

# Quickscribe Reporter

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## Vol: XXII – Issue 12 – December 2023

### QS News

#### Welcome to 2024

We are excited to share that we have some amazing projects in the pipeline that will enhance your experience of accessing, *understanding*, and staying on top of the legislation and related information that matters to you. Stay tuned for more details on these projects. The next [spring legislative session](#) is set to begin with the throne speech on February 20, 2024. We recommend that you use this time to [create alerts](#) that will keep you informed of any relevant legislative changes. Lastly, the Quickscribe Team would like to express our gratitude for your continued support and wish you a prosperous and happy new year.

### New Annotations

New Annotations have been added to Quickscribe:

- [Laura Johnston](#), Health Justice – [Adult Guardianship Act](#), [Mental Health Act](#), [Mental Health Regulation](#)
- [Scott Marcinkow](#), Harper Grey LLP – [Pay Transparency Act](#)
- [Michael Moll](#), Civic Legal LLP – [Community Charter](#)
- [OnPoint Legal Research Corporation](#) – [Canadian Charter of Rights and Freedoms](#), [Class Proceedings Act](#), [Disbursements and Expert Evidence Regulation](#), [Family Law Act](#), [Freedom of Information and Protection of Privacy Act](#), [Judicial Review Procedure Act](#), [Law and Equity Act](#), [Local Government Act](#), [Motor Vehicle Act](#), [Privacy Act](#), [Protection of Public Participation Act](#), [Supreme Court Civil Rules](#)
- [Stanley Rule](#), Sabey Rule LLP – [Wills, Estates and Succession Act](#)

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

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



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### Want to Track Federal Laws?



For notification of federal amendments, we recommend using our Section Tracking tool to keep informed on changes to federal laws. Look for the paw icon adjacent to the sections you wish to track.

### Looking for Previous Reporters?

We have archived the Quickscribe Reporter going back to 2004. Visit the historical [Reporter archives page](#).

## Reporter Categories

[COMPANY & FINANCE](#)  
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[PROPERTY, REAL ESTATE & CONSTRUCTION](#)  
[WILLS & ESTATES](#)



### COMPANY & FINANCE

#### Company and Finance News:

### GAAR and Self-help Transactions

Following an [earlier submission](#) on proposed amendments to section 245 of the *Income Tax Act*, the Joint Committee on Taxation of the Canadian Bar Association and Chartered Professional Accountants of Canada sent [further comments](#) about the General Anti-Avoidance Rule, or GAAR, and self-help transactions. Specifically, the Joint Committee discusses certain transactions or series of transactions commonly implemented to avoid certain tax implications that could be considered, in some cases, to lack economic substance but that should not be assumed to misuse or abuse the GAAR. The preamble in subsection 245(0.1) of the *ITA* introduces a presumption of misuse or abuse that “will blur the line between acceptable transactions versus abusive transactions.” Read the [full article](#) by [Brigitte Pellerin](#) on *CBA National*.

### BCCPA: Transferring a Family Business? New Tax Laws Coming in January

New rules for owners transferring their business to next generation family members or employees will soon take effect. The 2023 federal budget introduced new tax rules for owners transferring businesses to next generation family members or employees, which take effect January 1, 2024. Draft legislation was released in August 2023, and included revisions to the proposals for intergenerational business transfers and employee ownership trusts (EOTs). [CPA Canada](#) spoke to John Oakey, CPA, vice president of taxation with CPA Canada to find out more about the latest updates to the legislation and what CPAs need to consider moving forward. Read the [full article](#) published in the *Business Examiner*.

### CBCA Corporations Must File Information on Individuals with Significant Control Starting January 22

Starting on January 22, 2024, corporations under the *Canada Business Corporations Act* (CBCA) that are required to maintain a register of individuals with significant control (ISCs) will have to file that information with the director under the CBCA. Information on ISCs will have to be filed (1) annually, (2) within 15 days after recording a change to the register and (3) following any incorporation, amalgamation or continuance under the CBCA. Corporations Canada has advised that the annual filing of the ISC information must be made at the same time as the filing of a corporation's annual return. Annual returns must be filed within 60 days of a corporation's anniversary date (the date on which the corporation was incorporated or otherwise came into existence under the CBCA) not its year end. Read the [full article](#) by Andrew Pollock with Norton Rose Fulbright Canada LLP.

### Know Thy New Trust Account Disclosures

As the 2023 tax year draws to a close, lawyers are reminded that reporting obligations concerning trust accounts are now in effect [and must be part of tax returns](#) to the Canada Revenue Agency starting on December 31st. Canada codified new reporting requirements for trust accounts in last year's budget implementation bill (Bill C-32), part of an OECD-wide effort to combat money laundering. A lawyer's general trust account is exempt from the new requirements. However, client-specific trust accounts must file annual tax returns, beginning in the 2023 taxation year. Read the [full article](#) by [Dale Smith](#) on *CBA National*.

### Gradually, then Suddenly: Significant Competition Law Reform Arrives in Canada

After more than two years of much talk of Canadian competition law reform but only limited legislative action, on November 28, 2023, the Canadian government took initial steps towards implementing substantial amendments to the *Competition Act* (the “Act”). If passed, the latest amendments will dramatically broaden certain provisions of the Act, most significantly in relation to civil collaboration agreements (by applying to not only agreements between competitors) and abuse of dominance, and will alter Canada's competition law enforcement landscape, ushering in, among other changes, expanded private litigation, stronger civil conduct provisions, and a more expansive merger notification regime. The newly proposed changes are included in an omnibus bill ([Bill C-59](#)) introduced by Deputy Prime Minister and Finance Minister Chrystia Freeland to implement a broad range of measures announced in the government's November Fall Economic Statement. Read the [full article](#) published on the McCarthy Tétrault website.

### Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

#### Provincial sales tax (PST)

- **January 4, 2024**

Effective February 1, 2024, the Regional District of East Kootenay, consisting of Invermere and the Panorama Mountain Resort area, is increasing their Municipal and Regional District Tax (MRDT) rate to 3%. The [MRDT location map](#) will be updated February 1, 2024.

For more information about MRDT, see our [Accommodation](#) page.

- **December 19, 2023**

[Bulletin PST 127, Veterinarians and Pet Stores \(PDF, 360KB\)](#), has been revised to:

- Add information about how PST applies to certified guide and service dogs
- Clarify how PST applies to food for animals, including food for boarded animals
- Correct information to reflect that drugs injected, applied or administered directly to an animal during veterinary services are exempt from PST
- Specify that administrative fees associated with sales of drugs and other substances on prescription, or with drugs injected, applied or administered directly to an animal during veterinary services, are exempt from PST
- Clarify that for drugs or other substances (including specialty food) sold on prescription, subsequent exempt sales for the same animal require either a new prescription or documenting that the item was sold on the initial prescription
- Clarify that electricity is exempt from PST for all purchasers, effective April 1, 2019

### Motor fuel tax and carbon tax

• **December 13, 2023**

[Bulletin MFT-CT 003, Coloured Fuels and Other Substances \(PDF, 202KB\)](#), has been revised to update the definition of a licensed motor vehicle as the license plate no longer requires a validation decal.

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

**BC Securities – Policies & Instruments**

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

- [Registered Firm Requirements Pertaining to an Independent Dispute Resolution Service – CSA Notice and Request for Comment](#) – This notice publishes for a 90-day consultation period a proposed framework for an independent dispute resolution service whose decisions would be binding. The comment period ends February 28, 2024.
- [13-315](#) – Securities Regulatory Authority Closed Dates 2024
- [24-101](#) – CSA Notice Amendments to National Instrument 24-101 Institutional Trade Matching and Settlement and Changes to Companion Policy 24-101 Institutional Trade Matching and Settlement

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	Dec. 11/23	by 2023 Bill 20, c. 20, section 21 (b) only (in force by <a href="#">Reg 274/2023</a> ), <a href="#">Business Corporations Amendment Act, 2023</a>
Insurance Premium Tax Act	Jan. 1/24	by 2023 Bill 10, c. 23, sections 89, 96 to 98 and 111 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2023</a>
Interest on Overdue Accounts Payable Regulation (215/83)	<b>RETRO to</b> Jan. 1/23	by <a href="#">Reg 258/2023</a>
Securities Regulation (196/97)	Dec. 11/23	by <a href="#">Reg 288/2023</a>

 **ENERGY & MINES**

**Energy and Mines News:**

**Proposed Regulatory Framework: Cap-and-Trade System in the Oil and Gas Sector**

On December 7, 2023, the Federal Government (Government) published a [Regulatory Framework for an Oil and Gas Sector Greenhouse Gas Emissions Cap](#) (Framework). The Framework supports Canada's commitment to cap and reduce greenhouse gas (GHG) emissions from the oil and gas sector at a pace it has deemed required to achieve net-zero GHG emissions by 2025. To achieve these goals, the Government proposes a cap-and-trade system to operate under the [Canadian Environmental Protection Act, 1999](#). The cap-and-trade system is proposed to apply to liquefied natural gas (LNG) facilities and upstream oil and gas facilities.

