

# Quickscribe Reporter

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## Vol: XXIII – Issue 1 – January 2024

### QS News

#### Paul McLean to Annotate OHS Legislation on Quickscribe

Quickscribe is thrilled to announce that [Paul McLean](#), partner with Mathews Dinsdale & Clark LLP, will soon begin contributing annotations for Occupational Health and Safety legislation on Quickscribe. Recognized as a leading practitioner by Best Lawyers and Lexpert, Paul provides strategic counsel to clients concerning occupational health and safety matters, workplace litigation, inquests, workers' compensation and human rights issues. Paul has over twenty-five years of experience in this area of practice and has worked in the mining, transportation, hospitality, construction and financial sectors.

#### Upcoming Spring Legislative Session

The next [spring legislative session](#) is set to begin with the throne speech on February 20, 2024. We recommend that you use this time to [create alerts](#) that will keep you informed of any relevant legislative changes.

### New Annotations

New Annotations have been added to Quickscribe:

- [Bill Buholzer](#), Young Anderson Barristers & Solicitors – [Local Government Act](#)
- [Rachel Roy](#), Allevato Quail & Roy – [Personal Information Protection Act](#)
- [Teresa Tomchak](#), Osler, Hoskin & Harcourt LLP – [National Instrument 62-104 Take-Over Bids and Issuer Bids](#)

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

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### Want to Track Federal Laws?



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

### Looking for Previous Reporters?

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

## Reporter Categories

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## COMPANY & FINANCE

### Company and Finance News:

### Ahamed: Taxpayer Delays Lead to Enhanced Costs

The Tax Court of Canada (“TCC”) recently exercised its discretion in [Ahamed](#) to award costs to the Crown in excess of the amounts provided for in the tariff under the [Rules](#). The enhanced costs award was the result of the significant delays caused by the taxpayer’s conduct in the course of the appeal, both before and during the trial. The *Ahamed* decision is a valuable reminder of the importance of proper litigation conduct. The TCC may exercise its discretion to award costs to a party in excess of the tariff, relying on section 147 of the *Rules*. When deciding whether to exercise its discretion, the TCC will consider the factors in subsection 147(3). Read the [full article](#) by [Caine Chapman](#) and [Jesse Waslowski](#) with McCarthy Tétrault.

### All Access Passes for Prospectuses! The CSA Introduces “Access-Equals-Delivery” Model

Reporting issuers and dealers will soon be able to save costs and avoid the administrative burden associated with printing and mailing prospectuses to investors. On January 11, 2024, the Canadian Securities Administrators (the “CSA”) posted final amendments to the [“Access-Equals-Delivery”](#) model (the “Access Model”) for the delivery of prospectuses of non-investment fund reporting issuers. The Access Model will take effect on April 16, 2024, subject to the CSA obtaining the requisite approvals. The Access Model will not be available for investment funds. Under the new Access Model, reporting issuers will now be able to deliver their prospectuses to investors by filing the document on SEDAR+ and issuing an associated news release. This approach is intended to modernize the way investors access public documents, while upholding investor protection and aligning with the shift towards electronic document consumption. As the CSA stated: “The Access Model for prospectuses offers benefits for both issuers and investors by providing a more cost-efficient, timely and environmentally friendly manner of communicating information to investors than paper delivery.” Read the [full article](#) by [Derrick Auch](#), [Mitchell Smith](#) and [Sophie Gadbois](#) with DLA Piper.

### Measure for Measure – Federal Government to Create New Public Transparency Register for Private Federal Business Corporations

Following Quebec and British Columbia, the federal government plans to create a federal register on individuals with significant control searchable by the public. The federal government has enacted legislation that creates a federal register on individuals with significant control that will be searchable by the public. Current as of January 22, 2024, private corporations governed by the [Canada Business Corporations Act](#) (the “CBCA”) will have to file the information contained in their registers of individuals with significant control (“ISC Registers”) with Corporations Canada, and some of the information in the ISC Registers will be available to the public. Read the [full article](#) by Dierk Ullrich, Brendan Sawatsky, Emilie Clairoux, Guillaume Saliah, Alexis Fizjohn and Carmen Loh with Fasken.

### NorthWest Copper: BC Securities Commission Decision Favours Free Flow of Information Among Shareholders

In its recent decision in [NorthWest Copper Corp., 2023 BCSECCOM 602](#) (NorthWest Copper), the British Columbia Securities Commission (Commission) dismissed an application by NorthWest Copper Corp. (NWST or the Company) alleging that three separate shareholders had been acting jointly or in concert, and that those shareholders had failed to make public “early warning” disclosure regarding their joint action and ownership of over 10% of the Company’s outstanding shares, as required by [National Instrument 62-104 – Take-Over Bids and Issuer Bids](#) (NI 62-104). The Commission’s decision provides greater clarity on an issue that is often raised by companies facing dissident actions by multiple shareholders. In particular, the decision sets a high threshold to establish joint actor relationships among shareholders who are engaged in discussions with each other regarding potential challenges to incumbent boards. The panel also reiterated prior decisions of securities regulators, cautioning that even where a breach of early warning rules is established, regulators will generally decline to grant remedies such as disqualifying votes or prohibiting solicitation. Instead, an order for remedial disclosure can be expected. Read the [full article](#) by [Alex Moore](#) and [Jennifer Crawford](#) with Blake, Cassels & Graydon LLP.

### What’s New? The Latest Evolution in the GAAR “Modernization” Proposals

The Department of Finance first publicly announced an intention to modify the general anti-avoidance rule (the “GAAR”), found in section 245 of the [Income Tax Act](#) (Canada) (the “Act”), on November 30, 2020. This intention most recently came to fruition with the release of legislative proposals on August 4, 2023 (the “August Proposals”) and the introduction of [Bill C-59](#) in Parliament on November 30, 2023. This blog outlines the key similarities and differences between the August Proposals and the GAAR changes contained in Bill C-59. Read the [full blog](#) published by Molly Martin with Thorsteinssons LLP.

### CRA Releases Guidance on New Trust Reporting Rules

The CRA has released an [FAQ page](#) regarding the new reporting rules in respect of trusts for taxation years ending on or after December 31, 2023. As stated by the CRA, “many trusts that did not previously have to file are now required to file an annual T3 Return.” This includes a “bare trust”, which, per subsection 150(1.3) of the [Income Tax Act](#), includes “an arrangement under which the trustee can reasonably be considered to act as agent for all the beneficiaries under the trust with respect to all dealings with all of the trust’s property.” For trusts (including bare trusts) with a December 31, 2023 taxation year-end, the deadline provided by the CRA to file a T3 tax return is April 2, 2024. The CRA has also released its [T3 Trust Guide](#) for 2023, which contains additional instructions in regards to filing T3 returns for trusts having regard to the new rules. Read the [tax alert](#) prepared by [Tyler Berg](#).

### Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

#### Provincial sales tax (PST)

- **January 19, 2024**

[Bulletin PST 321, Businesses from Outside B.C. \(PDF, 360KB\)](#), has been revised to:

- Add information about when a business located outside B.C. may be required to register to collect and remit PST
- Add online marketplace facilitators, software companies and telecommunication service providers to the list of businesses that may have to pay PST or register to collect and remit PST or both

• **January 23, 2024**

[Bulletin PST 107, Telecommunication Services \(PDF, 470KB\)](#), has been revised to:

- Clarify registration requirements
- Add information about online marketplace facilitators and sellers
- Clarify information about prepaid purchase cards, which include gift cards and gift certificates
- Add information about educational exemptions

• **January 29, 2024**

[Bulletin PST 201, Children's Clothing and Footwear \(PDF, 340KB\)](#), has been revised to clarify how customers apply for refunds if they paid PST on adult-sized clothing and footwear they purchased or rented for children under 15 years of age.

• **January 30, 2024**

The [Small business guide to PST](#) has been revised to emphasize that the additional Major Events Municipal and Regional District Tax (Major Events MRDT) applies to short-term accommodation in the City of Vancouver only.

**Motor fuel tax and carbon tax**

• **January 16, 2024**

[Bulletin MFT-CT 002, Sales to First Nations and the Fuel Tax Exemption Program \(PDF, 200KB\)](#), has been revised to update the documentation that is required when tax-exempt fuel is sold at retail gas stations, through cardlock operations or delivered to customers located on First Nations land.

