



# Quickscribe Reporter

Civic Laws

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## COMPANY & FINANCE

### Company and Finance News:

#### **B.C. Supreme Court Allows Proposed Class Action Challenging the *Income Tax Act* to Proceed**

In [Scow v. The Attorney General of Canada, 2021 BCSC 1110](#), the Supreme Court of British Columbia held that it may have jurisdiction over a proposed class action seeking the repayment of income taxes. While Canada argued the claim fell within the exclusive jurisdiction of the Tax Court of Canada, the Supreme Court of British Columbia held it was not plain and obvious that it lacked jurisdiction.

The decision suggests that at least some proposed class actions dealing with income taxes may proceed in provincial courts. This is notable as the Tax Court of Canada Rules do not provide for class proceedings. The decision also emphasizes the importance to defendants of selecting the right kind of application when challenging jurisdiction, to allow the court to fully dispose of a jurisdictional challenge.

Scow is a constitutional challenge to the [Income Tax Act](#). Between 2004 and 2012, the proposed representative plaintiff, Daniel Scow, paid tax on income from a small-scale fishing business he operated from Quinsam Reserve #12 in Campbell River. He did not file objections to those assessments within the time limits set out in the *ITA*.

Read the [full article](#) by [Patrick Williams](#) and [Sebastian Cooper](#) with McCarthy Tetrault LLP.

### **CSA Adopt Changes to Registration Rules to Protect Older and Vulnerable Clients**

**Rule changes will require registrants to take reasonable steps to obtain the name of a client's trusted contact person; allow for temporary account holds.**

The Canadian Securities Administrators recently announced the adoption of rules intended to strengthen the protection of older and vulnerable investors. Specifically, [amendments to National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations](#) (NI 31-103) will require that registrants, as part of the "know your client" (KYC) process, take reasonable steps to obtain the name and contact information of a client's "trusted contact person", along with consent allowing the registrant to contact the trusted contact person if concerns arise with respect to the client's mental capacity or possible financial exploitation. Read the [full article](#) at Stikeman Elliott.

### **BC Securities – Policies & Instruments**

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

- [52-112](#) – Adoption of National Instrument 52-112 *Non-GAAP and Other Financial Measures Disclosure*, and consequential amendments
- [41-101](#) – CSA Notice and Request for Comment Proposed Changes to Companion Policy 41-101CP to National Instrument 41-101 General Prospectus Requirements Related to Financial Statement Requirements
- [25-404](#) – CSA Position Paper 25-404: *New Self-Regulatory Organization Framework*
- [31-361](#) – CSA Staff Notice 31-361 *OBSI Joint Regulators Committee Annual Report for 2020*

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	Aug. 1/21	by 2021 Bill 8, c. 2, section 134 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Capital Requirements Regulation (315/90)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Classes of Insurance Regulation (204/2011)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Credit Union Incorporation Act	Aug. 1/21	by 2021 Bill 8, c. 2, sections 134, 137 to 143, 144 (part), 146 to 149 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Credit Union Minimum Level of Capital Regulation (107/92)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Designated Accommodation Area Tax Regulation (93/2013)	Aug. 1/21	by <a href="#">Reg 110/2021</a>
	Sept. 1/21	by <a href="#">Reg 178/2021</a>
Extraprovincial Corporations Disclosure of Information Regulation (105/92)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Financial Information Act	Aug. 1/21	by 2021 Bill 8, c. 2, section 150 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>