The proposed emissions cap for 2030 is estimated to fall within the range of 106 to 112 million tonnes of GHG emissions. This number represents a 35 to 38 percent decrease from 2019 emissions. Read the [full article](#) by [Kerri Howard](#), [Kimberly J. Howard](#), [Ashley J. Wilson](#) and [Riley M. Thackray](#) of McCarthy Tétrault LLP.

**Canada's Proposed Clean Energy Tax Credits: Where Are We Now?**

The Canadian government has proposed five new refundable investment tax credits (ITCs) designed to grow Canada's clean economy and allow Canada to remain competitive in attracting investment in clean energy projects.

The five proposed refundable tax credits are:

1. **The Clean Technology ITC:** A refundable tax credit of up to 30% of investments in eligible property acquired and available for use on or after March 28, 2023 and before 2034. For property that becomes available for use in 2034, this tax credit would be up to 15%. No tax credit would be available for property that becomes available for use after 2034.

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

**Energy Regulator Rejects FortisBC's \$327M Application for Natural Gas Pipeline**

*FortisBC had argued that 30 km of new pipeline was needed to meet Okanagan area's energy demands*

The B.C. Utilities Commission (BCUC) has rejected an application from FortisBC to build a natural gas pipeline worth \$327 million in the Okanagan region.

The Okanagan Capacity Upgrade (OCU) project would have seen the installation of 30 kilometres of new pipeline, running north from Penticton to Chute Lake, along with two new power stations to help regulate the pipeline's flow.

FortisBC, the main natural gas utility in the province, said the OCU project was needed to meet demand in the southern Interior over the next two decades. Read the [CBC article](#).

**British Columbia Revamps Low Carbon Fuel Regs, Requires SAF**

The government of British Columbia on Dec. 11 released regulations for its revamped low carbon fuels program, becoming the first jurisdiction in North America to require the use of sustainable aviation fuels (SAF).

British Columbia in 2008 first passed legislation to establish a Low Carbon Fuel Standard. The LCFS was implemented in 2013. The government of British Columbia in 2022 passed a new [Low Carbon Fuels Act](#), along with amendments in 2023, to replace the 2008 legislation. The province on Dec. 11 published rules for the new [Low Carbon Fuels Regulation](#), which is set to become effective on Jan. 1, 2024. Read the [full article](#) published in *Biomass Magazine*.

**Key Takeaways from the Proposed Amendments to Canada's Methane Emissions Reduction Legislation**

In 2021, Canada joined 110 countries in endorsing the Global Methane Pledge at the UN Climate Change Conference ("COP26"), committing to an ambitious target of 75% reduction in oil and gas sector methane emissions below 2012 levels by 2030. In September 2022, Canada reiterated its commitment to this target and to the publishing of amendments to the Regulations Respecting Reduction in the Release of Methane and Certain Volatile Organic Compounds (Upstream Oil and Gas Sector), [SOR/2018-66](#) (the "Federal Regulations"), which originally came into force in 2018. On December 4, 2023, Steven Guilbeault, Minister of Environment and Climate Change, announced the publishing of the proposed amendments to the Regulations (the "Proposed Amendments"). Read the [full article](#) by [Allison Sears](#), [Brendan Sawatsky](#) and [Avinash Kowshik](#) with Fasken Martineau DuMoulin LLP.

**BC Energy Regulator Announcements**

The following BC Energy Regulator announcements were posted recently:

- [TU 2023-18](#) – Project to Match Existing Fluid Analyses to Formations is Complete
- [IU 2023-16](#) – Three Water Management Basins Under New Pilot Environmental Flow Needs Policy for Water Allocations
- [TU 2023-19](#) – Vent Data Collection

Visit the BC-ER [website](#) for more information.

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (35/2011)	Dec. 11/23	by <a href="#">Reg 279/2023</a>
	Jan. 1/24	
Dormancy and Shutdown Regulation (112/2019)	Jan. 1/24	by <a href="#">Reg 78/2023</a>
Drilling and Production Regulation (282/2010)	Jan. 1/24	by <a href="#">Reg 78/2023</a>
Hydro and Power Authority Act	Jan. 1/24	by 2022 Bill 15, c. 21, section 65 only (in force by <a href="#">Reg 282/2023</a> ), <a href="#">Low Carbon Fuels Act</a>
Investigations Regulation (134/2019)	Jan. 1/24	by <a href="#">Reg 279/2023</a>
Oil and Gas Processing Facility Regulation (48/2021)	Jan. 1/24	by <a href="#">Reg 78/2023</a>



**FAMILY & CHILDREN**

**Family and Children News:**

**Submission to Ministry of Attorney General: Section 211 Reports Under the Family Law Act**

The [Family Law Act](#) is currently under review and CBABC is a contributor to the consultation. In a recent [submission to the Ministry of Attorney General](#), we gave our input on how to improve the section 211 reporting process under the *Family Law Act*.

Our recommendations include:

Amending the FLA to allow section 211 reports to be ordered earlier and as part of a triage process to allocate resources in proportion to the issues and urgency for resolution;

- Establishing comprehensive, standardized guidelines to ordering, preparing, and receiving section 211 reports; and
- Mandating family violence screening and assessment training for lawyers and report writers.

Read the [full notice](#) from the Canadian Bar Association, BC Branch.

**Minister Should Have Considered Charter Rights of Parents Denied Access to NWT French Schools: SCC**

In exercising her discretion on whether to admit five non-francophone students into the territory's French-language schools, the Northwest Territories' Minister of Education, Culture and Employment was required to consider s. 23 of the [Charter](#), the Supreme Court has found.

The SCC released its decision this morning [December 8, 2023] in *Commission scolaire francophone des Territoires du Nord-Ouest v. Northwest Territories (Education, Culture and Employment)*, [[2023 SCC 31](#)]. The case dealt with five parents whose children were denied access to French-language education because they did not qualify as rights holders under s. 23. Read the [full article](#) by [Aidan Macnab](#) in the *Canadian Lawyer* magazine.

**Response from Attorney General and Minister of Children and Family Development: Implementation of UNCRC**

The Attorney General and Minister of Children and Family Development [responded](#) to a [submission](#) that urged the BC government to fully implement the [United Nations Convention on the Rights of the Child](#).

Appreciation was expressed for our recommendations to amend section 203 of the [Family Law Act](#), noting they would be considered during phase two of the Act's modernization project. Read the [full notice](#) from the Canadian Bar Association, BC Branch.

**More the Merrier: Two-Person Parenting Co-ordination Model**

Parenting co-ordination is garnering increasing attention as a viable family dispute resolution modality. For co-parents experiencing sustained post-parenting-plan conflict, it is an option that could serve to mitigate, if not altogether eliminate, the risk of harm to children resulting from exposure to ongoing strife between their parents.

This esteemed publication has already featured several articles on the potential benefits of parenting co-ordination. As part of the ongoing conversation on this topic, their authors have explored what parenting co-ordination actually is and is not, how it functions in practice, and whether courts can order the appointment of a parenting co-ordinator (PC) if one or both parents object. In a recent article, one of the co-authors noted that when family court judges order PC involvement, it is most often based on an adjusted model – one that does not include transferring arbitral powers into the hands of the PC. In fact, parenting co-ordination is malleable to an extent, broadening its possible application to a variety of situations that need ongoing, sophisticated conflict management. Read the [full article](#) by AJ Jakubowska and Maytal Michaelov from *Law360 Canada*.

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Regulation (291/96)	Dec. 11/23	by <a href="#">Reg 271/2023</a>



**FOREST & ENVIRONMENT**

**Forest and Environment News:**

**Province Fined Over \$700k For Unsafe Wildfire Mitigation Work in Northern B.C.**

*Ministry of Forests says record WorkSafeBC fine is 'disproportionately high' and intends to appeal*

The B.C. government has been fined more than \$700,000 after an inspection determined unsafe wildfire mitigation practices were occurring at a site in the province's northeast.

The penalty issued on Oct. 26, 2023, by WorkSafeBC, the provincial agency that promotes safe and healthy workplaces across B.C., rings in at \$710,488.79 – the largest fine it has ever issued, the agency says, and the maximum amount allowable for 2022, the year the incident occurred.

WorkSafeBC's report says it found evidence of unsafe falling cuts at a site near Wonowon, around 80 kilometres northwest of Fort St. John, B.C., and said the province, which it refers to as the "employer," did not verify faller certification or actively monitor work as required.

Further details of the report are expected to be released publicly on Thursday [January 4], according to WorkSafeBC, but the province says no injuries were associated with the investigation. Read the [CBC article](#).

