



Toll Free: 1-877-727-6978
Phone: 1-250-727-6978

Email: info@quickscribe.bc.ca

Website: www.quickscribe.bc.ca

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QUICKSCRIBE NEWS:

Recent Legislative Activity

The following government bills were recently introduced:

- [Bill 31](#) – B.C. Pavilion Corporation Act
- [Bill 32](#) – Gaming Control Act
- [Bill 33](#) – Food Delivery Service Fee Act
- [Bill 34](#) – Opioid Damages and Health Care Costs Recovery Amendment Act, 2022
- [Bill 35](#) – Income Tax Amendment Act, 2022
- [Bill 36](#) – Health Professions and Occupations Act
- [Bill 37](#) – Energy Statutes Amendment Act, 2022
- [Bill 38](#) – Indigenous Self-Government in Child and Family Services Amendment Act
- [Bill 39](#) – Judicial Review Procedure Amendment Act, 2022
- [Bill 40](#) – Passenger Transportation Amendment Act (No. 2), 2022
- [Bill 41](#) – Workers Compensation Amendment Act (No. 2), 2022
- [Bill 42](#) – Provincial Sales Tax Amendment Act, 2022

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

[\[Previous Reporters \]](#)

CATEGORIES

COMPANY & FINANCE	LOCAL GOVERNMENT
FOREST & ENVIRONMENT	MOTOR VEHICLE & TRAFFIC
HEALTH	OCCUPATIONAL HEALTH & SAFETY
LABOUR & EMPLOYMENT	PROPERTY & REAL ESTATE

COMPANY & FINANCE

Company and Finance News:

Temporary Increase to BC Family Benefit Payments

[Bill 35](#), which reached third reading on October 20, amends the [Income Tax Act](#) to provide a temporary increase to the BC family benefit payments for the first three months of 2023. Families with one child are eligible to receive up to an additional \$175 and those with two children can receive up to an extra \$350. The formula for determining amounts payable to families with three or more children is also amended to provide an increase in benefit payments for that period. The bill also renames the credit from the "child opportunity benefit" to the "BC family benefit" to better reflect the recipients of this tax credit.

New B.C. Pavilion Corporation Act

On October 20, Bill 31, the [B.C. Pavilion Corporation Act](#), passed third reading and will replace and repeal the [British Columbia Enterprise Corporation Act](#). As a result, the British Columbia Enterprise Corporation will be dissolved and all its shares cancelled, as it has not carried on business in over 30 years. The Bill transfers to the government all the assets and obligations of the British Columbia Enterprise Corporation and authorizes it to deal with those assets. Specific provisions related to the B.C. Pavilion Corp. will be continued under the [B.C. Pavilion Corporation Act](#) to ensure the corporation continues to meet its mandate of overseeing the management of BC Place and the Vancouver Convention Centre.

It Doesn't Have to Be Issued by the Vendor: Tax Court

Confirms Satisfactory Input Tax Credit Documentation

As with other value-added taxes, the GST/HST is an invoice-driven tax. [Subsection 168\(1\)](#) [of the *Excise Tax Act* (Canada)], for example, states that tax is generally payable on the earlier of when the consideration for the supply is paid and when it becomes due, the latter of which generally falls on the invoice date. However, in a well-reasoned decision the Tax Court of Canada (the "Court") in *CFI Funding Trust v. The Queen* ("CFI Funding Trust") held that an invoice issued by the supplier is not necessary to claim an input tax credit ("ITC") and to satisfy the requirements of [subsection 169\(4\)](#) of the *Excise Tax Act* (Canada) (the "ETA") and the [Input Tax Credit Information \(GST/HST\) Regulations](#) (collectively, the "ITC Support Rules"). Rather, in reaching its decision in *CFI Funding Trust*, the Court was satisfied by the fact that the registrant was able to provide all of the prescribed information required by the ITC Support Rules. Read the [full article](#) by Randy Schwartz, Jesse Waslowski and Sara Baxter of McCarthy Tétrault LLP.

BCSC Reaches First-Ever Settlement Agreements for Violation of Section 52(2) of the Securities Act

In September 2021, the British Columbia Securities Commission (the BCSC) issued a Notice of Hearing against an investor relations (IR) firm called Stock Social Inc. (Stock Social), its sole director, and five of its clients and their officers and directors for allegedly breaching [section 52\(2\) of the Securities Act](#) by failing to clearly and conspicuously disclose that the promotional materials prepared by Stock Social were disseminated on behalf of clients (the Stock Social NOH). The Stock Social NOH was the first time the BCSC issued allegations of a breach of section 52(2) of the Act, which states that "a person engaged in investor relations activities, and an issuer or security holder on whose behalf investor relations activities are undertaken, must ensure that every record disseminated, as part of the investor relations activities, by the person engaged in those activities clearly and conspicuously discloses that the record is issued by or on behalf of the issuer or security holder." Read the [full article](#) by Samuel Bogetti, Jeremy Gellis, Brigeeta Richdale and Rebecca Sim with Cozen O'Connor LLP.

Canadian Securities Regulators Advance Derivatives "Business Conduct" Rules

The Canadian Securities Administrators (CSA) are one step closer towards modernizing Canada's regulatory oversight of over-the-counter (OTC) derivatives. On September 28, 2022, the CSA hosted a [roundtable](#) with industry participants and securities regulators from Canada, the United Kingdom, and the United States. At the roundtable, the CSA gave new insights about the implementation of its third draft of the proposed [National Instrument 93-101 Derivatives: Business Conduct Rule](#) (the Proposed Instrument) and its proposed Companion Policy 93-101 *Derivatives: Business Conduct* (the Proposed Companion Policy). Read the [full article](#) by Eric Belli-Bivar, Adrienne Wong and Bamdad Attaran (Articling Student) with DLA Piper.