Financial Institutions Act	Aug. 1/21	by 2021 Bill 9, c. 14, section 45 only (in force by <a href="#">Reg 210/2021</a> ), <a href="#">Finance Statutes Amendment Act (No. 2), 2021</a>
		by 2021 Bill 8, c. 2, sections 1 to 6, 8, 9 (part), 11, 13, 15 (part), 17 to 22, 24 to 30, 32 to 44, 134 and 135 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
	Sept. 1/21	by 2021 Bill 8, c. 2, section 16 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Financial Institutions Fees Regulation (312/90)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Financial Services Authority Act	Aug. 1/21	by 2021 Bill 8, c. 2, sections 160 to 163 and 165 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Financial Services Authority Rule-Making Procedure Regulation (141/2020)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Insurance Company Reinsurance Limitation Regulation (324/90)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Insurance Societies Regulation (214/2015)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
National Instrument 52-112 <i>Non-GAAP and Other Financial Measures Disclosure</i> (223/2021)	<b>NEW</b> Aug. 25/21	see <a href="#">Reg 223/2021</a>
Provincial Sales Tax Rebate on Select Machinery and Equipment Regulation (78/2021)	<b>RETRO to</b> Apr. 1/21	by <a href="#">Reg 202/2021</a>
Transfer of Powers and Duties Financial Institutions) Regulation (211/2021)	<b>NEW</b> Aug. 1/21	see <a href="#">Reg 211/2021</a>

## FOREST & ENVIRONMENT

### Forest and Environment News:

#### **Cumulative Effects – The Impact of "A Tide of Change" on Indigenous Treaty Rights**

For sometime now, uncertainty has existed as to how the cumulative environmental effects of industrial development should be evaluated in relation to a potential infringement on Aboriginal or treaty rights. For the first time, a court has carried out a deep dive into this issue and considered whether there has been an infringement of a First Nations' treaty right due to the cumulative environmental impacts of industrial development.

When the prairies were first being settled, some of the Indigenous tribes of northeastern British Columbia

negotiated the preservation of their rights to hunt, trap, and fish. The British Columbia Supreme Court's decision in [Yahey v British Columbia](#) analyzes the cumulative impacts of industrial development in treaty territory finding the government's conduct "frustrates the essential promise of the Treaty". The Court held that the government's protection of treaty rights has been ineffective, largely allowing the rights to meet a "death by a thousand cuts". The judgment seeks to ensure Indigenous people are not left "with an empty shell of a treaty promise". Read the [full article](#) by [Heather L. Treacy](#), Q.C., ICD.D. and [Shannon Peddlesden](#) with DLA Piper.

### 10 Tips For Canadian Companies When Environmental Regulators Call

Canadian companies operating in environmentally sensitive industries face a complex set of regulatory obligations that may transect federal, provincial, and municipal governments. Regulatory compliance requires ongoing diligence that includes a robust environmental risk management system, and the penalties and reputational risk for non-compliance can be substantial.

In recent years, federal and provincial governments have signalled increasing emphasis on environmental protection, and consistent with that intent, government regulators appear to have ramped up compliance inspections and investigations. Monetary penalties arising from non-compliance have risen dramatically, as demonstrated by the Teck Coal Limited ("Teck") guilty plea entered in the British Columbia Provincial Court on March 26, 2021, in which Teck agreed to pay \$60,000,000 for repeated violations in 2012 of the Federal [Fisheries Act](#). This fine is the largest financial penalty imposed in Canadian history on liability for an environmental offence. Read the [full article](#) by [Wally Braul](#), [Josh Jantzi](#), [Mark Youden](#) and [Nicholas Tollefson](#) with Gowling WLG.

### Provincial State of Emergency Extended

The Government of British Columbia has extended the provincial state of emergency through the end of the day on Sept. 14, 2021, to support the ongoing co-ordinated response to the wildfire situation and to ensure public safety. Read the full government [news release](#).

### More Mill Closures Loom for B.C., Researcher Warns

#### ***Study examines economic costs of more environmental protections for the province's forests***

Since 2005, 35 sawmills in B.C.'s Interior and nine on the coast have permanently shuttered, along with about half of the coastal shake and shingle mills, according to a new socioeconomic analysis of forestry in B.C.

According to Statistic Canada, forestry in B.C. sustained more than 200,000 jobs (direct and indirect) in 2001. That has since been cut in half to about 100,000 jobs today, 50,000 of which are direct jobs.

In the Interior, the annual allowable cut (AAC) has been dramatically reduced by a mountain pine beetle infestation. On the coast, a sizable chunk of the coastal AAC has been lost to new parks and protected areas. Read the Business in Vancouver [article](#).

### Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

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

- [Norman Tapp v. Director](#) [Preliminary Decision – Appeal Dismissed]

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

- [Kenneth and Dawn Olynyk; Estate of Winfried and Astrid Reuter v. Assistant Water Manager](#) [Final Decision – Appeals Dismissed]

#### [Wildlife Act](#)

- [Derrick Miller Gair v. Deputy Regional Manager, Recreational Fisheries and Wildlife Programs](#) [Final Decision – Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information

Motor Vehicle Prohibition Regulation (196/99)	Aug. 24/21	by <a href="#">Reg 224/2021</a>
Wildlife Act Commercial Activities Regulation (338/82)	Aug. 10/21	by <a href="#">Reg 220/2021</a>

## HEALTH

### Health News:

#### **B.C. Launches Proof of Vaccination to Stop Spread of COVID-19**

Starting Sept. 13, 2021, proof of vaccination will be required in B.C. for people attending certain social and recreational settings and events. This important step will continue to increase the vaccination rate across the province and provide confidence to fully vaccinated people that those around them are also fully vaccinated. Read the full government [news release](#).

#### **Mask Mandate To Reduce Transmission, Protect People In Public Spaces**

As of Wednesday, Aug. 25, 2021, masks must be worn in all indoor public spaces throughout B.C. to help slow the transmission of COVID-19 as B.C. prepares for the fall and respiratory illness season.

A new order from the provincial health officer will require people 12 and older to wear masks in indoor public settings, regardless of vaccination status. Read the full government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Drug Plans Regulation (73/2015)	Aug. 31/21	by <a href="#">Reg 77/2021</a>

## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### **New Proof of Vaccination Requirement May Impact British Columbia Employers and Workplaces**

On August 23, 2021, BC's Provincial Health Officer, Dr. Bonnie Henry, announced that a new Public Health Order (which has not yet been published) will require proof of vaccination for British Columbians (12 years and older) to access certain non-essential events, services and businesses (the "Order"). To access the events, services and businesses listed below, the Order will require partial vaccination with one dose of the Covid-19 vaccine by September 13, 2021, and full vaccination with both doses by October 24, 2021. The Order will remain in place until at least January 31, 2022, and is subject to extension.

There is an exemption from the Order for persons under 12 years of age when accompanied by vaccinated adult. However, Dr. Henry indicated that there will be no exemptions from the Order for persons who are unable to get vaccinated for any reason, even if they are unable to do so for medical and/or religious reasons protected under the British Columbia [Human Rights Code](#). Read the [full article](#) by [Dianne Rideout](#) and [Michelle McKinnon](#) with McMillan LLP.

#### **Demographics, Worker Supply Complicate Labour Shortage Puzzle**

As economies across most of the developed world reopen after struggling through seemingly endless months of COVID-19, the revival in labour demand has taken many employers and policymakers by surprise.

Even though overall employment in Canada and the U.S. is still below pre-pandemic levels, businesses are suddenly clamouring for workers, and wages in some industries are rising. Job vacancies in the U.S. are hovering at a two-decade high, notwithstanding a fourth wave of COVID infections.

In B.C., industries ranging from foodservices, health care and advanced technology to manufacturing and

construction are stepping up recruitment efforts. B.C. is unusual in the Canadian context because the aggregate job losses stemming from COVID-19 have been fully recouped, albeit the pattern varies by sector. Read the Business in Vancouver [article](#).

### **Benefit Premium Surcharges for Unvaccinated Employees – When the Carrot Isn't Enough**

Employers have been trying to encourage employees to get vaccinated against COVID-19. Some employers paid bonuses. Others provided gift cards. What happens when rewards are not enough? A US employer recently announced a different approach: all unvaccinated employees enrolled in the company's healthcare plan will be subject to a \$200 monthly surcharge, starting November 1, 2021. In deciding to implement the new surcharge, the employer pointed to the fact that all of its employees who were hospitalized with COVID-19 were not fully vaccinated. The average hospital stay for those employees cost the employer \$50,000 per person.

