

Quickscribe Reporter

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QUICKSCRIBE NEWS:

Spring Legislative Session Wrap-up

The 12-week provincial legislature session came to an end on May 11th. It was a relatively active session that included the passage of 28 Bills, including two private bills. Three government Bills were introduced but did not progress past first reading. Most of the new legislation focused on efforts to help reduce costs for families, build more affordable homes, strengthen public healthcare and improve public safety. The following Bills were introduced in the final stretch of the session (May):

Government Bills

- [Bill 29](#) – Environmental Management Amendment Act, 2023 (*did not progress past First Reading*)

Members' Bills

- [Bill M223](#) – Control of Foreign Funding and Electoral Influence Act
- [Bill M224](#) – Transportation Amendment Act, 2023
- [Bill M225](#) – Fraser Valley Transit Services Act, 2023

For more information on the status of these or any other bill, visit our dedicated [Bills page](#), located on the left navigation. If you wish to be notified when these or other changes come into force, check out Quickscribe's customizable alerts via the [My Alerts](#) page. Quickscribe alerts are included with your subscription so feel free to select the alerts that work best for you!

Latest Annotations


New annotations were recently added to Quickscribe:

- [Deborah M. Cumberland](#), [Business Corporations Act](#)
- [Christopher Hirst](#), Alexander Holburn Beaudin + Lang LLP – [Builders Lien 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.

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CATEGORIES

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



COMPANY & FINANCE

Company and Finance News:

Business Corporations Act – Early Consolidation (Now Available)

For your convenience, Quickscribe has published an [early consolidation of the Business Corporations Act](#) as it will read when [2023 Bill 20](#) amendments come into force at a future date by regulation. The amendments, first introduced on March 29, 2023, 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.

Privacy and Data Protection: What BC Companies Need to Know

It's no secret that we are entering a pivotal time for privacy. Balancing an individual's rights while taking advantage of new technological opportunities must be a priority for organizations in the coming years. B.C. companies need to become familiar with two pieces of privacy legislation:

- the B.C. [Personal Information Protection Act](#) (PIPA) which applies to the collection, use or disclosure of personal information within BC, regardless of whether the activity is commercial in nature; and
- the [Personal Information Protection and Electronic Documents Act](#) (PIPEDA), which is a federal privacy law that applies to federally regulated businesses (for example, banks, telephone companies, airlines, etc) governing the collection, use, and disclosure of personal information by private sector organizations in the course of commercial activities. PIPEDA may also apply to BC-based organizations where personal information from other provinces has been affected.

Read the [full article](#) by [Daniel Reid](#) and [Roshni Veerapen](#), Co-chairs of Harper Grey's Privacy and Data Protection Group.

Deeper Down the Rabbit Hole – British Columbia Corporate Transparency Register Will Become Accessible to the Public

Since October 2020, private companies in British Columbia have been required to maintain transparency registers. Intended to assist governments and law enforcement in fighting tax evasion, money laundering and terrorist financing, these registers must disclose "significant individuals" who, directly or indirectly, have substantial shareholdings in a BC company or who have the ability to exercise control or significant influence over a BC company. With the enactment of the [Business Corporations Amendment Act, 2023](#), on May 11, 2023, the BC government has set the course towards the introduction of a new public registry by 2025 that will contain all transparency register information and that will be searchable by the public. [Quickscribe has published an [early consolidation](#) of the *Business Corporations Act* as it will read when these amendments come into force in the future.] Read the [full article](#) by Dierk Ullrich, Carmen Loh and Grant Foster with Fasken Martineau DuMoulin LLP.

"The Next Step on the Path to Pay Equity" Is Now Law in British Columbia

[Bill 13](#), the *Pay Transparency Act*, S.B.C. 2023, c.18 ("PTA"), received Royal Assent and, with the

exception of Section 2, came into force on May 11, 2023. [As we previously discussed](#), under the PTA, all public and private-sector employers in British Columbia will immediately be prohibited from asking job candidates for pay history information. Such employers will also be prohibited from "punishing" employees who disclose their pay to co-workers or job candidates. Although it was previously anticipated that Part 3 of the PTA would not immediately be in force, as of May 11, 2023 "reporting employers" (currently provincial government agencies, BC Hydro, BC Housing, BC Lottery Corp., BC Transit, ICBC and WorkSafeBC) are also required to create pay transparency reports which are to be published on a publicly accessible website maintained by or on behalf of the "reporting employer". The prescribed content of a pay transparency report will be clarified by future regulation. Read the [full article](#) by Dana Hooker, and Trevor Hunt (Articling Student) with DLA Piper.

Administrative Penalties Imposed by Notice – The British Columbia Securities Commission's New "Ticketing" Regime

On April 26, 2023, the British Columbia Securities Commission (the "Commission") launched its newest enforcement tool called the Administrative Penalties Imposed by Notice (APIN). APIN, much like a traffic ticket, allows the Commission to impose monetary penalties for less serious violations of market rules, such as failing to file disclosure documents or investment suitability issues, without holding a hearing. Prior to APIN, the Commission had limited means to respond to misconduct without a full investigation and hearing before a panel of commissioners. With the introduction of APIN, it is evident Commission hearings will now be geared towards serious misconduct where the public interest warrants larger sanctions and/or market bans. Read the [full article](#) by [Patrick Sullivan](#) and [Dennis Whincup](#) with Whitelaw Twining LLP.

Regulatory Guidance on CBCA Registers of Individuals with Significant Control

A private corporation incorporated or continued under the [Canada Business Corporations Act](#) (the CBCA) is required to maintain a register (the ISC Register) of "individuals with significant control" (each an ISC) over the corporation. Since the introduction of this requirement in 2019 a number of practical questions have remained outstanding, including:

- what steps must be taken annually to update the register;
- whether a CBCA corporation that is a wholly owned subsidiary of another CBCA corporation that is exempt from the requirement to maintain an ISC Register (because it is a reporting issuer in Canada or listed on a "designated foreign exchange," or for some other reason) is also exempt from the requirement; and
- what information must be recorded in the ISC Register when no ISCs are identified by a corporation.

On May 4, 2023, [regulations](#) amending the [Canada Business Corporations Regulations, 2001](#) (the Amending Regulations) were registered and came into force. The Amending Regulations are responsive to the questions set out above. Read the [full article](#) by [Laurence Crompt-Lapierre](#) and [Andrew Pollock](#) with Norton Rose Fulbright.

SCC Finds Company Committed Abusive Tax Avoidance in Case Dealing with General Anti-avoidance Rule

In dismissing its appeal, the Supreme Court of Canada found that a company used a complex series of transactions to circumvent a restriction in the [Income Tax Act](#) intended to prevent companies from purchasing others for the sole purpose of using the target's business losses to reduce their tax burden. *Deans Knight Income Corp. v. Canada*, [2023 SCC 16](#) dealt with the general anti-avoidance rule and s. 111(1)(a) of the *Income Tax Act*, which allows a taxpayer to use non-capital losses to offset income to lower their tax rate in another tax year. A non-capital loss represents the deficit when a business's annual expenses exceed its yearly income. To prevent companies from acquiring each other just to capitalize on the target's non-capital losses, s. 111(1)(a) restricts an acquired company from carrying over the non-capital losses unless the acquirer carries on the same business or a similar business as the company that incurred the losses. Read the [full article](#) by [Aidan Macnab](#) on *Canadian Lawyer*.

Directors of a Corporation Liable for Unremitted GST/HST

The Tax Court of Canada (the "Court") in *Marc Bishara v. His Majesty the King*, 2022 TCC 105 ("*Bishara*") held that two individual shareholders of a corporation were liable for the corporation's sales tax remittance obligations because they did not properly resign as directors of the corporation. Despite a letter of resignation signed by each director that was dated more than two years before the assessment, the Court refused to recognize the validity of their resignation since the letters were not addressed to the corporation. The Court also concluded that the letters had no probative value because it found that they were likely prepared for the purposes of the litigation. Read the [full article](#) by Jesse Waslowski and Robert Celac with McCarthy Tétrault LLP.