**Measuring and Allocating Forage on Rangelands in BC**

The Forest Practices Board has released a report on the measurement and allocation of forage on rangelands in British Columbia.

The report identifies several opportunities to improve the management of public rangelands. These include setting specific targets for conserving forage for wildlife and using a more robust system to measure and inventory the amount of available forage on

rangelands.

"The board found that government has developed good guidelines for measuring forage, but they aren't consistently used," said Gerry Grant, board member of B.C.'s Forest Practices Board.

The board also found government lacks a current inventory of forage in some districts with high range usage. Read the [report](#) from the Forest Practices Board.

### Forest Act Amendment

The [Forest Act](#) was amended on January 1 by [2021 Bill 28 c. 38](#), the *Forest Amendment Act, 2021*, to repeal a provision that enabled the chief forester to request inventories from tree farm licence holders. The repeal was consequential to the addition of Part 6.1, Forest Resource Inventories, to the Act.

### British Columbians Will No Longer Be Given Single-Use Plastic Cutlery and Bags

*B.C. was also set to ban plastic takeout containers in line with feds, but that has been pushed back into 2024*

British Columbians will no longer be given single-use plastic cutlery and bags as of Wednesday [December 20, 2023].

[New regulations](#) mean that wooden forks, knives and spoons are now only available on request, along with drink lids, straws, condiments and napkins. Straws are largely prohibited, with a limited exemption for those who need them for accessibility reasons.

It's all part of the province's single-use plastics ban, some of which went into effect on Dec. 20, aligning with federal regulations that went into effect on the same day.

However, the province says it will phase in other aspects of the federal single-use plastics regulations, which forbids a range of single-use plastic items, including takeout containers. Read the [CBC article](#).

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

#### [Environmental Management Act](#)

- [T̓silhqot'in National Government v. Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]

#### [Wildlife Act](#)

- [Russell James v. Licence Action Program, Wildlife and Fish Branch of the Ministry of Forests](#) [Summary Dismissal Decision – Appeal Dismissed]
- [Daniel Norton v. Acting Director of Fish and Wildlife, Ministry of Forests](#) [Final Decision – Appeal Dismissed]

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](#)

- [367079 BC Ltd. DBA Pro-Link Logging v. Government of British Columbia](#) [Application for Costs – Denied]

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

Act or Regulation Affected	Effective Date	Amendment Information
Forest Act	Jan. 1/24	by 2021 Bill 28, c. 38, section 24 only (in force by Royal Assent), <a href="#">Forest Amendment Act, 2021</a>
Government Actions Regulation (582/2004)	Dec. 11/23	by <a href="#">Reg 281/2023</a>
Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act	<b>REPEALED</b> Jan. 1/24	by 2022 Bill 15, c. 21, section 64 only (in force by <a href="#">Reg 282/2023</a> ), <a href="#">Low Carbon Fuels Act</a>
Low Carbon Fuels Act	<b>NEW</b> Jan. 1/24	c. 21, SBC 2022, <a href="#">Bill 15</a> , sections 1 (part), 2 to 13, 15 to 22, 28 (1), (2) (a) to (c), (4), (5), 29, 30 (1) (a) to (i), (j) (i), (iii), (iv), (k) (i), (iii), (l) to (n), (2), (3), 31 to 34, 35 (1) (a) to (c), (e), (f), (2), (3), 36 to 52, 53 (a) to (e), (g) to (i), 55 to 63 only (in force by <a href="#">Reg 282/2023</a> ), as amended by 2023 Bill 42, c. 47, sections 16 to 24 only (in force by <a href="#">Reg 282/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Low Carbon Fuels (General) Regulation (282/2023)	<b>NEW</b> Jan. 1/24	see <a href="#">Reg 282/2023</a>

Low Carbon Fuels (Technical) Regulation (295/2023)	<b>NEW</b> Jan. 1/24	see <a href="#">Reg 295/2023</a>
Recycling Regulation (449/2004)	Jan. 1/24	by <a href="#">Reg 255/2023</a>
Renewable and Low Carbon Fuel Requirements Regulation (394/2008)	<b>REPEALED</b> Jan. 1/24	by <a href="#">Reg 282/2023</a>
Single-Use and Plastic Waste Prevention Regulation (254/2023)	<b>NEW</b> Dec. 20/23	see <a href="#">Reg 254/2023</a>

 **HEALTH**

**Health News:**

**Supreme Court of BC Temporarily Suspends Restricting Public Consumption of Illegal Substances Act**

On December 29, 2023, the BC Supreme Court granted an interim injunction in *Harm Reduction Nurses Association v. British Columbia (Attorney General)*, [2023 BCSC 2290](#), that pauses the coming into force of the [Restricting Public Consumption of Illegal Substances Act](#) until March 31, 2024. The Act, which received Royal Assent on November 8, 2023 to be brought into force by regulation, set out tighter rules around the use of illegal substances in public places.

Previously, the Province had received an exemption from Health Canada to the [Controlled Drugs and Substances Act](#) (Canada) to allow possession of small amounts of certain drugs. The Act, if brought into force, would ban the use of any of these substances in public, authorize police to direct people to stop using them or to leave the area, to seize and destroy these substances, and to arrest without a warrant anyone who does not comply with these directions.

The Harm Reduction Nurses Association challenged the constitutionality of the Act based on violations of the [Canadian Charter of Rights and Freedoms](#), and requested a pre-trial injunction to pause its coming into force. The Court considered the test for an interim injunction: whether a Charter case demonstrates a serious question to be tried, whether the applicant will suffer irreparable harm if the relief is not granted, and an assessment of the balance of convenience. In this case, the plaintiff argued that the Act would cause more deaths from drug overdoses due to lone drug use, increased interactions with law enforcement, involuntary displacement, drug seizures, and increased fines, detentions, arrests and imprisonments. The court agreed there was a serious issue to be tried, that at least some of these harms were very likely to occur, and that, especially in the context of the ongoing public health emergency regarding drug-related deaths, the balance of convenience favoured granting the injunction.

**Longitudinal Family Physician Payment Model Newsletter**

from [Doctors of BC](#):

Today we are pleased to share an update on the LFP Payment Model expansion to facility-based care. This follows on our commitment to build a comprehensive payment model to strengthen family practice, building on the foundation of the clinic-based LFP model launched in February 2023. Over the past several months, Doctors of BC, BC Family Doctors and the Ministry of Health have focused on the expansion into four areas of facility-based care, namely: in-patient, maternity, palliative and long-term care. We have now reached agreement on the approach, with the goal of supporting stable and sustainable service in these vital areas of facility-based care.

**Hundreds of Foreign-trained Doctors Boosting BC Family Medicine, Says Health Minister**

British Columbia Health Minister Adrian Dix says almost all of the 666 international medical graduates registered in the province this year are now working as doctors, with more than half in family medicine. Dix's comments come amid ongoing health-care woes including hospital overcrowding and many residents being left without a family doctor. He says as many as 700 doctors who weren't practising family medicine a year ago are now working in the sector. Dix says a new longitudinal payment model that reflects time spent with patients and complexity of their needs is proving more popular with the new doctors than the traditional fee-for-service model. Efforts to boost the number of family doctors in B.C. also included the creation for spaces in B.C.'s medical schools for both Canadian and international students, Dix says. Read the [BIV article](#).

**BC Says 578 Foreign-educated Nurses Registered in 2023, Doubling Intake**

The number of foreign-educated nurses newly registered in British Columbia this year has more than doubled from last year, as the province makes progress on a \$1-billion, multi-year plan to attract more health-care workers. The first yearly update on B.C.'s health human resources strategy says 578 internationally educated nurses became fully registered in the province in 2023. The province says "thousands" more international nurses are working toward getting registered and will be getting the required clinical experience next year. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information

Community Living Authority Act	Jan. 1/24	by 2023 Bill 24, c. 16, section 44 only (in force by <a href="#">Reg 286/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2023</a>
Laboratory Services Regulation (52/2015)	Dec. 11/23	by <a href="#">Reg 284/2023</a>



## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### Canada Labour Code Termination Provision

##### Amendments: February 1, 2024

Federally regulated employers who have employees that fall under the [Canada Labour Code](#) (the "Code") will need to take note of significant changes effecting employer obligations to employees upon termination.

Effective February 1, 2024, the [Budget Implementation Act, 2018](#) enacts significant amendments to the Code. One amendment will require employers to provide individual employees with a graduated notice of termination based on the employee's consecutive years of continuous employment with the employer. Where the Code used to provide for two weeks' notice of termination or wages in lieu, the Code will now require a graduated notice system, similar to that found in the BC [Employment Standards Act](#). Read the [full article](#) from Clark Wilson LLP.

#### BC Employee Wrongfully Dismissed Over 'Strongly Worded' Email

An employee in British Columbia has won \$81,100 in damages after the Supreme Court there [ruled](#) that she was wrongfully dismissed over a "strongly worded" email.