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

**BC Securities – Policies & Instruments**

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

- [41-101](#) – CSA Notice of Publication of Amendments and Changes to Implement an Access Model for Prospectuses of Non-Investment Fund Reporting Issuers
- [81-102](#) – CSA Notice and Request for Comment Proposed Amendments to National Instrument 81-102 Investment Funds pertaining to crypto assets

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation	Feb. 1/24	by <a href="#">Reg 182/2023</a>
Financial Institutions Act	Jan. 15/24	by 2023 Bill 42, c. 47, sections 13 and 15 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Insurance Premium Tax Act	Jan. 1/24	by 2023 Bill 10, c. 23, sections 89, 96 to 98 and 111 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2023</a>
National Instrument 81-104 Alternative Mutual Funds (283/2002)	<b>REPEALED</b> Jan. 29/24	by <a href="#">Reg 288/2023</a>
Securities Act	Jan. 15/24	by 2023 Bill 42, c. 47, sections 13 and 15 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>

 **ENERGY & MINES**

**Energy and Mines News:**

**McLeod Lake Band Takes Stake in Defense Metals' Rare Earth Project in British Columbia**

Defense Metals (TSXV: DEFN) has entered into a co-design agreement with the McLeod Lake Indian Band regarding development of its 100%-owned Wicheeda rare earth element (REE) project. The project is about 80 km northeast of Prince George, BC. With a targeted annual production equivalent to almost 10% of current global REE production, the project has the potential to become a significant supplier of rare earth elements. The agreement calls for Defense Metals and the band to collaborate on the design of the Wicheeda project to assure the band's interests and priorities are addressed in the planning and design of future feasibility studies and environmental assessments. Read the [full article](#) published on Mining.com.

**A Brief Summary of Enroxs Energy and**

**Mining Group v. Saddam, 2022 BCSC 285**

In this decision of *Enrox Energy and Mining Group v. Saddam*, [2022 BCSC 285](#), the Supreme Court of British Columbia recognized and enforced an arbitral award made in Geneva, Switzerland under British Columbia's [International Commercial Arbitration Act](#) (ICAA) and [Foreign Arbitral Awards Act](#).

Nader Saddam (Saddad) is a Canadian and Iranian national and engineer in the oil and gas industry. Michel Pacha (Pacha), a French national resident in Geneva and the United Arab Emirates, is the sole shareholder and director of the petitioner, Enrox Energy and Group (Enrox). In 2014, Saddam and Pacha entered into a business relationship in the upstream oil and gas sector. Pacha would provide funds, while Saddam would provide expertise and contacts. They incorporated a company, Caspian Energy Solutions (Caspian). Initially, Saddam was the sole shareholder and sole director of Caspian. Pacha and Saddam entered into a number of agreements including a memorandum of understanding, a letter of undertaking (LOU), and two loan agreements (collectively, the Agreements), all of which contained a forum selection and choice of law clause requiring all disputes to be arbitrated in Switzerland according to Swiss law. Under the LOU, Saddam agreed to resign and forfeit his shares in Caspian (Shares) upon a breach of the LOU. Enrox advanced funds to Saddam under the loan agreements, and Saddam purchased oil and gas equipment (Equipment). Read the [full article](#) by [Lindsay Burgess](#) with McCarthy Tétrault.

**Not All in the Family: BC Utilities Commission Determines that Sales to Subsidiary Make Power Producer a Regulated Public Utility**

In [Decision and Order G-332-23](#) the British Columbia Utilities Commission ("BCUC") found that, by selling power generated at two hydroelectric facilities in British Columbia to the United States through a chain of affiliated companies, Powell River Energy Inc. ("PREI") fell within the definition of a "public utility" under section 1 of the [Utilities Commission Act](#) ("UCA"). The BCUC's decision confirms that it will not treat affiliates, which are separate legal entities, as one and the same and that inter-affiliate energy transactions may result in an entity being subject to regulation by the BCUC. Read the [full article](#) by [Tariq Ahmed](#) and [Niall Rand](#) with Fasken.

**Tax Incentives for Canada's Future Energy Visions**

The past two federal budgets introduced various new refundable investment tax credits ("Refundable ITCs") to encourage and promote the increased adoption of alternative or renewable energy. In the words of the Federal Government, the "transformational new big five Clean Investment Tax Credit...will help produce, manufacture, or transition to clean energy in Canada, while supporting good jobs for the middle class and ensuring more vibrant communities across Canada".

Draft or final legislation is now catching up to the earlier proposals, with the most recent draft proposals released on December 18, 2023 and [Bill C-59](#) making its way through Parliament for enactment. Read the [full article](#) by [Nancy Diep](#) with Lawson Lundell.

**BC Hydro Devoting \$36 Billion to 'Unprecedented' Electric System Buildout**

BC Hydro in British Columbia, Canada, has released its updated 10-year capital plan, which the BC government said will lead to an "unprecedented" level of construction for community and regional infrastructure, including generation and transmission.

BC Hydro's updated 10-year capital plan includes almost \$36 billion in investments throughout the province between 2024-25 and 2033-34. This represents an increase of 50% over BC Hydro's previous capital plan (\$24 billion) and includes a significant increase in electrification and emissions-reduction infrastructure projects (nearly \$10 billion, up from \$1 billion). Read the [full article](#) by [Elizabeth Ingram](#) in the *Hydro Review*.

**BC Energy Regulator Announcements**

The following BC Energy Regulator announcements were posted recently:

- [IU 2024-01](#) – New Planning and Mitigation Measures for Energy Resource Activities in Treaty 8 Territory
- [IU 2024-02](#) – Water Use Suspensions Expected in 2024
- [IU 2024-03](#) – Energy Resource Activities Act Amendment for Heritage Conservation Act

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

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

**Family and Children News:**

**Are Discretionary Trusts Excluded Property in Divorce?**

If you are contemplating separating from your partner or are in the midst of a divorce, you may be wondering what constitutes excluded property and what entitlement, if any, your ex may have to any discretionary trusts you may be a beneficiary of.

The BC Court of Appeal's recent judgment on *Cottrell v Cottrell*, [2023 BCCA 471](#) grappled with this very question and provides some insights on how courts should approach discretionary trusts concerning excluded property in family law proceedings, and how it may go about valuing these trusts. Read the [full article](#) by [Chantal Cattermole](#) and [Alison Carter](#) with Clark Wilson LLP.

**Human Rights Tribunal Has Jurisdiction in Discrimination Claims Against Family Welfare Agency: Court**

A British Columbia Supreme Court judicial review decision recently confirmed that the BC Human Rights Tribunal has jurisdiction over discrimination claims brought against the provincial Ministry of Children and Family Development (MCFD).

*Vancouver Aboriginal Child and Family Services Society v R.R.*, [2024 BCSC 97](#) was an "important case," said Justice Geoffrey Gomery, because it raised questions about "the respective roles of the Provincial Court and the Human Rights Tribunal in addressing the removal of children from Indigenous parents." Read the [full article](#) by [Aidan Macnab](#) in the *Canadian Lawyer*.

**'Groundbreaking' Family Law Changes in BC Alter How Courts Deal with Family Pets**

In amendments to the province's [Family Law Act](#), which came into force Monday [January 15, 2024], British Columbia has changed how the law treats pets in divorce and separation proceedings.

Courts will assess the pets' best interests and consider who has historically taken care of the animal and its relationship with children when determining which party takes possession. Courts can now also order parties to uphold a previous agreement for sharing ownership or for exclusive ownership by one party. Read the [full article](#) by [Aidan Macnab](#) in the *Canadian Lawyer*.

**Clarifying the Law (Maybe): What's the Appropriate Standard of Review for Appeals from Family Law Arbitrations?**

In any appeal, figuring out what standard of review should be applied to the lower court's decision is an important question. Prior to the Supreme Court of Canada's decision in *Canada (Minister of Citizenship Immigration) v. Vavilov*, [2019 SCC 65](#), when a party to a family law arbitration sought to appeal that arbitration, the judge hearing that appeal would apply a standard of reasonableness to the arbitrator's decision. So long as the decision was within the range of reasonable outcomes, an appeal judge would not interfere.

Following the *Vavilov* decision, a lot of uncertainty was introduced into appeals from arbitrations, both family and otherwise. This is because the *Vavilov* decision changed the standard of review on judicial review matters, but left open the possibility that the standard of review had changed for appeals from arbitrations as well. Read the [full article](#) by [Chantal Cattermole](#) and [Alison Colpitts](#) with Clark Wilson LLP.

**BC Supreme Court Rejects 'Undue Hardship' Claim to Avoid Child Support Obligation**

In a recent decision, the BC Supreme Court refused to reduce a father's child support obligation to zero, rejecting his claim of "undue hardship."

