

Quickscribe Reporter

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Vol: XXIII – Issue 3 – March 2024

QS News

New Bills

The following bills were recently introduced:

Government Bills

- [Bill 8](#) – Athlii Gwaii Legacy Trust (Winding Up) Act
- [Bill 9](#) – Miscellaneous Statutes Amendment Act, 2024
- [Bill 10](#) – Commercial Transport Amendment Act, 2024
- [Bill 11](#) – Vancouver Charter Amendment Act, 2024
- [Bill 12](#) – Public Health Accountability and Cost Recovery Act
- [Bill 13](#) – Land Title and Property Law Amendment Act, 2024
- [Bill 14](#) – Tenancy Statutes Amendment Act, 2024
- [Bill 15](#) – Budget Measures Implementation (Residential Property (Short-Term Holding) Profit Tax) Act, 2024
- [Bill 16](#) – Housing Statutes Amendment Act, 2024
- [Bill 17](#) – Police Amendment Act, 2024

Members' Bills

- [Bill M202](#) – Safe Care Act
- [Bill M203](#) – Short-Term Rental Accommodations Amendment Act, 2024
- [Bill M204](#) – Wildlife Amendment Act, 2024
- [Bill M205](#) – North Island-Coast Development Initiative Trust Amendment Act, 2024
- [Bill M206](#) – Firefighter Protection Act

For more information on the status of these or any other bills, 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!

New Annotations

New Annotations have been added to Quickscribe:

- [Richard Bereti](#), Harper Grey LLP – [Impact Assessment Act](#)
- [Teresa Tomchak](#), Osler, Hoskin & Harcourt LLP – [National Policy 62-104 Take-Over Bids and Issuer Bids](#)
- [Michael Moll](#), Civic Legal LLP – [Community Charter](#)

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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[FAMILY & CHILDREN](#)

[FOREST & ENVIRONMENT](#)

[HEALTH](#)

[LABOUR & EMPLOYMENT](#)

[LOCAL GOVERNMENT](#)

[MISCELLANEOUS](#)

[MOTOR VEHICLE & TRAFFIC](#)

[OCCUPATIONAL HEALTH & SAFETY](#)

[PROPERTY, REAL ESTATE & CONSTRUCTION](#)

[WILLS & ESTATES](#)



COMPANY & FINANCE

Company and Finance News:

CRA Announces Exemption for Bare Trusts from New Reporting Rules for 2023

On March 28, 2024, the Canada Revenue Agency (“CRA”) released a statement exempting bare trusts from having to file a T3 Income Tax and Information Return (a “trust return”), including Schedule 15 for the 2023 tax year, unless the CRA makes a direct request. This was an unexpected statement released just before the filing deadline for 2023, which would otherwise have been April 2, 2024. The CRA says that it will work with the Department of Finance over the coming months to further clarify its guidance on the bare trust filing requirement. As of this latest announcement, bare trusts would still be required to file a trust return and Schedule 15 for the 2024 tax year, and for future taxation years thereafter. More details can be found on the [CRA's website](#). We are closely following developments regarding the bare trust reporting requirement. Read the [full article](#) by [Rahul Sharma](#) and [Katerina Ignatova](#) with Fasken.

3295940 Canada Inc v The King – Federal Court of Appeal Overturns GAAR Assessment Based on the Similar Economic Result of Alternative Transactions

The Federal Court of Appeal (the “FCA”) recently released its decision in *3295940 Canada Inc v His Majesty The King*, [2024 FCA 42](#). This decision is a welcome development in the jurisprudence regarding the application of the General Anti-Avoidance Rule (the “GAAR”) in subsection 245(2) of the [Income Tax Act](#) (the “Act”), particularly regarding the scope of the abuse analysis and relevance of alternative transactions.

Background

Gestion Micsau Inc. (“Micsau”) indirectly held a minority interest in a generic drug business (the “Business”). An American investment fund, RoundTable, indirectly held the majority interest in the Business. When Roundtable began negotiations to sell its interest in the Business to a third party, Micsau was forced to also sell its interest.

Read the [full article](#) published by Morgan Watchorn with Thorsteinssons LLP.

BC Court of Appeal Adjourns Leave to Appeal Arbitral Award in Bankruptcy Dispute

The BC Court of Appeal has adjourned an application for leave to appeal an arbitral award, which concluded that the debt owed by the appellant would not be discharged in his personal bankruptcy. In *Brown v. Smithwick*, [2024 BCCA 83](#), Brown challenged the award's compatibility with [s. 178\(1\)\(e\) of the Bankruptcy and Insolvency Act](#), citing a lack of established causal connection between his fraudulent misrepresentations and the debt's creation. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

The Importance of Shareholder Participation: CSA Release Updated Guidance on Virtual Shareholder Meetings

On February 22, 2024, the Canadian Securities Administrators (the “CSA”) provided [updated guidance](#) regarding virtual shareholder meetings (the “2024 Guidance”). The 2024 Guidance is intended to assist reporting issuers in Canada in complying with their obligations under corporate and securities legislation when conducting virtual or “hybrid” (virtual and in-person) shareholder meetings. Following the COVID-19 pandemic, certain corporate statutes in Canada were amended to permit virtual shareholder meetings and include requirements reporting issuers must meet when conducting virtual meetings. In conjunction with these amendments, the CSA released [initial guidance](#) in February of 2022 (the “Initial Guidance”) to assist issuers in complying with the amended requirements under corporate legislation. Read the [full article](#) by [Sydney Kert](#), [Brendan Smith](#) and Matt Prucha (Articling Student) with DLA Piper.

BC 2024 Budget: Provincial Sales Tax (“PST”) Changes

BC announced several proposed tax measures in its [2024 budget](#) (released on February 22, 2024). Included in the long list of proposed changes – the more notable of which were summarized in our recent [Tax Alert](#) – are several significant amendments to the BC *Provincial Sales Tax Act* (“PSTA”). This blog discusses two of those measures:

- Amendments to the PSTA's software rules with the effect of making many more digital services taxable.
- Amendments to the appeals process, which may potentially lengthen the time it takes to appeal an assessment.

Read the [full article](#) published by Zheting Su, Rosemary Anderson and Kimberley Cook with Thorsteinssons LLP.

CSSB Releases Proposed Canadian Sustainability Disclosure Standards

On March 13, 2024, the Canadian Sustainability Standards Board (“CSSB”) released [proposed Canadian sustainability disclosure standards](#) (the “CSSB Standards”) that are modelled after the sustainability disclosure standards developed by the International Sustainability Standards Board (“ISSB”). The Canadian Securities Administrators (“CSA”) have [welcomed the launch of the consultation on the CSSB Standards](#) and the feedback that the CSSB receives could inform revisions to the CSA’s proposed climate-related disclosure rules (published in October 2021 but currently on hold). Read the [full article](#) by [Ramandeep K. Grewal](#) with Stikeman Elliott.

Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

Provincial sales tax (PST)

- **March 6, 2024**

[PST exemptions and documentation requirements](#) has been revised to add information on guide and service dogs. This page and the following bulletins have also been revised to remove gendered terms and outdated language:

- [Bulletin PST 206, Grocery and Drug Stores \(PDF, 430KB\)](#)
- [Bulletin PST 207, Medical Supplies and Equipment \(PDF, 380KB\)](#)
- [Bulletin PST 211, Exemptions for Hydroelectric Power Generation \(PDF, 320KB\)](#)

- **March 15, 2024**

The [Guide to completing the provincial sales tax \(PST\) return](#) has been updated to:

- Clarify that PST returns received by mail are considered on time if they were postmarked on or before the last day of the month following the end of the reporting period
- Clarify how to convert payments in international currency to Canadian dollars
- Add information on how to authorize a representative to act on your behalf

- **March 20, 2024**

[Bulletin PST 301, Related Services \(PDF, 400KB\)](#), has been revised to correct and clarify the types of charges that must be included in the purchase price of taxable related services.

Motor fuel tax and carbon tax

- **March 7, 2024**

Effective April 1, 2024, the carbon tax rates will change. Find the scheduled rate changes on our [Carbon tax rates by fuel type page](#).

If you're a deputy collector or retail dealer, you must determine your fuel inventory as of the end of day on March 31, 2024 and will be required to report and pay any additional security due by April 15, 2024. Inventory returns must be filed online using eTaxBC. Find out more on our [Report and pay additional security when tax rates change](#) page.

- **March 12, 2024**

Effective April 1, 2024, large industrial operations that are registered in the B.C. Output-Based Pricing System (B.C. OBPS) will be able to claim an exemption from carbon tax when purchasing or using fuel or combustibles for an exempt facility purpose. For more information, see our [B.C. output-based pricing system carbon tax exemption](#) page.

- **April 2, 2024**

Bulletin MFT-CT 005, Tax Rates on Fuels, is now web content. Find the new webpage at [Motor fuel tax and carbon tax rates on fuels and substances](#). Please update your bookmarks to the new location on our website. This page has also been updated to reflect the carbon tax rates effective April 1, 2024.

[FIN 467, Certificate of Exemption – B.C. Output-Based Pricing System Registrants \(PDF, 180KB\)](#), is a new certificate large industrial operations registered in the B.C. Output-Based Pricing System (B.C. OBPS) must provide to the seller at or before the time of purchase to claim an exemption. For more information, see our [B.C. output-based pricing system carbon tax exemption](#) page.

Tobacco tax

- **March 7, 2024**

Effective for the reporting periods that start on or after February 1, 2024, all tobacco wholesalers must file returns online using eTaxBC. Learn more at [Reporting and paying security for tobacco wholesalers](#).

