



Vol: V – Issue 11 – November 2023

QS News

New "Ask Bill (Buholzer)" Feature Live!

We are excited to share that Bill Buholzer, associate counsel at Young Anderson Barristers and Solicitors, has teamed up with Quickscribe to provide guidance on the new planning and land use development reforms and their legal implications for you and your community. Bill is widely considered a leading authority on land use and planning law in BC. You can now access the new "Ask Bill" page (left navigation) to pose your questions to Bill regarding the new legislative reforms. The Q&A page already has some answers to common questions, and more are coming soon, so make sure to visit often.

Fall Wrap-Up

The fall legislative session came to an end last Thursday, November 30th, with the passing of four housing-related bills garnering most of the attention in the final stretch. Quickscribe has provided a summary of these Bills in this Reporter.

Quickscribe Training Opportunity 2024

Learn how [Quickscribe Online \(CivicLaws\)](#) can simplify your job by making it easier for you to navigate, *understand* and keep informed on important annotated legislation, policies and news that impact local governments. Owner [Mike Pasta](#) will provide a short, 30-minute demonstration of the latest version of this made-in-BC service on Wednesday, **January 31st, 10:00 AM** and Thursday, **February 1st, at 3:00 PM**. Quickscribe is typically used by Corporate Officers, Planners, CAOs, City Clerks, Legislative Services, Finance Officers, HR, FOI Officers, Public Works and others. If you ever need to reference or keep tabs on important changes to legislation pertaining to your role in local government, you are encouraged to attend. The MS Teams session is open to all. [Register now](#) for the time that works best for you.

New Bills

The following bills were recently introduced:

Government Bills

- [Bill 43](#) – Money Judgment Enforcement Consequential Amendment and Transitional Provisions Act
- [Bill 44](#) – Housing Statutes (Residential Development) Amendment Act, 2023
- [Bill 45](#) – Miscellaneous Statutes Amendment Act (No. 4), 2023
- [Bill 46](#) – Housing Statutes (Development Financing) Amendment Act, 2023
- [Bill 47](#) – Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023
- [Bill 48](#) – Labour Statutes Amendment Act, 2023

Members' Bills

- [Bill M226](#) – No Net Loss of Wetland Act
- [Bill M227](#) – Lunar New Year 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:

- [Joel Morris](#), Harper Grey LLP – [Evidence Act](#), [Public Health Act](#)
- [Bill Buholzer](#), Young Anderson Barristers & Solicitors – [Local Government Act](#)

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

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[PROPERTY, REAL ESTATE & CONSTRUCTION](#)



LOCAL GOVERNMENT

Local Government News:

New Housing Bills Summary

This fall legislative session has seen the introduction of several housing-related bills which received Royal Assent on November 30, 2023. For your convenience, we have provided the following summary of some of the ways this new legislation may impact local governments.

[Bill 44](#), *Housing Statutes (Residential Development) Amendment Act, 2023*

This bill contains amendments to the [Local Government Act](#) and [Vancouver Charter](#) for two main purposes: requiring local government approval for more small-scale, multi-unit housing, and changing the public engagement process for zoning. Amendments include:

- in all communities, requiring local government bylaws to allow at least one secondary suite or dwelling unit in a single detached zone
- in communities with more than 5,000 people, requiring bylaws to allow at least three, four, or six units in those zones, depending on the size of the lot and the proximity to transit stops
- making official community plans (OCPs) mandatory, and specifying that OCPs must consider housing supply over 20 years rather than 5
- changes to the requirements for local government housing needs reports to make them more consistent across communities, and requiring local governments to consider housing needs in OCPs and zoning bylaws
- in communities other than Vancouver, changes to public hearing requirements that require engagement for development of official community plans, rather than for zoning hearings for projects that fit with the community plan
- adding authority for the province to make regulations respecting siting, size, dimension, location or type of housing units

These changes are intended to increase housing supply, but have also prompted discussion of potential unintended consequences. The move to public hearings for OCPs while prohibiting hearings for zoning bylaws that fit with the OCP introduces a trade-off between more specific and frequent public engagement and the intended benefit of speeding up the approvals process.

In addition, according to Paul Sullivan, a property tax professional quoted in this [article](#), increasing the allowable density of housing could increase property values and therefore property tax, based on this new potential. While broad "upzoning" has not been well tested or studied so far, as most examples have tended to target specific neighbourhoods, similar zoning changes were made in Auckland, New Zealand in 2016. A 2023 study found some increases in property value in certain neighbourhoods, though this was complicated by factors such as market demand, neighbourhood incomes, and exemptions in some areas. This study, *The heterogeneous impacts of widespread upzoning: Lessons from Auckland, New Zealand*, by Ka Shing Cheung, Paavo Monkkonen and Chung Yim You, can be found in the [journal of Urban Studies](#).

As of November 30, provisions requiring official community plans and prohibiting public hearings in certain circumstances are now in force. The remaining amendments are expected come into force over the next couple years. Bylaws will need to be updated with these requirement by June 30, 2024, and a full timeline of expected changes and availability of policy manuals, instructions, and funding, is provided in the government [news release](#). For more information on this Bill, see the article [Province Introduces Significant Renovations to Local Government Enabling Legislation](#) from Young Anderson Barristers & Solicitors.

[Bill 46](#), *Housing Statutes (Development Financing) Amendment Act*

Bill 46 is intended to provide local governments with additional development finance tools in order to support the upfront zoning changes included in Bill 44. It expands the purposes for which local governments can impose development cost charges or development cost levies to include fire protection, police and solid waste and recycling facilities. In addition, local governments will be able to collect development cost charges for provincial highway infrastructure projects under certain conditions. These changes would need to be implemented by bylaw.

The Bill also establishes the new amenity cost charge framework. Local governments will be able to, by bylaw, set an amenity cost charge on new development upfront rather than at the zoning stage, in order to obtain funding for amenities such as day cares, community centres, libraries or recreational facilities, in areas where the new development is expected to result in growth. There are some restrictions where amenity cost charges can't be imposed, such as a project where development cost charges can be imposed, or any form of affordable housing prescribed by regulation. UBCM has provided an analysis of this new legislation [here](#). These changes came into force on November 30.

[Bill 47, Housing Statutes \(Transit-Oriented Areas\) Amendment Act](#)

Bill 47 is intended to increase housing in designated transit-oriented areas near transit hubs. These areas are defined as land within 800 metres of a rapid transit station and within 400 metres of a bus exchange where passengers transfer from one route to another. Local governments will be required to permit housing developments that meet provincial standards for allowable height and density in the transit-oriented areas, remove restrictive parking minimums and follow the site standards and details in the provincial policy manual that will be released in December 2023. A summary of the intended policy framework for standards in transit-oriented development areas is available [here](#).

Andy Yan, a housing researcher and urban planner, and Mike Hurley, mayor of Burnaby, shared some concerns in this *Vancouver Sun* [article](#) that increasing density near transit hubs could displace low-income renters if the legislation does not also require local governments to include protections for renters or requirements for a certain number of below-market units. Changes in Bill 47 will be brought into force by regulation. At that point, transit-oriented growth areas that are already designated in official community plans will be affected by this legislation, and any remaining transit-oriented areas must be designated by June 30, 2024.