BC Securities – Policies & Instruments

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

- [13-930](#) – CSA Notice regarding Coordinated Blanket Order 13-930 Exemptions from certain filing requirements in connection with the launch of the System for Electronic Data Analysis and Retrieval
- +
• [45-330](#) – Frequently Asked Questions about the Listed Issuer Financing Exemption

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	May 4/23	by 2021 Bill 9, c. 14, section 12 only (in force by Reg 114/2023), Finance Statutes Amendment Act (No. 2), 2021
		by 2021 bill 19, c. 24, sections 76, 78, 79, 81 and 83 only (in force by Reg 114/2023), Societies Amendment Act, 2021
	May 11/23	by 2023 Bill 20, c. 20, section 15 only (in force by Royal Assent), Business Corporations Amendment Act, 2023
Business Practices and Consumer Protection Act	May 15/23	by 2023 Bill 21, c. 13, section 43 only (in force by Royal Assent), Civil Forfeiture Amendment Act, 2023
Business Practices and Consumer Protection Authority Act	May 4/23	by 2021 bill 19, c. 24, section 90 only (in force by Reg 114/2023), Societies Amendment Act, 2021
Cooperative Association Act	May 4/23	by 2021 bill 19, c. 24, sections 92, 94, 95 and 97 only (in force by Reg 114/2023), Societies Amendment Act, 2021
Credit Union Incorporation Act	May 4/23	by 2021 bill 19, c. 24, section 100 only (in force by Reg 114/2023), Societies Amendment Act, 2021
Designated Accommodation Area Tax Regulation (93/2013)	May 1/23	by Reg 212/2022 and Reg 15/2023
	June 1/23	by Reg 212/2022
	RETRO	

Income Tax Act	to various dates	by 2023 Bill 10, c. 23, sections 53 to 57, 59 to 61, 63, 66 to 80 and 85 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	May 11/23	by 2023 Bill 10, c. 23, sections 52, 65, 81 to 84 and 86 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Insurance Premium Tax Act	RETRO to Mar. 15/20	by 2023 Bill 10, c. 23, section 101 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	May 11/23	by 2023 Bill 10, c. 23, sections 88, 90, 92 to 94, 102 to 110 and 112 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Insurance Premium Tax Regulation (154/2016)	May 15/23	by Reg 121/2023
Provincial Sales Tax Act	RETRO to Apr. 1/13	by 2023 Bill 10, c. 23, sections 159 and 161 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	RETRO to Sept. 1/22	by 2023 Bill 10, c. 23, sections 158 and 160 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	May 11/23	by 2023 Bill 10, c. 23, sections 166 to 169 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Provincial Sales Tax Regulation (96/2013)	May 15/23	by Reg 121/2023
	May 23/23	by Reg 128/2023
Societies Act	May 4/23	by 2021 bill 19, c. 24, sections 2, 3, 8 12 to 16, 18, 20, 22 to 24, 28 to 30, 33 to 35, 51 and 53 only (in force by Reg 114/2023), Societies Amendment Act, 2021



Energy and Mines News:

**Clearing the Air: What We Know (And Don't Know)
About Canada's New Emissions Disclosure
Standard for Federal Procurement**

The [Standard on the Disclosure of Greenhouse Gas Emissions and the Setting of Reduction Targets](#)

(Standard) in federal procurement came into effect on 1 April 2023. The Standard is part of the [Greening Government Strategy: A Government of Canada Directive](#). The Standard sets out requirements for federal suppliers with respect to disclosure of greenhouse gas (GHG) emissions and reduction targets, in line with the commitments made in the Greening Government Strategy.

While a commendable approach by Canada, how it will be applied in the procurement context remains unclear. Read the [full article](#) by [Marcia Mills](#), [Kai Alderson](#) and [Sabrina Spencer](#) with Fasken Martineau DuMoulin LLP.

Principal Tax Measures from Federal Budget 2023 – Part 3: Clean Energy Initiatives

Budget 2023 – A Made-in-Canada Plan: Strong Middle Class, Affordable Economy, Healthy Future ("Budget 2023") was tabled by the Department of Finance ("Finance") on March 28, 2023 ("Budget Day"). The stated focus of Budget 2023 includes targeted inflation relief, stronger public health care and significant investments towards building Canada's clean economy. Budget 2023 introduced numerous significant income tax proposals touching on personal, business and international income taxation matters.

This post is the third of a three-part series analyzing the principal tax measures in Budget 2023. The [first post](#) discussed proposals under the [Income Tax Act](#) (Canada) (the "Act") which primarily affected individuals and private companies. The [second post](#) summarized income tax measures focussed on public companies and financial institutions. Read the [full article](#) by [Alexei Paish](#), [Asif Abdulla](#) and [Gloria Wang](#) with Thorsteinssons LLP.

B.C. Supreme Court Challenge to Provincial Mining Claims System Draws to a Close

Gitxaala Nation wants the B.C. Supreme Court to overturn mineral claims the province granted between 2018 and 2020 on Banks Island because it says there was no consultation

Lawyers for the Gitxaala Nation rebutted the provincial government's case Friday as the judicial review of the mining claims system drew to a close.

The First Nation, 60 kilometres south of Prince Rupert in Kitkatla, wants the B.C. Supreme Court to overturn mineral claims the province granted between 2018 and 2020 on Banks Island because it says there was no consultation. Gitxaala says that was a breach of the Crown's constitutional duty to First Nations and contrary to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which B.C. adopted in 2019. Read the [BIV article](#).

Proposed North Vancouver Hydrogen Plant Goes to Public Hearing

The public will soon have their say on a proposal to capture waste hydrogen from a North Vancouver chemical plant and make it available as clean fuel.

North Vancouver-based hydrogen research and development firm HTEC announced plans last year to purchase the ERCO Worldwide sodium chlorate plant at the foot of Forester Street in the Maplewood area.

Under the proposal, ERCO will continue producing chemicals used by the pulp and paper industry, and HTEC will install a system to capture about 15 tonnes of byproduct hydrogen per day – enough to power about 30,000 vehicles. Read the [BIV article](#).

B.C. Gas Projects Could Triple Emissions Target By 2030, Finds Report

The approval of several B.C. gas projects could triple the province's emissions targets for the oil and gas sector by the end of the decade unless a hard ceiling is put on the industry's carbon pollution, a new report says.

The [report](#), published last week by the climate research group the Pembina Institute, found that the completion of only two plants – Kitimat's LNG Canada Phase 1 and Squamish's proposed Woodfibre LNG plant – would double B.C.'s 2030 target for the fossil fuel sector. If another four proposed projects were

approved without a cap on emissions, greenhouse gases from the production of fossil fuels would likely triple the government's end-of-decade targets. Read the *BIV* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (Mines) Regulation (47/2017)	May 8/23	by Reg 118/2023
Emergency Management Regulation (217/2017)	June 1/23	by Reg 181/2022
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	May 19/23	by Reg 126/2023
	May 22/23	by Reg 125/2023
Hydro and Power Authority Act	May 11/23	by 2023 Bill 13, c. 18, section 14 only (in force by Royal Assent), Pay Transparency Act
Liquefied Natural Gas Facility Regulation (146/2014)	June 1/23	by Reg 181/2022
Mineral Land Tax Act	May 11/23	by 2023 Bill 10, c. 23, sections 132 and 133 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Mineral Land Tax Regulation (123/2023)	NEW May 15/23	see Reg 123/2023
Mineral Tax Act	May 11/23	by 2023 Bill 10, c. 23, sections 134 to 137 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Mineral Tax General Regulation (401/89)	May 15/23	by Reg 121/2023
Oil and Gas Processing Facility Regulation	June 1/23	by Reg 181/2022
Petroleum and Natural Gas Act	May 11/23	by 2023 Bill 10, c. 23, sections 143, 145 to 147 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Petroleum and Natural Gas General Regulation (357/98)	May 15/23	by Reg 121/2023
Security Management	NEW June	see Reg 181/2023



Family and Children News:

Amendment to *Family Law Act* Enhances Protection for Inheritances

A recent change to British Columbia's [Family Law Act](#) provides greater protection for inheritances from claims of spouses on the breakdown of a marriage or marriage-like relationship. The basic structure of our *Family Law Act* provides that some assets are "included property" in the division of property and other assets are "excluded property." In most cases, included assets are divided equally between spouses following the breakdown of the marriage or marriage-like relationship, and excluded property is, well, generally excluded from the division. The court may in some circumstances deviate from this scheme of division, but for the purpose of this blog, let's keep it simple. Read the [full article](#) by [Stan Rule](#) with Sabey Rule LLP.

