

Quickscribe Reporter

Vol: XXII – Issue: 3 – March 2023

QUICKSCRIBE NEWS:

Bill to Remove Outdated Gendered and Binary Language (Changes Not Included in this Reporter)

The recently introduced *Miscellaneous Statutes (Modernization) Amendment Act, 2023*, [Bill 14, c. 10](#), updates over 200 provincial statutes by removing more than 2,300 instances of outdated gendered and binary language. The amendments came into force on March 30, 2023. Because of the scope and volume of the changes, we have not listed them in this Reporter. For more details on the specific changes, please consult the Bill online.

Quickscribe Welcomes Michael Moll as our Expert in Local Government (Finance) Legislation

Quickscribe is delighted to welcome [Michael Moll](#), a partner with [Civic Legal LLP](#), as a new contributor to Quickscribe. Michael brings his extensive expertise in local government law to Quickscribe, where he will annotate legislation related to local government finance.

Michael is a regular speaker for the Government Finance Officers Association of BC, including at its annual workshop on municipal tax sales. He was a co-contributor to chapters on subdivision regulation and development cost charges in four editions of the BC CLE's British Columbia Real Estate Development Practice Manual. Michael maintains a mixed practice of both litigation and solicitor work with a particular focus on local government finance, collections, bylaw regulation and bylaw enforcement.

New Bills

The following bills were introduced:

Government Bills

- [Bill 12](#) – Intimate Images Protection Act
- [Bill 13](#) – Pay Transparency Act
- [Bill 14](#) – Miscellaneous Statutes (Modernization) Amendment Act, 2023
- [Bill 15](#) – Vital Statistics Amendment Act, 2023
- [Bill 16](#) – Supply Act (No. 1), 2023
- [Bill 17](#) – Family Law Amendment Act, 2023
- [Bill 18](#) – Haida Nation Recognition Act
- [Bill 19](#) – Money Services Businesses Act
- [Bill 20](#) – Business Corporations Amendment Act, 2023
- [Bill 21](#) – Civil Forfeiture Amendment Act, 2023
- [Bill 23](#) – Motor Vehicle Amendment Act, 2023

Members' Bills

- [Bill M213](#) – Indigenous Names Statutes Amendment Act, 2023
- [Bill M214](#) – Mental Health Amendment Act, 2023
- [Bill M215](#) – Non-Disclosure Agreements Act
- [Bill M216](#) – British Columbia Transit Amendment Act, 2023
- [Bill M217](#) – Wildlife Amendment Act (No. 2), 2023

- [Bill M218](#) – North Island-Coast Development Initiative Trust Amendment Act, 2023
- [Bill M219](#) – Miscellaneous Statutes (Gas Price Relief) Amendment Act, 2023

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


Latest Annotations

- [Michael Moll](#), Civic Legal LLP – [Local Government Act](#)
- [Joel Morris](#), Harper Grey LLP – [Hospital Act](#), [Public Health Act](#)

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

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

View [PDF](#) of this Reporter.

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

[\[Previous Reporters \]](#)

CATEGORIES

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



COMPANY & FINANCE

Company and Finance News:

Money Services Businesses Act Introduced

On March 29, the new [Money Services Businesses Act](#) was introduced in the legislature. The proposed *Act* would require money services businesses (MSBs) that deal in services such as foreign exchanges, wire transfers, issuing or redeeming money orders or traveller's cheques to register with B.C. Financial Services Authority. While MSBs are regulated federally, the intent of the *Act* is to build on the existing regime by focusing on conducting broad background checks of MSBs. This legislation is in response to one of the [recommendations of the Cullen commission](#) on money laundering. If passed, this act will come into force by regulation, with details, including deadlines for registration, to be determined.

Amendments to Business Corporations Act Introduced

[Bill 20](#), the *Business Corporations Amendment Act, 2023*, was introduced on March 29. If passed, the proposed amendments to the [Business Corporations Act](#) will create a new public registry of beneficial owners of private companies incorporated in British Columbia, similar to the Land Owner Transparency Registry. The purpose of the Bill is to end hidden ownership that can be exploited for illegal activities, and is consistent with recommendations from the [2019 Expert Panel on Money Laundering in B.C. Real](#)

[Estate](#) and the [Cullen commission](#). The registry is expected to be launched in 2025.

2023 Federal Budget: Selected Tax Measures

On March 28, 2023 (Budget Day), the Minister of Finance introduced Canada's [2023 federal budget](#) (Budget 2023). Notwithstanding some predictions that the heavy legislative agenda of the Department of Finance (Finance) in recent years would translate into a budget that was light on tax measures, Budget 2023 contains some dramatic changes to the fiscal landscape. This bulletin analyzes the most significant business tax measures addressed in Budget 2023. Read the [full article](#) published by Blakes, Cassels & Graydon LLP.

The Reasonableness of Reasonable

The word "reasonable" has been part of Canadian tax lexicon for over a century. The 1917 *Income War Tax Act* allowed at para. 3(1)(a) a deduction in the computation of income for "such reasonable allowance as may be allowed by the Minister for depreciation, or for any expenditure of a capital nature for renewals, or for the development of a business ...". Interestingly, ss. 3(4) of the *Income War Tax Act* provided that, for the purpose of the supertax only, the income of a taxpayer included undivided or undistributed gains and profits of an entity in which the taxpayer held an interest to the extent that such gains and profits were not "in excess of what is reasonably required for the purposes of the business." Read the [full article](#) by [Raymond G. Adlington](#) with Miller Thomson LLP.

Employee Ownership Trusts: A Potential New Option for Sellers of Canadian Businesses

Employee ownership trusts (EOTs) may soon become one additional avenue for Canadian business owners looking to sell their enterprises. The goal of EOTs is to enable owners to effectively sell their businesses to their employees. As a Canadian EOT framework may be on the horizon, it is important for business owners and other stakeholders to understand the mechanics, and possible advantages, of these trusts.

The Government of Canada initially expressed interest in exploring EOTs in its 2021 Federal Budget. A year later, Parliament committed to finalize the development of rules for EOTs and assess remaining barriers to their creation. Recently, the Canadian Employee Ownership Coalition, a non-partisan group of leaders in Canada's academic, banking, business, and non-profit sectors, called on the federal government to create a tax-advantageous framework for EOTs under Canadian law in its 2023 Budget, which is expected to be released on March 28, 2023. Read the [full article](#) by [Michael Decicco](#), [Simon A. Romano](#), [Jill Winton](#) and [Meaghan Obee Tower](#) with Stikeman Elliott LLP.

Canada's Underused Housing Tax: What You Need to Know Before May 1, 2023

What Is the Underused Housing Tax and Why does It Matter?

The federal government's [Underused Housing Tax Act](#) (the *Act*) and the associated [Underused Housing Tax Regulations](#) (the Regulations) both took effect on January 1, 2022. With the first filing and remittance deadline fast approaching, it is important for all residential property owners to consider whether the *Act* applies to them and what they need to do if it does.

The *Act* requires certain owners of residential properties in Canada to file an annual return with the Canada Revenue Agency (CRA) reporting the occupancy status of the residential property and, unless exempted, pay a 1 percent tax on the fair market value or the taxable value of that residential property (the Tax). The Tax is in addition to home vacancy taxes introduced by municipalities such as Toronto and Vancouver, and provinces like British Columbia, and is consistent with the federal government's attempt to limit or tax residential property ownership by non-Canadians. Read the [full article](#) by [Samantha Weng](#), [Jane Helmstadter](#), [Alix Cameron](#), [Mark Lewis](#), [Mandev Mann](#) and [Sandra Geddes](#) with Bennett Jones LLP.

B.C. Court of Appeal: Financial Institutions May Have a Duty to Warn Customers About Known Financial Scams

Financial institutions may owe their customers a duty to make inquiry where there are suspicious circumstances presented by an instruction to transfer funds, and if not satisfied by the inquiry, a duty to warn the customer about the risk of fraud.

Overview

In a recent decision from the Court of Appeal for British Columbia (*Zheng v. Bank of China*, [2023 BCCA 43](#)), the Court held that financial institutions may have a duty to specifically warn customers about the risk of fraud where: (a) the financial institution knows about a particular fraudulent scheme happening in the community; and (b) a customer provides an instruction to transfer funds from their account in suspicious circumstances and where the customer matches the profile of targets of the fraud.

Read the [full article](#) by [Hunter Parsons](#) and [Alex Kim](#) with Borden Ladner Gervais LLP.

B.C. Decision on Software Taxation Has Important Implications for Industry, Consumers: Lawyer

A Vancouver-based tech company has won its fight with the province over the taxation of several cloud computing and technical service products it had purchased, a case which dealt with the definition of "software program" under British Columbia's current sales tax legislation for the first time.

B.C. Supreme Court Justice Michael Thomas ruled that Hootsuite Inc., which operates an online social management system, will not have to pay provincial sales tax (PST) on services purchased from Amazon Web Services Inc. (AWS). In March 2017, the provincial Ministry of Finance told the company an assessment would be issued in respect of a failure to self-assess PST on its purchase of the Amazon Elastic Compute (EC2) Cloud, Amazon simple storage (S3) service, AWS direct connect and AWS support.

The [Provincial Sales Tax Act \(PSTA\)](#) sets out the rules in respect of the imposition of PST on software programs, saying that a "a purchaser in British Columbia who purchases software for use on or with an electronic device ordinarily situated in British Columbia must pay to the government tax at the rate of seven per cent of the purchase price of the software." Read the [full article](#) by [Ian Burns](#) on *Law360 Canada*.