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

BC Securities – Policies & Instruments

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

- [81-334](#) – ESG-Related Investment Fund Disclosure (Revised) [CSA Staff Notice]
- [25-311](#) – Canadian Securities Administrators (CSA) Staff Notice 25-311 – 2023 Annual Activities Report on the Oversight of Canadian Investment Regulatory Organization and Canadian Investor Protection Funds

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

Act or Regulation Affected	Effective	Amendment Information
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	Date	
Budget Transparency and Accountability Act	Mar. 6/24	by Reg 43/2024
Business Number Regulation (388/2003)	Mar. 6/24	by Reg 44/2024
Designated Accommodation Area Tax Regulation (93/2013)	Mar. 1/24	by Reg 13/2024
Disclosure of the Cost of Consumer Credit Regulation (273/2004)	Mar. 6/24	by Reg 42/2024
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	Mar. 6/24	by Reg 28/2024
Retention of Commercial Vehicle Licence Fees Regulation (259/2023)	NEW Apr. 1/24	see Reg 259/2023
Special Accounts Appropriation and Control Act	Mar. 11/24	by 2021 Bill 23, c. 37, section 101 (a) and (b) only (in force by Reg 57/2024), Forests Statutes Amendment Act, 2021

ENERGY & MINES

Energy and Mines News:

B.C. First Nations Chiefs Celebrate Mining Exploration Court Decision

The case was led by the Gitxaala Nation, with Gitanyow an intervener

Leaders from the Gitxaala and Gitanyow First Nations were celebrating a historic victory this week after the B.C. Supreme Court ruled the province's laws on mining exploration did not meet the Crown's duty to consult.

The court challenge targeted old laws that let exploration companies stake claims without prior consent, often for as low as \$60 a claim. The ruled found that the duty to consult is triggered when a mining stake is claimed in the province.

For Naxginkw, sustainability director for the Gitanyow hereditary chiefs, the decision was a "mixed bag." There was relief on the duty to consult. But Naxginkw, also known as Tara Marsden, said there was disappointment at what she called the court's "really minimal interpretation" of the United Nations Declaration on the Rights of Indigenous Peoples and the Declaration on the Rights of Indigenous Peoples Act's legal weight on the law on other laws in the province.

Naxginkw also criticized court's permission to allow mineral exploration companies to continue operating under the old law for another 18 months while the province makes changes. Read the *Vancouver Sun* [article](#).

Consultation Prior to Mineral Claims Staking – Part 3: British Columbia Announces Interim Measures

On March 7, 2024, the Province of British Columbia released interim measures in response to the BC Supreme Court's ruling in *Gitxaala v. British Columbia (Chief Gold Commissioner)*, [2023 BCSC 1680](#). The Province has suspended mining activities in the asserted traditional territories of Gitxaala Nation and Ehattesaht First Nation until 2029 and has indefinitely suspended the registration of new mineral claims in these areas.

Background

Following the release of the Gitxaala decision, we published an in-depth [analysis](#) of its importance. As part of its decision, the Court declined to reverse (or "quash") existing mineral claims in the asserted traditional territories. The Court also granted the Province 18 months to modify its system of granting mineral tenures to account for Indigenous consultation prior to the grant of claims. During the interim 18-month period, the Court permitted ongoing mineral exploration work and the registration of new mineral claims.

Read the [full article](#) by [Kevin O'Callaghan](#) and [Nathan Surkan](#) with Fasken Martineau DuMoulin LLP.

Government Uses Little Known Law to Freeze Mining Rights Unless First Nations Consent

On March 6, 2024, one of the largest annual mineral exploration and mining conferences in the world ended in Toronto. The very next day, the BC government [announced](#) four Cabinet orders that upended various rights of prospectors and mineral developers in two parts of British Columbia.

The four orders were made under a little-known law called the [Environment and Land Use Act](#). They prohibit placer and mineral claim staking on Banks Island and part of Vancouver Island, as well as restricting related mineral exploration activities. The BC Government indicated in a corresponding news release that it may amend the orders if affected parties could reach agreement with local First Nations.

No prior government has ever used these powers so broadly, or said openly that the restrictions may be removed if holders of such rights can reach agreement with First Nations.

While these specific orders are limited to only parts of BC and BC's mining laws, if government truly has the legal authority to make them under the *Environment and Land Use Act*, there is nothing that would preclude their future use in other areas of BC and other sectors. And one might reasonably expect some Indigenous groups will ask government to do exactly that. Read the [full article](#) by [Robin M. Junger](#), [Timothy John Murphy](#), [Cory Kent](#), [Joan M. Young](#) and [Sasa Jarvis](#) with McMillan LLP.

Personal Liability for Director of Mining Company on Regulatory Offence: BC Courts Remain Firm on Strict Liability

Recently, the BC Supreme Court issued its decision in *R v Mossman*, [2024 BCSC 443](#). The case involved two appeals from summary convictions under the [Environmental Management Act](#) and the [Fisheries Act](#) (collectively, the "Acts"). The underlying offences occurred at a gold mining site operated by a company near Prince Rupert, British Columbia.

The appeals relate to the liability of the director, president, and chief operating officer of the Company, and the designated 'mine manager' under the [Mines Act](#). He was charged with several offences under the Acts, which the Court divided into three categories. Read the [full article](#) by [Gavin Cameron](#) and [Kerry Kaukinen](#) with Fasken Martineau DuMoulin LLP.

Ren v. Eastern Platinum Limited, 2023 BCSC 404 and 2023 BCSC 706

In these decisions, the Supreme Court of British Columbia granted an application for leave to commence a derivative action against the former CEO of Eastern Platinum Limited (EPL) framed in negligence and breach of fiduciary duty.

EPL, a B.C. public company, owned the right to conduct mining operations at a platinum and chrome mine in South Africa (Mine) through a subsidiary. The petitioner, Ms. Ren, a shareholder of EPL, alleges that the present and former directors of EPL acted negligently and in breach of their fiduciary duties by causing the company to enter into agreements with Union Goal Offshore Limited (Union Goal) for the exploitation of mine tailings at the Mine. Ms. Ren contends that EPL suffered loss as a result of the agreements and sought leave to commence a derivative action under s. 232 of the B.C. [Business Corporations Act](#) in EPL's name against the directors. Ms. Ren's initial draft claim named seven defendants and was based in negligence (against all directors) and breach of fiduciary duty (against Ms. Hu only). EPL opposed the application on the basis it was simply a different version of the same application that had been dismissed in *2538520 Ontario Ltd. v. Eastern Platinum Limited*, [2019 BCSC 1446](#) (Hong Proceeding) and upheld by a majority of the Court of Appeal in [2020 BCCA 313](#), and, therefore, it was an abuse of process. In the alternative, EPL argued that Ms. Ren had not satisfied all statutory prerequisites to her application. Read the [full article](#) by [Aidan Cameron](#) and Lindsay Burgess with McCarthy Tétrault LLP.

Legislative, Procurement and Governmental Updates Signal that British Columbia is Ripe for Renewable Energy Development

Recent legislative, procurement and governmental updates, including BC Hydro's upcoming Call for Power and updates to the BC [Clean Energy Act](#), will create increased opportunities for renewable energy development in the province.

Updates to Energy Objectives under the BC Clean Energy Act

On February 15, 2024, the Government of British Columbia announced updates to the energy objectives in the *Clean Energy Act* (British Columbia), with the intent of maximizing affordability and reducing carbon pollution in the province. These changes signal a current focus of the Government of British Columbia to spur renewable energy development within the province and align with other recent renewable energy initiatives that have been announced by provincial governments across the country.

Read the [full article](#) by [Aaron Fransen](#), [Lanette Wilkinson](#), [Tara Watson](#), [Parker Mckibbin](#) and [Kyle Hatton](#) with Stikeman Elliott LLP.

Mineral Tenure Act Reform Advancing

The Province is advancing work to reform the [Mineral Tenure Act](#) (MTA) in alignment with the United Nations Declaration on the Rights of Indigenous Peoples with a clear process for co-operation and consultation with First Nations in British Columbia and engagement with industry and all interested parties.

"Our government is taking steps to acknowledge our past and working to address the consequences of colonial legislation and policies, which have had lasting effects on First Nations. By doing this together, we are building a better future on the land, in communities, and for people in British Columbia," said Josie Osborne, Minister of Energy, Mines and Low Carbon Innovation. "We are committed to the full transformation of B.C.'s mining regulatory system, including modernizing the *Mineral Tenure Act*, and this government-to-government work must be reflective of the shared interests and values of everyone who lives and works on these lands." Read the government [news release](#).

Mining in the Courts, Vol. XIV

The 14th annual edition of [Mining in the Courts](#) provides a one-stop annual update on legal developments impacting the mining industry (available in English only). In addition to providing summaries of many of the most important cases, this edition contains articles with our insights on current legal trends and what we think the industry can expect to face in the coming year. Read the [full article](#) by [Aidan Cameron](#), [Val Lucas](#), [Sarah Adler](#), [François Alexandre Toupin](#) and [Dominique Amyot-Bilodeau](#) with McCarthy Tétrault LLP.

BCUC Accepts Updated BC Hydro IRP, Which Calls for 3,700 GWh of New Generation

The British Columbia Utilities Commission (BCUC) has accepted BC Hydro's Updated 2021 Integrated Resource Plan (IRP), which anticipates the need to acquire about 3,700 GWh of clean or renewable electricity.

The key priorities of BC Hydro's IRP are to reduce greenhouse gas emissions by focusing on non-polluting electricity sources,

sustaining BC's low electricity rates, limiting land and water impacts, contributing to BC's reconciliation efforts with Indigenous peoples and supporting the growth of BC's economy.

In this plan, BC Hydro expects electricity demand to increase and proposes a combination of energy efficiency programs (called demand-side management) and energy purchases from independent power producers, including new contracts and renewal of existing contracts. 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 2024-04](#) – Fee, Levy and Security Regulation Updates
- [TU 2024-03](#) – Program Expands to Include Dormant Facility & Pipeline Liability
- [IU 2024-05](#) – New All Hazards Map

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

Act or Regulation Affected	Effective Date	Amendment Information
Direction to the British Columbia Utilities Commission Respecting the British Columbia Energy Affordability Credit (59/2024)	Mar. 15/24	see Reg 59/2024
Drilling and Production Regulation (282/2010)	Mar. 1/24	by Reg 37/2024
Energy Resource Activities Act	Apr. 1/24	by 2023 Bill 41, c. 43, section 185 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Fee, Levy and Security Regulation (8/2004)	Mar. 4/24	by Reg 38/2024



FAMILY & CHILDREN

Family and Children News:

New Position Expedites Progress on Indigenous Child Welfare

A new Indigenous child welfare director (ICWD) position that will help better ensure the safety, wellness, and access to community and culture for Indigenous children was brought into effect on Wednesday, March 6, 2024.

"We know Indigenous children are best cared for by Indigenous communities and when connected to community, family and culture," said Grace Lore, Minister of Children and Family Development. "This position has been long advocated for by First Nations leadership and Indigenous partners, and continues our work to reform the child welfare system and reduce the over-representation of Indigenous children and youth in care."