Unjust Enrichment in British Columbia – Family Law Case Study

The concept of unjust enrichment in Family Law is complex. In a recent case, *Judge v. Judge*, [2015 BCSC 1764](#), a family law case in which the court determined that properties acquired by contributions of a husband, wife, and the husband's parents, but held in the name of the husband's parents alone, should be reapportioned in the wife's favour. This case is just one example of the intricate legal questions that arise when families work together to build wealth. In this article, we'll take a closer look at unjust enrichment in family law, and explore how it applies in British Columbia. Read the [full article](#) published by the Onyx Law Group.

New Measures to Strengthen Family Reunification

On May 26, 2023, the Minister of Immigration, Refugees and Citizenship Canada announced a number of measures aimed at strengthening family reunification.

The new measures include the following:

- **Faster Temporary Resident Visa (TRV) processing times for spousal applicants:** Family members from visa-required countries who have submitted family class permanent residency (PR) applications can apply for a TRV to join their sponsor in Canada.
- **Dedicated processing tools for spousal TRV applicants:** The processing time for TRV applications will be reduced to 30 days, allowing for quicker reuniting of family members.
- **Open work permit for spousal and family class applicants:** Open work permits will be issued to spousal applicants and their dependent children who live in Canada with their sponsor and have temporary resident status. These open work permits, which previously were only allowed for inland spousal PR applications, are now extended to those applying from outside of Canada.
- **Open work permit extensions for open work permit holders expiring between Aug. 1 and the end of 2023:** Beginning June 7, 2023, open work permit holders whose permits expire between Aug. 1, 2023 and the end of 2023 can use a free facilitation process to extend their permits by 18 months.

Read the [article](#) by [Krista Schofer](#) and [Jessie Zheng](#) with Gowling WLG.

BC Court of Appeal Ruling a 'Huge Win' for Parental Privacy Rights, Says West Coast LEAF

A recent British Columbia Court of Appeal ruling is a "huge win" for parental privacy rights, says West Coast LEAF, the non-profit and advocate of gender equality and human rights.

The decision in *T.L. v. British Columbia (Attorney General)*, [2023 BCCA 167](#) dealt with the constitutionality of s. 96(1) of BC's [Child, Family and Community Service Act](#). The provision gives

representatives of the Ministry of Children and Family Development access to personal health information. Read the [full article](#) by [Aidan Macnab](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Family Law Act	May 11/23	by 2023 Bill 17, c. 12, sections 3, 4, 6, 10, 15, 16, 22 and 23 only (in force by Royal Assent), Family Law Amendment Act, 2023



FOREST & ENVIRONMENT

Forest and Environment News:

Recent Changes to the Wildfire Regulation: What Does It Mean for Forestry Operators in British Columbia?

On April 24, 2023, the Government of British Columbia made amendments to the [Wildfire Regulation](#), BC Reg 38/2005 (the "Regulation") under the [Wildfire Act](#), [SBC 2004] c 31 (the "Act"). Some of the key amendments relate to fire control cost recovery, new documentation requirements when extinguishing fires, new fuel break requirements and additional fire watcher responsibilities. These changes are important for forestry operators because:

- those using debris pile burning as a means to carry out fire hazard abatement no longer have an exemption from fire control cost recovery orders made by the Crown;
- it may be more difficult to establish a defence of due diligence if a wildfire occurs as a result of debris pile burning;
- fuel breaks are now required around the entire cutblock when carrying out fire hazard abatement; and
- there are new requirements for fire watchers when carrying out "high risk activities".

Read the [full article](#) by [Erin Hunter](#) with DLA Piper.

Environmental Management Act Amendments Introduced

Bill 29, the [Environmental Management Amendment Act, 2023](#), was introduced in the legislature on May 8. The bill proposes amendments to the [Environmental Management Act](#) intended to ensure that owners of industrial projects with a high risk of pollution are responsible for cleanup and costs for abandoned or contaminated sites. The bill would enable the government to require plans for decommissioning and closing facilities, to decommission and close abandoned facilities, and to recover costs for doing so, subject to regulations. If Bill 29 is passed, the related regulations are expected to be established after engagement and a transitional period.

Recent Changes to BC's Site Identification System

Back in 2021, we posted about the significant changes to BC's site profile system that came into effect that year. At the time, the "old" site profile system was replaced with the new site disclosure system. You can check out that blog post [here](#).

On March 1, 2023, new amendments to the [Contaminated Sites Regulation](#) (CSR) were introduced. Most of these amendments addressed changes to the soil relocation regime, but there were a few important tweaks to the CSR dealing with site identification. This blog post will explain these changes and their potential significance. Read the [full article](#) by [Adam Way](#) with Harper Grey LLP.

Emerging Contaminants Update: Government of Canada Publishes Draft State of PFAS Report

On May 20, 2023, Environment and Climate Change Canada and Health Canada published a draft [State of PFAS Report](#) and [Risk Management Scope](#) following a two-year assessment of the fate, sources,

occurrence, and potential impacts of per- and polyfluoroalkyl substances (PFAS) on the environment and human health in Canada.

What are PFAS?

PFAS are a class of over 4,700 substances that have a wide range of applications. Common uses of PFAS include surfactants, lubricants, and repellents (for dirt, water, and grease). PFAS can also be found in certain firefighting foams, textiles, cosmetics, non-stick foodware and in food packaging materials.

Read the [full article](#) by [Diana Weir](#) with Norton Rose Fulbright.

Wildfire Risk Reduction Project in Nelson an Example of Collaboration

The Selous Creek Wildfire Risk Reduction Project near Nelson, B.C., has demonstrated that it is possible to harvest trees to reduce wildfire risk while maintaining cultural, ecological, recreational, and aesthetic values.

With funding from the Forest Enhancement Society of BC (FESBC) and partnerships among regional, municipal and provincial governments, fire services, and a local timber licensee, a wildfire risk reduction project is a prime example of collaboration to better protect a community. Read the [full article](#) published in Canadian Forest Industries (Paywall).

Province Extends Fairy Creek Old-Growth Deferral

Government has approved a legal [order](#) to extend the deferral of old-growth harvesting in the Fairy Creek watershed until Feb. 1, 2025.

The extension applies to the same forest lands as those deferred in June 2021 in response to a request from the elected leadership of the Pacheedaht First Nation. The Province and First Nations will continue collaborating on long-term forest ecosystem management of the Fairy Creek watershed, including the management of old-growth forests. Read the government [news release](#).

The Charter's Environmental Challenge

Parliament is considering legislating the right to a clean environment for all Canadians. It shouldn't have to; it's already inherent in the [Charter of Rights and Freedoms](#). The courts, however, must recognize that the right to a clean environment is a prerequisite for other human rights and, therefore, constitutionally protected by inference.

Although novel in Canadian law, this approach has found success internationally and avoids both the pitfalls of the regular legislative process and the sticky problem of a constitutional amendment. The importance of the environment hardly needs to be mentioned. It supports life on Earth, including human life. And yet we don't acknowledge that Section 7 of the *Charter*, guaranteeing the right to life, liberty, and security of person, is inherently implicated in environmental law decisions? Read the [full article](#) by Silas Koulack in the *CBA National*.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Integrated Pest Management Act](#)

- [Wartels et al v. Administrator, Integrated Pest Management Act](#) [Stay Application – Denied]

[Water Sustainability Act](#)

- [Andre and Karen Audet v. Assistant Water Manager](#) [Final Decision – Appeal Dismissed; Order Varied]

[Wildlife Act](#)

- [Hanna Buchanan and Chad Sjodin v. Logan Wenham, Director of Fish and Wildlife, Ministry of](#)

[Forests](#) [Summary Dismissal Decision – Appeal Dismissed]

- [Michael Schneider v. Director of Fish and Wildlife, Ministry of Forests](#) [Method of Hearing Decision – To Be Heard by Way of Written Submissions]
- [Raymond Majerus et al. v. Director of Fish & Wildlife](#) [Method of Hearing Decision – To Be Conducted by Way of Written 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](#)

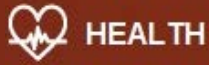
- [Eldon Whalen v. Government of British Columbia](#) [Final Decision – Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Carbon Tax Act	Apr. 1/23	by 2023 Bill 10, c. 23, sections 5, 11 and 12 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	May 11/23	by 2023 Bill 10, c. 23, sections 6 to 10 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Carbon Tax Regulation (125/2008)	May 15/23	by Reg 121/2023
	May 23/23	by Reg 128/2023
Forest Act	May 11/23	by 2023 Bill 10, c. 23, sections 13 and 14 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Information Sharing Regulation (122/2023)	NEW May 15/23	see Reg 122/2023
Logging Tax Act	RETRO to Mar. 15/20	by 2023 Bill 10, c. 23, section 127 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	May 11/23	by 2023 Bill 10, c. 23, sections 117 to 120, 122, 126 and 128 to 131 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Logging Tax Regulation (166/2016)	May 15/23	by Reg 121/2023