BC Securities – Policies & Instruments

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

- [BC Notice 2023/02](#) – Solicitation of Members for Corporate Finance Stakeholder Forum
- [45-309](#) – Guidance for Preparing and Filing an Offering Memorandum under National Instrument 45-106 Prospectus Exemptions
- [13-102](#) – CSA Notice of Repeal and Replacement of Multilateral Instrument 13-102 System Fees for SEDAR and NRD (renamed Multilateral Instrument 13-102 System Fees)
- [13-103](#) – CSA Notice of National Instrument 13-103 System for Electronic Data Analysis and Retrieval + (SEDAR+)

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

Act or Regulation Affected	Effective Date	Amendment Information
B.C. Enterprise Corporation Borrowing Limit Regulation (300/87)	REPEALED Mar. 13/23	by Reg 71/2023
B.C. Pavilion Corporation Act	Mar. 13/23	c. 33, SBC 2022, Bill 31 , whole Act in force by Reg 71/2023
British Columbia Enterprise Corporation Act	Mar. 13/23	by 2023 Bill 31, c. 33, section 9 only (in force by Reg 71/2023), B.C. Pavilion Corporation Act
Business Corporations Regulation (65/2004)	Mar. 1/23	by Reg 50/2023

Cooperative Association Regulation (391/2000)	Mar. 1/23	by Reg 50/2023
Multilateral Instrument 11-102 <i>Passport System</i> (58/2008)	Mar. 2/23	by Reg 63/2023
National Instrument 45-102 <i>Resale of Securities</i> (107/2004)	Mar. 2/23	by Reg 63/2023
National Instrument 45-106 <i>Prospectus Exemptions</i> (227/2009)	Mar. 2/23	by Reg 63/2023
	Mar. 8/23	by Reg 65/2023
National Instrument 52-107 <i>Acceptable Accounting Principles and Auditing Standards</i> (382/2010)	Mar. 2/23	by Reg 63/2023
Prescribed Bank and Loan Transfer Date Regulation (336/89)	REPEALED Mar. 13/23	by Reg 71/2023
Securities Act	Mar. 9/23	by 2023 Bill 4, c. 1, section 5 (b) only (in force by Royal Assent), Finance Statutes Amendment Act, 2023

 ENERGY & MINES

Energy and Mines News:

BC Oil & Gas Regulations - Early Consolidations

Quickscribe has published early consolidations of [B.C. Reg. 78/2023 amendments](#) to the [Dormancy and Shutdown Regulation](#), [Drilling and Production Regulation](#) and [Oil and Gas Processing Facility Regulation](#). These amendments are the result of a complete review by the BC Energy Regulator in 2022 in relation to the requirements of methane emissions regulations, and will provide further clarity and improve regulation administration. These will come into force on January 1, 2024 to allow time for permit holders to update data collection and reporting systems without affecting data submission for Leak Detection and Repair Surveys completed in 2023.

The Energy Statutes Amendment Act – Expansion of Liability for Officers and Directors in Energy Sector

As discussed in our earlier [bulletin](#), British Columbia's [Energy Statutes Amendment Act](#) (the "ESAA") makes sweeping changes to the regulation of energy in British Columbia. Among the primary changes, the revised *Energy Resource Activities Act* [[early consolidation](#)] expands the potential liabilities for oil and gas or storage activities and for prescribed energy resource activities beyond the applicable permit holder to "principals" and "responsible persons."

The *Energy Resource Activities Act* defines "principal" to include directors and officers of a corporation as well as individuals who control, directly or indirectly, the corporation.

The term "responsible person" is defined exceptionally broadly to include people who (i) hold, or have a legal or beneficial interest in, the petroleum or natural gas rights, or the location for the applicable permit, and/or (ii) have a legal or beneficial interest in production or profits resulting from an energy resource activity authorized by the applicable permit. Read the [full article](#) by [Sasa Jarvis](#), [Sean Ralph](#) and

[Jordan Ghag](#) with McMillan LLP.

Case Summary: Government Compliance with the Reporting Requirements Under the *Climate Change Accountability Act*, S.B.C. 2007, c. 42 Is Justiciable

Sierra Club of British Columbia Foundation v. British Columbia (Minister of Environment and Climate Change Strategy), [2023] B.C.J. No.80, [2023 BCSC 74](#), British Columbia Supreme Court, January 17, 2023, J.S. Basran J.

The nature and extent of the B.C. government's reporting on progress towards its climate change targets is justiciable because the question involves determining the reasonable interpretation of legislation establishing the obligations of a statutory decision maker. The Court adjudicated the matter and held that the Minister reasonably complied with the statutory obligation to describe British Columbia's plans to continue progress towards its GHG emissions reduction targets.

On judicial review, Sierra Club sought declarations that the British Columbia Minister of Environment and Climate Change Strategy breached his statutory reporting obligations under the [Climate Change Accountability Act](#), S.B.C. 2007, c. 42.

Under the *Climate Change Accountability Act*, the Minister is obligated to prepare an annual climate accountability report. Read the [full article](#) by [Emilie LeDuc](#) with Harper Grey LLP.

Federal Government Releases Proposals Relating to Clean Technology and Resource Tax Incentives

On March 28, 2023, Canada's Deputy Prime Minister and Minister of Finance, Chrystia Freeland, delivered the Liberal Government's federal budget, "A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future" ("Budget 2023"). Among other things, Budget 2023 proposes to:

- introduce the investment tax credit for clean hydrogen production ("CH Tax Credit") proposed in the 2022 Fall Economic Statement, which is a between 15% and 40% refundable credit (depending on the carbon intensity of the hydrogen produced) available in respect of the cost of purchasing and installing eligible equipment;
- expand the availability of the Clean Technology Investment Tax Credit ("CTI Tax Credit") proposed in the 2022 Fall Economic Statement, which is a 30% refundable credit, to certain geothermal energy systems.

Read the [full article](#) by [Jeremy Ho](#), [Matthew Kraemer](#), [Colton Dennis](#) and [Kathryn Walker](#) with McCarthy Tetrault LLP.

BC's New Energy Action Framework and Impacts on LNG Development and the Energy Sector

On March 13, 2023, British Columbia's Minister of Environment and Climate Change Strategy and Minister of Energy, Mines and Low Carbon Innovation issued an [Environmental Assessment Certificate](#) (EA Certificate) under the [Environmental Assessment Act](#) (2002) (British Columbia) for the Cedar LNG Project, which proposes to produce about three million tonnes of liquefied natural gas (LNG) per year. This was promptly followed by a concurring [Decision Statement](#) (IAA Decision) under the [Impact Assessment Act](#) (Canada) from the Federal Minister of the Environment on March 15, 2023.

Then on the heels of this Cedar LNG Project announcement, the Government of British Columbia (Province) announced on March 14, 2023 a [new energy action framework](#) (Framework). There have been ongoing questions and concerns as to whether the approval of any new LNG projects in the Province, including the Cedar LNG Project, can be compatible with the Province's climate goals and targets to reduce greenhouse gas emissions. The Framework would attempts to address these concerns by proposing new requirements for future LNG facilities and British Columbia's oil and gas industry participants to align with the Province's emissions reductions goals. Read the [full article](#) by [Dave Nikolejsin](#), [Kerri Howard](#), [Kimberly J. Howard](#) and [Ashley Urch](#) with McCarthy Tetrault LLP.

The First Nation-Led Case That Could Transform B.C.'s Mining Claims System Gets Underway

[\[Mineral Tenure Act\]](#)

Lawyers for a northern coast First Nation opened their case Monday in B.C. Supreme Court, where they are asking a judge to cancel seven mining claims on Banks Island.

The Gitxaala Nation's judicial review is the first, big test for the B.C. government, which adopted the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2019.

The hearing, scheduled to last through April 14, began late with a traditional prayer, after a bigger courtroom was found to hold the crowd of Gitxaala Nation supporters and others interested in a case that could transform the way mining claims are handled.

Under the current system, anyone as young as age 18 who lives in or is allowed to work in Canada can pay \$25 to register for a "free miner certificate." They can then file a mineral claim for as low as \$1.75 per hectare, subject to costs for renewals, permitting, development and extraction. Read the [BIV article](#).

B.C. Hydro's Integrated Resource Plan, EPA Renewals Other Key Developments in B.C.'s Power Sector in 2022

Several developments relating to BC Hydro continue to lay the groundwork for BC's energy future, including the completion of Phase 2 of the province's comprehensive review of the provincial utility and the submission by BC Hydro of its first integrated resource plan (IRP) in almost a decade.

While BC Hydro's new IRP works its way through regulatory review, the utility continued to advance construction of its Site C hydroelectric facility (Site C) while reaching an important settlement with litigants challenging the project.

BC Hydro expects to have sufficient energy and capacity until the early 2030s, and accordingly there continues to be no new material procurement opportunities for independent power producers (IPPs) in BC. However, BC Hydro does intend to renew existing electricity purchase agreements (EPAs) for clean or renewable projects set to expire before April 1, 2026 to ensure that these facilities continue to be available if their generation is required to meet domestic needs in the future. Read the [full article](#) by [Racheal Carlson](#), [Alexandra Comber](#), [Maureen Gillis](#), [Genevieve Loxley](#) and [Sven O. Milelli](#) with McCarthy Tetrault LLP.

Four Trends in Indigenous Equity Participation in Canada

It is near impossible for any energy, mining or infrastructure projects to be successfully developed in Canada today without securing support and consent from affected Indigenous Peoples. In order to secure that support and consent, more Indigenous Peoples are interested in equity participation in such projects, and more project developers or facility owners are interested in partnering with such Indigenous Peoples to facilitate economic reconciliation and to manage project risk.

Indigenous equity helps to align the interests of the parties in the project or facility, share direct benefits, and build capacity. As a result, numerous financing and other funding programs have been developed to support such investments, but are not yet being fully deployed. We expect to see much more activity in such transactions moving forward. Read the [full article](#) by [Amy Carruthers](#), [Amy Barrington](#) and [Erin McKlusky](#) with Fasken Martineau DuMoulin LLP.

British Columbia's CleanBC Plan: What You Need to Know

This article forms part of our Power Perspectives 2023 Publication. Download the full publication [here](#).

In 2022, the BC government made further investments in its CleanBC initiative, the climate action plan introduced in 2018 that aims to reduce the province's greenhouse gas ("GHG") emissions by 40% below 2007 levels by 2030.

