

Quickscribe Reporter

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Vol: XXIII – Issue 12 – December 2024

QS News

Welcome to 2025

As we look forward to the upcoming spring legislative session, which will commence with the throne speech on February 18, 2025, we are committed to keeping you informed on legislative developments that matter most to you. We are also weeks away from launching our new AI assistant (beta) to select clients for testing. This innovative feature is designed to enhance your ability to research and summarize legislation with ease. Select clients will have the opportunity to test this new tool over the next few months. Please feel free to contact us if you are interested in participating in the testing of this new feature.

The Quickscribe Team sincerely thanks you for your continued support. We wish you a prosperous and happy New Year!

New Annotations

New Annotations have been added to Quickscribe:

- [Karen Zimmer](#), Alexander Holburn Beaudin + Lang LLP – [Protection of Public Participation Act](#)
- [Joel Morris](#), Harper Grey LLP – [Health Authorities Act](#), [Health Professions Act](#)
- [Scott Marcinkow](#), Harper Grey LLP – [Employment Standards Act](#)
- [OnPoint Legal Research Law Corporation](#) – [Arbitration Act](#), [Canada Labour Code](#), [Court Jurisdiction and Proceedings Transfer Act](#), [Court of Appeal Act](#), [Divorce Act](#), [Employment Standards Act](#), [Family Law Act](#), [Federal Child Support Guidelines](#), [Freedom of Information and Protection of Privacy Act](#), [Insurance \(Vehicle\) Act](#), [Judicial Compensation Act](#), [Limitation Act](#), [Local Government Bylaw Notice Enforcement Act](#), [Motor Vehicle Act](#), [Opioid Damages and Health Care Costs Recovery Act](#), [Protection of Public Participation Act](#), [Real Estate Development Marketing Act](#), [Strata Property Act](#), [Strata Property Regulation](#), [Supreme Court Civil Rules](#)

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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Want to Track Federal Laws?



For notification of federal amendments, we recommend using our Section Tracking tool to keep informed on changes to federal laws. Look for the paw icon adjacent to the sections you wish to track.

Looking for Previous Reporters?

We have archived the Quickscribe Reporter going back to 2004. Visit the historical [Reporter archives page](#).

Reporter Categories

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COMPANY & FINANCE

Company and Finance News:

CRA Publishes Webpage with Examples of Allegedly GAAR-able Transactions

On December 20, 2024, the CRA published its views on the general anti-avoidance rule (GAAR) in [a new webpage](#). The webpage contains some general comments by the CRA regarding the GAAR, examples of when the CRA would apply the GAAR, and remarks on when the CRA might impose penalties on a taxpayer who has engaged in a transaction to which the GAAR applies. This tax alert provides a brief overview of the GAAR examples from the new webpage. It is important to note that the examples are not intended to be an exhaustive list of circumstances in which the CRA will apply the GAAR. In addition, the CRA's views are not legally binding and the Tax Court may well disagree with the CRA regarding the application of the GAAR in a particular scenario. Read the [full tax alert](#) prepared by Patrick R. Murray with Thorsteinssons LLP.

Alternative Transactions: Increasingly Relevant to GAAR Abuse Analysis

On November 21, 2024, the Supreme Court of Canada confirmed that it would not grant leave to appeal from the Federal Court of Appeal decision in [3295940 Canada Inc.](#) In that decision, the Federal Court of Appeal had concluded that a circumvention of [subsection 55\(2\)](#) on a cross-redemption of shares (resulting in the reduction of the capital gain on a subsequent sale) did not result in abusive tax avoidance. To reach that conclusion, the Federal Court of Appeal relied on the availability of alternative transactions that would have allowed similar tax results. While there was no dispute that alternative transactions may play a role in the analysis a court is required to undertake in a general anti-avoidance rule (the "GAAR") case, 3295 provides long-awaited clarifications on the relevant factors to determine the relevance of alternative transactions to support the absence of abuse, the most contested matter in GAAR litigation. Read the [full article](#) by Mike Dolson and Dominic Bedard-Lapointe with McCarthy Tétrault LLP.

Federal Court of Appeal Rules that Arrears Interest Exceed Tax Payable Following Audit and Loss Carryback Request

In [Bank of Nova Scotia v His Majesty the King](#), the Federal Court of Appeal ("FCA") upheld the Tax Court's decision that arrears interest can accrue to the date of a long-delayed reassessment, even though the increased tax liability was almost entirely offset with a loss carryback. The decision turned on the interpretation of [subparagraph 161\(7\)\(b\)\(iv\)](#), under which the Minister had assessed interest on the taxpayer's gross tax payable in respect of the reassessed taxation year rather than on the net amount after applying a loss carryback. The FCA's decision provides important guidance on when the interest clock stops if loss carrybacks are applied. Read the [full article](#) by Mike Dolson, Anu Koshal, Jesse Waslowski, Erich Schultze and Almut MacDonald with McCarthy Tétrault LLP.

A Primer on the Oppression Remedy [Business Corporations Act]

Provincial and federal corporate statutes permit a shareholder or other proper complainant to apply to court for an "oppression remedy". Under the British Columbia [Business Corporations Act](#) (BCBCA), to grant such relief the court must be satisfied there has been "oppressive" or "unfairly prejudicial" conduct. Under the federal [Canada Business Corporations Act](#) (CBCA) and the provincial Acts modelled on it, an additional available trigger for such relief is conduct which "unfairly disregards" a complainant's interests. In what circumstances will the Supreme Court of British Columbia actually exercise its broad discretionary power to grant this relief? The general principle is that oppression, unfairly prejudicial conduct, or conduct which unfairly disregards a complainant's interests, as the case may be, is conduct which violates the complainant's reasonable expectations. Read the [full article](#) by [Steve Warnett](#), [Matthew G. Swanson](#), [Jake Cabott](#), [Brenna Fahey](#) and [Hessam Mehrabi](#) with Borden Ladner Gervais LLP.

When You Inherit a Tax Mess

Estate administration often requires personal representatives to address tax mistakes left behind by the deceased, a task that can jeopardize estate assets and strain beneficiary relationships. This [paper](#) tackles key issues, including unreported tax income, missed elections, and rollovers — whether overlooked or unwanted — providing practical strategies to mitigate their impact. Authored by Varinder Chahal, CPA, CGA of [Manning Elliott LLP](#) and Laura M. Peach of [Legacy Tax + Trust Lawyers](#), the paper is now available as part of CLEBC's [Courses on Demand](#) subscription. The authors also explain the tax debt collection process and the critical importance of resolving outstanding liabilities before distributing estate assets. [View the paper](#).

2024 Charitable Donation Deadline Extended to February 28, 2025

The Government of Canada [announced today](#) [December 30] that it plans to extend the 2024 charitable donation deadline to February 28, 2025. Donors wishing to make a donation that would qualify for tax credits in 2024 will have until the end of February 2025 (not the end of December 2024) to make those donations. The extension is intended to alleviate the effects of the four-week-long Canada Post labour disruption and mail stoppage that occurred between mid-November and mid-December. Read the [full article](#) by Stephen Hsia with Miller Thomson LLP.

No Forward Funding: the Alderbridge Way Revision

In [Alderbridge Way GP Ltd. \(Re\)](#), [2024 BCSC 1433](#), in considering the liability of lenders terminating a loan agreement, the British Columbia Supreme Court emphasized the significance of clear contractual conditions in financing transactions.

Background

The developers in Alderbridge Way were looking to finance a large and complex construction development project in Richmond, British Columbia (the project). The project aimed to build seven residential and commercial office towers, with a projected cost of approximately \$726 million. Romspen Investment Corporation (Romspen), a private mortgage lender specializing in commercial real estate mortgages, agreed to provide the necessary financial backing. Pursuant to a loan agreement executed in November 2019, Romspen provided construction financing to the developers for the first phase of the project. The credit facility outlined in the loan agreement exceeded \$400 million. Both Romspen and the developers recognized that, due to the size of the loan, syndication would be necessary; Romspen could not sustain a loan of over \$400 million independently. Under the loan agreement, Romspen's commitment was \$212 million.

Read the [full article](#) by Joyce M. Bernasek and Aya Refaat with Osler.

Canada's Department of Finance Releases 2024 Fall Economic Statement With Impacts to Pensions

December 16, 2024, the Department of Finance published the [2024 Fall Economic Statement](#) (FES). The FES builds on the federal government's earlier announcements in the 2023 Fall Economic Statement, as discussed in our January 2024 [Blakes Five Under 5: What You Need to Know About the Pension Investment Landscape in 2024](#) and the 2024 Federal Budget as discussed in our April 2024 [2024 Federal Budget: Selected Pensions, Benefits and Executive Compensation Measures](#). The FES announces a number of measures that will be of interest to Canadian pension funds, including, among other things, the federal government's intent to:

1. Remove the 30 per cent rule for Canadian pension funds' investments in "Canadian entities" (30 Per Cent Rule Exception). The FES does not define what entities will constitute "Canadian entities" for purposes of the 30 Per Cent Rule Exception. The FES also notes that the federal government will consult with the provinces on the treatment of provincially regulated pension plans with respect to the 30 Per Cent Rule Exception.

