

Quickscribe Reporter

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QUICKSCRIBE NEWS:

New Bills

The spring parliamentary session is in full swing, and several new government and members' bills have been introduced.

Government Bills

- [Bill 1](#) – An Act to Ensure the Supremacy of Parliament
- [Bill 2](#) – National Day for Truth and Reconciliation Act
- [Bill 3](#) – Miscellaneous Statutes Amendment Act, 2023
- [Bill 4](#) – Finance Statutes Amendment Act, 2023
- [Bill 5](#) – Public Service Labour Relations Amendment Act, 2023
- [Bill 6](#) – Municipalities Enabling and Validating Act (No. 5)
- [Bill 7](#) – Land Owner Transparency Amendment Act, 2023
- [Bill 8](#) – Real Estate Services Amendment Act, 2023
- [Bill 10](#) – Budget Measures Implementation Act, 2023
- [Bill 11](#) – Election Amendment Act, 2023

Members' Bills

- [Bill M201](#) – Provincial Sales Tax (Used Passenger Vehicles) Amendment Act, 2023
- [Bill M202](#) – Wildlife Amendment Act, 2023
- [Bill M203](#) – Correction Statutes Amendment Act, 2023
- [Bill M204](#) – Freedom of Information and Protection of Privacy Amendment Act, 2023
- [Bill M205](#) – Equal Pay Reporting Act
- [Bill M206](#) – Land Title Amendment Act, 2023
- [Bill M207](#) – Provincial Symbols and Honours Amendment Act, 2023
- Bill M208 – Crown Land Residential Lease Act, 2023
- Bill M209 – Electoral Districts (Renaming) Amendment Act, 2023
- Bill M210 – Preserving Brunswick Point for Agriculture and Migrating Waterfowl Habitat Act, 2023
- Bill M211 – Emergency Program Amendment Act, 2023
- [Bill M212](#) – Buddhist Culture Day Act

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CATEGORIES

COMPANY & FINANCE	LOCAL GOVERNMENT
ENERGY & MINES	MISCELLANEOUS
FAMILY & CHILDREN	MOTOR VEHICLE & TRAFFIC
FOREST & ENVIRONMENT	OCCUPATIONAL HEALTH & SAFETY
HEALTH	PROPERTY & REAL ESTATE
LABOUR & EMPLOYMENT	WILLS & ESTATES



COMPANY & FINANCE

Company and Finance News:

Proposed Amendments to the Securities Act

On February 8, the legislature tabled the *Finance Statutes Amendment Act*, [Bill 4](#), proposing amendments to the [Securities Act](#) to enhance the BC Securities Commission's ability to enforce securities laws and collect fines from violators. The amendments will allow the Commission to obtain necessary evidence for investigating misconduct and impose consequences on witnesses who refuse to provide information or records. The bill will also empower the Commission to seek stronger consequences, through the B.C. Supreme Court, for people convicted of securities- or derivatives-related offences under the [Criminal Code](#). In addition, the [Pension Benefits Standards Act](#) and the [Pooled Registered Pension Plans Act](#) will be amended to ensure the Commission will be able to collect fines from certain pension funds. Other amendments will help align the Commission with securities regulators in other jurisdictions by allowing it to designate credit ratings, make rules to develop standards for auditors of registrants under the act, and grant additional rule-making authority to impose continuous disclosure obligations on issuers that are not reporting issuers.

Strengthened Securities Fraud Protections Include

Proposed Changes to Pension Attachment Rules

[On February 8], the BC Government introduced a bill that, if passed, would expand the exceptions to the [Pension Benefits Standards Act's](#) rule against attachment of pension benefits. Currently, the *Pension Benefits Standards Act* permits pension benefits to be attached by certain notices and orders made under the [Family Maintenance Enforcement Act](#) when a person defaults on their family maintenance obligations. [Bill 4, Finance Statutes Amendment Act, 2023](#), would add another exception. This exception would permit pension benefits to be attached by preservation or forfeiture orders made under [Part 18.1 of the Securities Act](#) or in furtherance of any other process to enforce an order under the *Securities Act*. Such orders are made when a person contravenes securities law. Read the [full article](#) by Meghan Popp with Lawson Lundell LLP.

CSA Announces New Exemption from Proxy Requirements for Uncontested Director Elections

The Canadian Securities Administrators (CSA) has recently published an exemption for reporting issuers incorporated under the [Canada Business Corporations Act](#) (CBCA) from the form of proxy requirement for the uncontested director elections. As the council of securities regulators of Canada's provinces and territories, the CSA coordinates and harmonizes regulation for the Canadian capital markets. The CSA chair and Alberta Securities Commission chief executive Stan Magidson explained that the exemption would address confusion in the recent amendments to the CBCA. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

Trust Planning and the Notifiable Transaction Rules:

Where Do We Go from Here?

In 2022, the Department of Finance released draft legislation that includes, as part of a new regime of mandatory reporting rules, the notifiable transaction rules ("Rules"). The Rules are set to apply in a wide range of tax planning areas, including trust planning. If implemented in the form currently proposed, trust planning and compliance may be subject to yet another layer of complexity (keeping in mind that trust advisors already are grappling with draft legislation in respect of the still proposed "trust reporting rules"). The following is a closer look at the Rules, solely in a trust planning context. Read the [full article](#) by [Andrew C. Bateman](#) with Miller Thomson LLP.

Bousfield – Attacking Net-worth Assessments and Other Alternative Assessment Techniques

Bousfield v. The King, [2022 TCC 169](#), is a recent decision of the Tax Court of Canada that addresses "alternative assessment techniques". The decision serves as a helpful guide to both the legal bases for such techniques and the methods by which taxpayers can attack them. The decision also includes instructive comments regarding the responsibility of the Crown (as the Respondent) to properly plead the assumptions of fact made by the Minister of National Revenue (the "Minister") in reassessing the taxpayer. Read the [full article](#) by [Chris Canning](#) & [Morgan Watchorn](#) with Thorsteinssons LLP.

The Significant Impact of Recent Changes to the Competition Act (Canada) on Your Franchise Agreement: You Need to Prepare before June 23, 2023

On June 23, 2022, significant changes were made to the [Competition Act](#) (Canada), two of which have a direct impact on many franchise agreements. These changes consist of the addition of the following two new criminal offences to section 45 of the *Competition Act* (Canada):

- (1.1) Every person who is an employer commits an offence who, with another employer who is not affiliated with that person, conspires, agrees or arranges*
- (a) to fix, maintain, decrease or control salaries, wages or terms and conditions of employment; or*
- (b) to not solicit or hire each other's employees.*

The penalty for these offences is found in subsection (2) of the same section which reads as follows: Read the [full article](#) by Jean H. Gagnon, AdE and Frederic P. Gilbert with Fasken Martineau DuMoulin LLP.

In the Courts: Investor Ordered to Give Evidence to BC Securities Regulator after Latest Court Challenge

An investor has been ordered by BC's highest court to give evidence to the BC Securities Commission (BCSC) despite fears the information could lead to prosecution south of the border. Harish Tak is a client of the Vancouver brokerage firm Mackie Research Capital Corp. and the brother of one of the firm's brokers. The BCSC had been looking into Mackie Research's activities as part of an investigation into the trading and distribution of securities at NewGen Biopharm Corp. and Breathtec Biomedical Inc. Tak is not a target of the investigation, according to an earlier BC Supreme Court [decision](#), which noted Tak had attended an interview with the BCSC in August 2017. Read the *BIV* [article](#).

BC Securities – Policies & Instruments

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

- [21-332](#) – Canadian Securities Administrators (CSA) Staff Notice 21-332 – *Crypto Asset Trading Platforms: Pre-Registration Undertakings – Changes to Enhance Canadian Investor Protection*
- [BC Notice 2023/02](#) – Solicitation of Members for Corporate Finance Stakeholder Forum
- [23-330](#) – Order Protection Rule: Market Share Threshold for the period starting April 1, 2023
- [25-309](#) – *Matters Relating to Cessation of CDOR and Expected Cessation of Bankers' Acceptances*

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

Act or Regulation Affected	Effective Date	Amendment Information
Climate Action Tax Credit Regulation		

(135/2008)	Feb. 24/23	by Reg 47/2023
Designated Accommodation Area Tax Regulation (93/2013)	Feb. 1/23	by Reg 212/2022
Designated Major Event Accommodation Area Tax Regulation (12/2023)	NEW Feb. 1/23	see Reg 12/2023
Provincial Sales Tax Regulation (96/2013)	Feb. 1/23	by Reg 13/2023

 **ENERGY & MINES**

Energy and Mines News:

Transitioning from BOGC to BC Energy Regulator

We're now the BC Energy Regulator! Legislation has been brought in effect to officially change our name, modernize our board and expand our mandate. Read the [BCER Bulletin](#).