In the 2022 provincial budget, the BC government pledged more than \$1.2 billion in further funding for CleanBC, adding to its existing \$2.3 billion commitment to CleanBC. Among other investments, the budget allocated \$120 million in funding to continue the Climate Action Tax Credit, designed to offset the impact of the province's broad-based carbon taxes on lower- and middle-income households. CleanBC

also includes an Industrial Incentive Program that reduces carbon tax costs for facilities that can demonstrate that they are among the lowest emitters in their sector compared to GHG benchmarks. On April 1, 2022, BC's carbon tax rate rose from C\$45 to \$50 per tCO₂e. Read the [full article](#) by [Racheal Carlson](#), [Alexandra Comber](#), [Maureen Gillis](#), [Genevieve Loxley](#) and [Sven O. Milelli](#) with McCarthy Tetrault LLP.

BC's Agreements with Blueberry River and Other First Nations Reopen Land to Development, while Minimizing New Disturbances

On January 18, 2023, the Province of British Columbia reached an agreement with Blueberry River First Nations that will lead to broad changes to land management and resource development in the northeast of British Columbia. Two days later, on January 20, 2023, the Province announced agreements with four other Treaty 8 First Nations (Doig River First Nation, Halfway River First Nation, Fort Nelson First Nation and Sauteau First Nations) covering similar objectives.

The agreements, made publicly available on March 10, 2023, will result in significant changes in how permits are issued in northeast British Columbia, and where and how development may occur, with particular implications for the Petroleum and Natural Gas ("PNG") and forestry industries.

The Province also announced that discussions are ongoing with the other three Treaty 8 First Nations in British Columbia (West Moberly First Nations, Prophet River First Nation, and McLeod Lake Indian Band). Read the [Indigenous Law Bulletin](#) published by [Bridget Gilbride](#), [Dani Bryant](#) and [Nathan Surkan](#) with Fasken Martineau DuMoulin LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Direction No. 5 to the British Columbia Utilities Commission (245/2013)	Mar. 15/23	by Reg 74/2023
Fee, Levy and Security Regulation (8/2014)	Mar. 27/23	by Reg 79/2023
First Nations Clean Energy Business Fund Regulation (377/2010)	Apr. 1/23	by Reg 122/2020
Petroleum and Natural Gas Drilling Licence and Lease Regulation (10/82)	Mar. 1/23	by Reg 60/2023



FAMILY & CHILDREN

Family and Children News:

Amendments to the *Family Law Act* Introduced (Pet Custody)

The Province recently tabled the [Family Law Amendment Act, 2023](#). These proposed amendments to the [Family Law Act](#) are intended to clarify the division of property for separating couples, including the ownership of pets. The amendments would clarify that couples may make agreements about pets and the court may make orders about pets, and includes a list of factors the court must consider, such as ability to care for the animal, the threat of cruelty or violence, and a child's relationship with the pet.

Other amendments include changes intended to update provisions governing division of pensions to align with current pension administration practice, and clarification that certain common law principles do not apply to questions of property ownership between spouses.

BCLI Welcomes Pension Division Reforms

The BC Law Institute is pleased to note the introduction of [Bill 17](#) in the legislative assembly. This bill amends part 6 of the [Family Law Act](#), implementing BCLI's recommendations to reform pension division for separating spouses.

When it is enacted, the bill's amendments will provide a host of improvements to BC's comprehensive legislation on pension division. These improvements include clarifying and modernizing the law on locked-in retirement accounts and life income funds; private annuities; waiving survivor benefits after pension commencement; the powers of a personal representative after the death of a spouse; commuted value: transfer and calculation; disability benefits; and transitions. Read the [full article](#) by Kevin Zakreski with BCLI.

The 2023 Federal Budget Means Changes to RESP Rules for Separated/Divorced Couples

Divorced or separated parents can now open a joint RESP. But is this a good idea?

At present, only spouses or common-law partners can open a joint RESP. Parents who opened a joint RESP before their divorce or separation can maintain this plan afterwards but cannot open a new joint RESP.

Budget 2023 proposes to enable divorced or separated parents to open joint RESPs for one or more of their children or to move an existing joint RESP to another promoter. Read the [full article](#) by [Jennie Weeks](#), published on *Collaborative Divorce Vancouver*.

How is Ownership Determined After a Break-Up? Proposed Changes to the Family Law Act Clarify Certain Rules of Evidence

On March 27, 2023, the Honourable Niki Sharma, Attorney General for British Columbia, proposed significant changes to the [Family Law Act](#) with [Bill 17](#), the *Family Law Amendment Act, 2023*.

One important change concerns some rules of evidence a judge can consider when determining who owns what in a family dispute.

If Bill 17 is passed, the *Family Law Act* will contain a new section 81.1 which will read as follows:

81.1 (1) The rule of law applying a presumption of advancement must not be applied in questions respecting the ownership of property as between spouses.

(2) The rule of law applying a presumption of resulting trust must not be applied in questions respecting the ownership of property as between spouses.

The presumption of advancement and the presumption of resulting trust are what's called evidentiary presumptions. They are tools a judge can use if there's not enough hard evidence to figure out who owns what property. Read the [full article](#) by [Alison Colpitts](#) with Clark Wilson LLP.

Changing BC's Family Justice System

Canada's traditional family justice system – with its adversarial culture and its single-minded focus on legal solutions – has tended to escalate hostility and create harmful stress for family members. Issues dealt with in our courts include parental separation and divorce, child abuse and neglect, and intimate partner violence. These are among the childhood traumas known as "Adverse Childhood Experiences" (or "ACEs"). Studies link these traumas to harmful effects on children's brain development, and to long-term and intergenerational social and emotional problems, chronic disease, and shorter life expectancy.

But there's work being done in BC to change our family justice system to reduce the adverse childhood experiences related to family separation. For example, four years ago the Provincial Court began to use an "Early Resolution" approach to family court cases. Then last year people from within and outside the justice system launched the Transform the Family Justice System Collaborative (TFJS) and doctors and lawyers in BC formed an alliance to reduce the health impacts of high conflict separation. Read the [full article](#) from the Provincial Court of British Columbia.

Act or Regulation Affected	Effective Date	Amendment Information
Child, Family & Community Service Regulation (527/95)	Mar. 30/23	by Reg 82/2023
Family Law Act Regulation (347/2012)	Mar. 8/23	by Reg 66/2023
Vital Statistics Act Regulation (69/82)	Mar. 8/23	by Reg 66/2023



FOREST & ENVIRONMENT

Forest and Environment News:

Opening the Tap: The B.C. Government Proposes New Watershed Security Strategy

The Province is considering new ways to regulate and promote watershed security in British Columbia, while furthering its reconciliation efforts with Indigenous groups. Watersheds are areas of land that drain rainfall and snowmelt into bodies of water, such as streams, rivers, and lakes. Watershed security is concerned with ensuring the protection of these areas, to safeguard access to good quality water, protect ecosystems, reduce risks from hazards such as drought and flooding, and ensure enough water to support local economies, recreation, food security, and more.

On March 6, 2023, the B.C. Ministry of Water, Land and Resource Stewardship published a [Watershed Security Strategy and Fund Intentions Paper](#) (Intentions Paper). The Intentions Paper marks the mid-point of the development of the Strategy, following the Province's [Discussion Paper](#) and [What We Heard Report](#) in January and March 2022, respectively. Read the [full article](#) by [Rick Williams](#), [Chris Roine](#), [Roark Lewis](#) and [Stephanie O'Connell](#) with Borden Ladner Gervais LLP.

Bill 22 Revisited: The Risks of a Change of Control

Technically, "Bill 22" refers to the [Forest Statutes Amendment Act, 2019](#), brought into force May 30, 2019. In much the same way that – in spite of its technical meaning – "Bill 13" became a colloquial reference to the [Timber Harvesting Contract and Subcontract Regulation](#) and related provisions of the [Forest Act](#), "Bill 22" has similarly come to collectively refer to those provisions in Part 4 of the [Forest Act](#) that regulate forest tenure transfers in BC ("Part 4") and the related [Disposition and Change of Control Regulation](#) (the "Regulation"). While both Part 4 and the Regulation were substantially amended as a consequence of Bill 22, neither is, in fact, the actual "Bill 22". Read the [full article](#) by [Jeff Waatainen](#) in the Spring 2023 issue of the *BC Forest Professional*.

First B.C. Carbon Management Blueprint Released

The B.C. Centre for Innovation and Clean Energy (CICE) has released the [B.C. Carbon Management Blueprint](#), a first of its kind study to help shape British Columbia's emerging carbon management sector. The study confirms that alongside carbon removal efforts, B.C. must scale up carbon emission avoidance strategies to meet 2050 net-zero targets and remain in line with a 1.5°C future. This includes investment in market accelerants, policies, and the growth of innovative, made-in-BC solutions.

Produced in partnership with Deloitte Canada, the B.C. Carbon Management Blueprint provides an understanding of existing carbon management approaches, the value chain, and the market participants that drive the supply and demand of these solutions. Read the [full article](#) provided by the BC Centre for Innovation and Clean Energy, published via Newswire.ca.

Case Summary: The Province Does Not Need to Prove Fire Control Efforts Were Necessary or Effective to Recover Such Costs Under the [Wildfire Act](#)

Canadian National Railway Co. v. British Columbia, [2022] B.C.J. No. 2510, [2022 BCSC 2263](#), British

Columbia Supreme Court, December 28, 2022, N. Sharma J.

CNR sought to avoid paying the costs of a controlled burn that the Province undertook during a wildfire, as well as costs for damage to forest lands resulting from the controlled burn. The wildfire was caused by CNR through railway operations carried out in contravention of the *Act*. CNR argued it should only be responsible for fire control costs which the Province proved were necessary and effective. The Court held CNR's interpretation did not accord with the language and scheme of the *Act*, nor with the intention of the legislature. The disputed costs were an indirect result of the fire caused by CNR and were recoverable under the *Act*.

