

# Quickscribe Reporter

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## Vol: XXIII – Issue 7 – July 2024

### QS News

### New Annotations

New Annotations have been added to Quickscribe:

- [Christopher Hirst](#) , Alexander Holburn Beaudin + Lang LLP – [Builders Lien Act](#)

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## COMPANY & FINANCE

### Company and Finance News:

#### Court of Appeal for British Columbia Delivers Landmark Decision Addressing Reverse Vesting Orders in Receiverships

In a groundbreaking ruling, the Court of Appeal for British Columbia recently delivered a decision that is poised to significantly influence insolvency proceedings. The case, cited as *British Columbia v. Peakhill Capital Inc.*, [2024 BCCA 246](#), marks the first time an appellate court has addressed the jurisdiction and appropriateness of reverse vesting orders (RVOs) in receivership contexts. This ruling provides crucial insights into the court's reasoning and its implications for legal and non-legal professionals alike.

#### Background and Core Issue

The case revolves around an order under the [Bankruptcy and Insolvency Act](#) (BIA) that approved a transaction structured as an RVO. In essence, an RVO allows the shares of an insolvent debtor to be sold, stripping out unwanted assets and liabilities and transferring them to another entity, thus preserving the valuable assets within the original company. In this case, the RVO structure allowed the transaction to complete without triggering an obligation to pay provincial property transfer tax (PTT), enhancing the estate's value for creditors' benefit. The appellant, the Province of British Columbia, challenged this order, arguing that the judge erred in grounding jurisdiction in the BIA, contravening the [Property Transfer Tax Act](#) (PTTA) and exercising discretion improperly.

Read the [full article](#) by Jordan Schultz with Dentons.

### **Gift Certificate v. Coupon: The Tax Court of Canada Makes Its Call**

In *The Toronto-Dominion Bank v. The King*, [2024 TCC 50](#) (“TD Aeroplan”), the Tax Court of Canada (the “Court”) considered whether an Aeroplan Mile is a “gift certificate” within the meaning of section 181.2 of the *Excise Tax Act* (“ETA”). Toronto-Dominion Bank (“TD Bank”) entered into an Affinity Program Agreement with Aimia Canada Inc. (“Aeroplan”) which allowed TD Bank to offer Aeroplan Miles to users of certain TD Visa Cards (the “Agreement”). Aeroplan invoiced TD Bank for various amounts under the Agreement and applied goods and services tax/harmonized sales tax (“GST/HST”) to the amounts charged. TD Bank paid the GST/HST invoiced, but later applied for rebates on the basis that it had paid the GST/HST in error. Read the [full article](#) by Simon Douville, Randy Schwartz and Sara Baxter with McCarthy Tétrault LLP.

### **Entitlement to ITCs: Tax Court Finds that the CRA Cannot Impose Additional Obligations on Registrants Beyond Those Set Out in the Legislation and Regulations**

On May 27, 2024, the Tax Court of Canada (the “Tax Court”) issued its decision in *Entrepôt Frigorifique International Inc. v. His Majesty the King* [\[1\]](#). The Tax Court’s decision is a helpful reminder that, save from participating in a fraud or sham, a GST/HST registrant’s entitlement to claim input tax credits (“ITCs”) is not dependent on the supplier remitting such tax, but rather, is entrenched so long as the registrant meets the conditions set out in subsection 169(1) and satisfies the documentary requirements set out in subsection 169(4) and the [Input Tax Credit Information \(GST/HST\) Regulations](#) (the “Regulations”). Read the [full article](#) by Simon Douville and Hubert Cadotte with McCarthy Tétrault LLP.

### **Bill C-59 and Bill C-69 Become Law and Bring Massive Tax Changes**

On June 20, 2024, [Bill C-59](#) and [Bill C-69](#) each received Royal Assent. Together, they make sweeping changes to the federal Income Tax Act (the “Act”) that taxpayers and their advisors simply must know. The below chart notes the key changes and their applicable in-force dates. Readers may refer to our previous blogs and tax alerts for commentary regarding certain of the provisions noted below. Read the [tax alert](#) prepared by Antonio Alcantara Tangonan with Thorsteinssons LLP.