The health care situation may be different in Canada, but some are already asking if they can follow suit in Canada and increase health benefit premiums for unvaccinated employees. This bulletin outlines a number of things to consider before making that decision. Read the [bulletin](#) by [Nicole Singh](#) and [Rebecca Rossi](#) with Fasken Martineau DuMoulin.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Sept. 1/21	by <a href="#">Reg 265/2002</a>
Employment Standards Act	Aug. 15/21	2019 Bill 8, c. 27, sections 1 (a), 22 to 28, 33, 35 (e) and (f) and 42 (in force by <a href="#">Reg 215/2021</a> ), <a href="#">Employment Standards Amendment Act, 2019</a>
Occupational Health and Safety Regulation (296/97)	Sept. 1/21	by <a href="#">Reg 139/2021</a>

## **LOCAL GOVERNMENT**

### **Local Government News:**

#### **Policy Paper Tackles Local Government Cost Drivers & The New Economy**

Delegates to the 2021 UBCM Convention will consider a new policy paper aimed at strengthening BC's finance system for local government. The report identifies three objectives: addressing local government cost drivers in housing, community safety and climate change; addressing the impacts the 'New Economy' will have on the local government financial system; and establishing an effective partnership with the Province to improve the local government financial system.

The UBCM Executive, through the Select Committee on Local Government Finance (Select Committee) developed the paper, entitled [Ensuring Local Government Financial Resiliency – Today's Recovery and Tomorrow's New Economy](#). If endorsed by the UBCM membership, it would provide guidance for discussions with the province on the current state of the system. Read the UBCM [article](#).

#### **Electronic Meetings: Bill 10 Requires Adoption of New Procedure Bylaw Provisions For Continuation of Electronic Meetings**

Changes to the authority for local governments to hold electronic board and council meetings are afoot. After the current authority under the [COVID Related Measures Act](#)/Ministerial Order M192 to hold electronic meetings expires on September 28, fully electronic regular council, board, and committee meetings will only be possible if council or the board has enacted certain amendments to its procedure bylaw. According to the Province's ["Guidance for Adapting to the New Electronic Meetings Framework"](#), similar changes are planned for the [Regional District Electronic Meetings Regulation](#). This document also states that these bylaw amendments cannot receive first reading until after the new electronic meeting provisions of the [Community Charter](#) come into effect on September 29. This means that there will be a gap in the authority to hold fully electronic committee and regular

meetings that will last from September 29 until a local government is able to enact the required procedure bylaw amendments. Read the [full article](#) by Ryan Bortolin with Stewart McDannold Stuart.

### Province Considering Cannabis Consumption Spaces

Following a September 2020 [announcement](#) regarding the development of farm-gate and direct delivery programs for non-medical cannabis, the Province is examining the possible introduction of cannabis consumption spaces. The BC Cannabis Secretariat plans to engage broadly with key stakeholders, including UBCM's Cannabis Policy Technical Working Group, in the fall, with formal public and stakeholder engagement in 2022.

Although BC cannabis laws do not currently allow for cannabis consumption spaces (e.g., tasting rooms, lounges, special events), this subject has previously been raised by UBCM as part of its work to inform the development of the provincial non-medical cannabis framework. In a November 2017 submission, UBCM was supportive of the Province developing dedicated places of use (licensed establishments) where individuals could consume cannabis. Read the UBCM [article](#).

### Laying the Groundwork for Building Inspectors: Clarification from the British Columbia Court of Appeal on Soil Densification Activities and the Expiration of Building Permits

On June 9, 2021, the British Columbia Court of Appeal released reasons for judgment in [Yu v. Richmond \(City\)](#), 2021 BCCA 226. In this court action the City of Richmond (the "City") appealed a judicial review decision of the Supreme Court of British Columbia in which it was held that pre-building soil densification measures that were undertaken on two properties in Richmond, British Columbia constituted construction within the meaning of the City of Richmond Building Regulation Bylaw No. 7230 (the "Building Bylaw").