Read the [full article](#) by [Michael Hale](#) and [Adam Ngan](#) with Blakes.

BC Law Society Seeks Fintrac Info on Money Laundering Red Flags

Fintrac found last year that about 2,400 suspicious transaction reports submitted by reporting entities, such as banks, were tied to legal professionals.

The outgoing CEO of the Law Society of BC met Dec. 9 with the Financial Transactions and Reports Analysis Centre of Canada to discuss creating an information sharing agreement. The centre, known as Fintrac, is the federal agency tasked to observe and report financial transactions suspected of facilitating money laundering and terrorist financing to law enforcement for further investigation. The society's CEO and executive director Don Avison met with Fintrac in the wake of a special bulletin published in October from the centre advising that "professional money laundering schemes may rely on the involvement of a legal professional." [The bulletin](#) noted lawyers are not reporting entities to Fintrac — unlike bankers, accountants, securities dealers and mortgage brokers — having won the right, in a landmark Supreme Court of Canada decision, to protect solicitor-client privilege. Read the BIV [article](#).

Proposed Money Laundering Financial Penalties Could Bankrupt Offenders

The Canadian federal government's 2024 Fall Economic Statement (the "Economic Statement") released this week included a series of proposals aimed at combatting money laundering in Canada. Most significantly, the Economic Statement proposed to increase financial penalties under the [Proceeds of Crime \(Money Laundering\) and Terrorist Financing Act](#) (the "PCMLTFA") by as much as 40 times their current levels.

Proposed increase in financial penalties

The Economic Statement proposes to increase administrative monetary penalties ("AMPs") significantly. Entities could face penalties of up to \$20 million or three percent of their annual worldwide gross revenue, whichever is greater, for a single notice of violation issued by FINTRAC. For individuals, the proposed maximum penalty would be the greater of \$4 million or three percent of their annual worldwide gross revenue. Currently, for example, the maximum penalty under the PCMLTFA for failing to report a suspicious transaction is \$500,000.

Read the [full article](#) by Eric Billi-Bivar, Matt Prucha and Nina Jabbari (Articling Student).

CSA Adopts Final Amendments to Prospectus Filing Rules for Investment Funds

The Canadian Securities Administrators (CSA) have published [final amendments](#) to various investment-fund related instruments, including [National Instrument 41-101 General Prospectus Requirements](#) (NI 41-101) and [National Instrument 81-101 Mutual Fund Prospectus Disclosure](#) (NI 81-101) modernizing the prospectus filing model for investment funds.

Regulatory burden reduction project results in prospectus filing changes

The changes aim to streamline regulatory requirements for investment funds, particularly those in continuous distribution, while ensuring the information available to investors remains current and accurate. The amendments stem from the CSA's ongoing project to reduce regulatory burden for investment fund issuers, including those discussed in [Reduced regulatory burden for investment funds and managers – progress for 2022](#). The amendments will result in two key changes:

Read the [full article](#) by [Alex Chow](#) and [Robert D. Wallis](#) with Borden Ladner Gervais LLP.

Canadian Securities Administrators Propose Significant Increases to SEDAR+ System Fees Beginning in Late 2025

The Canadian Securities Administrators (the "CSA") published a notice and request for comment related to proposed amendments to [Multilateral Instrument 13-102 – System Fees](#) ("MI 13-102") on November 21, 2024. The comment period is ninety days, running through February 19, 2025. The publication can be accessed [here](#).

Proposed Amendments to MI 13-102 and Overall Impacts

SEDAR+ and NRD filers should take note that the proposed amendments to the system fee regime will bring significant increases to system fees for all types of filings (including system fees for annual disclosure document filings). Fees are set to increase annually on November 30th for the next five years, beginning in November 2025. The initial increase will be the most substantial, with all fee types set to increase by approximately 60% on November 30, 2025. Subsequent annual increases through 2029 will be approximately 3-4% per year, with aggregate increases across all fee types, in each case, as compared to the current fee regime being equal to approximately 65% in 2026, approximately 70% in 2027, approximately 75% in 2028 and, finally, approximately 80% in 2029. Included below are

charts that detail yearly increases in Canadian dollar amounts and percentages for different fee types as compared to the current system's fee structure.

Read the [full article](#) by Erick Frydrych, Michael J. Eldridge, Andrew Parker, Patrick Boucher and Robert O. Hansen with McCarthy Tétrault LLP.

Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

Motor fuel tax and carbon tax

- **December 5, 2024**
[FIN 152, Application for Refund of Motor Fuel Tax – Deputy Collector or Retail Dealer \(PDF, 230KB\)](#), has been updated to reflect that the optional Excel Schedule Template is now two files:
 - Excel Schedule Template – used to record fuel purchases and sales
 - Inventory Reconciliation Template – used to reconcile inventory

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

BC Securities – Policies & Instruments

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

- [51-931](#) – CSA Coordinated Blanket Order 51-931 Temporary Exemption from Requirements in National Instrument 51-102 Continuous Disclosure Requirements and National Instrument 54-101 Communication with Beneficial Owners of Securities of a Reporting Issuer to Send Certain Proxy-Related Materials During a Postal Strike
- [11-348](#) – Applicability of Canadian Securities Laws and the use of AI
- [13-315](#) – Securities Regulatory Authority Closed Dates 2025
- [11-312](#) – National Numbering System
- [BCN 15-702](#) – Prohibitions against Misrepresentations and False or Misleading Statements
- [BC Notice 2024/04](#) – Proposed Amendments to Multilateral Instrument 13-102 System Fees

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Institutions Regulation (158/2003)	Dec. 9/24	by Reg 280/2024
Designated Accommodation Area Tax Regulation (93/2013)	Jan. 1/25	by Reg 279/2024
Special Accounts Appropriation and Control Act	Jan. 1/25	by 2024 Bill 3, c. 13, section 109 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Tax Appeals Regulation (135/2024)	Jan. 1/25	by Reg 136/2024



ENERGY & MINES

Energy and Mines News:

Canada Issues Finalized Clean Electricity Regulations

On December 17, 2024, the Government of Canada released the finalized [Clean Electricity Regulations](#) (CER or Regulations). The Regulations are a key component of Canada's climate strategy, designed to achieve a net-zero electricity grid by 2035 and contribute to economy-wide net-zero emissions by 2050. The finalized CER replaces the draft regulations released in 2023 and incorporates much of the stakeholder feedback received during the initial comment period.

This bulletin outlines the key updates in the finalized CER, including revised emissions limits, compliance credit systems, and new opportunities for credit trading and pooling within federal and provincial frameworks. Read the [full article](#) by Reena Goyal, Robeah Saeed, Nicole Bakker and Dufferin Harper with Blakes.

Consult Before Exploring: Mineral Tenure and Indigenous Rights

The resource sector has always been at the forefront of developments in Indigenous law. This past year has borne this out. In 2024, we have seen significant changes to mineral tenure in Canada in several prominent mining jurisdictions. A key decision in the courts of British Columbia, two constitutional challenges in Ontario and legislative changes on the horizon in Québec all foreshadow potential evolution in the approach to mineral tenure across the country.

With these developments in key mining jurisdictions in Canada, it is almost certain that the impact of Indigenous issues on mineral tenure will be felt in 2025 and beyond. Mineral tenure holders operating in these provinces should be mindful of these developments as they could meaningfully affect the rights associated with title and how mineral tenure is acquired and maintained. Such developments also highlight the desirability of proactively engaging with Indigenous communities that could be affected by the exercise of rights associated with mineral tenure. Read the [full article](#) by Richard J. King, Alan Hutchison and Ankita Gupta with Osler, Hoskin & Harcourt LLP.

New Wind Projects Will Boost B.C.'s Affordable Clean-Energy Supply

BC Hydro has selected nine energy projects through its 2024 call for power that will supply clean, affordable electricity to serve B.C.'s growing communities and housing needs, as people and businesses choose clean energy in their lives, homes, vehicles and businesses.

"Clean and affordable electricity is key to powering economic growth and unlocking private-sector investment that creates thousands of good jobs here in British Columbia," said Premier David Eby. "These new projects will significantly expand our electricity supply – making B.C. a clean-energy superpower, while ensuring rates are affordable for people and for industries looking to expand." Read the BC government [news release](#).