On June 11, 2015, a wildfire was sparked south of Lytton, British Columbia while CNR was cutting rails. The BC Wildfire Service responded, and attended the fire until September 3, 2015. During that time, the BC Wildfire Service employed a controlled burn that achieved fire control objectives, but enlarged the burn area. Read the [full article](#) by [Emilie LeDuc](#) with Harper Grey LLP.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [Peace River Coal Inc. v. Director, Environmental Management Act](#) [Decision On Application to Cross-Examine a Witness – Ordered]
- [Gibraltar Mines Ltd. v. Director, Environmental Management Act](#) [Document Production Decision – Documents Produced as Set Out]

[Wildlife Act](#)

- [Marc Hubbard v. Director of Fish and Wildlife, Ministry of Forests](#) [Method of Hearing Decision – To Be Heard by Oral Hearing]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently.

[Wildfire Act](#)

- [Lone Prairie Livestock Association v. Government of British Columbia](#) [Final Decision – Determination Set Aside]

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

Act or Regulation Affected	Effective Date	Amendment Information
Angling and Scientific Collection Regulation (125/90)	Apr. 1/23	by Reg 72/2023
Carbon Tax Regulation (125/2008)	Apr. 1/23	by Reg 85/2023
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
Environmental Data Quality Assurance Regulation (301/90)	Mar. 30/23	by Reg 84/2023

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
Natural Resource Officer Authority Regulation (38/2012)	Mar. 1/23	by Reg 59/2023
Protected Areas of British Columbia Act	Mar. 9/23	by 2023 Bill 3, c. 2, section 9 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2023
Public Notification Regulation (202/94)	Mar. 1/23	by Reg 54/2023
Raspberry Industry Development Council Regulation (484/98)	Mar. 1/23	by Reg 55/2023
Waste Discharge Regulation (320/2004)	Mar. 1/23	by Reg 128/2022



Health News:

B.C. to Become First Province to Set Patient Ratios for Nurses

B.C. will become the first province in Canada to set rules governing how many patients each nurse can take care of, in an effort to keep burnt-out nurses from leaving the profession. It will mean spending \$750 million over the next three years to hire thousands more nurses to prop up an understaffed workforce.

The B.C. Nurses' Union called the nurse-to-patient ratios groundbreaking.

Health Minister Adrian Dix said the move will improve patient care, reduce nurses' workloads, increase safety, and keep nurses in the health-care system. The new ratios will apply in hospitals, in long-term and residential care, and to nurses working in the community and non-hospital care settings.

In B.C., the nurse-to-patient ratios in hospitals will be 1-to-1 for critical-care patients on ventilators, 1-to-2 for critical-care patients not on ventilators or those needing high-dependency mental-health care, 1-to-3 for specialized care, 1-to-4 for in-patient and palliative care and 1-to-5 for rehabilitative care. Read the *Vancouver Sun* [article](#).

BC Court of Appeal Increases Damages for Plaintiff with Deformity Due to Negligent Surgery

The BC Court of Appeal has increased an award of loss of future earning capacity for a plaintiff who broke his arm as a child, resulting in deformity due to negligent surgery.

In *McKee v. Hicks*, [2023 BCCA 109](#), Maxwell McKee broke his right arm just above the elbow when he was five years old after he fell off a kitchen cabinet. He was an active child diagnosed with ADHD when he was nine years old, and type 1 diabetes he was about ten. Dr. Tracy Hicks, an orthopedic surgeon, negligently performed a closed reduction and casting of the fracture resulting in a malunion of the bones, creating a deformity of McKee's elbow. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Prescription Birth Control to Be Free in B.C. Starting April 1, But Not Everything Will Be Covered

British Columbia is set to make contraceptives free for those with a prescription starting April 1.

Funding of \$119 million over the next three years will allow full coverage for prescription contraception. It includes oral hormone pills, contraceptive injections, hormonal and copper intrauterine devices, subdermal implants, and Plan B, also known as the morning-after pill. Free prescription contraception will also be made available to men, including trans men.

To access free contraception, government officials said starting in April, residents covered under MSP must get a prescription from a family physician, then take it to their pharmacist with their MSP card to get it filled.

According to the provincial government's website, B.C. PharmaCare won't cover cervical caps, condoms, diaphragms, patches, rings or sponges. For some, these exclusions make the promise of free birth control ring hollow. Read the [CBC article](#).

Naturopathic Doctor Alleged to Have Sold Fecal Materials Denied Leave by BC Court of Appeal

The BC Court of Appeal has denied leave to appeal for naturopathic doctor allegedly involved in manufacturing fecal microbiota transplant materials for export to Mexico.

In *Klop v. College of Naturopathic Physicians of British Columbia*, [2023 BCCA 125](#), Dr. Jason Klop is a registrant of the College of Naturopathic Physicians of British Columbia. He allegedly manufactured and exported fecal microbiota transplant (FMT) materials to Mexico for use in treating children with autism. The College initiated an investigation of Dr. Klop's conduct for potential contraventions of Health Canada policy and the College's code of conduct and bylaws. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

B.C. to Announce Plan for Access to Diabetes Drug Ozempic, Hyped for Weight Loss

Almost 10 per cent of prescriptions for the drug in B.C. filled for Americans

British Columbia's health minister plans to announce how the government will ensure patients in the province will have secure access to the diabetes and weight loss drug Ozempic.

Adrian Dix said in January that the government would be investigating why almost 10 per cent of prescriptions for the drug in B.C. were filled for American citizens.

Dix said at the time that the dramatic increase in demand for the diabetes drug was partly because of social media "influencers" who spoke about its weight loss benefits. Read the *Canadian Press* [article](#), on *Today in BC*.

Health Canada Initiates Public Consultation on Proposed PFAS Drinking Water Quality Objective

Health Canada has initiated a public consultation to solicit comments on its proposed drinking water quality objective for per and polyfluoroalkyl substances ("PFAS"), the approach used to develop the proposed objective and the potential impact of implementation of the proposed objective.

PFAS are a group of substances that contain linked fluorine and carbon atoms that are stable and may persist in the environment. These substances may be used in the production of surfactants, lubricants, repellents, textiles, cosmetics and foams. On April 24, 2021, the Government of Canada published a notice of intent to address the broad class of PFAS in the *Canada Gazette*. Read the [full article](#) by [Amy Pressman](#) and Christopher Liang (Articling Student) with DLA Piper.

Recent Updates in the Canadian Psychedelics Landscape

Globally, the landscape governing psychedelics continues to evolve. Psychedelics have come to be viewed as a potential therapeutic or medical tool by both the general public and government. Over the last few years, Health Canada has continued to grant exemptions for use of psychedelics in certain settings and psychedelics are once again accessible through the Special Access Program ("SAP"). This bulletin seeks to summarize recent Canadian developments and builds on our [year in review article](#) of 2021.

Regulatory Framework

Psychedelics are federally regulated under the [Controlled Drugs and Substances Act](#) (the "CDSA") and most activities with controlled substances are prohibited, though there are limited permitted uses including with the use of exemptions.

Read the [full article](#) by [Leila Rafi](#), [Sasa Jarvis](#) and [Anthony Labib](#) with McMillan LLP.

Doctor Negligently Performed Eye Surgery

Causing Cornea Damage: BC court

A doctor breached his obligation to adequately disclose the risks of a procedure similar to a cataract surgery, and a reasonable person in the patient's circumstances would not have pushed through if aware of such risks, a BC court said.

The plaintiff patient wanted to correct his vision to decrease his dependence on glasses or contact lenses. In September 2016, the defendant doctor performed two refractive lens exchange surgeries on the patient's eyes. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Fur Farm Regulation (8/2015)	Apr. 1/23	by Reg 295/2021
Hospital Act	Mar. 9/23	by 2023 Bill 3, c. 2, section 11 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2023
Hospital Insurance Act Regulations (25/61)	Mar. 8/23	by Reg 66/2023
Medical and Health Care Services Regulation (426/97)	Mar. 8/23	by Reg 66/2023
Medicare Protection Act	Mar. 9/23	by 2023 Bill 3, c. 2, section 12 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2023
Milk Industry Standards Regulation (464/81)	Mar. 8/23	by Reg 66/2023



LABOUR & EMPLOYMENT

Labour and Employment News:

Proposed Pay Transparency Legislation in BC:

A Step Forward for Equal Pay

On March 7, 2023 – a day before International Women's Day – the British Columbia Government introduced new pay transparency legislation "to help close the gender pay gap" in British Columbia. Touted as "the next step on the path to pay equity", the proposed legislation is intended to address inequalities associated with the 17 percent wage gap between men and women in British Columbia reported by Statistics Canada in 2022 – a gap that widens with respect to Indigenous women, women of colour, immigrant women, women with disabilities, and non-binary people.

Wage discrimination is already prohibited under section 12 of the British Columbia [Human Rights Code](#). The proposed [pay transparency legislation](#) supplements the current complaint-based system with pro-

active reporting and transparency requirements. A first for Canada, the proposed legislation is also intended to address the pay gap with respect to non-binary people. Read the [full article](#) by [Dana Hooker](#) and Jisu Lee (Articling Student) with DLA Piper.

Closing the Gap: British Columbia Proposes New Pay Transparency Legislation

On March 7, 2023, the British Columbia government introduced [Bill 13](#), the *Pay Transparency Act* (the "Act"), designed to help close the province's gender pay gap by imposing new disclosure and reporting obligations on certain employers.

New Rules for All Employers

If passed, the *Act* would require all employers to disclose the expected salary or wage (or expected range) and any other prescribed information for job opportunities that are publicly advertised in any manner. Further, the *Act* would prohibit employers from asking job applicants about their pay history or otherwise seeking such information from a third party (e.g., the candidate's current/previous employer), unless the information is publicly available.

Read the [full article](#) by [Gary T. Clarke](#) and [David M. Price](#) with Stikeman Elliott LLP.

Types of Reasonable Accommodations Employees May Request

Employees with medical conditions and disabilities can perform their jobs as well as anyone else, but they may need accommodations. As an employer in Canada, you have a duty to provide these accommodations under many circumstances, so it can help to know what these might look like.