[Bill 45, Miscellaneous Statutes Amendment Act](#)

This miscellaneous bill is not primarily related to housing, but it includes provisions that will apply to local governments seeking court injunctions to evict homeless encampment residents. The Bill adds provisions to define reasonably available shelter as a staffed place where someone may stay overnight, and have access nearby to a bathroom, a shower, and an offered meal.

The definition included in the Bill has [drawn criticism](#) for setting the standard for reasonably available shelter too low, ignoring practical access concerns and existing court decisions. Conversely, the Union of BC Municipalities' concern was that the standard was too high, which would limit the ability of local governments to displace encampment residents without evidence that shelter was reasonably available. UBCM asked the Province to withdraw the Bill, and provided an article on this topic [here](#). In response to these criticisms, the Bill was amended so that enactment of these sections will be delayed, coming into force by regulation rather than at Royal Assent.

New Standardized Housing Design Project

The Province recently announced a Standardized Housing Design project to create up to ten standardized, customizable designs for small-scale, multi-unit homes. The designs will be building code compliant and available to local governments with the goal of speeding up the permitting process and cutting down on development costs. The project is intended to complement the new [proposed legislation](#) that would require local governments to update zoning bylaws to allow more small-scale, multi-unit housing. Currently, the project is seeking a consultant to engage with industry and local governments, and the standardized designs are expected to be available by summer 2024.

Build, Baby, Build: An Overview of Updates Regarding the Housing Supply Act, Housing Supply Regulation and Housing Target Orders

In light of the [Housing Supply Regulation](#) coming into force and the new housing target orders, this article briefly reviews the important provisions of the [Housing Supply Act](#), outlines the Regulation and considers additional recently enacted legislation related to the supply of housing in British Columbia. This article then considers the potential impacts of the legislation and housing target orders on the construction industry generally. Read the [full article](#) by [Sara Gray](#) with Civic Legal LLP.

Tax Sales

The power of municipalities under the [Local Government Act](#) (the "LGA") to sell private properties for the non-payment of property taxes is an extraordinary remedy. Given the significant consequences of this remedy to owners' private property interests, the municipal tax sale process involves several important legislative requirements that require strict compliance by municipalities, and may give rise to significant legal consequences for municipalities if not strictly complied with. This paper will provide an overview of the requirements and obligations of collectors and local governments in British Columbia relating to procedures before the tax sale, during the tax sale, and after the tax sale, including throughout the redemption period. In examining each of these steps, this paper will also outline recent court decisions and practical commentary that may guide municipal collectors through the often-complex mechanics of the tax sale process. We note that this paper is intended to provide general guidance relating to the legislative framework of tax sales, procedure and does not encompass every legal issue that may arise. Collectors are strongly encouraged to seek legal advice in relation to specific questions. Read the [full seminar paper](#) by Julia Tikhonova and Serge Grochenkov with Young Anderson Barristers & Solicitors.

Solicitor-Client Privilege Meets the OIPC

A new BC court decision provides a helpful example of the interplay between solicitor-client privilege, the Office of the Information and Privacy Commissioner ("OIPC") and the [Freedom of Information and Protection of Privacy Act](#) ("FIPPA") as it relates to public interest disclosure (section 25) and the OIPC's ability to compel records from a public body (section 44). Spoiler alert: public bodies can be required to disclose solicitor-client privileged records pursuant to section 25, and the OIPC can compel those records from a public body pursuant to section 44 to determine whether or not disclosure is required. Read the [full article](#) by Amy O'Connor, with

Young Anderson Barristers & Solicitors, published in the September Newsletter.

BC Provides Indigenous Nations Larger Role in Emergency Management

On November 8, 2023, substantial changes to BC's emergency preparedness legislation took effect. Bill 31-2023, the [Emergency and Disaster Management Act](#), (EDMA) replaced the [Emergency Program Act](#), RSBC 1996, c 111 (the EPA), which has governed BC's emergency response regime for the last three decades. EDMA was co-designed with Indigenous Nations in accordance with the Province's action plan developed under the [Declaration on the Rights of Indigenous Peoples Act](#), SBC 2019, c 44 (DRIPA). The modernization aims to incorporate key aspects of emergency management that are absent in the current regime, including acknowledging the connection between increasing emergencies and climate change, and addressing all four phases of emergency management set out in the United Nations Sendai Framework for Disaster Risk Reduction, which British Columbia adopted in 2018. These additions are imperative given the increasing frequency of climate-related disasters that impact all communities in the province. Read the [full article](#) by Tim Pritchard, Sharon Singh, Laurie Wright and Brienne Gloeckler with Bennett Jones LLP.

The Duty to Inquire about the Need for Accommodation

The recent decision of the BC Human Rights Tribunal (the "Tribunal") in *Dorman v. Kamloops (City)*, 2023 BCHRT 62, highlights the importance of an employer's duty to inquire when an employee provides information that could indicate that they have a disability for which the employer must provide accommodation. In this case, the complainant alleged the employer had a duty to inquire about the need for accommodation in the context of a job competition. Read the [full article](#) by Michelle Blendell with Young Anderson Barristers & Solicitors, published in the September newsletter.

Federal Economic Update Includes New Funding for Housing Initiatives

The federal government released its [2023 Fall Economic Statement](#) with an emphasis on housing announcements that include: \$50 million in funding to support municipal enforcement of short-term rentals; new financing for rental construction; new funding for non-profit, co-op, and public housing; and tax changes to support rental housing and to support jurisdictions restricting short-term rentals. Notably for local governments, the economic statement includes \$50 million over three years, starting in 2024-25 to support municipal enforcement of short-term rental restrictions. The money is intended to "support municipalities with strict regulatory regimes that are having a significant and measurable impact in returning short-term rentals back to the long-term housing market". Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Act	Nov. 8/23	by 2023 Bill 31, c. 37, section 194 only (in force by Royal Assent), Emergency and Disaster Management Act
Community Charter	Nov. 8/23	by 2023 Bill 31, c. 37, sections 195 and 196 only (in force by Royal Assent), Emergency and Disaster Management Act
	Nov. 30/23	by 2023 Bill 46, c. 46, sections 15 and 16 only (in force by Royal Assent), Housing Statutes (Development Financing) Amendment Act, 2023
Emergency and Disaster Management Act	NEW Nov. 8/23	c. 37, SBC 2023, Bill 31 , sections 1 to 40, 42, 45, 46 and 48 to 190 only (in force by Royal Assent)
Emergency and Disaster Management Regulation (235/2023)	NEW Nov. 15/23	see Reg 235/2023
Emergency Program Act	REPEALED Nov. 8/23	by 2023 Bill 31, c. 37, section 191 only (in force by Royal Assent), Emergency and Disaster Management Act
Fees Regulation (244/2011)	Dec. 1/23	by Reg 75/2023
Islands Trust Act	Nov. 30/23	by 2023 Bill 46, c. 46, section 17 only (in force by Royal Assent), Housing Statutes (Development Financing) Amendment Act, 2023
Liquor Control and Licensing Regulation (241/2016)	Nov. 27/23	by Reg 242/2023
Local Government Act	Nov. 8/23	by 2023 Bill 31, c. 37, section 199 only (in force by Royal Assent), Emergency and Disaster Management Act
		by 2023 Bill 44, c. 45, sections 1, 5, 7, 9, 17, 21 and 22 only (in force by Royal Assent), Housing Statutes (Residential

