 2022). Deletions are shown as strikethrough; other changes are highlighted in green.

March 10, 2022

The following guidelines were retired:

- Part 6 Chemical Agents and Biological Agents – Pesticides
 - [G6.83 Equipment - Mobile equipment](#)
 - [G6.85 Posting warning signs](#)

Policies – OHS Regulation:

March 1, 2022

This update includes amendments (to the Table of Exposure Limits for Excluded Substances) effective March 1, 2022. A strikethrough version of the amendments is also available.

- [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
Elevating Devices Safety Regulation (101/2004)	Mar. 31/22	by Reg 184/2019
Workers Compensation Act	Mar. 10/22	by 2022 Bill 5, c. 3, sections 2, 4 to 7 and 12 only (in force by Royal Assent), Workers Compensation Amendment Act, 2022

PROPERTY & REAL ESTATE

Property and Real Estate News:

Seller Beware? Proposed "Cooling-Off Period" Will Allow Buyers of Residential Real Estate in BC to Walk Away

Purchasers of residential real property in British Columbia (B.C.) may soon benefit from a statutory "cooling-off period" – to be known as the Homebuyer Protection Period – under changes to the [Property Law Act](#) (British Columbia) introduced by the province on March 28, 2022. If brought into force, [Bill 12 – 2022: Property Law Amendment Act, 2022](#) would provide purchasers of residential real property with a right to rescind (cancel) a purchase and sale agreement within a specified number of days (to be determined by regulations) following acceptance. Structured as a statutory right of rescission, the amendments would allow purchasers to walk away from a signed purchase and sale agreement, whether or not the agreement gives them that right, simply by giving written notice to the vendor. This new right would not apply to purchase and sale agreements for new developments, which already benefit from a seven-day statutory right of rescission under the [Real Estate Development Marketing Act](#) (British Columbia). Nor would this right apply after the transaction has completed and title has transferred. Read the [full article](#) by [Michael Ventresca](#) and Gabrielle Guarino (Articling student) with Blake, Cassels & Graydon LLP.

BC Strata Turns Off Power on Electric Vehicle Owner

A Vancouver strata owner who charged his electric vehicle (EV) using a parking stall outlet won't be allowed to do that anymore. That's the decision from BC's Civil Resolution Tribunal, which said March 24 that Ian Wong saw power turned off to the outlet by his strata corporation. He asked the tribunal to decide that the power should be turned back on in exchange for a "reasonable fee". Read the [BIV article](#).

Underused and Undepreciated: Taxing Underused Foreign-Owned Residential Property Nationwide

Over the last few months, the *Underused Housing Tax Act* (the "Act") has moved through the House of Commons and is currently in the final steps of the report stage. If the Act is ultimately brought into force, it will implement an annual tax of 1% on the vacant or underused residential real estate, directly or indirectly owned by non-Canadians. Read the [full article](#) by Gareth O. Williams and Ben Westerterp (Articled Student) with Lawson Lundell LLP.

Canadian Bar Association's BC Branch Seeks Changes to Land Owner Transparency Act Filing Process

Changes to address technical and confidentiality issues concerning LOTA filing process. The Canadian Bar Association's BC branch has come up with recommendations to address issues concerning the filing process under the *Land Owner Transparency Act* (LOTA). The LOTA seeks to establish a registry of beneficial ownership of real property in BC by requiring reporting bodies, such as private corporations and trustees, to file a transparency report disclosing information about interest holders and potentially other individuals. Read the [full article](#) by [Katrina Eñano](#) published in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Application for Subdivision Approval Regulation (8/89)	Mar. 30/22	by Reg 76/2022
Bare Land Strata Plan Cancellation Regulation (556/82)	Mar. 30/22	by Reg 76/2022
Building Envelope Renovation Regulation (240/2000)	Mar. 30/22	by Reg 76/2022
Forms Regulation (85/97)	Mar. 30/22	by Reg 76/2022
Land Act Regulation (315/76)	Mar. 30/22	by Reg 76/2022
Mortgage Brokers Act Regulations (100/73)	Apr. 1/22	by Reg 260/2019
Notice to Mediate (Residential Construction) Regulation (152/99)	Mar. 30/22	by Reg 76/2022
Torrens System Application Regulation (490/88)	Mar. 30/22	by Reg 76/2022

WILLS & ESTATES

Wills and Estates News:

Relying on Statements of a Deceased Person in Estate Claims

Hearsay evidence often plays an important role in BC estate litigation. We recently discussed *Simard v. Simard Estate*, [2021 BCSC 1836](#), a case in which siblings disputed the transfer of property and assets from their mother to their sister. See that blog post [here](#). If the transfers stood, three of four siblings would essentially be

disinherited. The transfers were made during the mother's lifetime, but the legal challenge did not arise until after the mother's death. The critical question in cases such as this is the parent's intention at the time the transfer was made. Did the parent intend to transfer the property or asset as a gift? The difficulty in answering the question is that the parent is no longer alive to give evidence about their intention. Read the [full article](#) by Janis Ko with Onyx Law Group.

BC Case Comment: Court of Appeal Confirms that Estate can Commence Family Law Claim on Behalf of Separated Spouse

A spouse who has separated from their partner does not meet the definition of a "spouse" under the [Wills, Estates and Succession Act](#). This means that they are not entitled to advance claims under that act, most notably wills variation claims or claims to entitlement on intestacy. Prior to death, the separated spouse could have brought a claim for property division under the [Family Law Act](#). What happens if a spouse has separated from their partner, but does not commence a family law claim for division of property prior to death? Can the deceased's estate commence a family law claim on their behalf? Read the [full article](#) posted by James Zaitsoff on the BC Estate Litigation Blog.

Avoidable Legal Expenses in Estate Disputes

It's easy for legal expenses in emotional estate disputes to get out of hand. Some are surprised when I tell them that legal expenses can be in the hundreds of thousands of dollars. Although I generally associate expenses in that range with cases that go through a full trial, even without a trial, disputes can result in disproportionate expense. In some cases much of the expense can be avoided by forthright, early communication among the parties. My point is illustrated by a recent assessment of lawyers' bills in *Mulder Estate*, [2022 BCSC 406](#). This dispute was between the daughter of the deceased will-maker and her two brothers. Read the [full article](#) by Stan Rule with Sabey Rule LLP.

Estate Planning for Indigenous People

Additional considerations arise when doing estate planning for indigenous clients. Members of a band or nation hold "ownership" of land by a certificate of possession which gives them the right to use and lease for their own benefit the land for which they hold the certificate of possession. Only a member of a particular nation or band can hold a certificate of possession for lands in that nation or band's reserve. A certificate of possession cannot be sold or transferred to anyone who is not a member of that nation or band. Typically, if a member wants to transfer an interest in their land to a person who is not a member of the nation or band, they will do so by granting a registered lease to that person. Read the [full article](#) by Theresa Arsenault, Q.C. with Pushor Mitchell LLP.

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

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