CSA Welcomes New Capital Raising Prospectus Exemption for Listed Issuers

Seasoned reporting issuers with equity securities listed on a Canadian stock exchange will have the ability to raise capital (up to the greater of \$5 million and 10% of their market capitalization (to a maximum of \$10 million)) without filing a prospectus under a new prospectus exemption that will come into force on November 21, 2022 (the Listed Issuer Exemption). The equity securities issued pursuant to the Listed Issuer Exemption will be freely tradeable. The Canadian Securities Administrators (CSA) have [approved amendments to the existing prospectus exemption regime](#) under [National Instrument 45-106 – Prospectus Exemptions](#) for certain non-investment fund reporting issuers. Previewed in a [blog post](#) last summer, these amendments aim to reduce the

regulatory burden for issuers with securities listed on a recognized Canadian stock exchange (including the TSX, TSXV, CSE and NEO). Read the [full article](#) by [Ivan T. Grbesic](#) and [Brian Lynch](#) of Stikeman Elliott.

BC Securities – Policies & Instruments

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

- [31-362](#) – OBSI Joint Regulators Committee Annual Report for 2021
- [51-364](#) – Continuous Disclosure Review Program Activities for the fiscal years ended March 31, 2022 and March 31, 2021

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Oct. 1/22	by Reg 142/2022
	Nov. 1/22	by Reg 142/2022 and Reg 212/2022
Insurance Premium Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 28 and 29 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Provincial Sales Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 41 to 43 and 45 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	RETRO to Feb. 23/22	by Reg 207/2022
	RETRO to Apr. 1/22	by Reg 206/2022
	RETRO to July 1/22	by Reg 210/2022
	Oct. 1/22	by Reg 169/2022
Provincial Sales Tax Regulation (96/2013)	RETRO to Feb. 23/22	by Reg 207/2022
	Oct. 1/22	by Reg 169/2022
Tobacco Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 110 to 112 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
	RETRO	

Tobacco Tax Act Regulation (66/2002)

to
July 1/22by [Reg 210/2022](#)**FOREST & ENVIRONMENT****Forest and Environment News:****Contaminated Sites BC: Increased Requirements
Proposed in Ministry Discussion Paper**

Earlier this month, the British Columbia Ministry of Environment and Climate Change Strategy posted a discussion paper titled "[Making Contaminated Sites Climate Ready](#)." The discussion paper, which is available for public comment until Nov. 30, 2022, summarizes the ministry's policy proposals to incorporate climate change adaptation and sustainability into the [BC contaminated sites framework](#). These proposals are part of a larger trend of recent [amendments](#) to the [Environmental Management Act](#) and the [Contaminated Sites Regulation](#), and forthcoming changes to the process for soil relocation. Read the [full article](#) by [Rick Williams](#), [Roark Lewis](#) and [Maryama Elmi](#) with Borden Ladner Gervais LLP.

**Proposed Regulatory Changes to Canada's
Living (Organism) Marketplace**

Biotechnology is increasingly driving scientific and technological advancements across a wide range of industries, including health, agriculture, energy and environmental remediation. In connection with such advancements, companies are developing, importing, manufacturing and using a growing array of organisms. Organisms new to the Canadian marketplace are typically assessed under the [Canadian Environmental Protection Act, 1999](#) and the [New Substance Regulations \(Organisms\)](#) (the "Regulations") in order to determine whether they pose risks to human health and/or the environment. The Regulations, and assessments conducted thereunder, are therefore vitally important to the way in which companies across Canada can develop and deploy biotechnology. Read the [full article](#) by [Mark Youden](#), [Jessica Boily](#), [Quinn Rochon](#) and [Emma Hobbs](#) with Gowling WLG.

Amending and Establishing Land Use Proposed

Notice of Proposed Ministerial Order establishing Land Use Objectives for the South Island Natural Resource District in the West Coast Region.

Notice is hereby given that Land Use Objectives are proposed for the purposes of the [Forest and Range Practices Act](#) by [Ministerial Order](#), pursuant to Section 93.4 of the [Land Act](#) through the [Land Use Objectives Regulation](#). The Ministerial Order will establish Land Use Objectives for Old Growth Management Areas (OGMAs) to manage for old growth forests and landscape-level biodiversity in the Nahmint Landscape Unit.

The proposed Ministerial Order, Schedule A map, and Landscape Unit Plan are available on the govTogetherBC website at: <https://engage.gov.bc.ca/govtogetherbc/consultation/nahmint-landscape-unit>.

Comments received on or before December 21, 2022, will be summarized and considered in the final preparation of the order. Please submit comments by e-mail to: PublicReviewComments.Nahmint.Proposed.Order@gov.bc.ca or written comments to: Heidi Reinikka, South Island Natural Resource District office at 4885 Cherry Creek Road, Port Alberni, BC V9Y 8E9. For more information, please contact Heidi Reinikka, at Ph: 250-736-6878, Fax: 250-731-3010 or by e-mail: heidi.reinikka@gov.bc.ca.

**Province Establishing Permanent
Rodenticide Restrictions**

The Province is moving forward with permanent regulatory changes that will ban the widespread sale and use of second-generation rodenticides.

Second-generation anticoagulant rodenticides (SGARs) can pose a risk of poisoning to animals that eat poisoned rodents. To reduce this risk, the ministry established an 18-month ban on the sale and use of SGARs in July 2021.

During this 18-month ban, the ministry spoke with technical experts, reviewed the science, outlined proposed regulatory amendments in an intentions paper and held a public consultation. After reviewing almost 1,600 consultation responses, the ministry is proceeding with the changes as described in the intentions paper. To align with the end of the temporary ban, the revised [Integrated Pest Management Regulation](#) will come into effect on Jan. 21, 2023. Read the government [news release](#).