Kavita Lefebvre was hired as a Departmental Administrator by Gisborne Holdings Ltd in April 2022 to replace an employee on parental leave.

The employment dispute stems from Lefebvre's email to HR manager Ian Gibson, where she responded to his email that summarised their meeting on June 30. Read the [full article](#) by [Dexter Tilo](#) in the *Canadian HRReporter*.

#### BC Government Will Expand Employment Protections to Gig Workers

On November 30, 2023, the [Labour Statutes Amendment Act, 2023](#) received Royal Assent. This Act will amend the [Employment Standards Act](#) and [Workers Compensation Act](#) to include "online platform workers". Such workers will be defined as "a person who performs prescribed work that the person accepts through an online platform". Such workers are intended to include drivers for ride-hailing companies (e.g. Uber and Lyft) and drivers for food-delivery companies (e.g. Uber Eats, Skipthedishes, and DoorDash). Read the [full article](#) by [Scott Marcinkow](#) with Harper Grey LLP.

#### I'm Listening: BC Appeal Court Confirms that Secretly Recording Colleagues Constitutes Just Cause

In *Shalagin v. Mercer Celgar Limited Partnership*, [2023 BCCA 373](#) ("Shalagin"), the British Columbia Court of Appeal affirmed that surreptitiously recording fellow employees may constitute just cause.

Employers are often reminded that the threshold for establishing just cause in Canada is high, as discussed in our [previous post](#) which also provides an overview of the general principles of just cause termination. However, in the recent decision of *Shalagin v. Mercer Celgar Limited Partnership*, 2023 BCCA 373 ("Shalagin"), the British Columbia Court of Appeal ("BCCA") affirmed the trial judge's decision that secretly recording colleagues in the workplace constituted just cause. Additionally, in *Mechalchuk v. Galaxy Motors (1990) Ltd.*, [2023 BCSC 635](#) ("Mechalchuk"), a decision from earlier this year, the Supreme Court of British Columbia ("BCSC") also upheld a just cause termination in a case where the employee attempted to expense approximately \$250 in personal meals as business meals, submitting receipts by writing the names of coworkers on the receipts; when confronted with the issue, the employee perpetuated his dishonesty. Both Shalagin and Mechalchuk involved dishonest misconduct committed by employees in a position of trust. These recent British Columbia decisions serve as a good reminder that while care must be taken when determining whether an employee can be terminated for just cause, the threshold for what constitutes serious and egregious conduct may be lower when the behaviour strikes at the trust relationship between the employer and employee. Read the [full article](#) by [David M. Price](#) and [Maja Blanchette](#) with Stikeman Elliott LLP.

#### Federal Government Considers Recommended Changes to Employment Equity Act

In 2021, the federal government appointed a task force to advise on how to modernize and strengthen the federal [Employment Equity Act](#) (the "Act").

The Act first came into force in 1986 and was significantly revised in 1995. The Act's stated purpose is to "achieve equality in the workplace so that no person shall be denied employment opportunities or benefits for reasons unrelated to ability" and "to correct the conditions of disadvantage in employment experienced by women, Aboriginal peoples, persons with disabilities and members of visible minorities." These four groups – women, Aboriginal peoples, persons with disabilities and members of visible minorities – are currently the designated groups that the Act seeks to promote through equitable representation. Read the [full article](#) by [Shane D. Todd](#) and [Grace McDonell](#) with Fasken Martineau DuMoulin LLP.

Effective



Act or Regulation Affected	Date	Amendment Information
Employment and Assistance Regulation (263/2023)	Jan. 1/24	by <a href="#">Reg 161/2023</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Jan. 1/24	by <a href="#">Reg 161/2023</a>
Employment Standards Regulation	Jan. 1/24	by <a href="#">Reg 97/2023</a>
Occupational Health and Safety Regulation (296/97)	Dec. 1/23	by <a href="#">Reg 203/2023</a>
	Jan. 1/24	by <a href="#">Reg 204/2023</a>
Workers Compensation Act	Jan. 1/24	by 2022 Bill 5, c. 3, sections 9 (part) and 13 (part) (in force by <a href="#">Reg 142/2023</a> ), <a href="#">Workers Compensation Amendment Act, 2022</a>
		by 2022 Bill 41, c. 37, section 4 and 7 only (in force by <a href="#">Reg 142/2023</a> ), <a href="#">Workers Compensation Amendment Act (No. 2), 2022</a>



## LOCAL GOVERNMENT

### Local Government News:

#### Policy Manuals and Regulations for Housing Legislation

As of December 7, the Province has released policy manuals and regulations related to housing legislation, and brought into force amendments to the [Local Government Act](#) and [Vancouver Charter](#) by [2023 Bill 44, c. 45](#) and [2023 Bill 47, c. 48](#).

The changes in Bill 44, *Housing Statutes (Residential Development) Amendment Act, 2023*, that prohibit public hearings in specified circumstances and require local government zoning bylaws to permit a minimum number of housing units in specified areas, are now in force. Amendments in Bill 47, *Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023*, remove restrictive parking minimums and authorize the Lieutenant Governor in Council to designate transit-oriented areas in specified circumstances. However, the provisions that require local governments to designate transit-oriented areas are not yet in force.

In addition, several provisions of the *Short-Term Rental Accommodations Act*, [2023 Bill 35, c. 32](#), are now in force.

The following housing-related regulations have been introduced:

- [Designation of Transit-Oriented Areas Regulation](#), B.C. Reg. 266/2023
- [Local Government Transit-Oriented Areas Regulation](#), B.C. Reg. 263/2023
- [Local Government Zoning Bylaw Regulation](#), B.C. Reg. 262/2023
- [Short-Term Rental Accommodations Regulation](#), B.C. Reg. 268/2023
- [Vancouver Transit-Oriented Areas Regulation](#), B.C. Reg. 265/2023
- [Vancouver Zoning Bylaw Regulation](#), B.C. Reg. 264/2023

Other new resources include the following:

- For Bill 35, the [Short-Term Rentals: Policy Guidance for BC Local Governments](#) manual.
- For Bill 44, the [Small-Scale Multi-Unit Housing Provincial Policy Manual & Site Standards](#). This policy manual will help local governments work with homebuilders to move forward with viable housing projects. Municipalities are required by legislation to consider this manual when developing local zoning bylaws and policies.
- For Bill 47, the [Provincial Policy Manual: Transit-Oriented Areas](#). This manual defines transit-oriented areas, prescribes minimum allowable densities and restricts local government's ability to mandate residential parking. Municipalities are required by legislation to consider this manual when developing bylaws for TOAs.

#### Have Your Say on Reforming Public Engagement on Land-use Bylaws

The British Columbia Law Institute has launched a public consultation on improving BC's legislation that governs public engagement when a local government is enacting a land-use bylaw. The centrepiece of this consultation is the Consultation Paper on Renovating the Public Hearing, which gives readers information on the current law, the United Nations Declaration on the Rights of Indigenous Peoples, and a range of options for reform. We note that the province has just adopted [Bill 44](#), a new law that limits the use of public hearings. In this consultation, we hope to hear from all members of the public, and look forward to receiving comments that

will assist the BCLI Renovate the Public Hearing Project Committee in developing its final recommendations for reform. Read the [full article](#) by Kevin Zakreski with BCLI.

**The Consequences of Building in Violation of Local Rules: A Case Comment on City of Surrey v. Sidhu 2023 BCSC 1837**

Building a residence or structure without obtaining the necessary permits and where the construction contravenes local bylaws can be a costly lesson for property owners when they become the target of enforcement action by a regulator or local authority. The recent British Columbia Supreme Court decision in *City of Surrey v. Sidhu* [2023 BCSC 1837](#) (the “Petition Proceedings”) highlights the consequences of undertaking construction projects in flagrant violation of local building requirements and carrying on with such construction after a stop work order has been posted on the property. Read the [full article](#) by David Giroday of Civic Legal LLP.

**BC Court Blocks New Law against Public Drug Use, Warning of ‘Irreparable Harm’**

The places specified in the [Act](#) include sports fields, beaches, or parks, within six metres of building entrances and within 15 metres of a playground, skate park or wading pool. Read the *Vancouver Sun* [article](#) (paywall).

**British Columbia Passes Bill 35, Advancing the Homes for People Action Plan and Addressing Short-Term Rental Surplus**

On October 26, 2023, Bill 35, the [Short-Term Rental Accommodations Act](#), received royal assent. Bill 35 was introduced as part of the NDP’s Homes for People Action Plan to combat the housing crisis and intends to regulate short-term rental listings of less than 90 days. It amends the [Local Government Act](#). The following discussion highlights the most significant impacts arising from Bill 35, who exactly falls under the new legislation and how short-term rentals booked after May 2024 may be impacted. This blog post is current to December 7, 2023. Read the [full article](#) by Michelle Yung and Hannah Johnston with Bennett Jones.