	Nov. 30/23	Development) Amendment Act, 2023
		by 2023 Bill 46, c. 46, sections 1 to 9 only (in force by Royal Assent), Housing Statutes (Development Financing) Amendment Act, 2023
North Island-Coast Development Initiative Trust Act	Nov. 30/23	by 2023 Bill 42, c. 47, sections 108 to 111 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2023
Northern Development Initiative Trust Act	Nov. 30/23	by 2023 Bill 42, c. 47, sections 112 to 115 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2023
School Act	Nov. 8/23	by 2023 Bill 40, c. 38, sections 1, 2, 4 to 6, 8 and 9 only (in force by Royal Assent), School Amendment Act, 2023
Southern Interior Development Initiative Trust Act	Nov. 30/23	by 2023 Bill 42, c. 47, sections 116 to 118 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2023
Vancouver Charter	Nov. 8/23	by 2023 Bill 31, c. 37, sections 204 to 207 only (in force by Royal Assent), Emergency and Disaster Management Act
	Nov. 30/23	by 2023 Bill 44, c. 45, sections 29 and 39 only (in force by Royal Assent), Housing Statutes (Residential Development) Amendment Act, 2023
		by 2023 Bill 46, c. 46, sections 10 to 14 only (in force by Royal Assent), Housing Statutes (Development Financing) Amendment Act, 2023



COMPANY & FINANCE

Company and Finance News:

Amendments to the Pension Benefits Standards Act:

Three Changes to Take Action on Now

On November 8, 2023, [Bill 33](#), *Pension Benefits Standards Amendment Act, 2023*, received Royal Assent. This Bill makes a number of amendments to the [Pension Benefits Standards Act](#) (PBSA), including the introduction of variable life benefits for defined contribution pension plans and greater flexibility in the eligibility rules for collectively bargained multi-employer plans. While the majority of these changes will come into force at future dates, there are three upcoming changes that plan administrators can take action on right now: Read the [full article](#) by Meghan Popp with Lawson Lundell LLP.

Remote Work Arrangements: Employer Payroll Deductions and Updated CRA Guidance

On January 1, 2024, a new Canada Revenue Agency ("CRA") administrative policy will take effect to determine an employee's province of employment ("POE") for employer payroll deduction purposes. The updated administrative policy can be found [here](#). This new policy provides, in particular, updated guidance in determining an employee's POE where a full-time remote work arrangement is in place in respect of an employee. In an environment where the traditional office-based employment is evolving, this new policy will aid both Canadian resident and non-resident employers alike in understanding their payroll deduction obligations in Canada. Read the [full article](#) by Taylor Page, Fred Purkey and Geneviève Favreau with McCarthy Tétrault LLP.

"Which Court Should I Go To?" – Dow Chemical and Iris Technologies

Ask the Supreme Court of Canada to Clarify the Jurisdictions of the Tax Court and Federal Court

Earlier this week, the Supreme Court of Canada heard two tax appeals that may help clarify the jurisdictional boundaries between the Tax Court of Canada and Federal Court: *Dow Chemical Canada ULC v His Majesty the King* ([SCC File No. 40276](#)) ("Dow Chemical") and *Iris Technologies Inc v Attorney General of Canada* ([SCC File No. 40346](#)) ("Iris Technologies"). The two appeals from the Federal Court of Appeal ("FCA") offer Canada's highest court an opportunity to provide certainty to taxpayers and the Minister of National Revenue ("Minister") about the appropriate path for their tax disputes. We hope the decision will reduce the need for parties to initiate parallel proceedings or bring motions in cases that do not fall clearly (or exclusively) within either court's jurisdiction. Read the [full article](#) published by Brittany Rossler with Thorsteinssons LLP.

BCSC Launches Whistleblower Program with Financial Awards

On November 7, 2023, the British Columbia Securities Commission ("BCSC") launched a [whistleblower program](#) designed to provide

financial awards for qualified tips about investment fraud and other serious types of market misconduct. As such, the BCSC became the second securities regulatory authority in Canada to implement a whistleblower program that offers financial incentives in exchange for helpful information. [BC Policy 15-604 Whistleblower Program](#) provides that an individual is eligible to receive a financial award if they disclose information that meaningfully contributes to an important enforcement result. Read the [full article](#) published by Stikeman Elliott.

Tax Court's Denial of a Bank's GST/HST Rebate Claims Affirmed; No Issue Estoppel as Retroactive GST/HST Legislation Had Been Enacted Since Previous Judgement Regarding Same Supplies

This dispute arose when the Canada Revenue Agency ("CRA") reassessed President's Choice Bank ("PCB") for uncollected GST/HST on bundled supplies made to a major Canadian bank (the "Bank") and denied the Bank's rebate claims for GST/HST allegedly paid in error to PCB. The CRA was of the view that the supply of bundled rights made by PCB to the Bank was not an exempt "financial service" as defined under subsection 123(1) of the [Excise Tax Act](#) (Canada) (the "ETA"). On September 28, 2023, the [Federal Court of Appeal upheld](#) two Tax Court of Canada ("TCC") rulings relating to the characterization of the supply and to whether the TCC was required to apply factual findings from a previous TCC decision rendered in 2009 (the "2009 Decision") to the present case. Read the [full article](#) by Jean-Guillaume Shooner and Antonin Lapointe with Stikeman Elliott.

BC Supreme Court Rejects Investor's Claim against Self-directed Brokerage

Retail investors who use self-directed online discount brokerages have limited ability to blame the brokerage for their own investment decisions. Where an investor suffers a loss from a poor investment decision, the Court has signalled a willingness to strictly enforce the terms and conditions of the applicable account agreement to preclude any claims that the investor may pursue against the brokerage.

Overview

In a recent decision of the Supreme Court of British Columbia, *Baan v. Scotia Capital Inc.*, [2023 BCSC 565](#), the Court held that the brokerage was not liable for an investor's decision to sell shares that he did not own in a junior mining company that had just completed a 10:1 share consolidation. The Court also held that the brokerage had the right, under the applicable account agreement, to liquidate the other securities held in his investment account to partially cover the resulting shortfall. The Court granted judgment in favour of the brokerage for the remaining indebtedness in the investor's account, plus interest and costs.

Read the [full article](#) by Hunter Parsons with Borden Ladner Gervais LLP.

Employee Ownership Trusts – Improved Tax Incentives Announced

The Canadian Department of Finance introduced draft legislation in the 2023 [Canadian Federal Budget](#) (Budget 2023) to create employee ownership trusts (EOTs) to facilitate the transfer of a business to the employees of the business. We provided an overview of the rules initially proposed in Budget 2023 in [Employee Ownership Trusts—A Useful Tool for Employee Business Ownership?](#), and recommended various revisions to the proposed rules to improve the tax incentives and ease some of the conditions required to qualify for EOT treatment. The Department of Finance released [revised EOT legislation on August 4, 2023](#), addressing some of our concerns but not the big one—the revised EOT legislation still contained minimal tax incentives. The [2023 Fall Economic Statement](#) released on November 21, 2023, addresses this concern, making EOTs a viable and attractive structure for vendors of small and medium sized businesses. Read the [full article](#) by Wesley R. Novotny, Marshall R. Haughey and Wade Ritchie with Bennett Jones LLP.