In *Hull v. Kornilov*, [2024 BCSC 82](#), the court has concluded a lengthy dispute between parents Kate Hull and Nikita Kornilov over child support for their four-year-old daughter, Mila, born in November 2019. The parents met in 2018 when Hull travelled to Whistler from Australia on a two-year working holiday visa. They had a romantic relationship and lived together but were never formally married. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Child, Family and Community Service Act	Jan. 15/24	by 2022 Bill 38, c. 40, sections 19 (part), 28, 30, 32, 36, 37, 39 and 57 (b) (part) only (in force by <a href="#">Reg 275/2023</a> ), <a href="#">Indigenous Self-Government in Child and Family Services Amendment Act</a>
Child, Family & Community Service Regulation (527/95)	Jan. 15/24	by <a href="#">Reg 275/2023</a>
Court of Appeal Act	Jan. 15/24	by 2023 Bill 42, c. 47, section 13 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Crime Victim Assistance Act	Jan. 1/24	by 2023 Bill 37, c. 36, sections 1 to 17 only (in force by <a href="#">Reg 270/2023</a> ), <a href="#">Crime Victim Assistance Amendment Act, 2023</a>



Crime Victim Assistance (General) Regulation (161/2002)	Jan. 1/24	by <a href="#">Reg 270/2023</a>
Family Law Act	Jan. 15/24	by 2023 Bill 17, c. 12, sections 1, 2, 5, 7 and 21 only (in force by <a href="#">Reg 215/2023</a> ), <a href="#">Family Law Amendment Act, 2023</a>
		by 2023 Bill 42, c. 47, section 14 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Infants Act	Jan. 15/24	by 2022 Bill 38, c. 40, section 58 only (in force by <a href="#">Reg 275/2023</a> ), <a href="#">Indigenous Self-Government in Child and Family Services Amendment Act</a>
Provincial Court (Child, Family & Community Service) Rules (533/95)	Jan. 15/24	by <a href="#">Reg 276/2023</a>
Provincial Court Family Rules (120/2020)	Jan. 15/24	by <a href="#">Reg 214/2023</a>
Public Guardian and Trustee Act	Jan. 15/24	by 2022 Bill 38, c. 40, section 59 only (in force by <a href="#">Reg 275/2023</a> ), <a href="#">Indigenous Self-Government in Child and Family Services Amendment Act</a>
Supreme Court Act	Jan. 15/24	by 2023 Bill 42, c. 47, sections 1 to 10 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Supreme Court Civil Rules (168/2009)	Jan. 15/24	by <a href="#">Reg 239/2023</a> and <a href="#">Reg 277/2023</a>
Supreme Court Family Rules (169/2009)	Jan. 15/24	by <a href="#">Reg 239/2023</a> and <a href="#">Reg 277/2023</a>



## FOREST & ENVIRONMENT

### Forest and Environment News:

#### Concerns Raised Over B.C.'s *Land Act* Amendments

The B.C. government is planning some major changes to way land use decisions are made, and resource companies in particular may want to pay attention to the proposed changes, warn lawyers for the law firm McMillan.

In a [brief](#) published Friday, the law firm alerts B.C. businesses to the fact the B.C. government is undertaking [Land Act](#) amendments as part of its efforts to bring all B.C. laws and statutes in line with the Declaration on the Rights of Indigenous Peoples (DRIPA).

The [proposed changes](#) to the *Land Act* could have wide-ranging implications for resources companies – from loggers and miners to farmers and oil and gas companies. The B.C. government is now accepting public input on the proposed changes. Read the [BIV article](#).

#### Landscape Resilience – By Design

Landscape fire management (LFM) is a powerful, collaborative approach to achieving the goals of ecosystem health and landscape resilience. The Forest Practices Board's recent special report, [Forest and Fire Management in BC: Toward Landscape Resilience](#), is a call for the provincial government to take bold, immediate action to align policies and programs across all levels of government with a vision of landscape resilience. It is the opinion of the Board that a provincial vision and action plan are critical to enable landscape fire management to occur at the pace and scale required to reduce the risk of catastrophic wildfires in BC. The companion document to the special report, [Practicing Landscape Fire Management](#), describes some principles land managers can integrate into practice. Read the [full article](#) by Tracy Andrews, Nick Reynolds and Bruce Blackwell in the *BC Forest Professional* Winter 2024 issue.

#### Better Water Management Practices Coming to B.C.

Water used by people, wildlife and communities in British Columbia will be protected against misuse by new regulations that promote compliance with water management best practices.

Government has implemented [regulations](#) that will allow financial penalties to be issued for violations of the [Water Sustainability Act](#). The goal is to promote compliance with the legislation and to better manage water resources in B.C., while protecting critical habitat for vulnerable species. Read the government [news release](#).

#### New Wildlife Habitat Area (Selkirk Natural Resource District)

Notice is hereby given that Wildlife Habitat Area (WHA) 4-319 in the Selkirk Natural Resource District is established for great blue heron in the Kootenay Boundary Region. The Order was signed on January 23, 2024 under the authority of sections 9(2) and 10(1) of the [Government Actions Regulation](#) (B.C. Reg. 582/2004) of the [Forest and Range Practices Act](#) and section 30 of the [Environmental Protection and Management Regulation](#) (B.C. Reg. 200/2010) of the [Energy Resources Activities Act](#). Details of the Order may be obtained from the Ecosystems Section, Kootenay Boundary Region, Ministry of Water, Land and Resource Stewardship, 401 - 333 Victoria Street, Nelson, BC V1L 4K3. The Government Actions Regulation Order, accompanying map, and spatial files may also be obtained from: [https://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show\\_approved](https://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show_approved)

### Introducing the Affiliated Forest Professional

*What is it? Why now? What does it mean for the profession?*

Forest Professionals British Columbia is pleased to offer a new subcategory of registration enabled by the bylaws under the [Professional Governance Act](#): the Affiliated Forest Professional (AFP). The AFP is a subcategory of associate registrant that fills a niche people have inquired about for years and addresses gaps that have grown more apparent as the profession has evolved over time. There are two policy pathways which direct FPBC's efforts towards the target audiences for this designation; one for academics, instructors, and researchers, and another for those who require a limited licence in a narrow aspect of reserved practice. Read the [full article](#) by Casey Macaulay in the *BC Forest Professional* magazine, Winter 2024 issue.

### Canada's Zero Plastic Waste Agenda: Update

As the year 2024 starts, the Canadian Government continues to implement its "Zero Plastic Waste Agenda", through judicial and legislative measures.

In advancing this Agenda, on December 30, 2023 the Government of Canada opened a [consultation](#) on its publication of a [Notice of intent to issue a section 46 for the Federal Plastics Registry](#). The plastics registry would collect data on plastics by requiring that producers report annually on the quantity and types of plastic they place on the Canadian market and its end-of-life management. Stakeholders can send their comments to ECCC until February 13, 2024. Read the [full article](#) by [Cindy Vaillancourt](#) and [Morgane L. Besner](#) with McCarthy Tetrault.

### Hike to U.S. Softwood Lumber Duties 'Entirely Unwarranted,' Trade Minister Says

*Mary Ng says Canada will fight duties by every means available, as U.S. plans raise from 8.05% to 13.86%*

The federal government has lashed out at the U.S. Commerce Department over plans to raise duties on Canadian softwood lumber. International Trade Minister Mary Ng says the U.S. has signalled it intends to raise duties to 13.86 per cent, up from 8.05 per cent. Ng calls the move disappointing and entirely unwarranted. It's the latest salvo in a bilateral back-and-forth that Ottawa has described as a drag on efforts to improve the cost and supply of housing. Read the [CBC article](#).

### Ottawa, B.C. Team Up to Train Workers to Prevent, Mitigate Wildfires

The federal and British Columbia governments are teaming up to arm silviculture sector workers in the province with the skills they need to prevent and mitigate wildfires.

These workers include forestry workers, tree planters and staff at nurseries.

In partnership with the Western Forestry Contractors' Association, the two governments are launching a two-year pilot project that will ensure workers around the province are trained to understand risks and mitigations. Through the program, they will also have the skills required for best fire safety practices in B.C.'s forests. Read the [full article](#) by [Jim Wilson](#), published on *Canadian Occupational Safety*.

### Regulation of 'Forever Chemicals' (PFAS) in Canada

Per- and polyfluoroalkyl substances (PFAS) are increasingly of interest to environmental regulators – in Canada, and abroad. Recently, the federal government announced its intention to designate PFAS as a class of toxic substances under the [Canadian Environmental Protection Act](#) (CEPA), opening the door to further regulatory restrictions (and potential prohibitions) on the manufacture, use, sale and import of products containing PFAS.

In this Osler Update, we provide an overview of PFAS regulation in Canada (both current and proposed), discuss how Canada's approach to PFAS compares to the United States (including litigation trends), and consider the potential implications of increased regulation of PFAS for businesses operating in Canada. Read the [full article](#) by [Richard King](#), [Jennifer Fairfax](#), [Evan Barz](#) and [Shelby Empey](#) with Osler.

