

# Quickscribe Reporter

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Vol: XXI – Issue: 10 – October 2022

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## QUICKSCRIBE NEWS:

### Recent Legislative Activity

The following government bills were recently introduced:

- [Bill 31](#) – B.C. Pavilion Corporation Act
- [Bill 32](#) – Gaming Control Act
- [Bill 33](#) – Food Delivery Service Fee Act
- [Bill 34](#) – Opioid Damages and Health Care Costs Recovery Amendment Act, 2022
- [Bill 35](#) – Income Tax Amendment Act, 2022
- [Bill 36](#) – Health Professions and Occupations Act
- [Bill 37](#) – Energy Statutes Amendment Act, 2022
- [Bill 38](#) – Indigenous Self-Government in Child and Family Services Amendment Act
- [Bill 39](#) – Judicial Review Procedure Amendment Act, 2022
- [Bill 40](#) – Passenger Transportation Amendment Act (No. 2), 2022
- [Bill 41](#) – Workers Compensation Amendment Act (No. 2), 2022
- [Bill 42](#) – Provincial Sales Tax Amendment Act, 2022

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

### Latest Annotations

New annotations were recently added to Quickscribe:

- [Teresa Tomchak](#), Farris, Vaughn, Wills & Murphy LLP – [Securities Act](#), [National Instrument 62-104 Take-Over Bids and Issuer Bids](#)

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

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

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## CATEGORIES

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## COMPANY &amp; FINANCE

## Company and Finance News:

**Temporary Increase to BC Family Benefit Payments**

[Bill 35](#), which reached third reading on October 20, amends the [Income Tax Act](#) to provide a temporary increase to the BC family benefit payments for the first three months of 2023. Families with one child are eligible to receive up to an additional \$175 and those with two children can receive up to an extra \$350. The formula for determining amounts payable to families with three or more children is also amended to provide an increase in benefit payments for that period. The bill also renames the credit from the "child opportunity benefit" to the "BC family benefit" to better reflect the recipients of this tax credit.

**New B.C. Pavilion Corporation Act**

On October 20, Bill 31, the [B.C. Pavilion Corporation Act](#), passed third reading and will replace and repeal the [British Columbia Enterprise Corporation Act](#). As a result, the British Columbia Enterprise Corporation will be dissolved and all its shares cancelled, as it has not carried on business in over 30 years. The Bill transfers to the government all the assets and obligations of the British Columbia Enterprise Corporation and authorizes it to deal with those assets. Specific provisions related to the B.C. Pavilion Corp. will be continued under the [B.C. Pavilion Corporation Act](#) to ensure the corporation continues to meet its mandate of overseeing the management of BC Place and the Vancouver Convention Centre.

**It Doesn't Have to Be Issued by the Vendor: Tax Court Confirms Satisfactory Input Tax Credit Documentation**

As with other value-added taxes, the GST/HST is an invoice-driven tax. [Subsection 168\(1\)](#) [of the *Excise Tax Act* (Canada)], for example, states that tax is generally payable on the earlier of when the consideration for the supply is paid and when it becomes due, the latter of which generally falls on the invoice date. However, in a well-reasoned decision the Tax Court of Canada (the "Court") in *CFI Funding Trust v. The Queen* ("*CFI Funding Trust*") held that an invoice issued by the supplier is not necessary to claim an input tax credit ("ITC") and to satisfy the requirements of [subsection 169\(4\)](#) of the *Excise Tax Act* (Canada) (the "ETA") and the [Input Tax Credit Information \(GST/HST\) Regulations](#) (collectively, the "ITC Support Rules"). Rather, in reaching its decision in *CFI Funding Trust*, the Court was satisfied by the fact that the registrant was able to provide all of the prescribed information required by the ITC Support Rules. Read the [full article](#) by Randy Schwartz, Jesse Waslowski and Sara Baxter of McCarthy Tétrault LLP.

**BCSC Reaches First-Ever Settlement Agreements for Violation of Section 52(2) of the Securities Act**

In September 2021, the British Columbia Securities Commission (the BCSC) issued a Notice of Hearing against an investor relations (IR) firm called Stock Social Inc. (Stock Social), its sole director, and five of its clients and their officers and directors for allegedly breaching [section 52\(2\) of the Securities Act](#) by failing to clearly and conspicuously disclose that the promotional materials prepared by Stock Social were disseminated on behalf of clients (the Stock Social NOH). The Stock Social NOH was the first time the BCSC issued allegations of a breach of section 52(2) of the Act, which states that "a person engaged in investor relations activities, and an issuer or security holder on whose behalf investor relations activities are undertaken, must ensure that every record disseminated, as part of the investor relations activities, by the person engaged in those activities clearly and conspicuously discloses that the record is issued by or on behalf of the issuer or security holder." Read the [full article](#) by Samuel Bogetti, Jeremy Gellis, Brigeeta Richdale and Rebecca Sim with Cozen O'Connor LLP.

**Canadian Securities Regulators Advance Derivatives "Business Conduct" Rules**

The Canadian Securities Administrators (CSA) are one step closer towards modernizing Canada's regulatory oversight of over-the-counter (OTC) derivatives. On September 28, 2022, the CSA hosted a [roundtable](#) with industry participants and securities regulators from Canada, the United Kingdom, and the United States. At the roundtable, the CSA gave new insights about the implementation of its third draft of the proposed [National Instrument 93-101 Derivatives: Business Conduct Rule](#) (the Proposed Instrument) and its proposed Companion Policy 93-101 *Derivatives: Business Conduct* (the Proposed Companion Policy). Read the [full article](#) by Eric Belli-Bivar, Adrienne Wong and Bamdad Attaran (Articling Student) with DLA Piper.

**CSA Welcomes New Capital Raising Prospectus Exemption for Listed Issuers**

Seasoned reporting issuers with equity securities listed on a Canadian stock exchange will have the ability to raise capital (up to the greater of \$5 million and 10% of their market capitalization (to a maximum of \$10 million)) without filing a prospectus under a new prospectus exemption that will come into force on November 21, 2022 (the Listed Issuer Exemption). The equity securities issued pursuant to the Listed Issuer Exemption will be freely tradeable. The Canadian Securities Administrators (CSA) have [approved amendments to the existing prospectus exemption regime](#) under [National Instrument 45-106 – Prospectus Exemptions](#) for certain non-investment fund reporting issuers. Previewed in a [blog post](#) last summer, these amendments aim to reduce the regulatory burden for issuers with securities listed on a recognized Canadian stock exchange (including the TSX, TSXV, CSE and NEO). Read the [full article](#) by [Ivan T. Grbesic](#) and [Brian Lynch](#) of Stikeman Elliott.

### BC Securities – Policies & Instruments

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

- [31-362](#) – OBSI Joint Regulators Committee Annual Report for 2021
- [51-364](#) – Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2022 and March 31, 2021

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Oct. 1/22	by <a href="#">Reg 142/2022</a>
	Nov. 1/22	by <a href="#">Reg 142/2022</a> and <a href="#">Reg 212/2022</a>
Insurance Premium Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 28 and 29 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Provincial Sales Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 41 to 43 and 45 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	<b>RETRO to</b> Feb. 23/22	by <a href="#">Reg 207/2022</a>
	<b>RETRO to</b> Apr. 1/22	by <a href="#">Reg 206/2022</a>
	<b>RETRO to</b> July 1/22	by <a href="#">Reg 210/2022</a>
	Oct. 1/22	by <a href="#">Reg 169/2022</a>
Provincial Sales Tax Regulation (96/2013)	<b>RETRO to</b> Feb. 23/22	by <a href="#">Reg 207/2022</a>
	Oct. 1/22	by <a href="#">Reg 169/2022</a>

Tobacco Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 110 to 112 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Tobacco Tax Act Regulation (66/2002)	<b>RETRO</b> to July 1/22	by <a href="#">Reg 210/2022</a>

## ENERGY & MINES

### Energy and Mines News:

#### Energy Statutes Amendment Act, 2022 Introduced

[Bill 37](#), the *Energy Statutes Amendment Act, 2022*, was introduced on October 27, and includes amendments to the [Oil and Gas Activities Act](#) and the [Petroleum and Natural Gas Act](#). These amendments are intended to provide a more cohesive framework for the regulation of hydrogen projects by restructuring and renaming the BC Oil and Gas Commission as the British Columbia Energy Regulator, and expanding its regulatory responsibilities to include hydrogen.