Examples of accommodations

People can require adjustment to working conditions for a range of reasons, from being pregnant to being blind. The changes are not to give these workers an unfair advantage; they are to level the field so that they can perform their job.

Read the [full article](#) from Overholt Law LLP.

B.C. Tribunal Orders \$10k Payout to Taxi Driver Over Caste-Based Discrimination [Human Rights Tribunal]

The British Columbia Human Rights Tribunal has ordered that a taxi driver be paid nearly \$10,000 in compensation because his caste was insulted during a physical altercation at a staff Christmas party.

The tribunal's March 15 decision says Manoj Bhangu, an immigrant from Punjab in India, was discriminated against by two co-workers on the basis of his ancestry, place of origin, and race.

Tribunal adjudicator Sonya Pighin says brothers Inderjit and Avninder Dhillon used a caste-based slur against Bhanguduring the brawl at the B.C. firm's 2018 party, and ordered that they pay him \$9,755 in compensation. Read the [BIV article](#).

Does Your Termination Clause Need to Comply with Statutory Group Notice Provisions?

In its recent decision, *Forbes v. Glenmore Printing Ltd.*, [2023 BCSC 25](#) ("*Glenmore*"), the Supreme Court of British Columbia rejected an argument that a contractual termination provision was void due to its potential to breach the requirements of the [Employment Standards Act's](#) (the "ESA") group termination provision.

Background – Enforceability of Termination Provisions

At common law, it is a well-established principle that all contracts of indefinite employment are subject to an implied term that they may only be terminated by providing the employee with reasonable notice. This presumption can be rebutted by contractual language that imposes an express and enforceable limitation on the termination entitlements. However, if the contractual provision does not comply with the *ESA* minimum requirements for individual notice or has the potential of not meeting such requirements, the provision will be found void (*Shore v. Ladner Downs*, 1998 CanLII 5755 (BCCA) at para. 16)

Read the [full article](#) by [Cheryl Rea](#) and [Jennifer McBean](#) with Stikeman Elliott LLP.

BC's Minimum Wage to Increase by Over a Dollar to \$16.75 an Hour on June 1

Minimum-wage workers in British Columbia will see a pay bump from \$15.65 to \$16.75 an hour starting June 1. The 6.9 per cent increase reflects the average annual inflation rate in 2022. The higher wage is expected to affect about 150,000 workers who currently earn less than \$16.75 per hour. The province says 58 per cent of those are women, while 21 per cent are youth aged 15-19 who are still at school. Read the CBC [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	Mar. 1/23	by Reg 21/2023 and Reg 53/2023
	Mar. 8/23	by Reg 66/2023
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Mar. 1/23	by Reg 21/2023 and Reg 53/2023
	Mar. 8/23	by Reg 66/2023
Employment Standards Act	Mar. 9/23	by 2023 Bill 2, c. 4, section 3 only (in force by Royal Assent), National Day for Truth and Reconciliation Act
Employment Standards Regulation (396/95)	Mar. 1/23	by Reg 53/2023
National Day for Truth and Reconciliation Act	NEW Mar. 9/23	c. 4, SBC 2023, Bill 2 , whole Act in force by Royal Assent
Occupational Health and Safety Regulation (296/97)	Mar. 1/23	by Reg 223/2022



LOCAL GOVERNMENT

Local Government News:

Riparian Area Protection Powers Rolled Back by the Court of Appeal

Twenty-five years ago, the provincial government enacted legislation intended to protect fish habitat in and adjacent to freshwater bodies frequented by migratory fish species. The chosen approach was to mandate local governments to use existing land use management tools in what is now Part 14 of the [Local Government Act](#) to protect these habitats from damage that could result from most types of development, to a standard that meets or exceeds a protection standard prescribed by the government. The *Fish Protection Act* (now the [Riparian Areas Protection Act](#)) established the mandate, and a protection standard involving the use of third-party, qualified environmental professionals (QEPs) is prescribed in the [Riparian Areas Protection Regulation](#). Read the [full article](#) by [Bill Buholzer](#) on the Young Anderson Newsletter.

New Action Plan Delivers More Homes for People, Faster

The Province's new housing plan will speed up delivery of new homes, increase the supply of middle-income housing, fight speculation and help those who need it the most. The Homes for People plan will deliver more homes people need in a shorter timeframe and build more vibrant communities throughout BC. "If you've scrolled through rental listings or seen the prices of homes in your community, you know how tough it is to find an affordable, decent place to live," said Premier David Eby. "Even though our province is currently building more housing than ever before, it's just not enough to meet the need. This plan will take us to the next level with unprecedented actions to tackle the challenges head on, delivering even more homes for people, faster." Read the government [news release](#).

BC Housing Minister Quells Mayors' Fears over Densifying Single-family Lots

BC Housing Minister Ravi Kahlon did his best Tuesday [April 4] to quell fears from municipal politicians concerned about the negative effect the planned upzoning of single-family neighbourhoods across the province could have on their communities. Kahlon spoke to mayors at a Union of BC Municipalities housing summit held in Vancouver the day after he and Premier David Eby unveiled the government's housing strategy, which includes introducing legislation that will allow up to four units on a single-family lot. "These changes that we're proposing don't mean that it'll be only single-dwelling homes that are built in those communities – it means that there's going to be options available," Kahlon told reporters after participating in a panel discussion that included mayors from Surrey, Vancouver, Burnaby, Richmond, Kelowna, Victoria and a councillor from Squamish. Read the *BIV* [article](#).

Best Practices for C2C Meetings

Community to community ("C2C") meetings, where local governments and First Nations gather to discuss topics of mutual interest and build relationships, have been jointly funded by the Ministry of Municipal Affairs and Indigenous Services Canada since 1999 (Union of BC Municipalities at <https://www.ubcm.ca/c2c>). In that time, more than 680 C2C forums have been held across the province. Although these meetings are nothing new, there can be confusion around whether or not they are subject to the open meeting rules under the [Community Charter](#). Read the [full article](#) by Amy O'Connor in the Young Anderson Newsletter.

Municipal Natural Asset Management Involves Legal Risks, but They Are Manageable, Says Report

Asserting authority over and responsibility for a municipal government's natural assets involves legal risks, yet they are manageable, according to a new [legal primer](#) from the environmental non-profit Municipal Natural Assets Initiative (MNAI). The primer identifies the source of municipal legal authority for managing natural assets, details the legal and policy tools available to governments, describes the legal risks associated with both managing and not managing natural assets, and lays out the recent case law and other legal developments impacting this area. Read the [full article](#) by [Aidan Macnab](#) on *Canadian Lawyer*.

DRIPA Update

When the [Declaration on the Rights of Indigenous Peoples Act](#) (Declaration Act), SBC 2019, c 44 ("DRIPA") was adopted in 2019, it contained an ambitious promise in section 3: In consultation and cooperation with the Indigenous peoples in British Columbia, the government must take all measures necessary to ensure the laws of British Columbia are consistent with the Declaration. Recently, and presumably further to the promise in section 3 of DRIPA, the Legislature made two interesting amendments to the [Interpretation Act](#), RSBC 1996, c 238 and [Judicial Review Procedure Act](#), RSBC 1996 c 241. Read the [full article](#) by Nick Falzon of Young Anderson.

BC Municipalities on the Hook for \$145 million in RCMP Back Pay

BC municipalities must cough up millions in RCMP back pay after the federal government indicated it will not absorb retroactive contract cost increases associated with the Mounties' latest collective agreement. The bill comes as cities across the province struggle with inflation and rising costs that have, in some cases, led to [double-digit property tax increases](#). Read the *Vancouver Sun* [article](#).

Accessibility Toolkit and Hub

The Disability Alliance of BC (DABC) has developed an Accessibility Toolkit and Hub to assist prescribed

organizations to come into compliance with the [Accessible BC Act](#). DABC is also seeking feedback on the [Toolkit](#), the [Hub](#), implementation progress, and additional tools and resources that are needed. Local government-specific tools will be developed by DABC in the coming months. Read the UBCM [article](#).

Businesses Given more Time to Make Outdoor Patios Permanent

Owners of restaurants, bars, breweries and wineries will have more time to make outdoor seating areas permanent, allowing them to serve more people without disruption during the patio season. Government is extending existing temporary expanded service area (TESA) authorizations one final time until Dec. 31, 2024. TESAs have enabled thousands of liquor-licensed businesses to create new or expanded outdoor seating spaces, such as patios and sampling areas, and give customers more space to gather. Read the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Cannabis Control Regulation (204/2018)	Mar. 17/23	by Reg 76/2023
Cannabis Licensing Regulation (202/2018)	Mar. 17/23	by Reg 76/2023
Fees Regulation (244/2011)	Mar. 16/23	by Reg 75/2023
Home Owner Grant Regulation (100/2002)	RETRO to Jan. 1/23	by Reg 77/2023
Interpretation Act	Mar. 9/23	by 2023 Bill 2, c. 4, section 4 only (in force by Royal Assent), National Day for Truth and Reconciliation Act
Liquor Control and Licensing Regulation (241/2016)	Mar. 10/23	by Reg 69/2023
Maa-nulth First Nations Final Agreement Interim Regulation (55/2011)	REPEALED Mar. 1/23	by Reg 56/2023
Provincial Land Definition Exemption Regulation (219/96)	Mar. 1/23	by Reg 58/2023
Toll Exemption Regulation (269/2012)	REPEALED Mar. 1/23	by Reg 62/2023
Tsawwassen First Nation Final Agreement Interim Regulations (54/2009)	REPEALED Mar. 1/23	by Reg 56/2023
School Land Transfer Regulation (81/2023)	NEW Mar. 29/23	see Reg 81/2023
		by 2020 Bill 3, c. 3, sections 1 to 7 only (in

Vancouver Charter	Mar. 1/23	force by Reg 128/2022), Environmental Management Amendment Act, 2020
Victoria Regional Transit Commission Regulation No. 44-2023 (73/2023)	NEW Mar. 31/23	by Reg 73/2023



MISCELLANEOUS

Miscellaneous News:

Indigenous Self-government and Taxation: Indigenous Nations No Longer Required to Phase Out Tax Exemption under New Federal Policy

Change opens the door to withdrawal from the [Indian Act](#) in favour of a negotiated nation-to-nation self-government agreement. On July 22, 2022, Canada announced the repeal of its longstanding policy requiring Indigenous Nations to phase out the s. 87 *Indian Act* tax exemption as a condition for entering into a modern treaty or self-government agreement. This policy reversal means that Nations have a much clearer and more viable path forward to extract themselves from the Indian Act, in favour of a negotiated nation-to-nation self-government agreement. Nations can now embark on this path without having to relinquish one of the few beneficial aspects of the *Indian Act*: the exemption from tax for the Nation and its members in regard to on-reserve property – an exemption that has been a cornerstone of the Crown-Indigenous relationship since before Confederation. Under the new policy, Nations will be entitled to maintain the tax exemption upon attaining self-government, even upon conversion of former reserve lands into lands held in fee simple. In this article, we briefly outline i) the history of the s. 87 exemption and its role in the Crown-Indigenous relationship, ii) the federal policy change, and iii) the implications of the change for Indigenous Nations interested in pursuing self-government or treaty. Read the [full article](#) by Maxime Faille, Aaron Christoff and Lauren Mar with Gowling WLG.