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

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

- [1782 Holdings Ltd. v. Director, Environmental Management Act](#) [Final Decision – Appeal Denied]
- [Gibraltar Mines Ltd. v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

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

- [Larry Davidson v. Water Manager](#) [Dismissal Order – Appeal Dismissed]

#### [Wildlife Act](#)

- [Bradley Bowden, Darren Linnell, Eldon McMann, Allan Tew, Stewart Fraser v. Director of Fish and Wildlife, Ministry of Forests](#) [Final Decision – Appeals Dismissed]

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

### Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

#### [Forest Act](#)

- [Eric Dutcyvich v. Government of British Columbia](#) [Settlement Order – Appeal Dismissed Without Costs]

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

- [Adams Lake Indian Band v. Government of British Columbia](#) [Final Decision – Appeal Allowed in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties ( <i>Water Sustainability Act</i> ) Regulation	<b>NEW</b> Jan. 12/24	see <a href="#">Reg 1/2024</a>
Forest Act	Jan. 1/24	by 2021 Bill 28, c. 38, section 24 only (in force by Royal Assent), <a href="#">Forest Amendment Act, 2021</a>
Greenhouse Gas Reduction (Renewable and Low Carbon Fuel Requirements) Act	<b>REPEALED</b> Jan. 1/24	by 2022 Bill 15, c. 21, section 64 only (in force by <a href="#">Reg 282/2023</a> ), <a href="#">Low Carbon Fuels Act</a>
Hazardous Waste Regulation	Feb. 1/24	by <a href="#">Reg 170/2023</a>
Low Carbon Fuels Act	<b>NEW</b> Jan. 1/24	c. 21, SBC 2022, <a href="#">Bill 15</a> , sections 1 (part), 2 to 13, 15 to 22, 28 (1), (2) (a) to (c), (4), (5), 29, 30 (1) (a) to (i), (j) (i), (iii), (iv), (k) (i), (iii), (l) to (n), (2), (3), 31 to 34, 35 (1) (a) to (c), (e), (f), (2), (3), 36 to 52, 53 (a) to (e), (g) to (i), 55 to 63 only (in force by <a href="#">Reg 282/2023</a> ), as amended by 2023 Bill 42, c. 47, sections 16 to 24 only (in force by <a href="#">Reg 282/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Low Carbon Fuels (General) Regulation (282/2023)	<b>NEW</b> Jan. 1/24	see <a href="#">Reg 282/2023</a>
Low Carbon Fuels (Technical) Regulation (295/2023)	<b>NEW</b> Jan. 1/24	see <a href="#">Reg 295/2023</a>
Manufactured Forest Products Regulation (240/2003)	Feb. 1/24	by <a href="#">Reg 256/2023</a>
Recycling Regulation (449/2004)	Jan. 1/24	by <a href="#">Reg 255/2023</a>
Renewable and Low Carbon Fuel Requirements Regulation (394/2008)	<b>REPEALED</b> Jan. 1/24	by <a href="#">Reg 282/2023</a>

## HEALTH

### Health News:

#### Dentists, Hygienists Still in the Dark on Details of Federal Dental-care Plan

With just months to go before patients can start making appointments, dentists, hygienists and other dental-care providers are still waiting for crucial details about how the federal government's new dental-care plan will work and how much they will be compensated. The government began accepting applications in January and eligibility for different groups is being phased in over time, with more than 400,000 seniors over the age of 72 enrolled so far. But dental providers say they still don't have details about how the program will work, how much the government will pay for services or how providers can sign up. Read the [BIV article](#).

#### BC Court of Appeal Dismisses Negligence Claim against Doctors Accused of Causing Brain Damage

The [BC Court of Appeal has upheld](#) the dismissal of a medical negligence claim against two family physicians, finding no palpable and overriding error in the trial judge's causation analysis. The plaintiff, Kyrcee Hanson-Tasker, commenced a lawsuit against



respondents Dr. Brian Ewart and Dr. Sheila Ewart, the family physicians charged with her care in the days after her birth. The plaintiff alleged that the negligence of the respondents caused her brain damage resulting from untreated and dangerously high levels of bilirubin in her blood. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

**BC Government Appealing Decision which Stayed Legislation on Reducing Public Drug Use**

BC has announced it intends to appeal a recent court decision which put the brakes on legislation aimed at reducing the number of people using illicit drugs in public places. The [Restricting Public Consumption of Illegal Substances Act](#) was passed by the B.C. legislature in November 2023 and prohibits people from consuming certain illegal substances in public areas such as sports fields, beaches and parks. Under the law, a police officer can order an individual to cease the consumption of an illegal substance or to move from a place, and noncompliance could be punished by a maximum fine of \$2,000 and/or a term of imprisonment up to six months. Read the [full article](#) by [Ian Burns](#) on *Law360 Canada*.

**Fast-tracked Approval for Medical Devices: Health Canada Expands Urgent Public Health Considerations Beyond COVID-19**

On January 3, 2024, the [Regulations Amending the Medical Devices Regulations \(Medical Devices for an Urgent Public Health Need\)](#) (the "Amended Regulations") came into force. They were accompanied by new [Guidance on Medical devices for an urgent public health need](#) ("UPHN Guidance"). The Amended Regulations and UPHN Guidance enable access to the expedited authorization pathway for a medical device that addresses a public health need without relying on temporary measures. Read the [full bulletin](#) by Dara Jospé, Jean-Raphaël Champagne and Geneviève Shemie with Fasken.

**Doctors of BC Publishes New Strategic Plan**

On January 29, 2024, Doctors of BC published a new [strategic plan](#) (2024-2029). According to the association that represents more than 16,000 physicians, residents and medical students in BC, the new plan will provide guidance to the association in its new mission to support BC's doctors to be leaders in delivering and improving patient care. For more information, visit the [Doctors of BC website](#).

Act or Regulation Affected	Effective Date	Amendment Information
Community Living Authority Act	Jan. 1/24	by 2023 Bill 24, c. 16, section 44 only (in force by <a href="#">Reg 286/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2023</a>
Mental Health Regulation (233/99)	Feb. 1/24	by <a href="#">Reg 257/2023</a>



**LABOUR & EMPLOYMENT**

**Labour and Employment News:**

**B.C. Launches Review of Province's Labour Relations Code**

British Columbia is launching a review of its [Labour Relations Code](#) and has appointed a three-member panel to recommend possible amendments. Labour Minister Harry Bains says the panel has been told to report back to him by May 31 after consulting interest groups and Indigenous communities on the labour laws. The code governs how provincially regulated employers interact with workers and trade unions, as well as collective bargaining issues such as dispute resolution. Read the *Global News* [article](#).

**Employer Beware: Fixed-Term Contracts and For Cause Dismissals**

In the recent decision of *Lefebvre v Gisborne Holdings Ltd.*, [2023 BCSC 2231](#), the BC Supreme Court (The Court) found that Gisborne Holdings Ltd. (the Employer) did not have cause to dismiss a fixed-term contract employee and awarded \$81,100 CAD in damages.

Ms. Lefebvre, the dismissed employee, was hired under a fixed-term contract to replace an employee on parental leave. Six weeks into the contract, the Employer terminated Ms. Lefebvre's employment, for cause, in response to an email she sent to a HR manager. Ms. Lefebvre sent the relevant email following a meeting she had with HR and her supervisor to discuss performance and communication issues; including a prior incident where Ms. Lefebvre was "testy" with a client. The email contained critiques of Ms. Lefebvre's supervisor and an allegation that the supervisor engaged in "at best, a deliberate misdirection" while addressing Ms. Lefebvre's behaviour. Read the [full article](#) by [Nicole K. Skuggedal](#) and [Lauren Dresselhuys](#) with Lawson Lundell.

**New Canada Labour Code Notice of Termination Provisions Coming February 1, 2024**

The Governor General in Council, on the recommendation of the Minister of Labour, has fixed February 1, 2024, as the date on which amendments to the [Canada Labour Code](#) (the "Code") come into force that significantly increase the entitlement to notice of termination for longer service employees.

The proposals are part of a broader Federal Government initiative to update the Code. For an overview of other upcoming and possible changes to the Code, see our October 13, 2022 article [here](#). Read the [full article](#) by [Liam Billings](#) and [John D.R. Craig](#) with Mathews, Dinsdale & Clark LLP.

**Union Awarded \$30K, B.C. Business Ordered to Pay Compensation to Some Workers**

A Kelowna plant that builds manufactured and modular home has been ordered to pay compensation to some employees after violating a collective agreement. A labour relations arbitrator heard arguments from SRI Homes and its union, United Steel Workers Local 1-423, in August and September of last year. The union filed a grievance in February 2022 alleging that, "shortly after ratification the employer unilaterally changed [the] wage scale without authorization or agreement of the local union causing morale issues on the floor." The grievance centres on wages offered by SRI Homes under the Temporary Foreign Workers Program. Read the [BIV article](#).