The Bill also proposes amendments intended to clarify the use of underground storage spaces for carbon capture and storage. Other amendments expand liability beyond permit holders for orphaned oil and gas activity sites to include others who benefited from site operations, in order to help pay for restoration of the site. For more information, see the government [news release](#).

#### Canada: Tough New Policy on Foreign SOE Investment in Critical Minerals Sectors

On Oct. 29, 2022, the Canadian Federal Government (GoC) announced that, effective immediately, it will be exercising its authority under the [Investment Canada Act](#) (ICA) to increase scrutiny of investments into the Canadian critical minerals sector by foreign state-owned or state-influenced (SOE) investors, in accordance with a new [Policy Regarding Foreign Investments from State-Owned Enterprises in Critical Minerals under the Investment Canada Act](#) (the Policy). Read the [full article](#) by [Subrata Bhattacharjee](#) and [Denes A. Rothschild](#) with Borden Ladner Gervais LLP.

#### Mining Industry Digs into Alternative Methods as Climate Risks Rise

*Changes to industry is a question of cost versus risks*

In the North, some mines risk leaking acid if the permafrost melts, while across Canada heavier rainfall will add strain to tailings dams and a lack of it could throw operations.

While no strangers to extreme weather, the growing risks from climate change are forcing the mining industry to take a hard look at their methods and how to prepare for the worst. Many of the most prudent actions to minimize risk are, however, also more costly, meaning that while some have taken them on, not everyone has followed suit. Read the full [CBC article](#).

#### Coastal GasLink in Hot Water Over Pipeline Environmental Violations

*The order was issued after an Oct. 5 inspection found the project wasn't abiding by a compliance agreement supposed to avoid environmental violations.*

TC Energy's Coastal GasLink pipeline project is in hot water with British Columbia's environmental regulator for failing to meet the conditions of a compliance agreement that was supposed to correct a lengthening history of violations of the project's environmental permit. Read the [Vancouver Sun article](#).

#### Spotlight: Mining Law in Canada

Canada is a constitutional monarchy with a Westminster-style parliamentary democracy. It is also a federal state in which legislative authority is constitutionally divided between the federal government of Canada and the provincial governments of Canada's 10 provinces. The federal government and the provinces are sovereign within their respective spheres of competence. Canada also has three sparsely populated northern territories, but they do not enjoy independent constitutional status and derive their powers from Canada's federal government. Legislative powers, including those regarding certain mining matters, may be transferred by the federal

government to its territories through a process known as 'devolution'. The devolution process relating to mining matters is complete in connection with Yukon and the Northwest Territories, and continues in connection with Nunavut. The provinces delegate certain powers to cities and other municipalities, effectively creating a third level of government. Read the [full article](#) by Erik Richer La Flèche with Stikeman Elliott LLP – Published by Lexology.

**Case Summary: Impossibility of Compliance  
Defence – Mount Polley's Attempt at  
Avoiding Contravention of Its Permit**

The petitioner was found in contravention of its permit and an administrative penalty was imposed under the [Environmental Management Act](#). The petitioner sought to invoke the common law defence of impossibility. The court concluded that this defence was not available under the EMA's administrative monetary penalty regime. The court also found that the petitioner had full opportunity to make submissions and adduce new evidence on the appeal including on the issue of the assessment of the penalty. The process was fair.

*Mount Polley Mining Corp. v. British Columbia (Environmental Appeal Board)*, [2022] B.C.J. No. 1597, [2022 BCSC 1483](#), British Columbia Supreme Court, August 25, 2022, S. Wilkinson J.

Since 1997, the petitioner, Mount Polley Mining Corp. ("MPM"), operated an open pit copper/gold mine near Likely, BC (the "Mine"). As part of its operations, MPM held a permit issued under the *Environmental Management Act*, S.B.C. 2003, c. 53 (the "EMA") to discharge treated effluent from its mining operations (the "Permit").

In 2014, the Mine was the site of a renowned tailings dam failure. MPM's operations were suspended until 2015. MPM's Permit was also amended to include a short-term water management plan, and a 2-year authorization to discharge effluent into Quesnel Lake. Read the [full article](#) by [Adam R. Way](#) with Harper Grey LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Mineral Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 35 and 36 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Net Profit Royalty Regulation (98/2008)	Oct. 28/22	by <a href="#">Reg 211/2022</a>
Petroleum and Natural Gas Royalty and Freehold Production Tax Regulation (495/92)	Oct. 28/22	by <a href="#">Reg 211/2022</a>

**FAMILY & CHILDREN**

**Family and Children News:**

**Amendments to BC Child-Welfare Laws Introduced**

On October 26, the provincial government introduced [Bill 38](#), the *Indigenous Self-Government in Child and Family Services Amendment Act*. The Bill proposes amendments to the [Adoption Act](#) and the [Child, Family and Community Service Act](#) (CFCSA). According to the government, the Bill will align the *Adoption Act* with the United Nations declaration on the rights of Indigenous peoples, and amend the CFCSA to enable Indigenous governing bodies to assume jurisdiction over Indigenous child and family services in British Columbia. The legislation also creates the position of Indigenous child-welfare director in the Ministry of Children and Family Development. For more information, see the government [news release](#).

**Retirement a Material Change in Circumstance to Vary Spousal Support Order: BC Court of Appeal**

The British Columbia Court of Appeal has upheld the termination of an ex-husband's obligation to pay spousal support due to his retirement.

In *Hague v. Hague*, [2022 BCCA 325](#), Kathleen and Garry Hague were together for 35 years. They separated in 2011 and divorced in 2013 with four adult children. Garry had been the primary income earner while Kathleen took primary responsibility for childcare and the household. Read the [full article](#) by [Jason Tan](#) in the *Canadian Lawyer*.

**Divorce and Discretionary Trusts: What Can Be Divided Between Spouses? – *Cottrell v Cottrell*, 2022 BCSC 1607**

The Supreme Court of British Columbia has released an important decision relating to the treatment of a spouse's interest in a discretionary trust within the context of family law proceedings. In *Cottrell v Cottrell*, [2022 BCSC 1607](#) (12 September 2022, Brongers J.), the Court interpreted provisions in Part 5 of the *Family Law Act*, S.B.C. 2011, c. 25, (FLA) to mean that, when considering the proper division of family property, the court must focus on whether there has been any increase in the value of a spouse's "beneficial interest" in such a trust, and not an increase in the value of the underlying property of the discretionary trust. The Court in *Cottrell* held it had not been proven that there had been any increase in the value of the spouse's beneficial interest and, in consequence, there was no basis for ordering any division of the property. Read the [full article](#) by [Scott Kerwin](#) and [Les Honywill](#) with Borden Ladner Gervais LLP.

**Parentage Committee Completes Its Review of Surrogacy Arrangements**

At its latest committee meeting – held earlier this month – BCLI's Parentage Law Reform Project Committee tackled a pair of emerging issues concerning the law of parentage and surrogacy arrangements. These issues may point to some gaps in part 3 of the *Family Law Act* that may need to be filled with new legislation.