Protected Areas of British Columbia Act

May 1/23

by 2014 Bill 11, c. 11, section 1 only (in force by [Reg 115/2023](#)), [Protected Areas of British Columbia Amendment Act, 2014](#)

Health News:

BC Pharmacists Set to Treat Minor Ailments, Prescribe Contraceptives Starting June 1

Pharmacists in British Columbia will have more responsibilities starting June 1 in an effort to improve access for those without a family doctor and ease the stress on an overburdened health system. The College of Pharmacists of BC says 75 per cent of eligible community pharmacists have completed the training required to be able to diagnose and prescribe medications for 21 minor ailments like acne, shingles or urinary tract infections, as well as prescribe contraception. Health Minister Adrian Dix says the new services will make it easier and faster for patients to get medication and take the pressure off nurses and doctors who can focus on those with more complex needs. Read the CBC [article](#).

College of Chiropractors of British Columbia v. British Columbia (Health Professions Review Board)

Case Summary: Decision by the Health Professions Review Board was set aside on the basis that the panel chair's findings on the adequacy of the underlying investigation were patently unreasonable and the registrar's underlying dispositions were reasonable.

College of Chiropractors of British Columbia v. British Columbia (Health Professions Review Board), [2023] B.C.J. No. 611, [2023 BCSC 529](#), British Columbia Supreme Court, April 5, 2023, S. Matthews J. (In Chambers)

A complaint was made against two chiropractors to the College of Chiropractors of British Columbia (the "College") in relation to representations that were made on their website. The complainant, Dr. Desaulniers, was also a registrant of the College. The two respondent chiropractors were on the board of the College and, at the time of the complaint, were seeking re-election. The registrar of the College disposed of both complaints as complaints that, if proven, would not constitute serious matters subject to an investigation by the inquiry committee of the College, pursuant to the registrar's authority granted under [section 32\(3\) of the Health Professions Act](#), RSBC 1996, c.183 ("HPA"). Read the [full article](#) by Joanne Barnum with Harper Grey LLP.

Health Canada's Proposal on Cost Recovery for Natural Health Products Raises Questions

On May 12, 2023, [Health Canada published a proposal detailing cost recovery fees for natural health products](#) (NHPs). While there is a lot of information to digest in Health Canada's proposal, the proposed fees detailed below raise questions regarding the cost to industry and consumers. The proposal sets out mandatory fees for:

1. NHP Product Licence Applications (PLA).
2. NHP Site Licence Applications (SLA).
3. Annual Right to Sell (RTS) NHPs.

Canadian consumers, businesses and Health Canada need to consider many important questions through the consultation process, including whether these proposed fees will reduce Canadian's access to marketed NHPs and cause significant harm to the industry as a whole. Read the [full article](#) by Katrina Coughlin, Laura E. Gomez, Jon-Paul Powers, PHD, Lewis Retik and Lauren Richardson with Gowling WLG.

Health-care Workers Better Protected by Expanded Whistleblower Legislation

Health-care workers will benefit from new protections when bringing forward concerns about serious wrongdoing as the scope of the [Public Interest Disclosure Act](#) (PIDA) expands to people working at

health authorities, Providence Health, and BC Emergency Health Services as of Thursday, June 1, 2023. PIDA promotes accountability and transparency by providing a framework for employees to report serious wrongdoing to designated officers within their organization or to the Office of the Ombudsperson without fear of reprisal. Read the full government [news release](#).

The Lack of Present Injuries and Reliable Scientific Evidence Proves Fatal in North American Pharmaceutical Impurity Litigation

After reports were made regarding the presence of nitrosamines in certain pharmaceutical products in 2018 and 2019, and subsequent precautionary regulatory action was taken, an avalanche of litigation commenced in Canada and the United States regarding alleged failures by drug manufacturers, wholesalers, distributors and retailers in respect of a host of pharmaceutical products, including Valsartan, Ranitidine and others. Nitrosamines are a ubiquitous class of chemical compound widely found in low levels in drinking water, vegetables, meats, cheeses, alcoholic beverages and other sources. The plaintiffs in these various cases generally asserted that the presence of nitrosamines in pharmaceuticals either caused their cancer, or increased their risk of cancer. Read the [full article](#) by Cheryl Woodin and Tom Feore with Bennett Jones LLP.

Cracking the New Food and Beverage Code

On June 28, 2023, the new [Code for Responsible Advertising of Food and Beverage Products for Children](#) (the "Code") will come into effect. Once in force, advertisements for food or beverage products that do not meet specific nutrition requirements cannot be primarily directed to children under 13 years of age (the "Restriction"). In what circumstances will this Restriction apply, and what other rules have been introduced? Like all great codes, this will require careful consideration. Read the [full article](#) by [Melissa Tehrani](#) and [René Bissonette](#) with Gowling WLG.

Act or Regulation Affected	Effective Date	Amendment Information
Community Living Authority Act	May 11/23	by 2023 Bill 24, c. 16, sections 43 and 45 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2023
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	May 25/23	by Reg 131/2023
	June 1/23	
Pharmacists Regulation (417/2008)	June 1/23	by Reg 111/2023
Psychologists Regulation (289/2008)	May 1/23	by Reg 204/2022



LABOUR & EMPLOYMENT

Labour and Employment News:

B.C. Minimum Wage Increases June 1 for Lowest-Paid Workers

On June 1, 2023, B.C.'s lowest-paid workers will get a pay boost when the general minimum wage increases from \$15.65 to \$16.75 an hour.

The 6.9% increase on Thursday, June 1, 2023, also applies to minimum-wage rates for resident caretakers, live-in home-support workers and live-in camp leaders. The increase will positively affect approximately 150,000 workers who currently earn less than \$16.75 per hour.

On Jan. 1, 2024, piece rates for the hand-harvesting of the 15 crops specified in the [Employment Standards Regulation](#) will increase by the same percentage. Read the government [news release](#).

Finally Finalized: Competition Bureau Publishes No-Poach and Wage-Fixing Guidelines

On May 30, 2023, the Competition Bureau (the "Bureau") released [finalized guidance](#) ("Final Guidelines") on the application of the new section 45(1.1) criminal offences in the [Competition Act](#) ("Act"). They revise the draft guidance ("Draft Guidelines") that [we detailed](#) earlier this year.

The new offences were adopted June 23, 2022 and will enter into force June 23, 2023. Once in force, they will criminalize agreements between unaffiliated employers to: (1) fix salaries, wages or other terms and conditions of employment; or (2) refrain from soliciting or hiring each other's employees. The Final Guidelines provide some additional clarity compared to the Draft Guidelines, though uncertainty remains. Read the [full article](#) from McCarthy Tétrault.

BC Court Upholds Termination Clause in Employment Contract

In *Forbes v. Glenmore Printing Ltd.*, [2023 BCSC 25](#), the Supreme Court of BC had to consider the validity of a termination clause in an employment contract. In this case, the terminated employee was arguing that the termination clause was invalid and therefore he was entitled to reasonable notice at common law.

The employee argued the termination clause was invalid because it only required notice or payment of lieu that matched the individual termination provisions in section 63 of the [Employment Standards Act](#) (ESA). Read the [full article](#) by [Scott Marcinkow](#) with Harper Grey LLP.

Case Summary: HRT's Decision to Summarily Dismiss Complaint Set Aside in Part Because of Its Failure to Consider New Medical Evidence About Complainant's Diagnosis That Had Been Provided After the Employer's Impugned Decisions Had Been Made

McNeil v. British Columbia (Human Rights Tribunal), [2023] B.C.J. No. 561, [2023 BCSC 481](#), British Columbia Supreme Court, March 29, 2023, B.M. Young J.