CSA Propose Amendments to Facilitate Voluntary T+1 Settlement for Mutual Funds

The Canadian Securities Administrators ("CSA") have [proposed amendments to National Instrument 81-102 Investment Funds](#) ("NI 81-102") to facilitate voluntary decisions by mutual funds to shorten the settlement cycle for purchases and redemptions of their securities from two days after the date of a trade ("T+2") to one day after the date of a trade ("T+1") (the "Proposed Amendments"). The Proposed Amendments anticipate the broader adoption of T+1 settlement in Canada and have been published for a 90-day comment period, which ends on January 17, 2024. Read the [full article](#) published by Stikeman Elliott.

Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

Provincial sales tax (PST)

- **November 17, 2023**

The [Accommodation](#) page has been updated to:

- Add information about the additional Major Events Municipal and Regional District Tax (Major Events MRDT) that applies to sales of short-term accommodation in the City of Vancouver, effective February 1, 2023
- Clarify information about online marketplaces and online marketplace facilitators

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

BC Securities – Policies & Instruments

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

- [15-604](#) – Whistleblower Policy regarding the new whistleblower program launching November 7, 2023
- [15-701](#) – Credit for Cooperation Notice regarding cooperation in enforcement matters
- [23-332](#) – CSA/CIRO Staff Notice 23-332 Summary of Comments and Responses to CSA/IROC Staff Notice 23-329 Short

Selling in Canada

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Nov. 1/23	by Reg 113/2023
	Nov. 6/23	by Reg 233/2023
Pension Benefits Standards Act	RETRO to Sept. 30/15	by 2023 Bill 33, c. 34, section 25 only (in force by Royal Assent), Pension Benefits Standards Amendment Act, 2023
	Nov. 8/23	by 2023 Bill 33, c. 34, sections 4, 6 to 8, 11, 13, 15, 16, 20, 22 and 23 only (in force by Royal Assent), Pension Benefits Standards Amendment Act, 2023



FOREST & ENVIRONMENT

Forest and Environment News:

Housekeeping Amendments to Forest Statutes

Bill 41, the [Forests Statutes Amendment Act, 2023](#), received Royal Assent on November 30. Some provisions of the bill are now in force, though most of the substantial changes will be brought into force by regulation. Several housekeeping amendments including repeals of obsolete provisions have been made to the [Forest Act](#), and the [Forest Act](#), [Forest and Range Practices Act](#), [Forest Practices Code of British Columbia Act](#) and [Range Act](#) have been amended to add the power to prescribe matters that must be considered in the exercise of a discretionary power under those Acts.

Changes to Lumber Regulation Will Drive Local Manufacturing, Job Growth

Amendments to B.C.'s lumber regulations will open the door for more wood products to be manufactured in the province, strengthening the forestry sector and creating more family-supporting jobs.

Changes to the [Manufactured Forest Products Regulation](#) are being introduced in the Interior of B.C. to expand manufacturing requirements for the export of cedar and cypress lumber. The changes are set to come into effect on Feb. 1, 2024, and will require mills in the Interior to fully manufacture cedar and cypress wood that has been harvested. Read the government [news release](#).

Court Rules Federal Cabinet Acted Outside Their Authority by Broadly Designating Plastic Manufactured Items as Toxic

On November 16, 2023, in [Responsible Plastic Use Coalition v. Canada \(Environment and Climate Change\)](#), the Federal Court ruled that the federal cabinet acted outside their authority when they issued an order (the Order) adding "Plastic Manufactured Items" (PMI) to the list of toxic substances in Schedule 1 of the [Canadian Environmental Protection Act, 1999](#) (CEPA).

The Court held that it was both unreasonable and unconstitutional to add PMI to Schedule 1 because it is too broad of a category. The Court also found the decision of the Minister of the Environment and Climate Change to refuse requests to establish a Board of Review under CEPA before the Order was issued to be unreasonable, because of a lack of justification and transparency in that decision. Read the [full article](#) by [Jennifer Fairfax](#), [Tommy Gelbman](#), [Sander Duncanson](#), [Jesse Baker](#), [Ankita Gupta](#), [Marleigh Dick](#), [Clare Barrowman](#) and [Maeve O'Neill Sanger](#) with Osler, Hoskin & Harcourt LLP.

Tripartite Agreement with First Nations, BC and Ottawa Lacks Clarity on Consultation: Lawyer

A tripartite agreement between the federal government, the province of British Columbia and First Nations regarding nature conservation offers strong commentary about the Crown working in partnership with the Indigenous Peoples and their governments. Still, the details of the framework leave several questions open as to how that will happen, according to one lawyer.

Saul Joseph is partner and co-chair of the Indigenous law group at Vancouver-based Clark Wilson. He is also of Coast Salish descent and is a member of the Squamish First Nation (Skwxwú7mesh). He says the wording of the agreement still leaves him with questions. Read the [full article](#) by [Carolyn Gruske](#) in the *Canadian Lawyer*.

Treaty 8 Nations Challenge Blueberry River Agreement

A legal challenge by Treaty 8 First Nations to an agreement the B.C. government struck with the Blueberry River First Nation is adding to the uncertainty that has hung over the multi-billion dollar natural gas industry in northeastern B.C. since the summer of 2021.

That's when the B.C. Supreme Court sided with the Blueberry River First Nation (BRFN) in a cumulative impacts claim.

The court found that, in permitting industrial activities – logging, road-building, oil and gas activities, etc. – the B.C. government had breached the BRFN's Treaty 8 rights to hunt, fish and trap as they had historically done, as per Treaty 8. Read the *BIV* [article](#).

2022-23 Annual Report Now Available

The Forest Practices Board has published its [2022-23 annual report](#). Introduced by Board Chair Keith Atkinson, the report summarizes Board accomplishments over the past year and previews of work in progress.

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [Luigi Sulmona, Elena Sulmona and Luigi Giuseppe \(Joe\) Sulmona v. Director, Environmental Management Act](#) [Consent Order – Appeal Dismissed]

[Water Sustainability Act](#)

- [Outback Nursery & Garden Centre Ltd. v. Water Manager](#) [Appeal Dismissed]
- [Okanagan Indian Band v. Assistant Water Manager](#) [Dismissal Order – Appeal Dismissed]
- [Inder Valley Fruit Farms Ltd. v. Water Manager](#) [Dismissal Order – Appeal Dismissed]

[Wildlife Act](#)

- [Scott Mackenzie v. Director of Wildlife, Ministry of Forests](#) [Final Decision – 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](#)

- [Clarke Matthiesen v. Government of British Columbia](#) [Final Decision – Orders Confirmed; Amount Varied]

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

Act or Regulation Affected	Effective Date	Amendment Information
Drainage, Ditch and Dike Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 22 to 35 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 4), 2023
Exemption Regulation (No. 3) (238/2023)	NEW Nov. 24/23	see Reg 238/2023
Forest Act	Nov. 30/23	by 2023 Bill 41, c. 43, sections 10, 13, 18, 19, 21, 26, 49, 52, 63, 65, 81, 83, 87 and 88 only (in force by Royal Assent), Forests Statutes Amendment Act, 2023
Forest and Range Practices Act	Nov. 30/23	by 2023 Bill 41, c. 43, sections 133 and 154 only (in force by Royal Assent), Forests Statutes Amendment Act, 2023
Forest Practices Code of British Columbia Act	Nov. 30/23	by 2023 Bill 41, c. 43, section 161 only (in force by Royal Assent), Forests Statutes Amendment Act, 2023
Professional Governance Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 3 to 15 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 4), 2023
Protected Areas of British Columbia Act	Nov. 30/23	by 2023 Bill 42, c. 47, section 25 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2023
Range Act	Nov. 30/23	by 2023 Bill 41, c. 43, section 165 only (in force by Royal Assent), Forests Statutes Amendment Act, 2023
Required Consent (Red Chris Porphyry Copper-Gold Mine Amendments) Regulation (234/2023)	NEW Nov. 14/23	see Reg 234/2023
Water Users' Communities Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 36 to 38 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act