Bill 38, the [Indigenous Self-Government in Child and Family Services Amendment Act](#), was passed into law in November 2022. Since then, the ministry has worked to co-develop with First Nations leadership and Indigenous partners the role and responsibilities of this position, better defining the position's scope and responsibilities in anticipation of posting the position this spring. Read the full government [news release](#).

BC Supreme Court Orders Sale of Property to Recover Child Support Arrears

The BC Supreme Court has ruled against a parent's attempts to dodge child support obligations, firmly establishing children's unassailable right to financial support.

In *Tsuji v Tsuji*, [2024 BCSC 370](#), the court ordered the sale of a property belonging to Hidetsugu Tsuji, who has accumulated over \$150,000 in unpaid child support, to partially satisfy his children's obligations. From 1998 until he left the company in 2018, Hidetsugu worked for a food services employer, earning progressively more responsibility and remuneration over the years. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Parental Alienation Cases: Challenges and Realities

An increasing number of high conflict separations involve children resisting contact with a parent, cases that pose significant risks for harm to children, as well as substantial challenges for the courts, and lawyers and their clients. The National Association of Women and the Law (NAWL) advocates prohibition of the use of "parental alienation" in these cases, claiming that it is an unscientific "pseudo-concept" that causes family courts to lose sight of the child's best interests. NAWL correctly points out that the Canadian justice system needs to do a better job of dealing with intimate partner violence.

However, the claim that courts "rarely" take account of family violence in cases of children resisting contact ignores the realities of family justice in this country, and disregards the value of the concept of alienation, properly understood, for promotion of the

interests of children. NAWL's position is inconsistent with a growing body of research, including our own studies about these contentious cases. Read the [full article](#) by Nicholas Bala, Rachel Birnbaum and Jessica Farshait from Law360 Canada.

Modernizing Family Law on Parentage

There are so many paths to building families and becoming parents.

How we create families and become parents is different for each and every one of us.

There is no one universal story. There are many stories and lived experiences on this journey and so many more of them involve creating families with assisted reproduction.

In fact, one in six Canadians experience a need for assisted reproduction. Science has expanded the services available through fertility treatments. Many more people consider and decide to use sperm donors, egg donors, embryo donation, in vitro fertilization (IVF) and surrogacy. We have even heard the recent Provincial Budget announcement in British Columbia to allow for the medical coverage expenses for one cycle of IVF for those eligible. Read the [full article](#) by Alison Wilkinson and Zara Suleman with the British Columbia Law Institute.

Excluded Assets in Divorce: What's Your Entitlement in BC?

If you are contemplating separating from your partner or are in the midst of a divorce, you may be wondering what entitlement you or your spouse may have to unequal division of family property where there are significant excluded assets.

The BC Court of Appeal's recent judgment in *Healey v. Healey*, [2024 BCCA 68](#) considered a number of complex financial issues, including the unequal division of family property for significant unfairness in the face of significant excluded property and inclusion of repayments of a shareholder loan from an excluded company for the purposes of support. Read the [full article](#) by [Chantal M. Cattermole](#) and [Rylee Hunter](#) with Clark Wilson LLP.

B.C. Bans Wait-List Fees for Child Care Spots

Most B.C. child care providers are now banned from charging parents with fees to get on a waiting list.

Parents and advocates have long raised concerns about waiting list fees charged by some daycares, which could range from \$25 to more than \$200 simply to put a child's name on the list.

For many parents trying to secure child care, this could add up to hundreds of dollars with no guarantees they would get a spot. Read the *Vancouver Sun* [article](#).

When Does Inheritance Become Marital Property?

British Columbia's law entails dividing family property or marital property and joint debts equally between spouses, known as net family property, unless such division would be unjust.

According to the [Family Law Act](#), inheritance funds received from third parties are typically categorized as excluded from marital property, which means they are generally not subject to division in case of divorce. There are exclusions to this, and sometimes excluded property can be categorized as family property. Read the [full article](#) from the Onyx Law Group.

Act or Regulation Affected	Effective Date	Amendment Information
Child, Family and Community Service Act	Mar. 7/24	by 2022 bill 38, c. 40, sections 31, 52 and 55 only (in force by Reg 56/2024), Indigenous Self-Government in Child and Family Services Amendment Act
	Mar. 14/24	by 2024 Bill 5, c. 5, section 1 to 4 and 6 only (in force by Royal Assent), Child, Family and Community Service Amendment Act, 2024
Child, Family & Community Service Regulation (527/95)	Mar. 7/24	by Reg 56/2024
Court of Appeal Rules (120/2022)	Mar. 6/24	by Reg 46/2024
Family Law Act Regulation (347/2012)	Mar. 6/24	by Reg 42/2024
Family Maintenance Enforcement Act Regulation (346/88)	Mar. 6/24	by Reg 42/2024
Interjurisdictional Support Orders Act	Mar. 1/24	by 2022 Bill 8, c. 5, sections 1 to 4 and 6 to 12 only (in force by Reg 213/2023), Attorney General Statutes (Hague Convention on Child and Family Support) Amendment Act, 2022

		by Reg 213/2023
Interjurisdictional Support Orders Regulation (15/2003)	Mar. 1/24	by Reg 213/2023
Supreme Court Civil Rules (168/2009)	Mar. 6/24	by Reg 28/2024
Supreme Court Family Rules (169/2009)	Mar. 6/24	by Reg 28/2024



FOREST & ENVIRONMENT

Forest and Environment News:

Amendments to the *Forest and Range Practices Act* Now in Force

On March 11, additional provisions of 2021 Bill 23, c. 37, the [Forests Statutes Amendment Act, 2021](#) came into force by [B.C. Reg. 57/2024](#). The Bill amended the [Forest and Range Practices Act](#) to allow the minister to designate areas of catastrophic damage due to wildfires or natural events, to establish plans for reforesting those areas and to grant relief or funding for establishing free growing stands.

Recent Forestry Legislation Changes

On April 1, amendments were made to forestry-related legislation, particularly the [Forest Act](#) and [Forest and Range Practices Act](#), by 2023 Bill 41, c. 43, the [Forests Statutes Amendment Act, 2023](#), which were brought into force by [B.C. Reg. 62/2024](#). The [Forest Act](#) was amended to provide greater discretion to decision-makers when issuing cutting permits and road permits, and authorizing them to request additional information in relation to the issuance of permits and during the term of the permits, as well as impose certain conditions on or refuse a permit. The [Forest and Range Practices Act](#) was amended to reflect the changes to the [Forest Act](#) and to modify the provisions for administrative penalties and orders for remedial work.

Quickscribe's early consolidations of the [proposed 2019 Bill 21, c. 25 amendments](#) to the [Forest and Range Practices Act](#) and the [proposed 2021 Bill 23, c. 37](#) amendments to the Act have been updated to reflect the recent changes.

New BC Wildfire Service Open Fire Policy

The BC Wildfire Service has published [a new policy](#) on the use of open fire under sections 20 to 24 of the [Wildfire Regulation](#), intended to provide guidance on requirements for the safe use of open fire, including fuel breaks, preventing open fires from becoming out of control, burn registration numbers and documenting extinguishment. Quickscribe Envirofor has BC Wildfire Services policies [available](#), or the policy can be found on the BC government [website](#).

Amendments Coming to the *Environmental Management Act*: British Columbia to Introduce More Robust Regulation of the Decommissioning and Closure of Industrial Facilities

In April 2022, the BC Ministry of Environment and Climate Change released a discussion paper on its [Public Interest Bonding Strategy](#), an initiative aimed at ensuring that owners of large industrial projects – as opposed to taxpayers – pay for the full costs of environmental clean-up and reclamation, even if projects are abandoned. The strategy was implemented in part due to the recent instances of companies becoming unwilling or unable to complete their environmental clean-up and reclamation activities, highlighting the need to review how the Province approaches financial assurance.

The first phase of the strategy involves a review of financial assurance mechanisms under the [Environmental Management Act](#) and the [Mines Act](#), with a focus on the foreseen clean-up and reclamation costs for existing active and new projects that pose a high environmental and financial risk. In the second phase, the unforeseen clean-up costs under a broader range of statutes, including the [Land Act](#), [Forest Act](#), and [Environmental Assessment Act](#), will be reviewed with the aim of improving co-ordination of financial assurance across ministries. Read the [full article](#) by [Kinsey Furniss](#) and [Adam R. Way](#) with Harper Grey LLP.

BC Court of Appeal Confirms the Defence of Statutory Authority Applies where Aboriginal Fishing Rights are Engaged

On February 26, 2024, the Court of Appeal for British Columbia (the "Court") issued its decision in *Thomas v. Rio Tinto Alcan Inc.*, [2024 BCCA 62](#). The underlying trial dealt with claims of nuisance brought by the Saik'uz First Nation and the Stelat'en First Nation (collectively, the "Nechako Nations") against Rio Tinto Alcan Inc. ("RTA") as a result of its operation of the Kenney Dam, a government authorized project, on the Nechako River. A central issue considered by the Court on appeal was whether the defence of statutory authority was available to RTA to avoid liability. The Court concluded that the defence applied in this instance. Read the [full article](#) by [Dani Bryant](#), [Samuel Geisterfer](#) and [Dustin Horvat](#) with Fasken Martineau DuMoulin LLP.

Federal Impact Assessment in Flux: The Implications of the Supreme Court's Decision in the *Reference re Impact Assessment Act*

On October 13, 2023, Canada's Supreme Court [found](#) core components of the federal [Impact Assessment Act](#) ("IAA") to be unconstitutional. This is the first time a majority of the Supreme Court has declared any federal environmental legislation unconstitutional in four decades.

