

Quickscribe Reporter

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Vol: XXIII – Issue 8 – August 2024

QS News

New Annotations

New Annotations have been added to Quickscribe:

- [Bill Buholzer](#), Young Anderson – [Local Government Act](#)
- [Karen Zimmer](#), Alexander Holburn Beaudin + Lang LLP – [Freedom of Information and Protection of Privacy Act](#), [Personal Information Protection Act](#)
- [Katherine Hardie](#), Human Rights Tribunal – [Human Rights Code](#)

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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COMPANY & FINANCE

Company and Finance News:

The Supreme Court of Canada Rules that While BC Securities Commission Disgorgement Orders Survive Bankruptcy Discharge, Administrative Penalties Do Not

In *Poonian v British Columbia (Securities Commission)*, [2024 SCC 28](#), the Supreme Court of Canada clarified which monetary sanctions ordered by the British Columbia Securities Commission would survive an order of discharge under the [Bankruptcy and Insolvency Act](#) (the "BIA") and which would not. As we have written about previously, the Supreme Court's decision comes in the wake of conflicting decisions from the BC Court of Appeal in *Poonian v British Columbia (Securities Commission)*, [2022 BCCA 274](#), and the Alberta Court of Appeal in *Alberta Securities Commission v Hennig*, 2021 ABCA 411. The Supreme Court of Canada has drawn a distinction between orders requiring persons to disgorge the proceeds obtained through a fraudulent scheme ("disgorgement orders") and administrative penalties designed to denounce and deter fraudulent conduct ("administrative penalties"). While disgorgement orders will survive a discharge in bankruptcy, administrative penalties will not. Read the [full article](#)

by Jordan Deering and Regan Christensen with DLA Piper.

Canada's New Entrepreneurs' Incentive: A Look at the Draft Legislation

On August 12, the Department of Finance Canada ("Finance Canada") released proposed amendments to the [Income Tax Act](#) (the "Act") implementing the new Canadian Entrepreneurs' Incentive (the "Incentive"). The Incentive aims to reduce the capital gains inclusion rate to one-third on a lifetime maximum of \$2 million in eligible capital gains. The Incentive will apply to taxation years after 2024. Read the [full article](#) by Max Walker and Katie Bois with Lawson Lundell LLP.

Finance Canada Consults on Changes to Financial Institution Statutes

The Department of Finance has launched the third phase of its review of Canada's federal financial institutions statutes, concerning proposed changes to the [Bank Act](#), [Insurance Companies Act](#), [Trust and Loan Companies Act](#) and related legislation. The public [Consultation Paper](#) was published on August 12, 2024 and builds on two previous financial sector consultations by the Department that were advanced in 2023, relating to national security and strengthening competition in the financial sector. Overall, the proposals respond to recent financial institution mergers, suggest banks should take on more responsibilities during the transition to digital banking, and continue the dialogue around national security risks. Some of the more significant proposals impacting financial services are summarized below. Read the [full article](#) by Koker Christensen, Craig Bellefontaine and Tara Newman with Fasken.

CSA Propose Amendments Related to CSE's Senior Tier, Majority Voting, Escrow Agreements and More

The Canadian Securities Administrators ("CSA") recently published for comment proposed amendments and changes to certain national instruments and policies to: (i) address the Canadian Securities Exchange's ("CSE") creation of a senior tier; (ii) codify blanket orders that were put in place to accommodate the [Canada Business Corporations Act](#) ("CBCA") "majority voting" amendments; (iii) remove the requirement for escrow agreements to be signed, sealed and delivered by securityholders in the presence of a witness; and (iv) make housekeeping amendments. The comment period will end on October 30, 2024. Read the [full article](#) published by Stikeman Elliot.

Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

Provincial sales tax (PST)

- **August 7, 2024**

[Bulletin PST 106, Legal Services \(PDF, 340KB\)](#), has been updated to:

- Remove incorrect information from the Services That Are Not Legal Services section that said if the listed services included or resulted in legal advice or legal services being provided, they would be taxable regardless of whether they were separately listed on the bill
- Add information about exemptions for legal services provided to the federal government and legal services purchased from a small seller

- **August 9, 2024**

[Bulletin PST 100, Safety Equipment and Protective Clothing \(PDF, 350KB\)](#), has been updated to:

- Specify that KF94, KN95 and N95 respirators are exempt from PST
- Clarify that PST applies to replacement parts for air hoses designed to connect a respirator or SCBA to an air source

- **August 22, 2024**

[Bulletin PST 207, Medical Supplies and Equipment \(PDF, 390KB\)](#), has been revised to:

- Clarify what qualifies as exempt menstrual or postpartum underwear

[Bulletin PST 206, Grocery and Drug Stores \(PDF, 450KB\)](#), has been revised to:

- Clarify what qualifies as exempt menstrual or postpartum underwear
- Add automated external defibrillators (AEDs) to the list of exempt safety equipment and protective clothing
- Add more information on how PST applies to gloves

The [List of zero-emission vehicles available in Canada](#) has been updated to:

- Clarify PST exemption requirements for used ZEVs
- Add vehicles to the list

Motor fuel tax and carbon tax

- **August 8, 2024**

[FIN 171, Application for Refund of Carbon Tax – Non-Registered Air or Marine \(PDF, 240 KB\)](#), has been revised to remove photo ID requirements for individuals and sole proprietorships.

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

BC Securities – Policies & Instruments

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

- [81-102](#) – Proposed amendments to National Instrument 81-102 Investment Funds (NI 81-102) resulting from T+1 amendments to National Instrument 24-101 Institutional Trade Matching and Settlement (NI 24-101)

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	Aug. 1/24	by Reg 232/2024
Financial Institutions Fees Regulation (312/90)	Sept. 1/24	by Reg 183/2024
Insurance (Captive Company) Regulation (99/2017)	Sept. 1/24	by Reg 183/2024
Interactive Digital Media Tax Credit Regulation (187/2010)	Sept. 1/24	by Reg 111/2024



ENERGY & MINES

Energy and Mines News:

Ontario Launches Largest Competitive Energy Procurement in its History

On August 28, 2024, the Government of Ontario launched its Second Long-Term Procurement (the "LT2 Procurement"). The LT2 Procurement is described by the Government of Ontario as the largest competitive energy procurement in the province's history, and builds on the province's plan to procure up to 5,000 megawatts of energy.

The [press release](#) announcing the launch of the LT2 Procurement identifies two initial, key dates. Read the [full article](#) by Stephen Furlan, Zachary Masoud, Gurvir Sangha and Justin Parmer with McCarthy Tétrault LLP.

Fill 'Er Up! Reservoir Filling Begins on BC's Site C Hydro

Crown provincial utility BC Hydro has begun filling the 1.1 GW Site C Clean Energy Project reservoir in northeast British Columbia after completing all necessary construction. Filling the reservoir allows the generating station, spillways, turbine, and generators to begin operating, marking a significant milestone for Site C, which is now more than 85% complete, per BC Hydro.

It will take two to four months to fill the Site C reservoir, as water levels rise between 30 cm and 3 m each day. BC Hydro considered filling the reservoir last fall, one year ahead of schedule, but determined critical work areas needed to be completed first, including Site C's approach channel, spillway gates and powerhouse intake gates. Read the [full article](#) by Paul Gerke in the *Hydro Review*.

Nisg̓a'a-Backed Pipeline to Begin Early Work This Month

The dust has not yet settled on the \$14.5 billion Coastal GasLink pipeline construction project, and regulators are turning their attention to another multibillion-dollar B.C. natural gas pipeline proposal.