This decision will be of interest to local governments and building inspectors in British Columbia, as well as building inspectors in other Canadian jurisdictions, as an indication of how courts will assess what constitutes a construction activity within the meaning of a building bylaw. Read the [full article](#) by David Giroday with Stewart McDannold Stuart.

### Local Governments Get Ability to Regulate Single-Use Plastics

On July 26, 2021, the Province made [Ministerial Order No. M309](#), which amends the [Spheres of Concurrent Jurisdiction – Environment and Wildlife Regulation](#), BC Reg. 144/2004 (the "Regulation"). MO309 is of significant interest to local governments as it will allow them to regulate in relation to single-use plastics.

Pursuant to section 8(3)(j) of the [Community Charter](#), a council may, by bylaw, regulate, prohibit and impose requirements in relation to the protection of the natural environment. However, due to Provincial interest in bylaws respecting the protection of the natural environment, under section 9(1) and (3) of the *Community Charter*, a local government may not adopt a bylaw unless the bylaw is: (1) in accordance with a regulation; (2) in accordance with an agreement; or (3) approved by the minister responsible. Read the [full article](#) by Reece Harding, Gregg Cockrill, Nick Falzon and Sarah Strukoff with Young Anderson Barristers & Solicitors.

Act or Regulation Affected	Effective Date	Amendment Information
Fees and Student Tuition Protection Fund Regulation (140/2016)	Sept. 1/21	by <a href="#">Reg 123/2021</a>
Private Training Regulation (153/2016)	Sept. 1/21	by <a href="#">Reg 122/2021</a> and <a href="#">Reg 217/2021</a>
School Calendar Regulation (314/2012)	Aug. 12/21	by <a href="#">Reg 221/2021</a>

## MOTOR VEHICLE & TRANSPORTATION

### Motor Vehicle & Transportation News:

#### Driver Was 'Holding' Cellphone Even Though Hands Were



**Free, B.C.'s Top Court Rules in Distraction Case**

British Columbia's highest court has upheld the distracted driving conviction of a man who insisted his cellphone was merely wedged between his thigh and car seat when he was stopped by police.

Zahir Rajani argued that because he wasn't holding the device in his hands, he shouldn't have been dinged with a distraction ticket, and ultimately fought his conviction all the way to the B.C. Court of Appeal.

A three-judge panel dismissed the appeal on Tuesday [July 27], in [a ruling](#) that experts say strengthened the province's already tough distracted driving laws. Read the CTV News [article](#).

**Autonomous Vehicles in Mining Operations:****Key Legal Considerations**

The use of autonomous and data-driven systems is anticipated to be one of the most effective ways to increase the energy efficiency of mining operations. However, currently, only three per cent of mobile equipment in the mining sector is autonomous. As reliability of autonomous technologies increases, the scalability of the technologies is expected to decrease costs, making it more accessible in the mining sector. That being said, increasing automation and connectivity brings a new set of legal challenges and considerations and the adoption of autonomous technologies in the mining sector is no exception. In this new paradigm, mining sector participants must be cognizant and evaluate novel risks and legal issues to provide parties with the certainty they need to adopt autonomous and data-driven systems (hereinafter, "Autonomous Mining Technologies"). Read the [full article](#) by [Marin Leci](#), [Graeme Martindale](#), [Jason Howg](#), [Hugh A. Meighen](#) and [Arba Radaj](#) with Borden Ladner Gervais.

**CVSE Bulletins & Notices**

The following notices were posted recently by CVSE:

- [Circular 04-21](#) – Changes to Pilot Car Requirements and Travel Times for Oversize Loads
- [CVSE1000](#) – General Permit Conditions to 4.4 m OAW (August 2021)
- [CVSE1001](#) – Routes Pre-Approved for 5.0 m OAW (August 2021)
- [CVSE1002](#) – General Permit Conditions to 6.1 m in the Peace River Area
- [Notice 02-21](#) – Oversize and Overweight Permits for Wildfire Response
- [Notice 01-21](#) – Addition of National Day for Truth and Reconciliation to General Holiday Travel Restrictions

For more information on these and other items, visit the [CVSE website](#).