Although the final impacts of this decision are far from settled, there are some clear implications for proponents of major energy, infrastructure and mining projects in Canada going into 2024. Read the [full article](#) by [Liane Langstaff](#), [Stacy Porter](#) and [Maggie](#)

[Sainty](#) with Gowling WLG.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decision was made recently:

[Environmental Management Act](#)

- [518235 BC Ltd. dba Xausa Family Trust v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

[Wildfire Act](#)

- [Canadian Forest Products Ltd. v. Government of British Columbia](#) [Final Decision – Appeal Dismissed in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Orders and Remedies Regulation (101/2005)	Mar. 11/24	by Reg 57/2024
	Apr. 1/24	by Reg 62/2024
Administrative Penalties (Environmental Management Act) Regulation (133/2014)	Mar. 18/24	by Reg 61/2024
Advertising, Deposits, Disposition and Extension Regulation (55/2006)	Apr. 1/24	by Reg 62/2024
Allowable Annual Cut Partition Regulation (32/2011)	Apr. 1/24	by Reg 62/2024
Angling and Scientific Collection Regulation (125/90)	Apr. 1/24	by Reg 72/2023
Annual Rent Regulation (122/2003)	Apr. 1/24	by Reg 62/2024
BC Timber Sales Account Regulation (9/2014)	Apr. 1/24	by Reg 62/2024
Carbon Neutral Government Regulation (392/2008)	Mar. 6/24	by Reg 45/2024
Carbon Tax Regulation (125/2008)	Apr. 1/24	by Reg 60/2024
Cleaner Gasoline Regulation (498/95)	Mar. 6/24	by Reg 48/2024
Commercial Transport Fees Regulation (328/91)	Apr. 1/24	by Reg 8/2024
Cut Control Regulation (578/2004)	Apr. 1/24	by Reg 62/2024
Cutting Permit Postponement Regulation (284/2007)	Apr. 1/24	by Reg 62/2024
Deletions and Expropriations (for Parks, Conservancies and Recreation Areas) Regulation (156/2023)	Apr. 1/24	by Reg 62/2024
Drinking Water Protection Regulation (200/2003)	Mar. 6/24	by Reg 42/2024 and Reg 47/2024
Effective Director Regulation (243/94)	Apr. 1/24	by Reg 62/2024

Forest Act	Apr. 1/24	by 2023 Bill 41, c. 43, sections 1 to 9, 11, 12, 14 to 17, 20, 22 to 25, 27 to 39, 41 to 48, 50, 51, 53 to 62, 64, 66 to 76, 79, 80, 82, 84, 85 and 89 to 118 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Forest and Range Practices Act	Mar. 11/24	by 2021 Bill 23, c. 37, sections 63, 70, 72, 77, 78, 79 (part), 85, 92 and 94 only (in force by Reg 57/2024), Forests Statutes Amendment Act, 2021
	Apr. 1/24	by 2019 Bill 21, c. 35, sections 10 and 43 only (in force by Reg 163/2023 , amended by Reg 62/2024), Forest and Range Practices Amendment Act, 2019
		by 2021 Bill 23, c. 37, section 76 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2021 , amended by 2023 Bill 14, c. 10, section 286 (in force by Royal Assent), Miscellaneous Statutes (Modernization) Amendment Act, 2023
		by 2023 Bill 41, c. 43, sections 119 to 125, 127, 129 to 132, 134, 135, 139 to 141, 143, 145, 147, 149, 151 to 153, 155, 156 and 158 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Forest Licence Regulation (203/2012)	Apr. 1/24	by Reg 62/2024
Forest Planning and Practices Regulation (14/2004)	Mar. 11/24	by Reg 57/2024
	Apr. 1/24	by Reg 163/2023 and Reg 62/2024
Forest Practices Code of British Columbia Act	Apr. 1/24	by 2023 Bill 41, c. 43, section 160 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Fort St. John Pilot Project Regulation	Apr. 1/24	by Reg 62/2024
Great Bear Rainforest (Forest Management) Act	Apr. 1/24	by 2023 Bill 41, c. 43, section 162 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Hazardous Waste Regulation (63/88)	Mar. 6/24	by Reg 42/2024
Innovative Forestry Practices Regulation (197/97)	REPEALED Apr. 1/24	by Reg 62/2024
Integrated Pest Management Regulation (604/2004)	Mar. 5/24	by Reg 41/2024
Laboratory Services Regulation (52/2015)	Mar. 6/24	by Reg 42/2024
Motor Vehicle Prohibition Regulation (18/2024)	NEW Mar. 1/24	see Reg 18/2024
Motor Vehicle Prohibition Regulation (196/99)	REPEALED Mar. 1/24	by Reg 18/2024
Municipal Wastewater Regulation (87/2012)	Mar. 6/24	by Reg 50/2024
Muskwa-Kechika Management Plan Regulation (53/2002)	Mar. 6/24	by Reg 42/2024
Open Burning Smoke Control Regulation (152/2019)	Mar. 6/24	by Reg 42/2024 and Reg 49/2024
Performance Based Harvesting Regulation	REPEALED	by Reg 62/2024

(175/96)	Apr. 1/24	
Permit Regulation (253/2000)	Mar. 1/24	by Reg 35/2024
Pool Regulation (296/2010)	Mar. 6/24	by Reg 54/2024
Provincial Forest Use Regulation (176/95)	Mar. 11/24	by Reg 57/2024
	Apr. 1/24	by Reg 62/2024
Public Access Prohibition Regulation (187/2003)	Mar. 1/24	by Reg 19/2024 and Reg 36/2024
Range Act	Apr. 1/24	by 2023 Bill 41, c. 43, section 163 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Reductions for First Nation Purpose or BCTS Licence Purpose Regulation (155/2023)	Apr. 1/24	by Reg 62/2024
Refusal of Cutting Permit or Road Permit Regulation (252/2018)	Apr. 1/24	by Reg 62/2024
Special Accounts Appropriation and Control Act	Apr. 1/24	by 2023 Bill 41, c. 43, section 166 only (in force by Reg 62/2024), Forests Statutes Amendment Act, 2023
Special Purpose Areas Regulation (153/2023)	Apr. 1/24	by Reg 62/2024
Stillwater Pilot Project Regulation (96/2001)	Apr. 1/24	by Reg 62/2024
Timber Marking and Transportation Regulation (253/97)	Apr. 1/24	by Reg 62/2024
Tree Farm Licence Area-Based Allowable Annual Cut Trial Program Regulation (482/2004)	REPEALED Apr. 1/24	by Reg 62/2024
Waste Assessment Regulation (262/2019)	Apr. 1/24	by Reg 62/2024
Waste Discharge Regulation (320/2004)	Mar. 6/24	by Reg 51/2024
Wildfire Regulation (38/2005)	Mar. 18/24	by Reg 68/2024
	Apr. 1/24	by Reg 62/2024
Woodlot Licence Planning and Practices Regulation (21/2004)	Mar. 11/24	by Reg 57/2024
	Apr. 1/24	by Reg 62/2024



HEALTH

Health News:

BC Court of Appeal Upholds Immunity of Nurses from Personal Liability in Medical Negligence Case

The BC Court of Appeal has upheld the immunity of nurses from personal lawsuits, finding that the [Health Authorities Act](#) shields them from suits for the actions they undertook in good faith within their professional duties. The dispute in *Manns v. Vancouver Island Health Authority*, [2024 BCCA 110](#) concerns nurses who were involved in the medical care of Erik Michael Manns. In 2017, Erik tragically passed away at Nanaimo Regional General Hospital following complications from pancreatitis. The appeal, initiated by Erik's mother, Paivi Manns, centred around the legal liability of the nurses and the Vancouver Island Health Authority (VIHA) under the [Health Authorities Act](#) for alleged medical negligence. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

BC Cost Recovery Legislation Has Significant Implications for Product and Service Providers

The Government of British Columbia has announced its intention to facilitate civil suits by provincial and federal governments seeking cost recovery, on an unprecedented scale, for “health-related wrongs” from companies that promote, market and distribute products and services in British Columbia via [Bill 12](#): the *Public Health Accountability and Cost Recovery Act* (the “Act”). This proposed legislation is scheduled to be debated at second reading when the British Columbia legislature reconvenes in April. The proposed Act expands upon existing cost recovery legislation in British Columbia (and subsequently other provinces in Canada) that is targeted at manufacturers and distributors of tobacco and opioids, including the [Tobacco Damages and Health Care Costs Recovery Act](#) and the [Opioid Damages and Health Care Costs Recovery Act](#).

Implications of Bill 12

The proposed legislation carries the potential for significant consequences upon targeted companies found liable. Key features include:

Read the [full article](#) by [Kate Findlay](#) with Aird Berlis LLP.

Pharmacare Promises

Whether the bill leads to anything concrete will depend on the cooperation by the provinces and territories. In two years, maybe three, a lot of people in health policy circles might be wondering what happened to that whole pharmacare thing. Or it might not be that much of a mystery. The initial flurry of bullish press coverage that followed the tabling of [Bill 64](#) – “An Act respecting pharmacare” – was itself followed almost immediately by more caustic commentary questioning whether the bill really represented the sea-change in social policy its proponents said it was. “You see a lot of ‘path-toward’ language in the legislation but I struggled to find anything that looked like a concrete path to a new system,” says Marion Sandilands, a specialist in constitutional law at Conway Litigation. “It’s very limited in terms of what’s on offer and what the federal government is obliged to do.” Read the [full article](#) by [Doug Beazley](#) with CBA National.

BC Court Dismisses Malpractice Claim against Psychiatrists Involved in Electroconvulsive Therapy

In a recent decision, the BC Court of Appeal upheld the dismissal of a medical malpractice claim against three psychiatrists regarding electroconvulsive therapy (ECT). In *Rybakov v. Khattak*, [2024 BCCA 96](#), the court found that the plaintiff had argued negligence in administering and communicating the ECT treatments without providing expert evidence to support his claims. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

Canada Is Not Yet Ready to Expand Its Medical Assistance in Dying Legislation

Canada’s Medical Assistance in Dying (MAID) laws were set to change in March 2024 to include mental disorders. But the federal government has once again delayed implementation until at least March 2027. Medical Assistance in Dying (MAID) was [legalized](#) in Canada in 2016 and became available to eligible adults with terminal illnesses. In 2021, [An Act to amend the Criminal Code](#) (medical assistance in dying) expanded MAID to include people whose natural death was not considered reasonably foreseeable. The 2021 changes came in response to the 2019 Superior Court of Quebec’s decision in *Truchon c. Procureur général du Canada* (*Truchon*). The Superior Court found the requirement that an individual’s death needed to be reasonably foreseeable to be eligible for assisted dying was unconstitutional and violated both [Charter sections 7](#) and [15](#). The Court also found the violations were not justified under [Charter section 1](#) (at paras 682-735).

The Current Law

[Section 241.1 of the Criminal Code](#) defines MAID as:

Read the [full article](#) by [Myrna El Fakhry Tuttle](#) with *LawNow*.