The Prince Rupert Gas Transmission (PRGT) pipeline and its associated Ksi Lisims LNG project north of Prince Rupert are shaping up to be B.C.'s next energy mega-projects, at a scale similar to the Coastal GasLink (CGL) pipeline and \$18 billion LNG Canada project in Kitimat.

With an estimated capital cost of \$9.4 billion, Ksi Lisims – a floating LNG plant – would produce 12 million tonnes of liquefied natural gas annually (compared to LNG Canada's 14 million tonnes). It does not yet have an environmental certificate, and is still making its way through the BC Environment Assessment Office (EAO) review process. Read the *BIV* [article](#).

Updates to Natural Resource Taxes

The following update to natural resource taxes was recently posted:

Royalty transition 2022–2024

- **August 30, 2024**

The [B.C. oil and natural gas royalty transition web pages](#) have been updated to reflect that the royalty framework transition period has been extended until December 31, 2026 and the new royalty framework will take effect January 1, 2027. The transition period has new provisions for new and existing wells, including for oil wells and dry gas wells with a spud date on or after September 1, 2024.

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

BC Energy Regulator Announcements

The following BC Energy Regulator announcements were posted recently:

- [TU 2024-10](#) – Details of Halfway River First Nation Landscape Planning Pilot Released
- [TU 2024-11](#) – Guidance for Energy Industry Following the Gundy Complex HV1-C Plan
- [TU 2024-12](#) – New Associated Activity Type for Offsets Added to the Application Management System
- [TU 2024-13](#) – Direction for the Implementation of the Northeast District Cumulative Impacts (Treaty 8) Order

- [TU 2024-14](#) – Changes to Reporting and Management of Incidents

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

Act or Regulation Affected	Effective Date	Amendment Information
Petroleum and Natural Gas Act	Aug. 1/24	by 2016 Bill 4, c. 19, section 67 only (in force by Reg 248/2024), Fire Safety Act



FAMILY & CHILDREN

Family and Children News:

New, Improved Provincial Court Family Rules Forms!

Filling out a form in a Provincial Court family law case should be easier, more efficient and less frustrating after August 12, 2024. The Justices Services Branch of BC's Ministry of the Attorney General has worked with the Court and other stakeholders to replace the forms required by the [Provincial Court Family Rules](#) with new forms that are shorter, clearer and easier to navigate.

The Ministry's redesign team used a human-centred service design approach. It conducted five surveys to collect 147 responses from the public, support workers, legal information providers, paralegals, advocates, lawyers, judges, and staff of court registries, Justice Access Centres and Family Justice Centres. Read the [full update](#) from the Provincial Court of British Columbia.

BCLI Pension Division Report Recommendations Implemented

In 2021, we published a report on pension division after the breakdown of a relationship. This report, created with the assistance of an expert project committee, recommended changes to part 6 of the [Family Law Act](#) and the [Division of Pension Regulations](#). In 2023, the [Family Law Amendment Act, 2023](#) was passed, which implemented our recommended reforms to part 6.

Now, earlier this month, an [order in council](#) was promulgated which further advances our recommendations by: (1) implementing the recommended reforms for the Division of Pensions Regulation, and (2) setting January 1, 2025, as the date on which these legislative and regulatory reforms will come into force. Read the [full article](#) by Maria Michouris with BCLI.

BC Supreme Court Denies Creditor's Application to Join Family Law Case

In a recent decision [[2024 BCSC 1248](#)], the BC Supreme Court denied an application by a credit union to be added as a party in a family law proceeding involving a former couple.

The credit union, a judgment creditor of one party, sought to protect its interest in collecting a debt by gaining full participation rights in the family law case. The credit union argued that its inclusion in the proceedings was necessary to prevent the former couple from putting assets beyond its reach. This concern stemmed from a previous court finding of fraudulent conveyance, where it was determined that the couple had attempted to shield property from creditors. Given this history, the credit union feared a repeat attempt during the family law trial. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

12 Tips for Lawyers on Preparing Family Court Orders That Won't Get Bounced

When you submit a family court order to be signed by a judge and it's returned for corrections, it's a waste of your time, and that of the court registry staff and judge who dealt with it. It also increases the time your client must wait to get an official copy of their order.

This eNews contains tips from judges on how lawyers can prepare and submit orders that get signed without unnecessary delays. It also answers some common questions about orders. Read the [full article](#) from the Provincial Court of British Columbia.

BC Supreme Court Gives Mother Sole Parenting Responsibility in Light of Absent Father

In a recent family law matter [[2024 BCSC 1444](#)], the Supreme Court of British Columbia granted a mother sole parenting responsibility and decision-making authority, considering the father's lack of involvement in the proceedings and uncertain whereabouts.

The parties in this case married in India in 2003. They moved to Canada, where they raised two children, now aged 17 and 15. The couple separated in November 2019 after the father faced criminal charges related to family violence, which resulted in a conviction in January 2021. Since the separation, the children have resided solely with the mother. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Act	Sept. 1/24	by 2024 Bill 26, c. 25, section 7 only (in force by Reg 230/2024), Name Amendment Act (No. 2), 2024

Child Care BC Act	REPEALED Sept. 1/24	by 2024 Bill 26, c. 25, section 26 only (in force by Reg 189/2024), Early Learning and Child Care Act
Child Care Subsidy Act	REPEALED Sept. 1/24	by 2024 Bill 26, c. 25, section 27 only (in force by Reg 189/2024), Early Learning and Child Care Act
Child Care Subsidy Regulation (74/97)	REPEALED Sept. 1/24	by Reg 189/2024
Early Learning and Child Care Act	Sept. 1/24	c. 22, SBC 2021, Bill 15 , whole Act in force by Reg 189/2024
Early Learning and Child Care Regulation (189/2024)	NEW Sept. 1/24	see Reg 189/2024
Family Maintenance Enforcement Act Regulation (346/88)	Aug. 12/24	by Reg 195/2024
Name Act	Sept. 1/24	by 2024 Bill 26, c. 25, sections 1 to 6 only (in force by Reg 230/2024), Name Amendment Act (No. 2), 2024
Name Act Regulation (91/80)	REPEALED Sept. 1/24	by Reg 230/2024
Name Regulation (230/2024)	NEW Sept. 1/24	see Reg 230/2024
Provincial Court Family Rules (120/2020)	Aug. 12/24	by Reg 110/2024
Provincial Court (Snuw'uy'ulhtst tu Quw'utsun Mustimuhw u' tu Shhw'a'luqwa'a' i' Smun'eem [Laws of the Cowichan People for Families and Children]) Rules (187/2024)	NEW Aug. 1/24	see Reg 187/2024
Representative for Children and Youth Act	Sept. 1/24	by 2024 Bill 26, c. 25, section 30 only (in force by Reg 189/2024), Early Learning and Child Care Act
Vital Statistics Act	Sept. 1/24	by 2024 Bill 26, c. 25, section 8 only (in force by Reg 230/2024), Name Amendment Act (No. 2), 2024



FOREST & ENVIRONMENT

Forest and Environment News:

B.C., 'Naᓄmgᓄis Endorse Gwa'ni Land-Use Planning Recommendations

A new collaborative approach to land-use planning on northern Vancouver Island will help protect 'Naᓄmgᓄis First Nation cultural values and biodiversity, while providing operational clarity for the forest industry within 'Naᓄmgᓄis territory.

Developed through a government-to-government process between the Province and 'Naᓄmgᓄis, the Gwa'ni Land Use Plan (LUP) introduces modifications to the existing Vancouver Island Land Use Plan (VILUP).

"This collaboration between 'Naᓄmgᓄis and the Province preserves First Nations cultural values and protects the important ecosystems of the Nimpkish River watershed, while also incorporating the needs of the forestry sector and communities of the north Island now and in the future," said Nathan Cullen, Minister of Water, Land and Resource Stewardship. Read the [government news release](#).