Carbon Capture, Utilization and Storage Developments in British Columbia and Alberta

As discussed in [our most recent post](#), B.C. passed the [Energy Statutes Amendment Act, 2022](#) (the Act) on November 24, 2022, to change legislation governing energy resources in the province. The Act has already amended the [Petroleum and Natural Gas Act](#) (PNGA) to clarify aspects of the regulatory framework for CCUS in B.C., including the tenure required for CCUS projects and, among other things, renames the B.C. Oil and Gas Commission as the British Columbia Energy Regulator.

The amended PNGA includes requirements for the rights that must be obtained in order to explore for, access, develop and use underground storage reservoirs to store or dispose of carbon dioxide (CO₂). While the rights that must be obtained for such purposes can be difficult to understand in the PNGA itself, B.C.'s Ministry of Energy, Mines and Low Carbon Innovation (the Ministry) has published the [Guidance for Obtaining and Utilizing Subsurface Tenure for Carbon Dioxide Storage](#) [PDF] (the Guide), which is clearer in this regard. Read the [full article](#) by [Jesse Baker](#) and [Joey Chan](#) with Osler, Hoskin & Harcourt LLP.

No More Free Entry?

It all used to be so simple. Way back in the Wild West days of mineral exploration in Canada, prospectors searching for surface signs of gold, silver or copper would cut down trees at four corners of a small plot to "stake" a claim. All a claim-jumper had to do was knock down the stumps.

It's harder now – many jurisdictions have moved their claims online, making claim-jumping much less likely. But the basic model of "open entry" underlying exploration rights – the model that allows virtually anyone to stake an exploration claim simply by clicking on a map and paying a fee – remains the dominant model for mining regulation in Canada. In British Columbia, it's under attack.

In April, the B.C. Supreme Court will hear a challenge to the province's free-entry mineral tenure system that could send tremors throughout Canada's mining sector. The Gitxaala and Ehattesaht First Nations launched the challenge against the B.C. government; they argue the free-entry system is unconstitutional because it violates the government's "duty to consult" with First Nations by allowing exploration without prior consultation. Read the [full article](#) in the *CBA National Magazine*.

In the Courts: First Nation Takes B.C. Government to Court Over Brucejack Mine

The Tsetsaut/Skii km Lax Ha Nation is taking the province to court claiming the government failed in its duty to consult with the First Nation regarding a mining company's acquisition of a mine in its territory, and has failed to work with the mine's new owners and the nation to continue negotiations of a benefit-

sharing agreement.

Newcrest Mining Ltd. (TSX:NCM) announced in late 2021 its interest in acquiring Pretium Resources Inc. (TSX, NYSE:PVG) and the Brucejack gold mine.

The First Nation, also referred to as the TSKLH Nation, had been in negotiations with Pretium regarding a benefit-sharing agreement. Read the *BIV* [article](#).

A Critical Transition

Canada's ambition to supply the world with critical minerals will have to be matched by its efforts at reconciliation.

"No metals, no transition."

That's the stark conclusion from a leading raw materials analyst. Speaking recently at a conference in London, Max Reid at Wood Mackenzie, an energy research consultancy, warned that the world is not producing enough of the foundational elements for things like batteries and solar panels that will help us reach a "net zero" global economy.

As governments race to meet climate commitments, demand for raw materials like lithium, copper and nickel is set to soar over the next decade or two. Already, lithium prices have surged more than tenfold since 2020. Metals deemed "critical" are increasingly considered of global strategic importance and national security at a time when supplies are uncertain owing to Russia's War in Ukraine and tensions with China. Read the [full article](#) by [Agnese Smith](#) in the *CBA National Magazine*.

Act or Regulation Affected	Effective Date	Amendment Information
Mining Rights Compensation Regulation (19/99)	Feb. 10/23	by Reg 32/2023
Oil and Gas Activities Act	Feb. 17/23	by 2022 Bill 37, c. 42, sections 2 (c), 5 and 7 (in force by Reg 45/2023), Energy Statutes Amendment Act, 2022



FAMILY & CHILDREN

Family and Children News:

Are Oral Agreements Enforceable in a Separation or Divorce?

In *Voitchovsky v. Gibson*, [2022 BCCA 428](#) the appellant, Ms. Voitchovsky, sought an equal division of family property and spousal support from the respondent, Mr. Gibson, after their 30-year long-term relationship ended. The parties had both been previously married and had accumulated their own property and financial assets. When they began their relationship, the parties agreed that they did not intend to remarry and that they would keep their property and financial assets separate. The parties stayed in a committed relationship and acted in accordance with their oral agreement for the next 30 years. Read the [full article](#) by [Jeannette Aucoin](#) and [Adrienne Adams](#) with Clark Wilson LLP.

Donor Anonymity on the Agenda for the January 2023 Parentage Committee Meeting

BCLI's [Parentage Law Reform Project Committee](#) recently considered donor anonymity.

BC doesn't have provisions on information about donors in its parentage legislation under part 3 of the [Family Law Act](#). But access to information about donors is an issue that has risen in prominence as more and more children are born from assisted reproduction. The committee decided that donor anonymity was sufficiently connected to parentage as to merit high-level consideration in this project.

The federal [Assisted Human Reproduction Act](#) was originally enacted with provisions to manage the collection of information about sperm, egg, and embryo donors. It also managed disclosure to donor-conceived people, which was only allowed with the donor's consent. But the Supreme Court of Canada [[2010 SCC 61](#)] held that this legislation had impermissibly strayed into areas that Canada's constitution assigns to the provinces to regulate, so it struck these provisions of *Assisted Human Reproduction Act* down. As a result, it became clear that any legislation on donor information in Canada would have to be enacted at the provincial level. Read the [full article](#) by Kevin Zakreski with the British Columbia Law Institute.

The Canada Child Benefit (CCB) and Separation

Most people know about the Canada Child Benefit (CCB). It is a monthly, tax-free payment made to low or middle income families with children under 18. The amounts are not small – for example, if family income is about \$33,000, you can get the maximum CCB of nearly \$7000 per year for each child under 6 and about \$6000 for each child 6-17 years of age. Naturally, as family income increases, the amount of CCB decreases. The payments go to the person who is "primarily" in charge of the care and upbringing of the child.

When parents are together, the tax legislation assumes the mother is the caregiver, and the CCB payments go to her. However, for separating or divorcing parents, it can be more complicated. Read the [full article](#) by [Graham Laschuk](#) with Laschuk Law, published on Collaborative Divorce Vancouver.

Relocation and Abduction Cases Continue to Confound Courts: Part 2

With very few family law cases receiving leave from our highest court, the Supreme Court of Canada continues to take an interest in relocation and child abduction cases with its latest pronouncement in *F. v. N.* [[2022\] S.C.C. 51](#)].

In a 5-4 decision, which indicates the difficulty these cases pose, the court considered a child abduction case concerning a Pakistani citizen living in Dubai with his wife, who was a citizen of Pakistan and Canada. Their two children had Canadian citizenship but had lived in Dubai their entire lives and were taken by their mother to Ontario to visit their maternal grandparents. Read the [full article](#) by Georgiale Lang, published on *Lawdiva's Blog*.

Separation and Termination of Marital Relationships in B.C.: Impacts on Estate Litigation and Administration

There is an old *Seinfeld* episode ("The Strongbox") in which the character of George Costanza struggles to convince his girlfriend that they have actually broken up, and despairs that he may need to prove his case beyond a reasonable doubt. The girlfriend suggests that they are like the commanders of a nuclear submarine who must each "turn their keys" before launching missiles, prompting George to exclaim: "turn your key!".

In the remainder of the episode, George resorts to a more outlandish scheme to end the relationship. It will be no surprise that the law in British Columbia relating to marital breakdown is quite different. It is not required that both spouses "turn their key" to end the relationship; it is well-settled that only one spouse needs to form the necessary intention to end the relationship. However, the law requires additional action: the spouse must *communicate* his or her intention to separate or terminate the relationship, either verbally or through conduct, and in such a manner as to demonstrate the *settled intention* in a convincing and unequivocal manner: *H.S.S. v. S.H.D.*, [2016 BCSC 1300](#). Read the [full article](#) by [Scott Kerwin](#) with Borden Ladner Gervais LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Correction Act Regulation (58/2005)	Feb. 13/23	by Reg 34/2023



Forest and Environment News:

Recent Changes to the *Environmental Management Act* and the Contaminated Sites Regulation

Amendments in [2020 Bill 3](#), the *Environmental Management Amendment Act, 2020*, were brought into force on March 1. 2020 Bill 3 amends the [Environmental Management Act](#) to improve the process of soil relocation in British Columbia by:

- focusing on soil that exceeds a prescribed volume and originates from certain industrial or commercial sites in BC;
- establishing a solid and transparent notification system to track soil movement throughout the province to better ensure accountability on the part of those moving the soil; and
- introducing additional requirements for sites receiving high volumes of soil to prevent contamination of the environment, including groundwater.