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

**OCCUPATIONAL HEALTH AND SAFETY****Occupational Health & Safety News:****Consultation on Proposed Amendments to the Occupational Health and Safety Regulation**

From WorkSafe BC:

WorkSafeBC's Policy, Regulation and Research Division is requesting feedback on proposed amendments to the [Occupational Health and Safety Regulation](#).

The consultation phase provides stakeholders an opportunity to share feedback before the proposed amendments are taken to public hearing. There are two proposed regulatory amendment packages under review:

- Part 3, Minimum Levels of First Aid
- Parts 14 and 19, Inconsistent Crane Misadventure and Zone Limiting Devices in Tower Cranes

View the [proposed regulatory amendments](#) and information on how to provide feedback. Feedback must be submitted by 4:30PM on Friday, October 8, 2021. Read the [notice](#) on WorkSafe BC.



### **OHSR Amendments – September 1st**

Amendments to the [Occupational Health and Safety Regulation](#) came into effect on September 1, 2021. Affected sections include pesticides, safety headgear, high-visibility apparel, and mobile equipment. For more information on these amendments, download the [PDF Overview](#) from WorkSafeBC.

### **Due Diligence and Identifying Workplace Hazards**

Employers have a duty to provide their employees with a safe work environment. Section 21 of the [Workers Compensation Act](#) states that employers must remedy any workplace condition that is hazardous to the health or safety of their employees.

It is therefore prudent for employers to conduct assessments of their employees' working conditions and ensure that adequate precautions are taken to identify and eliminate workplace hazards. WorkSafeBC has provided guidance on due diligence measures that may be undertaken by employers in order to identify and eliminate potential hazards before they arise. Click [here](#) for access to the full checklist. Read the [full article](#) at Overholt Law.

### **B.C. Repatriating Housekeeping, Food-Service Contracts to Work Directly for Health Authorities**

For nearly 20 years, support service workers and services in British Columbia were contracted out to private companies. The provincial government is moving to change this scheme. Beginning this fall, B.C. will serve notice under the terms of 21 commercial service contracts and start a phased approach to repatriating housekeeping and food-service contracts. Read the [article](#) by Jim Wilson at Canadian Occupational Safety.

### **Injured Workers' Digital Signature to Be Accepted For Release Of Medical Records: WorkSafeBC**

WorkSafeBC is making it easier for injured workers to get access to their medical records. Starting next month, the organization will accept digital signatures from injured workers to authorize the release of relevant medical records from their treatment providers.

B.C.'s [Electronic Transactions Act](#) allows for digital signatures in place of handwritten pen-to-paper signatures. WorkSafeBC will accept digital signatures drawn on a touch-screen tablet or with a mouse. Read the [article](#) by Jim Wilson at Canadian Occupational Safety.

### **Mandatory Vaccination Policies: Are They a Reasonable Health and Safety Precaution?**

Employees across Canada are beginning to transition into post-pandemic work life as vaccination rates go up and restrictions are lifted. With a return to physical workplaces on the horizon for more workers, employers may be considering whether to implement mandatory COVID-19 vaccination policies. Read the [article](#) by Cathy Chandler at Canadian Occupational Safety.

### **New Public Health Orders**

The Public Health Office (PHO) recently issued the following Orders, Notices & Guidance:

Order:

- [COVID-19 Vaccination Status Information and Preventive Measures Order – August 31, 2021 \(PDF, 512KB\)](#)

Notice:

- [Notice of Repeal of the Travellers and Employers Order – August 23, 2021 \(PDF, 242KB\)](#)

Guidance:

- [Guidance for Food and Liquor Serving Premises – August 16, 2021 \(PDF, 613KB\)](#)

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

### **OHS Policies/Guidelines – Updates**

WorkSafeBC recently issued the following OHS Updates:

OHS Guidelines – Occupational Health and Safety Regulation

The following new and revised guidelines are consequential to the September 1 amendments to the [OHS Regulation](#):