### **The Last Frontier: The British Columbia Securities Commissions Announces its Adoption of the Derivatives Business Conduct Rule**

On September 28, 2023, the Canadian Securities Administrators (the “CSA”) announced the adoption of Multilateral Instrument 93-101 Derivatives: Business Conduct (the “Multilateral Instrument”) and its companion policy, Companion Policy 93-101 Derivatives: Business Conduct (the “Companion Policy”) in all provinces and territories in Canada, except for British Columbia. For information regarding the Multilateral Instrument and its Companion Policy, please see [CSA Finally Adopts Derivatives Business Conduct Rule](#). On July 11, 2024, the British Columbia Securities Commission (the “BCSC”) finally published an advance notice of adoption of National Instrument 93-101 Derivatives: Business Conduct (the “BC Rule”). The BC Rule will come into force concurrently with the Multilateral Instrument, being September 28, 2024, at which time it is expected that the Multilateral Instrument adopted by the other provinces and territories of Canada will become a national instrument. Read the [full article](#) by Candace M. Pallone, Sonia J. Struthers, Ailbish Bruchet and Ariane C. Monjauze with McCarthy Tétrault LLP.

### **Canada’s Unilateral Digital Services Tax Forges ahead with Retroactive Effect**

The Canadian government has enacted legislation to impose a Digital Services Tax (DST) on Canadian digital service revenue with retroactive effect. Beginning in 2025, select taxpayers will have reporting and remittance obligations in respect of in-scope revenue earned back to Jan. 1, 2022. The DSTA affects the previously stated intention of the Canadian government to pursue a DST in the absence of a firm and binding multilateral timeline to implement Pillar One of the ongoing negotiations by the Organization for Economic Co-operation and Development (OECD)/G20 Inclusive Framework for a two-pillar plan on international tax reform. [Bill C-59](#), including the DSTA and its supporting regulations, received royal assent on June 20, 2024, and entered into force on June 28, 2024, pursuant to an order in council, though the order in council was not made public until July 3, 2024. Read the [full article](#) by Owen Clarke with Borden Ladner Gervais LLP.

### **Updates to BC Sales Taxes**

The following updates to sales taxes were recently posted:

#### **Provincial sales tax (PST)**

- **July 17, 2024**  
[Bulletin PST 312, Gifts \(PDF, 380KB\)](#), has been updated to clarify that corporations are not eligible for the PST gift exemption.
- **July 25, 2024**  
[Bulletin PST 309, PST and Non-Residents \(PDF, 330KB\)](#), has been corrected to reflect that the [FIN 440, Certificate of Exemption – Purchase of Vehicle or Aircraft for Use Outside B.C. \(PDF, 190KB\)](#), is for use by purchasers, not lessees.  
[Bulletin PST 126, Photographers, Videographers and Photofinishers \(PDF, 310KB\)](#), has been revised to clarify that for the purposes of this bulletin, exempt from PST may also mean a non-taxable good or service that is not subject to PST.

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

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

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

- [31-365](#) – OBSI Joint Regulators Committee Annual Report for 2023
- [BC Notice 2024/02](#) – British Columbia Securities Commission Advanced Notice of Adoption of National Instrument 93-101

Derivatives: Business Conduct and Changes to Companion Policy 93-101 Derivatives: Business Conduct

- [96-101](#) – Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting Adoption of amendments to Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting and related documents
- [51-102](#) – CSA Notice and Request for Comment, August 1, 2024