Occupational First Aid Regulatory Change Update

WorkSafeBC's Board of Directors has approved amendments to Part 3 of the [Occupational Health and Safety Regulation](#), relating to occupational first aid (OFA). These amendments take effect November 1, 2024.

To assist you in preparing for the new requirements, WorkSafeBC is sharing information about the new workplace first aid curriculum and additional resources to help you understand the first aid regulatory changes. Read the [full article](#) in the September issue of *Forest Safety News*.

New Canadian PFAS Reporting Requirements

Canada is a few steps behind the United States in regulating per- and polyfluoroalkyl substances ("PFAS"). However, we are catching up. On July 27, 2024, the Canadian Government published a notice regarding new reporting obligations for manufacturers, importers and users of certain types of PFAS.

Certain Canadian manufacturers, importers and users of the listed types of PFAS are required to submit a report by January 29, 2025, for activities conducted in the 2023 calendar year ("Required Reporters"). Failure to submit a report could result in significant penalties under the [Canadian Environmental Protection Act, 1999](#) ("CEPA"). Read the [full article](#) by [Alex Sadvari](#) and [Jessica Chen](#) with Gowling WLG.

How the Huge Hike in U.S. Tariffs on Canadian Softwood Lumber Will Impact B.C.

U.S. officials warned Canada in February that its tariffs on Canadian softwood lumber would increase, but a final decision on Tuesday that nearly doubled them was a body blow to an already challenged industry.

The U.S. Department of Commerce announced its decision, which will start being applied to American imports of Canadian lumber almost immediately, to increase the total tariffs to an average rate of 14.54 per cent from 8.05 per cent a year ago. Read the [Vancouver Sun article](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Water Sustainability Act](#)

- [Arnold Cottrell v. Bryan Robinson, Deputy Comptroller of Water Rights](#) [Summary Dismiss for Lack of Jurisdiction – Appeal Dismissed]

[Wildlife Act](#)

- [Cassidy Caron v. Logan Wenham, 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](#)

- [Canadian National Railway Company v. Government of British Columbia](#) [Preliminary Decision Regarding an Application for Document Production – Granted in Part]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (<i>Environmental Management Act</i>) (133/2014)	Aug. 1/24	by Reg 178/2023
Environmental Management Act	Aug. 1/24	by 2016 Bill 4, c. 19, section 60 only (in force by Reg 248/2024), Fire Safety Act
Municipal Wastewater Regulation (87/2012)	Aug. 1/24	by Reg 178/2023



HEALTH

Health News:

Bill-72: New Health Data Transfer Legislation Proposed in Canada

The Government of Canada recently introduced Bill-72, the [Connected Care for Canadians Act](#) (Act), to promote the secure transfer of health information and prevent data blocking. The Act is designed to support the government's initiative to establish an interoperable healthcare system and will permit the Ministry of Health to establish new regulations, set up a system to receive complaints, verify compliance and apply administrative monetary penalties for non-compliance. Health information technology encompasses hardware, software, integrated technologies, intellectual property and upgrades for creating, maintaining, accessing, using or exchanging electronic health information or for supporting these functions. The Act applies to all vendors in the health information technology space (any that license, sell or supply as a service). The Act aims to facilitate the creation of a single pan-Canadian technical standard for data exchange – a critical feat if successful, given that Canadian health services are delivered across different provincial and territorial healthcare systems. Read the [full article](#) by Imran Ahmad, Domenic Presta and Manpreet Singh with Norton Rose Fulbright Canada LLP.

Regulatory Amendments Impacting Drug and Medical Device Recalls Coming Into Force

On December 17, 2024, recent amendments to the [Food and Drug Regulations](#) (FDR) and the [Medical Devices Regulations](#) (MDR) relating to the recall of drugs and medical devices will come into force. These new requirements establish reporting and other obligations for industry when recalling (voluntarily or per an order from Health Canada) a drug or medical device. Details about the new requirements are set out below. In summary, they establish timelines within which manufacturers must report recalls to Health Canada, require the submission of a recall strategy and draft customer communications and establish requirements for post-recall reporting and record keeping. Read the [full article](#) by Sara Zborovski and Ian Trimble with Stikeman Elliot.

British Columbia Supreme Court Certifies Herbicide Class Action

The Supreme Court of British Columbia has certified a class action lawsuit involving claims that exposure to Syngenta Canada's Gramoxone products led to the development of Parkinson's disease in users. The Swiss-based defendants, Syngenta Canada and its subsidiaries, were involved in the production and distribution of agricultural chemicals, including Gramoxone, an herbicide that contains paraquat and that has been on the market since 1963. Read the [full article](#) by Bernise Carolino with *Canadian Lawyer*.

BC Class Action Launched for Alleged Negligent Misrepresentation of 'Safe' Opioid Program

The families of two teen girls, one deceased, who became addicted to opioids have brought a class action against the BC government and Health Canada. The class action claims that they became addicted due to the province's Safe/Safer Supply Program, a publicly funded prescription medication program. Health Canada shared responsibility for its implementation through its Substance Use and Addictions Program. The class was defined as all persons who purchased and consumed Safe Supply drugs believing they were safe or safer than illegal drugs because they originated from the program, regardless of whether that was the case. Family members of these individuals were also included. Read the [full article](#) by Anosha Khan with Law360 Canada.

Act or Regulation Affected	Effective Date	Amendment Information
Emergency Medical Assistants Regulation (210/2010)	Aug. 26/24	by Reg 254/2024
Laboratory Services Regulation (52/2015)	Aug. 30/24	by Reg 160/2024



LABOUR & EMPLOYMENT

Labour and Employment News:

Ongoing Obligations: How Failure to Comply with Termination Provisions Can Lead to Common Law and Punitive Damages

A recent decision from the Supreme Court of British Columbia (the "Court") in the case of *Klyn v. Pentax Canada Inc.*, [2024 BCSC 372](#) ("*Klyn v. Pentax*") serves as a reminder for employers of the importance of adhering to contractual termination provisions, even after employment has ended.

In *Klyn v. Pentax*, the Court found that an employer's failure to comply with the contractual termination terms negotiated with the employee, which had language limiting the employer's termination obligations, amounted to repudiation of an employment agreement. This resulted in an award of common law reasonable notice and punitive damages. Read the [full article](#) by [Erin Jackes](#) with McCarthy Tétrault LLP.

B.C. Case Shows Accommodation for Mental Disorders Not a 'Get Out of Jail Free Card'

Accommodations for mental health disorders can not be used as a "get out of jail free card," a recent decision by the B.C. Human Rights Tribunal (HRT) affirmed.

However, the decision also highlights gray areas that can exist around employer responsibilities for providing accommodations for employees with mental disabilities, and the importance of documentation and disclosure.

Because of the "invisible" nature of some mental health conditions, the negative effects they can have on job performance can be overlooked if they're not disclosed, explains David Brown, partner at Ascent Employment Law in Vancouver. Read the [full article](#) by Stacy Thomas in the *Canadian HRReporter*.

Hope, Skepticism as B.C. Gig-Worker Regulations Come into Force [September 3]

New employment standards for people who work through gig-based apps like Uber, DoorDash, Skip the Dishes and Lyft come into effect in British Columbia on Sept 3.

While the regulations include a minimum wage of \$20.88, workers' compensation coverage, and measures for pay transparency, some gig workers are still skeptical.

"It's good the legislation is coming, but this is not the legislation we asked for," Kuljeet Singh, an Uber driver in the Metro Vancouver area, said.