Certain provisions of the Act repealed by this Bill continue to apply to the relocation of contaminated soil that is subject to an existing contaminated soil relocation agreement.

Changes to the [Contaminated Sites Regulation](#), B.C. Reg. 375/96, were also made to support the amendments to the Act.

Park Act and Ecological Reserve Act Amendments Introduced

[Bill 3](#), the *Miscellaneous Statutes Amendment Act, 2023*, was introduced on February 8. Along with other various changes, this miscellaneous bill includes amendments to the [Park Act](#) and [Ecological Reserve Act](#). If passed, these provisions will allow BC Parks to determine fines for violations of regulations in ecological reserves and parks. The bill includes related amendments to the [Special Accounts Appropriation and Control Act](#) to direct revenue from those fines to the Park Enhancement Fund. The fund is intended to pay for the costs of those offences and any remedies for environmental damage they may have caused.

Financial Assurance Requirements for Large Industrial Projects in BC Under Review in Public Interest Bonding Strategy

The BC Ministry of Environment and Climate Change Strategy (MoE) has now released two "What We Heard" reports that summarize the feedback received from industry, the public, and Indigenous peoples on the multi-year Public Interest Bonding Strategy initiative that is underway.

The MoE's Public Bonding Strategy is currently considering expanding financial assurance and closure plan requirements for "large industrial projects" governed by the [Environmental Management Act](#), [Mines Act](#), [Forestry Act](#), and other BC environmental laws. Read the [full article](#) by [Emily Chan](#) with Norton Rose Fulbright Canada LLP.

B.C. Expands Old-Growth Logging Deferral to 2.1 Million Hectares, Promises Greater First Nations Collaboration

New money coming for forest landscape planning and to help mills diversify

The British Columbia government announced new measures Wednesday it says will better protect old growth by working with First Nations while it ramps up investments to encourage innovation in an industry that has been plagued by job losses.

The province says it's expanding the logging deferral of old-growth forests to 2.1 million hectares, up from 1.7 million reported last spring, while bringing in new innovations to better care for forests. Read the [CBC article](#).

B.C. Introduces New Measures on Old Growth, Innovation, Forest Stewardship

The B.C. government is launching new measures to protect more old growth by fast-tracking innovation and co-developing new local plans with First Nations to better care for B.C.'s forests.

At the centre of the eight-point plan is \$25 million for new [Forest Landscape Planning](#) (FLP) tables that will drive improved old-growth management while incorporating local knowledge and community priorities. Enabled by [2021 amendments](#) to the [Forest and Range Practices Act](#), forest landscape plans are a more comprehensive and inclusive approach to forest stewardship that will replace existing, industry-developed plans.

In response to requests from First Nations for more in-depth discussions about old growth, this funding will support eight new regional FLP tables with the participation of approximately 50 First Nations. Read the full government [news release](#).

BC's Changing Regulatory Landscape: BC and Treaty 8 First Nations Negotiate Collaborative Approach to Address Cumulative Effects of Resource Development

British Columbia has announced that, following 2021's [Yahey v British Columbia](#) decision, it has reached agreements with five Treaty 8 First Nations over the province's management of natural resources. The agreements, which have not yet been released, signal significant changes to how future resource development will occur in the province in both the near term and in the years ahead.

The essential background – 2021 British Columbia Supreme Court decision

The agreements are the result of negotiations arising from the 2021 British Columbia Supreme Court decision in which Blueberry River First Nation successfully sued British Columbia, a decision the province chose not to appeal.

Read the [full article](#) by [Ray Chartier](#), [Lindsay Bec](#), [Oz Douglas](#) and [Ian Wylie](#) with Norton Rose Fulbright Canada LLP.

Sustainable and Clean Economy in Budget 2023

The provincial budget for 2023 was tabled on February 28, along with the [Budget Measures Implementation Act, 2023](#). Some of the highlights for the new investments relation to sustainable and clean economy include the following (all of which represent three-year fiscal plan costs):

- \$567 million in operating and capital funding for a cleaner economy and climate resiliency, including CleanBC enhancements, active transportation infrastructure, and \$64 million in capital funding for the B.C. Wildfire Service over five years for firefighting equipment
- \$21 million to support eight more Forest Landscape Planning tables in partnership with First Nations
- \$77 million to help speed up natural resource permitting processes

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Wildlife Act](#)

- [Bradley Bowden, Darren Linnell, Eldon McMann, Allan Tew and Stewart Fraser v. Director of Fish and Wildlife, Ministry of Forests](#) [Preliminary Decision on Method of Hearing – Appeal to Proceed as Written Submissions]
- [Millers Outdoors Ltd. v. Director of Fish and Wildlife, Ministry of Forests](#) [Summary Dismissal - Granted]

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

Act or Regulation Affected	Effective Date	Amendment Information
Contaminated Sites Regulation (375/96)	Mar. 1/23	by Reg 128/2022 , as amended by Reg 35/2023 , and Reg 133/2022 , as amended by Reg 2/2023

Dam Safety Regulation (40/2016)	Feb. 10/23	by Reg 32/2023
Engineers and Geoscientists Regulation (14/2021)	Feb. 10/23	by Reg 32/2023
Environmental Management Act	Mar. 1/23	by 2020 Bill 3, c. 3, sections 1 to 7 only (in force by Reg 128/2022), Environmental Management Amendment Act, 2020
Forest Planning and Practices Regulation (14/2004)	Feb. 10/23	by Reg 32/2023
	Feb. 13/23	by Reg 36/2023
Greenhouse Gas Emission Reporting Regulation (249/2015)	Feb. 10/23	by Reg 32/2023
Integrated Pest Management Regulation (604/2004)	Feb. 16/23	by Reg 44/2023
Professional Governance Act	Feb. 10/23	by Reg 32/2023
Professional Governance General Regulation (107/2019)	Feb. 10/23	by Reg 32/2023
Protected Areas of British Columbia Act	Feb. 13/23	by 2021 Bill 17, c. 28, section 5 only (in force by Reg 42/2023), Protected Areas of British Columbia Amendment Act, 2021
Reviewable Projects Regulation (243/2019)	Feb. 10/23	by Reg 32/2023
Riparian Areas Protection Regulation (178/2019)	Feb. 10/23	by Reg 32/2023
Waste Discharge Regulation (320/2004)	Mar. 1/23	by Reg 128/2022
Water Sustainability Regulation (36/2016)	Feb. 10/23	by Reg 32/2023



Health News:

Health and Mental Health Care in Budget 2023

The 2023 provincial budget, delivered on February 28, will commit \$6.4 billion in health-care funding over three years. Some of the highlights of these new investments include the following:

- \$2.6 billion to help with growing demand and increasing costs for health services, including \$270 million for the BC Cancer Care Plan
- \$1 billion to support the new health workforce strategy
- \$1.1 billion for the refreshed primary care strategy, including the new compensation model

- \$867 million for mental health and addictions services
- \$875 million in 2023/24 for ongoing COVID-19 health response measures

The *Budget Measures Implementation Act, 2023*, [Bill 10](#), was also introduced in order to implement both the non-tax and tax measures in Budget 2023.

Update to Medical Assistance in Dying Laws in Canada

On March 17, 2021, changes to Canada's [Criminal Code](#) provisions on Medical Assistance in Dying (MAiD) under [Bill C-7](#) went into effect. These changes marked a significant milestone in Canada's MAiD laws, which have been under constant debate and criticism since the Supreme Court of Canada held in [Carter v Canada \(Attorney General\), 2015 SCC 5](#), that the criminal laws prohibiting assistance in dying limited the rights to life, liberty and security of the person under [section 7 of the Canadian Charter of Rights and Freedoms](#) in a manner that was not demonstrably justified under [section 1 of the Charter](#). Read the [full article](#) by [Fiona Balaton](#) with Carbert Waite LLP.