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

Act or Regulation Affected	Effective Date	Amendment Information
Bonding Regulations (11/68)	July 15/24	by <a href="#">Reg 209/2024</a>
Designated Accommodation Area Tax Regulation (93/2013)	Aug. 1/24	by <a href="#">Reg 232/2024</a>
Financial Administration Act	July 8/24	by 2023 Bill 31, c. 37, section 198 only (in force by <a href="#">Reg 190/2024</a> ), <a href="#">Emergency and Disaster Management Act</a>
Forgiveness of Debts and Obligations Regulation (269/92)	July 15/24	by <a href="#">Reg 218/2024</a>
Insurance Premium Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 94 and 96 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Official Duties Expense Regulation (226/2001)	July 15/24	by <a href="#">Reg 237/2024</a>
Property Tax (Blueberry River First Nations Lands Agreement) Remission Regulation (213/2024)	July 15/24	see <a href="#">Reg 213/2024</a>
Property Tax (Doig River First Nation Lands Agreement) Remission Regulation (214/2024)	<b>NEW</b> July 15/24	see <a href="#">Reg 214/2024</a>
Property Tax (Halfway River Lands Agreement) Remission Regulation (215/2024)	<b>NEW</b> July 15/24	see <a href="#">Reg 215/2024</a>
Property Tax (Saulteau First Nations Treaty Land Entitlement Settlement Agreement) Remission Regulation (216/2024)	<b>NEW</b> July 15/24	see <a href="#">Reg 216/2024</a>
Property Tax (West Moberly Lands Agreement) Remission Regulation (217/2024)	<b>NEW</b> July 15/24	see <a href="#">Reg 217/2024</a>
Provincial Sales Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 205, 210, 219 to 221, 223, 227, 229 to 232 and 233 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	<b>RETRO to</b> Apr. 1/13	by <a href="#">Reg 233/2024</a>
	July 1/24	by <a href="#">Reg 146/2024</a>
Provincial Sales Tax Regulation (96/2013)	<b>RETRO to</b> Apr. 1/13	by <a href="#">Reg 233/2024</a>
	July 1/24	by <a href="#">Reg 148/2024</a>
Tax Appeals Regulation (135/2024)	<b>NEW</b> July 1/24	see <a href="#">Reg 135/2024</a>
Tobacco Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 254 and 256 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>



**Energy and Mines News:**

**BC Court of Appeal Resolves Important Dispute Over Mineral Rights**

On July 4, 2024, the British Columbia Court of Appeal released a landmark decision in *Skeena Resources Ltd. v. Mill*, [2024 BCCA 249](#), providing much needed guidance on the question of ownership of waste rock and tailings generated by mining operations.

Skeena Resources Ltd. ("Skeena") claimed ownership over waste rock and tailings from Eskay Creek Mine (the "Mine") that Skeena had deposited into Albino Lake (the "Lake") in accordance with environmental regulations. Richard Mill, the individual who held a mineral claim over the Lake, asserted that he was the rightful owner of the valuable minerals in the waste rock and tailings deposited by Skeena. The question before the Court was whether Skeena relinquished its rights to the material when it deposited it into the Lake. Read the [full article](#) by [Una Radoja](#), [Daniel Bornstein](#) and [Rachel Abrahams](#) with McCarthy Tétrault LLP.

**Provincial Government Announces \$5.8B for BC Hydro Over the Next Decade**

The provincial government announced \$5.8 billion over ten years in capital spending for BC hydro's electricity. Elected officials and BC Hydro staff gathered at Vernon's substation to announce the funding. Vernon itself will see \$50 million to expand the distribution system here, which will add 15,000 news homes.

That's part of a total \$450 million pledged to crucial transmission upgrades. Other projects include the West Kelowna Transmission and Westbank Upgrade project, upgrades to support electrification at the Highland Valley Copper mine near Kamloops, and Bridge River project.

All the upgrades will allow for more homes to be built in the Southern Interior, as the region continues to grow. Maureen Daschuk with BC Hydro said by 2046 there is expected to be 440,000 people living in the area. Read the [BIV article](#).

**U.S., Canada Reach Agreement in Principle on Elements of Modernized Columbia River Treaty**

U.S. President Joseph Biden announced that the U.S. and Canada have reached agreement in principle on the key elements of the modernized Columbia River Treaty.

The President made the announcement during a visit to Washington, D.C., by Canadian Prime Minister Justin Trudeau.