BC Energy Regulator Announcements

The following BC Energy Regulator announcement was posted recently:

- [TU 2024-17](#) – New Consolidated Reporting for Glycol Dehydrator Emissions

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

Act or Regulation Affected	Effective Date	Amendment Information
Drilling and Production Regulation (282/2010)	Jan. 1/25	by Reg 256/2024
Hydro and Power Authority Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 70 to 72 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Oil and Gas Processing Facility Regulation (48/2021)	Jan. 1/25	by Reg 256/2024
Pipeline Regulation (281/2010)	Jan. 1/25	by Reg 256/2024



FAMILY & CHILDREN

Family and Children News:

Pension Division Reform and Fifth Edition Q+A Updates (Family Law Act Amendments)

BCLI is pleased to note that on January 1, 2025, sections 8, 9, 11 to 14, and 17 to 20 of the [Family Law Amendment Act](#) as well as the [Division of Pensions Regulations](#) came into force. This Act implemented BCLI's recommendations on reforms to part 6 of the [Family Law Act](#) and the Division of Pension Regulations.

Changes to part 6 of the *Family Law Act* included clarifying and modernizing law on: locked-in retirement accounts and life income funds; private annuities; assignment of survivor benefits; calculation of commuted value; and, administrator fees.

Further, changes to the Division of Pensions Regulation included: requiring the plan administrator to annually notify a limited member who has not yet received benefits of the earliest date of the limited member's pension eligibility; raising the maximum administrative fee for registering the spouse as a limited member of the plan and for transferring a proportionate share of the member's defined contribution account to the credit of the spouse; revising forms P1-4 and P6-9; and, repealing form P5. Read the [full article](#) by Maria Michouris with the British Columbia Law Institute.

New Changes Help People Make Claims in French Under Divorce Act

Amendments to divorce laws and rules will allow people to use both official languages in B.C. Supreme Court divorce matters.

On Dec. 1, 2024, amendments to the federal [Divorce Act](#), as well as changes to the [Supreme Court Family Rules](#), came into force. Together, these updates will give people who speak French the ability to conduct their *Divorce Act* court proceedings in French, whereas previously they would have been required to privately hire an interpreter.

With these changes, people can file documents in either official language, both online and in person, at any court registry. They can also have proceedings heard in French, have transcripts or orders prepared in French and give evidence in both official languages.

Changes to the Family Rules also allow the use of French for claims made under family law provincial legislation, most notably the

[Family Law Act](#), if they also make claims under the *Divorce Act* in the same case – called joint relief proceedings. By allowing French to be used in joint relief proceedings, it eliminates the need to hold two separate hearings and trials, most often with identical parties, children and evidence or filing two sets of identical documents and presenting the same evidence twice.

The amendments also extend time limits for filing response documents to allow time for parties to translate documents and grant explicit authority for judges to manage bilingual files in judicial case conferences, case planning conferences and trial management conferences to help parties minimize delays. Source: [BC Government](#).

Criminalizing Coercive Control

Canada is on the verge of becoming the latest jurisdiction – after England-Wales, Scotland, Ireland and Australia – to make coercive control by an intimate partner a criminal offence.

[Legislation](#) working its way through Parliament defines coercive control as engaging in controlling or coercive conduct involving exploitation, humiliation, manipulation or isolation of another person, which has a significant impact on them, including a fear of violence, a decline in their physical or mental health or a substantial adverse effect on their day-to-day activities. Read the [full article](#) by Kevin Dougherty in the *CBA National*.

BC Court Applies Resulting Trust and Undue Influence to Remedy a Predatory Relationship

There is a growing concern in British Columbia about "predatory" marriages and other exploitative relationships, wherein a vulnerable victim with cognitive impairments is preyed upon for financial gain. The British Columbia Supreme Court identified such a predatory relationship in the recent decision of *King v. Vimhel*, [2024 BCSC 1745](#).

Ms. King met Mr. Vimhel in 2013. At the time, Ms. King was 77 years old who lived alone in a North Vancouver strata unit worth \$1,200,000 (the "Property"), owned a vacation home in Parksville, and had savings of approximately \$465,000. Ms. King had a son, a daughter, and a broad community of family and friends. Mr. Vimhel was 15 years younger than Ms. King, described himself as a self-employed "artist", and lived out of his vehicle. Read the [full article](#) by Dani Gorelov and Ty Bradford with Clark Wilson LLP.

Dozens of Indigenous Governments Working to Run Their Own Child and Family Services

In the five years since enabling federal legislation came into force, 85 Indigenous governments, representing more than 110 communities across Canada, have given notice to exercise their jurisdiction over child and family services or have made requests to enter into discussions about entering coordination agreements with the federal government, according to Indigenous Services Canada (ISC).

The federal department said, on Jan. 3, 2025, that since [An Act respecting First Nations, Inuit and Métis children, youth and families](#) (Bill C-92) went into effect on Jan. 1, 2020, Canada has signed 10 coordination agreements on child and family services and 1 bilateral agreement with Indigenous governing bodies, including the first Inuit agreement. Read the [full article](#) by Cristin Schmitz on *Law360 Canada*.

Coming Into Force, Tsq̓éscen̓ First Nation's Child Wellbeing Law, T'k̓w̓enm̓7íple7tens re Kíkwe

Tsq̓éscen̓ First Nation is proud to breathe life into their child well-being law, *T'k̓w̓enm̓7íple7tens re Kíkwe*. They have always upheld and practiced their laws, teachings, and responsibilities in caring for, protecting, supporting, and uplifting Tsq̓éscen̓ (Tsq̓éscen̓ people, "people of the broken rock"). The law, which is an expression of Tsq̓éscen̓ jurisdiction and legislative authority over child and family services, came into force on December 21, 2024.

T'k̓w̓enm̓7íple7tens re Kíkwe is a result of decades of work by Tsq̓éscen̓ leadership, staff, and community, with advice and guidance from Tsq̓éscen̓'s Elders and traditional knowledge keepers. It is grounded in Tsq̓éscen̓'s stories, teachings, practices, and language, and centered on the nurturing of connection to family and community. Read the [full article](#) published by Indigenous Services Canada.

BC Supreme Court Removes Siblings as Litigation Guardians Amid Conflict-of-Interest Concerns

The Supreme Court of British Columbia removed two siblings as litigation guardians for their 91-year-old mother in an estate dispute, citing concerns over conflicts of interest and familial discord.

The mother, now residing in a care facility, is unable to manage her legal affairs due to diminished mental capacity. In 2018, she and her late spouse transferred joint ownership of the family home to include themselves and one of their children. Following the spouse's death in 2019, the mother and the child shared ownership of the house. In 2021, the mother transferred her remaining interest in the property to the child, making the child the sole owner. Read the [full article](#) by Angelica Dino in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Division of Pensions Regulation (348/2012)	Jan. 1/25	by Reg 194/2024 as amended by Reg 247/2024
Family Law Act	Jan. 1/25	by 2023 Bill 17, c. 12, sections 8, 9, 11 to 14 and 17 to 20 only (in force by Reg 194/2024), Family Law Amendment Act, 2023
Supreme Court Family Rules (169/2009)	Dec. 1/24	by Reg 188/2024



FOREST & ENVIRONMENT

Forest and Environment News:

The Holy Grail: What Are Certificates of Compliance and Why Do We All Want One?

Many new client calls start with the same two questions: "What is a CoC?" "And how can we get one?" This is understandable, because in BC one only knows that the Ministry of Environment is content with a remediation if and when they issue a CoC (Certificate of Compliance) for the site. Until the CoC is signed and delivered, everyone involved is a bit on edge. So, why has the CoC become the Holy Grail?

Well, in short, it means both investigation and remediation are complete, and that the Ministry is satisfied with the result. And the Ministry is only satisfied because the remediation complies with the [Environmental Management Act](#) (EMA) and the regulations. So, if you are looking for a plain language definition of 'CoC,' it is this last concept – the remediation complies with the law, hence 'certificate of compliance'. Read the [full article](#) by Richard Bereti and Adam Way with Harper Grey LLP.

Environmental Regulatory Developments: Are You Ready for PFAS Reporting?

The Canadian government, through Environment and Climate Change Canada ("ECCC"), issued a [notice](#) (the "Notice") under the [Canadian Environmental Protection Act, 1999](#) ("CEPA"), outlining critical reporting requirements for businesses handling per- and polyfluoroalkyl substances (PFAS) in 2023. Entities that manufactured, imported, or used PFAS must submit their reports by the deadline of January 29, 2025.

Businesses should refer to the Notice for specific reporting thresholds and are encouraged to seek professional advice if they need assistance in understanding their obligations or how and what to report. Read the [full article](#) by Sara Zborovski, Patrick Welsh and Sandra Elashmouny with Stikeman Elliott LLP.

Mowachaht/Muchalalaht First Nation Files Claim Against B.C. Seeking Title to Traditional Territories [Forestry]

Province has been controlling forestry on First Nation's land on Vancouver Island without consent, chief says

A First Nation whose people were the first to greet European explorers on Vancouver Island almost 250 years ago is taking the province of British Columbia to court, seeking title to its traditional territories and financial compensation.