Medical Negligence Appeal Not Virtually Hopeless, Securities for Cost Dismissed: BC Court of Appeal

The British Columbia Court of Appeal ruled on an application for security for costs on appeal and trial involving a dismissed medical negligence claim, ruling that while unlikely to succeed, it was not virtually hopeless. Bradley Focken was taken to the Royal Columbian Hospital in 2018 after vomiting blood and blood clots at home. He had throat cancer. The attending emergency room physician Dr. Brendan Wood examined him but did not notice any ongoing bleeding. Bradley was nevertheless admitted for more tests. Read the full article by [Jason Tan](#) on *Canadian Lawyer*.

BC and Ottawa Reach \$27B Health Funding Agreement

The British Columbia government has agreed in principle to a \$27.47-billion deal for health-care funding from the federal government. The agreement is a step toward completing a \$196-billion, 10-year health-care funding proposal that Prime Minister Justin Trudeau made with Canada's premiers last month. The money for BC includes an immediate \$273 million to address urgent needs, especially in pediatric hospitals and emergency rooms and to address long wait times for surgeries. The federal government says in a news release that BC's priorities include access to high-quality health services when residents need them, especially in rural and remote areas; timely mental health and substance-use services; and allowing residents access to their own electronic health information. Read the CBC [article](#).

BC Takes Action to Reduce ER Wait Times for People in Mental-health Crisis [Mental Health Act]

People in mental-health crises at hospital emergency rooms will have quicker access to care, as nurse practitioners (NPs) are now able to assess patients for involuntary admission under the [Mental Health Act](#). BC is bringing into force [changes](#) to the *Mental Health Act* that have expanded authority for assessment from physicians to nurse practitioners. This means more people in a hospital emergency room will be able to respond to people presenting mental-health crises. Effective immediately, this will reduce wait times in emergency rooms and speed up access to care at a critical time. With these changes, the mental-health facility director will be able to admit a person to a designated mental-health facility for up to 48 hours, if a nurse practitioner or physician is of the opinion that the person has a mental disorder and requires involuntary treatment. A physician is required to examine the patient if they are to be held longer than 48 hours. Read the full government [news release](#).

A First Step for BC in the Overdose Crisis

The province's three-year experiment on decriminalization of illicit drugs for personal use is under way. For it to succeed, governments, and possibly the courts, will have to tackle the issue of safe supply. "Nobody wanted to do it. Nobody still really wants to do it, but yet it's happening." That's how Kennedy Stewart, former mayor of Vancouver, describes how his city and British Columbia became just the second place in North America to decriminalize hard drugs. As of February, the province's residents can legally carry up to 2.5 grams of heroin, crack, cocaine, MDMA, or fentanyl. It is arguably the most significant legal change yet in Canada's effort to stem the rise in deaths from the opioid crisis. Stewart deserves credit for getting the ball rolling. As mayor, he submitted an application to Health Canada to

have the city exempted under s.56(1) of the [Controlled Drugs and Substances Act](#) — a mechanism designed to allow the federal health minister to decriminalize possession of small amounts of certain illicit substances for personal use, its application if she believes it to be "necessary for a medical purpose." Not long after, the government of British Columbia joined the effort. The federal government approved their application last year. Read the [full article](#) by [Justin Ling](#) on *CBA National Magazine*.

BC Supreme Court Admits More than One Medical Report from Plaintiff Despite Statutory Prohibition

The BC Supreme Court has permitted the admission of two medical legal reports in a personal injury case despite an express prohibition against more than one report in the [Evidence Act](#). In *Apostolopoulos v. Cheung*, [2023 BCSC 166](#), the plaintiff George Apostolopoulos filed a claim for damages for the injuries he sustained in a motor vehicle accident. The defendant Yan Peng Cheung served an orthopedic surgeon's medical legal report following an independent medical examination. The plaintiff served two medical legal reports—one was from a chiropractor Dr. Stanley Jung, and the other was from the plaintiff's treating neurosurgeon Dr. Shahid Gul. Read the [full article](#) by [Anegelelca Dino](#) on *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Mental Health Act	Feb. 1/23	by 2011 Bill 10, c. 24, sections 9 to 12 only (in force by Reg 17/2023), Nurses Practitioners Statutes Amendment Act, 2011
Mental Health Regulation (233/99)	Feb. 1/23	by Reg 17/2023
Pool Regulation (296/2010)	Feb. 10/23	by Reg 32/2023



LABOUR & EMPLOYMENT

Labour and Employment News:

Bill 5 – Public Service Labour Relations Amendment Act, 2023 Introduced

The [Public Service Labour Relations Amendment Act, 2023](#), introduced on February 9, sets out changes to the [Public Service Labour Relations Act](#) to implement collective bargaining rights for government lawyers employed in the B.C. public service.

Years of Service Before Hiatus Did Not Count Towards Employee's Years of Service

A recent decision from the BC Supreme Court highlights how a hiatus from working with an employer may impact an employee's entitlement to notice or pay in lieu thereof upon termination.

Facts

In *Shultz v. Prococious Technology Inc.*, [2022 BCSC 1420](#), the plaintiff employee had a long-term association with the defendant employer in various capacities, as an independent contractor from 2006 to 2011, and as a technical sales employee from 2011 to February 2018 when she resigned. In April 2019, the employee started to work for the employer as a sales engineer, pursuant to a new written contract. In March 2021, the employee received a promotion to sales manager and signed a new employment contract, which limited her entitlement to notice or pay in lieu thereof to the minimum amounts required by the [Employment Standards Act](#). The new contract did not contain an express term that recognized her previous employment with the employer before 2019.

Read the [full article](#) by [Neal Parker](#) with Harper Grey LLP.

Do Canadian Pension Plans Have a Legal Obligation to Consider Climate Change When Investing? These Global Heavyweights Think So

Group backed by pension giants makes case that investment law permits and in some cases requires sustainability to be considered

The concept of fiduciary duty has emerged as a major fault line in the debate over ESG investing, with some arguing it offers a legal foundation to compel institutional investors to take seriously the risks posed by climate change, and others using it to justify an approach focusing primarily on financial returns. Read the [full article](#) in the *Financial Post* [paywall].

Multiple Pay Equity Plans: First Decision Released Granting (and Denying) an Employer Request

The Interim Federal Pay Equity Commissioner (the "Commissioner") has released her much anticipated first decision under the new [Pay Equity Act](#) in *Canadian National Railway Company and Unifor, IBEW and Teamsters Canada Rail Conference* (the "CN Decision"), partially granting an employer's application for multiple pay equity plans. Read the [full article](#) by [Jackie VanDerMeulen](#), [Sophie Arseneault](#) and [Rebecca Rossi](#) with Fasken Martineau DuMoulin LLP.

Non-Disclosure Agreements May Soon Be Prohibited or More Difficult to Enforce in Canada

It is no secret that disputes ranging from human rights complaints to civil actions can arise between employers and employees. More often than not, these claims are settled prior to trial or a hearing. As a condition of these settlements, employers will often require a release. Many employers place significant value on a confidentiality clause within the release. Generally, the confidentiality clause is a non-disclosure agreement (NDA) that places significant limitations on an employee's legal rights to discuss the facts of the settlement. For example, the employee may be limited in their right to discuss the circumstances of their settlement including the monetary amount and/or the underlying events/allegations (for example, the details of their allegations of sexual harassment in the workplace). Read the [full article](#) by [Deanna Froese](#) with Harper Grey LLP.

Zero Mitigation Efforts Reduces Notice Period by 20%

In *Zoehner v. Algo Communication Products Ltd.*, [2023 BCSC 224](#) Justice Verhoevan had this to say about a 63 year old employee (and part owner of a family business) regarding his mitigation efforts: 1) He found that the employee had done nothing to find a comparable job as he was in full retirement mode. 2) However as the law also requires the defendant to show that if he had looked for a job he likely would have found one within the notice period, the Court found that the likelihood of this happening was basically zero for the following reasons. Read the [full article](#) by Barry Fisher, with Barry Fisher Arbitration & Mediation.

Ringin' in 2023 with a Positive Decision on Termination Clauses

The Supreme Court of British Columbia came out swinging in the first week of the new year with a decision on termination provisions in written employment agreements that is positive for employers.

In [McMahon v. Maximizer Services Inc.](#), the plaintiff, who was employed for less than a year before her employment was terminated, challenged the enforceability of the termination clause in her employment agreement, seeking damages equivalent to six months' pay in lieu of notice. Read the [full article](#) by [Chanelle Wong](#) with Norton Rose Fulbright Canada LLP.

'Unique' Ruling of Employee Time Theft Another 'Arrow in Arsenal' For Employer Counsel: Lawyer

British Columbia's Civil Resolution Tribunal has ordered an employee to pay damages to her former boss for time theft after an electronic employee monitoring program revealed a discrepancy in her time logs. The employee had brought a claim against her employer to the BCCRT for wrongful dismissal and severance in lieu of notice.