First, the committee examined so-called traditional surrogacies. These are surrogacy arrangements in which the surrogate is linked both genetically and gestationally to the child. In contrast, in a gestational surrogacy the link between surrogate and child is only gestational. In this case, an intended parent has donated ova to conceive the child. Traditional surrogacies appear to be quite rare in British Columbia. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

**Misconduct and Lack of Contribution Are Not Grounds for Reapportionment of Property**

In *He v. Guo* [2022 BCCA 355](#) the court considered whether a false immigration complaint levelled by Mr. He against his wife of 3 ½ years was a proper consideration for a 100% reapportionment of property owned by Ms. Guo in her favour.

The facts revealed that after an online connection, the parties began living together in November 2014 and separated in early 2018. Ms. Guo was in Canada on a visitor's visa with her 10-year-old son who had a student visa. She purchased a home in August 2014 where the parties resided. Read the [full article](#) by Georgiale Lang, published on *Lawdiva's Blog*.

Act or Regulation Affected	Effective Date	Amendment Information
Small Claims Rules (261/93)	Oct. 3/22	by <a href="#">Reg 161/2022</a>
Supreme Court Civil Rules (168/2009)	Oct. 3/22	by <a href="#">Reg 148/2022</a> and <a href="#">Reg 149/2022</a>
	Oct. 8/22	by <a href="#">Reg 232/2020</a> as amended by <a href="#">Reg 53/2021</a>
Supreme Court Family Rules (169/2009)	Oct. 3/22	by <a href="#">Reg 149/2022</a>

**FOREST & ENVIRONMENT**

**Forest and Environment News:**

**Contaminated Sites BC: Increased Requirements**

### **Proposed in Ministry Discussion Paper**

Earlier this month, the British Columbia Ministry of Environment and Climate Change Strategy posted a discussion paper titled "[Making Contaminated Sites Climate Ready](#)." The discussion paper, which is available for public comment until Nov. 30, 2022, summarizes the ministry's policy proposals to incorporate climate change adaptation and sustainability into the [BC contaminated sites framework](#). These proposals are part of a larger trend of recent [amendments](#) to the [Environmental Management Act](#) and the [Contaminated Sites Regulation](#), and forthcoming changes to the process for soil relocation. Read the [full article](#) by [Rick Williams](#), [Roark Lewis](#) and [Maryama Elmi](#) with Borden Ladner Gervais LLP.

### **Proposed Regulatory Changes to Canada's Living (Organism) Marketplace**

Biotechnology is increasingly driving scientific and technological advancements across a wide range of industries, including health, agriculture, energy and environmental remediation. In connection with such advancements, companies are developing, importing, manufacturing and using a growing array of organisms. Organisms new to the Canadian marketplace are typically assessed under the [Canadian Environmental Protection Act, 1999](#) and the [New Substance Regulations \(Organisms\)](#) (the "Regulations") in order to determine whether they pose risks to human health and/or the environment. The Regulations, and assessments conducted thereunder, are therefore vitally important to the way in which companies across Canada can develop and deploy biotechnology. Read the [full article](#) by [Mark Youden](#), [Jessica Boily](#), [Quinn Rochon](#) and [Emma Hobbs](#) with Gowling WLG.

### **Amending and Establishing Land Use Proposed**

Notice of Proposed Ministerial Order establishing Land Use Objectives for the South Island Natural Resource District in the West Coast Region.

Notice is hereby given that Land Use Objectives are proposed for the purposes of the [Forest and Range Practices Act](#) by [Ministerial Order](#), pursuant to Section 93.4 of the [Land Act](#) through the [Land Use Objectives Regulation](#). The Ministerial Order will establish Land Use Objectives for Old Growth Management Areas (OGMAs) to manage for old growth forests and landscape-level biodiversity in the Nahmint Landscape Unit.

The proposed Ministerial Order, Schedule A map, and Landscape Unit Plan are available on the govTogetherBC website at: <https://engage.gov.bc.ca/govtogetherbc/consultation/nahmint-landscape-unit>.

Comments received on or before December 21, 2022, will be summarized and considered in the final preparation of the order. Please submit comments by e-mail to: [PublicReviewComments.Nahmint.Proposed.Order@gov.bc.ca](mailto:PublicReviewComments.Nahmint.Proposed.Order@gov.bc.ca) or written comments to: Heidi Reinikka, South Island Natural Resource District office at 4885 Cherry Creek Road, Port Alberni, BC V9Y 8E9. For more information, please contact Heidi Reinikka, at Ph: 250-736-6878, Fax: 250-731-3010 or by e-mail: [heidi.reinikka@gov.bc.ca](mailto:heidi.reinikka@gov.bc.ca).

### **Province Establishing Permanent Rodenticide Restrictions**

The Province is moving forward with permanent regulatory changes that will ban the widespread sale and use of second-generation rodenticides.

Second-generation anticoagulant rodenticides (SGARs) can pose a risk of poisoning to animals that eat poisoned rodents. To reduce this risk, the ministry established an 18-month ban on the sale and use of SGARs in July 2021.

During this 18-month ban, the ministry spoke with technical experts, reviewed the science, outlined proposed regulatory amendments in an intentions paper and held a public consultation. After reviewing almost 1,600 consultation responses, the ministry is proceeding with the changes as described in the intentions paper. To align with the end of the temporary ban, the revised [Integrated Pest Management Regulation](#) will come into effect on Jan. 21, 2023. Read the government [news release](#).

### **New B.C. Council to Help Build More Resilient Forestry Communities**

The Province of British Columbia has convened a new advisory council in support of forestry workers and communities.

"As someone who has worked in forestry and lives in a forestry community, I know personally how vital the sector is for our province," said Katrine Conroy, Minister of Forests. "It is a foundation of the B.C. economy, providing good, well-paying jobs for over 55,000 people. As the major employer in many communities, it is the lifeblood of rural economies. Our vision is to build stronger, more resilient forestry communities and create new economic opportunities through innovative, value-added manufacturing. The council will help ensure we get this

right." Read the [full article](#) from Canadian Forest Industries.

### Canada's Logging Emissions on Par with Alberta Oil Sands, Says Report

A scathing new report analyzing Canada's overall emissions from logging has found the industry released 75 megatonnes of greenhouse gases in 2020 – on par with the annual output from the Alberta oil sands.

That means that while logging accounted for over 10 per cent of the country's total emissions that year, none of it was counted, according to the report jointly produced by Nature Canada and the Natural Resources Defence Council.

By comparison, the operation of Canada's oil patch produced 81 megatonnes of greenhouse gases in 2020. Read the [BIV article](#).

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decision was made recently:

#### [Water Sustainability Act](#)

- [Archibald J. McCallum & Rose M. Sinclair v. Assistant Water Manager](#) [Final Decision – Appeals Dismissed]

#### [Wildlife Act](#)

- [James \(Jim\) Monroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Program](#) [Preliminary Decision Re: Application to Participate – Granted, Subject To Limitations]

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

### Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

#### [Forest and Range Practices Act](#)

- [Nextech Forestry Services Ltd. v. Government of British Columbia](#) [Final Decision – Allowed in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Agrologists Regulation (10/2021)	Oct. 1/22	by <a href="#">Reg 191/2022</a>
Applied Biologists Regulation (13/2021)	Oct. 1/22	by <a href="#">Reg 191/2022</a>
Carbon Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 12 and 13 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Carbon Tax Regulation (125/2008)	Nov. 1/22	by <a href="#">Reg 211/2022</a>
Code of Practice for Agricultural Environment Management (8/2019)	Oct. 1/22	by <a href="#">Reg 8/2019</a>
Hunting Licensing Regulation (8/89)	Oct. 11/22	by <a href="#">Reg 203/2022</a>
Logging Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 33 and 34 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>



Permit Regulation (253/2000)	Oct. 11/22	by <a href="#">Reg 203/2022</a>
Professional Governance General Regulation (107/2019)	Oct. 1/22	by <a href="#">Reg 191/2022</a>

## HEALTH

### Health News:

#### Changes to Opioid Legislation Introduced

On October 17, the provincial government introduced [Bill 34, Opioid Damages and Health Care Costs Recovery Amendment Act, 2022](#). The Bill proposes to amend the [Opioid Damages and Health Care Costs Recovery Act](#) to allow the federal government to join a BC-led class-action lawsuit launched in 2018 against more than 40 different opioid manufacturers and distributors, alleging the use of deceptive marketing practices to increase sales, which led to higher rates of opioid addiction and overdose. The amendments will also increase the number of defendants to ensure that directors and officers of these corporate entities are included in the lawsuit that aims to recoup the enormous health care costs related to the treatment of opioid patients. Other changes serve to clarify the formulae for calculating the market share in order to differentiate between the market share applicable to manufacturers and to wholesalers.