**Electric Kick Scooter Project**

from [UBCM](#):

[Provincial regulations](#) were recently passed to allow the piloting of electric kick scooters in participating communities for four more years. The four-year pilot starts when the current electric kick scooter pilot project ends on April 5, 2024, and will run until 2028. Local governments can join the new pilot project before it starts on April 5, 2024, to provide residents with the opportunity to use electric kick scooters within their community. The new Electric Kick Scooter Pilot Project Regulation makes enhancements under the new pilot project legislative framework passed in Spring 2023.

Act or Regulation Affected	Effective Date	Amendment Information
Authority Designation Regulation (263/89)	Dec. 11/23	by <a href="#">Reg 283/2023</a>
Bylaw Notice Enforcement Regulation (175/2004)	Dec. 6/23	by <a href="#">Reg 243/2023</a>
Community Charter Bylaw Enforcement Ticket Regulation (425/2003)	Dec. 7/23	by <a href="#">Reg 269/2023</a>
Designation of Transit-Oriented Areas Regulation (266/2023)	NEW Dec. 6/23	see <a href="#">Reg 266/2023</a>
Electrical Power Corporations Valuation Regulation (217/86)	Dec. 1/23	by <a href="#">Reg 249/2023</a>
Eligible Port Property Designation Regulation (309/2010)	Dec. 1/23	by <a href="#">Reg 287/2023</a>
Fees Regulation (244/2011)	Dec. 1/23	by <a href="#">Reg 75/2023</a>
Islands Trust Act	Dec. 7/23	by 2023 Bill 47, c. 48, section 23 only (in force by <a href="#">Reg 263/2023</a> ), <a href="#">Housing Statutes (Transit-Oriented) Amendment Act, 2023</a>
		by 2023 Bill 44, c. 45, section 47 only (in force by <a href="#">Reg 262/2023</a> ), <a href="#">Housing Statutes (Residential Development) Amendment Act, 2023</a>
Local Government Act	Dec. 7/23	by 2023 Bill 44, c. 45, sections 2, 4, 6, 8, 12, 14, 15, 19, 20, 23, 24 and 25 only (in force by <a href="#">Reg 262/2023</a> ), <a href="#">Housing Statutes (Residential Development) Amendment Act, 2023</a>
		by 2023 Bill 47, c. 48, sections 1 to 7, 9 and 11 only (in force by <a href="#">Reg 263/2023</a> ), <a href="#">Housing Statutes (Transit-Oriented)</a>

		Amendment Act, 2023
Local Elections Campaign Financing Prior to 2018 General Local Election Regulation (106/2014)	<b>REPEALED</b> Dec. 31/23	by Reg 106/2014
Local Government Transit-Oriented Areas Regulation (263/2023)	<b>NEW</b> Dec. 7/23	see <a href="#">Reg 263/2023</a>
Local Government Zoning Bylaw Regulation (262/2023)	<b>NEW</b> Dec. 7/23	see <a href="#">Reg 262/2023</a>
Managed Forest Land and Cut Timber Values Regulation (90/2000)	Dec. 1/23	by <a href="#">Reg 250/2023</a>
Port Land Valuation Regulation (304/2010)	Dec. 1/23	by <a href="#">Reg 273/2023</a>
Railway and Pipeline Corporations Valuation Regulation (203/86)	Dec. 1/23	by <a href="#">Reg 251/2023</a>
Railway, Pipeline, Electric Power and Telecommunications Corporation Rights of Way Valuation Regulation (218/86)	Dec. 1/23	by <a href="#">Reg 252/2023</a>
Restricted-Use Property Valuation Regulation (236/2017)	Dec. 1/23	by <a href="#">Reg 272/2023</a>
Short-Term Rental Accommodations Act	<b>NEW</b> Dec. 7/23	c. 32, SBC 2023, Bill 35, sections 1 (part), 2 to 5, 15, 19 (1) to (4), 20, 21 (a), 22 to 25 and 31 to 34, 35 (part), 37, 38 (part) only (in force by <a href="#">Reg 268/2023</a> ), <a href="#">Short-Term Rental Accommodations Act</a>
Short-Term Rental Accommodations Regulation (268/2023)	<b>NEW</b> Dec. 7/23	see <a href="#">Reg 268/2023</a>
Telecommunications Corporations Valuation Regulation (226/86)	Dec. 1/23	by <a href="#">Reg 253/2023</a>
Treaty First Nation Taxation Act	Jan. 1/24	by 2023 Bill 10, c. 23, sections 177 and 179 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2023</a>
Vancouver Charter	Dec. 7/23	by 2023 Bill 44, c. 45, sections 27, 28, 30, 32, 34-37, 41 to 45 only (in force by <a href="#">Reg 264/2023</a> and <a href="#">Reg 265/2023</a> ), <a href="#">Housing Statutes (Residential Development) Amendment Act, 2023</a> by 2023 Bill 47, c. 48, sections 12 to 17, 20 and 22 only (in force by <a href="#">Reg 265/2023</a> ), <a href="#">Housing Statutes (Transit-Oriented) Amendment Act, 2023</a>
Vancouver Charter By-law Enforcement Ticket Regulation (189/2007)	Dec. 7/23	by <a href="#">Reg 269/2023</a>
Vancouver Transit-Oriented Areas Regulation (265/2023)	<b>NEW</b> Dec. 7/23	see <a href="#">Reg 265/2023</a>
Vancouver Zoning Bylaw Regulation (264/2023)	<b>NEW</b> Dec. 7/23	see <a href="#">Reg 264/2023</a>



## MISCELLANEOUS

### Miscellaneous News:

## New Amendments to Limits on Recovery of Disbursement (Analysis)

By [Order in Council No. 628](#), on November 27, 2023, the Lieutenant Governor in Council amended [s. 5](#) of the Disbursements and Expert Evidence Regulation, BC Reg, 210/2020 ("Regulation"). Section 5 of the Regulation limits recovery of disbursements in motor vehicle litigation to a fixed percentage of the amount recovered.

The amendments follow the Court of Appeal's ruling in *British Columbia (Attorney General) v. Le*, [2023 BCCA 200](#), in which the Court of Appeal held that s. 5 of the Regulation was unreasonable because the absence of judicial discretion to depart from the percentage cap produced disproportionately prejudicial outcomes that were inconsistent with the purpose of its enabling statute.

The amendments come in response to that decision. Key changes include providing the court with discretion to exclude disbursements from the percentage cap where a party to a vehicle injury proceeding applies to the court for such an order (s. 5(6)) and where parties consent to exclude disbursements (s. 5(1)(e)).

To grant an order under subsection (6), the application must be made before the disbursements are incurred and the court must be satisfied that the party making the application would suffer prejudice disproportionate to the benefit of not increasing the complexity and cost of the vehicle injury proceeding (s. 5(8)).

Further, the applicant must include in its application the nature and evidentiary value of each disbursement sought to be excluded (s. 5(9)(a)) and evidence of the prejudice the party would suffer were the disbursements not excluded, in accordance with the requirements of s. 5(9)(b).

Quickscribe would like to thank Kirsten Marsh with [OnPoint Law Corporation](#) for contributing this summary.

## Criminal Code Bail Reforms Now in Force

Effective January 4, amendments made by Bill C-48 to the [Criminal Code](#) came into force, creating a new reverse onus of bail aimed at accused persons who have engaged in serious violent offences involving weapons, and who must prove they are not a flight risk or their release would not pose a risk to public safety. The amendments also expand the list of firearms offences leading to a reverse onus, as well as broadening the existing reverse onus system for persons accused of intimate partner violence. An article on this topic, [Keeping a cool head on bail reform](#), was included in the last Reporter. Quickscribe will publish these amendments to the *Criminal Code* by the end of the day.

## BC Releases Primer on Distinction-Based Approach to Relationships with Indigenous Peoples

[Declaration on the Rights of Indigenous Peoples Act](#), the Province has adopted a distinctions-based approach to relationships with Indigenous Peoples (First Nation, Métis and Inuit) to advance reconciliation. This means BC's relations and dealings with First Nations, Métis, and Inuit will be conducted in a manner that is appropriate for the specific context, recognizing and respecting the distinct and different histories, rights, laws, legal systems, and systems of governance of each. Indigenous Peoples' rights are recognized and affirmed in Section 35 of the Federal [Constitution Act, 1982](#), however, not all rights are uniform or the same. The Province recognizes this diversity and, its relationships and engagement with First Nations, Métis and Inuit will include different approaches and result in different outcomes.