The concept of time theft is not novel, but it is not something employers tend to rely on, says Jackie

Lavolette, partner at Mathews Dinsdale & Clark LLP in Calgary. The tribunal's finding that electronic monitoring exposed a lack of productivity at face value, requiring her to repay wages for work she did not do, "is very unique from an employer perspective, and not something that we tend to see in court," she says. Read the [full article](#) by [Aidan Macnab](#) in the *Canadian Lawyer*.

British Columbia Introduces New Pay Transparency Legislation

On [February 8, 2023], the Government of British Columbia introduced [Bill M 205 – 2023: Equal Pay Reporting Act](#) (the Bill). [This is a Member's bill introduced by MLA Renee Merrified of the BC Liberal Party.] This Bill creates a framework to allow the public to assess the gender pay gap of certain employers by requiring those employers to disclose the mean and median pay of male and female employees. Thus far, the Bill has received First Reading, and only limited details are available. Read the [full article](#) by Kailey Hubele with Cassels.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Mar. 1/23	by Reg 21/2023
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Mar. 1/23	by Reg 21/2023
Employment Standards Regulation (396/95)	Feb. 10/23	by Reg 32/2023
Health Care Employers Regulation (427/94)	Feb. 27/23	by Reg 49/2023
Occupational Health and Safety Regulation (296/97)	Mar. 1/23	by Reg 223/2022
Security Services Regulation (207/2008)	Feb. 10/23	by Reg 32/2023
Social Services Employers Regulation (84/2003)	Feb. 27/23	by Reg 49/2023



LOCAL GOVERNMENT

Local Government News:

Bill 6, the Municipalities Enabling and Validating Act (No. 5) Introduced

[Bill 6](#) will maintain protections for the Dominion Radio Astrophysical Observatory, located in the White Lake Basin in the south Okanagan, by permitting the extension of a unique land-use contract within the Regional District of Okanagan-Similkameen by 10 years. In addition, disruption to the observatory will be minimized by limiting the number of nearby housing developments and by restricting household electrical devices that may cause radio-frequency interference.

Local Government Act Amendments Introduced in the Miscellaneous Statutes Amendment Act, 2023

[Bill 3](#), the *Miscellaneous Statutes Amendment Act, 2023*, proposes amendments to the [Local Government Act](#) that require municipalities to serve notice to a property owner or mortgage holder of their intent to sell the property to recover unpaid taxes at a municipal tax sale auction. The notice must be delivered by mail or other means at least 60 days before the date of the tax sale auction and will serve as a warning to a property owner in advance of the event that their property will be offered at the

auction unless the debts are paid.

Case Summary: BC Supreme Court Finds that If an Administrative Decision-maker Is Going to Veer Off Its Typical Course in a Decision, It Needs to Provide Sufficient Reasons to Explain and Justify Its Departure from the Norm

BC Supreme Court allows developer's petition for judicial review of a municipal land development decision, finding that the reasons for the decision were inadequate given how unusual the decision was.

Beedie (Keefer Street) Holdings Ltd. v. Vancouver (City), [2022] B.C.J. No. 2392, [2022 BCSC 2150](#), British Columbia Supreme Court, December 9, 2022, J. Brongers J.

The petitioner brought this judicial review to challenge the City of Vancouver Development Permit Board's (the "Board") decision to deny its application (the "Application") for a development permit for a proposed 9-storey mixed residential-retail building to be located on its property in Chinatown (the "Property"). Read the [full article](#) by Renee Gagnon with Harper Grey LLP.

Registration Opens for UBCM's Housing Summit from UBCM

Premier David Eby and Housing Minister Ravi Kahlon are among the speakers who will be featured at UBCM's housing summit, *Housing BC Together*. The event, which runs April 4-5 at the Sheraton Vancouver Wall Centre, will bring together innovators from local government, industry, the not-for-profit and Indigenous housing sectors to identify solutions for improving housing affordability and attainability across our province. [Registration](#) is now open.

Community Safety and Health in Budget 2023

The provincial budget for 2023 was tabled on February 28, along with the [Budget Measures Implementation Act, 2023](#). Some of the highlights for the new investments relation to community safety and health include the following (all of which represent three-year fiscal plan costs):

- \$317 million for policing and enforcement programs
- \$80 million to improve access to justice
- \$65 million for other public safety initiatives including modernizing the Police Act, cannabis licensing and the decriminalization program
- \$150 million for a local government Next Gen 911 Readiness Fund
- \$450 million for Critical Community Infrastructure to support targeted projects located in each economic development region in B.C.

Metro Vancouver Regional Growth Strategy Approved after Surrey Reversal

Surrey and the Township of Langley are now on board with the strategy that generally dictates land use for much of the Lower Mainland, calling on cities to densify already developed land and maintain rural and agricultural areas while still adding upwards of one million more residents by 2050. Last year, Surrey city councillors led by then mayor Doug McCallum snubbed the growth strategy, putting it in limbo. McCallum had objected to the regional government imposing limits on developing rural land, particularly in the city's southeast quadrant, known as Campbell Heights. McCallum sought to build a 245-hectare industrial park and got the backing of the majority on the previous board to pull the land from the strategy's urban containment boundary. Read the *BIV* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Architects Act	REPEALED Feb. 10/23	by Reg 32/2023
Architects Regulation (32/2023)	NEW Feb. 10/23	see Reg 32/2023

Assessment Act Regulation (433/98)	Feb. 3/23	by Reg 22/2023
Cremation, Interment and Funeral Services Regulation (298/2004)	Feb. 10/23	by Reg 32/2023
Local Government Grants Regulations (221/95)	Feb. 27/23	by Reg 48/2023
School Act	Feb. 13/23	by 2022 Bill 22, c. 20, sections 1 to 3, 6 and 7 only (in force by Reg 43/2023), School Amendment Act, 2022
School Tax Exemptions and Refunds (Approved and Eligible Hydroelectric Power Projects) Regulation (144/2005)	Feb. 10/23	by Reg 32/2023
Vancouver Charter	Mar. 1/23	by 2020 Bill 3, c. 3, sections 1 to 7 only (in force by Reg 128/2022), Environmental Management Amendment Act, 2020



MISCELLANEOUS

Miscellaneous News:

Election Act Amendments Introduced

On March 2, the *Election Amendment Act, 2023*, [Bill 11](#), was introduced, amending the *Election Act* in response to recommendations made by the independent chief electoral officer in the 2020 report *Digital Communications, Disinformation and Democracy*, and the 2022 report *Recommendations for Legislative Change*. If passed, the bill will combat disinformation, increase transparency and strengthen third-party advertising rules in provincial elections. The proposed amendments will place restrictions on making specified types of false statements and misrepresentations in relation to an election, require digital platforms to remove non-compliant election advertising within a specified time frame and improve the vote-by-mail process. The amendments, if passed, will be implemented by the next scheduled provincial general election.

Mandatory Breach Notification for Public Sector Employers Introduce in British Columbia

[Bill 22](#), the *Freedom of Information and Protection of Privacy Amendment Act, 2021*, received royal assent and became law on November 25, 2021. The Bill made significant amendments to British Columbia's *Freedom of Information and Protection of Privacy Act* (FOIPPA) but two additional amendments that came into force on February 1, 2023 materially change how public bodies must address privacy issues in British Columbia. The two amendments contained in Bill 22 that came into force on February 1, 2023 require:

1. A public body to give notice of a "privacy breach" to any "affected individual" and to the Office of the Information and Privacy Commissioner of British Columbia (OIPC); and
2. All public bodies to have a Privacy Management Program (PMP).

Read the [full article](#) on Denton's website.

The Indian Act: Understanding the Legal Capacity of First Nations in Canada

A recent decision from the British Columbia Court of Appeal (BCCA) expands our understanding of the legal capacity of a First Nation – recognized as a band under the *Indian Act*, R.S.C. 1985, c. 1-5 (the

Indian Act) – as well as the exemption from taxation available to a band under [Section 87 of the Indian Act](#).

How is a band defined in Canada?

The legal capacity of bands has been the subject of evolving case law and practice for several decades. The definition of a "band" implies that a band is little more than a collection of its members. [Sec. 2\(1\) of the Indian Act](#) defines a band as a body of Indians:

- a. For whose use and benefit in common, lands, the legal title to which is vested in Her Majesty, have been set apart before, on or after September 4, 1951.
- b. For whose use and benefit in common, moneys are held by Her Majesty.
- c. Declared by the Governor in Council to be a band for the purposes of this act.