New B.C. Council to Help Build More

Resilient Forestry Communities

The Province of British Columbia has convened a new advisory council in support of forestry workers and communities.

"As someone who has worked in forestry and lives in a forestry community, I know personally how vital the sector is for our province," said Katrine Conroy, Minister of Forests. "It is a foundation of the B.C. economy, providing good, well-paying jobs for over 55,000 people. As the major employer in many communities, it is the lifeblood of rural economies. Our vision is to build stronger, more resilient forestry communities and create new economic opportunities through innovative, value-added manufacturing. The council will help ensure we get this right." Read the [full article](#) from Canadian Forest Industries.

Canada's Logging Emissions on Par with Alberta Oil Sands, Says Report

A scathing new report analyzing Canada's overall emissions from logging has found the industry released 75 megatonnes of greenhouse gases in 2020 – on par with the annual output from the Alberta oil sands.

That means that while logging accounted for over 10 per cent of the country's total emissions that year, none of it was counted, according to the report jointly produced by Nature Canada and the Natural Resources Defence Council.

By comparison, the operation of Canada's oil patch produced 81 megatonnes of greenhouse gases in 2020. Read the [BIV article](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decision was made recently:

[Water Sustainability Act](#)

- [Archibald J. McCallum & Rose M. Sinclair v. Assistant Water Manager](#) [Final Decision – Appeals Dismissed]

[Wildlife Act](#)

- [James \(Jim\) Monroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Program](#) [Preliminary Decision Re: Application to Participate – Granted, Subject To Limitations]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

[Forest and Range Practices Act](#)

- [Nextech Forestry Services Ltd. v. Government of British Columbia](#) [Final Decision – Allowed in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Agrologists Regulation (10/2021)	Oct. 1/22	by Reg 191/2022
Applied Biologists Regulation (13/2021)	Oct. 1/22	by Reg 191/2022
Carbon Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 12 and 13 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Carbon Tax Regulation (125/2008)	Nov. 1/22	by Reg 211/2022
Code of Practice for Agricultural		

Environment Management (8/2019)	Oct. 1/22	by Reg 8/2019
Hunting Licensing Regulation (8/89)	Oct. 11/22	by Reg 203/2022
Logging Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 33 and 34 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Permit Regulation (253/2000)	Oct. 11/22	by Reg 203/2022
Professional Governance General Regulation (107/2019)	Oct. 1/22	by Reg 191/2022

HEALTH

Health News:

Changes to Opioid Legislation Introduced

On October 17, the provincial government introduced [Bill 34, Opioid Damages and Health Care Costs Recovery Amendment Act, 2022](#). The Bill proposes to amend the [Opioid Damages and Health Care Costs Recovery Act](#) to allow the federal government to join a BC-led class-action lawsuit launched in 2018 against more than 40 different opioid manufacturers and distributors, alleging the use of deceptive marketing practices to increase sales, which led to higher rates of opioid addiction and overdose. The amendments will also increase the number of defendants to ensure that directors and officers of these corporate entities are included in the lawsuit that aims to recoup the enormous health care costs related to the treatment of opioid patients. Other changes serve to clarify the formulae for calculating the market share in order to differentiate between the market share applicable to manufacturers and to wholesalers.

New Health Professions and Occupations Act Introduced - Early Consolidation

Today [October 19], the BC government introduced Bill 36, [Health Professions and Occupations Act](#), which replaces the existing [Health Professions Act](#). According to the government, the new legislation will modernize the regulatory framework for health professionals and occupations in BC and improve patient safety. Among other changes, the new legislation will create a new oversight body that will be responsible for preparing performance standards for regulators and guidelines with respect to regulatory best practices. The new Office of the Superintendent of Health Profession and Occupational Oversight will house a new independent discipline tribunal which will enable investigatory and disciplinary processes conducted with respect to licensees to be separated, ensuring the determination of discipline matters is independent of regulatory colleges and licensees and focused on protecting the public. The Bill also creates a new complaints process and provides more flexible models of regulation for the practice of health occupations that present a lower risk of harm to the public. Quickscribe has published [an early consolidated version](#) of this Act for your convenience.

BC Launching New Payment Model for Family Doctors in 2023

The government of British Columbia plans to launch a new payment model in February to try to recruit and retain more family doctors in the province, where one in five residents does not have one. Provincial health officials announced the changes during a Monday [October 31] news event, saying physicians will be able to stop participating in the current fee-for-service system in early 2023. Under that system, doctors are paid about \$30 per patient visit, whether they're treating a common cold or a complex chronic health problem. Read the CBC News [article](#) by [Bridgette Watson](#).

Feds Move toward Creating Stand-alone Dental Insurance Program that Would Have No Provincial Involvement

The Liberal government is moving toward providing dental-care insurance directly to qualifying Canadians, rather than working with provinces and territories to bolster existing coverage. That will involve hiring an external company to process claims for the new stand-alone insurance program, Health Canada officials told The Canadian Press. On Friday [October 27], the Procurement Department invited companies with experience in

those claims to apply for pre-qualification. Health Canada officials, who gave a briefing on the condition they not be named publicly, said that would help the government refine the program before hiring a company to do the work. Read the *National Post* [article](#).

Health Canada Issues Long-awaited Regulations for Front-of-Package Nutrition Labelling

Earlier this year, after years of consultation and consumer research, Health Canada published [Regulations](#) amending the *Food and Drug Regulations* to introduce new front-of-package nutrition labelling (FOPNL) for packaged foods high in sodium, sugar or saturated fat. Health Canada has indicated that the intended purpose of FOPNL is to help Canadian consumers make health-conscious decisions when purchasing prepackaged foods, on the basis that sodium, sugar and saturated fat have each been scientifically linked to various chronic diseases. Read the [full article](#) by Marissa Caldwell, Carmen Francis and Rudra Krishnan with McCarthy Tétrault LLP.