#### New Health Professions and Occupations Act Introduced - Early Consolidation

Today [October 19], the BC government introduced Bill 36, [Health Professions and Occupations Act](#), which replaces the existing [Health Professions Act](#). According to the government, the new legislation will modernize the regulatory framework for health professionals and occupations in BC and improve patient safety. Among other changes, the new legislation will create a new oversight body that will be responsible for preparing performance standards for regulators and guidelines with respect to regulatory best practices. The new Office of the Superintendent of Health Profession and Occupational Oversight will house a new independent discipline tribunal which will enable investigatory and disciplinary processes conducted with respect to licensees to be separated, ensuring the determination of discipline matters is independent of regulatory colleges and licensees and focused on protecting the public. The Bill also creates a new complaints process and provides more flexible models of regulation for the practice of health occupations that present a lower risk of harm to the public. Quickscribe has published [an early consolidated version](#) of this Act for your convenience.

#### BC Launching New Payment Model for Family Doctors in 2023

The government of British Columbia plans to launch a new payment model in February to try to recruit and retain more family doctors in the province, where one in five residents does not have one. Provincial health officials announced the changes during a Monday [October 31] news event, saying physicians will be able to stop participating in the current fee-for-service system in early 2023. Under that system, doctors are paid about \$30 per patient visit, whether they're treating a common cold or a complex chronic health problem. Read the CBC News [article](#) by [Bridgette Watson](#).

#### Feds Move toward Creating Stand-alone Dental Insurance Program that Would Have No Provincial Involvement

The Liberal government is moving toward providing dental-care insurance directly to qualifying Canadians, rather than working with provinces and territories to bolster existing coverage. That will involve hiring an external company to process claims for the new stand-alone insurance program, Health Canada officials told The Canadian Press. On Friday [October 27], the Procurement Department invited companies with experience in those claims to apply for pre-qualification. Health Canada officials, who gave a briefing on the condition they not be named publicly, said that would help the government refine the program before hiring a company to do the work. Read the *National Post* [article](#).

#### Health Canada Issues Long-awaited Regulations for Front-of-Package Nutrition Labelling

Earlier this year, after years of consultation and consumer research, Health Canada published [Regulations](#) amending the *Food and Drug Regulations* to introduce new front-of-package nutrition labelling (FOPNL) for packaged foods high in sodium, sugar or saturated fat. Health Canada has indicated that the intended purpose of FOPNL is to help Canadian consumers make health-conscious decisions when purchasing prepackaged foods, on

the basis that sodium, sugar and saturated fat have each been scientifically linked to various chronic diseases. Read the [full article](#) by Marissa Caldwell, Carmen Francis and Rudra Krishnan with McCarthy Tétrault LLP.

### Patented Medicines Prices Review Board (PMPRB)

#### Releases New Draft Guidelines

On October 6, 2022, the [PMPRB released new draft guidelines](#) to give effect to the July 2022 amendments to the *Patented Medicines Regulations* (the "Regulations") set forth by Health Canada. Stakeholders will have a 60-day period (up until December 5, 2022) to submit written feedback. All submissions will be made available to the public. The PMPRB describes the new draft guidelines as being simpler, more stable and more predictable for rights holders, namely by: Read the [full article](#) by Anita Nador, John Norman, Erin Creber and Natalia Thawe with Gowling WLG.

Act or Regulation Affected	Effective Date	Amendment Information
E-Health Regulation (129/2011)	Oct. 11/22	by <a href="#">Reg 201/2022</a>
Hospital Act Regulation (121/97)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Information Regulation (208/2010)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Laboratory Services Regulation (52/2015)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Residential Care Regulation (96/2009)	Oct. 24/22	by <a href="#">Reg 208/2022</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### Upcoming Changes to Medical Leave Obligations Under the *Canada Labour Code*

On November 26, 2021, Parliament tabled [An Act to amend the Criminal Code and the Labour Code](#) ("Bill C-3"), which proposed significant changes to the federal [Canada Labour Code](#) (the "Code"). On December 17, 2021, Bill C-3 received royal assent. Bill C-3 was later amended by *An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures* ("Bill C-19"), which received royal assent on June 23, 2022.

As a result of the recent amendments to the Code made through Bill C-3 and amended by Bill C-19, federally regulated employers to which Part III of the Code applies will be required to provide certain employees with paid medical leave. The legislated amendments also made changes to the personal leave provisions. These changes are described further below. Read the [full article](#) by [Giovanna Di Sauro](#) and Alexandra Steinberg (Articling Student) with DLA Piper.

#### Minimum-Age Restrictions Brought in For Young Workers in B.C.

The Ministry of Labour on Tuesday [October 11] outlined new age requirements for young workers, saying they must be at least 16 before working in construction or doing jobs from dangerous heights, and at least 18 before they can work in a sawmill, use a chainsaw or drill for gas and oil.

The [amended employment standard regulations](#) take effect Jan. 1. Read the *Times Colonist* [article](#).

#### Forced Labour and Modern Slavery Update – Canadian Firms Now Facing Greater

### Scrutiny of Their Supply Chains

This year has seen unprecedented action on forced labour and modern slavery. Canada's major trading partners and allies, most notably the United States, have been moving quickly to address the impact of human rights violations in the supply chains of companies subject to their jurisdiction. Canadian firms, if they haven't already, should be ensuring that their supply chains are fully compliant with existing forced labour and modern slavery laws as well as those soon to be implemented in Canada.

Canada has been considering various legislative reforms for its approach to dealing with forced labour. There are currently four bills before Parliament that address this issue and, in March of this year, Employment and Social Development Canada ("ESDC") released a report entitled "[Labour exploitation in global supply chains: What we heard](#)" (the "ESDC Report on Forced Labour") that shared the outcome of consultations held in 2019 with industry and civil society on this issue. As discussed below, the ESDC Report on Forced Labour provided some useful insights into how the government may legislatively tackle forced labour in supply chains. Read the [full article](#) by [John Boscariol](#), [Gajan Sathanathan](#) and [Edwina T. Mayama](#) with McCarthy Tetrault LLP.

### Historic Anti-Strike-Breaker Legislation in the Works for Federally Regulated Workplaces

*Prohibited use of replacement workers*

On Oct. 19, 2022, Employment and Social Development Canada (ESDC) made an important announcement for federally regulated workplaces:

A commitment to introduce legislation to prohibit the use of replacement workers during a strike or lockout by the end of 2023.

ESDC stated that this change was "to ensure that all workers in federally regulated sectors continue to benefit from a meaningful right to strike." Read the [full article](#) by [Clifford J. Hart](#), [Danny J. Kaufer](#) and [Vanessa Lapointe](#) with Borden Ladner Gervais LLP.

### Record Immigration No Cure-All for B.C.'s Labour Woes

There's a very basic math problem facing B.C.'s labour force, according to Ken Peacock:

"Even if everybody in the ranks of the unemployed was totally employable and could start a job tomorrow, there wouldn't be enough people physically in the province to fill all the job vacancies," said the chief economist at the Business Council of B.C. (BCBC).