Ms. M was employed at Telus Employer Solutions ("TES") from November 2016 to May 2018 under a series of temporary employment contracts. Beginning in January 2018, she started experiencing unexplained health symptoms including headaches, fatigue and "brain fog" among others, which she thought may be triggered by something in her workplace. She requested TES accommodate her disability by allowing her to work from home. TES denied the request; she was not considered eligible to work from home based on its policy, which only allowed employees meeting performance standards to work from home. In February 2018, Ms. M stopped coming into the office and informed TES that she would be working from home. TES placed her on unpaid leave and requested a medical form so they could consider possible accommodations, including working from home. Read the [full article](#) by [Kara L. Hill](#) with Harper Grey LLP.

Howard Levitt: Employers Still Overzealous When It Comes to Firing 'With Cause,' Despite Potential Costs

Courts describe dismissal for cause as "the capital punishment of employment law." Terminating for cause sends this message to the fired employee: Your conduct is so egregious, and caused such irreparable damage to the employment relationship that you are being fired without severance.

The weight of a "for cause" termination may not just deliver a monetary blow, with fired employees being deprived of severance. If the fired employee has a public profile, and/or works in a niche industry where they are well-known, the risks to the employer are more significant. Terminating the employee for cause could have damaging reputational implications on them and their ability to find any other job – if

they can put a number on that damage, they can sue you for it. Read the [full article](#) published in the *Financial Post*.

SCC Affirms the Public Interest in Counter-Speech That Advances the Equality Rights of Transgender Youth in Anti-SLAPP Decision

On May 19, 2023, the Supreme Court of Canada (Court) released its decision in [Hansman v. Neufeld](#) (Hansman), the latest high-profile anti-SLAPP case in Canada. Hansman clarifies the circumstances in which courts will dismiss a defamation action pursuant to the key public interest weighing exercise in anti-SLAPP legislation. The case also represents a significant moment for transgender rights in Canada. The Court concluded that there is a high public interest in counter-speech that combats discrimination against transgender youth and other LGBTQI2S+ people, as well as advancing their equality rights and dignity.

Background

In 2016, British Columbia's Ministry of Education launched a program called [Sexual Orientation and Gender Identity 123](#) (SOGI 123) in schools across the province. The aim of SOGI 123 is to foster inclusion and respect for students who may face discrimination in school because of their sexual orientation, gender identity or gender expression.

Read the [full article](#) by [Brendan MacArthur-Stevens](#), [Renee Reichelt](#), [Alex Mackenzie](#) and [Iris Fischer](#) with Blake, Cassels & Graydon LLP.

Canada's Forced Labour and Child Labour Reporting Legislation: What You Need To Know

On May 3, 2023, Canada passed its first reporting legislation for modern slavery and child labour, the [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#) (the Act). The Act forms part of an increasing response from the Government of Canada on business and human rights considerations, and in particular human rights in supply chains. We have previously discussed these measures [here](#), [here](#) and [here](#). In addition to compliance with new reporting requirements, companies with environmental, social and corporate governance (ESG) concerns will be keen to ensure that their internal supply chain policies and actions reflect best practices and align with leading ESG metrics.

The Act enters into force on January 1, 2024, with the first set of reports due on May 31, 2024. That said, in many cases, the new reporting obligations may require a change in company policies and potentially business operations. It is therefore best to start reviewing the new reporting requirements and your internal policies early in 2023 to ensure that any amendments to internal policies, procedures and business practices can be adopted and reflected in the report. Read the [full article](#) published by Dentons.

Act or Regulation Affected	Effective Date	Amendment Information
Employment Standards Act	May 11/23	by 2023 Bill 24, c. 16, section 12 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2023
Employment Standards Regulation	June 1/23	by Reg 97/2023
Pay Transparency Act	NEW May 11/23	c. 18, SBC 2023, Bill 13 , sections 1, 3 to 13 only (in force by Royal Assent)
	May 1/23	by 2022 Bill 41, c. 37, section 11 only (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2022

Workers Compensation Act		
	May 15/23	by Reg 18/2023



LOCAL GOVERNMENT

Local Government News:

Vancouver Charter Amendments

Changes made to the [Vancouver Charter](#) by [2023 Bill 24](#), c. 16, on May 11 provide the city of Vancouver with a modernized general fee authority for establishing or regulating fees for the use of municipal property or any service that it is authorized to provide under the *Vancouver Charter* through bylaw. The changes will also broaden Vancouver's authority to take remedial action and recover the costs at the expense of someone who defaults on a property-related requirement by the *Vancouver Charter*. These changes will bring Vancouver into line with the authorities all other local governments have under the [Community Charter](#).

10 [47] Municipalities Named for Housing Targets

On May 31, the province issued [OIC 328/2023](#), bringing the [Housing Supply Act](#) and its regulation, Housing Supply Regulation, into force. The Act is intended as a tool to address the housing crisis, and to establish a framework for the provincial government to create housing targets for specified municipalities. On May 31, the province named ten communities that will be required to hit housing targets under that act:

- City of Abbotsford
- City of Delta
- City of Kamloops
- District North Vancouver
- District of Oak Bay
- City of Port Moody
- District of Saanich
- City of Vancouver
- City of Victoria
- District of West Vancouver

The housing targets are expected to be established later this summer, in consultation with these communities, and a further group of eight to ten municipalities is expected to be selected for housing targets later this year. For more information about this development, see the government [news release](#). For more information on the *Housing Supply Act*, see the [article](#) by Bill Buholzer & Nathan Ruston from Young Anderson Barristers & Solicitors, or the [analysis](#) from UBCM. A further list of specified municipalities that will likely be subject to housing targets is included in the Schedule to the new Housing Supply Regulation, for a total of 47 municipalities that were considered to have the highest housing need and projected growth. Further information can be found in this *Vancouver Sun* [article](#).

Legal Issues in Municipal Tax Sales

Tax sales have been a municipal collection remedy in British Columbia for over a century. More recently, tax sales of property in Penticton, Spallumcheen and Pemberton have attracted media attention and revealed the significant financial and emotional risk to owners, and the significant liability risk to municipalities, that can arise from misunderstanding or being unaware that a property has been sold for municipal tax sales. When conducting a tax sale, a collector's first reference should always be to the procedures set out in the [Local Government Act](#) and the [Community Charter](#). The intention of this paper is to provide supplementary commentary on legal issues that arise from matters not expressly covered in the statute. Read the [paper](#) by [Michael Moll](#) with Civic Legal LLP.

Provincial Support Needed to

Address Short Term Rentals

Local governments are doing what they can to manage the impact of short-term rentals on their communities' housing supply, but provincial support is needed in two key areas: requiring booking platforms to provide data to local governments, and ensuring all rental suites have a valid business licence. Short-term rentals like Airbnb and Vrbo have a potentially significant impact on housing in BC and the rest of Canada. Our senior housing policy analyst Josh van Loon hears about this issue from communities across the Province, but says that limited data sharing makes evidence-based decision making challenging. Read the UBCM [article](#).

Province Seeks Input on Building Code Updates [June 16 Deadline]

People will get a say in how future buildings are constructed in BC, including cooling requirements and accessibility standards, as the Province launches a survey on proposed changes to the BC Building Code. The proposed changes to the BC Building Code are based on the 2020 National Model Codes with some BC-specific variations to reflect the province's geography, climate, local government needs, industry practices and provincial priorities, such as accessibility. A four-week public review invites interested parties to review and comment on a variety of proposed building code changes, including:

- accessibility and adaptable dwellings
- cooling requirements
- mass timber construction
- earthquake design
- radon safety, and
- ventilation in houses

People can learn about the proposed changes and provide feedback through an online [survey](#). Read the full government [news release](#).

BC Municipalities Get Mixed Messages on How to Tackle Public Drug Use

BC municipalities are waiting for help promised by the provincial government to address residents' concerns about public drug use in the wake of the province's move in January to [decriminalize possession of small amounts](#) of certain illicit drugs. Several municipalities are proposing bylaws to restrict public drug use, driven by concerns that parks and beaches will become busier with children, families and tourists as summer approaches. In response, some have proposed bylaws to restrict where drugs can be consumed, but health officials say this could lead to an increase in overdose risk. Read the *Globe and Mail* [article](#).

Tree Protection: Trees, Unlike Dogs, Are All Bark and No Bite

Government regulation of trees in British Columbia generally falls into two camps. There is the Provincial Government-level management of forests and forest industry practices. This regulation seeks to balance resource extraction with nature preservation, including consequent impacts on wildfires and flooding. At the urban and suburban level trees take on a different role. The value of an urban forest is the aesthetic and environmental benefits of a healthy tree canopy. There is ample literature to establish the importance of urban forests, describe to include "components such as parks, woodlands, street trees, greenways, private trees and shrubs, green walls and urban orchards. Read the [full article](#) by Michael Moll and Don Howieson with Civic Legal LLP.