- Part 6 Substance Specific Requirements
  - [G6.70 Pesticides – Definitions](#) (revised)
  - [G6.77 Mixing, loading, and applying pesticides – Qualifications](#) (revised)
  - [G6.89 Restricted entry intervals](#) (revised)
  - [G6.90 Authorization to enter – Restricted entry intervals on pesticide labels](#) (revised)
- Part 8 Personal Protective Equipment and Clothing
  - [G8.11\(1\) Safety headgear](#) (new)
  - [G8.11\(2\) Activity specific safety headgear](#) (revised)
  - [G11\(2\)-2 Activity specific safety headgear – Ski helmets](#) (revised)
  - [G8.24 High visibility apparel](#) (revised)
- Part 16 Mobile Equipment
  - [G16.8\(3\) Rider restriction](#) (revised)
  - [G16.24 Alternate means of escape – Purpose-built window breaking device](#) (revised)
  - [G16.30 Load handling attachments – Forklifts](#) (revised)
  - [G16.33 Protective structures for hydraulic excavators pioneering on steep side hills](#) (revised)
  - [G16.33-2 Protective structures – Acceptable alternate standards](#) (revised)
  - [G16.35 ROPS standards – Acceptable alternate standard](#) (revised)
  - [G16.40\(8\) All terrain vehicles – Modifications](#) (revised)
  - [G16.43\(2\)-1 Lift truck operator training](#) (revised)
  - [G16.43\(2\)-2 Lift truck operator training – Alternative standards](#) (revised)
  - [G16.43\(5\) Pedestrian and equipment traffic](#) (revised)

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

The following guidelines were retired consequential to the September 1 amendments to the OHS Regulation:

- Part 6 Substance Specific Requirements
  - [G6.91 Exemptions](#)
- Part 8 Personal Protective Equipment and Clothing
  - [G8.24-1 Alternative standards for high visibility apparel](#)
- Part 16 Mobile Equipment
  - [G16.3 \(and 4.3\(3\)\) Tag out procedure for identifying unsafe mobile equipment](#)
  - [G16.3 \(and 4.3\(4\)\) Fuel tank filler and vent outlet locations](#)
  - [G16.4\(1\)\(c\) Operating equipment with air brakes](#)
  - [G16.13 Braking requirements – Mobile equipment – Alternate standard](#)
  - [G16.13\(3\) Braking requirements – Mobile equipment](#)
  - [G16.18 Acceptable standards for operating controls](#)
  - [G16.21\(2\)-1 Operator protective structure standards for agricultural tractors](#)
  - [G16.22 Rollover protective structures \(ROPS\)](#)
  - [G16.24 ROPS certification – Damaged sweep arms](#)
  - [G16.28 Guarding moving parts on mobile equipment](#)
  - [G16.33 Use of seatbelts on forklifts](#)
  - [G16.44\(2\) Acceptable standard for load restraint](#)

Check the [WorkSafe BC Updates page](#) to explore these and other important OHS updates.

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Sept. 1/21	by <a href="#">Reg 139/2021</a>

## PROPERTY & REAL ESTATE

### Property and Real Estate News:

#### Trudeau Vows 2-Year Ban on Foreign Homebuyers, End To Blind Bidding If Re-Elected

Prime Minister Justin Trudeau promised to introduce a two-year ban on foreign home buyers to tackle housing

affordability in Canada if he's re-elected.

The proposed restriction is an attempt to cool a housing market that has soared during the COVID-19 pandemic. Surging prices have become a central issue in the campaign for the Sept. 20 vote, in which Trudeau hopes to regain a majority in parliament, with all three major parties promising crackdowns.

"You shouldn't lose a bidding war on your home to speculators. It's time for things to change," Trudeau said at a campaign event in Hamilton, Ont., about 40 miles southwest of Toronto. "No more foreign wealth being parked in homes that people should be living in."

Outrage over housing affordability is increasingly directed at foreign buyers, especially in Vancouver, whose real estate has become increasingly popular among non-resident buyers from China and Hong Kong. Read the Financial Post [article](#).