His industry association estimates there are between 150,000 and 160,000 job openings in B.C.

Unemployed workers who compose the core working age group – men and women 25-54 years old – amount to 80,000 on the West Coast. And those on the periphery of the core working age don't come anywhere close to bridging that gap between those 80,000 workers and the 160,000 job openings, Peacock said. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Employer Health Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 14 and 15 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Employment and Assistance Regulation (263/2002)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Employment Standards Regulation (396/95)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Social Services Employers Regulation	Oct. 3/22	by <a href="#">Reg 197/2022</a>

(84/2003)		
Workers Compensation Act Appeal Regulation (321/2002)	Oct. 24/22	by <a href="#">Reg 208/2022</a>

**LOCAL GOVERNMENT**

**Local Government News:**

**Bill 42 Proposes New Major Events MRDT (Local Governments)**

The *Provincial Sales Tax Amendment Act, 2022*, [Bill 42](#), tabled on October 31, proposes to amend the [Provincial Sales Tax Act](#) by introducing a new major events municipal and regional district tax (MRDT) of up to 2.5% on short-term accommodation sales. The tax, separate from the current MRDT, is time-limited and designed to help communities cover the cost of hosting major international tourism events that support provincial tourism and the economy. Specific municipalities, regional districts or eligible tourism-focused not-for-profit associations can apply for the major events MRDT through Destination BC. Prior to approval, an agreement must be in place with the minister responsible for tourism to help ensure the tax is dedicated and applied as intended. In addition, the minister of finance must designate the event as a major international tourism event of provincial significance. Bill 42 also includes transitional provisions that relate to both the current MRDT and the new additional major events MRDT to provide clarity on which applicable tax rate is payable, depending on when accommodation is purchased. Further proposed changes authorize regulations to be issued allowing specific communities to have the major events MRDT temporarily applied in their jurisdictions.

**Upcoming Changes to BC's Soil Relocation Regime**

The Ministry of Environment and Climate Change Strategy in British Columbia (the Ministry) is set to bring in new requirements for soil relocation through [amendments](#) to the [Environmental Management Act](#) (EMA) and the [Contaminated Sites Regulation](#) (CSR). This article will briefly examine the evolving regulatory environment by setting out the Ministry's new proposed process for regulating the relocation of both contaminated and uncontaminated soils. Read the [full article](#) by Eugenia Adamovitch with Civic Legal LLP.

**Case Comment: Regulation of Land May Result in Liability for Constructive Taking**

*Annapolis Group Inc. v. Halifax Regional Municipality*, 2022 SCC 36

The Supreme Court of Canada has issued a decision coming out of the province of Nova Scotia which broadens the basis upon which a local government may be held liable for "constructive taking" of private lands.

**1.0 Facts**

Since the 1950s, Annapolis Group Inc. ("Annapolis") acquired a large amount of land with the intention of eventually securing enhanced development rights and reselling it. In 2006, Halifax Regional Municipality ("Halifax") adopted a planning strategy to guide land development over a 25-year period which affected Annapolis' lands. The strategy reserved a portion of the land for possible future inclusion in a regional park and zoned the lands as "Urban Settlement" and "Urban Reserve". These designations contemplate future service development but required Halifax to adopt a resolution to authorize it. Beginning in 2007, Annapolis made several attempts to develop the lands. In 2016, Halifax passed a resolution refusing to allow development of the lands. Annapolis commenced a lawsuit alleging that Halifax's regulatory measures had deprived it of all reasonable or economic uses of the lands, resulting in a constructive taking without compensation.

Read the [full article](#) by Jeff Lock with Stewart McDannold Stuart Barristers & Solicitors.

**The BC Court of Appeal Considers Whether a Statutory Body Owes Individuals a Private Law Duty of Care**

In *Kamoto Holdings Ltd v Central Kootenay (Regional District)*, [2022 BCCA 282](#), the British Columbia Court of Appeal recently held that a BC couple, Gordon and Jill Cann (collectively, the "Canns") were not able to bring a claim against the Regional District of Central Kootenay (the "District") as a result of the District's alleged misinterpretation of the BC Building Code (the "Code") requirements, which the Canns claimed caused them economic loss. The Court of Appeal held that there was not a sufficient relationship of proximity between the District and the Canns to warrant a finding that the District owed the Canns a duty of care. Read the [full article](#) by [Caitlin VanDuzer](#) with Miller Thomson LLP.

**Federal Cannabis Act Review**

The federal government has initiated a [review](#) of the [Cannabis Act](#). Local governments interested in participating are asked to submit feedback by November 21, 2022. The review will be led by a federal panel seeking to examine the following themes:

- Impacts of legalization on youth;
- Ensuring legal access to cannabis products for adults;
- Preventing illegal activity and displacing the illicit market;
- Impacts of legalization on the access to cannabis for medical purposes;
- Impacts of legalization on Indigenous people and communities;
- Impacts from the home cultivation of non-medical cannabis.

Read the UBCM [article](#).

**Vancouver City Council Adopts Strategy for the Implementation of UNDRIP**

On October 25, 2022, [Vancouver became the first city in Canada to formally adopt a strategy](#) (Strategy) for the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) at the municipal level. Read the [full article](#) by [Saul Joseph](#) and [Harkeerit Shoker](#) with Clark Wilson LLP.

**Repeat Offending Report Requires New Funding Commitments for Implementation**

An independent investigation into repeat offending and random stranger violence has concluded that the Province should make significant new investments for those with mental health and other complex issues. The [final report](#)'s 28 recommendations also include calls to improve information sharing and coordination among the health, justice and social service sectors, and for increased public confidence in the justice system. Read the full UBCM [article](#).

**These BC Mayors Want "Sunshine Laws" to Tackle Corruption and Transparency**

Two recently elected BC mayors who have been vocal about anti-corruption and transparency measures at the municipal level say it's time for the provincial government to provide better tools for city halls to improve oversight and public confidence. Surrey's mayor-elect Brenda Locke is proposing several new and renewed measures – best categorized as so-called sunshine laws – in order to improve transparency and mitigate real or perceived abuse of power at Surrey City Hall. But while Locke endeavours so, she is also calling on the provincial government for reforms to assist municipalities to be more transparent. Read the *BIV* [article](#).

**A Zoning Amendment for Environmental Protection May Result in Disguised Expropriation [Quebec]**

The adoption of a municipal zoning by-law that changes a property's zoning to "conservation" may result in disguised expropriation and force the municipality to compensate the landowner, according to a Quebec Court of Appeal ruling recently upheld by the Supreme Court of Canada's dismissal of the application for leave to appeal. The case pitted the City of Mascouche, on the North Shore of Montreal, against the owner of a wooded lot estimated at more than \$4 million in value. The owner had acquired it in 1976 for the sum of one dollar (\$1), as an investment. In 2006, the City adopted a zoning by-law which zoned the land "conservation", prohibiting all construction and limiting the permitted uses to silviculture, maple syrup production and certain recreational uses. Read the [full article](#) by Martin Thiboutot with McMillan LLP.