Vancouver Looks to Reduce Natural Gas for Stoves, Fireplaces in New Builds

A City of Vancouver committee has passed an amended motion for a plan to reduce the use of natural gas infrastructure for stoves and fireplaces in new builds. The original motion is geared towards climate action and health, but attracted many comments from Vancouver residents and councillors who expressed business, cultural and electrical capacity concerns with banning all natural gas infrastructure. The result is a motion that works towards sustainability initiatives but provides more options than an all-

out ban, according to the Standing Committee on Policy and Strategic Priorities. Read the [BIV article](#).

Guide for Meeting Accessible BC Act Requirements

In June 2021, the provincial government passed the [Accessible BC Act](#) in an effort increase accessibility in BC and remove barriers for persons with disabilities. Local governments are among over 750 public sector organizations listed in the Accessible BC Regulation and are required by September 1, 2023 to establish:

- An accessibility committee
- An accessibility plan
- A tool to receive feedback on accessibility

Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Building Act General Regulation (131/2016)	May 1/23	by Reg 31/2023
Cannabis Licensing Regulation (202/2018)	May 19/23	by Reg 124/2023
Civil Forfeiture Act	May 11/23	by 2023 Bill 21, c. 13, sections 1 to 23, 25 to 27, 29, 20 and 32 to 35 only (in force by Royal Assent), Civil Forfeiture Amendment Act, 2023
Home Owner Grant Act	May 11/23	by 2023 Bill 10, c. 23, sections 48 to 51 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Home Owner Grant Regulation (100/2002)	May 15/23	by Reg 121/2023
Housing Supply Act	NEW May 31/23	c. 38, SBC 2022, Bill 43 , whole Act in force by Reg 133/2023
Housing Supply Regulation (133/2023)	NEW May 31/23	see Reg 133/2023
Municipalities Enabling and Validating Act (No. 5)	May 15/23	by 2023 Bill 26, c. 22, sections 1 and 2 only (in force by Royal Assent), Municipalities Enabling and Validating (No. 5) Amendment Act, 2023
Nanaimo Regional District Regulation (194/91)	May 8/23	by Reg 117/2023
Nisga'a Final Agreement Act	May 11/23	by 2023 Bill 10, c. 23, section 142 only (in force by Royal Assent), Budget Measures Implementation Act, 2023

Safety Authority Act	May 4/23	by 2021 bill 19, c. 24, section 104 only (in force by Reg 114/2023), Societies Amendment Act, 2021
Taxation (Rural Area) Act	May 11/23	by 2023 Bill 10, c. 23, sections 173 to 176 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Taxation (Rural Area) Act Regulation (387/82)	May 15/23	by Reg 121/2023
Vancouver Charter	May 11/23	by 2023 Bill 24, c. 16, sections 13 to 36 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2023
		by 2023 Bill 26, c. 22, section 3 only (in force by Royal Assent), Municipalities Enabling and Validating (No. 5) Amendment Act, 2023
Vancouver Foundation Act	May 11/23	by 2023 Bill Pr 401, c. 25, section 1 only (in force by Royal Assent), Vancouver Foundation Amendment Act, 2023



MISCELLANEOUS

Miscellaneous News:

Criminal Code Amendments

On May 27, the [Criminal Code](#) was amended by [Bill C-233](#), 2023, c. 7, requiring justices, before making a release order, to consider whether a person who is accused of violence against their intimate partner should wear an electronic monitoring device.

Supreme Court of Canada Affirms Protection of *Public Participation Act* in Landmark Decision Balancing Freedom of Expression and Public Interest

The Supreme Court of Canada (SCC) ruled on the proper application of section 4 of BC's [Protection of Public Participation Act](#), SBC 2019, c. 3 (PPPA) for the first time in *Hansman v. Neufeld*, [2023 SCC 14](#). In the decision, the SCC provides guidance to lower courts on how to weigh the competing values of freedom of expression and protection of reputation in situations where the expression relates to an issue of public interest. The SCC affirmed the lower court's decision and acknowledged there is a paramount public interest in protecting counter-speech that seeks to promote tolerance and respect for a marginalized group in society. The SCC emphasized that the subject matter of Mr. Hansman's speech (commenting on the need for safety and inclusion in schools, the value of a government initiative, and the fitness of a candidate for public office), the form it was expressed (solicited by the media to present a counter-perspective within an ongoing debate), and the motivation behind the speech (to combat discrimination and to protect transgender youth in schools) are all deserving of significant protection. Read the [full article](#) by Naomi Krueger and David McKnight with Alexander Holburn Beaudin + Lang LLP.

British Columbia Court of Appeal Upholds Implied Undertaking of Confidentiality

In the recent case of *Association of Professional Engineers and Geoscientists of the Province of British Columbia v. Engineer X*, [2023 BCCA 211](#), the British Columbia Court of Appeal considered whether the implied undertaking should be lifted to allow a professional regulatory body to make use of pre-trial discovery evidence disclosed in breach of the undertaking to investigate a complaint against three of its members. The chambers judge declined to lift the undertaking. The Court of Appeal upheld the chambers judge's decision, finding that it was not appropriate to lift the undertaking. Read the [full article](#) by Karen

L. Weslowski with Miller Thomson LLP.

Unified Legislation

As a professional association, it is the mandate of the BC Notaries Association (BCNA) to Advocate, Educate, Promote and Support Notaries throughout British Columbia. We recognize the importance of aligning our efforts to the broader public interest, in order to retain the trusted relationship that BC Notaries have with their communities and clients. Practising BC Notaries are legal professionals currently regulated by the Society of Notaries Public of BC. Graduation from the Simon Fraser University Masters in Applied Legal Studies program, a period of practical training and examinations, along with annual continuing education requirements, ensures that BC Notaries are competent in the areas of non-contentious law in which they are regulated and insured to practice. Following years of advocating for change to the [Notaries Act](#), the BCNA is supportive of the legal professions' modernization undertaking, to align legal service providers under new legislation with a single regulator. Read the [full article](#) by Chad Rintoul, CEO of the BC Notaries Association, published in *BarTalk*.

BCLI Welcomes Introduction of Money Judgment Enforcement Act

With the introduction of [Bill 27](#) (the *Money Judgment Enforcement Act*) in the legislative assembly, the BC government has moved to implement [recommendations from BCLI](#) and the Uniform Law Conference of Canada, which will fundamentally reform an important area of civil law. [Bill 27 did not progress past first [reading] in the spring session; however, it is expected to be on the radar when parliament resumes in the fall] A money judgment is an order of a court for a party to a lawsuit to pay another party a sum of money. Money judgments often go uncollected, frustrating successful litigants, because British Columbia's system for enforcing money judgments is archaic, fragmentary, and inefficient. The *Money Judgment Enforcement Act* will remedy these faults, giving British Columbia a modern and integrated system for enforcing money judgments and making it easier for successful litigants to obtain payment of money owed to them. As the ministry of attorney general explained in its news release accompanying Bill 27: Read the full BCLI [article](#).

The Average Person's Perspective Matters when Interpreting an Insurance Policy

The BC Court of Appeal delivered yet another reminder to insurers that, when interpreting policy wording, the policy must be read as a whole and the analysis must not be reduced to specific words viewed in isolation. Failing to do so may result in arriving at an incorrect coverage determination, as was recently seen in *Gill v The Wawanesa Mutual Insurance Company*, [2023 BCCA 97](#) [*Gill*], where the Court of Appeal found a water back-up on a partially enclosed sun deck was "within [*the*] dwelling" and found coverage for the insured. Read the [full article](#) by Kim Do with Clark Wilson LLP.

**BC Lawyers Can Now Access Provincial Court Family Court Records Digitally! ...
Digital access to criminal court records coming soon!**

BC lawyers no longer have to visit a courthouse in person to see Provincial Court records in family matters – they can now access these court records digitally with just a few clicks! This digital access will increase convenience and speed of delivery for lawyers while reducing workload for court registry staff. Read the [full article](#) on the BC Provincial Court website.