BC Supreme Court Clarifies Proper Parties in Medical Residency Charter Challenge

The Supreme Court of British Columbia struck a [Charter](#) challenge against the Canadian Residence Matching Program Service (CaRMS) and the Association of Faculties of Medicine of Canada (AFMC) regarding the system by which medical school graduates are matched to available residency positions in British Columbia. The [challenge](#) was initiated by two Canadian citizens, Oliver Kostanski and Harris Falconer, who graduated from international medical schools and the Society for Canadians Studying Medicine Abroad. They contested the residency matching system that places Canadian or American medical school graduates in one stream and international graduates in another. They argued that this system unfairly limits their opportunities to secure residency positions in BC and subsequently practice medicine. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Emergency Intervention Disclosure Regulation (33/2013)	Mar. 6/24	by Reg 42/2024
Hospital Transfer Regulation (359/94)	Mar. 6/24	by Reg 42/2024
Milk Industry Standards Regulation (464/81)	Mar. 6/24	by Reg 42/2024
Reporting Information Affecting Public Health Regulation (167/2018)	Mar. 6/24	by Reg 42/2024





Labour and Employment News:

Changes to the Definition of Strike in the Labour Relations Code Proposed

On March 11, the [Miscellaneous Statutes Amendment Act, 2024](#) was introduced. The Bill proposes amendments to a number of laws, including the [Labour Relations Code](#). These amendments would change the definition of "strike" to include picketing by employees under federal or other provincial jurisdiction, which would allow BC workers to legally respect those picket lines.

British Columbia: Minimum Wage Increases to Be Based on Consumer Price Index

The British Columbia [Employment Standards Act](#) (ESA) will soon be amended to provide for an annual adjustment to the minimum wage rate, calculated based on changes in the annual average Consumer Price Index.

The government of British Columbia previously announced that the general minimum wage will be increasing from \$16.75 to \$17.40 per hour effective June 1, 2024. This represents a 3.9 percent increase, consistent with British Columbia's average rate of inflation in 2023. Moving forward, the ESA will automatically provide for an annual adjustment to the minimum wage equal to the percentage year-over-year change in the All-Items Consumer Price Index for British Columbia. Read the [full article](#) by [Duncan Burns-Shillington](#) with DLA Piper.

Driving Change: B.C.'s Bill 48 Provides Clarity to Gig Economy

As the weather warms up and more individuals look to transition to their summer jobs, gig economy workers and providers of gig work platforms should be aware of the changes to the [Employment Standards Act](#) (the ESA) and the [Workers Compensation Act](#) (the WCA) as a result of British Columbia's Bill 48: [Labour Statutes Amendment Act, 2023](#) (the Act), which received royal assent on November 30, 2023.

There has long been confusion as to the legal standards that apply to gig economy workers, including the question as to whether these workers are subject to the provisions of the ESA and WCA. Bill 48 attempts to provide some clarity to the gig economy by providing a definition for such workers as "online platform workers," which includes all workers who accept and perform prescribed work through an online platform. Read the [full article](#) by [Shaun Parker](#), [Abigail Omale](#) and [Matthew Li](#) with Osler, Hoskin & Harcourt LLP.

Repudiation Upheld Thus Valid Termination Clause of No Effect

In *Klyn v Pentax Canada Inc.*, [2024 BCSC 372](#), Justice Edelman had a situation where the Defendant failed to honour their own termination clause. The result was that the Defendant could not rely on their otherwise enforceable termination clause and thus the Plaintiff was entitled to common law reasonable notice. This is what the Judge said:

[6] The parties agree on the applicable law. Repudiation is a breach of contract by one party giving rise to the right of the other party to terminate the contract and pursue the available remedies for the breach. A breach is a repudiation of the contract if it is a breach of a contractual condition or of some other sufficiently important term of the contract so that there is a substantial failure of performance (see Potter v. New Brunswick (Legal Aid Services Commission), [2015 SCC 10](#) at paras. 144-145).

Read the [full article](#) by Barry Fisher, published on *Barry Fisher's Employment Law Blog*.

Check-in on Card Check: British Columbia Sees 20-Year Record in Union Organizing Activity

After amending the [Labour Relations Code](#) (the "Code") in 2022 to allow for automatic card-check certification, 2023 saw the highest number of union certification applications in British Columbia since 2001.

B.C. Labour Relations Board's [Annual Report](#) Proves the Deck is Stacked in Favour of Unions

The NDP's 2022 [amendments](#) to the Code re-introduced single-step "card-check" certification in the province. This system permits automatic certification of a union without a representation vote where the union can demonstrate support of 55% or more of the employees in a bargaining unit. For details on the full amendments, see our initial blog [here](#). Based on the Board's recent data, our prediction that the amendments would "stack the deck" in favour of unions has proven correct.

Read the [full article](#) by [Kris R. Noonan](#), [Justina Sebastampillai](#) and [Cameron Penn](#) with Stikeman Elliott LLP.

Remote Worker Dismissed Over Vaccination Status Denied EI by Federal Court

In *Spears v. Canada (Attorney General)*, [2024 FC 329](#), the employee, a public servant, was dismissed for misconduct after failing to comply with her employer's Covid-19 Vaccination Policy, despite her status as a remote worker. Her subsequent application for employment insurance ("EI") benefits was denied. After two failed appeals, the employee brought the matter before the Federal Court on judicial review. On February 28, 2024, the Federal Court dismissed her application, thereby affirming the original decision to deny her EI benefits. Read the [full article](#) by [Sharon Canete](#) and [Daniel E. Attwell](#) with Mathews, Dinsdale & Clark LLP.

Fired BC Worker Gets 18 Months' Pay, \$25,000 Punitive Damages

"It's really important for employers to be fair in the way that they treat employees, including upon termination, and one of the

things that's fundamental in treating an employee fairly is to adhere to the terms of the contract that you have with them."

So says Natalia Tzemis, an employment lawyer at Harris and Company in Vancouver, after a British Columbia court ordered an employer pay a fired worker nearly \$500,000 for 18 months' pay in lieu of notice and \$25,000 in punitive damages. Read the [full article](#) by [Jeffrey R. Smith](#) in the *Canadian HRReporter*.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Act	Mar. 14/24	by 2024 Bill 7, c. 4, sections 11, 12 and 15 to 19 only (in force by Royal Assent), Social Development and Poverty Reduction Statutes Amendment Act, 2024
Employment and Assistance for Persons with Disabilities Act	Mar. 14/24	by 2024 Bill 7, c. 4, sections 26, 27 and 30 to 33 only (in force by Royal Assent), Social Development and Poverty Reduction Statutes Amendment Act, 2024
Employment Standards Regulation (396/95)	Mar. 6/24	by Reg 42/2024
Pension Benefits Standards Act	Mar. 31/24	by 2023 Bill 33, c. 34, section 3 only (in force by Royal Assent), Pension Benefits Standards Amendment Act, 2023
Workers Compensation Act	Mar. 4/24	by Reg 40/2024



LOCAL GOVERNMENT

Local Government News:

Transit-Oriented Areas (TOA) Provincial Policy Manual Updated

On March 8, 2024, the [Provincial Policy Manual: Transit-Oriented Areas](#) was updated in response to concerns expressed by several local governments on the use of the density bonus tool in TOAs. In the short term, the changes will allow local governments to use existing base densities established in their respective zoning bylaws, instead of the minimum allowable densities set out in the TOA regulations, which would limit some local governments in their ability to use the density bonus tool. A further change requires local governments to notify the Ministry of Transportation and Infrastructure of the final adoption of a bylaw compliant with TOA requirements, and include a final copy of the bylaw. The updated manual is available in the [Policy Manuals & Guides](#) section on the Quickscribe Civic Laws platform, and can also be downloaded from the BC government [website](#).

Bill 16 - Housing Statutes Amendment Act, 2024 Introduced

On April 3rd, the BC government introduced [Bill 16](#), the *Housing Statutes Amendment Act, 2024*, which supports the recent legislative changes intended to increase the supply of housing in BC. According to the government, this bill presents the second phase of this work by providing governments with new authorities that will allow them to continue to secure important outcomes outside of rezonings, increasing transparency and certainty in the development approval process. This will happen in three ways:

1. Establish a new authority for inclusionary zoning that will let local governments require affordable housing and new developments, subject to appropriate financial analysis, consultation and guardrails to ensure homes get built.
2. Provide municipalities with clear authorities to protect tenants who are evicted as a result of redevelopment.
3. Expand local government authorities to secure important site-level infrastructure like wider sidewalks, protected bike lanes and other infrastructure that is important to building complete communities.

BC Court of Appeal Clarifies Law of Confidentiality and Indemnification

The BC Court of Appeal's recent decision in *Anderson v. Strathcona (Regional District)*, [2024 BCCA 23](#) sheds some light on both the scope of the duty of confidentiality under [section 117 of the Community Charter](#) and the principles governing the indemnification of elected officials for their legal fees in connection with the exercise of their powers. The case arose from a decision of the Regional District Board to censure Director Anderson for disclosing confidential Board information to her legal counsel. The alleged improper disclosure occurred in the context of a proceeding that attempted to disqualify Director Anderson for allegedly accepting a gift. Read the [full article](#) by Sukh and Nick Falzon on the Young Anderson Barristers & Solicitors newsletter.

BCSC Affirms: Good Faith Local Government Decisions to Not Enforce Bylaws Are Immune From Negligence Claims

In *Fahr v Schnitzer Steel Canada Ltd.*, [2024 BCSC 296](#), the BC Supreme Court affirms that municipalities are not required to enforce bylaws so long as their decision to not undertake enforcement is done in good faith. This decision follows the Court's prior decisions in *Suncourt Homes* ([2019 BCSC 2258](#)) and *Lebourdais* ([2022 BCSC 281](#)). Specifically, the Court endorsed the statement that "[m]unicipalities will be immune from liability if they contemplate [bylaw] enforcement in good faith, regardless whether action is ultimately taken."

Background

The defendant, Schnitzer Steel Canada Ltd (“Schnitzer”), operates an automobile wrecking business within the Cowichan Valley Regional District (the “CVRD”). The plaintiffs are neighbours of Schnitzer and complained of “ongoing nuisance causing them property damage, emotional upset and pecuniary loss.”

Read the [full article](#) by Josh Krusell with Stewart McDannold Stuart.