Amendments to Civil Forfeiture Act – Unexplained Wealth Orders

On March 30th, the BC government introduced [Bill 21](#), the *Civil Forfeiture Amendment Act, 2023*, proposing amendments to the [Civil Forfeiture Act](#) to crack down on organized crime assets. Included is a new tool called "unexplained wealth orders", which will require people to explain how they acquired their assets if there is suspicion of unlawful activity and will assist the province with investigating common money-laundering techniques, such as hiding assets with family members, and removing benefits of organized crime. According to the province, before an unexplained wealth order can be obtained, the court must agree there is reason to suspect a person is engaged in unlawful activity, and the person must also hold assets in BC worth at least \$75,000 that cannot be explained by lawful employment or activity. Other amendments include:

- making it easier to access information from public bodies and organizations, such as real estate boards,
- targeting the illegal cannabis market,
- eliminating the limitation period on forfeiture proceedings, and
- making it easier to target financed vehicles.

Funds collected from the sale of forfeited assets will go towards supporting crime prevention and victim services programs as well as victim compensation.

New Intimate Images Protection Act Introduced

The province recently introduced the [Intimate Images Protection Act](#). The new legislation addresses the unlawful distribution, or threat of distribution, of intimate images such as nude, nearly nude or sexualized images, including videos, livestreams and digitally altered images. While the publication of such images without consent is already an offence under the [Criminal Code](#), the Act sets out a scheme for civil redress, including streamlined processes for legal decisions and orders, provisions which allow minors to access these legal tools, and requirements for wrongdoers and internet intermediaries to

remove images from distribution. The Act received Royal Assent on March 30, and will come into force by regulation, applying retroactively to March 6, 2023 with respect to the distribution or threat of distribution of an intimate image without the individual's consent.

Province Introduces Changes to Vital Statistics Act

On March 9, the Province introduced [Bill 15](#), *Vital Statistics Amendment Act, 2023*, which proposes amendments to the *Vital Statistics Act* in two ways. In January 2022, the Province made it possible for people 12 and older to change their gender markers on their birth certificates without a physician's or psychologist's confirmation. The first amendment will bring the legislation into alignment with the policy implemented last year. The second proposed amendment will change the requirements in the act for information that must be included on a birth certificate, allowing individuals to request a birth certificate without a gender marker.

SLAPP-back: Full Indemnity Costs Awarded under BC's Anti-SLAPP Legislation

Overview: In a recent decision from the Supreme Court of British Columbia (*Mawhinney v. Stewart*, [2023 BCSC 419](#)), Justice Baker awarded full indemnity costs to the defendant, who successfully brought an application to dismiss the plaintiffs' action for defamation under British Columbia's anti-SLAPP (Strategic Lawsuits Against Public Participation) legislation.

Key Takeaway: If an action is dismissed under the *Protection of Public Participation Act*, S.B.C. 2019, c. 3 (PPPA), a successful defendant should receive costs on a full indemnity basis. That is the starting point, although the court maintains judicial discretion to make a different costs award in appropriate circumstances.

Read the [full article](#) by Jake Cabott and Mu Zin with Borden Ladner Gervais LLP.

New Review – Proposed Election Act Amendments (Draft)

The Ministry of Attorney General recently made available a redline draft (PDF) of proposed amendments of the newly introduced [Bill 11 – 2023: Election Amendment Act, 2023](#). This is not the official version of the legislation; it is produced by the Ministry of Attorney General for convenience only and should not be relied on for any legal purposes. Visit the [government website](#) for more information on this and other reviews in progress.

A Roadmap for AI Regulation in Canada: Key Takeaways from ISED's Companion Document for the Artificial Intelligence and Data Act (AIDA)

Innovation, Science and Economic Development Canada ("ISED") recently published a [Companion Document](#) for the Government of Canada's proposed Artificial Intelligence and Data Act ("AIDA"). AIDA is currently working its way through Parliament as part of Bill C-27, which is undergoing second reading in the House of Commons ([click here for our summary of Bill C-27](#)). For organizations who are or may be participating in the artificial intelligence ("AI") industry or otherwise engaging with AI systems, the Companion Document provides further insight into the government's regulatory intentions and outlines a consultation process to allow for stakeholder input in developing regulations under AIDA. Read the [full article](#) by Christopher Ferguson, Justin P'ng, Heather Whiteside, Summer Lewis and Paul Burbank with Fasken Martineau DuMoulin LLP.

Two Kicks at the Can: Appeals Three Years Later under the 2020 BC Arbitration Act

The decision of Justice Dickson in *A.L. Sims and Son Ltd. v. British Columbia (Transportation and Infrastructure)*, [2022 BCCA 440](#) [AL Sims], provides a recent and rare decision considering the scope of appeal under the BC *Arbitration Act*, S.B.C. 2020, c. 2 [the "New Act"] within the context of a construction dispute. This finding is significant as it followed a concurrent appeal decided shortly before it in *Escape 101 Ventures Inc. v. March of Dimes Canada*, [2022 BCCA 294](#) ["101 Ventures"]. These decisions have clarified the scope of review of an arbitral award under the *New Act* as being available where there are "material misapprehensions of evidence" by an arbitrator. This reasoning potentially broadens the understanding of the scope of appeal permitted of an arbitral award provided by the Supreme Court of Canada around nine years ago in *Sattva Capital Corp. v. Creston Moly Corp.*, [2014](#)

[SCC 53](#) ["*Sattva*"]. *Sattva* has stood for the principle that only legal errors by an arbitrator are subject to appeal and that factual findings are unreviewable – such that only in rare cases will a dispute of contractual interpretation be reviewable since they generally involve findings of fact and law. Read the [full article](#) by [Denny Chung](#) with Clark Wilson LLP.

Are After the Event Insurance Policies Producible in British Columbia?

Also known as "adverse cost insurance", after the event insurance ("ATE") policies can be purchased by a plaintiff to cover, among other things, the prospect that the plaintiff is unsuccessful at trial and is ordered to pay a defendant's costs and disbursements. Can a defendant in British Columbia demand that a plaintiff list an ATE policy on their List of Documents? Pursuant to British Columbia [Supreme Court Civil Rule 7-1\(3\)](#), 'Insurance Policy', a party is compelled to include an applicable insurance policy in a List of Documents:

- (3) A party must include in the party's list of documents any insurance policy under which an insurer may be liable
 - (a) to satisfy the whole or any part of a judgment granted in the action, or
 - (b) to indemnify or reimburse any party for any money paid by that party in satisfaction of the whole or any part of such a judgment.

Read the [full article](#) by [Justin Abrioux](#) of Alexander Holburn Beaudin + Lang LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Election Act	Mar. 9/23	by 2023 Bill 2, c. 4, section 2 only (in force by Royal Assent), National Day for Truth and Reconciliation Act
Freedom of Information and Protection of Privacy Act	RETRO to Nov. 25/21	by 2023 Bill 3, c. 2, section 2 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2023
Judicial Compensation Regulation (83/2023)	NEW Mar. 30/23	see Reg 83/2023
Members' Conflict of Interest Regulation (266/2010)	Mar. 8/23	by Reg 67/2023



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Motor Vehicle Act Amendment Act Introduced

On April 5th, Honourable Rob Fleming, Minister of Transportation and Infrastructure, introduced [Bill 23, Motor Vehicle Amendment Act, 2023](#). According to the government, the Bill provides new tools to help government transform and build a cleaner future-ready transportation network on BC Roads. The legislation supports the government's CleanBC commitment to lower GHG emissions in the transportation sector by 27 to 32 percent by 2030.

If passed, the new legislation will establish a minimum safe passing distance that drivers of motor vehicles must observe when passing pedestrians, cyclists and other prescribed road users. The Act also establishes a new definition of vulnerable road user and a new offence framework for drivers who

interact unsafely with those road users.

The Bill will enable the use and regulation of new and emerging technologies, including speed limiters in heavy duty commercial trucks. It will also allow for the development of regulations supporting designated delivery robots, micro-utility devices, personal mobility devices and different classes of motor-assisted cycles or e-bikes.

Finally, Bill 23 supports expanding the existing authority to pilot test new and emerging technologies, rules of the road and other matters contemplated by the [Motor Vehicle Act](#).

Bill C-33: Proposed New Legislation for the Rail & Marine Industries

On November 17, 2022, the federal government introduced [Bill C-33](#) for first reading in the House of Commons, with the short title *Strengthening the Port System and Railway Safety in Canada Act*. The proposed new legislation would address governance, safety, national security, investment, and the environment.