Act or Regulation Affected	Effective Date	Amendment Information
Balanced Budget and Ministerial Accountability Act	May 11/23	by 2023 Bill 10, c. 23, section 1 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Ballot Form Regulation (66/2022)	May 23/23	by Reg 130/2023
	RETRO to Nov.	by 2023 Bill 11, c. 14, section 2 only (in force by Royal Assent), Election Amendment Act, 2023

Election Act	30/17	
	May 11/23	by 2023 Bill 11, c. 14, sections 1, 3 to 51 only (in force by Royal Assent), Election Amendment Act, 2023
Freedom of Information and Protection of Privacy Act	June 1/23	by 2021 Bill 22, c. 39, section 48 only (in force by Reg 127/2023), Freedom of Information and Protection of Privacy Amendment Act, 2021
Members' Remuneration and Pensions Act	RETRO to Mar. 31/20	by 2023 Bill 10, c. 23, section 2 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	RETRO to Mar. 31/23	by 2023 Bill 10, c. 23, section 3 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Public Interest Disclosure Regulation (51/2019)	June 1/23	by Reg 131/2023
Treaty First Nation Taxation Act	May 11/23	by 2023 Bill 10, c. 23, section 178 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Vote Counting Regulation	May 23/23	by Reg 130/2023



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Notice – New edition of CAN/CGSB-43.147 Is Published

From [Transport Canada](#):

A new edition of the following standard has been developed by the Canadian General Standards Board (CGSB) and was published in March 2023:

[CAN/CGSB-43.147-2023](#) "Containers for transport of dangerous goods by rail".

Multiple Attempts to Settle a Car Accident Claim Affects

Entitlement to Costs: BC Supreme Court

The BC Supreme Court has warned in a recent motor vehicle accident case, that multiple offers to settle might affect the plaintiff's entitlement to costs.

In *Funk v. McLurg*, [2023 BCSC 656](#), Nicole Funk was stopped at a red traffic light when Carol Jean McLurg's vehicle struck Funk's car from behind. The BC Supreme Court ruled that McLurg's negligence caused the accident and the injuries Funk sustained. The court calculated the amount of damages at approximately \$1.3 million but reduced it by 20 percent. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Uber Expands to Victoria & Kelowna

After years of trying to break into the market, the popular ride-hailing app Uber is set to launch in Victoria and Kelowna [on June 6]. The Passenger Transportation Board recently approved the licence transfer from BC-based ReRyde Technologies to Uber, which will allow it to operate in both regions. Uber

had previously applied for a licence to run in Victoria in 2020; however, it was denied based on the concern that it would negatively impact the existing taxi industry.

Six-Percent Cap on Auto Case Disbursements Recovery Can Be Struck: BCCA

British Columbia's court of appeal has dismissed [[2023 BCCA 200](#)] the province's appeal of a lower court decision that struck down as unconstitutional the province's six percent cap on disbursements for experts in personal injury actions arising from auto accidents.

However, while the Court of Appeal for BC panel earlier this month denied the Attorney General's appeal on administrative law grounds, two judges did not find the regulation unconstitutional. Still, a strong dissenting opinion by Justice Mary Newbury dismissed the appeal on constitutional law grounds as well. Read the [full article](#) by [Zena Olijnyk](#) in the *Canadian Lawyer*.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [NSC Bulletin 01-2023](#) – Electronic Logging Devices (ELDs in British Columbia) – Updated)
- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause

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

- [Deadline to activate additional taxis extended](#)
Recognizing the significant impact COVID-19 has had on the passenger transportation industry, the Board has extended its BC-wide extension for the activation of Taxi modernization vehicles, and vehicles approved after March 2020, until December 31, 2023.

Applications Received

- [17031-23](#) – Kalum Kabs Ltd.
- [17391-23](#) – Whistler Eco Tours Ltd.
- [17463-23](#) – A.C. Taxi Ltd.
- [17417-23](#) – Solomon Ena Urhodo (The Luxporter)
- [17087-23](#) – Zayan Limousine Inc.
- [17420-23](#) – Comox Taxi Ltd.
- [17748-23](#) – Current Taxi Ltd.
- [17432-23](#) – KJ Limousine Services Ltd.
- [17509-23](#) – Mountain Car Service Ltd.
- [17433-23](#) – Luxe Fleet Inc.
- [17345-23](#) – Mehran Yanough (Perspolis Tour & Transport)
- [17478-23](#) – Victoria Taxi Transportation Ltd.

Application Decisions

- [16407-22](#) – Beaton's Meet & Greet Ltd. [Approved]
- [15824-22](#) – UBER Canada Inc. [Approved]
- [17745-23 TOP](#) – City Limousine Ltd. [Approved]
- [16509-22](#) – Hollywood Limousines Ltd. [Approved]
- [17872-23 PS TOP](#) – Douglas Reginald McLean [Approved]
- [17873-23 TOP](#) – Penticton Eco Taxi Ltd. [Approved]

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

Effective

Act or Regulation Affected	Date	Amendment Information
Motor Fuel Tax Act	May 11/23	by 2023 Bill 10, c. 23, sections 138 to 141 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Motor Fuel Tax Regulation (414/85)	May 15/23	by Reg 121/2023



OCCUPATIONAL HEALTH & SAFETY

Occupational Health & Safety News:

Consultation on Proposed Amendments to Part 5 of the Occupational Health and Safety Regulation

– from [WorkSafeBC](#)

Our Policy, Regulation and Research Department is requesting feedback on [proposed amendments](#) to Part 5, Chemical Agents and Biological Agents, sections 5.97 to 5.105 – Emergency Planning, of the [Occupational Health and Safety Regulation](#). The amendments are related to emergency planning. The consultation phase gives stakeholders an opportunity to provide feedback before the proposed amendments are taken to public hearing. All stakeholder feedback is carefully considered and analyzed, and provided to WorkSafeBC's Board of Directors as part of their decision-making process. Feedback will be accepted until 4:30 p.m. on June 19, 2023.

Marijuana Use amongst Employees Hits 25-year High

The percentage of employees testing positive for marijuana after a workplace accident reached a 25-year high in 2022, with the positivity rate increasing by over 200% within a decade. The post-accident marijuana positivity among employees hit 7.3% in 2022, the highest since 1997, according to an analysis of Quest Diagnostics of more than 9.2 million urine drug tests last year. This data follows a steady increase in the positivity rate since 2012, where the healthcare company discovered a 204.2% surge between that year and 2022. Read the [full article](#) by Dexter Tilo with Canadian Occupational Safety.

BC to Tackle the Deadliest Workplace Killer

When Lee Loftus was 10, he remembers his father coming home through the back door, covered in thin threads of asbestos. Back then, it was everywhere. "The industry in the '70s and the '80s, we were literally rolling in this," said Loftus. "We were rolling in it in ships, in attics, it was all over us in the oil refineries and the pulp mills. There wasn't a workshop that wasn't covered in asbestos." Now, it's in Loftus's lungs. He is one of thousands of workers in British Columbia whose bodies were permanently changed by exposure to asbestos, a once-popular insulator that has been linked to numerous forms of cancer. The dangers of asbestos have been known for decades, but it remains the number one killer of workers in British Columbia. Read the [BIV article](#).

BOD Decision – 2023/04/26-01 – Changes to Classification

Assignment Policy: Special Hazard and Labour Supply Exceptions

– from [WorkSafeBC](#)

On April 26, 2023, WorkSafeBC's Board of Directors approved [amendments](#) to policy in Item AP5-244-2, *Classification – Assignment*, of the *Assessment Manual* to remove the special hazard exception and clarify language in the labour supply firm exception. The amended policy applies to all decisions made on or after June 1, 2023.

Amendments to Workers Compensation Act

On May 15, [B.C. Reg. 18/2023](#) amended Schedule 2, Non-Traumatic Hearing Loss, of the [Workers Compensation Act](#), in accordance with [section 145](#) of the Act. For the purposes of [section 198](#), the

changes reflect current scientific and medical literature on non-traumatic hearing loss and include updates to the following:

- the frequencies used to measure hearing loss;
- the methods used to measure hearing loss;
- the ranges of hearing loss in decibels; and
- the percentages of total impairment for hearing loss.