		(No. 4), 2023
Wildfire Act	Nov. 30/23	by 2023 Bill 41, c. 43, sections 167 and 171 only (in force by Royal Assent), Forests Statutes Amendment Act, 2023

HEALTH

Health News:

BC Supreme Court Rejects Medical Negligence Claim against Urologist

The BC Supreme Court has dismissed a medical negligence claim against a urologist who is one of the few doctors trained in robotic prostatectomy. In *Lee v. Black*, [2023 BCSC 1920](#), Byung Kyu Lee was diagnosed with high-grade prostate cancer, requiring urgent surgery. Dr. Peter Black is a urologist specializing in oncological surgery for prostate and renal cancer. Lee went to the Vancouver Prostate Centre (VPC) at the Vancouver General Hospital (VGH), where he met Dr. Black. Read the [full article](#) by Angelica Dino on *Canadian Lawyer*.

Supreme Court to Hear Appeal of BC Law that Allows Recovery of Health-care Costs from Opioid Providers

The Supreme Court of Canada has agreed to hear an appeal from four pharmaceutical manufacturers, distributors or retailers trying to halt a proposed class-action lawsuit by the British Columbia government. Sanis Health, Sandoz Canada and McKesson Canada, plus Shoppers Drug Mart, want Canada's highest court to examine two lower-court decisions that confirmed BC's right to pass legislation in 2018 that would allow recovery of opioid-related health-care costs from companies. [Section 11 of the Opioid Damages and Health Care Costs Recovery Act](#) allows BC to file a class-action lawsuit against opioid providers on behalf of the federal government or any province or territory that paid to treat patients who took the drugs. Read the CBC [article](#).

'We Were Duped': Health Minister Vows to Close 'Loophole' on Flavoured Nicotine Pouches

The product hit shelves last month with no regulations on advertising or sales to youth. Canada's health minister says he'll act quickly to shut down a "loophole" after Health Canada approved the sale of flavoured nicotine pouches with no restrictions on how the product is advertised or sold. "There are very serious questions about what the tobacco industry is doing here and what their intention is. And it would seem that their intention is to addict new young people to nicotine, which is disgusting," Health Minister Mark Holland said Tuesday [November 28th] in response to questions from CBC News. Read the CBC [article](#).

BC Improving Workplace Safety for Health-care Workers

British Columbia has delivered on its commitment to make the workplace safer for health-care workers. The provincial government has fulfilled its commitment to recruit 320 new relational security officers throughout BC to better protect health-care workers. "The COVID-19 pandemic and the ongoing toxic-drug crisis have exacerbated challenges in the health-care system, and compromised the safety of the workplace for some health-care employees and quality care of patients," says Adrian Dix, minister of health. "That's why a year ago, we made a commitment to hire 320 new relational security officers by fall 2023 to rectify the situation. Read the [full article](#) by Jim Wilson on *Canadian HR Reporter*.

BC Human Rights Commissioner Launches Inquiry into Involuntary Detention

BC's human rights commissioner has launched an inquiry into the involuntary detention of vulnerable adults, and ordered seven health agencies to provide data on the practice. Commissioner Kasari Govender said Thursday [November 30th] that data obtained under the order will contribute to the inquiry into the exercise of emergency powers under the [Adult Guardianship Act](#). The act is legislation that permits designated agencies to provide emergency assistance to adults who appear to be abused or neglected and seem incapable of giving or refusing consent to receive help. This emergency assistance potentially includes involuntary detention in care facilities for extended periods, Govender said. Read the *Vancouver Sun* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Drug Schedules Regulation (9/98)	Nov. 20/23	by Reg 236/2023

LABOUR & EMPLOYMENT

Labour and Employment News:

Legislation Introduced to Extend Employment Protections to App-Based Gig Workers

On November 20, Bill 48, the [Labour Statutes Amendment Act, 2023](#), was introduced. The Bill includes amendments to the [Employment Standards Act](#) and [Workers Compensation Act](#) to include online platform workers as employees for the purposes of those acts. Later regulations are intended to establish ride-hail and food-delivery workers as online platform workers, in order to

introduce employment standards for these workers, such as minimum wage, compensation for expenses, increased pay and destination transparency, notice for suspensions and terminations, and workers' compensation coverage. These amendments will be brought into force by regulation.

In addition, the Bill includes changes to the *Employment Standards Act* and the [Temporary Foreign Worker Protection Act](#) intended to speed up the dispute resolution process for the Employment Standards Branch. These changes are in force as of November 30.

Money Judgment Enforcement Act

On October 26, 2023, the British Columbia [Money Judgment Enforcement Act](#) received Royal Assent. The Act, which comes into force in 2025, aims to streamline the debt collection process in the province by reducing the role of Courts and instead creating a Money Judgment Registry staffed with Civil Enforcement Officers charged with debt collection.

The full Act contains several substantive changes from the former [Court Order Enforcement Act](#), but the three largest categories are:

1. Creation of a Money Judgment Registry
2. Universalize Enforcement Proceedings Change to Limitation
3. Period and Protections for Debtors

Read the [full article](#) by [Paul D. McLean](#) with Mathews, Dinsdale & Clark LLP.

Federal Government Introduces Bill Prohibiting Replacement Workers During a Strike or Lockout

Budget 2023 proposed amendments to the [Canada Labour Code](#) that would prohibit the use of temporary replacement workers during a strike or lockout. On November 9, 2023, the Federal Government introduced [Bill C-58](#) to give effect to these changes.

Part I of the *Canada Labour Code* ("Code") sets out the rules for unionization, collective bargaining, and strikes and lockouts in the federal sector. The Code applies to about 22,000 employers and 985,000 employees working in key industries, including interprovincial and international transportation, telecommunications, banking, and the postal service.

Under the Code, employers have been permitted to temporarily replace bargaining unit employees during a strike or lockout in order to continue operations. This is consistent with the labour laws in most of the provinces. In fact, only Quebec and British Columbia currently restrict the use of temporary replacement workers. Read the [full article](#) by [Tara Erskine](#), [John D.R. Craig](#) and [Amanda Finelli](#) with Mathews, Dinsdale & Clark LLP.

100 Job Applications Later, This Newcomer Still Can't Restart His Engineering Career in Canada

Proposed B.C. legislation aims to remove employment barriers faced by foreign-trained migrants

Rex Gonzales worked as an industrial engineer and project manager for 16 years in the Philippines. But he's struggled to find work in his field since moving to Canada – despite applying for almost 100 jobs.

"Unfortunately, until now, after two or three months of applying for a job, I haven't received any call for an interview," he told *The Current's* guest host Duncan McCue.