Chief Mike Maquinna, a descendent of Chief Maquinna, who met British explorer Capt. James Cook in 1776, says the claim in B.C. Supreme Court seeks to return decision-making, resource and ecological stewardship to the Mowachaht/Muchalalaht First Nation.

He says the province has been acting as the sole decision-making authority in the Gold River-Tahsis areas of northern Vancouver Island, especially with regard to the forest resource, without the consent of his nation. Read the [CBC article](#).

Environmental Inspections in Canada: Recent Case Highlights the Potential Consequences of Failing to Cooperate

Canadian companies operating in environmentally sensitive industries are subject to highly regulated regimes. Federal, provincial or local government officials may carry out routine inspections or respond to specific incidents using broad statutory powers.

Recently, regulators are relying on administrative monetary penalties to address findings of non-compliance. In more serious circumstances, pursuit of quasi-criminal liability has expanded to a wide range of corporate actors. Companies can protect against reputational harm and financial loss by implementing plans and policies, as well as training management and staff, to prepare for when regulators come knocking.

There is a critical distinction between an "inspection" and an "investigation" by a regulator. Environmental legislation often imposes a legal requirement to comply and cooperate with an inspection, and the failure to comply with an inspector's request can attract financial consequences. Conversely, where the regulator has commenced an investigation into a quasi-criminal offence that may attract heavy fines and even potential jail time, certain procedural safeguards are engaged such that cooperation may not be mandatory absent a court order. Read the [full article](#) by Mark Youden, Sebastian Ennis-Brown and Robin McKechney with Gowling WLG.

Protected Areas in Waiting

From the Forest Stewardship Council:

We recently shared the [exciting news](#) of a major grant received by FSC Canada to explore how Canadian FSC-certified forests can contribute to global climate and biodiversity goals while unlocking the value of conservation through market mechanisms for forest managers. For example, the project will look at the Verified Impact program to assess whether it could be a future candidate for carbon market participation.

Part of this program of work is being completed in collaboration with longstanding FSC Canada member and partner, Ontario Nature, to understand how Canada can make better use of 'Other Effective area-based Conservation Measures', or OECMs. When areas of high ecological value, set aside through collaboration between forestry companies, Indigenous communities and others are recognized by relevant governments (provincial or federal here in Canada) as OECMs, they can be entered into a public database. This ensures their ongoing conservation and allows those areas to contribute to Canada's commitment to conserve 30 percent of lands and inland waters by 2030. Read the FSC [article](#).

How the BC Bark Beetle Portal, Data Hub, and Tools Help Inform

Landscape-Level Planning in a Changing Climate

Over the past three decades, western Canada has experienced multiple large outbreaks of native bark beetles. The mountain pine beetle outbreak affected approximately 20 million hectares of forests in British Columbia between 2000 and 2020. In addition to the mountain pine beetle, recent trends show widespread and concerning surges in bark beetle populations for the spruce beetle, Douglas-fir beetle, and western balsam bark beetle. Since 2014, spruce beetle has affected approximately 1.7 million hectares in northern BC, Douglas-fir beetle impacted up to 60,000 hectares per year in southern BC, and the western balsam bark beetle has affected over 2 million hectares per year in a chronic, low-level infestation pattern. As naturally occurring forest disturbances, bark beetle outbreaks can result in increased ecosystem diversity and resilience, but they can also have far-reaching impacts on forest values such as timber, carbon sequestration, recreation, fish and wildlife, watershed management, range, landscape values and aesthetics, cultural heritage, and old growth forest ecosystems.

Given the wealth of forest health information available, it's essential to organize, review, centralize, and format this data for end-user consumption. This need has become even more pressing in an era of rapidly changing climate, where much of the analysis relies on historical data. Developing and testing new tools for data storage, sharing, and analysis will help us better predict the risks and hazards of natural disturbances. Read the [full article](#) by Jeanne Robert, Vivek Srivastava and Dana Wyzgowski in the *BC Forest Professional* Winter 2025 issue.

Wildlife Habitat Areas

Notice is hereby given that the boundaries of Wildlife Habitat Areas 2-162 and 2-164 were amended on December 3, 2024, by order made under authority of sections 9(2) and 10(1) of the [Government Actions Regulation](#) (B.C. Reg. 582/2004). Details of the GAR Order may be obtained from the Coast Area – South Coast Region office, Ministry of Water, Land and Resource Stewardship, Suite 200 - 10428 153 Street, Surrey, BC V3R 1E1, or from the following website:

[https://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show_approved%20\[de12\]](https://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show_approved%20[de12])

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [CHMV Investments Inc. and TRJ Projects Ltd. v. Director, Environmental Management Act](#) [Settlement Order – Administrative Penalty Assessed]
- [G.T. Farms Ltd. v. Director, Environmental Management Act](#) [Final Decision – Appeal Allowed In Part; Administrative Penalty Confirmed]

[Integrated Pest Management Act](#)

- [Communities United for Clean Air and Dr. Jennifer Tynan v. Administrator, Integrated Pest Management Act](#) [Dismissal Order – Appeals Dismissed]

[Mines Act](#)

- [Teck Coal Limited v. Chief Inspector of Mines](#) [Final Decision – Appeal Dismissed]

[Water Sustainability Act](#)

- [Createabundance International Institute Inc. dba Metaglobal Asset Investment Inc. v. Assistant Water Manager](#) [Dismissal Order – Appeals Dismissed]
- [?akisq?nuk First Nation v. Assistant Water Manager](#) [Preliminary Decision On Standing – Standing Established]

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

Forest Appeals Commission Decisions

The following Forest Appeals Commission decision was made recently:

[Range Act](#)

- [Dhillon Ranch Ltd. v. Government of British Columbia](#) [Summary Dismissal Decision – Application Not Granted]

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

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

 **HEALTH**

Health News:

Emergency Physician Met Standard of Care in Misdiagnosis Case: BC Supreme Court

In a recent medical negligence lawsuit, the Supreme Court of British Columbia found that an emergency room physician met the standard of care in diagnosing and discharging a patient with abdominal pain later revealed to be appendicitis. The case involved allegations that the physician's actions delayed the diagnosis of the patient's appendicitis, leading to surgery days later. Read the [full article](#) by Angelica Dino with Canadian Lawyer.

Minister's Statement on Public Drug Use Legislation

Garry Begg, Minister of Public Safety and Solicitor General, has released the following statement in response to the Province repealing the [Restricting Public Consumption of Illegal Substances Act](#):

"From the beginning, our goal has been to make it easier for people struggling with addiction to get the help they need. Although the number of deaths from toxic drugs this year have been slowly declining, we know there is still much more to be done to end this crisis and save lives."

Read the full government [news release](#).

BC, Creditors Approve Plan to Resolve Long-standing Tobacco Litigation

A significant milestone has been reached in the long-standing legal battle with tobacco companies. All provincial and territorial governments, as well as class action plaintiffs, have voted to accept a plan proposed by a court-appointed mediator. With creditors unified in support of the plan, the provincial government is urging the tobacco companies to accept the proposed agreement. Read the full government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Dietitians Regulation (279/2008)	Jan. 1/25	by Reg. 267/2024
Hospital District Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 61 and 63 to 68 only (in force by Royal Assent), Budget Measures Implementation Act, 2024



LABOUR & EMPLOYMENT

Labour and Employment News:

Fresh Consideration Alive and Well in British Columbia Employment Law

Traditionally, the common law has required that the parties to a contract receive new or "fresh" consideration in order for amendments to their contract to be enforceable.

In the employment context, fresh consideration can take many forms and include a promotion, an increase in wages, a lump sum payment, additional benefits etc... in favour of the employee and in exchange the employer gets the benefit of the new or different terms – such as a change in position, new confidentiality, restrictive covenant or other terms.

Importantly, the fresh consideration must be actually received by the employee and be "fresh", not something that the employee was going to receive in any event, either by way of legislation or their current employment agreement or new employer policies or procedures.

The concept of fresh consideration is particularly important in the employment context given the propensity for the employment relationship and the employment contract to be changed over time. For example, when a business is sold or someone new is hired in management or HR, we often see a desire to update the company's employment agreements, including if they are only oral agreements or quite old and outdated. Read the [full article](#) by Christopher J. Wiebe and Matt Stainsby with Lawson Lundell LLP.

After BC Expands Protections, Employment Law Expert Explains Difference Between Policy Success and Failure

Confidentiality and protection from reprisal are the two key components of an effective whistleblower policy, according to an employment law expert. These considerations go hand in hand with ensuring reports are acted upon promptly and transparently, which can prevent them from escalating.

Earlier this month, British Columbia expanded whistleblower protections to research universities and WorkSafeBC, highlighting the topic of whistleblower policies and the need for employers to review them.