**Incentivizing Employees: Avoiding a Salary Deferral Arrangement**

Incentivizing employees is a critical component of most business strategies. Employers may implement arrangements for deferred cash bonuses, often subject to the satisfaction of certain criteria. From a tax perspective, the efficacy of any such arrangement requires that no tax be payable prior to the time an individual receives a cash payout. To ensure that result, it is critical to avoid the application of the "salary deferral arrangement" (SDA) rules under the [Income Tax Act](#) (Canada) (ITA).

A key exception to the SDA rules applies where a right to a cash bonus is granted to an employee for services rendered in a particular year where the cash amount is paid no later than December 31st of the third calendar year following that service year. Although seemingly straight-forward in its application, recent commentary of the Canada Revenue Agency (CRA) confirms that care needs to be taken in structuring an incentive plan based on this exception. As employers consider their strategies for the new year and beyond, it is important to keep this recent guidance in mind. Read the [full article](#) by [Jordan N. Fremont](#), [Anu Nijhawan](#) and [Hennadiy Kutsenko](#) with Bennett Jones LLP.

**Damages in Lieu of Reinstatement in Grievance Arbitration**

In an unjust dismissal grievance arbitration, where the employer fails to establish cause for dismissal, the usual remedy is reinstatement of the grievor and payment of all of their lost wages. In exceptional circumstances, however, reinstatement of a dismissed grievor may not be appropriate. In these circumstances an arbitrator may exercise their discretion to award damages to the grievor in lieu of reinstatement. Damages awarded by grievance arbitrators are intended to compensate the grievor for loss of their benefits under the applicable collective agreement, and involve different considerations than a calculation of damages payable to a non-unionized employee for wrongful dismissal at common law. Read the [full article](#) by [Russell Groves](#) and [Salim Visram](#) with Dentons.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2023)	Jan. 1/24	by <a href="#">Reg 161/2023</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Jan. 1/24	by <a href="#">Reg 161/2023</a>
Employment Standards Regulation	Jan. 1/24	by <a href="#">Reg 97/2023</a>
Extended Health Care and Dental Plans Regulation (403/97)	Jan. 15/24	by <a href="#">Reg 277/2023</a>
Group Life Insurance Regulation (No. 1) (408/97)	Jan. 15/24	by <a href="#">Reg 277/2023</a>
Long Term Disability Plan Regulation (409/97)	Jan. 15/24	by <a href="#">Reg 277/2023</a>
Occupational Health and Safety Regulation (296/97)	Jan. 1/24	by <a href="#">Reg 204/2023</a>
Personal Information Protection Act	Jan. 15/24	by 2023 Bill 42, c. 47, section 13 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Workers Compensation Act	Jan. 1/24	by 2022 Bill 5, c. 3, sections 9 (part) and 13 (part) (in force by <a href="#">Reg 142/2023</a> ), <a href="#">Workers Compensation Amendment Act, 2022</a>
		by 2022 Bill 41, c. 37, section 4 and 7 only (in force by <a href="#">Reg 142/2023</a> ), <a href="#">Workers Compensation Amendment Act (No. 2), 2022</a>



## Local Government News:

### Deadlines to Request Changes to Short-Term Rental Principal Residence Requirements

On May 1, 2024, the principal residence requirement in the [Short-Term Rental Accommodations Act](#) will come into force. This means that short-term rental accommodation services may be offered only in a host's principal residence or, in some circumstances, one secondary suite or other accessory dwelling unit. Some communities may be able to opt out of the principal residence requirement if they have:

- a population over 10,000 in the 2021 Census and a rental vacancy rate of 3% or more for each of the two previous years, or
- a population less than 10,000 in 2021, but are within 15 km of a municipality that meets the first criteria.

Requests to opt out will usually need to be submitted by March 31 to take effect November 1 of that year. However, in 2024, there is an accelerated process to allow opting out to take effect by May 1, 2024. Requests this year must be submitted by **February 29, 2024**. Some communities that are already exempt from this requirement may be able to opt in, as specified in the [Short-Term Rental Accommodations Regulations](#). The request to opt in must be submitted by **March 31, 2024** and will take effect November 1, 2024. For more information on the principal residence requirement, including opting into or out of the requirement, see pages 7 to 11 of the [Short-Term Rentals: Policy Guidance for Ministry of Housing BC Local Governments](#).

### Spotlight on Renovating the Public Hearing: When should the public hearing not be held?

BCLI is running a public consultation (closing date: 15 March 2024) for its *Renovate the Public Hearing Project*. The consultation is asking for your views on options for reforming public engagement on local-land-use bylaws. For more information about how to participate in the public consultation, please visit the [Renovate the Public Hearing Project webpage](#). This post throws a spotlight on one of the issues discussed in the consultation paper.

The [Local Government Act](#) places the [public hearing](#) at the centre of public engagement on land-use bylaws. It grants local governments only a tightly limited scope in which they may decide not to hold a public hearing. In this respect, public hearings are the legislated default and standard for engaging the public on local-land-use bylaws in BC. But the public hearing has recently come under criticism. Critics have argued that public hearings don't provide a deliberative forum for productive commentary on a land-use bylaw. Other forms of public engagement may in fact do a better job of meeting the goal of using the public's input to improve land-use decision making. Other jurisdictions have given their local governments more freedom not to hold a public hearing and more flexibility to use other forms of public engagement. To what extent should BC consider following the same path by allowing its local governments more scope not to hold a public hearing? Read the [full post](#) by Kevin Zakreski with BCLI.

### Waivers in Contracts and their Risks and Consequences to Parties

It is a common understanding that parties to a contract are bound by the provisions of that contract. However, there may come a time when one or more parties wish to waive a provision in the contract, or when one party breaches a contract, but the other party is prepared to overlook the breach. These situations raise many important questions: if you expressly waive an obligation does this waiver last indefinitely? If you do not explicitly waive an obligation, but take no action in response to the breach, has that obligation been waived? This article gives readers an overview of the law on waivers, the difficulties surrounding waiver, and the ways parties often try to protect themselves from the uncertainty of waivers. Read the [full article](#) by Kai Hsieh with Civic Legal LLP.

### Case Summary: The next time Vancouver's Fire Chief seeks to remove the shelters the occupants of Hastings Block erect, procedural fairness demands that notice of this plan and an opportunity for the occupants to provide submissions to the Fire Chief must be provided

*Vandenberg v. Vancouver (City) Fire and Rescue Services*, [2023] B.C.J. No. 2309, [2023 BCSC 2104](#), British Columbia Supreme Court, November 30, 2023, S. Matthews J. (In Chambers)

The Applicant (Stephanie Vandenberg and Lenora Blue, hereinafter the "Applicant") brought this petition for judicial review of the Fire Chief's decision to order the clearing of tarps, tents, and other structures at a growing encampment of homeless people in an area of Vancouver known as the Hastings Block (the "Fire Order"). Read the [full article](#) by Renée Gagnon with Harper Grey LLP.

### Suing over Snow Removal? Here's What the Courts Have Said about Who's Responsible

On Jan. 6, 2015, Taryn Joy Marchi stepped through a snowbank next to a newly plowed parking spot in downtown Nelson and into a classic Canadian conundrum. The ensuing drop injured Marchi's leg badly enough to warrant \$1 million in alleged damages. The city claimed it had followed its snow removal policies, but could she sue them for a job poorly done? Nine years later, the result of that question — a legal battle which made it all the way to the [Supreme Court of Canada](#) — continues to reverberate through the courts as well as the public works departments of cities across the country. Read the CBC [article](#).

### Winter Weather Recommendations to Support Homeless Populations

The BC Health Effects of Anomalous Temperatures Coordinating Committee (BC Heat Committee) has released [public health recommendations](#) to reduce the impact of exposure to winter weather on people experiencing homelessness in British Columbia. The document provides an overview of populations at risk, information on cold-related injuries, and offers recommendations on temperature thresholds, pre-season actions, and actions when enacting a winter weather response plan for people experiencing homelessness. Read the [full article](#) published by UBCM.

**Engagement Session for Local Governments on Proposed Land Act Amendments**

The provincial government is [proposing amendments](#) to the [Land Act](#) to enable shared decision making with Indigenous Governing Bodies, in keeping with [Declaration on the Rights of Indigenous Peoples Act](#) (DRIPA) agreements. UBCM met with provincial staff last week and requested the Province hold an engagement session for local governments to learn more about these amendments. This is being held February 21, and written feedback can be submitted to the Province until March 31. Read the [full article](#) published by UBCM.

**UBCM Housing Summit**

from UBCM

UBCM is hosting a housing summit for local governments on February 13-14 at the Westin Bayshore in Vancouver, and online. The summit will focus on the continuing crisis in housing affordability, and consider the effects of recent provincial legislation that has introduced fundamental changes to BC's housing system. [Register here](#).