## BC Court of Appeal Overturns LSBC Discipline Decision against Bijan Ahmadian

The British Columbia Court of Appeal set aside the Law Society of British Columbia's decision against Bijan Ahmadian, who was alleged to have misappropriated trust account funds. In the BCCA [ruling](#), the court found that the LSBC made several errors in prosecuting the case. Ahmadian argued that the panel created an unfair process by not allowing him to answer the case against him. The court agreed, dismissing one allegation of professional misconduct and setting aside the panel's decision, ordering the case to return to the LSBC discipline committee. Read the [full article](#) by [Julie Sobowale](#) on *Canadian Lawyer*.

## CRT Publishes Draft Intimate Image Protection Order Rules

In March 2023 the BC Government passed the Intimate Images Protective Act. The regulations under the Act and the way the Civil Resolution Tribunal ("CRT") will deal with these claims are yet to be finalized but things now appear to be getting closer. Today the CRT announced draft rules for these claims and requested public feedback. The below has been [published on the CRT's website](#):

*The Intimate Images Protection Act (IIPA), passed in March 2023, gives the Civil Resolution Tribunal (CRT) jurisdiction to resolve claims about non-consensual sharing of intimate images.*

Read the [full article](#) by Erik Magraken on the BC Injury Law Blog.

## BC Independent Oversight Offices Urge Public Consultation, Legislative Reform on Use of Artificial Intelligence

Three oversight Officers of the Legislature are urging the BC government to expand its consultation on draft principles for the responsible use of artificial intelligence to members of the public in a letter to Minister of Citizens' Services Lisa Beare. The ministry's consultation is currently restricted to employees of the BC public service. The officers are also calling on government to ensure clear legislation is in place to protect the interest of British Columbians when AI is used. Read the [full article](#) published on Ombudsperson British Columbia.

## Why Decision Based on Complainant Testimony Requires Court Caution

It has now become the standard practice that when a criminal conviction is based on a complainant's testimony, the reasons for judgment will invariably contain paragraphs where the court cautions itself on the principles to be followed when assessing witness credibility. These principles include that a finding of guilt is maintainable if, and only if, the accepted evidence convinces the trier of fact beyond a reasonable doubt. This is the standard the Supreme Court of Canada set out in *R. v. W.(D.)* [1991] 1 S.C.R. 742. Is it

enough that the complaint's evidence be believed for a conviction to be entered, or even if the complainant's story is entirely accepted, should it be subject to further scrutiny by the additional test of "beyond reasonable doubt?" The question deserves to be asked in light of the British Columbia Supreme Court judgment in *R. v. Hooper* 2023 [BCSC 1871](#). Read the [full article](#) by John Hill on LAW360 Canada.

Act or Regulation Affected	Effective Date	Amendment Information
Crime Victim Assistance Act	Jan. 1/24	by 2023 Bill 37, c. 36, sections 1 to 17 only (in force by <a href="#">Reg 270/2023</a> ), <a href="#">Crime Victim Assistance Amendment Act, 2023</a>
Crime Victim Assistance (General) Regulation	Jan. 1/24	by <a href="#">Reg 270/2023</a>
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	Dec. 1/23	by <a href="#">Reg 245/2023</a>



## MOTOR VEHICLE & TRAFFIC

### Motor Vehicle and Traffic News:

#### Canada Gazette, Part I, Volume 157, Number 49: Regulations Amending the Transportation of Dangerous Goods Regulations (Canadian Update)

75-day consultation (until February 22, 2024 11:59pm EST)

Issues: The [Transportation of Dangerous Goods Regulations](#) (TDGR) under the authority of the [Transportation of Dangerous Goods Act, 1992](#) (TDG Act) need to be updated to strengthen existing rules, clarify provisions, fix inconsistencies, and introduce new rules in response to concerns raised by stakeholders, inspectors, and local authorities. From [Transport Canada](#).

#### Canada Enacts Regulations on Sale of Zero-Emission Light-Duty Vehicles

On December 20, 2023, the Government of Canada enacted [Regulations Amending the Passenger Automobile and Light Truck Greenhouse Gas Emission Regulations](#) (the "ZEV Regulations"). The ZEV Regulations affect companies that manufacture and import light-duty vehicles, and will further Canada's commitment to net-zero emissions by 2050.

The ZEV Regulations were announced in draft form in December 2022. They apply to light-duty vehicles (passenger cars, SUVs, and light trucks), which account for about half of Canada's greenhouse gas emissions from the transportation sector. Under the ZEV Regulations, automobile manufacturers and importers must meet annual zero-emission vehicle regulated sales targets — these targets begin at 20% for model year 2026, and they increase yearly to 100% for model year 2035 and beyond. Read the [full article](#) by [André Durocher](#), [Steven F. Rosenhek](#) and [Michael Parrish](#) with Fasken Martineau DuMoulin LLP.

#### Shipping Document

This bulletin explains shipping document requirements. It does not change, create, amend, or suggest deviations to the [Transportation of Dangerous Goods Regulations](#) (TDG Regulations). For specific details, consult Part 3 of the TDG Regulations. Read the [full bulletin](#) from Transport Canada.

#### Global Guide to Autonomous Vehicles 2023

Companies operating in or around the autonomous vehicles industry face a growing patchwork of complex and, in some cases, underdeveloped laws, policies, and regulations. These legal and policy frameworks can vary greatly by jurisdiction, even within a single country.

Dentons' 2023 Global Guide to Autonomous Vehicles provides a detailed roadmap of the developing policy, regulatory and legal landscape for autonomous vehicles, as well as the specific driving forces and roadblocks across key areas that will define the global mobility revolution. Read the Dentons [article](#).

#### Tougher Action to Deter Trucks from Hitting Overpasses Will Make Travel Safer

Tougher action is being taken to prevent truckers from crashing into highway infrastructure throughout B.C. as stronger deterrents against unsafe commercial-vehicle drivers will make highway travel safer.

Trucking companies involved in infrastructure crashes will see stronger consequences that escalate for repeat offences. In cases where a company has a history of non-compliance, including previous infrastructure crashes, enforcement measures will become increasingly severe. This includes potential suspension and possible cancellation of a company's carrier safety certificate, essentially preventing their operation in B.C. Read the government [news release](#).

#### ICBC Not Entitled to Unlimited Information in Processing Claims

ICBC has a lot of power when processing claims. But it is not unlimited. This week reasons for judgement were published by the Civil Resolution Tribunal reigning in some of the power ICBC thought they had.

In the recent case ([Nawa v. ICBC](#)) the Applicant was involved in two collisions. A benefits dispute arose with ICBC with the

Applicant claiming, among other things, that ICBC wrongfully suspended the payment of his income replacement benefits.

ICBC argued they were entitled to do so because he did not comply with section 11 of the [Insurance \(Vehicle\) Act](#). This section requires an insured to give ICBC "the content required by the corporation" and further to "comply with any other method of making and proving claims that is established by the corporation.". Read the [full article](#) by [Erik Magraken](#) on the *BC Injury Law Blog*.

**CVSE Bulletins & Notices**

The following documents were posted recently by CVSE:

- [Compliance Circular 05-2023](#) – Highway Infrastructure Crash Progressive Enforcement Framework
- [Bulletin 07-2023](#) – Over-height Regulations, Speed Limiters and In-Cab Warning Devices
- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [Circular 06-2023](#) – Hours of Service Rules for the Motion Picture Industry in B.C

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:

Applications Received

- [18732-23](#) – Uray Transportation Inc. (Rider Express)
- [19054-23](#) – Gurmit Singh Kailley (LimoMe)
- [19073-23, 19074-23](#) – Sunpreet Singh (Energetic Taxi Cab.)
- [18751-23](#) – Hallcon Crew Transport Canada Inc.