**Analysis: MLA David Eby Housing Plan**

MLA David Eby has released a [housing plan](#) that if implemented could lead to significant policy and legislative changes. Although the plan is not official government policy and details on each proposal are limited, UBCM has conducted a preliminary review for member reference, given the potential near-term implications for local governments. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Minister's Athletic Commissioner Regulation (171/2013)	Oct. 31/22	by <a href="#">Reg 214/2022</a>
Cannabis Licensing Regulation (202/2018)	Oct. 4/22	by <a href="#">Reg 199/2022</a>

Electrical Safety Regulation (100/2004)	Oct. 1/22	by <a href="#">Reg 179/2022</a>
Gas Safety Regulation (103/2004)	Oct. 1/22	by <a href="#">Reg 145/2022</a>
Home Owner Grant Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 16 and 17 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Liquor Control and Licensing Regulation (241/2016)	Oct. 24/22	by <a href="#">Reg 208/2022</a>
Prescribed Classes of Property Regulation (438/81)	Oct. 24/22	by <a href="#">Reg 205/2022</a>

## MISCELLANEOUS

### Miscellaneous News:

#### Changes to Federal Bail Law Needed to Curb Increase in Attack on People by Strangers, Says BC Minister

BC's attorney general said a federal bail law meant to modernize the system has had "unintended consequences," which is why he's pressing Ottawa for reforms that would allow violent repeat offenders to be kept behind bars longer. Critics, however, say the province is passing the buck to Ottawa instead of acting quickly to protect the public from random attacks. Read the *Vancouver Sun* [article](#).

#### Too Little, Too Late: BC Court of Appeal Overturns Certification Decision for Deficient Pleadings

In a decision that highlights the central role pleadings play at certification, the BC Court of Appeal has overturned a certification decision due to the plaintiffs' failure to plead material facts in support of a claim against each defendant. In *Workers' Compensation Board v. Sort*, [2022 BCCA 318](#), the plaintiffs alleged that various governmental and quasi-governmental bodies failed to seek victims' compensation for children in government care for harms that they suffered as minors. Read the [full article](#) by Kevan Hanowski and Victoria Tortora with McCarthy Tétrault LLP.

#### New Guidance on Legislation Supports Indigenous Rights

New guidance for the BC government from the Declaration Act Secretariat provides best practices for working with Indigenous Peoples on the development of provincial laws and policies, which advance Indigenous rights. The Interim Approach to Implement the Requirements of Section 3 of the [Declaration on the Rights of Indigenous Peoples Act](#) (Interim Approach) is a world-leading project released by the Province's new Indigenous-led Declaration Act Secretariat. Read the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Designation Regulation No. 2 (125/99)	Oct. 24/22	by <a href="#">Reg 208/2022</a>

## MOTOR VEHICLE & TRAFFIC

### Motor Vehicle and Traffic News:

#### Changes to Passenger Transportation Accessibility and Safety Introduced

[Bill 40](#), the *Passenger Transportation Amendment Act (No. 2)*, 2022, was introduced on October 27 and amends the [Passenger Transportation Act](#). If passed, the Bill will enable the registrar of passenger transportation to

support and operate an accessibility program that increases the availability of accessible commercial passenger vehicles and services for passengers with disabilities. According to the government, the accessibility program will require taxi and ride-hailing industries to increase the number of wheelchair accessible vehicles they provide.

Other proposed changes support increased passenger safety by granting authority to the registrar of passenger transportation to prevent ineligible people from driving passenger-directed vehicles, as well as clarifying the type of evidence a driver must produce to confirm eligibility to drive the vehicle.

The Bill also clarifies the authority of the Passenger Transportation Board when setting out the terms and conditions for licensing service providers of commercial passenger vehicles. For more information, read the government [news release](#).

### **BC Court of Appeal Overturns Guilty Verdict Against Driver of Vehicle That 'Fishtailed'**

The British Columbia Court of Appeal has ordered a re-trial of a guilty verdict handed down to the driver of a jeep involved in an accident that killed one passenger and seriously injured two others.

In *R. v. Rogers*, [2022 BCCA 346](#), Brennan Rogers was driving three friends in his jeep to a campsite near Deroche, BC. Rogers lost control of the jeep and it plunged down a steep embankment on the right side of the road. One passenger died at the scene and two others were injured. Rogers was found guilty of dangerous driving causing death and two counts of dangerous driving causing bodily harm. The trial judge ruled that Rogers had intentionally tried to "drift" or fishtail his vehicle at a turn in the road, and that this attempt amounted to a marked departure from the standard of care expected of a reasonable driver in the circumstances. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

### **Autonomous vehicles: Cross Jurisdictional Regulatory Perspectives Update**

Since the release of our [regulatory perspectives article](#) in 2021, there have been a variety of regulatory and policy developments around the world regarding the use of autonomous vehicles (AV or AVs).

In addition to highlighting recent developments for the operation of AVs in Japan, the U.K., the European Union, the U.S., and China, jurisdictions of South America, Australia, New Zealand and India are poised to make significant strides in developing regulatory landscapes conducive to the development of autonomous vehicles. Read the [full article](#) by [Greg Rafter](#), [Marin Leci](#) and [Yi Liu](#) with Borden Ladner Gervais LLP.

### **CVSE Bulletins & Notices**

The following documents were posted recently by CVSE:

- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [Circular 02-22](#) – Allowances for Hydro Vac Trucks with Front Mounted Hose Reels Under General Authorization and Letter of Authorization Trial

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

### **Passenger Transportation Board Bulletins**

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

#### Industry Updates & Advisories

- [Final Deadline to Activate Additional Taxis](#)  
The Board is issuing a final activation deadline of December 31, 2022. Licensees will have until this date to activate additional vehicles, or they will no longer be valid.
- [Vancouver Cruise Ship Schedule for TNS and Taxi Operators](#)  
As the 2022 cruise season commences in Vancouver, TNS and Taxi Licensees are reminded to [review their terms and conditions of licence and the cruise schedule](#). The Board will continue its efforts to ensure that any changes or amendments are posted in the Weekly Bulletin and on the website.

#### Applications Received

- [15856-22](#) – 1044943 B.C. LTD (Yellow Cab)
- [15839-22](#) – transfer from J. Nijjer Holdings Ltd. (Sun Star Shuttle) to 1123910 B.C. Ltd. (Contractor Post Office)
- [15952-22](#) – transfer from Sadaq Ali Rajput (Bluebird Cabs) to Bluebird Cabs, Ltd.
- [15632-22](#) – PG Airport Shuttle Service Ltd.

- [16105-22](#) – transfer from Rider Express Transportation Corp. to Uray Transportation Inc. (Rider Express)
- [15091-22](#) – Charles Keay Inc. (Skeena Taxi)
- [15932-22](#) – Four Seasons Limo Services Ltd.
- [16183-22](#) – City Star Limousine Service Ltd.
- [15465-22](#) – 1229652 BC Ltd. (Kitimat Taxi)
- [15466-22](#) – 1229652 BC Ltd. (Kitimat Taxi)

Application Decisions

- [16177-22 PS TOP](#) – Apex Limousine Incorporated. [Approved]
- [15689-22 & 15834-22](#) (combined transfers) – transfers from Baldev Singh Bhela and Ali Etemadi-Shad to Bluebird Cabs Ltd. [Approved]
- [15148-22](#) – transfer from Asif Ahmed to Victoria Taxi Transportation Ltd. [Approved]
- [15717-22](#) – Evergreen Taxi LTD. [Approved]
- [15837-22](#) – Titanic Holdings Ltd. (Bluebird Cabs) [Approved]
- [16214-22 TOP](#) – Vanride Shuttle Services Ltd. [Approved]
- [15942-22](#) – Pawan Kumar Kohli (Bluebird Cabs) [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Assisted Cycle Regulation (151/2002)	Oct. 11/22	by <a href="#">Reg 202/2022</a>
Motor Fuel Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 38 and 39 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Motor Fuel Tax Regulation (414/85)	<b>RETRO</b> to Feb. 23/22	by <a href="#">Reg 209/2022</a>
	Nov. 1/22	by <a href="#">Reg 211/2022</a>

**OCCUPATIONAL HEALTH AND SAFETY**

**Occupational Health & Safety News:**

**Changes to Workers Compensation Act Introduced**

[Bill 41](#), the *Workers Compensation Amendment Act (No. 2)*, 2022 was introduced on October 31. The Bill proposes a number of amendments to the [Workers Compensation Act](#), including:

- prohibiting suppression of workers compensation claims;
- adding a duty for employers to return injured workers to work;
- allowing WorkSafeBC to increase the maximum compensation for non-traumatic hearing loss;
- requiring the Workers' Compensation Appeal Tribunal to retain a health professional to provide independent medical opinions when requested for a medical dispute before the tribunal;
- requiring that interest be paid on specified amounts of compensation owed to a worker for more than 180 days following a review or appeal decision changing the rules regarding annual inflation adjustments to pensions and other periodic payments of compensation; and
- establishing a fair practices commissioner to investigate complaints and make recommendations to WorkSafeBC.