Patented Medicines Prices Review Board (PMPRB) Releases New Draft Guidelines

On October 6, 2022, the [PMPRB released new draft guidelines](#) to give effect to the July 2022 amendments to the *Patented Medicines Regulations* (the "Regulations") set forth by Health Canada. Stakeholders will have a 60-day period (up until December 5, 2022) to submit written feedback. All submissions will be made available to the public. The PMPRB describes the new draft guidelines as being simpler, more stable and more predictable for rights holders, namely by: Read the [full article](#) by Anita Nador, John Norman, Erin Creber and Natalia Thawe with Gowling WLG.

Act or Regulation Affected	Effective Date	Amendment Information
E-Health Regulation (129/2011)	Oct. 11/22	by Reg 201/2022
Hospital Act Regulation (121/97)	Oct. 24/22	by Reg 208/2022
Information Regulation (208/2010)	Oct. 24/22	by Reg 208/2022
Laboratory Services Regulation (52/2015)	Oct. 24/22	by Reg 208/2022
Residential Care Regulation (96/2009)	Oct. 24/22	by Reg 208/2022

LABOUR & EMPLOYMENT

Labour and Employment News:

Upcoming Changes to Medical Leave Obligations Under the *Canada Labour Code*

On November 26, 2021, Parliament tabled [An Act to amend the Criminal Code and the Labour Code](#) ("Bill C-3"), which proposed significant changes to the federal *Canada Labour Code* (the "Code"). On December 17, 2021, Bill C-3 received royal assent. Bill C-3 was later amended by *An Act to implement certain provisions of the budget tabled in Parliament on April 7, 2022 and other measures* ("Bill C-19"), which received royal assent on June 23, 2022.

As a result of the recent amendments to the Code made through Bill C-3 and amended by Bill C-19, federally regulated employers to which Part III of the Code applies will be required to provide certain employees with paid medical leave. The legislated amendments also made changes to the personal leave provisions. These changes are described further below. Read the [full article](#) by [Giovanna Di Sauro](#) and Alexandra Steinberg (Articling Student) with DLA Piper.

Minimum-Age Restrictions Brought in For Young Workers in B.C.

The Ministry of Labour on Tuesday [October 11] outlined new age requirements for young workers, saying they must be at least 16 before working in construction or doing jobs from dangerous heights, and at least 18 before they can work in a sawmill, use a chainsaw or drill for gas and oil.

The [amended employment standard regulations](#) take effect Jan. 1. Read the *Times Colonist* [article](#).

Forced Labour and Modern Slavery Update – Canadian Firms Now Facing Greater Scrutiny of Their Supply Chains

This year has seen unprecedented action on forced labour and modern slavery. Canada's major trading partners and allies, most notably the United States, have been moving quickly to address the impact of human rights violations in the supply chains of companies subject to their jurisdiction. Canadian firms, if they haven't already, should be ensuring that their supply chains are fully compliant with existing forced labour and modern slavery laws as well as those soon to be implemented in Canada.

Canada has been considering various legislative reforms for its approach to dealing with forced labour. There are currently four bills before Parliament that address this issue and, in March of this year, Employment and Social Development Canada ("ESDC") released a report entitled "[Labour exploitation in global supply chains: What we heard](#)" (the "ESDC Report on Forced Labour") that shared the outcome of consultations held in 2019 with industry and civil society on this issue. As discussed below, the ESDC Report on Forced Labour provided some useful insights into how the government may legislatively tackle forced labour in supply chains. Read the [full article](#) by [John Boscariol](#), [Gajan Sathananthan](#) and [Edwina T. Mayama](#) with McCarthy Tetrault LLP.

Historic Anti-Strike-Breaker Legislation in the Works for Federally Regulated Workplaces

Prohibited use of replacement workers

On Oct. 19, 2022, Employment and Social Development Canada (ESDC) made an important announcement for federally regulated workplaces:

A commitment to introduce legislation to prohibit the use of replacement workers during a strike or lockout by the end of 2023.

ESDC stated that this change was "to ensure that all workers in federally regulated sectors continue to benefit from a meaningful right to strike." Read the [full article](#) by [Clifford J. Hart](#), [Danny J. Kaufer](#) and [Vanessa Lapointe](#) with Borden Ladner Gervais LLP.

Record Immigration No Cure-All for B.C.'s Labour Woes

There's a very basic math problem facing B.C.'s labour force, according to Ken Peacock:

"Even if everybody in the ranks of the unemployed was totally employable and could start a job tomorrow, there wouldn't be enough people physically in the province to fill all the job vacancies," said the chief economist at the Business Council of B.C. (BCBC).

His industry association estimates there are between 150,000 and 160,000 job openings in B.C.

Unemployed workers who compose the core working age group – men and women 25-54 years old – amount to 80,000 on the West Coast. And those on the periphery of the core working age don't come anywhere close to bridging that gap between those 80,000 workers and the 160,000 job openings, Peacock said. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Employer Health Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 14 and 15 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Employment and Assistance Regulation (263/2002)	Oct. 24/22	by Reg 208/2022

Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Oct. 24/22	by Reg 208/2022
Employment Standards Regulation (396/95)	Oct. 24/22	by Reg 208/2022
Social Services Employers Regulation (84/2003)	Oct. 3/22	by Reg 197/2022
Workers Compensation Act Appeal Regulation (321/2002)	Oct. 24/22	by Reg 208/2022

LOCAL GOVERNMENT

Local Government News:

Bill 42 Proposes New Major Events MRDT (Local Governments)