Application Decisions

- [19209-23 PS TOP](#) – Vancity Limousines Ltd. [Approved]
- [19066-23 TOP](#) – Luxury Transport Inc. [Approved]
- [19226-23 PS TOP](#) – Cando Venture Corp. (Resort Connector, Fernie Connector, Resort Tours and Transportation) [Approved]
- [18264-23, 18265-23](#) – Vantastic Rentals Limited (NOW Shuttle) [Approved in Part]
- [18657-23](#) – Ecofriendly Taxi Ltd. [Approved]
- [19254-23 PS TOP](#) – Intralink Transportation Services Ltd. [Approved]
- [19255-23 PS TOP](#) – Celebrity Limousine Service Ltd. [Approved]
- [18591-23](#) – 1123910 B.C. Ltd. (Sunstar Shuttle) [Refused]
- [19236-23 PS TOP](#) – Island Chauffeur Inc. [Approved]
- [18523-23](#) – Stampede Taxi Ltd. [Refused]
- [19269-23 TOP](#) – Michael McLean Bruce (Connect Airport Transfers) [Approved]
- [18327-23](#) – Kelowna Cabs (1981) Ltd. [Approved]
- [19257-23 PS TOP](#) – Intralink Transportation Services Ltd. [Approved]
- [19327-23 PS TOP](#) – Vanride Shuttle Services Ltd. [Approved]
- [18520-23](#) – Squamish Taxi Ltd. [Approved]
- [16427-22](#) – Timeless Limousine Service Ltd. [Approved in Part]
- [19227-23 PS TOP](#) – Cando Venture Corp. (Resort Connector, Fernie Connector) [Approved]
- [18052-23](#) – Yellow Top Taxi Ltd. [Approved in Part]
- [18732-23](#) – Uray Transportation Inc. (Rider Express) [Approved]
- [18966-23](#) – Mebin Thomas (Super Cabs) [Approved]
- [19356-23 TOP](#) – Cold Comforts Lodgings Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Regulations (30/79)	Dec. 14/23	by <a href="#">Reg 290/2023</a>
Motor Vehicle Act	Dec. 1/23	by 2023 Bill 23, c. 17, sections 12 (a) to (i), (k) to (m) and 13 to 17 only (in force by <a href="#">Reg 247/2023</a> ), <a href="#">Motor Vehicle Amendment Act, 2023</a>
Transportation Act	Dec. 7/23	by 2023 Bill 47, c. 48, section 24 only (in force by <a href="#">Reg 263/2023</a> ), <a href="#">Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023</a>

**OCCUPATIONAL HEALTH & SAFETY****Occupational Health and Safety News:****Employer Alert: New Requirements under the BC Workers Compensation Act in Effect Jan. 1, 2024**

On June 9, 2023, the Province of British Columbia published [Order in Council No. 342](#), bringing into effect certain provisions of [Bill 41, Workers Compensation Amendment Act \(No. 2\)](#) (the Act) that were not yet in force. BC employers and employees returning from work-related injuries will need to comply with the new return-to-work requirements imposed by the Act. Read the [full article](#) by Cole Mailloux with Gowling WLG.

**Consultation on Proposed Amendments to Part 16 of the Occupational Health and Safety Regulation**

Our Policy, Regulation and Research Department is requesting feedback on proposed amendments to Part 16, Mobile Equipment, sections 16.21 to 16.21.1 — Seat belts, of the [Occupational Health and Safety Regulation](#). The consultation phase gives stakeholders an opportunity to provide feedback before the proposed amendments are taken to public hearing. All stakeholder feedback is carefully considered and analyzed, and provided to WorkSafeBC's Board of Directors as part of their decision-making process. Visit the [WorkSafeBC website](#) for additional information about these proposed amendments.

**Employer Licensing and Worker Certification for Asbestos Abatement**

In British Columbia, most asbestos-containing building materials were phased out by the early 1990s, with a small number of asbestos materials remaining in use thereafter and still found in buildings today. Anyone who repairs, renovates, or demolishes buildings continues to be at risk of exposure. Asbestos breaks down into miniscule fibres as it ages or when it's disturbed. Touching or moving it then releases the fibres into the air, where they can linger and put people at risk of exposure. Asbestos-related lung diseases are preventable, yet exposure to asbestos remains the leading cause of work-related deaths in BC. And that's why the provincial government has introduced new protections to help keep workers safe from the danger of asbestos. As of January 1, 2024, asbestos abatement employers must be licensed to operate in BC, and anyone performing asbestos abatement work must be trained and certified. Read the [full article](#) by Marnie Douglas in the Winter 2023 edition of *WorkSafe Magazine*.

**BC Employer's Workplace Safety Penalty Slashed by Tribunal**

Richmond Plywood Corporation Limited, also known as Richply, has successfully appealed a hefty penalty imposed by WorkSafeBC. This case sheds light on the importance of considering the facts as they were known at the time and highlights the [shared responsibility for workplace](#) safety between employers and workers. [Richply made headlines in 2021](#) when it was fined \$547,000 by WorkSafeBC following an incident that left a worker injured. The worker's hand was caught in a plywood press while carrying out his duties. WorkSafeBC deemed the violations as high-risk and noted that this was a repeated offense, resulting in the unusually high penalty. Read the [full article](#) by Shane Mercer on *Canadian Occupational Safety Magazine*.

**Consultation on Proposed Amendments to Part 3 of the Occupational Health and Safety Regulation**

from [WorkSafeBC](#)

Our Policy, Regulation and Research Department is requesting feedback on proposed amendments to Part 3, Rights and Responsibilities, section 3.01 — General risk management, of the [Occupational Health and Safety Regulation](#). The consultation phase gives stakeholders an opportunity to provide feedback before the proposed amendments are taken to public hearing. All stakeholder feedback is carefully considered and analyzed, and provided to WorkSafeBC's Board of Directors as part of their decision-making process.

Proposed regulatory amendments under review:

- [Part 3, Rights and Responsibilities, section 3.01 — General risk management](#)

**Proposed Amendments to Policy on Average Earnings in Chapter 9 of the RS&CM**

from [WorkSafeBC](#)

Chapter 9, Average Earnings, of the Rehabilitation Services & Claims Manual, Volume II (RS&CM), sets out WorkSafeBC's policies regarding average earnings. WorkSafeBC must determine the amount of a worker's average earnings at the time of the injury, as well as the worker's average net earnings after making deductions from gross earnings. These determinations are important because they are the basis for calculating a worker's compensation benefits. Our Policy, Regulation and Research Department is releasing a discussion paper with proposed amendments to policy to improve readability and address key issues raised by stakeholders and WorkSafeBC subject matter experts. You're invited to provide feedback until 4:30 p.m. on Friday, June 28, 2024.

**New Public Health Orders**

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

- [Guidance for Courthouse Users During the COVID-19 and Other Communicable Disease Incidents – December 15, 2023 \(PDF, 382KB\)](#)
  - [Courthouse Public Health Incident and Communication Response Protocol – December 15, 2023 \(PDF, 360KB\)](#)

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

**OHS Policies/Guidelines – Updates**

Guidelines – Occupational Health and Safety Regulation

December 12, 2023:

The following guidelines were revised:

- Part 4 General Conditions
  - [G4.46 Definition of musculoskeletal injury \(MSI\)](#)
  - [G4.47 Risk identification](#)
  - [G4.48 Risk assessment](#)
  - [G4.49 Risk factors](#)
  - [G4.50-1 Risk control](#)
  - [G4.51 Education and training](#)
  - [G4.52 Evaluation](#)
  - [G4.53 Consultation](#)

December 15, 2023:

Editorial revisions were made to the following guideline:

- Part 19 Electrical Safety
  - [G19.15\(1\)-1 Use of GFCI outdoors in the film and performing arts industries](#)

January 1, 2024:

- Part 6 – Asbestos
  - [G6.2.1 Asbestos abatement work and asbestos certificates](#) (new)
  - [G6.2.2\(2\) Details of the asbestos certificates](#) (new)
- Part 20 – Demolition
  - [G20.112 Hazardous materials – Asbestos](#) (revised)
  - [G20.26.6 Operator certification](#) (new)

Guidelines – *Workers Compensation Act*

January 1, 2024:

- [G-P2-96-1 Suspension and cancellation of asbestos certificates](#) (new)
- [G-P2-94-1 OHS Citations](#) (revised)

Policies – *Workers Compensation Act*

January 1, 2024:

The following policies were updated to reflect CPI adjustments, effective January 1, 2024:

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

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

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Dec. 1/23	by <a href="#">Reg 203/2023</a>
	Jan. 1/24	by <a href="#">Reg 204/2023</a>
Workers Compensation Act	Jan. 1/24	by 2022 Bill 5, c. 3, sections 9 (part) and 13 (part) (in force by <a href="#">Reg 142/2023</a> ), <a href="#">Workers Compensation Amendment Act, 2022</a>
		by 2022 Bill 41, c. 37, section 4 and 7 only (in force by <a href="#">Reg 142/2023</a> ), <a href="#">Workers Compensation Amendment Act (No. 2), 2022</a>



## Property, Real Estate & Construction News:

### Department of Finance Releases Draft Regulation on Enhanced GST Rebates for New Purpose-built Rental Housing

On December 14, 2023, the Department of Finance released [draft regulations](#) (the “Regulations”) intended to clarify the enhanced 100% GST rebate for new purpose-built rental housing. The Regulations will be deemed to have come into force on September 14, 2023. For further discussion on the enhanced GST rebate, see our previous [blog post](#). The Department of Finance originally announced GST relief on new residential rental construction on September 14, 2023. The core legislation relating to the enhanced GST rebate came as part of [Bill C-56](#), which received Royal Assent on December 15, 2023. Bill C-56 amended parts of section 256.2 of the [Excise Tax Act](#) (the “ETA”), and added subsections (3.1), (3.2), and (9.1). Read the [full article](#) by Adrian Zee with Thorsteinssons LLP.