Bill 11 – Vancouver Charter Amendment Act Introduced

Proposed legislative amendments support reconciliation and delivery of social housing for people living in Vancouver. If passed by the legislature, [Bill 11](#), *Vancouver Charter Amendment Act, 2024*, will recognize First Nations as a level of government that qualify for exemptions from the City of Vancouver’s development cost levy and amenity cost charge for social housing projects built on First Nations-owned land in Vancouver. The bill would grant First Nations and First Nation corporations the same exemptions that are applied to the federal and provincial governments, the City of Vancouver and non-profit organizations. Local First Nations have the potential to be a significant supplier of housing. This amendment is intended to reduce costs for First Nations and create opportunities for development, including new social housing. Read the government [news release](#).

An Analysis of the Federal Housing Investment for BC Local Governments

In advance of the 2024 Budget, the Federal Government has announced a significant series of housing-related measures including: a \$6 billion infrastructure fund comprised of \$1 billion for municipalities for urgent infrastructure needs, and \$5 billion to Provinces and territories; additional housing-focused requirements to access a forthcoming public transit fund; \$15 billion in additional funding for rental construction; a Canada Builds fund modelled on BC Builds; and a \$400 million top-up to the Housing Accelerator Fund. Housing measures announced by the Federal Government this week include: Read the UBCM [article](#).

Province Releases Further Guidance Around Housing Bills

In our previous articles “[Proposed Changes to Eliminate Zoning Barriers and Increase Small-Scale, Multi-Unit Housing](#)” and “[Proposed Legislation to Provide Builders with Transparency and Cost Certainty Upfront](#)”, we detailed the changes proposed by [Bill 44: Housing Statutes \(Residential Development\) Amendment Act, 2023](#) and [Bill 46: Housing Statutes \(Development Finance\) Amendment Act, 2023](#). Last month, the Province released Frequently Asked Questions documents for Bills 44 and 46, as well as [Bill 47: Housing Statutes \(Transit-Oriented Areas\) Amendment Act, 2023](#). This article summarizes the government’s guidance around questions it has encountered since the legislation received royal assent late last year. Read the [full article](#) by Sarah Jones and Harman Kang with Clark Wilson.

New Legislation Paves the Way for Police Reform

Changes introduced to the *Police Act* will improve governance and oversight of policing as part of the Province’s work to make systemic improvements to the policing and public safety landscape in B.C. “We count on our police to respond in difficult situations to keep us safe and there are ongoing conversations on how to change policing to keep pace with a changing world, particularly for many Black, Indigenous and other people of minority communities who have had negative experiences with the police,” said Mike Farnworth, Minister of Public Safety and Solicitor General. “By focusing on changes to municipal policing, we are setting the foundation for a modern policing system that is fair, equitable and responsive to all communities.” The legislation makes changes to municipal police governance, oversight and police superintendence. The changes address recommendations from the 2022 Special Committee on Reforming the Police Act and from the 2019 Special Committee to Review the Police Complaint Process, and addresses legislative changes requested by the Office of the Police Complaint Commissioner. Read the government [news release](#).

Restricted Zoning: the BCCA Confirms Powers to Enact Rental-Only Bylaws Under the Local Government Act

Last year, in *V.I.T. Estates Ltd. v New Westminster (City)*, [2023 BCCA 183](#), the British Columbia Court of Appeal (BCCA) dismissed a challenge to a municipal bylaw that restricted zoning to residential rentals. The court found that the impugned rental-only zoning bylaw did not conflict with the [Residential Tenancy Act](#) (RTA) and was within the jurisdiction of the enacting municipality. Notably, the court also held that the RTA does not confer a right of occupation on owners of residential rental units.

Background

In an effort to preserve rental housing, the City of New Westminster (the City) adopted a bylaw (the Bylaw) that unilaterally rezoned certain residential buildings as “residential rental tenure” such that all units in the buildings could only be lawfully occupied by residential tenants who are unrelated to the owner of the unit. This prohibited owners from occupying their units in these buildings. The City purported to adopt the Bylaw pursuant to the [Local Government Act](#) (LGA), which authorizes municipalities to enact rental-only zoning bylaws.

Read the [full article](#) by Mark V. Lewis, Alana Walter and Brienne Gloecker with Bennett Jones LLP.

Province Introduces BC Flood Strategy

Last week, the Province introduced [From Flood Risk to Resilience: a B.C. Flood Strategy to 2035](#). The Flood Strategy outlines the Province’s direction for flood management, and includes 25 concepts to improve flood resilience. While the UBCM membership has consistently requested that the Province be established as the diking authority in all local governments, the Flood Strategy confirms that the Province will not assume this role. Read the UBCM [article](#).

UBCM Seeks Intervenor Status for Injunction Application Related to Public Consumption

The Union of B.C. Municipalities intends to apply to the B.C. Supreme Court for intervenor status in a lawsuit brought against the Province of B.C. by the Harm Reduction Nurses Association challenging the legality of the Province’s [Restricting Public Consumption of Illegal Substances Act](#). The act, which received Royal Assent in November 2023 but which has not yet been brought into force, bans the use of illicit drugs in certain public and recreation-focused spaces. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Act Regulation (433/98)	Mar. 6/24	by Reg 42/2024
Athlii Gwaii Legacy Trust (Winding Up) Act	NEW Mar. 14/24	c. 6, SBC 2024, Bill 8 , whole Act in force by Royal Assent
Fare Infraction Review Referral Regulation (88/2013)	Mar. 6/24	by Reg 55/2024
Liquor Control and Licensing Regulation (241/2016)	Mar. 6/24	by Reg 52/2024
Municipal Finance Authority Act	Mar. 14/24	by 2024 Bill 4, c. 3, sections 1 to 4 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2024
Security for Costs (Administrative Tribunals) Regulation (238/2015)	Mar. 6/24	by Reg 42/2024
Short-Term Rental Accommodations Regulation (68/2023)	Mar. 18/24	by Reg 66/2024
Taxation (Rural Area) Act Regulation (387/82)	Mar. 18/24	by Reg 67/2024
Union of British Columbia Municipalities Act	Mar. 14/24	by 2024 Bill 4, c. 3, sections 5 to 8 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2024
Vancouver Charter	Mar. 14/24	by 2024 Bill 4, c. 3, sections 10 to 13 only (in force by Royal Assent), Municipal Affairs Statutes Amendment Act, 2024
Victoria Regional Transit Commission Regulation No. 45-2024 (69/2024)	NEW Mar. 31/24	see Reg 69/2024



MISCELLANEOUS

Miscellaneous News:

BC and Haida Nation Release Haida Title Lands Agreement

On March 28, 2024, British Columbia and the Council of the Haida Nation released the draft *Gaayhllxid • Gihlagalgang "Rising Tide" Haida Title Lands Agreement* ("Draft Agreement") which would recognize Haida Nation's Aboriginal Title on Haida Gwaii and transition over time land-and resource-related governance powers from British Columbia to Haida Nation. The Draft Agreement includes a transition period ("Transition Period") in which British Columbia and Haida Nation will continue to use their existing shared decision-making processes to make land and resource decisions while aligning Haida Nation and BC's laws and jurisdictions with the recognition of Aboriginal title. The Draft Agreement estimates that Transition Period will take two years (an ambitious timeline) and will focus initially on land and resource decision-making powers over protected areas and forestry.

Background

The Haida Nation claim title to Haida Gwaii. In [Haida Nation v British Columbia \(Minister of Forests\)](#), the Supreme Court of Canada (SCC) affirmed the strength of Haida's Aboriginal title claim. The SCC agreed with the chambers judge's finding that, based on a "voluminous" evidentiary record, "the Haida claim goes far beyond the mere 'assertion' of Aboriginal title". The SCC concluded that the evidence "clearly supports" a *prima facie* case in support of Aboriginal title. British Columbia's view is that "Haida Nation has a very strong Aboriginal Title case to Haida Gwaii".

Read the [full article](#) by Sharon Singh, Laurie Wright, David Bursey, Radha Curpen and Brienne Gloeckler, Articling Student, with Bennett Jones LLP.

Legislation Will Enable Community, Economic Development in Haida Gwaii

The Province will enable the transfer of approximately \$60 million from a legacy trust to the Gwaii Trust Society for the benefit of the broader Haida Gwaii community. "As a rural and remote community, the people of Haida Gwaii should be able to access and use this fund in a forward-looking way that addresses their unique needs," said Bruce Ralston, BC's Minister of Forests. "The transfer is long overdue, and I'm glad that this [bill](#) will finally help that become a reality. The Gwaii Trust Society funds and supports projects that contribute to the well-being of the Haida Gwaii community, and builds a more diverse, sustainable economy

for the long term." Read the government [news release](#).

BC Legal Regulator Expresses Concern over Proposed Legislation for a Single Regulator

The Law Society of British Columbia has voiced concerns regarding the proposed legislation establishing a single regulator for all legal service providers in the province. In a recent statement, the Law Society encouraged the government to provide more information to the public and the legal professions about the proposed legislation. Despite welcoming the government's update on its Intentions Paper, the Law Society highlighted apprehensions about safeguarding the regulator's independence from governmental influence. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

Lengthy s. 35 Trials and Access to Justice: *Malli v. British Columbia*

In January 2024, the British Columbia Supreme Court released the *Malli v. British Columbia*, [2024 BCSC 85](#) decision. This case reiterates that lengthy and complex [s. 35](#) trials create an access to justice concern that can be strong enough to counterbalance against arguments to add defendants to a s. 35 action. Moving forward, BC courts are taking seriously the access to justice concerns raised by the burdens of multi-year s. 35 trials, seeking solutions at the early stages wherever possible, such as reducing the number of defendants. However, with the current tests to prove rights and title requiring lengthy and complex submissions, perhaps this case can act as a signpost that while reducing the number of parties is one way to improve efficiency in small steps, the larger steps may require a broader rethinking altogether. Read the [full article](#) by [Rachel Garrett](#) with Woodward & Company Lawyers LLP.