BC's phased approach was a deliberate effort to allow organizations time to develop the resources and infrastructure necessary to handle disclosures effectively, said Aleksandra Pressey, a lawyer and workplace investigator at Williams HR Law. Read the [full article](#) by Lauren Johnson with *HRD Canada*.

New Year, New Changes to Immigration in Canada

On December 23, 2024, the Government of Canada announced changes as part of Canada's Border Plan that will impact Employers and their Temporary Foreign Worker ("TFW") Employees in Canada.

Effective December 23, 2024, work permits and study permits will no longer be provided to "flagpolers" at a port of entry.

"Flagpolers", or "Flagpoling", occurs when a foreign national who holds temporary resident status in Canada attends the land border between the USA and Canada for the sole purpose of obtaining a new permit.

Going forward, foreign nationals will need to submit applications for new and renewal work and study permits through Immigration Refugees and Citizenship Canada's ("IRCC") online system, unless they fall under an exemption. Read the [full article](#) by Sarah Gray with Mathews, Dinsdale & Clark LLP.

Minimum Rates Increase on Dec. 31 for Farm Workers Who Hand Harvest Crops

Minimum piece rates for hand harvesting specified farm crops will increase by 3.9% on Tuesday, Dec. 31, 2024.

The increase applies to 15 agricultural crops harvested by hand as specified in the employment standards regulation. The hand-harvested crops are peaches, apricots, brussels sprouts, daffodils, mushrooms, apples, beans, blueberries, cherries, grapes, pears, peas, prune plums, raspberries and strawberries.

This is an annual increase based on B.C.'s average annual inflation rate in 2023 and is consistent with the 3.9% increase to the general minimum hourly wage that came into effect on June 1, 2024. After legislative changes were made to the Employment Standards Act in spring 2024, increases to the general minimum wage and piece rates will come into effect each year on June 1 and Dec. 31 respectively, based on the previous year's average inflation rate. Read the government [news release](#).

5 Common Misconceptions About Workplace Accommodations in BC

Employees may require accommodation at work due to certain needs or [protected grounds](#) under the BC [Human Rights Code](#), and employers have a duty to accommodate. However, misconceptions about workplace accommodations often stop people from getting the help they need. Addressing these myths can make it easier to understand your rights and responsibilities in Vancouver.

Misconception 1: Accommodations are only for physical disabilities

You might assume workplace accommodations are only for physical disabilities, such as wheelchair accessibility or sign language interpretation. In reality, accommodations cover a wide range of needs. This includes mental health conditions, chronic illnesses and temporary health issues.

Read the [full article](#) from Overholt Law LLP.

Howard Levitt: New year, New Contract? Everything You Need to Know Before Signing on the Dotted Line

This is the time of year that many employees accept new jobs or employers want to start the New Year fresh by providing their employees new contracts to sign, often accompanied by a raise or bonus. In their excitement, employees often forget to review that contract carefully. The contract governs the relationship between the employer and the employee, with the exception, of course, of relevant legislation relating to human rights and employment standards. It also sets the foundation for the working relationship, outlining the rights, obligations, and expectations of both parties.

So, what should you be considering when reviewing a new employment contract? Before you sign, here are several critical factors to consider to ensure that your interests are protected and your rights respected. Read the *Financial Post* [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
International Credentials Recognition Act	Jan. 1/25	by 2023 Bill 38, c. 39, sections 16, 21 to 24 and 69 only (in force by Reg 129/2024), International Credentials Recognition Act
International Credentials Recognition Regulation (129/2024)	Jan. 1/25	by Reg 129/2024 and Reg 168/2024
Private Training Regulation (153/2016)	Jan. 1/25	by Reg 250/2024



LOCAL GOVERNMENT

Local Government News:

BC Law to Push through Vancouver Housing Project Unconstitutional, Court Rules

The B.C. Court of Appeal has ruled that a law passed by the provincial government to stave off opposition to a supportive housing development in the Vancouver neighbourhood of Kitsilano is unconstitutional. The provincial government had adopted the law at the request of the City of Vancouver in 2023 to push through a 12-storey housing development at Arbutus Street, featuring units open to low-income residents and users of support services. But the Arbutus development was opposed by the Kitsilano Coalition for Children & Family Safety Society, which took the city to court over its in-principle approval of a rezoning to allow the project to go ahead. [Monday's ruling](#) [2024 BCCA 423] says the provincial government "evidently became concerned" that the litigation could delay the rezoning, so it passed the [Municipal Enabling and Validating Act](#) to facilitate the project. Read the CBC [article](#).

Governance: Common Issues

Despite the decades long history of the governance rules relating to open meetings, conflict of interest, and public participation in meetings, the evolution of the issues facing local governments means that they must continue to grapple with those rules. In this paper, we address some common governance issues on which we are currently called upon to advise. Read the [seminar paper](#) prepared by Sukhbir Manhas, Nick Falzon and Nate Ruston with Young Anderson Barristers & Solicitors.

New Decision on Use of Video Surveillance in Policing in BC and Canada – Papenbrock-Ryan v Vancouver (City), 2024 BCSC 2288

In an important [decision](#) for policing in Canada and British Columbia, the B.C. Supreme Court dismissed a claim against the City of Vancouver (the "City") and the Chief Constable of the Vancouver Police Department ("VPD") (collectively, the "Defendants") involving the deployment of Public Safety Trailers ("PSTs") and video surveillance in response to anti-Asian hate and threats of violence during COVID-19 pandemic.

BACKGROUND

The Deployment

Between April 3, 2020 and June 4, 2020, VPD deployed a PST to the Chinese Cultural Centre in Vancouver, BC in response to graffiti that contained racist and serious threats of violence against Asian people, including references to the Holocaust and Hitler, mass murder of Asian people, and the COVID-19 pandemic (the "Graffiti") (the "Deployment"). The Graffiti caused fear in the Chinatown community, which was compounded by the fact that eighty percent of the businesses were vacant, and the public perception that there was a lack of police presence in the area. VPD's primary purpose for the Deployment was to deter any further similar criminal activity and to address the public's safety concerns by creating the perception of police presence. In addition, the PST was intended to supplement existing CCTV from local businesses, the Cultural Centre, and other public spaces if further offences related to the Graffiti occurred at the Cultural Centre or if the Cultural Centre was otherwise targeted.

Read the [full article](#) by [Naomi Krueger](#) and [David McKnight](#) with Alexander Holburn Beaudin + Lang LLP.

BCLI Public Hearings Committee Completes Review of Draft Report

At its last meeting for 2024, the [Renovate the Public Hearing Project Committee](#) continued its review of the first draft of its final report. Building on the [previous committee meeting](#), which considered legislation requiring a public hearing on a local-land-use bylaw, the committee moved on to discuss other forms of engagement. Local governments are frequently using public-engagement tools – such as open houses and surveys – on land-use bylaws. The committee considered the need for new legislation to address these other forms of public engagement – and discussed how they should relate to the public hearing. Read the [full news release](#) by Kevin Zakreski with the British Columbia Law Institute.

Local Government Finance: Selected Topics

Financing for local governments in British Columbia is an important aspect of ensuring that municipalities and regional districts can deliver services, maintain infrastructure, and meet the needs of their communities. Municipalities and regional districts finance their day-to-day operations and capital projects using a variety of revenue sources, including property taxes, parcel taxes, grants, user charges, licence fees, developer contributions, reserve funds, asset sales, and borrowing. Planning for these financial needs is an integral part of their budgeting process, which involves developing a financial plan that forecasts expenditures and revenues over a five-year period. Pursuant to [section 165\(5\) of the Community Charter](#) and [section 374\(5\) of the Local Government Act](#) (the "LGA"), the total of the proposed expenditures and transfers set in the financial plan for a year cannot exceed the total of the proposed funding sources and transfers from other funds for that year, meaning local governments cannot run deficits on purpose. In addition, the legislation requires any deficiency resulting from actual expenditures exceeding actual revenues for any year, to be included in the subsequent year's financial plan as a planned expenditure. Therefore, understanding their financial tools is critical to the successful and efficient operation of a local government. Read the [seminar paper](#) prepared by Timothy Luk and Alexandra Greenberg with Young Anderson Barristers & Solicitors.

Human Rights Update

In this paper, we provide an update on the operations of the Human Rights Tribunal (the "Tribunal") and its attempts to address a significant backlog of human rights complaints that has developed over the last few years. We also provide summaries of noteworthy Tribunal decisions involving local governments issued since the beginning of 2023, and discuss an important recent decision of the BC Court of Appeal regarding the protected ground of family status in the employment context. Read the [seminar paper](#) prepared by Michelle Blendell, Lianna Chang and Amanda Scott with Young Anderson Barristers & Solicitors.

Support for Local Governments to Improve Disability Management

Local governments can access a provincial grant for a free workplace disability management assessment (WDMA), which helps organizations improve disability management services, reduce costs related to injury and sickness, enrich or fulfill accessibility plans, and meet accessibility legislation requirements. This grant has received an extension, and local governments that did not apply during 2023-2024 can now apply for an assessment in 2025. Read the full [news release](#) posted by CivicInfoBC.