Gonzales moved to Vancouver in July 2022 with his wife and young daughter. Hoping to improve his chances in the Canadian job market, he worked as a deli clerk while completing a master's degree in business administration. He also got a certification in project management. Read the [CBC article](#).

Thousands of BC Workers Forced to Pay Back COVID-19 Benefit Because of Retroactive Requirement the Ministry of Finance Never Advised Them of, New Ombudsperson Report Finds

The Ministry of Finance unfairly clawed back a key COVID-19 benefit that helped thousands of British Columbians offset employment losses during the pandemic, a new report released today by the Ombudsperson finds.

"This report reveals that government hasn't taken responsibility for failing to tell impacted people when a requirement retroactively changed for a key pandemic benefit," said Ombudsperson Jay Chalke.

The report focuses on the BC Emergency Benefit for Workers, a one-time tax-free payment of \$1,000 announced in March 2020 that paid out \$643 million in benefits over the following months. The Ombudsperson's report tells the story of two people who applied for the benefit, met all eligibility criteria at the time and received the benefit. They were told later that because a new deadline was imposed retroactively after they applied, they were no longer eligible and the benefit would have to be repaid. The Ombudsperson found that the ministry did not inform these two people, and thousands like them, of the new deadline and therefore requiring them to pay back the benefit was unfair. Read the [report](#) from the Office of the Ombudsperson.

Act or Regulation Affected	Effective Date	Amendment Information
Employment Standards Act	Nov. 30/23	by 2023 Bill 48, c. 44, sections 3 and 4 only (in force by Royal Assent), Labour Statutes Amendment Act, 2023
Pay Transparency Act	Nov. 1/23	by 2023 Bill 13, c. 18, section 2 only (in force by Royal Assent), Pay Transparency Act

Occupational Health and Safety Regulation (296/97)	Dec. 1/23	by Reg 203/2023
Temporary Foreign Worker Protection Act	Nov. 30/23	by 2023 Bill 48, c. 44, sections 6 and 7 only (in force by Royal Assent), Labour Statutes Amendment Act, 2023



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Motor Vehicle Act Amendments

On November 30, [B.C. Reg. 244/2023](#) brought into force provisions of [2023 Bill 24](#) that amend the [Motor Vehicle Act](#). The amendments add and define eCertificates of service as electronic records that can be used to prove service of various notices.

Case Summary: Judge Upholds \$500,000 Penalty for Failure to Comply with the [Container Trucking Act](#)

Gulzar Transport Inc. v. British Columbia (Container Trucking Commissioner), [2023] B.C.J. No. 1794, [2023 BCSC 1601](#), British Columbia Supreme Court, September 12, 2023, A. Chan J.

When considering the nature and severity of non compliance, principles of proportionality, parity, rehabilitation, and deterrence, it was found that a \$500,000 penalty was not patently unreasonable.

Gulzar Transport Inc. ("Gulzar") and Jet Speed Transport Inc. ("Jet Speed") (collectively, the "Companies") sought judicial review of the second reconsideration decision of the British Columbia Container Trucking Commissioner (the "Commissioner"). In this decision, the Commissioner had imposed an administrative penalty of \$500,000 for under-paying its truck drivers and then trying to cover up the underpayments during an audit by the Commissioner's office. The Companies provided container trucking services to marine ports in the lower mainland. Read the full [case summary](#) by [Deanna Froese](#) with Harper Grey LLP.

BC Supreme Court Holds Driver Liable for Car Crash Due to Failure to React to Traffic Lights

A driver who failed to appropriately assess and react to traffic lights is liable for the car crash at a busy Vancouver intersection, the BC Supreme Court has recently ruled.

In *Colonna v. Kienleitner*, [2023 BCSC 1887](#), Paloma Kienleitner drove east on East 41st Avenue in Vancouver, BC. As she passed through the busy intersection at Clarendon Street, she struck Anna Colonna's vehicle just as she began her left-hand turn. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Public Notice – 60-day Consultation for New Editions of CSA B339, CSA B340, CSA B341, and CSA B342

The New editions of the following standards are being developed by the Canadian Standards Association's (CSA) Technical Committee on Cylinders, Spheres, and Tubes for the Transportation of Dangerous Goods and are expected to be published in 2024:

CSA B339 "Cylinders, spheres, and tubes for the transportation of dangerous goods"

CSA B340 "Selection and use of cylinders, spheres, tubes, and other containers for the transportation of dangerous goods, Class 2"

CSA B341 "UN pressure receptacles and multiple-element gas containers for the transport of dangerous goods" CSA B342

"Selection and use of UN pressure receptacles and multiple-element gas containers for the transport of dangerous goods, Class 2"

From [Transport Canada](#).

Tort of Negligent Infliction of Mental Injury

Proceeds to Trial: BC Supreme Court

The BC Supreme Court has refused to dismiss, by way of summary trial, a case involving the tort of negligent infliction of mental injury. Accordingly, the case will proceed to trial.

In *Stroup v. Klassen*, [2023 BCSC 1944](#), the plaintiff's daughter, Madeline, died in a car accident at a rural intersection in Abbotsford. Madeline was in a pickup truck driven by her boyfriend when the vehicle collided with an SUV driven by Frank Klaassen. Madeline was airlifted to Royal Columbian Hospital (RCH) in New Westminster. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

BC Court of Appeal Dismisses Lawsuit Against Insurance Claims Examiner

The BC Court of Appeal has dismissed an action for damages against an insurance claims examiner, finding that the plaintiff should bring the claim against the Insurance Corporation of British Columbia (ICBC) instead.

In *Brar v. Feng*, [2023 BCCA 418](#), Surinder Kaur Brar sought damages from the ICBC's claims examiner, Jack Feng. The case stemmed from a motor vehicle accident. Feng was the claims examiner assigned to review Brar's claims for insurance benefits. Brar commenced an action against Feng, seeking damages for negligence, tortious conduct, bad faith, intentional inducement of breach of contract, and intentional interference with the contract about his handling of her claim for Part 7 benefits under the [Insurance \(Vehicle\) Regulation](#). Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Canada Needs 20,000 Truck Drivers,

Maybe More: Report

The Canadian trucking industry currently shows over 20,000 vacant driver positions, according to a recent report from PricewaterhouseCoopers (PwC).

And 34,300 truck drivers were expected to leave the industry in this year, according to the report, citing Trucking HR Canada's Labour Market Snapshot: November 2022.

If nothing is done about the current situation, the vacancy number could increase to 30,000, says PwC. Read the [full article](#) by [Jim Wilson](#) in the *HRReporter*.

B.C. Launching Four-Year Study on How E-Scooters Fit into Transport System

The B.C. government has launched another study to decide how e-scooters fit into the provincial transportation network.

The four-year safety review will start next April and replaces an e-scooter pilot project that began in 2021, which saw the machines tested in 13 communities.

A statement from the province says the new review allows for the collection of better health and safety data, which is needed to address questions about the safe integration of scooters into the transport system. Read the *Vancouver Sun* [article](#).

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [CVSE 1052 Contacts](#) – Notice to industry that the List of Contacts for use with Form CVSE1052 has been updated (November 30, 2023)
- [VI Notice 05-23](#) – Trailer Inspection Exemption Order

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

- **Updated policy for inter-city bus licensees**
The Passenger Transportation Board has revised its Inter-City Bus Minimum Route Frequency Policy. These revisions are intended to ensure ICB operators continue to operate a basic minimum level of service while providing enhanced flexibility to adjust minimum route frequency. Read the full [notice](#).