End of the Road: BC Court Refuses Adjournment to Allow Plaintiff to Supplement Certification Record

Class action defendants in British Columbia often have to contend with shifting certification records and evolving case theories. BC courts have often adjourned certification hearings so that plaintiffs may amend their pleadings, revise common issues and/or seek further evidence necessary to satisfy the certification criteria. But according to a recent decision from the BC Court of Appeal plaintiffs should not count on such adjournments in order to remedy defects in their certification application (*Williams v. Audible Inc.*, [2023 BCCA 475](#)). In *Williams*, the plaintiff sought certification of a class proceeding in which he alleged that an agreement between Apple Inc. and Audible Inc. for the distribution and sale of audiobooks violated the [Competition Act](#). Originally, the plaintiff alleged that the agreement contained several provisions that offended the *Competition Act*, including provisions that imposed restrictions on Apple and provisions that imposed restrictions on Audible. As is common in competition class actions, the plaintiff's certification record included an expert report that purported to show plausible methodologies for (i) assessing the harm to proposed class members caused by the alleged wrongful conduct and (ii) calculating damages arising from that conduct. Read the [full article](#) by Kevan Hanowski with McCarthy Tétrault.

Canada's Digital Safety Balancing Act

[Bill C-63](#) is a significant departure from an earlier effort to pass online harms legislation, which died on the order paper when the 2021 election was called. The new bill has narrowed its scope to focus on the protection of children. It outlines seven categories of online content it seeks to police, including communicating intimate content without consent, defined to include "deepfakes" and content that sexually victimizes a child or revictimizes a survivor. And it updates provisions concerning hate speech in the [Criminal Code](#) and reintroduces a revised version of Section 13(1) of the [Canadian Human Rights Act](#). Read the [full article](#) by [Dale Smith](#) with CBA National.

Act or Regulation Affected	Effective Date	Amendment Information
Electronic Court Documents Regulation (60/2005)	Mar. 6/24	by Reg 42/2024
Judicial Compensation Regulation (83/2023)	Mar. 4/24	by Reg 39/2024
Poverty Reduction Strategy Act	Mar. 14/24	by 2024 Bill 7, c. 4, sections 34 to 40 only (in force by Royal Assent), Social Development and Poverty Reduction Statutes Amendment Act, 2024



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Changes to *Commercial Transport Act*

2024 Bill 10, the [Commercial Transport Amendment Act, 2024](#), came into force on March 14, and amended the [Commercial Transport Act](#) to increase the maximum penalties for commercial truck drivers who commit offences under the Act. The amendments will allow courts to impose fines up to \$100 000 and prison sentences up to 18 months for violations.

Speed Limiting Devices to Become Mandatory on Heavy B.C. Commercial Trucks

The British Columbia Transportation Ministry says commercial trucks above a certain weight will soon be required to be fitted with technology to limit how fast they travel on provincial roadways.

The ministry says the "speed-limiter devices" will be mandatory on April 5 for commercial trucks weighing more than 11,793

kilograms and if they were built after 1994.

An information bulletin from the Transportation Ministry says the technology will limit vehicles fitted with the devices to 105 kilometres per hour.

The ministry says the new requirement stems from amendments to the [Motor Vehicle Act](#) announced last year, and drivers found without a device or one that's improperly programmed will face a fine. Read the [BIV article](#).

Clarity About Road Ownership and Access Vital to British Columbians

Who owns this road? Who can use it? These are critically important questions, especially in rural and remote areas.

In a new report, Ombudsperson Jay Chalke calls on the Ministry of Transportation and Infrastructure (MOTI) to address problematic road legislation that has real-life consequences for many British Columbians.

"This legislation continues to give rise to problems and disputes between neighbours, private citizens and government," said Ombudsperson Jay Chalke. "It needs to be fixed, to protect the public interest and address an ongoing injustice."

Complaints examined in the Ombudsperson's report, [On the Road Again](#), arose from the peculiar operation of section 42 of the [Transportation Act](#), which states that in some cases, when public money is spent on maintenance, roads on private property can automatically be deemed to be public. Read the [full article](#) from the Office of the Ombudsperson.

BC Supreme Court Clarifies Civil Resolution Tribunal's Authority Over Minor Injury Claims

In a recent ruling, the BC Supreme Court has clarified the jurisdiction and authority of the Civil Resolution Tribunal (CRT) over claims that relates to a minor injury.

The dispute in *Hauck v Kiem*, [2024 BCSC 388](#) arose from a motor vehicle accident. The plaintiff sued the defendant, claiming damages for pain, suffering, loss of enjoyment of life, loss of employment income, loss of ability and opportunity to earn income, loss of housekeeping capacity and special damages. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer* magazine.

A B.C. Class Action May Prompt Uber and Lyft to Ensure Accessible Services for Wheelchair Users

For wheelchair users, travelling by using ride-hailing apps, like Uber and Lyft, can be complicated. On March 20, a class action was announced against Uber and Lyft in British Columbia for allegedly not providing service to a wheelchair user. One of the goals of the class action is to bring about systemic change to the companies' practices.

In the United States – where my research into ride hailing apps took place – lawsuits by wheelchair users or disability organizations against the companies are all too familiar. Sometimes, the outcomes of the suits resulted in payments to riders who were not provided service due to their use of wheelchair. Read the [BIV article](#).

B.C. Opening New Rest Stop for Commercial Truck Drivers

Site has parking for over 100 commercial trucks, includes washrooms, security cameras

The federal government and British Columbia are providing commercial long-haul drivers travelling through the Lower Mainland with a new place to stop and rest.

The provincial government is opening the North Surrey Truck Parking Facility on March 28. The new facility is on Highway 17, about 600 metres east of the Port Mann Bridge.

Ottawa contributed to the project as part of a larger \$109-million investment that also includes funding for the widening of the Trans-Canada Highway 1 between 216th and 264th streets. This initiative is funded through the New Building Canada Fund's Provincial-Territorial Infrastructure Component, National and Regional Projects. Read the [full article](#) by [Jim Wilson](#) in the *Canadian Occupational Safety* magazine.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [Bulletin 07-2023](#) – Over-height Regulations, Speed Limiters and In-Cab Warning Devices – Updated with FAQ
- [NSC Bulletin 02-2023](#) – 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:

News and Updates

- **Update on climate change programs and initiatives**
The scale of the climate emergency demands urgent action. Responding to climate change is a significant priority for the B.C. government. The Passenger Transportation Board (Board) continues to review its policies and procedures to ensure they support the government's climate change programs and initiatives. The following initiatives are a few of those currently being undertaken by the Province and the Board. Read the [full notice](#).
- **2024 Vancouver Cruise Ship Schedule for Transportation Network Services and Taxi Companies**
Transportation Network Service (TNS) operators are reminded to review the terms and conditions (T&C) of their licence as the 2024 cruise ship season begins in Vancouver. Read the [full notice](#).

Applications Received

- [19458-24](#) – Transfer from Penticton Yellow Taxi Ltd. to Penticton Klassic Kabs Ltd.
- [19576-24](#) – Skeena Taxi Ltd.
- [19666-24](#) – Tutt Bros Transportation Ltd.
- [19525-24](#) – Hoodoo Adventure Company Ltd.

Application Decisions

- [19904-24](#) – Robert Charles Darwin and Leticia Natalie Darwin (This Rides for U Wheelchair Services) [Approved]
- [19528-24](#) – Coquitlam Taxi (1977) Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Act	Mar. 14/24	by 2024 Bill 10, c. 7, sections 1 and 2 only (in force by Royal Assent), Commercial Transport Amendment Act, 2024
Commercial Transport Fees Regulation (328/91)	Apr. 1/24	by Reg 8/2024
Motor Dealer Act Regulation (447/78)	Mar. 6/24	by Reg 42/2024
Motor Vehicle Act Regulations (26/58)	Mar. 6/24	by Reg 53/2024
Violation Ticket Administration and Fines Regulation (89/97)	Mar. 1/24	by Reg 35/2004
	Mar. 11/24	by Reg 58/2024



OCCUPATIONAL HEALTH & SAFETY

Occupational Health and Safety News:

Permanent Disability Evaluation Schedule – Range of Motion Method and Disabilities of the Spine

from WorkSafeBC:

Our Policy, Regulation and Research Department (PRRD) is releasing a [discussion paper](#) on the Permanent Disability Evaluation Schedule – Range of Motion Method and Disabilities of the Spine to stakeholders for comment. Following concerns raised by stakeholders regarding the reliability and validity of the range of motion (ROM) method for measuring permanent disabilities involving the spine, a systematic review on the appropriateness of the ROM method and other diagnostic approaches was undertaken. Read the full WorkSafeBC [news release](#).

National Safety Council Releases New Opioid Prevention Initiatives

Thanks to the National Safety Council (NSC), employers now have more resources that can help them address the issue of opioid misuse in the workplace. The nonprofit has launched several new initiatives to combat overdose in the workplace. "Workplace overdose deaths are occurring at devastating rates, and we know more can be done to save lives," said Lorraine Martin, president and CEO of the NSC. "By providing essential tools, resources, and education, we can empower workplaces to be prepared, resilient, and ultimately save lives. We implore employers to join NSC in stocking these medications at all worksites." Read the [full article](#) by Jim Wilson with Canadian Occupational Safety.

OHSR Guidelines Updated (March 14):

from Worksafe BC:

The following guidelines were revised:

- Part 5 Chemical Agents and Biological Agents
[G5.48-5 Welding fumes](#)
- Part 12 Tools, Machinery and Equipment
[G12.124 Respiratory protection during specific short duration welding, burning, or similar operations and during emergency work](#)

New and revised guidelines are posted for a 60-day preliminary period, during which time the stakeholder community may comment and request revisions. Visit [Worksafe BC](#) for these and other guideline updates.

Public Consultation on the Permanent Disability Evaluation Schedule –

Range of Motion Method and Disabilities of the Spine

[from WorkSafe BC](#)

Following concerns raised by stakeholders about the range of motion (ROM) method for measuring permanent disabilities involving the spine, a systematic review on the appropriateness of the ROM method and other diagnostic approaches was undertaken. Overall, the systematic review found that all assessment methods were weak, and that there was no preference for one instrument over another. This consultation is to determine whether this issue should remain on the current workplan. Our Policy, Regulation and Research Department is releasing a discussion paper on the Permanent Disability Evaluation Schedule – Range of Motion Method and Disabilities of the Spine, for public consultation. You're invited to provide feedback until 4:30 p.m. on Friday, April 26, 2024.

BOD Decision: Cancer as a Compensable Consequence

[from WorkSafe BC:](#)

On February 6, 2024, WorkSafeBC's Board of Directors approved changes to Item C3-22.40, Compensable Consequences — Certain Diseases and Conditions, in the Rehabilitation Services & Claims Manual, Volume II. Amendments were made to policy on cancer as a compensable consequence to reflect current medical and scientific literature. The amended policy applies to all decisions made on or after June 1, 2024, respecting claims for injuries occurring on or after January 1, 2014. You can also review the complete [Resolution](#).