The *Provincial Sales Tax Amendment Act, 2022*, [Bill 42](#), tabled on October 31, proposes to amend the [Provincial Sales Tax Act](#) by introducing a new major events municipal and regional district tax (MRDT) of up to 2.5% on short-term accommodation sales. The tax, separate from the current MRDT, is time-limited and designed to help communities cover the cost of hosting major international tourism events that support provincial tourism and the economy. Specific municipalities, regional districts or eligible tourism-focused not-for-profit associations can apply for the major events MRDT through Destination BC. Prior to approval, an agreement must be in place with the minister responsible for tourism to help ensure the tax is dedicated and applied as intended. In addition, the minister of finance must designate the event as a major international tourism event of provincial significance. Bill 42 also includes transitional provisions that relate to both the current MRDT and the new additional major events MRDT to provide clarity on which applicable tax rate is payable, depending on when accommodation is purchased. Further proposed changes authorize regulations to be issued allowing specific communities to have the major events MRDT temporarily applied in their jurisdictions.

Upcoming Changes to BC's Soil Relocation Regime

The Ministry of Environment and Climate Change Strategy in British Columbia (the Ministry) is set to bring in new requirements for soil relocation through [amendments](#) to the [Environmental Management Act](#) (EMA) and the [Contaminated Sites Regulation](#) (CSR). This article will briefly examine the evolving regulatory environment by setting out the Ministry's new proposed process for regulating the relocation of both contaminated and uncontaminated soils. Read the [full article](#) by Eugenia Adamovitch with Civic Legal LLP.

Case Comment: Regulation of Land May Result in Liability for Constructive Taking

Annapolis Group Inc. v. Halifax Regional Municipality, 2022 SCC 36

The Supreme Court of Canada has issued a decision coming out of the province of Nova Scotia which broadens the basis upon which a local government may be held liable for "constructive taking" of private lands.

1.0 Facts

Since the 1950s, Annapolis Group Inc. ("Annapolis") acquired a large amount of land with the intention of eventually securing enhanced development rights and reselling it. In 2006, Halifax Regional Municipality ("Halifax") adopted a planning strategy to guide land development over a 25-year period which affected Annapolis' lands. The strategy reserved a portion of the land for possible future inclusion in a regional park and zoned the lands as "Urban Settlement" and "Urban Reserve". These designations contemplate future service development but required Halifax to adopt a resolution to authorize it. Beginning in 2007, Annapolis made several attempts to develop the lands. In 2016, Halifax passed a resolution refusing to allow development of the lands. Annapolis commenced a lawsuit alleging that Halifax's regulatory measures had deprived it of all reasonable or economic uses of the lands, resulting in a constructive taking without compensation.

Read the [full article](#) by Jeff Lock with Stewart McDannold Stuart Barristers & Solicitors.

The BC Court of Appeal Considers Whether a Statutory Body Owes Individuals a Private Law Duty of Care

In *Kamoto Holdings Ltd v Central Kootenay (Regional District)*, [2022 BCCA 282](#), the British Columbia Court of Appeal recently held that a BC couple, Gordon and Jill Cann (collectively, the "Canns") were not able to bring a claim against the Regional District of Central Kootenay (the "District") as a result of the District's alleged misinterpretation of the BC Building Code (the "Code") requirements, which the Canns claimed caused them economic loss. The Court of Appeal held that there was not a sufficient relationship of proximity between the District and the Canns to warrant a finding that the District owed the Canns a duty of care. Read the [full article](#) by [Caitlin VanDuzer](#) with Miller Thomson LLP.

Federal Cannabis Act Review

The federal government has initiated a [review](#) of the *Cannabis Act*. Local governments interested in participating are asked to submit feedback by November 21, 2022. The review will be led by a federal panel seeking to examine the following themes:

- Impacts of legalization on youth;
- Ensuring legal access to cannabis products for adults;
- Preventing illegal activity and displacing the illicit market;
- Impacts of legalization on the access to cannabis for medical purposes;
- Impacts of legalization on Indigenous people and communities;
- Impacts from the home cultivation of non-medical cannabis.

Read the UBCM [article](#).

Vancouver City Council Adopts Strategy for the Implementation of UNDRIP

On October 25, 2022, [Vancouver became the first city in Canada to formally adopt](#) a [strategy](#) (Strategy) for the implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) at the municipal level. Read the [full article](#) by [Saul Joseph](#) and [Harkeerit Shoker](#) with Clark Wilson LLP.

Repeat Offending Report Requires New Funding Commitments for Implementation

An independent investigation into repeat offending and random stranger violence has concluded that the Province should make significant new investments for those with mental health and other complex issues. The [final report](#)'s 28 recommendations also include calls to improve information sharing and coordination among the health, justice and social service sectors, and for increased public confidence in the justice system. Read the full UBCM [article](#).

These BC Mayors Want "Sunshine Laws" to Tackle Corruption and Transparency

Two recently elected BC mayors who have been vocal about anti-corruption and transparency measures at the municipal level say it's time for the provincial government to provide better tools for city halls to improve oversight and public confidence. Surrey's mayor-elect Brenda Locke is proposing several new and renewed measures – best categorized as so-called sunshine laws – in order to improve transparency and mitigate real or perceived abuse of power at Surrey City Hall. But while Locke endeavours so, she is also calling on the provincial government for reforms to assist municipalities to be more transparent. Read the *BIV* [article](#).

A Zoning Amendment for Environmental Protection May Result in Disguised Expropriation [Quebec]

The adoption of a municipal zoning by-law that changes a property's zoning to "conservation" may result in disguised expropriation and force the municipality to compensate the landowner, according to a Quebec Court of Appeal ruling recently upheld by the Supreme Court of Canada's dismissal of the application for leave to appeal.