**Decriminalization Pilot Project: One Year Mark**

As BC's decriminalization pilot project reaches the end of its [first year](#), local governments continue to support this initiative as one tool to address the toxic drug crisis. However, recent developments in BC courts leave local governments unclear where public use of illicit drugs will be allowed. The temporary exemption was granted by Health Canada as of January 31, 2023 to decriminalize the possession of certain illegal drugs for the three-year trial. Decriminalization aims to encourage connections to health and social supports by reducing stigma and fear associated with criminalization. Read the [full article](#) published by UBCM.

Act or Regulation Affected	Effective Date	Amendment Information
Gaming Control Act	Jan. 15/24	by 2023 Bill 42, c. 47, sections 13 and 15 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Treaty First Nation Taxation Act	Jan. 1/24	by 2023 Bill 10, c. 23, sections 177 and 179 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2023</a>

 MISCELLANEOUS

**Miscellaneous News:**

**BC's Civil Forfeiture Law Faces 'Reasonable Limits' Charter Test**

Many problematic aspects to law, judge says, ruling on province's bid to seize warehouses as proceeds of crime. A civil forfeiture case in British Columbia has hit a snag that could have implications for the controversial provincial legislation, after a judge ruled that part of the act governing civil forfeiture is inconsistent with the Canadian Charter and must be tested to see if it falls within "reasonable limits." The case concerns a 2021 lawsuit filed by BC's Director of Civil Forfeiture to seize warehouses in South Vancouver as "proceeds and instruments of unlawful activity." Vancouver police raided the warehouses in 2019, shutting down what they claimed was a multimillion-dollar drug operation making illegal cannabis extracts. Read the CBC [article](#).

**Nunavut to Take Control of Crown Land within Territory Following Devolution Agreement with Canada**

On January 18, 2024, Canada, Nunavut and Nunavut Tunngavik Inc. (NTI) (collectively, the parties) signed the *Nunavut Lands and Resources Devolution Agreement* (the Agreement). The Agreement transfers control of Crown lands in the territory to Nunavut, effective April 1, 2027 (the Transfer Date). The Agreement represents the final handover of decision-making authority for land, water, mines and minerals in Canada's northern territories and the culmination of the transition of authority over Nunavut that began in 1993 with the Nunavut Land Claims Agreement (the Nunavut Agreement). NTI is the representative entity that coordinates and manages the rights and responsibilities of the Inuit peoples of Nunavut under the Nunavut Agreement. It also has specific responsibilities under the new Agreement to implement devolution activities between January 2024 and April 2027. This Update provides a brief history of devolution in Canada's northern territories, reviews the critical terms of the Agreement and offers our predictions for how the Agreement may impact resource development in Nunavut. Read the [full article](#) by [Sander Duncanson](#), [Sean Sutherland](#), [Lisa Manners](#), and [Ashley Light](#) with Osler, Hoskin & Harcourt LLP.

**British Columbia's New Intimate Images Protection Act: Obligations and Penalties to Be Aware of**

The BC government has made an [order](#) that the [Intimate Images Protection Act](#) (the "Act") and the [Intimate Images Protection Regulation](#) ("Regulation") will take effect on January 29, 2024. The Regulation provides for significant administrative penalties of up to \$100,000 for a failure to comply with a take-down order or de-indexing order under the Act. In this blog post, we highlight several obligations and penalties that internet intermediaries operating in British Columbia should be aware of. The Act aims to protect against non-consensual distribution of intimate images, and covers nude or near-nude photographs, videos, livestreams, and digitally altered images and videos. The Act provides a process for removing these intimate images from digital spaces and creates a civil process for seeking relief. The publication of intimate images without consent is already an offence under Canada's [Criminal Code](#), and the Act addresses the issue from a civil perspective. Read the [full blog](#) by Connor Bildfell and Sara Xu with McCarthy Tétrault.

### Change of Title from Master to Associate Judge

from the [Supreme Court of British Columbia](#)

Amendments to the [Supreme Court Act](#) to change the title of master to associate judge were brought into force today. The modernization of this title more accurately captures the important role of associate judges and promotes a more inclusive and accessible justice system. Chief Justice Hinkson has issued [Practice Direction 64 - Form of Address](#) which updates the form of address for judges, associate judges, the registrar and district registrars, and provides directions as to how parties and counsel can advise the Court of their form of address. In light of this change, necessary updates are being made to practice directions, administrative notices, policies, and other content on the Court's website.

### BC Supreme Court Decision Delivers Mixed Results in Ensuring Human Rights Protections are Enforceable in Child Custody Cases: Commissioner

On Monday, the B.C. Supreme Court issued a decision in *Vancouver Aboriginal Child and Family Services Society (VACFSS) v. R.R.* that will impact how issues of discrimination are dealt with in matters concerning child protection. B.C.'s Human Rights Commissioner, Kasari Govender, acted as an intervenor in the case, focusing her intervention on how to properly interpret the scope of the Tribunal's jurisdiction relating to child welfare services. On the jurisdictional issue, the Court affirmed that the Tribunal is able to adjudicate human rights complaints arising out of matters relating to child protection, a decision welcomed by Commissioner Govender. The Commissioner's [written submission](#) and oral arguments had described how limiting the Tribunal's jurisdiction in child protection matters can negatively impact vulnerable people. Read the [full article](#) published by British Columbia's Office of the Human Rights Commissioner.

### BC Courts Require "Good Reason" to Delay Filing RTCCs in Class Actions

Recent British Columbia jurisprudence suggests the once common practice of a defendant to a class action proceeding delaying the filing of its Response to Civil Claim ("RTCC") until after a certification hearing is now disfavoured. When determining whether to allow for the late filing of an RTCC where a class has yet to be certified, BC judges will presume the timeline established by the [Supreme Court Civil Rules](#), BC Reg 168/2009 (the "Rules") should be adhered to, absent a "good reason". Read the [full article](#) by David McKnight, Jon Peters and Hollis Bromley with Alexander Holburn Beaudin + Lang LLP.

### BC Supreme Court Awards Double Costs over Rejected Settlement Offers

The BC Supreme Court has allowed the plaintiff in a personal injury case to recover double costs after the defendant had unreasonably rejected her offers to settle. In *Gustafson v. MacFarlane*, [2023 BCSC 2159](#), the plaintiff, Sharlene Gustafson, had sought damages from the defendant, Doreen MacFarlane, for catastrophic injuries sustained, with the primary focus on the cost of future care. The defendant raised a defence of contributory negligence. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

### UNDRIP in Action: White and Montour Decision

In late 2023, the Quebec Superior Court (QCSC) issued a landmark decision in *R. c. White et Montour*, attracting considerable attention and a Crown appeal. This ruling marks a pivotal moment in Aboriginal law, potentially reshaping legal interpretations and Canadian jurisprudence. *Montour* challenges existing precedents, advocating for a re-examination of legal doctrines given Canada's commitment to the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP"). It signifies a shift towards recognizing Aboriginal rights grounded in Indigenous peoples' laws and traditions, in line with the rights affirmed by UNDRIP. Read the [full article](#) by Nick Leeson and Julian Riddell with Woodward & Company LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Civil Resolution Tribunal Act	Jan. 29/24	by 2023 Bill 12, c. 11, sections 24 to 29 only (in force by <a href="#">Reg 293/2023</a> ), <a href="#">Intimate Images Protection Act</a>
Crime Victim Assistance Act	Jan. 1/24	by 2023 Bill 37, c. 36, sections 1 to 17 only (in force by <a href="#">Reg 270/2023</a> ), <a href="#">Crime Victim Assistance Amendment Act, 2023</a>
Crime Victim Assistance (General) Regulation (161/2002)	Jan. 1/24	by <a href="#">Reg 270/2023</a>
Election Act	Jan. 15/24	by 2023 Bill 42, c. 47, section 13 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Freedom of Information and Protection of Privacy Act	Jan. 15/24	by 2023 Bill 42, c. 47, section 14 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
	Jan. 22/24	by <a href="#">Reg 4/2024</a>
Intimate Images Protection Act	Jan. 29/24	by 2023 Bill 12, c. 11, sections 1, 2, 3 (1), (2) (b) and 4 to 29 only (in force by <a href="#">Reg 293/2023</a> ), <a href="#">Intimate Images Protection Act</a>



Intimate Images Protection Regulation (293/2023)	<b>NEW</b> Jan. 29/24	see <a href="#">Reg 293/2023</a>
Sexual Violence and Misconduct Act	Jan. 29/24	by 2023 Bill 12, c. 11, section 30 only (in force by <a href="#">Reg 293/2023</a> ), <a href="#">Intimate Images Protection Act</a>
Sheriff Act	Jan. 15/24	by 2023 Bill 42, c. 47, section 14 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>
Sheriff Act Security Regulation (197/2002)	Jan. 15/24	by <a href="#">Reg 289/2023</a>
Sound Recording Regulation (249/78)	Jan. 15/24	by <a href="#">Reg 277/2023</a>
Unclaimed Property Act	Jan. 15/24	by 2023 Bill 42, c. 47, section 13 only (in force by <a href="#">Reg 277/2023</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 3), 2023</a>



## MOTOR VEHICLE & TRAFFIC

### Motor Vehicle and Traffic News:

#### Automated Vehicles and Insurance Companies (BC Law Perspective)

The rapid advancement of artificial intelligence has paved the way for the imminent dominance of automated vehicles (AVs) on our roads. While this technological evolution promises to make life easier, it also raises critical considerations for the insurance industry, prompting a re-evaluation of current vehicle insurance and liability frameworks.