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Authority Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 15, 17 and 19 to 21 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Electrical Power Corporations Valuation Regulation		

(217/86)	Dec. 16/24	by Reg 286/2024
Eligible Port Property Designation Regulation (309/2010)	Dec. 9/24	by Reg 278/2024
Fees and Student Tuition Protection Fund Regulation (140/2016)	Jan. 1/25	by Reg 207/2024
Liquor Control and Licensing Regulation (241/2016)	Dec. 31/24	by Reg 241/2016
Local Government Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 100 to 108 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Managed Forest Land and Cut Timber Values Regulation (90/2000)	Dec. 16/24	by Reg 284/2024
Port Land Valuation Regulation (304/2010)	Dec. 9/24	by Reg 276/2024
Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation (104/2004)	Dec. 31/24	by Reg 164/2024
Private Training Regulation (153/2016)	Jan. 1/25	by Reg 206/2024 and Reg 250/2024
Railway and Pipeline Corporations Valuation Regulation (203/86)	Dec. 16/24	by Reg 285/2024
Railway, Pipeline, Electric Power and Telecommunications Corporation Rights of Way Valuation Regulation (218/86)	Dec. 16/24	by Reg 287/2024
Restricted-Use Property Valuation Regulation (236/2017)	Dec. 9/24	by Reg 277/2024
South Coast British Columbia Transportation Authority Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 235 to 239 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Telecommunications Corporations Valuation Regulation (226/86)	Dec. 16/24	by Reg 288/2024



MISCELLANEOUS

Miscellaneous News:

A Closer Look at the Federal Interpretation Act Amendments

On Nov. 27, 2024, Canada took a step forward in safeguarding Indigenous rights with the passage of [Bill S-13, An Act to amend the Interpretation Act and to make related amendments to other Acts](#). This bill adds a non-derogation clause (NDC) to the federal [Interpretation Act](#), which legislates how federal laws are to be interpreted. This NDC ensures that a law cannot be interpreted in a way that diminishes Aboriginal and Treaty rights as recognized and affirmed in [section 35, Constitution Act, 1982](#). This amendment is significant because it means that all federal laws—including statutes and regulations—must be interpreted in a way that upholds section 35 rights. Read the [full article](#) by Emmaline English and Nick Leeson with Woodward & Company LLP.

BC Court of Appeal Upholds 'Competence-Competence' Principle in Cosmetic Treatment Dispute

In a recent decision, the BC Court of Appeal ruled that an arbitrator, not the court, must determine the validity of an arbitration agreement under the competence-competence principle. The issue in *Touvongsa v. Lahouri*, [2024 BCCA 405](#) arose from a personal injury lawsuit involving a cosmetic treatment, where the appellant sought to enforce an arbitration clause in the respondent's signed release form. Read the [full article](#) by Angelica Dino with Canadian Lawyer.

The Best of Intentions: Raising Funds for Specific Purposes Legal implications of fundraising campaigns

You've received charitable solicitations, both directly to your doorstep and indirectly through the media. Often it is clear that the fundraising is for the general charitable purposes of the charity to use as they decide. More often, though, to grab our attention and

encourage us to open our wallets, a charity solicits donations for a specific project or an urgent need: construction of a new building, research into a rare and intractable disease, summer camp for kids with cancer, the immediate needs of a community dealing with the devastating impacts of fire or flood. When the language of a fundraising campaign is razor-focused on a specific project, the charity may have unwittingly created a restricted charitable purpose trust. Read the [full article](#) by Elizabeth Moxham, published on BarTalk.

BC Court Upholds Ban against U.S. Company Collecting People's Data

Clearview AI collected British Columbians' images from Facebook, YouTube, Instagram, Twitter and Venmo and provided facial recognition services to multiple police forces. B.C.'s Supreme Court has upheld a privacy commissioner's ruling that U.S. artificial intelligence company Clearview AI must refrain from gathering images of British Columbians. In a Dec. 18 decision, Justice Palbinder Shergill said Clearview has amassed a database of more than three billion images of faces and corresponding biometric identifiers. "As found by the privacy commissioners, this 'practice of indiscriminate scraping has undoubtedly resulted in the collection of the personal information of individuals within ... British Columbia,' including children. Read the BIV [article](#).

From Swift Tickets to Strata Squabbles: BC Tribunal Sees It All in 2024

BC's Civil Resolution Tribunal adjudicates such things as concert ticket fights, neighbour problems, pet disputes and strata issues, among other things.

Year after year, B.C.'s Civil Resolution Tribunal handles some of the more interesting legal actions in the province's justice system. The tribunal adjudicates such things as airline ticket disputes, neighbour problems, fights over pets and strata battles, among other things.

Taylor Swift

One of the highest-profile disputes of the year was about Taylor Swift tickets. Friends Jacquelyn Kambere and Kimara Young wound up before the tribunal after Young got a code allowing her to buy Swift tickets when they went on sale in 2023.

Read the full BIV [article](#) by [Jeremy Hainsworth](#).

BC Court of Appeal Overturns Order Allowing Third-party Claim in Aboriginal Title Case

The B.C. Court of Appeal has upheld an order adding a First Nation as a defendant in another First Nation's Aboriginal title claim — but overturned an order permitting the additional First Nation to file a third-party claim, citing potential delays. In *Malii v. British Columbia*, [2024 BCCA 406](#), released on Dec. 5, Justice Susan Griffin found that the case management judge did not consider the additional delay and complexity that would result if the proposed third-party claim were allowed to advance. Read the [full article](#) by Karunjit Singh With Law360 Canada.

Proving Brain Injury after a Slip and Fall

While it is relatively easy to prove that a person has suffered a fractured bone after slipping and falling due to another person's negligence, it is often much more difficult to prove that a person has suffered a brain injury as a result of a slip and fall. Further, it is often even more difficult to try and prove whether cognitive and personality problems that arise after a slip and fall are due to a brain injury or whether they are a product of chronic pain, depression, or a combination of them. However, in the recent B.C. Supreme Court decision of *Roy-Noel v. Buckle*, [2024 BCSC 752](#), Justice Crerar addressed this issue of causation and held as follows: Read the [full article](#) by Bryan Fitzpatrick with Pushor Mitchell LLP.

'A Huge Leap Forward for the Entire Justice System'

With the passage of [Bill C-40](#), the federal government has made it easier to right wrongful convictions

In October, Clarence Woodhouse walked out of a Winnipeg courtroom a free man—five decades late. Fifty years earlier, he and two other Indigenous men were convicted of murdering a restaurant worker. His two co-accused were acquitted last year. Their convictions were based largely on statements — including one signed confession — given to police who were fluent in English. Woodhouse's first language was Salteaux, and he spoke little English. He was not provided with an interpreter during his trial. Read the [full article](#) by Doug Beazley with CBA National.

Act or Regulation Affected	Effective Date	Amendment Information
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	Dec. 1/24	by Reg 273/2024
Judicial Compensation Regulation (83/2023)	Dec. 31/24	by Reg 83/2023
Police Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 156 and 158 to 168 only (in force by Royal Assent), Budget Measures Implementation Act, 2024



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

BC Court of Appeal Upholds Damages Award in Farm Accident Case

The British Columbia Court of Appeal upheld a \$5.9 million trial court award to a plaintiff injured in a utility vehicle accident, dismissing the defendant's appeal on liability, damages, and costs as unsupported by law or evidence.

The dispute in *MacFarlane v. Gustafson*, [2024 BCCA 400](#) arose when the plaintiff was struck by a reversing utility vehicle operated by the defendant on a farm property where the plaintiff resided with her partner. They lived there at reduced rent in exchange for performing maintenance work. The accident left the plaintiff with severe disabilities, including reliance on a wheelchair and the need for round-the-clock care. Read the [full article](#) by Angelica Dino in the *Canadian Lawyer*.

Those Blinding High-Intensity Headlights Everywhere: Are They Legal in B.C.?

Despite elaborate rules on what is allowed, cracking down on hyper-bright new LED lights is 'complicated,' police say.

Ever found yourself driving at night and suddenly had your eyes blasted by the blue-white glare emanating from an oncoming car? After a few choice curse words, do you then wonder if headlights that bright could even be legal, given the potential hazard they pose?

It turns out the answer to that question is: Sort of. Maybe. Depends.

Headlight technology has evolved and improved over the years. The incandescent bulbs of the 1970s were replaced by halogen in the '80s and '90s. Today most factory models use LED lights. Read the *Vancouver Sun* [article](#).

Classification Scheme [Transport Canada]

This bulletin explains the classification requirements of dangerous goods. It does not change, create, amend or suggest deviations to the [Transportation of Dangerous Goods Regulations](#) (TDG Regulations). For specific details, consult Part 2 of the TDG Regulations.