According to the province, the new regulations will set employment standards for the approximately 46,000 ride-hailing and delivery workers in B.C. Read the [CBC article](#).

Withdrawal of Job Offer Rooted in Discrimination: BC Tribunal

The British Columbia Human Rights Tribunal has found that the province's Independent Investigations Office (IIO) discriminated against an Indigenous woman during a recruitment process.

The tribunal concluded that stereotypes related to the worker's race and sex influenced the IIO's decision to rescind a job offer.

The worker, who was of Métis background, applied for a position as an investigator with the IIO, an independent oversight body that investigates serious incidents involving police agencies. Read the [full article](#) by Jeffrey R. Smith in the *Canadian HRReporter*.

Act or Regulation Affected	Effective Date	Amendment Information
Degree Authorization Regulation (405/2003)	Sept. 1/24	by Reg 208/2024
Employment and Assistance Act	Sept. 1/24	by 2024 Bill 7, c. 4, sections 1 to 3, 5 to 7, 13 and 14 only (in force by Reg 199/2024), Social Development and Poverty Reduction Statutes Amendment Act, 2024
		by 2024 Bill 26, c. 25, section 28 only (in force by Reg 189/2024), Early Learning and Child Care Act
Employment and Assistance Regulation (263/2024)	Aug. 1/24	by Reg 199/2024
	Sept. 1/24	
Employment and Assistance for Persons with Disabilities Act	Sept. 1/24	by 2024 Bill 7, c. 4, sections 20 to 22, 24, 25, 28 and 29 only (in force by Reg 199/2024), Social Development and Poverty Reduction Statutes Amendment Act, 2024
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Aug. 1/24	by Reg 199/2024
	Sept. 1/24	
Local Assistant Fee Regulation (179/78)	REPEALED Aug. 1/24	by 2016 Bill 4, c. 19, section 56 (d) only (in force by Reg 248/2024), Fire Safety Act
Public Sector Employers Act	Aug. 1/24	by 2016 Bill 4, c. 19, section 68 only (in force by Reg 248/2024), Fire Safety Act



LOCAL GOVERNMENT

Local Government News:

New Interim Guidance for Inclusionary Zoning and Density Bonus Bylaws

The Ministry of Housing has published [Interim Guidance: Inclusionary Zoning and Density Bonus](#), which covers some of the changes that were made by Bill 16, the [Housing Statutes Amendment Act, 2024](#), earlier this year. Bill 16 allowed local governments to adopt inclusionary zoning bylaws that require some portion of development to be allocated for affordable housing, and updated the density bonus legislation to be consistent with inclusionary zoning. This new publication provides guidance on developing and implementing bylaws consistent with these changes. For more information, see the BC government [website](#).

Old Property Covenants Stall BC's New Density Legislation

Property owners in BC are starting to notice what some call an unintended complication with provincial legislation aimed at creating more housing density in traditional single-family home neighbourhoods. Covenants on some properties prohibit replacing single-family homes with multi-unit dwellings. Private agreements between developers, or builders and owners, are not superseded by provincial legislation passed late last year that mandated local bylaw zoning changes to allow or expedite multi-unit housing on single-family home lots. For example, a couple in the Government Road area of Burnaby wants to sell their nearly 3,000-square-foot home to a potential buyer who wants to take advantage of the new rules to build a multiplex on the site. But a covenant, called a statutory building scheme (SBS), put in place on the property by the builder in 1975 and 18 similar homes in the neighbourhood, ensures only a structure of a certain size can replace the current structure. It essentially disallows multi-unit housing such as a duplex, triplex or townhome. Read the [CBC article](#).

Not So Fast: British Columbia Court of Appeal Quashes Appeal Outside Its Statutory Jurisdiction in North Vancouver (City) v British Columbia (Utilities Commission)

In its decision in [North Vancouver \(City\) v British Columbia \(Utilities Commission\)](#) ("*Utilities Commission*"), the British Columbia Court of Appeal (the "BCCA") made clear it will not entertain—and will quash—an appeal outside its statutory jurisdiction even though leave to appeal was granted. *Utilities Commission* concerns appeals challenging a finding of the British Columbia Utilities Commission (the "Commission"). The Commission regulates utilities under the [Utilities Commission Act](#) (the "UCA"). Under the UCA, "public utility" excludes "a municipality or regional district in respect of services provided by the municipality or regional district within its own boundaries"(the "Municipal Exclusion"). Read the [full article](#) by Daniel Siracusa and Gabriella Pasolli with McCarthy Tétrault.

Is a Guinea Fowl a Fowl: an Offender's Intention and the Interpretation of Bylaws

On June 17, 2024, in the judgment of R v Reid, [2024 BCSC 1044](#), Madam Justice Sharma of the British Columbia Supreme Court released her decision on what, at first blush, appears to be an undeniably odd question under appeal: is a guinea fowl a "fowl" for the purposes of Vancouver's *Animal Control Bylaw 9150* (The "*Animal Control Bylaw*"). The circumstances giving rise to this appeal are straight-forward, and found in the reported decision of Judicial Justice Makhdoom of *City of Vancouver v Reid*, 2023 BCPC 204. The accused, Ms. Reid, was summarily charged by the City of Vancouver for violating section 7.2 of Vancouver's Animal Control Bylaw for keeping two guinea fowl as pets on her property. Read the [full article](#) by Marshall Putnam with Steward McDannold Stuart.

BC Fire Safety Act Comes into Force

As of August 1st, 2024, the new [Fire Safety Act](#) is in force, replacing the former [Fire Services Act](#). The *Fire Safety Act* received royal assent in 2016 but was not brought into force until now due to concerns about regional districts' capacity to take on fire inspection duties. Local governments will be interested in several features of the legislation. Read the [full article](#) by Aidan Andrews with Civic Legal LLP.

Online Threats and a Hangman's Noose: How Do BC's Local Governments Deal with Toxicity?

Every year at BC's annual local government convention, when hundreds of municipal politicians and bureaucrats chat over a beer at the end of a long day of panel discussions and workshops, one subject that frequently comes up is the increasing toxicity they face in their jobs. Almost everyone, especially those who have been around for a long time, agrees that intensely personal, harassing and sometimes outright threatening behaviour from the public toward local government officials is a problem that's getting worse. It's concerning at the individual level, because everyone deserves a safe workplace. But more broadly, it's also a problem for society if this is pushing capable people to leave public service, or discouraging them from ever entering it. The subject is on the agenda at the annual [Union of BC Municipalities convention](#) next month, with [resolutions](#) seeking to tackle harassment, intimidation and threats directed from the public toward elected officials and local government staff. Read the *Vancouver Sun* [article](#).

Environment Assessment Act Review Begins

Local government officials and staff who would like to provide input on topics and areas of focus for a review of the *Environment Assessment Act* are encouraged to share their feedback by Wednesday, September 11, 2024. UBCM and local governments were recently notified by the Province that a legislative review of the Act is scheduled to begin in December 2024. Read the UBCM [article](#).