In his press conference held the same day, the Minister of Transport, Omar Alghabra, also emphasized policy goals of alleviating supply chain disruptions, and encouraging competitiveness.

The legislative overhaul would make omnibus amendments to various existing federal legislation, including the [Transportation of Dangerous Goods Act, 1992](#), the [Customs Act](#), the [Railway Safety Act](#), the [Canada Transportation Act](#), the [Canada Marine Act](#), and the [Marine Transportation Security Act](#).

The proposed legislation has not yet received committee study, and no draft regulations have been published. Thus, there is still room for details to be augmented. The following is an overview of the proposed reforms. Read the [full article](#) by [Alan Cofman](#), [Jane Huang](#) and [Ellen Kim](#) with Miller Thomson LLP.

BC Court of Appeal Clarifies Test for Reducing Damages Awarded Due to Failure to Mitigate Losses

Plaintiff sustained injuries from a car accident that occurred on a congested highway

The BC Court of Appeal has recently clarified the appropriate test to apply in a claim to reduce damages awarded due to the plaintiff's failure to mitigate their losses.

In *Haug v. Funk* [2023 BCCA 110](#), Celedonia Haug was in a motor vehicle accident in congested traffic on Highway 1 in BC. Her vehicle was hit from behind and pushed forward into the car ahead of her. Randy Funk admitted liability for the damages. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Canada Gazette, Part I, Volume 157, Number 12: Order Fixing Fees for Registrations Related to Dangerous Goods Means of Containment

60 days consultation (until May 24, 2023)

Issues: Presently, there are no fees charged to process applications and certify persons who are registered with Transport Canada (TC) through the Transportation of Dangerous Goods (TDG) Means of Containment (MOC) Facilities Registration Program. Therefore, there is a strain on TC resources to maintain current service levels, and Canadian taxpayers are subsidizing services provided through the MOC Facilities Registration Program. A cost-recovery regime is needed to ensure that the beneficiaries of TC's services pay a portion of the costs to provide those services. Read the [full notice](#) in the *Canada Gazette*.

B.C. Micro Mobility Revolution Races Ahead, as Policymakers and Police Try to Keep Up

The province says that under B.C.'s [Motor Vehicle Act](#), small electric transport devices remain illegal on roads and sidewalks, except in a dozen communities that have allowed the use of electric kick scooters under a pilot project. They include Vancouver and other Lower Mainland cities. Read the [Vancouver Sun article](#).

When Do You Need to Charge GST/HST on

Chargebacks? [Transport Companies]

Many trucking companies have entered into arrangements with subcontracted carriers or owner-operators/contractors for charges such as fuel, insurance, or licensing fees. Anyone who has entered into such an arrangement should review their contracts from a GST/HST perspective. While the nature of such a payment may not make a material difference economically, the parties may be unknowingly exposing themselves to GST/HST liability.

Very generally, GST/HST must be charged on the consideration paid in respect of a taxable supply (e.g., sale) made in Canada. A true reimbursement for out of pocket expenses should not be regarded as consideration for a supply and, therefore, should not attract sales tax. Depending on the nature of the agreement, the amount of a chargeback payable under the agreement may be consideration for a supply or it may be a reimbursement. Sometimes the parties to an agreement use the word "reimbursement" without considering whether that is the appropriate legal term in the context, creating confusion with respect to the appropriate GST/HST treatment. Read the [full article](#) by [Colleen Ma](#) and [Thomas Ghag](#) with Miller Thomson LLP.

BC Court of Appeal Increases Damages for Motor Vehicle Accident by \$20,000

The range for non-pecuniary damages should be \$50,000 to \$60,000 for someone in their 20s who suffered moderate soft-tissue injuries, who stayed symptomatic for years, and who had a poor likelihood for future improvement, a recent ruling said.

In September 2014, a vehicle owned or driven by the respondents struck the appellant's vehicle from behind. The accident caused moderate soft-tissue injuries to the appellant's neck, upper back, and shoulders. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [CVSE 1052 Contacts](#) – Notice to industry that the List of Contacts for use with Form CVSE1052 has been updated (April 4, 2023)

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

- **Vancouver Cruise Ship Schedule for TNS and Taxi Operators**
As the 2023 cruise season commences in Vancouver, TNS and Taxi Licensees are reminded to review their terms and conditions of licence and the [cruise schedule](#). The Board will continue its efforts to ensure that any changes or amendments are posted in the Weekly Bulletin and on the website.
- **Proposed Changes to Taxi & TNS Rates Structure – Call for Feedback**
The Passenger Transportation Board (Board) is considering several changes to rates rules that may affect taxi and TNS sectors.
All potentially affected licensees may wish to participate in this process. Feedback must be in writing and provided to the Board by May 3, 2023. Please send your feedback with the subject line "Proposed rates rules changes" to: ptboard@gov.bc.ca. There is no fee associated with providing feedback on this topic.
Please see the [Call for Feedback](#) & [Notice To Licensees RE: Potential Changes to Taxi and TNS Rates Regulation](#) for more information on these proposed changes and the Board's rationale for considering them.

Applications Received

- [16232-22](#) – Michael Wayne Kaisinger and Natalie Jane Kaisinger (Sips & Trips Brewery Tour &

Shuttle)

- [16746-23](#) – Sharon Louise Walker
- [17123-23](#) – Mebin Thomas (Super Cabs)
- [14593-23](#) – Kalum Kabs Ltd.

Application Decisions

- [16866-23 UPN](#) – Kalum Kabs Ltd. [Approved in Part]
- [16953-23](#) – Charanjit Singh Bhangu and Harvinder Kaur Bhangu (Victoria Taxi) [Approved]
- [17295-23 PS TOP](#) – Leah Marie Jones (LJ LimoRide Co.) [Approved]
- [17327-23 PS TOP](#) – KJ Limousine Services Inc. [Approved]
- [17337-23 PS TOP](#) – Infinity Limousine Inc. [Approved]
- [17394-23 PS TOP](#) – Luxury Transport Inc. [Refused]
- [16451-22](#) – Savannah Marie Swaisland (Grape Savvy Wine Tours / Grape Savvy Trolley Co) [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Container Trucking Regulation (248/2014)	Mar. 1/23	by Reg 51/2023
Insurance Corporation Act	RETRO to June 4/23	by 2023 Bill 3, c. 2, section 16 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2023
Lien on Impounded Motor Vehicles Regulation (25/2015)	Apr. 1/23	by Reg 80/2023
Motor Fuel Tax Regulation (414/85)	Mar. 1/23	by Reg 57/2023
	Mar. 31/23	by Reg 86/2023
Road Exemption Regulation No. 1 (86/2006)	REPEALED Mar. 1/23	by Reg 61/2023
Toll Exemption Regulation (269/2012)	REPEALED Mar. 1/23	by Reg 62/2023
Victoria Regional Transit Commission Regulation No. 44-2023 (73/2023)	NEW Mar. 31/23	see Reg 73/2023
Violation Ticket Administration and Fines Regulation (89/97)	Apr. 1/23	by Reg 295/2021



OCCUPATIONAL HEALTH & SAFETY

Occupational Health & Safety News:

Not the Cost of Doing Business: Deterrence and Denunciation

Considerations Mean Individuals and Organizations can Face Serious Consequences for Workplace Safety Violations

In 2021, there were 1,081 work-related fatalities in Canada. The construction industry had the highest number of fatalities, 212. According to the Association of Workers' Compensation Boards of Canada, workers in the construction industry submitted 28,721 claims for lost time due to injury. Serious injuries and fatalities are devastating for workers and their families. They also place employers at risk of liability. Many organizations are aware that they may have orders issued against them and fines imposed for contravening British Columbia's [Occupation Health and Safety Regulations](#) (the "Regulations") or [Workers Compensation Act](#) (the "Act"); however, some organizations may consider such fines as 'the cost of doing business' and continue operations in violation of the Regulations or the Act. Courts are loathe to accept this laissez-faire attitude towards worker safety, and may impose stiff fines, or even imprisonment, on owners and organizations, in an effort to denounce and deter such behaviour. In the most serious cases, organizations, or those directing the work of others, may find themselves facing criminal charges. Read the [full article](#) published on CIRCUJawR by Sara Gray with Civic Legal LLP.

New Online Tool Helps Workers and Employers Manage Risk by Delivering a Custom List of Health and Safety Resources

from WorkSafeBC

It can be challenging for workers and employers to find health and safety information that applies to their workplaces. [My health and safety resources](#) is a simple tool that provides a streamlined approach to finding information in three straightforward steps. It features a customizable report format that you can download, interact with, and use to track progress for continual improvement. Read the full [WorkSafeBC article](#).

WorkSafeBC Report Reveals Claims Related to Violence Jumped 25% in Five Years

WorkSafeBC is suggesting safety professionals think about violence prevention strategies following the release of a report that shows workplace claims related to violence increased 25 percent in the past five years. "To see a jump like this, 25% over a small handful of years, requires some discussion, it's an opportunity to talk about what might be happening here, and how it can be prevented," says Barry Nakahara, senior manager of prevention field services at WorkSafeBC. Read the [full article](#) by Shane Mercer with Canadian Occupational Safety.

Application of Statutory Bar to Workplace Bullying and Harassment Claims

Canadian workers' compensation regimes are defined by the "historic tradeoff"—workers gain immediate and consistent benefits coverage under mandatory, no-fault statutory insurance schemes funded by employers and, in exchange, give up their right to sue employers for workplace accident and injury claims. Here, we examine how the statutory bar is applied to civil claims for damages arising from bullying, harassment, discrimination and violence in the workplace. Canadian courts have developed a fairly consistent approach to dissecting such actions to identify what elements of the claim may proceed and to remove the parts of the claim that are based on workplace accidents or injuries and are subject to the historic tradeoff. Read the [full article](#) by Christine Plante, Michael VanderMeer and Celina Glabus of Bennett Jones.