The case pitted the City of Mascouche, on the North Shore of Montreal, against the owner of a wooded lot estimated at more than \$4 million in value. The owner had acquired it in 1976 for the sum of one dollar (\$1), as an investment. In 2006, the City adopted a zoning by-law which zoned the land "conservation", prohibiting all construction and limiting the permitted uses to silviculture, maple syrup production and certain recreational uses. Read the [full article](#) by Martin Thiboutot with McMillan LLP.

Analysis: MLA David Eby Housing Plan

MLA David Eby has released a [housing plan](#) that if implemented could lead to significant policy and legislative changes. Although the plan is not official government policy and details on each proposal are limited, UBCM has conducted a preliminary review for member reference, given the potential near-term implications for local governments. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Minister's Athletic Commissioner Regulation (171/2013)	Oct. 31/22	by Reg 214/2022
Cannabis Licensing Regulation (202/2018)	Oct. 4/22	by Reg 199/2022
Electrical Safety Regulation (100/2004)	Oct. 1/22	by Reg 179/2022
Gas Safety Regulation (103/2004)	Oct. 1/22	by Reg 145/2022
Home Owner Grant Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 16 and 17 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Liquor Control and Licensing Regulation (241/2016)	Oct. 24/22	by Reg 208/2022
Prescribed Classes of Property Regulation (438/81)	Oct. 24/22	by Reg 205/2022

MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Changes to Passenger Transportation Accessibility and Safety Introduced

[Bill 40](#), the *Passenger Transportation Amendment Act (No. 2)*, 2022, was introduced on October 27 and amends the [Passenger Transportation Act](#). If passed, the Bill will enable the registrar of passenger transportation to support and operate an accessibility program that increases the availability of accessible commercial passenger vehicles and services for passengers with disabilities. According to the government, the accessibility program will require taxi and ride-hailing industries to increase the number of wheelchair accessible vehicles they provide.

Other proposed changes support increased passenger safety by granting authority to the registrar of passenger transportation to prevent ineligible people from driving passenger-directed vehicles, as well as clarifying the type of evidence a driver must produce to confirm eligibility to drive the vehicle.

The Bill also clarifies the authority of the Passenger Transportation Board when setting out the terms and conditions for licensing service providers of commercial passenger vehicles. For more information, read the government [news release](#).

BC Court of Appeal Overturns Guilty Verdict Against Driver of Vehicle That 'Fishtailed'

The British Columbia Court of Appeal has ordered a re-trial of a guilty verdict handed down to the driver of a jeep involved in an accident that killed one passenger and seriously injured two others.

In *R. v. Rogers*, [2022 BCCA 346](#), Brennan Rogers was driving three friends in his jeep to a campsite near Deroche, BC. Rogers lost control of the jeep and it plunged down a steep embankment on the right side of the road. One passenger died at the scene and two others were injured. Rogers was found guilty of dangerous driving causing death and two counts of dangerous driving causing bodily harm. The trial judge ruled that Rogers had intentionally tried to "drift" or fishtail his vehicle at a turn in the road, and that this attempt amounted to a marked departure from the standard of care expected of a reasonable driver in the circumstances. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Autonomous vehicles: Cross Jurisdictional Regulatory Perspectives Update

Since the release of our [regulatory perspectives article](#) in 2021, there have been a variety of regulatory and policy developments around the world regarding the use of autonomous vehicles (AV or AVs).

In addition to highlighting recent developments for the operation of AVs in Japan, the U.K., the European Union, the U.S., and China, jurisdictions of South America, Australia, New Zealand and India are poised to make significant strides in developing regulatory landscapes conducive to the development of autonomous vehicles. Read the [full article](#) by [Greg Rafter](#), [Marin Leci](#) and [Yi Liu](#) with Borden Ladner Gervais LLP.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [Circular 02-22](#) – Allowances for Hydro Vac Trucks with Front Mounted Hose Reels Under General Authorization and Letter of Authorization Trial

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

Passenger Transportation Board Bulletins

The following updates were recently published by the BC Passenger Transportation Board:

Industry Updates & Advisories

- [Final Deadline to Activate Additional Taxis](#)
The Board is issuing a final activation deadline of December 31, 2022. Licensees will have until this date to activate additional vehicles, or they will no longer be valid.
- **Vancouver Cruise Ship Schedule for TNS and Taxi Operators**
As the 2022 cruise season commences in Vancouver, TNS and Taxi Licensees are reminded to [review their terms and conditions of licence and the cruise schedule](#). The Board will continue its efforts to ensure that any changes or amendments are posted in the Weekly Bulletin and on the website.

Applications Received

- [15856-22](#) – 1044943 B.C. LTD (Yellow Cab)
- [15839-22](#) – transfer from J. Nijjer Holdings Ltd. (Sun Star Shuttle) to 1123910 B.C. Ltd. (Contractor Post Office)
- [15952-22](#) – transfer from Sadaq Ali Rajput (Bluebird Cabs) to Bluebird Cabs, Ltd.
- [15632-22](#) – PG Airport Shuttle Service Ltd.
- [16105-22](#) – transfer from Rider Express Transportation Corp. to Uray Transportation Inc. (Rider Express)
- [15091-22](#) – Charles Keay Inc. (Skeena Taxi)
- [15932-22](#) – Four Seasons Limo Services Ltd.
- [16183-22](#) – City Star Limousine Service Ltd.
- [15465-22](#) – 1229652 BC Ltd. (Kitimat Taxi)
- [15466-22](#) – 1229652 BC Ltd. (Kitimat Taxi)