Applications Received

- [18966-23](#) – Mebin Thomas (Super Cabs)
- [18776-23](#) – Exotic Limousine Service Ltd.

Application Decisions

- [18883-23 FS TOP](#) – Penticton Eco Taxi Ltd. [Approved]
- [18882-23 TOP](#) – Penticton Eco Taxi Ltd. [Refused]
- [18992-23 FS TOP](#) – 437222 BC. LTD (ESQ Taxi) [Approved]
- [19019-23 FS TOP](#) – Kami Cabs Ltd. [Approved]
- [18877-23, 18878-23](#) – Robert Charles Darwin and Leticia Natalie Darwin (This Rides for U Wheelchair Services) [Approved]
- [18260-23](#) – City & Country Taxi Service Limited (Yellow Cab of Victoria) [Approved]
- [18957-23](#) – Kootenay Charters Ltd. [Approved]
- [18948-23](#) – Etienne Moussah (LP Cab) [Approved]
- [19097-23 FS TOP](#) – ESQ Taxi Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Insurance Corporation Act	Nov. 30/23	by 2023 Bill 45, c. 49, sections 16 to 20 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 4), 2023
Insurance (Vehicle) Act	Nov. 30/23	by 2023 Bill 45, c. 49, section 21 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 4), 2023
	Nov. 8/23	by 2023 Bill 31, c. 37, section 201 only (in force by Royal

Motor Vehicle Act		Assent), Emergency and Disaster Management Act
	Nov. 30/23	by 2023 Bill 24, c. 16, sections 37 to 42 only (in force by Reg 244/2023) Miscellaneous Statutes Amendment Act (No. 2), 2023
	Dec. 1/23	by 2023 Bill 23, c. 17, sections 12 (a) to (i) and (k) to (m) and 13 to 17 (in force by Reg 247/2023), Motor Vehicle Amendment Act, 2023
Motor Vehicle Act Regulations (26/58)	Nov. 27/23	by Reg 244/2023
Zero-Emission Vehicles Act	Nov. 30/23	by 2023 Bill 39, c. 41, sections 5 to 7, 9, 14, 22, 24 and 27 only (in force by Royal Assent), Zero-Emission Vehicles Amendment Act, 2023



OCCUPATIONAL HEALTH & SAFETY

Occupational Health and Safety News:

Is Everyone Who Employs Anyone Responsible for Everything Anyone Does? Maybe. SCC Splits on Scope of Owner / Employer OHSA Obligations on Construction Projects

On November 10, 2023, the Supreme Court of Canada released its long-awaited decision in *R. v. Greater Sudbury (City)*, [2023 SCC 28](#), a case which was anticipated to have significant impact on the duties of “owners” and “employers” under occupational health and safety legislation. The court split 4:4 on its decision, reflecting a strongly divided opinion on a complex area of OHS law, namely, whether “owners” of construction projects, who are also “employers” (of contractors or quality control or contract administration personnel) ought to have strict “employer” duties to ensure compliance by everyone at the project, or whether, more sensibly and practically, the scope of an owner/employer’s obligations under the Ontario *Occupational Health and Safety Act* (“OHSA”) are determined by contextual factors reflecting the actual work performed on the project and structure of the OHSA. The split decision means the Ontario Court of Appeal’s decision, which the City appealed to the Supreme Court, has not been overturned. The upshot is that project “owners” and “employers” will have to continue to address the Court of Appeal decision – one we believe to be unfortunate and one that does not reflect the proper apportionment of OHSA duties on a construction project. Read the [full article](#) by Jeremy Warning and John Illingworth with Mathews Dinsdale & Clark LLP.

Consultation on Proposed BC Exposure Limits Based on the New or Revised 2019 and 2020 ACGIH TLVs for Selected Chemical Substances

from [WorkSafeBC](#)

Each year, the American Conference of Governmental Industrial Hygienists (ACGIH) publishes a list of substances for which they have set new or revised Threshold Limit Values (TLVs). A TLV is the airborne concentration of a chemical substance where it is believed that nearly all workers may be exposed over a working lifetime and experience no adverse health effects. TLVs may be expressed as an 8-hour time-weighted average (TWA), 15-minute short-term exposure limit (STEL), or ceiling limit. Before adopting new or revised TLVs published by the ACGIH, WorkSafeBC reviews relevant data on health effects and the availability of validated sampling methods. WorkSafeBC also consults with stakeholders on potential implementation issues. WorkSafeBC’s existing B.C. Exposure Limits (ELs) continue to be in effect until the Board of Directors makes a decision on which new or revised ACGIH TLVs to adopt as B.C. ELs. See additional information on [WorkSafeBC’s EL review process](#). We are requesting stakeholder feedback on the [proposed ELs for 24 substances](#). Feedback will be accepted until 4:30 p.m. on Friday, February 2, 2024.

BOD Decision: Permanent Disability Evaluation Schedule Policy Updates – Ongoing Review

from [WorkSafeBC](#)

On November 9, 2023, WorkSafeBC’s Board of Directors approved amendments to the Permanent Disability Evaluation Schedule (Appendix 3) of the Rehabilitation Services & Claims Manual, Volume II. These amendments are part of the ongoing review of the Permanent Disability Evaluation Schedule to ensure the guidance it provides remains accurate and up to date.

The amendments:

- Clarify individual and grouped ratings regarding nerve root conditions
- Update some of the listed examples regarding central nervous system conditions
- Clarify the purpose of the subsection on upper extremities for central nervous system conditions

The amendments apply to all decisions made on or after December 1, 2023.

You can also review the complete [Resolution](#).

New BC Law Helps Injured Workers

Return to Workplace

Employers will need to make sure their employees, who were on a WorkSafeBC claim, have a job to return to starting Jan. 1, 2024. This is part of a new B.C. law WorkSafeBC has announced to support employees returning to work after getting injured on the job. Almost 63,000 workers in B.C. were injured while at work in 2022, according to WorkSafeBC statistics. As of the new year, employers and their employees will need to work with WorkSafeBC to make sure there is a safe and positive return-to-work plan for those injured on the job. Read the [BIV article](#).

Getting Trained and Certified for Asbestos Abatement Work

from [WorksafeBC](#)

To help keep workers safe from the dangers of asbestos, WorkSafeBC is implementing mandatory training and certification. Anyone who performs asbestos abatement work in relation to buildings in B.C. must complete training from an approved provider and obtain a certificate. The new requirements will be in effect starting January 1, 2024. Visit the WorkSafeBC site for further details.

How a Ban on Replacement Workers Could Improve Health and Safety

In early November, the federal government introduced [Bill C-58](#), a piece of legislation aimed at prohibiting the practice of employers bringing in replacement workers during contract disputes. This bill has far-reaching implications for labour relations and, notably, for the health and safety of workers in federally regulated industries. Bill C-58 represents the culmination of decades of efforts by the Canadian labor movement and fulfills a key demand in the Liberal-NDP confidence and supply agreement. The legislation would impact several sectors such as banking, telecommunications, air and rail transportation, trucking, and more. It is estimated that over one million employees work in federally regulated industries, with approximately one-third of them being unionized. Read the [full article](#) by Shane Mercer on Canadian Occupational Safety Magazine.