BOD Decision: Interest on Delayed Benefits

On January 25 and March 29, 2023, WorkSafeBC's Board of Directors approved changes to policy item #50.00, Interest, in the Rehabilitation Services & Claims Manual, Volume II, to reflect the legislative amendments regarding interest made by [Bill 41](#), the *Workers Compensation Amendment Act (No. 2)*, 2022. The amended policy applies to all decisions, including appellate decisions, made on or after April 3, 2023. You may also review the complete [Resolution](#). Read the [article](#) on the WorkSafeBC website.

OHS Policies/Guidelines – Updates

April 3, 2023

In accordance with the [Workers Compensation Amendment Act \(No. 2\), 2022](#), amendments to the following sections took effect on April 3, 2023.

- Part 4 Division 10 – Compensation Payments and Other General Matters
 - [Section 231.1 Payment of Interest](#)
- Part 7 Division 5 – Board Inquiry Powers
 - [Section 301 Health professional assistance to appeal tribunal](#)
 - [Section 302 Health professional assistance in specific cases](#)

April 6, 2023

Guidelines – *Workers Compensation Act*

Editorial revisions were made to the following guideline:

- Part 2 Division 1 – Interpretation and Purpose
[G-P2-14 About OHS Guidelines](#)


Guidelines – Occupational Health and Safety Regulation

Editorial revisions were made to the following guidelines:

- Part 18 Traffic Control
[G18.6.2\(1\) Traffic control person training](#)
- Part 19 Electrical Safety
[G19.27 Specially trained](#)

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:

Important Legislative Amendments Affecting Developers and Strata Corporations in British Columbia

The [Building and Strata Statutes Amendment Act](#), SBC 2022, c 41 (the Act), which came into effect on November 24, 2022, made several important changes to British Columbia's [Strata Property Act](#) (the SPA) in an effort to help address the province's persistent housing issues. The Act amended the SPA by:

- eliminating the requirement for a developer to file a Rental Disclosure Statement (Form J);
- eliminating a strata corporation's ability to:
 - implement age restriction bylaws or screening provisions, other than restricting the age of residents to not less than 55 years;
 - limit the number of strata lots that can be rented; or
 - limit the period of time a strata lot may be rented; and
- allowing a strata corporation to conduct annual and special general meetings remotely.

Read the [full article](#) by Mark Lewis, Mandev Mann and Claire Gibson With Bennett Jones LLP.

BC Supreme Court Refuses to Set aside an Arbitrator's Decision in a Residential Tenancy Dispute

The BC Supreme Court has refused to set aside an arbitrator's decision in a residential tenancy dispute because it was filed beyond the two-year limitation period. In *Zhang v. First Service Residential BC Ltd.*, [2023 BCSC 361](#), Yan Ru Zhang petitioned the BC Supreme Court to set aside an arbitrator's decision with the Residential Tenancy Branch (RTB), dismissing her application for the return of her security

deposit and damages. The arbitrator rejected her claim because she had filed her application outside the two-year limitation period. Zhang argued that the arbitrator's decision was "patently unreasonable" because the arbitrator did not consider her discretionary power to extend the limitation period. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

Does Canada's Amended Foreign Buyer Ban No Longer Prohibit Your Commercial Transaction?

Canada's [Prohibition on the Purchase of Residential Property by Non-Canadians Act](#) (the "Act") and its accompanying [regulations](#) (the "Regulations"), more informally known as the foreign buyer ban, imposed a sweeping two-year prohibition on any direct or indirect **purchase of residential property** by a **non-Canadian** beginning on January 1, 2023. As we noted in a [prior insight](#), the definitions used in this legislation were very broad, and the cumulative effect was that this legislation prohibited many commercial transactions. And in some ways, it actually presented a further barrier to the development of new housing supply in Canada. On March 27, 2023, the government released significant amendments to the Regulations³ which are intended to ensure that this legislation does not frustrate the development of new housing, and which address some of the perceived issues in relation to the commercial real estate industry. Read the [full article](#) by Clark Kassian and Esme Cragg with Dentons.

CHOA Condo Smarts: Proxy Limitations

Dear Tony: At our recent annual meeting, one person registered with 22 proxies. No one knew this person and there were some strange situations with the proxies. All of the proxies were in the same handwriting, all allegedly signed by each owner, but did not have the name of the assigned proxy entered. We did determine this person was a spouse of an owner, but not on title. The property manager eventually permitted all the proxies, and now 3 of the owners who were identified as having issued proxies have come forward claiming they never issued a proxy. Because so many of our votes were very close at the meeting, including the election of council, we are concerned the results may have all been inaccurate. The Strata Act includes very little detail about proxies other than the requirement in writing and signed by the owner. How do we manage this process better in the future?

Dear JRC: A Supreme Court decision in 2019 has helped us understand the function and requirements of proxies. Certain requirements for a legal proxy were confirmed in [Macdonald v. The Owners, Strata Plan EPS 522](#), blank proxies are invalid; proxies must identify an individual as the proxy holder; proxy holder's names should be inserted before signing the proxy; proxies may be signed manually or digitally; proxies stating "any council member" should not be certified; and, amendments to a proxy must be initialed by the owner.

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

BC Supreme Court Upholds Order that Vancouver Condominium Refund Special Levy to Former Unit Owner

A British Columbia court has upheld a tribunal order that a Vancouver condominium refund a special levy of almost \$19,000 taken from a former owner. "I find that the Civil Resolution Tribunal was not patently unreasonable in determining that the special levy was due and payable . . . after [the former owner] had sold his lot," said Supreme Court of British Columbia Justice Andrew Majawa in his March 13 decision. As such, the levy did not apply to Daniel Day, who owned the strata until the end of May 2021. Read the [full article](#) by [Zena Olijnyk](#) published on *Canadian Lawyer*.

BC Mulling Provincial Regulations on Short-term Rental Apps like Airbnb

With Quebec promising to introduce provincewide regulations on short-term rentals listed on the Airbnb app, the B.C. government says it is working on legislation of its own. A mandate letter issued to B.C. Housing Minister Ravi Kahlon includes a directive to introduce legislation to allow local communities to "better regulate" services like Airbnb, and the minister has told CBC News that he would [work on it](#) this year. The scrutiny of Airbnb and similar platforms has increased across the country after [seven people died](#) in a fire [at an illegal Airbnb](#) in Old Montreal two weeks ago. Read the CBC News [article](#) by Akshay Kulkarni.

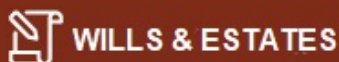
Amendments to Policy Statements 5 and 6

Effective March 8, 2023, the BC Financial Services Authority ("BCFSA") amended Policy Statement 5 ("PS 5") and Policy Statement 6 ("PS 6"), published pursuant to the [Real Estate Development Marketing Act](#) (British Columbia) ("REDMA"), which govern a developer's ability to market development units before receiving a "building permit" or a "satisfactory financing commitment", respectively. The amendments to PS 5 (the "PS 5 Amendment") and PS 6 (the "PS 6 Amendment") are intended to help provide uniformity and clarity by:

1. amending the concept of "approval in principle" so that it is now achieved when a municipal or other government authority has given third reading to a bylaw to zone or rezone the specific site on which a proposed development will be located, or, in areas that do not require third reading, the municipal or other government authority has taken an equivalent step to proceed with such zoning;

Read the [full article](#) by Craig Shireff, Scott Smyth and Will Fraser with McCarthy Tétrault LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Expropriation Act General Regulation (451/87)	Mar. 8/23	by Reg 66/2023
Real Estate Services Act	Mar. 9/23	by 2023 Bill 8, c. 5, sections 1 and 2 only (in force by Royal Assent), Real Estate Services Amendment Act, 2023
Real Estate Services Rules (209/2021)	Apr. 1/23	by Reg 193/2022
Strata Property Act	Apr. 1/23	by 2020 Bill 14, c. 16, section 3 only (in force by Reg 7/2023), Municipal Affairs and Housing Statutes Amendment Act (No. 2), 2020
Strata Property Regulation (43/2000)	Apr. 1/23	by Reg 7/2023



Wills and Estates News:

The Power to Gift or Loan – Power of Attorney – Victoria, BC

The [Power of Attorney Act](#) expanded the attorney's ability to make gifts, loans or charitable gifts even if the document does not specifically provide for it if the following conditions are met, pursuant to [section 20\(1\)](#) of the Act:

- (a) the adult will have sufficient property remaining to meet the personal care and health care needs of the adult and the adult's dependents, and to satisfy the adult's other legal obligations, if any,
- (b) the adult, when capable, made gifts or loans, or charitable gifts, of that nature, and
- (c) the total value of all gifts, loans and charitable gifts in a year is equal to or less than a prescribed value.

Read the [full article](#) by Deborah A. Todd, with Deborah Todd Law.

B.C. Case Comment: Court Varies Will that Makes Equal Provision for Will-maker's Children

You cannot assume that if you leave your estate to your children in equal shares, then the court cannot or will not vary it. Making equal provision for your children in your will does not mean that the will is immune from a successful wills variation action. There may be good reason to make greater provision for one child over the other(s), and the child who claims they ought to have received more may successfully bring an action to vary your will to receive a larger share of the estate than their siblings.

This was the case in the recent B.C. Supreme Court decision of *Rawlins v. Rawlins* [2023 BCSC 466](#). In *Rawlins*, the deceased had three sons. Her will provided that if she survived her husband (which she did), her estate was to be divided equally between her three sons. The estate was worth approximately \$2.5M. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

Act or Regulation Affected	Effective Date	Amendment Information
----------------------------	----------------	-----------------------

There were no amendments this month.

The content of this document is intended for client use only. Redistribution to anyone other than Quickscribe clients (without the prior written consent of Quickscribe) is strictly prohibited.

QUICKSCRIBE SERVICES LTD.

DISCLAIMER

The Reporter includes articles that should be used for information and educational purposes only and are not intended to be a source of legal advice. Please consult with a lawyer before choosing to act on any information included in the Reporter. The content in each article is owned by its respective author.

UNSUBSCRIBE FROM THIS EMAIL SERVICE
To unsubscribe from this service, click [here](#).