Application Decisions

- [16177-22 PS TOP](#) – Apex Limousine Incorporated. [Approved]
- [15689-22 & 15834-22](#) (combined transfers) – transfers from Baldev Singh Bhela and Ali Etemadi-Shad to Bluebird Cabs Ltd. [Approved]
- [15148-22](#) – transfer from Asif Ahmed to Victoria Taxi Transportation Ltd. [Approved]
- [15717-22](#) – Evergreen Taxi LTD. [Approved]
- [15837-22](#) – Titanic Holdings Ltd. (Bluebird Cabs) [Approved]
- [16214-22 TOP](#) – Vanride Shuttle Services Ltd. [Approved]
- [15942-22](#) – Pawan Kumar Kohli (Bluebird Cabs) [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Assisted Cycle Regulation (151/2002)	Oct. 11/22	by Reg 202/2022

Motor Fuel Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 38 and 39 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Motor Fuel Tax Regulation (414/85)	RETRO to Feb. 23/22	by Reg 209/2022
	Nov. 1/22	by Reg 211/2022

OCCUPATIONAL HEALTH AND SAFETY

Occupational Health & Safety News:

Changes to Workers Compensation Act Introduced

[Bill 41](#), the *Workers Compensation Amendment Act (No. 2)*, 2022 was introduced on October 31. The Bill proposes a number of amendments to the [Workers Compensation Act](#), including:

- prohibiting suppression of workers compensation claims;
- adding a duty for employers to return injured workers to work;
- allowing WorkSafeBC to increase the maximum compensation for non-traumatic hearing loss;
- requiring the Workers' Compensation Appeal Tribunal to retain a health professional to provide independent medical opinions when requested for a medical dispute before the tribunal;
- requiring that interest be paid on specified amounts of compensation owed to a worker for more than 180 days following a review or appeal decision changing the rules regarding annual inflation adjustments to pensions and other periodic payments of compensation; and
- establishing a fair practices commissioner to investigate complaints and make recommendations to WorkSafeBC.

For a thorough analysis of these changes, read the [article](#) by [Michelle S. Jones](#) and [Miny Atwal](#) of Lawson Lundell LLP.

New Rules Increase Safety for Young Workers [January 1, 2023]

Changes to employment standards will better protect young people by outlining the types of work that are suitable for those aged 16 to 18. "For a young person, working can be a rewarding and valuable experience, important for personal growth and setting them on a path to their own success," said Harry Bains, Minister of Labour. "But it must be work that is both physically and mentally appropriate for their age, with the necessary training and supervision." To develop [the new rules](#), ministry staff examined WorkSafeBC injury data and other jurisdictions' labour laws relating to hazardous employment. Based on that information, a number of jobs within several industries were identified as hazardous for young workers, including areas within construction, forestry, food processing, oil/gas and power, asbestos removal and others. Read the full government [news release](#).

Worker Injuries Lead to Fines for BC Employers

British Columbia paper manufacturer Westbond Industries has been fined \$17,000 after one of its workers was seriously injured in the workplace. The incident happened at the company's Delta location last month, when a worker was clearing a paper jam in the rollers. The worker was seriously hurt after being caught in the running machine. WorkSafeBC inspected the facility and found the machine was not locked out and that its guard had been removed. Also, the firm's standard practices for clearing jams did not require machines to be locked out. Read the [full article](#) by Jim Wilson, published in *Canadian Occupational Safety*.

December 2022 Public Hearing on Proposed Amendments to the Occupational Health and Safety Regulation

from WorkSafeBC:

WorkSafeBC will be holding a virtual public hearing on [proposed amendments](#) to the [Occupational Health and Safety Regulation](#). The virtual public hearing will be streamed live on **December 16, 2022**, in two sessions. The

first will be from **11 a.m. to 1 p.m.** and the second from **3 to 5 p.m.** The links to view the virtual public hearing and information to dial in will be posted on this [webpage](#) by December 1, 2022. The virtual hearing will cover proposed changes to the following parts of the OHS Regulation:

- [Part 6, Hazardous Drugs \(formerly Cytotoxic Drugs\)](#)

Read the full WorkSafeBC [article](#).

Switch BC Aims to Reduce Violence against Healthcare Workers

British Columbia is launching an anti-violence program to train healthcare workers at 26 emergency rooms and mental health units to better protect themselves from aggressive patients, and a new organization called Switch BC is leading the initiative. It stands for Safety, Well-being, Innovation, Training and Collaboration in Health Care and is the first organization of its kind in Canada. It is made up of employers, doctors, government and three big health-care unions. Read the [full article](#) by Shane Mercer with *Canadian Occupational Safety*.

Act or Regulation Affected	Effective Date	Amendment Information
Electrical Safety Regulation (100/2004)	Oct. 1/22	by Reg 179/2022
Gas Safety Regulation (103/2004)	Oct. 1/22	by Reg 145/2022
Workers Compensation Act Appeal Regulation (321/2002)	Oct. 24/22	by Reg 208/2022

PROPERTY & REAL ESTATE

Property and Real Estate News:

Sweeping Changes to the Regulation of Mortgage Brokers in BC

On October 4, 2022, the Legislative Assembly of British Columbia introduced Bill 29, the [Mortgage Services Act](#), which proposes to replace the [Mortgage Brokers Act](#), R.S.B.C. 1996, c. 313 (the MBA). In the Commission of Inquiry into Money Laundering in British Columbia, better known as the Cullen Commission, the MBA received some of the most scrutiny from the inquiry. Out of 101 recommendations, the Cullen Commission provided 17 recommendations specifically directed at the regulation of mortgage brokers in British Columbia, which included many recommendations aimed at amending and modernizing the MBA. Bill 29, *Mortgage Services Act*, is the province's response to the findings and recommendations of the Cullen Commission. On October 5, 2022, Bill 29 passed through its second reading in the legislature.