BC Revamps Building Code to Allow Single Stairwells in Buildings up to Six Storeys

British Columbia is moving to allow buildings up to six storeys to have one exit stairwell instead of two in the government's latest effort to boost housing supply. Housing Minister Ravi Kahlon says in a statement that updating the provincial building code to remove the requirement for a second egress or exit stairwell per floor will facilitate more options for residents who need larger layouts. The provincial statement says the change, which applies everywhere except some federal lands and the City of Vancouver, will make it possible to build housing projects on smaller lots and allow greater flexibility for multi-bedroom apartments, adding housing density in areas of transit-oriented developments. Read the *BIV* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Building Act	Aug. 1/24	by 2016 Bill 4, c. 19, section 57 only (in force by Reg 248/2024), Fire Safety Act
Community Charter	Aug. 1/24	by 2016 Bill 4, c. 19, sections 58 and 59 only (in force by Reg 248/2024), Fire Safety Act
Emergency and Disaster Management Act	Aug. 1/24	2023 Bill 31, c. 37, sections 192 and 193 only (coming into force of 2016 Bill 4, c. 19, sections 4 and 19, Fire Safety Act), Emergency and Disaster Management Act
Evidence Act	Sept. 1/24	by 2024 Bill 26, c. 25, section 28 only (in force by Reg 189/2024), Early Learning and Child Care Act
	NEW	c. 19, SBC 2016, Bill 4 , whole Act except section 56 (b) (in force by Reg 248/2024), as amended by 2017 Bill 9, c. 10 (in force by Royal Assent), Miscellaneous Statutes (Minor

Fire Safety Act	Aug. 1/24	Corrections) Amendment Act, 2017 , and 2018 Bill 7, c. 5 (in force by Royal Assent), Miscellaneous Statutes Amendment Act, 2018
Fire Safety Regulation (248/2024)	NEW Aug. 1/24	see Reg 248/2024
Fire Services Act	REPEALED Aug. 1/24	by 2016 Bill 4, c. 19, section 56 (a) only (in force by Reg 248/2024), Fire Safety Act
Fire Services Fees Regulation (123/94)	REPEALED Aug. 1/24	by 2016 Bill 4, c. 19, section 56 (c) only (in force by Reg 248/2024), Fire Safety Act
Fireworks Act	Aug. 1/24	by 2016 Bill 4, c. 19, sections 61 to 63 only (in force by Reg 248/2024), Fire Safety Act
Liquor Control and Licensing Regulation (241/2016)	Aug. 19/24	by Reg 255/2024
Local Government Act	Aug. 1/24	by 2016 Bill 4, c. 19, sections 64 and 65 only (in force by Reg 248/2024), Fire Safety Act
Vancouver Charter	Aug. 1/24	by 2016 Bill 4, c. 19, section 70 only (in force by Reg 248/2024), Fire Safety Act



MISCELLANEOUS

Miscellaneous News:

Human Rights Commissioner Spotlights 10 Key Issues Impacting BC Communities in New Report

BC's Human Rights Commissioner launched a report today that takes a focused look at 10 key systems impacting [human rights](#) in British Columbia. [Rights in Focus: Lived Realities in BC](#) highlights significant inequities and injustices affecting BC residents, providing a crucial tool to understand the current state of human rights in our province and a kind of baseline to monitor change over time. The systems selected for the report are those that most impact BC residents' social, economic and political lives. The issues discussed include inequities in housing, the social safety net, health care, education, employment, child welfare, criminal justice, public spaces and the family sphere, as well as the effects of the environmental crisis. Read the [full article](#) published by the BC Office of the Human Rights Commissioner.

How Far Will BC Courts Go in Actively Developing Privacy Rights and Obligations on Organizations?

Legislators and organizations should pay close attention to recent decisions from the BC Court of Appeal ("BCCA") in [Campbell v. Capital One](#) ("Capital One") and [G.D. v. South Coast British Columbia Transportation Authority](#) ("TransLink"). In these decisions, it appears that the BCCA is asking whether the existing legal regime, including regulatory and civil claims processes, appropriately recognize and serve to protect the privacy rights of individuals. As discussed in a previous [post](#), these decisions will result in an increased liability risk for organizations storing large amounts of personal information. People whose information is compromised in a cyberattack can now bring a class action lawsuit to trial on the basis that an organization victim to an attack recklessly stored their information. This post discusses the Court's judicial activism and apparent call to lawmakers to legislate stronger remedies and enforcement procedures to protect personal information. The decisions also follow recent decisions broadening the scope of constitutional privacy rights. Read the [full article](#) by [Ryan Berger](#) with Lawson Lundell LLP.

BC Court Decision: Political Parties Must Follow Privacy Laws

In *Liberal Party of Canada v. The Complainants*, [2024 BCSC 814](#), the Supreme Court of British Columbia confirmed that British Columbia's [Personal Information Protection Act \(PIPA\)](#) applies to federal political parties. The province's *Personal Information Protection Act (PIPA)* legislates the rules around how private sector and not-for-profit organizations collect, use and disclose personal information. In 2019, three B.C. residents requested access under PIPA to any of their personal information being held by political parties as well as how that information was being used. Turned down by the parties, the residents asked the Office of the Information and Privacy Commissioner of British Columbia to investigate the political parties' "privacy protection policies and practices and their compliance with PIPA." Read the [full article](#) by Kristel Kriel, Cael Hibbert, Ryan Grant and Molly Waldman (Summer Law Student) with MLT Aikins.

Change Injunction Request Analysis to Guard Free Speech Rights, BCCLA Tells Court in Encampment Case

The British Columbia Civil Liberties Association intervened in an injunction proceeding against pro-Palestinian student protesters, telling the B.C. Supreme Court that a legal analysis typically used to assess injunction requests should be changed to better protect the students' free speech rights. The BCCLA was one of several intervenors slated to present written arguments to the Supreme

Court during the hearing Thursday and Friday. The case was launched in mid-July, when Vancouver Island University asked the court for an injunction to remove student protesters from its Nanaimo, BC campus. Read the [full article](#) by Jessica Mach with *Canadian Lawyer*.

BC Law Society Appoints Transitional Board Members Despite Legal Professions Act Challenge

The Law Society of British Columbia has appointed four members to the transitional board under the [Legal Professions Act](#) despite ongoing constitutional challenge against it. On July 17, the BC Supreme Court declined to grant the Law Society injunctive relief to suspend the transitional provisions of the *Legal Professions Act* until the constitutional challenge could be heard. As a result, the transitional provisions of the act will proceed while the litigation is ongoing. Following this decision, the Benchers of the Law Society have moved forward with appointing four members to the transitional board of Legal Professions BC, as mandated by [section 223\(1\)\(a\)](#) of the act. Read the [full article](#) by Angelica Dino with *Canadian Lawyer*.

O'Connor v Canadian Pacific: Lack of Factual Basis Derails Certification in British Columbia

On June 30, 2021, the Village of Lytton in rural British Columbia was devastated by a wildfire that resulted in personal injury, the destruction of homes and livelihoods, and the tragic loss of life. Various court proceedings related to the wildfire were commenced, including a proposed class action brought by representative plaintiffs Jordan Spinks and the late Christopher O'Connor ([O'Connor v Canadian Pacific Railway Limited](#) [O'Connor]). Mr. Spinks claimed against Canadian National Railway, Canadian Pacific Railway and Transport Canada, among others, in various torts (negligence, nuisance and the rule in *Rylands v Fletcher*), alleging that railway operations in the area caused or contributed to the start of the wildfire. Read the [full article](#) by Ilan Ishai and Jackson Spencer with Bennett Jones LLP.

Waivers in the Online Wilderness: Court Decision Highlights the Risks of a Digital Waiver of Liability

In summertime, mountaineering in the wilderness is the delight of everyone. Accidents happen, of course. People get hurt. When they do, organizations and professionals offering services in the tourism, recreation, and sporting industries rely on waivers of liability to control the risk of litigation and claims. Canadian Courts generally uphold and enforce such waivers. But, as the BC Court of Appeal recently confirmed in *Mitchell v. Manson*, [2024 BCCA 142](#) ("Manson"), the person seeking to enforce such waivers must be careful to prepare and execute such waivers so that they clearly apply to the specific dates and activities undertaken. Read the [full article](#) by Tom A. Posyniak and Raylene Smith with Fasken.