Crane Safety Improvements Needed in British Columbia

In the wake of a series of incidents involving tower cranes in British Columbia, the state of crane safety in the province has come under intense scrutiny. "When we look at the recent spate of unfortunate events relating to tower cranes, they are extremely concerning," says Clinton Connell, executive director of BC Crane Safety. There were two incidents within four days in January, and fortunately nobody was hurt. But a third incident in February caused the [death of 41-year-old mother of two Yuridia Flores](#). A rally was held on Friday [March 15] calling for justice and better safety conditions. Read the [full article](#) by [Shane Mercer](#) with Canadian Occupational Health & Safety.

Act or Regulation Affected	Effective Date	Amendment Information
Workers Compensation Act	Mar. 4/24	by Reg 40/2024



PROPERTY, REAL ESTATE & CONSTRUCTION

Property, Real Estate & Construction News:

Bill 14 – New Renter and Landlord Protections

[Bill 14](#), *Tenancy Statutes Amendment Act, 2024*, introduces changes to the [Residential Tenancy Act](#) and the [Manufactured Home Park Tenancy Act](#) intended to protect renters from bad-faith evictions and unfair rent increases, provide landlords with more flexibility and clearer guidelines for ending a tenancy with justified cause, and expedite the dispute resolution process. The changes include:

- restricting rent increases if a tenant adds a child under 19 to their household;
- increasing the amount of notice a landlord must give a tenant when ending a tenancy for personal occupancy;
- requiring landlords to use a standardized online form to issue a personal-use eviction to help the Residency Tenancy Branch track such evictions and investigate potential bad-faith evictions;
- increasing the amount of time a landlord must occupy a rental unit after ending a tenancy for personal occupancy from six months to 12 months;
- increasing the amount of time a tenant has to dispute a notice to end tenancy from 15 days to 30 days;
- prohibiting evictions for personal use in purpose-built rental buildings with five or more units; and
- prohibiting eviction for the conversion of rental units to specific non-residential uses.

Protection Fund, Bill of Rights for Renters Coming; 'Renters Matter,' Trudeau Says

A federal government announcement that rental history could be used on a credit score is a "gamechanger" for those who have been faithfully paying their rent for years, said a longtime advocate of the idea. Jackee Kasandy, CEO of the Black Entrepreneurs and Businesses of Canada Society, said getting funding from banks remains a challenge for longtime renters like her, unlike homeowners who can put up property as collateral. "I've rented successfully for 20 years. Why doesn't that count?" Kasandy said. "I've always asked that question."

Prime Minister Justin Trudeau announced the plan Wednesday [March 27], along with other supports for renters, including a renters protection fund and a bill of rights. Read the [BIV article](#).

Bill 15 – New Rules For Housing Speculators

On April 3rd, the government introduced [Bill 15](#), *Budget Measures Implementation (Residential Property (Short-Term Holding) Profit Tax) Act, 2024*. According to the government, the intent of this bill is to take action against speculators that use housing only to turn a quick profit. This Bill imposes tax on income from the disposition of specified residential property located in British Columbia. The tax will apply in respect of dispositions, made on or after January 1, 2025, of a beneficial interest in property with a

housing unit, or in property that is zoned for residential use, or of a right to acquire such property. The tax is payable at a rate of 20% if the disposition occurs one year or less after the taxable property was acquired. If the disposition occurs between one and 2 years after the taxable property was acquired, tax is payable at a rate that declines in proportion to the length of time the taxable property was held. No tax is payable in respect of income from a disposition that occurs more than 2 years after the taxable property was acquired. This Bill also does the following:

- provides rules for calculating taxable income and net taxable income;
- provides for a tax deduction of up to \$20 000 in respect of a disposition of a person's primary residence;
- provides for exemptions from the tax, including exemptions for particular life circumstances and in respect of additions to the housing supply;
- establishes rules for the administration and enforcement of the tax.

Lien Claimants Beware: Inflated Claims of Liens Can Cost You

Pursuant to the [Builders Lien Act](#), SBC 1997, c. 45 (the "Act"), a contractor, subcontractor, or worker is entitled to a lien for the price of the work or materials that they provided to a project, to the extent the price remains unpaid. However, what happens if a lien claimant knowingly files a lien far in excess of the amount actually owed to it? Recently, in *601 Main Partnership v Centura Building Systems (2013) Ltd.*, [2024 BCCA 76](#), the BC Court of Appeal addressed the circumstances in which an inflated and improper lien will constitute an abuse of the court's process, and the consequences that follow. Read the [full article](#) by Dan W. Melnick with Clark Wilson LLP.

Expanded Exemptions from Property Transfer Tax: A Welcome Change for Homebuyers

On February 22, the Provincial Government introduced Budget 2024, which made several significant tax changes focused on housing. Beginning April 1, 2024, changes will apply to the province's Property Transfer Tax (the "PTT") exemptions to benefit both first-time homebuyers and investors.

First-Time Homebuyers' Exemption

Whenever property is transferred in British Columbia, it is subject to PTT unless the transfer qualifies for one of the exemptions offered by the province. Before the changes introduced by Budget 2024, qualifying first-time homebuyers could claim an exemption for homes with a fair market value of \$500,000 or less. The changes implemented will increase that amount to \$835,000, meaning qualifying purchasers will see an elimination of PTT on the first \$500,000 of the purchase price of their first home. A partial exemption on homes with a fair market value of between \$835,000 and \$860,000 will be available for qualifying purchasers.

Read the [full article](#) by Kyle Ramsey with Pushor Mitchell LLP.

BC Supreme Stays Construction Dispute Claims in Favour of Arbitration Agreement

The BC Supreme Court has deferred to arbitration and [ordered a stay of a construction dispute](#) arising from a significant construction project for a marine terminal berth at a natural gas liquefaction and export facility in Kitimat, BC. The project, undertaken by LNG Canada Development Inc. on a site leased from Rio Tinto Alcon Inc. and executed by the joint venture JGC-Fluor, faced legal challenges from another joint venture, Besix-Vanpile, over increased construction costs due to various issues, including hazardous waste discovery and the COVID-19 pandemic. Read the [full article](#) by Angelica Dino with *Canadian Lawyer*.

BC Introduces Bill for First Nations Land Acquisition, Holding Rights

The British Columbia's government has introduced a [bill](#) that would give federally recognized First Nations the legal right to acquire and hold land in the province. BC's Ministry of Indigenous Relations says in a statement that the changes to land title and property laws would allow First Nations to register at the land title office, "reducing discriminatory and racist barriers" for them to own land. The statement says First Nations in the province are currently not able to acquire, hold or dispose of land in their own names unless "enabled by specific legislation" such as a treaty. It means that First Nations without those pathways would need to set up corporations or alternative arrangements for land acquisition and holding purposes. Read the [BIV article](#).

Do Standard Bylaws Change?

Dear Tony:

Is there a chance that the [Strata Property Act](#) Standard Bylaws will ever change? It would significantly reduce the number of agreements we would require for owners to be responsible for the changes owners are making for EV charging, heat pumps, furnace conversions and balconies. We are a mix of an apartment style building and 22 townhouses and the bylaws don't fit our type of strata very well. We are developing a very detailed set of bylaws and are concerned if there are any changes to the Standard Schedule of bylaws that we may have to go back to the drawing boards. – *William T.*

Dear William:

The Schedule of Standard Bylaws of the *Strata Property Act* are a placeholder set of bylaws that apply to every strata corporation in BC. If a strata corporation has never adopted any amendments, the Standard Bylaws automatically apply. The common practice when a strata corporation adopts a detailed set of bylaws designed for their unique strata corporation, is to repeal the Schedule of Standard Bylaws. By repealing the placeholder set, any future changes or amendments would not apply.

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

Act or Regulation Affected	Effective Date	Amendment Information
Building Envelope Renovation Regulation (240/2000)	Mar. 6/24	by Reg 42/2024

WILLS & ESTATES

Wills and Estates News:

Draft Will Revokes Earlier Formal Will, Leads to Intestacy: BC Supreme Court

In a recent ruling, the BC Supreme Court has decreed that a draft will that failed to represent the deceased's definitive intentions regarding the distribution of his estate revoked an earlier formal will, leading to intestacy.

The dispute in *Cooper Estate*, [2024 BCSC 218](#) stemmed from competing claims between Grant Cooper, the deceased's brother, and Beverly Wighton, who asserted she was the common-law spouse of the deceased at the time of his passing. The intertwined legal battles revolved around the validity and execution of Cooper's testamentary documents and their implications for the estate's distribution. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

B.C. Case Comment – Claim Against Estate Dismissed for Want of Prosecution

If a claimant brings an action, but then fails to move forward with pursuing it, the defendant(s) may apply to dismiss the claim for want of prosecution.

Dismissal for want of prosecution is considered a draconian remedy that should not be ordered lightly. It should be reserved for circumstances in which inexcusable delay gives rise to a substantial risk that a fair trial of the issues in dispute will no longer be possible. There is no set amount of time that a defendant must wait before making the application. There is no set amount of delay that will be inexcusable or inordinate. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

Widow's Claim for Constructive Trust on Life Insurance Benefits Paid to Deceased's Mother Rejected

[Ross v. American Income Life Insurance Co.](#), [2024] B.C.J. No. 231, British Columbia Supreme Court, February 12, 2024, M. Morellato J.

In a summary trial application, the wife of a deceased insured was unable to establish unjust enrichment against the deceased's mother, who was the name beneficiary under three insurance policies. The wife was also unable to establish the insurance proceeds paid to the deceased mother were provided based on a constructive trust in favour of her.

The insured died in an ATV accident in 2020. He had purchased three insurance policies, two in 1992 and one in 2006. The insurer paid the insurance proceeds of \$113,314.86, relating to the three policies, to the insured's mother as she was the designated beneficiary. The insured's widow commenced an action seeking a declaration that the mother received the insurance proceeds on a constructive trust in her favour. The widow claimed the mother was unjustly enriched on the basis that the widow was the intended beneficiary and could show deprivation. The mother claimed she held the legal and beneficial title to the insurance proceeds as she was the designated beneficiary under all three policies. Read the [full article](#) by [Aman Taggar](#) and [Steven Abramson](#) with Harper Grey LLP.

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

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