Read the [full article](#) by [Chris Roine](#) and [Kay Elizabeth Turner](#) with Borden Ladner Gervais LLP.

Non-lawyer Enjoined from Providing Legal Services to the Public: BC Court of Appeal

The British Columbia Court of Appeal upheld an injunction against a non-lawyer who provided services in contravention of the [Legal Professions Act](#). Jeremy Maddock was a self-employed legal consultant who provides legal research and other services to lawyers and other members of the public. He is not, however, a practicing lawyer. In 2017, the Law Society of British Columbia was notified about two instances where Maddock provided services that contravened the *Legal Professions Act*, S.B.C. 1998, c.9 (LPA). The Society notified Maddock that he was engaging in activities restricted to practicing lawyers. Read the [full article](#) by [Jason Tan](#) on *Canadian Lawyer*.

Government Lawyers in BC Fight for Right to Form Their Own Union Following Newly Tabled Bill

The BC Government Lawyers Association (BCGLA) is speaking out against the newly tabled [Bill 5](#), which will allow government lawyers interested in unionizing to join the Professional Employees Association (PEA) for government-licensed professionals, but does not allow them to form their own union. "It's not up to employers or governments to choose unions," said Gareth Morley of the BCGLA, the association representing government civil lawyers in the province. Read the CBC [article](#).

Case Summary: What You Don't Know Can Hurt You: An Exclusion Clause for Failure to Prevent an Assault May Exclude Coverage for Negligently Failing to Prevent Assault Without Having any Direct Knowledge the Assault Was Going to Occur

Reeves v. Co-Operators General Insurance Co., [2022] B.C.J. No. 2499, [2022 BCSC 2258](#), British Columbia Supreme Court, December 23, 2022, C.L. Forth J.

The insureds' son, Isaac, was alleged to have assaulted a classmate at school. The classmate started a civil action and named the insureds as defendants (the "Underlying Action"). The classmate alleged that the insureds had negligently supervised Isaac. The insureds sought a defence from their insurer on their homeowner's policy. The insurer denied coverage and sought to have the coverage issue determined by way of summary trial. Read the [full article](#) by Mollie Clark with Harper Grey LLP.

BC Appellate Ruling Shows "Clarity" Still Needed on Use of Pat-down Searches: Law Prof

BC's top court has ruled that a police safety search during a traffic stop did not violate a man's constitutional rights, but his lawyer is saying the ruling raises questions that could benefit from an answer from the Supreme Court of Canada. The accused in the case, Devinder Singh Dhillon, was found guilty in provincial court of a number of firearm offences after he was found to be in possession of a loaded handgun during a traffic stop in Vancouver. The police decided to conduct a pat-down search because of safety concerns arising from Dhillon's behaviour, such as appearing startled when the police drove past him in a high-crime area and then heading off rapidly in the opposite direction. At trial, Dhillon argued his rights had been infringed under [s. 8 of the Charter](#), which protects against unreasonable search and seizure. Read the [full article](#) by [Ian Burns](#) on *Law 360 Canada*.

Update to CPD-4 – Procedure for Detention Reviews under [s. 525 of the Criminal Code](#)

Minor revisions have been made to the forms appended to [CPD-4](#) to reflect the title of the Sovereign and to specify that s. 525 Scheduling Hearings take place on Tuesdays only.

Act or Regulation Affected	Effective Date	Amendment Information
Freedom of Information and Protection of Privacy Act	Feb. 1/23	by Reg 248/2022
Freedom of Information and Protection of Privacy Regulation (155/2012)	Feb. 1/23	by Reg 248/2022
Minister of State for Child Care Expected Results for the 2023/2024 Fiscal Year Regulation (23/2023)	NEW Feb. 8/23	see Reg 23/2023
Minister of State for Infrastructure Expected Results for the 2022/2023 Fiscal Year Regulation (38/2022)	Feb. 8/23	by Reg 24/2023
Minister of State for Infrastructure and Transit Expected Results for the 2023/2024 Fiscal Year Regulation (25/2023)	NEW Feb. 8/23	see Reg 25/2023
Minister of State for Trade Expected Results for the 2023/2024 Fiscal Year Regulation (26/2023)	NEW Feb. 8/23	see Reg 26/2023
Minister of State for Workforce Development Expected Results for the 2022/2023 Fiscal Year Regulation (27/2023)	NEW Feb. 8/23	see Reg 27/2023
Minister of State for Workforce Development Expected Results for the 2023/2024 Fiscal Year Regulation (28/2023)	NEW Feb. 8/23	see Reg 28/2023
Minister Without Portfolio Expected Results for the 2022/2023 Fiscal Year Regulation (29/2023)	NEW Feb. 8/23	see Reg 29/2023
Minister Without Portfolio Expected Results for the 2023/2024 Fiscal Year Regulation (30/2023)	NEW Feb. 8/23	see Reg 30/2023



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Electronic Logging Devices (ELDs)

will Make BC Roads Safer

The [latest National Safety Code \(NSC\) Bulletin](#) from the Ministry of Transportation and Infrastructure replaces the NSC Bulletin 01-2021 and provides updated information on the use of ELDs in British Columbia. Effective August 1, 2023, Division 37 of the [Motor Vehicle Act Regulations](#) (MVAR) will be repealed and replaced with an updated and restructured Division that implements a provincial ELD mandate that effectively mirrors the federal ELD mandate. Read the full article in the [March 2023 issue of Forest Safety News](#).

Upcoming Phase-Out Deadlines for Class 111 Tank Cars Used in Flammable Liquids Service

The purpose of this advisory is to advise industry stakeholders of upcoming deadlines regarding the phase-out of Class 111 tank cars in flammable liquids service in Canada.

As per the requirements of [Transport Canada standard TP14877](#) [PDF, 2.67 MB], jacketed and unjacketed legacy Class 111 tank cars will no longer be permitted to be used to import, offer for transport, handle or transport the dangerous goods listed below as of May 1, 2023. Furthermore, unjacketed enhanced Class 111 tank cars (also known as unjacketed CPC-1232 tank cars) will no longer be permitted to be used to import, offer for transport, handle or transport the dangerous goods listed below as of July 1, 2023. Read the [full advisory](#) on the Transport Canada website.

B.C. Mayor Pushes for Added Safety Measures Following Fatal Crashes Along Stretch of Highway 5

In the wake of two fatal crashes along Highway 5 north of Kamloops, B.C., the mayor of a local municipality wants the province to consider added safety measures such as reduced speed limits and mandatory dashboard cameras for commercial vehicles.

A driver was killed and a passenger taken to hospital on Feb. 9 following a collision on the highway near Louis Creek, B.C., involving two commercial vehicles and a pickup truck.

Almost exactly one week earlier, another driver was killed when two commercial vehicles collided on the same stretch of Highway 5, about 16 kilometres further south near McLure. Read the [CBC article](#).

Liberal MPs Decry Vancouver Port Authority Truck Program in Letters to Minister

Four federal Liberal MPs have written to Transport Minister Omar Alghabra expressing frustration with a much-criticized program that aims to replace older trucks servicing the Port of Vancouver.

The MPs' letters come amid heavy criticism of the Rolling Truck Age Program, which aims to phase out trucks that are more than 12 years old to improve air quality and community health.

The Vancouver Fraser Port Authority put the onus on independent owners and operators to replace the vehicles. Truckers have raised concerns about steep costs, saying that existing vehicles already meet emissions standards and global supply-chain issues are making the transition more difficult. Read the [BIV article](#).

Bill C-33: Canada's New Marine and Rail Transportation Bill to Strengthen Supply Chain

The federal government recently began a process to address concerns related to supply chain efficiency. On Nov. 17, 2022, the Minister of Transport introduced Bill C-33, the [Marine and Rail Transportation Modernization Act](#) (MRTMA), in the House of Commons. MRTMA will cause amendments in five statutes related to transportation, including the (i) [Railway Safety Act](#), (ii) [Canada Marine Act](#), [Canada Transportation Act](#), (iii) [Marine Transportation Security Act](#), (iv) [Customs Act](#) and the (v) [Transportation of Dangerous Goods Act, 1992](#). Read the [full article](#) by [Robin Squires](#) and [Divyansh Dev](#) 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

[NSC Bulletin 01-2023](#) – Electronic Logging Devices (ELDs in British Columbia)

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

- **New Passenger Transportation Board Mailing Address**
As of February 1, 2023, please direct any physically mailed correspondence to the Board's new mailing address:
PO Box 9857 STN PROV GOVT, Victoria BC V8W 9T5
- **Bill 40 Amendments**
Recent [amendments](#) to the [Passenger Transportation Act](#) clarify existing powers of the Board and streamline the way the Board makes application decisions. These amendments are now in effect and the Board has updated its rules, policies, application guides and other materials to reflect these changes. For further information, please read the [Industry Advisory](#).
- **Board to Conduct Follow-up Investigation on the Current State of COVID-19 recovery for BC Passenger Transportation Industry**
The Board will be undertaking a follow-up study to the 2021 COVID-19 investigation, to better understand the current economic landscape. For further information, please read the [Industry Advisory](#) and the [Q&As](#).