Act or Regulation Affected	Effective Date	Amendment Information
Victoria and Esquimalt Municipal Policing Reorganization Regulation (205/2024)	NEW Aug. 1/24	see Reg 205/2024

 **MOTOR VEHICLE & TRAFFIC**

Motor Vehicle and Traffic News:

Risky Business: Navigating Transport Canada's New Registration Requirement for Dangerous Goods

"Dangerous goods" ("hazardous materials" in the United States) is a loaded term that brings to mind crude oil, lithium-ion batteries and explosives, but in fact covers perfume, paint, aerosols and other consumer goods. On October 25, 2024, Canada will begin requiring the registration of companies who transport dangerous goods and of companies that offer dangerous goods for transportation. The registration must be renewed and updated annually.

On October 25, 2023, new regulations under the [Transportation of Dangerous Goods Act](#) ("TDGA"), came into force. The regulations require all individuals and entities ("persons") involved in importing, offering for transport, handling, or transporting dangerous goods ("Dangerous Goods Activities") to register their corporation and operation sites in the newly established Client Identification Database ("CID"). To facilitate compliance with these new regulations, Transport Canada has allowed a 12-month grace period for CID registration, with the deadline being October 25, 2024. As this date approaches, it is essential for all regulated persons to comply with the new requirements to avoid potential penalties. This article provides an overview of the regulatory framework and highlights key requirements and considerations for persons engaged in Dangerous Goods Activities, ensuring a smooth transition and compliance with the new regulations. Read the [full article](#) by [Brian Lipson](#), [Audrey-Anne Delage](#) and [Tasia Ntwari](#) with McCarthy Tétrault LLP.

B.C. Substantially Increases Dangerous Driving Impound Fees

Following two summers marked by a surge in highway fatalities, the B.C. government is taking action to make roads safer and place higher penalties on those who drive dangerously.

Effective Sunday, Sept. 1, 2024, drivers engaging in reckless driving behaviour such as impaired driving, excessive speeding, street racing or driving without a licence will face significantly higher fees for the towing and storage of their impounded vehicles. Read the [government news release](#).

Basic Competency Checklist for Transporting Dangerous Goods

This document does not change, create, amend or suggest deviations to the [Transportation of Dangerous Goods Regulations](#) (TDG Regulations).

This basic competency list has been developed to complement the training requirements found in Part 6 of the TDG Regulations. The list does not replace the training requirements but provides guidance to anyone transporting dangerous goods. The [Transportation of Dangerous Goods Act](#) (TDG Act) and the TDG Regulations apply to all modes of transport and to any quantity of dangerous goods. Special cases (exemptions) in the TDG Regulations exclude certain situations or limit the requirements. Specific conditions are often associated with these special cases. If someone is using a special case, he or she must ensure that all the conditions identified in that special case are met. From [Transport Canada](#).

BC Supreme Court Awards Over \$400,000 in Damages in Taxi Rear-End Accident Case

The Supreme Court of British Columbia recently awarded \$413,666.35 in damages to a woman who sustained injuries in a motor vehicle accident [in [2024 BCSC 1453](#)].

In May 2015, the plaintiff was driving on 33rd Avenue in Vancouver, BC. After she stopped behind traffic, a taxi owned and operated by the defendants struck her vehicle from behind. The defendants were the cab driver and the taxi company. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Top 10 Hiring Tips for Motor Carriers

It is imperative for a motor carrier to maintain its safety fitness certificate(s) in good standing at all times. Failure to do so could jeopardize its operations. Much of this depends on its ability to hire and retain great drivers, which means that a carrier should make it a top priority to have robust hiring practices. One unsafe driver could cause a carrier's safety rating to change from satisfactory to conditional, or from conditional to unsatisfactory, triggering higher insurance costs, lost customers, or worse. In this article, we list the top 10 hiring tips for carriers when selecting drivers. Read the [full article](#) by Louis Amato-Gauci, Ellen Kim and Chloe Kyrtasakas with Miller Thomson LLP.

Design, manufacture and use of UN Standardized drums, jerricans, boxes, bags, combination packaging, composite packaging and other packagings for the transport of dangerous goods, classes 3, 4, 5, 6.1, 8, and 9. (CAN/CGSB 43.150)

The Canadian General Standards Board (CGSB) has released the draft of Safety Standard CAN/CGSB-43.150 for a 60-day consultation period. This standard is incorporated by reference within the [Transportation of Dangerous Goods Regulations](#) (TDG Regulations) and the new edition will come into force once published with a six-month phase-in (transitional) period.

Safety standard CAN/CGSB-43.150 sets out the requirements for design, manufacture and use of UN Standardized drums, jerricans, boxes, bags, combination packaging, composite packaging and other packagings for the transport of dangerous goods, classes 3, 4, 5, 6.1, 8, and 9. Read the [notice](#) from Transport Canada.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [CVSE1001](#) – Routes Pre-Approved for 5.0 m OAW
- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [NSC Bulletin 01-2024](#) – Safety Rating Certificate and Status for B.C. Carriers

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:

Applications Received

- [20647-24](#) – Valley Shuttle, Comox Taxi
- [20859-24](#) – Sunpreet Singh (Energetic Taxi Cab)
- [20622-24](#) – Explore Beyond Tours Inc.
- [20642-24](#) – Fantastic Limousine Services Ltd.

Application Decisions

- [PS TOP 20986-24](#) – Mack Limousine (Life Dream Limousine) [Approved]
- [PS TOP 21065-24](#) – Z's Limo Service (ZLS) Ltd. [Approved]
- [21084-24 PS TOP](#) – Rajwinder Singh Goraya (Canaccord Limousine Service) [Approved]
- [21085-24 PS TOP](#) – Xclusive Limousine Service Ltd. [Approved]
- [19654-24, 19738-24, 19739-24, 19740-24, 19748-24, 19741-24, 19749-24, 19658-24, 19901-24, 19982-24, 19773-24, 20000-24, 19882-24, 19891-24, 19892-24, 19775-24, 19894-24, 19895-24, 19973-24, 19883-24](#) – Black Top Cabs Ltd., Bonny's Taxi Ltd., Coquitlam Taxi (1977) Ltd., Delta Sunshine Taxi (1972) Ltd., Garden City Cabs of Richmond Ltd., Guildford Cab (1993) Ltd., Kimber Cabs Ltd., MacLure's Cabs Ltd, Newton Whalley Hi Way Taxi Ltd., North Shore Taxi (1966) Ltd., Queen City Taxi Ltd., Richmond Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Limited, Surdell Kennedy Taxi Ltd., Tsawwassen Taxi Ltd., Vancouver Taxi Ltd. (PT 70538), Vancouver Taxi Ltd. dba Handicapped Cab (PT 70546), White Rock South Surrey Taxi Ltd., Yellow Cab Company Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Vehicle Act	Aug. 1/24	by 2016 Bill 4, c. 19, section 66 only (in force by Reg 248/2024), Fire Safety Act
	Aug. 7/24	by 2024 Bill 9, c. 10, sections 9 and 10 only (in force by Reg 144/2024), Miscellaneous Statutes Amendment Act, 2024
Motor Vehicle Act Regulations (26/58)	Aug. 7/24	by Reg 144/2024
Violation Ticket Administration and Fines Regulation (89/97)	Aug. 7/24	by Reg 144/2024



OCCUPATIONAL HEALTH & SAFETY

Occupational Health and Safety News:

New Workplace First Aid Requirements

On November 1, 2024, amendments to the [Occupational Health and Safety Regulation](#) for occupational first aid will come into effect. These amendments align the OHS Regulation with standards set by the Canadian Standards Association (CSA). To meet the new requirements, BC employers will need to review their current first aid plans and adjust them if necessary. "We continue to work toward implementation of the upcoming changes to workplace first aid requirements," says senior prevention advisor, Diana Janke. "Over the past few months, we have launched the new workplace first aid curriculum. We also published several resources to help employers determine their minimum levels of first aid under the new requirements." Read the [full article](#) by Steven Gilstead in the Fall 2024 edition of WorkSafe Magazine.