[On October 18, the Bill passed third reading.] Those engaged in mortgage lending in British Columbia should take steps now to ensure that they are compliant with new laws designed to promote transparency and protect consumers. The new laws broadly address all participants engaged in mortgage lending and create a regime of substantial penalties for non-compliance. Read the [full article](#) by Ross McGowan and Jason Uswak with Borden Ladner Gervais LLP.

"Ready, Willing, and Able": BC Court Clarifies Law on Sufficiency of Tender in Real Estate Transactions

Parties negotiating agreements for sale of real estate always hope that closing day goes smoothly – but it is important to ensure that agreements are structured to protect your legal rights in the event things don't go as planned. The recent decision in *Sandhu v Uppal Farms & Greenhouses Ltd*, [2022 BCSC 1373](#), is an example of a collapsing deal that was saved by a court's determination that the tender (ie payment) by the purchaser of the purchase funds was sufficient.

In *Sandhu*, the parties entered into a contract for the sale of an Abbotsford farm property. The parties agreed that:

- The buyer would deposit all documents needed to transfer title with the Land Title Office (the "LTO") by

- 4pm on the closing date.
- The buyer would provide the purchase price "on or before" the closing date.

Read the [full article](#) by Anna Sekunova and Cameron Fox with Clark Wilson LLP.

BC Court of Appeal Rejects Strata Lot Owner's Plea for Easement over Limited Common Property

The Court of Appeal for British Columbia has allowed the appeal of a strata lot owner, ruling that no equitable easement was created by representations made by the lot's former owner that could be enforced against its new owner.

In [Stratton v. Richter](#), the parties owned units in a three-lot strata development. On the second floor of the building, doors from strata lots 1 and 3 opened to an outside deck, with a stairway descending from the deck to the backyard. Read the [full article](#) by Mary Or on the *Canadian Lawyer*.

"The Damage Deposit Was Paid to Cover Damage": BC Tribunal Orders Woman to Return Roommate's Money

A BC woman who refused to return the bulk of her roommate's damage deposit because he used "more electricity" than expected has been ordered to pay up. The province's Civil Resolution Tribunal [ruled on the case last week](#), describing the events that led to the dispute. In July of 2021, the decision reads, it is "undisputed" that Alexander Podrebersek paid \$437.50 to Lauren Spouse when he began renting a room in her suite. However, when he moved out in January of 2022, only \$87.50 was returned to him. Read the CTV news [article](#).

Security for Costs and CPL's: Court of Appeal Addresses a Defendant's Financial Position and the Cancellation of Certificate of Pending Litigation for a Builder's Lien in *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, 2022 BCCA 299

The British Columbia Court of Appeal recently ruled that a defendant's strong financial position is an irrelevant consideration to obtaining security for costs against an impecunious corporate plaintiff.

The Court also confirmed that the process for removing a certificate of pending litigation ("CPL") from land under [s. 252 of the Land Title Act](#) RSBC 1996, c 250 (the "LTA") cannot be used to cancel a lien filed under the [Builders Lien Act](#), SBC 1997, c 45 (the "BLA").

In *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, [2022 BCCA 299](#), the Court heard a dispute between a general contractor, New West Custom Homes (Kelowna) Inc. ("New West") and a large property developer, Parkbridge Lifestyle Communities Inc. ("Parkbridge"). On appeal were applications by the defendant Parkbridge for New West to post security for costs and to cancel a builder's lien registered by New West. Read the [full article](#) by Joseph Romanoski with Whitelaw Twining LLP.

Case Comment: *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, 2022 BCCA 299 – Interaction between the *Builders Lien Act* and the *Land Titles Act*

In recent years, our courts have considered the interaction between lien rights that arise under the [Builders Lien Act](#), RSBC 1997, c. 45 and the [Land Title Act](#), RSBC 1996 c. 250. For example, we have [previously reported](#) to you on the decision of *4HD Construction Ltd. v. Dawson Wallace Construction Ltd.* ([2020 BCSC 1224](#)), which clarified the interaction of the *Builders Lien Act* and the *Land Title Act* when a party is seeking a discharge of certificates of pending litigation ("CPLs") from land. Recently, in *Parkbridge Lifestyle Communities Inc. v. New West Custom Homes (Kelowna) Inc.*, [2022 BCCA 299](#), the BC Court of Appeal confirmed that a builders lien claim could not be cancelled under the *Land Title Act* as a result of the lien claimants failure to take any steps in its litigation for over a year. Read the [full article](#) by [Rosalie A. Clark](#) and [Dan W. Melnick](#) of Clark Wilson LLP.

Canada's Ban on Foreign Home Buyers Soon in Effect: Update and What's Next

Key Highlights:

- [Prohibition on the Purchase of Residential Property by Non-Canadians Act](#) comes into force on January 1, 2023.
- Impact of the Act will be clearer once the federal government releases draft regulations.

The *Prohibition on the Purchase of Residential Property by Non-Canadians Act* (Act) comes into force on January 1, 2023. It prohibits the purchase of residential property in Canada by non-Canadians unless they are exempted by the Act or its regulations, or the purchase is made in certain circumstances specified in the regulations.

This new legislation will remain in force for two years and is part of the government of Canada's response to soaring housing prices across the country. Read the [full article](#) by Jane Helmstadter, Alixe Cameron, Mark Lewis, Kiera Stel and Okey Ejibe with Bennett Jones LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Exemptions from Tax Regulation (287/2019)	Oct. 3/22	by Reg 198/2022
Property Transfer Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 41 to 43 and 45 only (in force by Royal Assent), Budget Measures Implementation Act, 2022
Real Estate Services Rules (209/2021)	Oct. 1/22	by Reg 193/2022
Speculation and Vacancy Tax Act	Oct. 1/22	by 2022 Bill 6, c. 11, sections 107 and 108 only (in force by Royal Assent), Budget Measures Implementation Act, 2022

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