AVs are generally safer than the conventional vehicles because of their advanced precautionary systems against any crashes or accidents. Given the fact that the risk associated with insurable interest plays a key role in determining premium rates, the insurance companies' income from the premiums would significantly decline by the increase in the number of AVs. Additionally, the emergence of AVs renders traditional driver-based premium calculations obsolete, further complicating the determination of insurance rates. Read the [full article](#) by Hessam Mehrabi with Borden Ladner Gervais LLP, published in *CBA BarTalk*.

#### B.C. Calls for Unified Truck Safety System

*Provincial transport minister wants suspension or cancellation of a carrier's safety certificate to apply across Canada*

The British Columbia transport minister is calling for a unified truck safety system that would hold trucking companies accountable for their violations across provinces.

In a letter to federal transport minister Pablo Rodriguez on Monday, Rob Fleming noted as an example a company involved in an overpass crash on Highway 99 last month, according to a CBC report.

Fleming promised to levy "the toughest fines in the country" on the company following that incident, according to a separate CBC story. Read the [full article](#) by [Jim Wilson](#) in the *Canadian Occupational Safety* magazine.

#### Taxi Driver Negligent for Failing to Secure Seatbelt on Wheelchair Seated Passenger

Reasons for judgement were published last month addressing a key liability question – is a driver of a taxi negligent for not securing a seatbelt on an adult passenger who is in a wheelchair? The answer was yes.

In the recent case ([Stillwell v. Richmond Cabs Ltd.](#)) the Plaintiff was injured while being transported in a taxi. The Defendant driver helped load the Plaintiff in his taxi and "did not affix the wheelchair seatbelt that would have secured Ms. Stillwell's body in place.". The court found that due to her physical limitations the Plaintiff "would not have been able to secure the wheelchair seatbelt by herself due to its positioning in the Taxi." Read the [full article](#) by Erik Magraken on the *BC Injury Law Blog*.

#### 'Revolving Door at the Courthouse': How a B.C. Man Racked Up 21 Impaired Driving Convictions

Roy Heide was drunk when he drove a Cadillac into a woman on a Nanaimo street in 2001. At his sentencing hearing for impaired driving, Heide's defence lawyer told the judge "no amount of prohibitions will deter him from driving." The words still have a ring of truth more than 20 years later. In December, a judge handed Heide his fourth lifetime driving prohibition and almost five years in jail after his 21st impaired driving conviction. The number is believed to be a Canadian record. Read the *Vancouver Sun* [article](#) (Paywall).

#### Federal Government Enacts Wave of New Shipping Industry AMPs and Increased Fines

New federal legislation may result in Transport Canada increasing its use of Administrative Monetary Penalties (AMP) as a means of enforcement. AMPs have commonly been used across numerous industries to respond to various regulatory offences. They are often seen as an effective enforcement tool as they are typically more administratively expedient than criminal sanctions. Recent trends suggest that AMPs are now being used in respect of a broader range of regulatory offences than ever before, and the

shipping industry is no exception.

The recently enacted [Administrative Monetary Penalties \(Canada Marine Act\) Regulations](#) introduces new AMPs for violating various provisions of the [Canada Marine Act](#), [Port Authorities Operations Regulations](#), [Public Port and Public Port Facilities Regulations](#), [Seaway Property Regulations](#), and the [Natural and Man-made Harbour Navigation and Use Regulations](#). These penalties range up to \$5,000 for individuals, and \$25,000 for corporations or ships. Violations include failing to maintain direct communication with the harbour master, blocking or interfering with an enforcement officer, jeopardizing the safety or health of persons in a port, and adversely affecting soil, air or water quality. Read the [CBA BarTalk article](#) published by [Dionysios \(Dino\) Rossi](#) and [Emily Pitr](#) with Borden Ladner Gervais LLP.

**CVSE Bulletins & Notices**

The following documents were posted recently by CVSE:

- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [CVSE1016](#) – 9-Axle Logging Truck Routes

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:

News and Updates

- **Notice of Terms and Conditions Update**  
The Passenger Transportation Board is providing notice to transportation network services, inter city bus, limousine, and other PDV licensees of changes the Board intends to make to Terms and Conditions (T&Cs) in their licences. Read the [full notice](#).
- **Board decision on new taxi rates structures**  
The [Passenger Transportation Act](#) allows the Passenger Transportation Board (Board) to set rates "for the purpose of establishing just and uniform charges." Read the [full notice](#).

Applications Received

- [19103-23](#) – City Limousine Ltd.
- [18936-23](#) – Bhangu Bross. Transportation Ltd.
- [18864-23](#) – A.C. Taxi Ltd.
- [18756-23](#) – White Elephant Holdings Ltd.
- [19215-23 TNS](#) – 1375609 B.C. Ltd
- [18956-23](#) – Jiri Maly

Application Decisions

- [19421-24 PS TOP](#) – Whistler Eco Tours Ltd. [Approved]
- [19423-24 PS TOP](#) – Canaccord Limousine Service Ltd [Approved]
- [19425-24 PS TOP](#) – Lower Mainland Holdings Ltd. [Approved]
- [19437-24 PS TOP](#) – Celebrity Limousine Service Ltd. [Approved]
- [19434-24 PS TOP](#) – A-B Limo Limo Transportation Limited [Approved]
- [19474-24 TOP](#) – Skeena Taxi Ltd. [Approved]
- [18278-23](#) – Hugh Robert Reginald McDonald [Approved]
- [19073-23, 19074-23](#) – Sunpreet Singh [Approved]
- [18751-23](#) – Transfer from Hallcon Corporation to Hallcon Crew Transport Canada Inc. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Off-Road Vehicle Regulation (193/2015)	Jan. 22/24	by <a href="#">Reg 2/2024</a>
Permitted Cost of Services (Off-Road Vehicle) Regulation (241/2014)	Jan. 22/24	by <a href="#">Reg 294/2023</a>



**OCCUPATIONAL HEALTH & SAFETY**

**Occupational Health and Safety News:**

**Proposed Amendments to Policy on Activity-related Soft Tissue Disorders of the Limbs**

from [WorkSafeBC](#)

Our Policy, Regulation and Research Department (PRRD) is proposing amendments to policy concerning activity-related soft tissue disorders (ASTDs) of the limbs. The proposed amendments are intended to address two ASTD projects in the PRRD’s current workplan:

- ASTDs — CPR Recommendations #36–37
- Establishing Work Causation for ASTDs of the Limbs

The proposed amendments clarify policy on the issue of whether an ASTD is due to the nature of the worker’s employment and are informed by recommendations from two external reviews:

- Paul Petrie’s 2018 compensation policy review (CPR), *Restoring the Balance: A Worker-Centred Approach to Workers’ Compensation Policy*
- Janet Patterson’s *New Directions: Report of the WCB Review 2019*

**Noxious Smoke Forced Nine Workers to Seek Medical Attention**

Nine workers at the Parkland Refining Burnaby facility sought medical attention on Sunday January 21 following an incident that led to the release of heavy, noxious smoke, according to a recent report by WorkSafeBC. The incident, which occurred around 8 am, resulted in nine employees requiring first aid, while four others were evacuated from the site. WorkSafeBC, responsible for overseeing workplace safety and providing compensation for injured workers, categorized this incident as a major release of a hazardous substance, citing injuries that necessitated immediate medical attention. Read the [full article](#) by [Shane Mercer](#), published in Canadian Occupational Safety.

**New Duty to Cooperate and Maintain Employment Following Workplace Injury**

As of January 1, 2024, employers and workers in British Columbia now have a new legal “duty to cooperate” and “duty to maintain employment” under the [Workers Compensation Act](#) (the “WCA”). These amendments were introduced to the WCA as part of Bill 41 in 2022. The duty to cooperate applies to any workplace injury that occurred on or after January 1, 2022, and the duty to maintain employment applies to any workplace injury that occurred on or after July 1, 2023. Read the [full article](#) by Richard Savage and Negina Khalil with Fasken.