### **Court Finds Notice of Termination of Contract to Subcontractors Not Required to Start Lien Filing Period**

The [Builders Lien Act](#), S.B.C. 1997, c. 45 (the "BLA") establishes mandatory deadlines for the filing of builders liens against title to land in British Columbia. One of the triggers for the commencement of the lien filing period is termination of the "head contract" made between the owner and the "head contractor" for an improvement (that is, a contractor who is engaged to do all or substantially all the work respecting an improvement). If a claim of lien is not filed before the expiry of 45 days from the date of termination of the head contract, then lien is extinguished. Read the [full article](#) by [Mark Danielson](#) with Pushor Mitchell.

### **Five Tips to Prevent Breaches of the Duty of Honest Performance in Commercial Real Estate Transactions**

The current pandemic has no doubt set the stage for the introduction of interesting and important statutory changes and case law. This is particularly true for the commercial real estate market. With all the volatility in this sector, it is critical for parties to keep in mind the lessons learned in the landmark Supreme Court of Canada (Court) decisions of [Bhasin v. Hrynew \(2014\)](#) (Bhasin) and [C. M. Callow Inc. v. Zollinger \(2020\)](#) (Callow). In Bhasin, the Court recognized a duty of honest performance and set out the organizing principle of good faith contractual performance, which requires parties to act "honestly and reasonably and not capriciously or arbitrarily" when performing their contractual responsibilities. Callow then applied the principle of good faith and the duty of honest performance to a dispute relevant to the commercial real estate world involving the termination of a maintenance contract for a condominium. Read the [article](#) at Blake, Cassels & Graydon.

### **Recent Additional School Tax Decision has Implications for B.C.'s Development Firms and Landowners**

A recent decision by British Columbia's Property Assessment Appeal Board (the "Board") on the application of the additional school tax (the "AST") may have implications for landowners and property development firms in the Province.

The decision arose from a dispute filed by Musqueam Indian Band ("Musqueam") in connection with its Ieləm masterplanned community development (the "Development"), a multi-phase mixed use project within the University Endowment Lands which, when completed, will provide 1,200 housing units, including rental and affordable housing, as well as retail space, a community centre and a daycare. Musqueam already paid regular property taxes, but disputed the AST payable in respect of the Development, which would have resulted in an additional \$2.2 million in taxes. The AST, which applied starting in 2019, is a surcharge on residential properties valued at more than \$3 million. Read the [full article](#) by [Matthew Singerman](#) and [Jimmy Zhang](#) with Clark Wilson.

### **The Duty of Good Faith in Commercial Tenancy Disputes**

The recent decision of [ARC Digital Canada Corp. v. Amacon Alaska Development Partnership, 2021 BCSC 1612](#) ("ARC Digital") demonstrates that the doctrine of good faith continues to be a strong cause of action in disputes between commercial parties.

#### **The Facts**

In ARC Digital, Amacon Alaska Development Partnership (the "Landlord") leased commercial premises to ARC Digital Canada Corp. (the "Tenant"). At the time of the events, the lease between the parties had over 1.5 years remaining on it, with an option for a five-year renewal. As the Landlord planned to redevelop the property, the parties agreed to amend the lease to provide for an early termination date (the "Termination Date") in exchange for the Landlord providing financial assistance to the Tenant to move to the new premises.

Read the [full article](#) by [Anna Sekunova](#) and [Kim Brown](#) with Clark Wilson.

Act or Regulation Affected	Effective Date	Amendment Information
Real Estate Development Marketing Act	Aug. 1/21	by 2021 Bill 8, c. 2, sections 169 to 173 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Real Estate Services Act	Aug. 1/21	by 2021 Bill 8, c. 2, sections 45 to 125 and 136 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>
Real Estate Services Regulation (506/2004)	Aug. 1/21	by <a href="#">Reg 208/2021</a>
Real Estate Services Rules (209/2021)	<b>NEW</b> Aug. 1/21	see <a href="#">Reg 209/2021</a>
Strata Property Act	Aug. 1/21	by 2021 Bill 8, c. 2, sections 175 and 176 only (in force by <a href="#">Reg 208/2021</a> ), <a href="#">Finance Statutes Amendment Act, 2021</a>

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