Applications Received

- [16564-22](#) – Harjinder Singh Dhillon and Jaswinder Kaur Dhillon (Victoria Taxi)
- [16427-22](#) – Timeless Limousine Service Ltd.
- [16754-23](#) – Entourage Limousine Service Ltd.
- [16953-23](#) – Charanjit Singh Bhangu and Harvinder Kaur Bhangu (Victoria Taxi)

Application Decisions

- [16469-22](#) – Transfer from William Robertson Benzie and Anne Wilson (Big Mountain Little Shuttle, A Toast the Okanagan Wine Tour / Toast the Okanagan Wine Tours) to Russell Bertram Banister and Cheryl Anne Banister (Big Mountain Little Shuttle) [Approved]
- [15465-22 & 15466-22 Combined Decision](#) – 1229652 BC Ltd. (Kitimat Taxi) [Approved]
- [16939-23 PS TOP](#) – Vanride Shuttle Services Ltd [Approved]
- [15944-22](#) – Tunnel49 Adventure Inc. (Mountain High) [Approved in Part]
- [17023-23 PS TOP](#) – Luxury Transport Inc. [Approved]
- [16997-23 TOP](#) – Evergreen Taxi Ltd. [Approved]
- [16182-22](#) – Solomon Ena Urhodo (The LuxPorter) [Refused]
- [16431-22](#) – Mebin Thomas (Super Cabs) [Approved]
- [16564-22](#) – Harjinder Singh Dhillon and Jaswinder Kaur Dhillon (Victoria Taxi) [Approved]
- [16588-22](#) – Victoria Taxi Transportation Ltd. [Approved]
- [16597-22](#) – Charanjit Singh Bhangu (Victoria Taxi) [Approved]
- [17033-23 UPN](#) – 7th Heaven International Ltd. [Approved]
- [17095-23 TOP](#) – Current Taxi Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Use of Electronic Devices While Driving Regulation (308/2009)	Feb. 13/23	by Reg 39/2023



Occupational Health & Safety News:

Weather Events and Worker Safety

BC is experiencing the effects of climate change. Temperatures are increasing, sea levels are rising and variable and extreme weather events are becoming more frequent. Scientists expect these changes to accelerate and intensify in the years and decades ahead. Understanding and managing these risks is necessary to protect BC's workers, tenure holders and infrastructure within the forest sector. The increased frequency and magnitude of weather events compels Woodlots and Community Forests to re-examine existing safety plans and/or develop new safety plans to address the potential for increased risks to worker safety. Licensee obligations are defined in [Part 2, Division 4, Section 25 of Workers Compensation Act](#). Specifically, Owners, Woodlot Licensees and Community Forest Agreement holders, must provide and maintain the land and premises in a safe manner. Read the [full article](#) in the spring issue of *Forest Safety News*.

Overview of Bill 41 Amendments

[Bill 41](#), *Workers Compensation Amendment Act (No. 2)*, 2022, received royal assent on November 24, 2022. The new legislation introduced seven amendments to better support workers in British Columbia. Here's what you need to know.

What do these amendments relate to?

The seven amendments relate to a variety of sections of the [Workers Compensation Act](#) (the Act).

Which amendments are already in effect?

Three of the amendments took effect on November 24, 2022. These amendments change how workers' compensation benefits are indexed for inflation each year, allow WorkSafeBC to increase the maximum compensation for non-traumatic hearing loss, and expand WorkSafeBC's ability to prohibit employers from suppressing workers' compensation claims.

Read the [full article](#) by Gillian Burnett in the Spring 2023 issue of *WorkSafe Magazine*.

"Transformational Change" in Mining Safety - Why Electric Vehicles Pose New Hazards

"This is a big transformational change in the mining industry," says Brandon Vance, as he talks about the shift to battery powered electric vehicles in underground mines. He's a health and safety and environment consultant with NORCAT, a not-for-profit technology and innovation centre headquartered in Sudbury, Ontario. Read the [full article](#) by Shane Mercer, published by Canadian Occupational Health and Safety.

Safety for Roadside Workers Flagged

In BC, 12 roadside workers were killed by motor vehicles and another 221 workers were injured between 2012 and 2021. Some of the more common workplace injuries experienced by traffic control persons include twisted ankles, being struck by a rock kicked up by a vehicle's tire, and impact from a vehicle's side-view mirror or another part of the vehicle. On December 1, 2021, updates to [Part 18, Traffic Control, of the Occupational Health and Safety Regulation](#) came into effect. These updates introduced new traffic control safety measures for different types of work, including requirements for employers to carry out a risk assessment to create a traffic control plan, apply control measures in order of effectiveness, and ensure adequate supervision. Read the [full article](#) by Sarah Ripplinger in the Spring 2023 issue of *WorkSafe Magazine*.

Asbestos Certification and Licensing Update

The provincial government has amended the [Workers Compensation Act](#) to require asbestos abatement contractors be licensed to operate in British Columbia. Also, workers who perform this work must complete mandatory safety training and obtain certificates. This update summarizes the activities from the past quarter (Q4, 2022) in implementing these requirements and upcoming opportunities for input from workers, employers, and other stakeholders. Training and certification WorkSafeBC has developed

a framework for the training and certification program that identifies practical and theoretical training competencies workers will be required to demonstrate before receiving a certificate. To be approved as a training provider for asbestos abatement, training providers will be required to offer curriculum that covers these core competencies. Read the [full article](#) in the Spring 2023 issue of *WorkSafe Magazine*.

OHS Policies/Guidelines – Updates

The following amendments to the [Occupational Health and Safety Regulation](#) are effective March 1, 2023 [[B.C. Reg. 223/2022](#)].

- Part 14 – Crane and Hoists
 - [14.16.1 Certification following misadventure](#) (amended)
 - [14.39 Contact with loads and structures](#) (repealed)
 - [14.49.1 Communication between equipment operators](#) (amended)
 - [14.84.1 Overlapping operating zones](#) (amended)
- Part 16 – Mobile Equipment
 - [16.43 Lift trucks](#) (amended)
- Part 19 – Electrical Safety
 - [19.24.1 Minimum approach distance when working close to exposed electrical equipment and conductors](#) (amended)

Strikethrough versions of the amendments with explanatory notes are available: [Parts 14 and 19. Inconsistent Crane Misadventure and Zone-Limiting Devices in Tower Cranes](#)

OHS Policies – Occupational Health and Safety Regulation

Housekeeping changes were made to the following policy item to reflect amendments to the OHS Regulation:

- [R19.24-1 Working Close to Energized High Voltage Equipment and Conductors](#)

Guidelines – Occupational Health and Safety Regulation

The following guideline was revised, consequential to the March 1 amendments to the OHS Regulation:

- Part 19 Electrical Safety
 - [G19.24.1 Minimum approach distance](#)

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

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Mar. 1/23	by Reg 223/2022

PROPERTY & REAL ESTATE

Property and Real Estate News:

Changes to the Land Owner Transparency Act Introduced

[Bill 7](#), the *Land Owner Transparency Amendment Act, 2023*, was tabled in the legislature on February 16. The amendments to the [Land Owner Transparency Act](#) are minor and technical amendments intended to address issues that have arisen since that Act first came into force in 2020.

Bill 8, the Real Estate Services Amendment Act, 2023 Tabled

Amendments to the [Real Estate Services Act](#) were introduced in [Bill 8](#), the *Real Estate Services*

Amendment Act, 2023, on February 16. Changes to the Act would remove the Real Estate Foundation of British Columbia as a government reporting entity and restore the foundations previous arm's-length relationship to government.

CHOA - Condo Smarts: New Regulations Coming into Effect

Dear Tony: Our annual meeting was Saturday and there was a lot of confusion around our annual budget and our contribution to our reserve fund. The new changes to the Act that were announced last week, appear to keep the minimum contribution to 10%, which we have faithfully applied in our 22 years. At the meeting, several owners including a realtor raised the issue that we were now required to also replenish funds spent in the previous year in addition to the 10% minimum. In the end the budget was approved and 10% of our annual operating budget was approved to the contingency. Could you please explain the regulations approved in simple language to help us clear up the confusion.