The [Transportation of Dangerous Goods Act](#) (TDG Act) divides dangerous goods hazards into nine classes according to the type of danger they present. The classes, as well as their divisions as applicable, are described in the "Dangerous Goods Marks" document. Read the [bulletin](#) from Transport Canada.

More Accessible Taxis Will Help People Stay Connected

People who rely on wheelchair-accessible taxis will have more options to move between work, school and appointments as the Province helps to increase the number of accessible taxis.

The third round of funding for the Passenger Transportation Accessibility Program (PTAP) launched Monday, Dec. 16, 2024, to help ensure people in British Columbia can get to where they need to go. The program helps taxi operators buy and maintain wheelchair-accessible vehicles, increasing the number of these vehicles in service. Read the government [news release](#).

'An Absolute Mess': B.C. Container Truckers Frustrated by Port Reservation System, Closures and Delays

B.C.'s container truck drivers say they want changes to the port reservation system, which penalizes them when they are stuck in traffic or delayed by bad weather, but provides only limited compensation when terminals cancel scheduled pickups and drop-offs.

"The system is an absolute mess," said Tom Johnson, owner of a Delta-based trucking company and director with the Port Transportation Association.

He estimates that he has paid more than \$4,000 in fees for missed reservations over the last four to five months. There are no penalties for terminals when they cancel reservations or close gates. Read the *Vancouver Sun* [article](#).

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [CT Bulletin 04-2024](#) – onRouteBC Term Oversize and Term Overweight Permitting
- [Commercial Transport Procedures Manual](#) – Commercial Transport Procedures Manual updates now available
- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [NSC Bulletin 01-2024](#) – Safety Rating Certificate and Status for B.C. Carriers
- [Bulletin 07-2023](#) – Over-height Regulations
 - Speed Limiter information can now be found in [Bulletin 05-2024](#)
 - In-Cab Warning Device information can now be found in [Bulletin 06-2024](#)
- [Bulletin 06-2024](#) – B.C. In-Cab Warning Device Mandate
- [Bulletin 05-2024](#) – B.C. Speed Limiter Mandate
- [CT Notice 02-24](#) – Notification of Oversize Permit Restrictions for Travel on Highway 97 between Summerland and Peachland

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

- [21587-24](#) – Michael McLean Bruce (Connect Airport Transfers)
- [20256-24](#) – Ecofriendly Taxi Ltd.

Application Decisions

- [19215-23 TNS](#) – 1375609 B.C. Ltd. (BO>OST Ride) [Refused]
- [21116-24](#) – Transfer from Diversified Transportation LTD. (Northern Health Connections, BC Bus North) to Pacific Western Charters Ltd. (Ebus, Red Arrow) [Approved]
- [22032-24 PS TOP](#) – Micheal McLean Bruce (Connect Airport Transfers) [Approved]
- [19583-24](#) – 2265281 Alberta Ltd. (Lil' Critter Croft Transport) [Approved]
- [21800-24 PS TOP](#) – Cando Venture Corp. [Approved]
- [22088-24 PS TOP](#) – Stacey Louise Bishop [Approved]
- [22021-24 PS TOP](#) – Presidential Limousines Ltd. [Approved]
- [22052-24 PS TOP](#) – KJ Limousine Services Inc. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Motor Vehicle Act	Jan. 1/25	by 2015 Bill 15, c. 13, sections 27, 29 and 33 only (in force by Reg 229/2024), Motor Vehicle Amendment Act, 2015 , as amended by 2020 Bill 2, c. 9, sections 28 to 30 only (in force by Royal Assent), Motor Vehicle Amendment Act, 2020
		by 2024 Bill 9, c. 10, sections 67 and 68 only (in force by Reg 229/2024), Miscellaneous Statutes Amendment Act, 2024
Motor Vehicle Act Regulations (26/58)	Jan. 1/25	by Reg 229/2024



OCCUPATIONAL HEALTH & SAFETY

Occupational Health and Safety News:

New First Aid Regulations Take Effect in BC: What Employers Need to Know

Amendments to British Columbia's [Occupational Health and Safety \(OHS\) Regulation](#) respecting the provision of first aid came into effect for workplaces across the province on November 1, 2024. The provision of first aid services appropriate to the workplace is a basic responsibility of all employers operating within BC. To ensure BC regulations for workplace first aid meet national standards established by the Canadian Standards Association (CSA), WorkSafeBC deemed certain amendments to OHS Regulations necessary. The amendments also aim to strengthen existing OHS Regulations by providing more comprehensive emergency response requirements. This blog addresses key amendments to BC's OHS Regulations for first aid provision to ensure employer understanding and compliance. Read the [full article](#) by [John Agioritis](#), [Katelyn Jones](#) and [Mariana Olivo de Cerqueira](#) with MLT Aikins LLP.

Investigating Construction Site Accidents

If you work as a construction worker in Vancouver, you know that your job comes with inherent risks. From heights to heavy machinery, there are many potential hazards on a construction site. While safety protocols are in place to minimize these risks, accidents can and do still happen. When they do, it's essential to investigate what went wrong to prevent similar incidents in the future. Construction sites are full of potential hazards, and despite the many safety regulations in place, many workers are at risk of getting hurt on a regular basis. Read the [full article](#) posted by Overholt Law LLP.

Why Safety Noncompliance Is Moving from Fines to Felonies

Document everything and look out for internal commentary about your safety culture, warns lawyer

Rising criminal negligence charges related to workplace incidents couple with recent legal rules have intensified expectations for more regulatory compliance, according to a safety law expert. Tony Paisana, Partner at Peck and Company, highlighted *R v. King* in particular as a potential gamechanger. "Decisions like King really emphasize the importance of compliance with regulations and statutes in the labor world," Paisana said, underscoring how noncompliance may now carry criminal implications rather than just administrative penalties. He explains that previously, violations of workplace regulations primarily incurred administrative fines or provincial prosecutions, but rulings like King are narrowing the gap between regulatory infractions and criminal negligence, especially in cases involving death or serious harm. Read the [full article](#) by Chris Davis with Canadian Occupational Health & Safety.

Board of Directors Approves Amendments to the Occupational Health and Safety Regulation - Mobile Equipment, Three-Point Seat Belts

At its November 2024 meeting, WorkSafeBC's [Board of Directors approved amendments](#) to the [Occupational Health and Safety Regulation](#). These [amendments](#) will become effective on March 31, 2025. Read the full [WorkSafeBC bulletin](#) for details.

Tightening Workplace Harassment Laws

What safety professionals need to know about legal changes

Recent legislative changes across Canada are raising the bar for workplace harassment and violence prevention, calling for immediate action from employers. Speaking at the OHS Law Masterclass, labor and employment lawyer Justine Abtosway highlighted key updates and their implications for safety professionals. "Employers need to update their policies, procedures, and plans to remain compliant with evolving legal standards," Abtosway advised. Read the [full article](#) by [Shane Mercer](#) with Canadian Occupational Health & Safety.

WorkSafeBC Report Details Death of Worker on Cypress Mountain

The investigation found numerous safety infractions for which the resort has been fined more than \$100,000

A WorkSafeBC investigation into the death of a heavy equipment operator working on Cypress Mountain found numerous safety infractions for which the resort has now been fined more than \$100,000. The incident happened on Oct. 3, 2023 on the Windjammer run while crews were disassembling the resort's Eagle Coaster for the season. That required the use of a telehandler – a forklift-like piece of heavy equipment used to pick up the coaster's aluminum rails and load them onto pallets, which can be moved into storage. According to the WorkSafeBC incident investigation report released to the North Shore News, the operator of the telehandler, 26-year-old Ontario man, was preparing to transport a loaded pallet down the mountain at around 4:15 p.m. and stopped at edge of a steep drop-off, likely to check the load before descending. Read the BIV [article](#).

BOD Decision: Chapter 9, Average Earnings, of the Rehabilitation & Claims Manual, Volume II

– from [WorkSafeBC](#)

On November 20, 2024, WorkSafeBC's Board of Directors approved amendments to Chapter 9, Average Earnings, of the Rehabilitation Services & Claims Manual, Volume II, to improve readability and address key issues identified by stakeholders and WorkSafeBC subject matter experts. The amended policies apply to all decisions made on or after July 4, 2025. You can also review the complete [Resolution](#).