For a thorough analysis of these changes, read the [article](#) by [Michelle S. Jones](#) and [Miny Atwal](#) of Lawson Lundell



LLP.

**New Rules Increase Safety for Young Workers [January 1, 2023]**

Changes to employment standards will better protect young people by outlining the types of work that are suitable for those aged 16 to 18. "For a young person, working can be a rewarding and valuable experience, important for personal growth and setting them on a path to their own success," said Harry Bains, Minister of Labour. "But it must be work that is both physically and mentally appropriate for their age, with the necessary training and supervision." To develop [the new rules](#), ministry staff examined WorkSafeBC injury data and other jurisdictions' labour laws relating to hazardous employment. Based on that information, a number of jobs within several industries were identified as hazardous for young workers, including areas within construction, forestry, food processing, oil/gas and power, asbestos removal and others. Read the full government [news release](#).

**Worker Injuries Lead to Fines for BC Employers**

British Columbia paper manufacturer Westbond Industries has been fined \$17,000 after one of its workers was seriously injured in the workplace. The incident happened at the company's Delta location last month, when a worker was clearing a paper jam in the rollers. The worker was seriously hurt after being caught in the running machine. WorkSafeBC inspected the facility and found the machine was not locked out and that its guard had been removed. Also, the firm's standard practices for clearing jams did not require machines to be locked out. Read the [full article](#) by Jim Wilson, published in *Canadian Occupational Safety*.

**December 2022 Public Hearing on Proposed Amendments to the Occupational Health and Safety Regulation**

from WorkSafeBC:

WorkSafeBC will be holding a virtual public hearing on [proposed amendments](#) to the [Occupational Health and Safety Regulation](#). The virtual public hearing will be streamed live on **December 16, 2022**, in two sessions. The first will be from **11 a.m. to 1 p.m.** and the second from **3 to 5 p.m.** The links to view the virtual public hearing and information to dial in will be posted on this [webpage](#) by December 1, 2022. The virtual hearing will cover proposed changes to the following parts of the OHS Regulation:

- [Part 6, Hazardous Drugs \(formerly Cytotoxic Drugs\)](#)

Read the full WorkSafeBC [article](#).

**Switch BC Aims to Reduce Violence against Healthcare Workers**

British Columbia is launching an anti-violence program to train healthcare workers at 26 emergency rooms and mental health units to better protect themselves from aggressive patients, and a new organization called Switch BC is leading the initiative. It stands for Safety, Well-being, Innovation, Training and Collaboration in Health Care and is the first organization of its kind in Canada. It is made up of employers, doctors, government and three big health-care unions. Read the [full article](#) by Shane Mercer with *Canadian Occupational Safety*.

Act or Regulation Affected	Effective Date	Amendment Information
Electrical Safety Regulation (100/2004)	Oct. 1/22	by <a href="#">Reg 179/2022</a>
Gas Safety Regulation (103/2004)	Oct. 1/22	by <a href="#">Reg 145/2022</a>
Workers Compensation Act Appeal Regulation (321/2002)	Oct. 24/22	by <a href="#">Reg 208/2022</a>

**PROPERTY & REAL ESTATE**

**Property and Real Estate News:**

**Sweeping Changes to the Regulation of Mortgage Brokers in BC**

On October 4, 2022, the Legislative Assembly of British Columbia introduced Bill 29, the [Mortgage Services Act](#), which proposes to replace the [Mortgage Brokers Act](#), R.S.B.C. 1996, c. 313 (the MBA). In the Commission of Inquiry into Money Laundering in British Columbia, better known as the Cullen Commission, the MBA received some of the most scrutiny from the inquiry. Out of 101 recommendations, the Cullen Commission provided 17 recommendations specifically directed at the regulation of mortgage brokers in British Columbia, which included many recommendations aimed at amending and modernizing the MBA. Bill 29, *Mortgage Services Act*, is the province's response to the findings and recommendations of the Cullen Commission. On October 5, 2022, Bill 29 passed through its second reading in the legislature. [On October 18, the Bill passed third reading.] Those engaged in mortgage lending in British Columbia should take steps now to ensure that they are compliant with new laws designed to promote transparency and protect consumers. The new laws broadly address all participants engaged in mortgage lending and create a regime of substantial penalties for non-compliance. Read the [full article](#) by Ross McGowan and Jason Uswak with Borden Ladner Gervais LLP.

### **"Ready, Willing, and Able": BC Court Clarifies Law on Sufficiency of Tender in Real Estate Transactions**

Parties negotiating agreements for sale of real estate always hope that closing day goes smoothly – but it is important to ensure that agreements are structured to protect your legal rights in the event things don't go as planned. The recent decision in *Sandhu v Uppal Farms & Greenhouses Ltd*, [2022 BCSC 1373](#), is an example of a collapsing deal that was saved by a court's determination that the tender (ie payment) by the purchaser of the purchase funds was sufficient. In *Sandhu*, the parties entered into a contract for the sale of an Abbotsford farm property. The parties agreed that:

- The buyer would deposit all documents needed to transfer title with the Land Title Office (the "LTO") by 4pm on the closing date.
- The buyer would provide the purchase price "on or before" the closing date.

Read the [full article](#) by Anna Sekunova and Cameron Fox with Clark Wilson LLP.

### **BC Court of Appeal Rejects Strata Lot Owner's Plea for Easement over Limited Common Property**

The Court of Appeal for British Columbia has allowed the appeal of a strata lot owner, ruling that no equitable easement was created by representations made by the lot's former owner that could be enforced against its new owner. In *Stratton v. Richter*, the parties owned units in a three-lot strata development. On the second floor of the building, doors from strata lots 1 and 3 opened to an outside deck, with a stairway descending from the deck to the backyard. Read the [full article](#) by Mary Or on the *Canadian Lawyer*.

### **"The Damage Deposit Was Paid to Cover Damage": BC Tribunal Orders Woman to Return Roommate's Money**

A BC woman who refused to return the bulk of her roommate's damage deposit because he used "more electricity" than expected has been ordered to pay up. The province's Civil Resolution Tribunal [ruled on the case last week](#), describing the events that led to the dispute. In July of 2021, the decision reads, it is "undisputed" that Alexander Podrebersek paid \$437.50 to Lauren Spouse when he began renting a room in her suite. However, when he moved out in January of 2022, only \$87.50 was returned to him. Read the CTV news [article](#).

### **Security for Costs and CPL's: Court of Appeal Addresses a Defendant's Financial Position and the Cancellation of Certificate of Pending Litigation for a Builder's Lien in *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, 2022 BCCA 299**

The British Columbia Court of Appeal recently ruled that a defendant's strong financial position is an irrelevant consideration to obtaining security for costs against an impecunious corporate plaintiff. The Court also confirmed that the process for removing a certificate of pending litigation ("CPL") from land under [s. 252 of the Land Title Act](#) RSBC 1996, c 250 (the "LTA") cannot be used to cancel a lien filed under the [Builders Lien Act](#), SBC 1997, c 45 (the "BLA"). In *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, [2022 BCCA 299](#), the Court heard a dispute between a general contractor, New West Custom Homes (Kelowna) Inc. ("New West") and a large property developer, Parkbridge Lifestyle Communities Inc. ("Parkbridge"). On appeal were applications by the defendant Parkbridge for New West to post security for costs and to cancel a builder's lien registered by New West. Read the [full article](#) by Joseph Romanoski with Whitelaw Twining LLP.