### AF2G Investments Inc. v. Minister of Finance – What constitutes a valid property transfer tax objection?

A recent decision from the British Columbia Supreme Court (“BCSC”), *AF2G Investments Inc. v. Minister of Finance (BC)*, [2023 BCSC 2133](#), provided guidance on when a communication constitutes an objection under section 19 of the [Property Transfer Tax Act](#), R.S.B.C., 1996, C. 378 (the “Act”). At issue was whether a letter dated February 10, 2020 (the “February Letter”) addressed to an auditor at the Ministry of Finance, Property Taxation Branch (the “Branch”) constituted a valid objection. Read the [full article](#) published by Adrian Zee with Thorsteinssons LLP.

### Electric Planning Reports

*Dear Tony:*

With the new regulations that require strata corporations of 5 units or more to have electric planning reports completed, will this apply to a small townhouse or bare land strata like ours which is only 14 units in Delta? With single detached units where each home has its own panel and meter, why would this report be of any value to our small community? – *Jameson M.*

*Dear Jameson:*

In most strata corporations, whether they are 100 townhouse units, 200 apartment high rise units, or an 8 unit bare land, every strata lot has its own panel and is metered by the service provider. This does not assure sufficient power for the future upgrades of electrification. The purpose of an Electric Planning Report (EPR) is to determine how much power is available to your strata corporation, the current demand, possible future demands when upgrades are added for EV Charging, heat pumps for units or common areas, and other conversions and whether upgrades will be required.

Read the [full article](#) by Tony Gioventu on Condo Smarts, published by CHOA.

### BC Court of Appeal Rules on Res Judicata in Arbitration Proceeding

In a recent construction dispute, the BC Court of Appeal has ruled on the issue of *res judicata* in an arbitration proceeding. In *Bollhorn v. Lakehouse Custom Homes Ltd.*, [2023 BCCA 444](#), an arbitrator heard a dispute between Robert Bollhorn as buyer and Lakehouse Custom Homes as builder and seller on alleged deficiencies in constructing a house in Kelowna, BC. The arbitrator ultimately ruled that the doctrine of *res judicata* barred the dispute between the parties. Read the [full article](#) by Angelica Dino on *Canadian Lawyer*.

### BCPNP Prioritizing Certain Construction Occupations

The British Columbia Provincial Nominee Program (“BCPNP”) has announced that certain construction occupations will now be prioritized in order to support the province’s ‘Homes for People Action Plan’, which was announced earlier this year. The goal of the Action Plan is to increase the volume and rate of delivery of new homes in the province. In order to support this goal, BCPNP will issue targeted ‘Invitations to Apply’ to eligible Skills Immigration stream candidates with a valid BC trades qualification in any of the priority construction occupations. Read the [full article](#) by Lara Gradil with Mathews Dinsdale.

### Speculation Tax Expansion

As we approach the end of 2023, the B.C. Government recently announced its plan to expand the speculation and vacancy tax to THIRTEEN (13) additional municipalities in B.C. This expansion will bring the total number of communities subject to the tax to 59. The speculation tax, sometimes called the vacancy tax, is an annual tax based on how owners use residential properties in areas in B.C. affected most by the current housing crisis and shortage. It was introduced by the BC government in 2018. Read the [full article](#) by Vanessa Dedominicis with Pushor Mitchell LLP.

### New Federal Prompt Payment Legislation for the Construction Industry Comes into Force

The Minister of Public Services and Procurement Jean-Yves Duclos has announced that the federal prompt payment legislation officially came into force on December 9, addressing long-standing construction industry concerns over timely payments. The government said that Canada’s construction industry is an essential driver of the economy as it employs an estimated 1.5 million people. In 2016, industry stakeholders raised the long-standing issue of payment delays along the contracting chain. The new legislation aims to tackle payment delays along the contracting chain, ensuring timely payments for construction work and supporting the industry’s vitality. Read the [full article](#) by Angelica Dino on *Canadian Lawyer*.

### New Regulations Make EV Charging Requests Easier in Strata Developments

New regulations will make it easier for people living in strata developments to request electric-vehicle (EV) charging stations where

they live. "Lack of access to electric-vehicle charging should not be a deterrent to people wanting to purchase or rent in a strata complex, which for some is a more affordable housing option," said Ravi Kahlon, Minister for Housing. "We're ensuring that people living in strata developments have a process to request access to electric-vehicle charging, while also helping stratas to plan for and manage electrical capacity. We're considering future need, adapting to climate change and building a low-carbon B.C." The regulations outline a process for a homeowner in a strata to request to install an EV charging station and determine a timeline for strata corporations to respond. The regulations also enable strata corporations to grant permission to an owner to exclusively use a parking stall on common property on land that is a common asset for as long as five years if EV charging has been installed and the installation resulted from an owner's request for EV charging. Read the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Manufactured Home Park Tenancy Regulation (481/2003)	Jan. 1/24	by Reg 481/2003
Property Transfer Tax Act	Jan. 1/24	by 2023 Bill 10, c. 23, sections 149 to 152 and 155 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2023</a>
Residential Tenancy Regulation (477/2003)	Jan. 1/24	by Reg 477/2003
Short-Term Rental Accommodations Act	<b>NEW</b> Dec. 7/23	c. 32, SBC 2023, Bill 35, sections 1 (part), 2 to 5, 15, 19 (1) to (4), 20, 21 (a), 22 to 25 and 31 to 34, 35 (part), 37, 38 (part) only (in force by <a href="#">Reg 268/2023</a> ), <a href="#">Short-Term Rental Accommodations Act</a>
Short-Term Rental Accommodations Regulation (268/2023)	<b>NEW</b> Dec. 7/23	see <a href="#">Reg 268/2023</a>
Speculation and Vacancy Tax Regulation (275/2018)	Jan. 1/24	by <a href="#">Reg 237/2023</a>
Strata Property Act	Dec. 6/23	by 2023 Bill 22, c. 21, sections 2, 4, 5, 7 to 9, 11, 12 and 14 only (in force by <a href="#">Reg 261/2023</a> ), <a href="#">Strata Property Amendment Act, 2023</a>
Strata Property Regulation (43/2000)	Dec. 6/23	by <a href="#">Reg 261/2023</a>

 **WILLS & ESTATES**

**Wills and Estates News:**

**Beware: Your Careful Trust Planning can be Varied by the Court: Winding up a Trust with Contingent Beneficiaries**

When setting up a trust, it can be difficult to imagine all the future scenarios and who may end up entitled to trust property. When these uncertainties exist, it is important to know the possibility of the trust being varied or terminated in the future. The British Columbia Supreme Court's recent decision in [Molnar v Molnar](#) articulates the requirements for when a court may approve a trust variation (including the winding up of a trust) where there is a possibility of beneficiaries coming into existence in the future. Read the [full article](#) by [Maria Starko](#) and [Zachary Murphy-Rogers](#) with Clark Wilson LLP.

**Wills Variation Act BC Limitation Period**

A Wills Variation Claim is a legal process that allows spouses and children of a deceased person to contest the distribution of the deceased's estate as opposed to what is outlined in the will. It usually occurs when spouses or children feel that the will was drafted in an unfair manner.

This claim seeks to protect the interest of spouses and children of a deceased person. In Canada, including the province of British Columbia, spouses and children of a deceased person can contest the will if they believe the deceased did not make adequate provision for them.

Fairness and equity are the goals of the Wills Variation Claim. It aims to provide proper maintenance and support for family members of a deceased person. Read the [full article](#) from the Onyx Law Group.

**Can You Marry Your Way into Inheritance? Understanding Restrictions on Property Transfers**

In Vancouver, BC, a contentious situation recently unfolded at a local housing co-op when a man, one Mr. Mihaljo Tusa, married a terminally ill woman, his sister-in-law, only weeks before her death apparently to gain occupation of her co-op housing unit. Tusa's

newlywed spouse was Ms. Margaret Crysler, whose sister Eileen had been in a romantic relationship with Mihaljo before (and possibly during) the marriage. The deceased Margaret's son alleges that the marriage was manipulated by his Aunt Eileen and Mihaljo to secure possession of his mother's co-op unit. He expressed concerns about his mother's mental capacity to consent to the marriage given her deteriorating health.

Following Margaret's passing, Mihaljo refused to vacate the property, prompting the co-op to commence legal action seeking his eviction. Court documents reveal that Tusa and Eileen had applied for co-op membership earlier in the year, but were not approved. Despite the co-op's attempts to regain possession of the unit after Margaret's passing, Tusa declined to leave, leading the co-op to file a petition in the BC Supreme Court seeking immediate possession of the unit, compensation for unpaid charges, and damages for trespassing. Read the [full article](#) by [Hannah Rachel Solmon](#) and [Zachary Murphy-Rogers](#) with Clark Wilson LLP.

Act or Regulation Affected	Effective Date	Amendment Information
<i>There were no amendments this month.</i>		

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