The Columbia River and its tributaries are of great importance to Tribal and Indigenous peoples, who have been sustained by this ecosystem and the abundant resources it provides, the White House said. These waterways are also vitally important to the U.S. economy, generating 40% of U.S. hydropower, irrigating \$8 billion in agriculture products, and moving 42 million tons of commercial cargo every year. For 60 years, the U.S. and Canada have managed these waterways together through the Columbia River Treaty. Read the [Hydro Review article](#).

**Regulatory Intervention in the Critical Minerals Sector: Geopolitical impacts, Opportunities and Challenges**

As the global economy moves towards lower carbon energy that is more interconnected and dependent on electronics, the demand for critical minerals is set to surge.

Against this backdrop, as nations rapidly seek to either gain access to or leverage the critical mineral resources they possess, there have been a variety of legislative and policy developments intended to advance these objectives. These developments have had a variety of impacts on the sector, ranging from commodity price volatility (ie, the nickel market), to significant project relocation to secure public funding, to a shift in geographic investment focus to respond to increasingly stringent foreign direct investment (FDI) regimes. Read the [full article](#) by [Oliver Wright](#) and [Alexander Samson](#) with DLA Piper.

**BC Energy Regulator Announcements**

The following BC Energy Regulator announcements were posted recently:

- [IU 2024-10](#) – New Interactive B.C. Production Dashboard
- [DIR 2024-01](#) – BCER Expands Water Suspensions to include the Coldwater River
- [TU 2024-09](#) – Amendment to Hydraulic Fracturing Water Reporting

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

Act or Regulation Affected	Effective Date	Amendment Information
British Columbia Hydro and Power Authority Exemption Regulation (242/2024)	NEW July 23/24	see <a href="#">Reg 242/2024</a>
Direction No. 8 to the British Columbia Utilities Commission (24/2019)	July 15/24	by <a href="#">Reg 236/2024</a>

Direction to the British Columbia Utilities Commission Respecting Industrial Electrification (295/2020)	July 8/24	by <a href="#">Reg 200/2024</a>
Energy Resource Activities Act	July 22/24	by 2018 Bill 56, c. 54, sections 1, 3 to 9, 11, 12, 14, 15 and 17 only (in force by <a href="#">Reg 241/2024</a> ), <a href="#">Oil and Gas Activities Amendment Act, 2018</a> , as amended by 2022 Bill 37, c. 42 (in force by <a href="#">Reg 187/2023</a> ), <a href="#">Energy Statutes Amendment Act, 2022</a>
Environmental Protection and Management Regulation (200/2010)	July 15/24	by <a href="#">Reg 219/2024</a>
Fuel Price Transparency Regulation (52/2020)	July 1/24	by <a href="#">Reg 125/2024</a>
Greenhouse Gas Reduction (Clean Energy) Regulation (102/2012)	July 1/24	by <a href="#">Reg 125/2024</a>
Hydro and Power Authority Act	July 5/24	by 2024 Bill 25, c. 23, section 6 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>
Mineral Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 128 and 130 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Treaty 8 Planning and Mitigation Regulation (146/2023) (formerly <i>Blueberry River First Nations Implementation Agreement Regulation</i> )	July 22/24	by <a href="#">Reg 241/2024</a>



## FAMILY & CHILDREN

### Family and Children News:

#### BC Supreme Court Dismisses Contempt Application in 'High-Conflict' Family Law Case

The BC Supreme Court dismissed a contempt application in a "high-conflict" family law case involving the occupancy and contents of a chalet at Apex Mountain.

In *Lamoureux v Hedquist*, [2024 BCSC 1056](#), the claimant sought to have the respondent found in contempt of an order requiring him to vacate the chalet he had occupied exclusively since the parties separated in July 2021. The order also prohibited him from removing any fixtures, furnishings, or household contents except for personal effects. The claimant alleged that the respondent removed various items from the chalet, valuing the replacement cost at \$234,335.65, and sought an order for contempt and payment of this amount. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

#### BC Expands Early Resolution Services for Family Law Matters

The Government of British Columbia announced the expansion of its early resolution process for family law matters, aiming to provide more people with access to timely and effective family justice services.

This initiative builds on the existing family justice services, enhancing support for families by fostering early dispute resolution.