Dear Karen: There were no changes to the [Strata Property Act](#), these were changes to the [Regulations](#), which can be confusing if you do not read all provisions passed and when they come into effect. Immediately into effect were the regulation changes to the *Strata Property Act* that applied to age and rental bylaws.

Read the [full bulletin](#) by Tony Gioventu published in the CHOA 2023 Condo Smarts.

Construction Litigation: How a Negligence Claim Can Fail if Parties Allocate Risk by Contract

A summary of *Centurion Apartment Properties Limited Partnership v Loco Investments Inc*, 2022 BCSC 2273

In settling the terms of a contract, parties often address how liability will be handled in the event of a loss, whether through limitation of liability clauses, indemnity clauses, or otherwise. In some cases, parties may also wish to seek redress outside of the terms of the contract through claims of negligence. As discussed in this article, however, such a claim may not always be successful. Read the [full article](#) by Kai Hsieh with Civic Legal LLP.

Corporate Directors May Be Liable for Property Sales Misrepresentation, but not Realtors: BC Court

The BC Supreme Court has ruled that a cause of action exists against the corporation directors, but not the realtors, who allegedly committed fraudulent misrepresentation during the sale of properties in Chilliwack, BC. In *Bridal Falls Development Corp. v Bridal Falls RV Park Inc.*, [2023 BCSC 156](#), Infinite Expansion's shareholder Joe Duminuco claimed that realtor Don Munro approached him regarding an opportunity to purchase properties at Bridal Falls, Chilliwack, for development purposes. Infinite offered to buy the properties for \$8 million from the seller, Bridal Falls RV Park Inc. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

Does Canada's New Foreign Buyer Ban Prohibit Your Commercial Transaction?

Last year the federal government enacted the [Prohibition on the Purchase of Residential Property by Non-Canadians Act](#) (the Act), which imposed a two-year ban on any direct or indirect purchase of residential property by a non-Canadian commencing on January 1, 2023. The government recently published the accompanying [Prohibition on the Purchase of Residential Property by Non-Canadians Regulations](#) (the Regulations). These Regulations have greatly expanded the original scope of the Act, including who is considered to be a "non-Canadian" for the purpose of the Act, what constitutes a "residential property" and what is considered to be a "purchase." Pending further clarification from the government, it appears that, as a result of the Regulations, the Act may now effectively prohibit a broad range of commercial transactions by corporations and other entities which have a degree of foreign ownership or control. Read the [full article](#) on Dentons website.

Housing Commitments in Budget 2023

The provincial budget for 2023 was tabled on February 28, along with the *Budget Measures Implementation Act, 2023*, [Bill 10](#). Some of the highlights for the new investments relation to housing include the following (all of which represent three-year fiscal plan costs):

- \$1.7 billion in operating and capital funding for BC Builds and Building BC programs
- \$57 million to unlock new homes through new residential zoning measures
- \$230 million to renew BC Housing aging rental stock
- \$91 million for a pilot project that will provide financing incentives to encourage homeowners to develop new secondary suites
- \$500 million for the Renters Protection Fund
- \$11 million to implement legislation, including the Housing Supply Act
- Over \$1.5 billion in operating and capital funding to help reduce homelessness

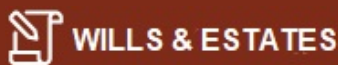
Rent is on the Rise: How to Increase Your Rental Income

The average rent for an apartment in Greater Vancouver is on the rise, and if you are a developer or landlord, it is important to know what opportunities and limitations are present when increasing your rent. Developers and landlords of residential properties in BC may raise their rent once every 12 months, starting from the start of the term or since the last rent increase. This maximum allowable rent increase is set out in [sections 22 and 22.1 of the Residential Tenancy Regulation](#). The BC government has set the new annual limit for these rent increases to 2% for 2023. Read the [full article](#) by [Karen Ngan](#) and [Alex Bogdan](#).

Funds Paid as Security for Builder's Lien Did Not Prevent Accrual of Interest: BC Court of Appeal

The British Columbia Court of Appeal reversed an order denying contractual interest, ruling that funds paid as security in substitution for land subject to a builder's lien and remained in the control of the debtor did not prevent accrual of interest. Highridge Homes Ltd. was contracted by Vanessa and Dirk de Boer to build a home. However, they had a falling out over excavation costs. As a result, De Boer refused to pay the final invoice. Highridge sued for payment, lost profits, and a builder's lien against the title to the property. De Boer filed a counterclaim for additional costs in finding a new contractor. Read the [full article](#) by [Jason Tan](#) on *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Bare Land Strata Regulations (75/78)	Feb. 10/23	by Reg 32/2023
Expropriation Act	Feb. 13/23	by 2022 Bill 22, c. 20, section 8 only (in force by Reg 43/2023), School Amendment Act, 2022
Homeowner Protection Act Regulation (29/99)	Feb. 10/23	by Reg 32/2023
Property Transfer Tax Return (Vesting) Exemption Regulation (41/2023)	NEW Feb. 13/23	see Reg 41/2023



Wills and Estates News:

Canfield v. Bronze Wines Ltd.

Madam Justice Horsman's decision in *Canfield v. Bronze Wines Ltd.*, [2022 BCSC 546](#), additional reasons at [2022 BCSC 1435](#), illustrates the application of unconscionability to improvident transfers of wealth. The doctrine may apply where value is given for the transfer, it does not require a finding that the transferor did not have capacity, nor evidence of undue influence.

This case also illustrates the responsibilities of lawyers and notaries public in witnessing transfer

documents. On this point, the trial judge's finding of liability of the notary public was overturned in *Engman v. Canfield*, [2023 BCCA 56](#), although the Court Appeal agreed with her analysis of the notary's responsibilities. Read the [full article](#) by [Stan Rule](#) on the *Rule of Law* blog.

No 'Inordinate Delay' in Wills and Estate Case Despite Pandemic Interruption: BC Supreme Court

The BC Supreme Court has refused to dismiss a case challenging the deceased's will for want of prosecution despite the delay caused by the COVID-19 pandemic.

In *Fitzpatrick v. Dobos*, [2023 BCSC 182](#), Karoly Charles Dobos executed a will in 2014, naming his common-law partner Eva Magyar as executor of his estate. The will also provides that 50 percent of the estate residue will go to Magyar and 50 percent to Dobos' nephews in Hungary. Dobos died in 2019.

Magyar obtained probate of Dobos' estate. Carol Fitzpatrick, claiming to be the deceased's daughter, sought to set aside probate. She challenged the will's validity and alleged wrongful dissipation of the deceased's assets. In September 2019, Fitzpatrick's counsel gave notice of his client's intention to apply to set aside the grant of probate. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Admitting to Probate a Document That Does Not Meet the Formal Requirements of a Will – New B.C. Case

In B.C., there are formal requirements for making a will. These include requirements that the will be in writing, signed at the end by the will-maker in the presence of two or more witnesses who are present at the same time, and signed by two or more of the witnesses in the presence of the will-maker (see s. 37 of the [Wills, Estates and Succession Act](#) ("WESA").

However, the court may make an order a document be fully effective as though it was the will or part of the will of the deceased person even though it does not comply with WESA, if the court is satisfied that the document represents the testamentary intentions of the deceased person (see s. 58 of WESA). Read the [full article](#) by James Zaitsoff on the *BC Estate Litigation Blog*.

To Get Fairness You Must Act Fairly: Clean Hands Required to Seek Equitable Remedy in Estates Litigation

In [De Angelis v Sierny](#), the British Columbia Court of Appeal ("BCCA") recently considered the impact of the "cleans hand doctrine" on a claim for unjust enrichment in estate litigation.

The "clean hands doctrine" provides that a party who seeks an equitable remedy from the court must come to Court with clean hands, failing which the Court can refuse to grant the requested equitable remedy. If a party engaged in misconduct and relies upon that misconduct to make out their claim, they will be barred. At law, equity with its remedies are based on broad principles of fairness and justice. Unjust enrichment is one possible equitable remedy that can be claimed. Read the [full article](#) by [David G. Waites](#) with Lerner LLP.

Justified Reasons to Remove Executors/Trustees

In British Columbia, removing an executor or trustee can be necessary when they fail to properly fulfill their duties. But what are the grounds for doing so? The case of *Nieweler Estate (Re)*, [2019 BCSC 401](#) sheds light on the justified reasons for removal. Discover why the executor was removed in this real-life estate litigation matter and understand the process involved in removing executors or trustees in BC. Read the [full article](#) published by the ONYX Law Group.

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

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