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

 **PROPERTY, REAL ESTATE & CONSTRUCTION**

**Property, Real Estate & Construction News:**

**Upcoming Changes to Residential Tenancy Regulation for Supportive Housing**

Effective February 28, 2024, changes will be made to the [Residential Tenancy Regulation](#) by [B.C. Reg. 3/2024](#). These amendments set out a definition of supportive housing rental units and exempt supportive housing from the requirements in [sections 28, 29 and 30 \(1\) \(b\) of the Residential Tenancy Act](#), which includes the tenant’s right to quiet enjoyment, restricting the landlord’s right to enter the rental unit and the provision that prohibits landlords from unreasonably restricting access to guests. The intent of these changes is to allow supportive housing providers to create guest policies and wellness checks. BC Housing has provided a [fact sheet](#) for supportive housing providers.

**BC Court Clarifies Law on Appointment of a Receiver Over Real Estate Assets**

On January 11, 2024, the British Columbia Supreme Court released its reasons in [Bank of Montreal v. Haro-Thurlow Street Project Limited Partnership](#), which clarified the approach of British Columbia courts when asked to appoint a receiver over real estate assets. This decision provides important guidance to lenders with security in real estate projects and other stakeholders in real estate ventures. The debtors in this case owned a mixed commercial and residential rental building in Vancouver (Property). In May 2023, the debtors attempted to sell the Property but were unsuccessful. They defaulted on their loan obligations in July 2023. In

December 2023, the bank sought appointment of a receiver with conduct of sale of the Property. In bringing its receivership application, the bank relied on the commonly applied multi-factor test of whether it is “just and convenient” to appoint a receiver. Read the [full article](#) by Peter Bychawski, Claire Hildebrand and Martin Greyell with Blake, Cassels & Graydon LLP.

**Tenants in Subsidized Housing Need Clarity on Definition of Transitional Housing: BC Court of Appeal**

The British Columbia Court of Appeal has called on the Residential Tenancy Branch to clarify what qualifies as “temporary accommodation” under the Residential Tenancy Act because inconsistent rulings mean many residents in subsidized housing cannot be sure whether the legislation covers them. In *McNeil v. Elizabeth Fry Society of Greater Vancouver*, [2024 BCCA 2](#), Nicole McNeil, a resident of a social housing facility, sought judicial review of a Residential Tenancy Branch (RTB) decision that declined jurisdiction over the dispute because the housing facility was exempted from the Residential Tenancy Act (RTA). McNeil lived at the Mazarine Lodge, which the RTB said fell under the category of transitional housing. In her judicial review at the BC Supreme Court, McNeil argued that the Lodge provided longer-term supportive housing, not transitional housing, but the reviewing judge upheld the RTB’s decision. Read the [full article](#) by Aidan Macnab on *Canadian Lawyer*.

**Are Guest Suites Exempt from Short Term Accommodations?**

*Dear Tony:*

Our strata corporation is over 400 units and we own 2 strata lots and 4 common property cabins that are used as guest suites for resident access only. They are intended for family visits and we only charge \$75 per night to cover the cost of cleaning and maintenance. We have been advised we will be captured by the new legislation on short term accommodations. If this is true, it would seem unfair and almost impossible for the regulators to identify common property units as they are not registered anywhere. The corporation was granted the 4 cabins on development, and because of high demands, we purchased the two additional units for larger families. This has worked incredibly well for our strata, and would be unfortunate to lose access. – *Marie Johnson*

*Dear Marie:*

There are many strata corporations across BC including high rise, townhouse, bare land and resort type communities not specifically identified in the property descriptions, all of which have guest suites in a variety of configurations. The good news, the [Short Term \[Rental\] Accommodation\[s\] Act](#) has a specific exemption for strata corporations. “The principal residence requirement does not apply to the following: (A) common property; (B) a strata lot owned by the applicable strata corporation.” Whether your guest suites or caretaker suites are strata lots or part of the common property on the strata plan, they are exempt.

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

**'There Is an Epidemic': Metro Vancouver Family Challenges No-fault Eviction**

A Metro Vancouver family is disputing a no-fault eviction notice they received from their landlord. Jennifer and Kristopher Miller received the eviction notice two weeks before Christmas. The document, viewed by CTV News, stated the reason for the eviction is due to their landlord’s family member occupying the unit – a claim the couple are questioning. “We think it’s suspicious that his son is moving in,” Kristopher said. “All communication in regards to this house has all been in regards to a rental increase, not that his son has been displaced.” Read the CTV news [article](#).

**Case Summary: Airbnb renters may be insureds under strata insurance policies**

*Strata Plan VR 2213 v. Schappert*, [2023] B.C.J. No. 2272, [2023 BCSC 2080](#), British Columbia Supreme Court, November 27, 2023, S.R. Coval J.

An Airbnb renter caused a fire in a strata building, resulting in damage to the common property. The strata’s insurer claimed against the renter to recover the cost of insured repairs. A special case was submitted to determine whether the subrogated claim was barred by either the common law rule prohibiting subrogation against an insured, or the covenant to insure and waiver of liability contained in the strata bylaws. Read the [full article](#) by Joe Antifaev with Harper Grey LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Court Funds Regulation (37/2005)	Jan. 15/24	by <a href="#">Reg 277/2023</a>
Manufactured Home Park Tenancy Regulation (481/2003)	Jan. 1/24	by Reg 481/2003
Property Transfer Tax Act	Jan. 1/24	by 2023 Bill 10, c. 23, sections 149 to 152 and 155 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2023</a>
Real Estate Services Rules (209/2021)	Feb. 1/24	by <a href="#">Reg 260/2023</a>
Residential Tenancy Regulation (477/2003)	Jan. 1/24	by Reg 477/2003

Speculation and Vacancy Tax Regulation  
(275/2018)

Jan. 1/24

by [Reg 237/2023](#)

 **WILLS & ESTATES**

**Wills and Estates News:**

**B.C. Case Comment Update: Does the Doctrine of Unconscionable Procurement Apply in B.C.?**

I previously wrote about the B.C. Supreme Court decision of *Sandwell v. Sayers* [2022 BCSC 605](#). In that case, a father (unsuccessfully) tried to take back the transfer of his property into joint ownership with right of survivorship. My post on that decision can be found [here](#).

The father (unsuccessfully) appealed the result, and the B.C. Court of Appeal recently delivered reasons for judgment at *Sandwell v. Sayers* [2023 BCCA 147](#).

In *Sandwell*, the plaintiff father had two children, a son and the defendant daughter. In December 2020, the father transferred an interest in his home in Kelowna to his daughter, making them joint tenants. He later brought legal proceedings to get the property back into his sole name. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

**Tom v. Tang**

In *Tom v. Tang*, [2023 BCCA 221](#), released in June, 2023, the British Columbia Court of Appeal clarified that in a wills variation proceeding the Court applies an objective standard when considering a will maker's reasons for disinheriting a child or treating children unequally. Earlier Court of Appeal decisions have often been interpreted as applying a more subjective approach to a will-maker's reasons, allowing a court to uphold disinheritances or significantly unequal treatments of adult children if the will-maker provided reasons that were valid (in that they were based on true fact) and rational (in that they were logically connected with the parent's treatment of their child), even if those reasons were not objectively justifiable. Read the [full article](#) by [Stan Rule](#) on the *Rule of Law* blog.

**B.C. Case Comment: Deceased's Son Ordered to Vacate Estate Property**

We are often consulted when someone is residing in property owned by a deceased person, but is not the beneficiary of that property under the deceased person's will. Frequently, this will be a family member (often a child, living at their parent's property). The executor wants them to leave the property, and they refuse to do so. They may make a claim to the property or an interest in the property, or they may claim a life interest entitling them to remain in the property. They may challenge the will or seek to vary the will such that they will receive an interest in the property. If someone makes such a claim, can they be forced to vacate the property before that claim is determined?

In *Chen v. Zaleschuk* [2023 BCSC 1976](#), the petitioner was the spouse of the deceased. The respondent was the son of the deceased. The respondent lived in the rental suite on the bottom floor of the petitioner and the deceased's home (which was registered in the name of the deceased). The deceased's will provided that the petitioner becomes the sole owner of the property. The petitioner sought the removal of the respondent from the property, and the respondent refused to leave. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

**Pour Over Clause**

Pour over clauses are provisions in a will that specifies that any assets not specifically mentioned in the will are to be put ("poured over") into a trust upon the testator's death. These pour over clauses ensure that any surplus assets are managed and distributed according to the terms of the trust. It also provides a seamless transition of the estate's assets into the trust.

**Key Benefits of the Pour Over Clause**

A pour over clause simplifies estate management. By automatically transferring all assets not explicitly mentioned in the will to a trust, it helps in streamlining the estate settlement process.

It also offers greater flexibility and control over how and when assets are distributed. With a pour over clause, you can ensure that your estate plan reflects these preferences, even for assets not originally placed in the trust.

Unlike wills, which become public record upon probate, pour over wills are private documents. The pour over clause helps maintain privacy regarding the distribution and management of your assets.

Read the [full article](#) published by the Onyx Law Group.

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

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