New Public Health Orders

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

- [Hospital and Community \(Health Care and Other Services\) COVID-19 Vaccination Status Information and Preventive Measures – April 6, 2023 \(PDF, 542KB\)](#)
- [Residential Care COVID-19 Preventive Measures – April 6, 2023 \(PDF, 495KB\)](#)

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

OHS Policies/Guidelines – Updates

Guidelines – [Workers Compensation Act](#)
May 23, 2023

Editorial revisions were made to the following guideline:

- Part 2 Division 12 – Enforcement
[G-P2-85-2 Approvals, acceptances, authorizations, or permissions under the OHS Regulation](#)

Act Update – *Workers Compensation Act*
May 15, 2023

In accordance with section 145 of the Act, Schedule 2 of the Act is amended. [[B.C. Reg. 18/2023](#), effective May 15, 2023]

Guidelines – [Occupational Health and Safety Regulation](#)
May 11, 2023

The following guideline was revised:

- Part 7 Radiation
[G7.21 Reproductive hazards](#)

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

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	May 1/23	by 2022 Bill 41, c. 37, section 11 (in force by Royal Assent), Workers Compensation Amendment Act (No. 2), 2022
	May 15/23	by Reg 18/2023

 **PROPERTY & REAL ESTATE**

Property and Real Estate News:

Amendments to Strata Property Act

On May 11, the [Strata Property Act](#) was amended by two different bills. Amendments made by the *Strata Property Amendment Act, 2023*, [Bill 22](#), that are now in force aim to improve access to electric vehicle charging in residential strata buildings. A majority voting threshold has been set for a resolution to approve significant changes related to the installation of an EV charging infrastructure or the management of electricity used by an EV charging infrastructure. The *Miscellaneous Statutes Amendments Act (No. 2), 2023*, [Bill 24](#), changes are retroactive to November 24, 2022 and clarify that strata corporations cannot pass bylaws setting a minimum age that is less than 55 and also cannot have or enforce such bylaws that have already been passed.

Case Summary: Landlord Who Failed to Move into Her Condo after Evicting Her Tenant Due to a Change of Moving Plans Arising out of the COVID-19 Pandemic

Dyck v. Lyndon, [2023] B.C.J. No. 518, [2023 BCSC 440](#), British Columbia Supreme Court, March 23, 2023, D.A. Betton J. In September 2020, pursuant to s. [49\(3\) of the Residential Tenancy Act](#), a Manitoba-resident landlord evicted the tenant in her BC condo with two months' notice on the basis that she or a close family member would be moving into the unit. The tenant moved out and then noticed no one moved in. Seven months after the eviction notice, he noticed the property was listed for sale and still unoccupied. Four months later, he filed an application for dispute resolution with the Residential Tenancies Branch, seeking compensation for his eviction, which he said was not made in good faith. The landlord argued that she had intended to move into the condo but then her plans, including her retirement, became uncertain due to the COVID-19 pandemic and her hospital job. Read the [full article](#) by Kara L. Hill with Harper Grey LLP.

"Knock Knock, Who's There?" New Developments in Residential Tenancies on First Nations Reserve Lands

On May 4, the province of BC issued [Order-in-Council No. 283](#), which gives approval to the BC Minister of Indigenous Relations and Reconciliation to enter into a tripartite agreement with Squamish Nation and Canada to make regulations to govern residential tenancies on Squamish reserve lands (the Draft Agreement). The question of which laws govern landlord-tenant relationships on First Nations lands is complex. The answer depends on case-specific factors such as the type of land at issue, the existence of any laws passed by the First Nation to govern residential tenancies, the subject matter of the underlying landlord-tenant dispute, and the identities of the landlord and tenant. Read the [full article](#) by [Emily Chan](#) with Norton Rose Fulbright.

BC Has Highest No-fault Eviction Rate in Canada, but Landlords Say Rules Make Valid Evictions too Difficult

British Columbia has the highest rate of no-fault evictions in Canada, but some landlords say the province's tenancy rules make it too hard for landlords to raise rent and evict tenants for valid reasons. No-fault evictions for landlords to renovate, demolish, sell or inhabit a unit, make up about 85 per cent of evictions in BC, according to [recent research](#) from the University of British Columbia. And they happen nearly twice as often in BC compared to the rest of Canada, with some housing experts [citing](#) low penalties and rising market rents as incentives for landlords to end tenancies under false pretences, in order to raise rents for the next tenant. Read the full CBC [article](#).

Changing Strata Law to 55-plus Not a Blanket Ban on Young

A number of British Columbia strata corporations are considering implementing 55-plus age restrictions, after the province blocked bans on condo rentals last year. The [amendment](#) to the [Strata \[Property\] Act](#), passed in November 2022, eliminated all rental restriction bylaws, except those banning short-term rentals, and all age restriction bylaws, except those for "seniors only" (55-plus) buildings. The new rules apply to pre-2010 buildings. many of which are smaller self-managed strata corporations with fewer than 50 owners. Tony Gioventu, executive director of the Condominium Home Owners Association, explained how the new rules play out in 55-plus buildings. Read the *BIV* [article](#).

Compensation for Expropriation of a Commercial Property: What Can You Claim?

Governments, municipalities, public utilities, and transit authorities all have the power to expropriate private property for the construction and operation of projects that benefit the public. The power of

expropriation can be exercised over an entire property or a portion of a property. The interest expropriated can be the fee simple (or ownership) interest or only a statutory right of way. When a property is expropriated in whole or in part, the owner and other parties with an interest in the property are entitled to compensation. In British Columbia, that compensation is determined by the Supreme Court of British Columbia in accordance with the [Expropriation Act](#), RSBC 1996, c. 125. Read the [full article](#) by [Laura Morrison](#) and [Rodney Urquhart](#) with Edwards, Kenny & Bray LLP.

Act or Regulation Affected	Effective Date	Amendment Information
First Nations Trust Property Transfer Tax Exemption Regulation (129/2023)	NEW RETRO to Jan. 1/22	see Reg 129/2023
Land Tax Deferment Act	May 11/23	by 2023 Bill 10, c. 23, sections 113 to 115 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Land Tax Deferment Regulation (57/98)	May 15/23	by Reg 121/2023
Land Title and Survey Authority Act	May 4/23	by 2021 bill 19, c. 24, section 102 only (in force by Reg 114/2023), Societies Amendment Act, 2021
Property Transfer Tax Act	May 11/23	by 2023 Bill 10, c. 23, sections 148, 153 and 154 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Property Transfer Tax Regulation (74/88)	May 15/23	by Reg 121/2023
Speculation and Vacancy Tax Act	RETRO to Nov. 27/18	by 2023 Bill 10, c. 23, section 171 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
	May 11/23	by 2023 Bill 10, c. 23, section 172 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Strata Property Act	RETRO to Nov. 24/22	by 2023 Bill 24, c. 16, section 11 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 2), 2023
	May 11/23	by 2023 Bill 22, c. 21, section 1, 3, 6, 10 and 13 only (in force by Royal Assent), Strata Property Amendment Act, 2023
Strata Property Regulation (43/2000)	May 1/23	by Reg 116/2023

Wills and Estates News:

Estate Calls Woman 'Former Spouse' in Application, Later Disputes This Status

Evidence supporting that a relationship returned to being marriage-like from late 2019 until the decedent's death outweighed evidence suggesting that a couple separated for good in 2018, said a BC court in a recent estates law case [[2023 BCSC 682](#)].

In late 2010, Lisa Hoy and John Wagemans met and became romantically involved. At the time, he lived with his ex-wife though they were estranged. In January 2011, the ex-wife permanently moved out. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Unequal Inheritance Between Siblings in Canada – Case Study

In Canada, the question of whether an inheritance should be distributed equally between siblings has been a subject of legal debate. In British Columbia, for example, the case of [Grewal v. Litt](#) showcased a situation where an unequal inheritance between siblings led to a legal challenge. This article discusses the implications of this case, addressing the question of whether an inheritance should be distributed equally among siblings and how the court can intervene to ensure a fair and equitable division of an estate. Read the [full article](#) published by the Onyx Law Group.

No Testate or Intestate Right to Graze Livestock on Deceased's Property: BC Supreme Court

The BC Supreme Court has recently dismissed a plaintiff's claim that he has a right to graze his livestock on a certain property after the owner's death.

In *Massot v Shewchuk*, [2023 BCSC 673](#), William Welsh owned property in Cherryville, BC, before he passed away in 2021. While Welsh was still alive, Eric Massot grazed livestock on the property with the agreement of the deceased. Massot claimed that his arrangement to graze livestock on the property has existed for over 20 years. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Act or Regulation Affected

Effective Date

Amendment Information

There were no amendments this month.

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