19-Year-old Firefighter's Death Caused by 'Multiple Violations' against OHSA

The death of a 19-year-old firefighter in British Columbia was caused by multiple violations against the province's Occupational Health and Safety Act (OHSA), according to WorkSafeBC. Devyn Gale died on July 13, 2023. She was struck and trapped by a falling tree while clearing brush near a small fire. She was a member of the approximately 1,600-strong team of the BC Wildfire Service. In its investigation, WorkSafeBC found no evidence that the employer had not completed a dangerous tree assessment on the burning cedar at the site before the workers began their work, according to a Global News report. Read the [full article](#) by Jim Wilson on Canadian Occupational Safety.

Upcoming Regulation Changes to Improve Tower Crane Safety

In 2021, a tower crane collapse in Kelowna took the lives of five workers, and earlier this year several crane-related incidents occurred, including a fatal incident in Vancouver that claimed the life of a worker. Since that time, comprehensive work has been done across the industry to bring more awareness, education, and resources to those working with tower cranes. We spoke to WorkSafeBC's Provincial Crane Inspection Team supervisor Jason Baia about a risk reduction strategy for tower cranes and a [new regulation](#) coming into effect on October 1, 2024. Read the [full article](#) by Tanya Colledge in the Fall 2024 edition of WorkSafe Magazine.

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

– from [WorkSafe BC](#)

On July 11, 2024, WorkSafeBC's Board of Directors approved amendments to the Permanent Disability Evaluation Schedule (Appendix 3) of the Rehabilitation Services & Claims Manual, Volume II, to enhance clarity and administrative efficiency for the loss of strength rating process. The amended policies apply to all decisions made on or after September 1, 2024

OHS Policies/Guidelines – Updates

September 3, 2024

[Workers Compensation Act](#)

Online platform workers (app-based ride-hail and delivery services workers)

The following sections of the Act are enacted or amended in accordance with the [Labour Statutes Amendment Act, 2023](#), effective September 3, 2024.

- Part 1 Division 1 – Interpretation
 - [Section 1 Definitions](#) (amended)
 - [Section 1.1 Online platform workers](#) (enacted)
- Part 2 Division 15 – Regulations for OHS and Other Purposes
 - [Section 109 Lieutenant Governor in Council regulations](#) (amended)

The [Online Platform Workers Regulation](#) also came into effect on September 3, 2024, in accordance with Order in Council No. 341. Visit the [WorkSafeBC website](#) to explore this and previous updates.

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



PROPERTY, REAL ESTATE & CONSTRUCTION

Property, Real Estate & Construction News:

Residential Tenancy Changes to Notice & Dispute Periods

On August 21, 2024, provisions of 2024 Bill 14, [Tenancy Statutes Amendment Act, 2024](#), were brought into force by [B.C. Reg. 251/2024](#). Both the [Residential Tenancy Act](#) and [Residential Tenancy Regulation](#) were amended to establish certain time periods related to a landlord ending a tenancy for personal use. Specifically, the changes apply when a landlord enters into an agreement to sell a rental unit in good faith and the purchaser of the unit requests the landlord to give notice to end the tenancy because the purchaser or a close family member of the purchaser intends, in good faith, to occupy the rental unit. In these circumstances, the notice period to end the tenancy must be at least 3 months after the date the tenant receives the notice. A tenant may dispute the notice by making an application for dispute resolution within 21 days after receiving the notice. If a landlord has given notice before August 21, 2024, the notice period and dispute period in effect immediately before that date continue to apply.

BC Court of Appeal Finds Strata Corporations Lack Standing to Sue Under REDMA

In [Findlay v. The Owners, Strata EPS401](#), the BC Court of Appeal ruled that BC strata corporations lack standing to bring claims under [section 22 of the Real Estate Development Marketing Act](#) ("REDMA") for damages arising out of a misleading disclosure statement. Findlay answers a long-outstanding question about the scope of REDMA claims, and offers significant, but not complete, protection to developers of strata projects. Below, we summarize Findlay and our key takeaways from the decision. The case centred on the redevelopment of a residential apartment building into a strata property. After formally converting the property into 44 strata units, the developer began selling these strata units to individual purchasers. As required by [section 14 of REDMA](#), the developer filed a disclosure statement with the Superintendent of Real Estate that contained statements indicating several commitments to improve the strata property. The disclosure statement was signed by the developer's director and was incorporated by reference into every contract of purchase and sale between the developer and the initial purchasers of the strata units. Read the [full article](#) by Connor Bildfell and Nico Rullmann with McCarthy Tétrault.

BC Court Upholds Certificates of Pending Litigation in Property Dispute

The BC Supreme Court dismissed an application to cancel five certificates of pending litigation (CPLs) against two properties, ruling that the plaintiffs' amended notice of civil claim (NOCC) sufficiently pleaded a claim to an interest in the properties. In [Oikon Developments Inc. v Chris & Mando Ltd., 2024 BCSC 1333](#), the plaintiffs claimed an interest in two properties, arguing they had entered into oral joint venture agreements with the defendants to improve and manage them. The properties include a single lot in Vancouver with three rental properties and four lots in Burnaby containing retail and office buildings. The plaintiffs claimed they provided various services under these joint ventures, such as construction, development, and management, but were not compensated as agreed. Read the [full article](#) by Angelica Dino with *Canadian Lawyer*.

BC Court Overturns RTB Decision Evicting Man on Disability

The B.C. Supreme Court has overturned a Residential Tenancy Branch (RTB) decision that permitted the eviction of a Vancouver man on disability who spent months dealing with the fallout from the ministry's \$45 underpayment of his rent last year. Justice Lisa Warren called the government agency's ruling "patently unreasonable" in a [court decision](#) posted Tuesday [August 6]. The man moved into a downtown subsidized building for low-income individuals operated by the Kettle Friendship Society in February of 2023, according to the court judgment. Because the tenant receives disability assistance from the province, the Ministry of Social Development and Poverty Reduction directly and fully paid his \$420-a-month rent. But the ministry's payment for April 2023 was accidentally short \$45, Warren wrote. The underpayment would eventually lead to a fight over an eviction notice at the Residential Tenancy Branch. According to the court ruling, the tenant received two letters from the landlord informing him about the shortfall and then two warning letters over the next five months. The tenant said he paid the \$45 himself, though Warren wrote that he had difficulty providing evidence for that at the RTB hearing. Read the CBC [article](#).

Restrictive Covenants Not Wiped Out by New BC housing law, province admits

The BC government acknowledged Tuesday [August 13] that housing legislation it passed to allow more housing units on single-family lots does not override old land-title covenants that could restrict the construction of multi-unit buildings on a property. How many land titles have such covenants or clauses is uncertain — the Ministry of Housing said it does not keep track — but some real estate experts said there are likely thousands. Andy Yan, director of Simon Fraser University's City Program, said the issue has been coming up in conversations among planners and real estate lawyers. Read the *Vancouver Sun* [article](#).