### **Case Comment: *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, 2022 BCCA 299 – Interaction between the *Builders Lien Act* and the *Land Titles Act***

In recent years, our courts have considered the interaction between lien rights that arise under the [Builders Lien](#)

[Act](#), RSBC 1997, c. 45 and the [Land Title Act](#), RSBC 1996 c. 250. For example, we have [previously reported](#) to you on the decision of *4HD Construction Ltd. v. Dawson Wallace Construction Ltd.* ([2020 BCSC 1224](#)), which clarified the interaction of the *Builders Lien Act* and the *Land Title Act* when a party is seeking a discharge of certificates of pending litigation ("CPLs") from land. Recently, in *Parkbridge Lifestyle Communities Inc. v New West Custom Homes (Kelowna) Inc.*, [2022 BCCA 299](#), the BC Court of Appeal confirmed that a builders lien claim could not be cancelled under the *Land Title Act* as a result of the lien claimants failure to take any steps in its litigation for over a year. Read the [full article](#) by [Rosalie A. Clark](#) and [Dan W. Melnick](#) of Clark Wilson LLP.

**Canada's Ban on Foreign Home Buyers  
Soon in Effect: Update and What's Next**

Key Highlights:

- [Prohibition on the Purchase of Residential Property by Non-Canadians Act](#) comes into force on January 1, 2023.
- Impact of the Act will be clearer once the federal government releases draft regulations.

The *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (Act) comes into force on January 1, 2023. It prohibits the purchase of residential property in Canada by non-Canadians unless they are exempted by the Act or its regulations, or the purchase is made in certain circumstances specified in the regulations. This new legislation will remain in force for two years and is part of the government of Canada's response to soaring housing prices across the country. Read the [full article](#) by Jane Helmstadter, Alixe Cameron, Mark Lewis, Kiera Stel and Okey Ejibe with Bennett Jones LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Exemptions from Tax Regulation (287/2019)	Oct. 3/22	by <a href="#">Reg 198/2022</a>
Property Transfer Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 41 to 43 and 45 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>
Real Estate Services Rules (209/2021)	Oct. 1/22	by <a href="#">Reg 193/2022</a>
Speculation and Vacancy Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 107 and 108 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2022</a>

**WILLS & ESTATES**

**Wills and Estates News:**

**Bill 27-2022: Proposed Amendments to the *Wills, Estates and Succession Act*, the *Power of Attorney Act* and the *Representation Agreement Act***

The BC Legislature recently introduced [Bill 27 – 2022: Attorney General Statutes Amendment Act \(No. 2\), 2022](#) ("Bill 27"), which includes proposed amendments to the [Power of Attorney Act](#), R.S.B.C. 1996, c. 370, the [Representation Agreement Act](#), R.S.B.C. 1996, c. 405, and the [Wills, Estates and Succession Act](#), S.B.C. 2009, c. 13 ("WESA"). Bill 27 passed the Third Reading stage on October 19 and is awaiting Royal Assent.

**Proposed Amendments to the *Power of Attorney Act* and *Representation Agreement Act***

Currently, the *Power of Attorney Act* provides that an enduring power of attorney must be signed by the adult making the instrument in the presence of two witnesses, and by the two witnesses in the presence of the adult. Each attorney named in the instrument must also sign the instrument in the presence of two witnesses before exercising their authority. Similarly, the *Representation Agreement*

Act provides that the adult appointing representatives must sign the agreement in the presence of two witnesses, each of whom must also sign the agreement in the presence of the adult.

Read the [full article](#) by [Catherine Bunio](#) with Alexander Holburn Beaudin + Lang LLP.

### **Cottrell v. Cottrell**

When assisting clients in creating trusts to benefit their children, I am sometimes asked about potential claims that a child's spouse might make to trust assets if there is a breakdown of the child's marriage or marriage-like relationship. Typically, the parent is concerned that if she puts assets into a trust to benefit her children, the trusts in fact benefit the children and not future ex-spouses of any child. I can't give a definitive answer to that question, but a recent decision provides some comfort to parents creating trusts for their children, provided that the trust does not give the child the right to distributions or control of the trust. The case is *Cottrell v. Cottrell*, [2022 BCSC 1607](#). Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP.

### **Testamentary Powers of Appointment and Gifts *Virtute Officii*: Royal Trust Corporation of Canada v. The Welfare Institution of the Jews of Athens, 2022 BCSC 1454**

In *Royal Trust Corporation of Canada v. The Welfare Institution of the Jews of Athens*, [2022 BCSC 1454](#) (23 August 2022, Kent J.), the Supreme Court of British Columbia gave directions to the trustees of a testamentary trust on the ultimate disposition of trust property. This case raises complex issues about the construction of wills, testamentary powers of appointment, and the application of conflict of laws principles. Read the [full article](#) by [Scott Kerwin](#) and [Les Honywill](#) with Borden Ladner Gervais LLP.

### **Recent Cases on Costs in Estate Litigation**

The issue of costs in estate litigation is important for clients and practitioners alike. Courts across Canada have trumpeted the "modern approach" to costs in this area, which involves a careful scrutiny of the claims that were made and the conduct of the parties, rather than allowing the estate to be an "ATM machine" for the parties in every case. Three recent decisions of the Supreme Court of British Columbia, dealing with different aspects of estate litigation, provide helpful illustrations of this approach.

The decision of *Henderson v. Myler*, [2022 BCSC 1530](#) (31 August 2022, MacNaughton J.) involved the costs award following an 11-day trial on whether documents left by Ms. Murray should be validated under s. 58 of the *Wills, Estates and Succession Act*. Read the [full article](#) by [Scott Kerwin](#) with Borden Ladner Gervais LLP.

### **Joint Tenancy and Making Gifts of the Right of Survivorship**

Since the [Pecore decision](#), there has been much debate amongst practitioners and academic commentators about the doctrinal soundness of a "gift of the right of survivorship". The underlying transaction would involve a gratuitous transfer of property by A into a joint tenancy with B, but A retains full beneficial ownership of property during their lifetime. An immediate *inter vivos* gift of solely the "right of survivorship", however, seems inconsistent with basic principles about joint tenancies such as the requirement for the "four unities". Further, it is now clear that the transferor may effectively nullify the gift through *inter vivos* transactions. For instance, if A transfers a bank account to B, with the intention of only making a gift of the right of survivorship, and then drains the bank account prior to death, the value of the gift for B is nil. Likewise, transferring real property into joint tenancy, but severing the joint tenancy prior to death, will extinguish the right of survivorship: *Bergen v. Bergen*, [2013 BCCA 492](#); *Zeligs Estate v. Janes*, [2016 BCCA 280](#). The ability of the transferor A to effectively revoke the gift to B seems contrary to the irrevocable nature of gifts at law. Read the [full article](#) by [Scott Kerwin](#) with Borden Ladner Gervais LLP.

### **Estate Settlement Offer Rejected by Unsuccessful Party, No Double Costs Award: BC Court of Appeal**

The British Columbia Court of Appeal has refused to award costs to a successful appellant in an estate litigation for settlement offers given to but unaccepted by the unsuccessful party.

In *Coad v. Lariviere*, [2022 BCCA 350](#), Sasha Coad was the successful appellant in an estate litigation, where the appellate court reversed a decision by the trial court. The trial court ruled that Barbara Lariviere died intestate and that she and Coad were not in a marriage-like relationship. As such, Lariviere's heir on intestacy was her mother, Olga Phillips. Read the [full article](#) by [Jason Tan](#) in the *Canadian Lawyer*.

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

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