OHS Policies/Guidelines – Updates

Guidelines – Occupational Health and Safety Regulation

December 9, 2024

Editorial revisions were made to the following guidelines:

- Part 14 – Tower cranes
 - [G14.73.1 Tower cranes – Qualified supervisor](#)
- Part 17 – Transportation of workers
 - [G17.10 Vehicle design](#)

January 1, 2025

Editorial revisions were made to the following guideline to reflect recent regulatory amendments to first aid:

- Part 3 – Rights and responsibilities
 - [G3.1-2 Farm labour contractors and growers – Responsibilities and OHS programs](#)

Editorial revisions were made to the following guidelines to include an acceptable alternative standard:

- Part 8 – Personal protective clothing and equipment
 - [G8.27-1 Compliance with standards](#)
 - [G8.27-2 Alternative acceptable standard for buoyancy equipment](#)

Guidelines – Workers Compensation Act

Editorial revisions were made to the following guideline to reflect CPI adjustments:

- [G-P2-94-1 OHS Citations](#)

Policies – Workers Compensation Act

January 1, 2025

The following policies were updated to reflect CPI adjustments, effective January 1, 2025:

- [P2-94-1 – OHS Citations](#)
- [P2-95-4 – Non-Exclusive Ways to Impose Financial Penalties](#)
- [P2-95-5 – OHS Penalty Amounts](#)
- [P5-251-1 – Claims Costs Levies](#)

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

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



PROPERTY, REAL ESTATE & CONSTRUCTION

Property, Real Estate & Construction News:

Jamming the Revolving Door: BC Introduces New Residential Property Flipping Tax

Any owner planning to sell their interest in a residential property located in British Columbia will face a new tax beginning on January 1, 2025. Under the [Residential Property \(Short-Term Holding\) Profit Act](#) (the "Act"), a new tax (the "Flipping Tax") will apply to net income earned from the sale of residential properties, including any residential property acquired prior to January 1, 2025, if it is sold within 730 days (two years) of the date of acquisition. In an effort to increase housing affordability and reduce housing price inflation, the BC government's "Homes for People" action plan includes the implementation of the Flipping Tax, targeting speculators and discouraging short-term holding of property. The Flipping Tax is separate from the existing property flipping rules under the [Income Tax Act](#) (Canada), which came into effect on January 1, 2023 and that are applicable to residential properties owned for less than one year. Read the [full article](#) by Kristian N. Arciaga, Cara Chu and Stephanie Lee with Fasken.

BC Supreme Court Allows Class Action against Airbnb over Real Estate Licensing Claims

The British Columbia Supreme Court has allowed a class action to proceed against Airbnb, ruling it is not "plain and obvious" that Airbnb's facilitation of short-term rentals falls outside the [Real Estate Services Act](#) (RESA). The plaintiff alleged that Airbnb's "Accommodation Rental Services" required licensing as a real estate broker because the platform facilitates leases or rental agreements. Airbnb argued its platform only provides short-term accommodation licenses, which do not constitute real estate transactions. Read the [full article](#) by [Angelica Dino](#), published on Canadian Lawyer.

Is This the End of Restrictive Covenants in Canadian Retail Leases?

Retailers have typically negotiated their leases with landlords to include clauses restricting competitors from operating in the same shopping centres. This is achieved through including negotiated exclusivity clauses, which in many cases, are registered on title as restrictive covenants. Although the use of these exclusives/restrictive covenants by retailers has been a common practice in Canadian retail leasing for decades, [amendments](#) to the [Competition Act](#) may bring an end to this practice. Canadian politicians have responded to concerns about inflation, in part by linking the increase in the cost-of-living to the grocery sector's use of restrictive covenants. Parliament amended the [Competition Act](#) to expand the scope of the its abuse of dominance provisions and anti-competitive collaboration provisions which now permits the Competition Bureau to investigate non-competitors with agreements that contain anti-competitive arrangements. The result is that the amended [Competition Act](#) exposes the landlord-tenant relationship to investigations and sanctions for their use of restrictive covenants in lease agreements. Read the [full article](#) by [Peter M. Tolensky](#), [Andrew D. Mildenhall](#), [Sonal Kaura](#) with Lawson Lundell LLP.

Why Commercial Owners Should Pay Attention to Notices of Interest

Imagine a scenario where your tenant undertook an improvement of your commercially leased space without your knowledge. Now the tenant is in a dispute with its contractor and the contractor has filed a lien under the [Builders Lien Act](#). Under the act, you may be responsible for the lien as a landowner, despite not being involved in the dispute or even knowing about the improvement. In other words, you may need to pay out the contractor for a construction project that you were not aware of. Read the [full article](#) by Matthew Carabetta and [Christopher Hirst](#) with Alexander Holburn Beaudin + Lang LLP.

Court of Appeal Confirms Designer's Liability for Negligent Design in Centurion v Sorensen

In *Centurion Apartment Properties Limited Partnership v Sorensen Trilogy Engineering Ltd.*, [2024 BCCA 25](#) ("Centurion"), the British Columbia Court of Appeal ruled that an owner could pursue a negligence claim against an engineer, even without a direct contractual relationship between them. The Court found that despite the "contractual matrix" not directly linking Sorensen (the engineer) and the building owner, Sorensen still had a duty to the owner to exercise reasonable care in creating a design free from dangerous defects. Later, the Supreme Court of Canada denied leave to appeal this decision.

Background

This case originated in the British Columbia Supreme Court and involved an 11-story residential building in Langford, BC. The Plaintiff, the owner of the builder, Centurion Apartment Properties, had acquired the building from DB Services of Victoria Inc., who originally hired Sorensen to provide structural engineering services. Centurion had no direct contract with Sorensen. Soon after Centurion took ownership, structural issues emerged, leading to a full evacuation of the building in December 2019.

Read the [full article](#) by Jeremy Ellergodt with Whitelaw Twining.

Renter's Tax Credit, Homeowner Grant Help People Get Ahead

Whether they rent or own, people in BC may be eligible for help with their housing costs in 2025. Renters may be eligible for support through the renter's tax credit. Starting in 2025, income thresholds are increasing for the credit. Renters can now claim as much as \$400 a year off their taxes if their adjusted income is \$63,000 or less, or a partial credit for an adjusted income as much as \$83,000. Most homeowners can get a grant to reduce the amount of property tax they pay. To start the new year, BC is adjusting the property value threshold for the homeowner grant so it continues to cover 92% of homeowners. This is an increase of \$25,000 from the previous threshold to reflect moderate and stable market conditions. Read the full government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
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Interest Rate Under Various Statutes Regulation (386/92)	Jan. 1/25	by Reg 282/2024
Manufactured Home Park Tenancy Regulation (481/2003)	Jan. 1/25	by Reg 481/2003
Property Transfer Tax Act	Jan. 1/25	by 2024 Bill 3, c. 13, sections 175, 178, 180, 182 and 184 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Residential Property (Short-Term Holding) Profit Tax Act	NEW Jan. 1/25	c. 24, SBC 2024, Bill 15 , whole Act in force by Royal Assent and Reg 136/2024
Residential Property (Short-Term Holding) Profit Tax Regulation (281/2024)	NEW Jan. 1/25	see Reg 281/2024
Residential Tenancy Regulation (477/2003)	Jan. 1/25	by Reg 477/2003
Tax Appeals Regulation (135/2024)	Jan. 1/25	by Reg 136/2024



WILLS & ESTATES

Wills and Estates News:

BC Court Rules Public Guardian and Trustee Acted Properly in Avoiding Risky Wills Variation Claim

The BC Court of Appeal upheld the dismissal of a negligence claim against the Public Guardian and Trustee (PGT), finding it acted appropriately by prioritizing the care of an incapacitated individual over pursuing a risky wills variation claim.

The case concerned the estate of a woman who left her property in trust for her spouse's lifetime care, with the remaining assets designated for charitable beneficiaries upon his passing. After the spouse was declared legally incapable and placed under the management of the PGT, his executor argued that the PGT should have sought to vary the will under the [Wills, Estates and Succession Act](#) (WESA) to provide greater benefits to the spouse and his family. The executor claimed the PGT's failure to pursue such a claim constituted negligence. Read the [full article](#) by Angelica Dino in the *Canadian Lawyer*.

B.C. Lawyer Ordered to Return \$71K Executor Fee After Misconduct Finding

A Law Society of BC panel has determined Vernon-based lawyer Leonard Marriott committed professional misconduct for mishandling the execution of a will and improperly withdrawing funds as an executor.

Marriott "failed to meet the quality of service of a competent wills and estates lawyer" as he "did not appear to know the general principles and procedures in his practice area" resulting in delays in distributing the estate.

Furthermore, Marriott's "pre-taking" of more than \$71,000 in executor fees without signed releases from the beneficiary constituted further professional misconduct, the panel ruled, adding that the fee amounted to five per cent of the \$1.2-million estate and considered a "substantive amount." Read the [BIV article](#).

BC Supreme Court Strikes Down Joint Tenancy Severance in Estate Dispute

The British Columbia Supreme Court ruled that a property owner's granddaughter holds sole legal and beneficial interest in a Burnaby property, invalidating a severance of joint tenancy carried out by the owner's committee.

The court's decision concluded a dispute over whether the owner's committee, her adopted son, had the authority to sever a joint tenancy on the property prior to her death. Read the [full article](#) by Angelica Dino in the *Canadian Lawyer*.

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

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