Tenant Background Checks: Balancing Screening and Privacy

The Privacy Commissioner of Canada (the "Federal Commissioner"), the Information and Privacy Commissioner for British Columbia (the "B.C. Commissioner") and the Information and Privacy Commissioner of Alberta (the "Alberta Commissioner") [recently announced a joint investigation](#) into the privacy compliance of Certn, a Canadian company that offers tenant screening services across Canada. In particular, the commissioners stated that they will investigate whether Certn ensures that the information it collects, uses, and discloses for the purposes of tenant screening is sufficiently accurate, complete, and up to date, and whether the purposes for which it collects that information are appropriate. This announcement follows the B.C. Commissioner's [2018 investigation report](#) on tenant screening and algorithms. The announcement signals to landlords and property managers across Canada that privacy regulators are looking closely at privacy compliance in the real estate industry. The Federal Commissioner cautions that "[l]andlords, and the services that they employ, must comply with Canadian privacy laws." Accordingly, landlords and property managers should take steps to ensure that their tenant screening practices comply with all applicable privacy laws. In this blog post, we describe some of the main privacy laws that may apply to different types of tenant screening, including social media checks and criminal background checks. Read the [full article](#) by Jade Buchanan, Connor Bildfell, Curtis Chance and Juliet Watts with McCarthy Tétrault.

Electrical Planning & Depreciation Reports

Dear Tony:

Can you confirm strata corporations can no longer be exempt from depreciation reports and must obtain an electrical planning report? At our annual meeting the property manager said we can still be exempt from the requirements for a depreciation report provided we vote to extend the period of exemption. We have been unable to confirm this information and while we are only a 35-unit townhouse complex, many owners have been pushing for a depreciation report before our buildings age significantly. – Jeremy S. North Vancouver

Dear Jeremy:

New legislation and regulations were brought into effect that apply to both depreciation reports and electrical planning reports. They are both now mandatory for strata corporations of 5 units or greater. This includes bare land, townhouse and apartment style strata buildings. The requirement for an electric planning report is now in effect and the reports must be completed for the defined areas, predominantly metro Vancouver and the Capital Region by December 31, 2026, and all other areas by December 31, 2028.

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

"But the Plans Came With It": Cautionary Tales of Architectural Copyright Infringement

It happens all the time: one developer runs into financial difficulties with its project and another one swoops in, purchases the land and the plans, and completes it. Of course, when we say the second developer has 'purchased the plans', we really mean that they have purchased a licence to use those plans. In most cases, developers will not own the plans outright and will merely assign their rights and obligations under a design consultancy agreement to the purchaser. Read the [full article](#) by Aidan Andrews with Civic Legal LLP.

Annual Rent Increase for 2025 Will be Tied to Inflation

The Province is tying the annual allowable rent increase in 2025 to inflation at 3%, down from this year's allowable increase of 3.5%. "Tying the allowable increase to inflation saves renters hundreds of dollars, over the previous government's policy of inflation plus 2%," said Ravi Kahlon, Minister of Housing. "At a time when we know renters are struggling, our rent cap protects renters against unfair rent hikes, while allowing landlords to meet rising costs so that rental homes can stay in B.C.'s housing market." The maximum annual allowable rent increase for 2025 cannot take effect prior to Jan. 1, 2025. Government policy prior to 2018 allowed for an additional 2% rent increase on top of inflation, costing the average B.C. family hundreds of dollars in additional rent. Read the government [news release](#).

Difference Between Common and Limited Common Property

Dear Tony:

Our strata corporation is struggling over the issue of heat pumps for suites, especially those facing south. We understand the lack of cooling is making the units unbearable during heat cycles, and we want to give relief to owners, but there is a concern the strata corporation is going to be left with installations that result in damages to our buildings with no chance of having the users pay the cost. Our decks, balconies and patios are all limited common property, and owners argue the strata corporation cannot prohibit alterations on common property. What's the difference and how do we resolve this? – Jeremy C. Richmond

Dear Jeremy:

There are 3 types of designated property on strata plans. The strata lot, common property and limited common property (LCP). Under the definitions of the [Strata Property Act](#), limited common property is common property that is designated for exclusive use.

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

Act or Regulation Affected	Effective Date	Amendment Information
Real Estate Development Marketing Regulation	Sept. 1/24	by Reg 183/2024

(505/2004)		
Real Estate Services Act	Aug. 1/24	by 2004 Bill 41, c. 42
Real Estate Services Regulation (506/2004)	Aug. 1/24	by Reg 506/2004
Residential Tenancy Act	Aug. 21/24	by 2024 Bill 14, c. 19, section 37 (c) (part) and (f) only (in force by Reg 251/2024), Tenancy Statutes Amendment Act, 2024
Residential Tenancy Regulation (477/2003)	Aug. 21/24	by Reg 251/2024
Strata Property Act	Aug. 1/24	by 2016 Bill 4, c. 19, section 69 only (in force by Reg 248/2024), Fire Safety Act



WILLS & ESTATES

Wills and Estates News:

BC Court Rejects Estate Administrator's Bid to Buy Property Without Beneficiary Consent

The B.C. Supreme Court has recently dismissed [\[2024 BCSC 1374\]](#) an estate administrator's application to purchase estate property without her co-beneficiaries' consent.

This ruling highlights the importance of adhering to one's fiduciary duties as an estate administrator and the court's reluctance to allow self-dealing in estate matters.

In August 2016, a man passed away, leaving behind no will and no surviving spouse. His three daughters were equal beneficiaries under B.C.'s [Wills, Estates and Succession Act, 2009](#). At the time of the death, mortgages totalling \$70,000 encumbered the property. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

Incapacity Planning Pitfalls: The Risks of Poor Drafting in Derreth (Re) [2024 BCSC 1033]

As Canada's population continues to age, it has become increasingly important to understand the legal options available if your loved ones are struggling to take care of themselves. If you, or someone you know, has been appointed as an Attorney (under a Power of Attorney) or as a Representative (under a Representation Agreement) for a close friend or family member, you may have questions about the extent of the powers provided.

Legal documents, such as Powers of Attorney and Representation Agreements, are powerful tools that allow an appointee to manage important aspects of another person's life including: financial, legal, personal and health care decisions. These documents are typically created when planning for incapacity, possibly due to aging or illness. Because of the sweeping powers that these documents provide, it is imperative that they are drafted properly by someone who understands the law and the nuances of your situation. A poorly-drafted Power of Attorney or Representation Agreement can inadvertently provide powers beyond what was originally anticipated, or restrict the Attorney or Representative from taking the steps needed to ensure the incapable party's wellbeing. Read the [full article](#) by [Zachary Murphy-Rogers](#) and [Scott Stewart-Lee](#) with Clark Wilson LLP.

BC Supreme Court Removes Deceased's Son as Estate Executor for Self-Dealing and Mismanagement

The BC Supreme Court removed the executor of an estate and appointed a trust company as administrator due to self-dealing and failure to provide transparent accounting, resolving a protracted dispute between siblings.

Lily Diane Barbieri passed away in 2018, leaving a will which named her children Rick Barbieri and Teresa White as joint executors. The will's significant terms granted their brother, Steven Barbieri, a life estate for a business property and directed the residue of the estate to be equally divided among Rick, Steven, and Teresa. Read the [full article](#) by Angelica Dino in the *Canadian Lawyer*.

What to Do when the Executor Is Not Communicating with Beneficiaries?

A person has the right to choose who will handle their estate after they pass away. That person, known as the executor, is appointed in an individual's Last Will and Testament. In British Columbia, courts give a high degree of respect to a will-maker's choice of executor.

An executor has many duties and responsibilities, including communicating with beneficiaries. It is a complex role with some degree of tension built in, as an executor must act in the best interest of the estate and the beneficiaries. If the executor is not communicating with beneficiaries, you should consider contacting an estate lawyer for guidance or potentially petitioning for the removal and replacement of the executor. Read the [full article](#) from the Onyx Law Group.

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

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