OHS Policies/Guidelines – Updates

Guidelines – Occupational Health and Safety Regulation

The following new, revised, and retired guidelines are consequential to [amendments](#) to the [Occupational Health and Safety Regulation](#):

- Part 4 General Conditions
 - [G4.81/4.82 Controlling exposure to environmental tobacco smoke \(ETS\) and e-cigarette vapour](#) (revised)
 - [G4.84\(2\) Eating areas – Storage and consumption](#) (revised)
 - [G4.86 Change areas](#) (revised)
- Part 5 Chemical Agents and Biological Agents
 - [G5.54-1 Exposure control plan](#) (revised)
 - [G5.80 Hazardous wastes and emissions – Sharp-edged waste](#) (revised)
- Part 6 Substance Specific Requirements – Hazardous Drugs
 - [G6.45 Risk assessment – Grouping of hazardous drugs](#) (new)
 - [G6.42 Cytotoxic drugs – Definition](#) (retired)
 - [G6.43 Cytotoxic drug – Exposure control plan](#) (retired)
 - [G6.53\(1\) Biological safety cabinets \(BSCs\)](#) (retired)
 - [G6.53\(2\) Safe work procedures](#) (retired)

Editorial revisions were also made to the following guidelines:

- Part 4 General Conditions – Buildings, Structures, Equipment and Site Conditions
 - [G4.9 Inspection and maintenance records](#)
- Part 6 Substance Specific Requirements – Asbestos
 - [G6.48 Procedures for abatement of asbestos materials during house and building demolition/renovation](#)

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

Act or Regulation Affected	Effective Date	Amendment Information
Occupational Health and Safety Regulation (296/97)	Dec. 1/23	by Reg 203/2023



PROPERTY, REAL ESTATE & CONSTRUCTION

Property, Real Estate & Construction News:

Recent Amendments to the Manufactured Home Park Tenancy Act and Residential Tenancy Act

On November 30, [Bill 42, Miscellaneous Statutes Amendment Act \(No. 3\), 2023](#), reached Royal Assent, bringing into force amendments to the [Manufactured Home Park Tenancy Act](#) and [Residential Tenancy Act](#). Both Acts were updated to clarify the

process for providing dispute resolution services, and to allow for electronic and other forms of records.

\$6 Million of Additional Property Transfer Tax Levied on Property Owned by Two British Columbia Companies

On October 24, 2023, the Supreme Court of British Columbia issued [a decision](#) finding that additional property transfer taxes of \$6,000,000 were payable on a residential property. Both the registered and beneficial owners of the property in question were British Columbia companies and the individuals at the top of the structure were Canadian permanent residents. The results of this case are a stark reminder of the importance of having a clear understanding of the [Property Transfer Tax Act](#) when purchasing residential property, especially when the ownership structure involves foreign components. In August of 2018, a company incorporated in British Columbia (the "Registered Owner") acquired title to a residential property (the "Property") for \$30,000,000 in the Metro Vancouver Regional District (the "Transaction") and held such title as bare trustee for another British Columbia company (the "Beneficial Owner"). The Registered Owner and the Beneficial Owner were wholly owned by another British Columbia company (the "B.C. Shareholder"). The shares of the B.C. Shareholder were wholly owned by a company incorporated in the People's Republic of China (the "PRC Shareholder"). The shares of the PRC Shareholder were entirely held by two individuals with permanent resident status in Canada (the majority shareholder of the PRC Shareholder will be referred to as the "Ultimate Shareholder" in this blog post). Read the [full article](#) by [Jack Yong](#), [Jisoo ViS TEP](#), [Xue Zhang](#) with Lawson Lundell LLP.

Key Updates: Open Banking and Canadian Mortgage Charter in Fall Economic Statement

On November 21, 2023, the federal government released the [2023 Fall Economic Statement](#) (FES), outlining its economic plan and next legislative steps. The FES sets out several key legislative and regulatory initiatives impacting the financial services sector, including on open banking, payments modernization, a new mortgage charter, anti-money laundering legislation, and low-cost banking and fees.

[...]

Canadian Mortgage Charter: What Is New?

Canadians with mortgages, including those facing inflation pressures and higher interest rates at renewal were top-of-mind for the federal government in the fall fiscal update. As part of the government's housing affordability measures and overall strategy to "help Canadians address the financial burdens associated with homeownership", the FES announced a new Canadian Mortgage Charter for FRFIs. The Mortgage Charter details six specific measures that FRFIs are expected to employ to provide tailored relief that is "fair, reasonable and timely" to support more Canadians "through the temporary financial stress caused by elevated interest rates and help them stay in their homes."

Read the [full article](#) by [Mena Bellofiore](#), [Tracy Molino](#), [Vladimir Shatiryan](#) and [Jacqueline D. Shinfield](#) with Blake, Cassels & Graydon LLP.

Short-Term Accommodation Changes

Dear Tony:

Our strata council is quite confused over the recent legislative changes for short term rentals. We have been advised that we are going to be responsible for reporting the number of short]term units and who owns them, but we cannot find anything that indicates a strata council will have any duties. – *APL Victoria*

Dear APL:

The Short Term Rental Accommodation Act comes into effect May 1, 2024. The Act applies to all property owners, not strata corporations, unless the strata corporation is also a property owner with occupiable homes that meet the classification and are being used for short]term accommodations. Hotels, motels and first nations properties are exempt. Strata corporations are still permitted to adopt a bylaw that prohibits short term accommodations, and they may amend their bylaws to impose a fine up to \$1,000 per day.

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

BC's Speculation Tax on Homes Expands by 13 New Municipalities

One of British Columbia's first measures to combat the housing crisis is being expanded to include 13 more communities. Finance Minister Katrine Conroy says the New Democrat government's speculation and vacancy tax will now apply to 59 B.C. cities and towns. Vernon, Penticton, Courtenay and Kamloops are among the 13 communities that have been added, and starting in 2025 residential property owners will have to declare how they used the home in 2024. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Expropriation Act	Nov. 8/23	by 2023 Bill 31, c. 37, section 197 only (in force by Royal Assent), Emergency and Disaster Management Act
Land Owner Transparency Act	Nov. 20/23	by 2023 Bill 7, c. 6, sections 1 to 15 only (in force by Reg 228/2023), Land Owner Transparency Amendment Act, 2023
Land Owner Transparency Regulation (250/2020)	Nov. 20/23	by Reg 228/2023

Manufactured Home Park Tenancy Act	Nov. 30/23	by 2023 Bill 42, c. 47 sections 31, 34, 36, 42, 44, 48, 52 to 56, 58, 60, 62 and 63 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2023
Residential Tenancy Act	Nov. 30/23	by 2023 Bill 42, c. 47, sections 68, 70 to 73, 76, 78, 84, 86, 90, 94 to 98, 100, 102, 104 and 105 only (in force by Royal Assent), Miscellaneous Statutes Amendment Act (No. 3), 2023
Strata Property Act	Nov. 1/23	by 2020 Bill 14, c. 16, sections 1 and 2 only (in force by Reg 7/2023), Municipal Affairs and Housing Statutes Amendment Act (No. 2), 2020
Strata Property Regulation (43/2000)	Nov. 1/23	by Reg 7/2023

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