The early resolution process, already available in Victoria and Surrey, will extend to the Port Coquitlam Provincial Court family registry in November. Between April and November 2025, it will expand to Provincial Court family registries in Abbotsford, Chilliwack, New Westminster, North Vancouver, Pemberton, Richmond, Sechelt, and Vancouver (Robson Square). Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer* magazine.

#### Ensuring Equitable Parentage: Proposed Reforms for Part 3 of the *Family Law Act*

In July 2024, we released a report with recommendations for reforming Part 3 of the [Family Law Act](#), which outlines the legal framework for parentage in British Columbia. Parentage plays a crucial role in establishing a child's identity, including family name, relationships, nationality, and cultural heritage. It also determines important legal rights and responsibilities, such as inheritance rights. The report examines how the rules have been working in practice, with the goal of modernizing the law and evaluating its effectiveness and limitations.

##### Why Review Part 3 of the *Family Law Act*?

The *Family Law Act* came into effect in March 2013, giving BC its first comprehensive legislative framework for parentage. Its goals included treating all children fairly (regardless of the circumstances of their birth), promoting

family stability, and protecting vulnerable people. Since the enactment of Part 3 over a decade ago, societal norms and reproductive technologies have evolved significantly. More people are using assisted reproduction, and families are being created in many new ways. This evolution underscores the growing need to review and update these laws to better reflect these changes.

Read the [full article](#) from the British Columbia Law Institute.

**The Intersection of Tax Law and Family Law**

Question: Could there be two more exhilarating topics covered in one article?

Answer:

- a. I am a lawyer, obviously "it depends";
- b. Hold my beer... Have you heard my story about Justin Bieber and the rule against perpetuities?;
- c. No, there could not. I challenge even the most senior lawyer in the province to answer this in the negative, while maintaining a straight face; or
- d. I am no longer reading this based on the title alone.

In most family law matters, it is prudent to get tax advice. When dealing with family law matters that have corporate interests or complex assets, it is further advisable to get guidance from both a tax lawyer and an accountant. As case law is developing and there are regular updates to the [Income Tax Act](#), R.S.C. 1985, c. 1 (5th Supp.) (the "ITA"), it is important to get updated advice for each file. This article provides a brief and general overview of some tax matters that are helpful to be aware of when addressing family law scenarios. Read the [full article](#) by Christine Murray, published on *BarTalk*.

**Mediation Flourishes While Arbitration Continues to Flounder**

The 2013 BC [Family Law Act](#) (FLA) codified the use of mediation and arbitration in family law disputes. Ten years on mediation flourishes while arbitration continues to flounder.

**Resolution Out of Court Preferred – FLA, Part 2, Division 1**

ADR Institute of Canada describes the goals of arbitration as a process that "enable parties involved in a dispute to reach a just, speedy, and cost-effective" resolution. Family litigation is plagued with court delays and judge shortages. Currently, there are over 140 lawyers qualified as Family Law Arbitrators in B.C. This far exceeds the number of available judges. However, in a 2016 survey of family arbitrators conducted by Victoria Mediation Services, less than 23% of the lawyers who responded had conducted any family arbitrations.

Read the [full article](#) by Michael Butterfield, published in *BarTalk*.

**Support Orders Not Automatically Spent If 'Child of Marriage' Hits Age of Majority: BC Appeal Court**

The chambers judge deciding the case of whether two adult children with disabilities were still "children of the marriage," for support purposes, was correct in ruling that the existing support order was not "automatically spent" when they turned 19, a British Columbia Court of Appeal panel recently ruled [ [2024 BCCA 264](#)].

The judge "made no palpable and overriding errors in determining that both children remained children of the marriage," said the decision written by Justice Barbara Fisher. Read the [full article](#) by [Zena Olijnyk](#) in the *Canadian Lawyer*.

**Provincial Court to Use Cowichan Tribes Laws for Child and Family Services**

Cowichan Tribes will begin using its own laws and the B.C. provincial court to resolve child and family welfare matters involving Cowichan children.

Following a landmark co-ordination agreement between Cowichan Tribes, the Province of B.C. and the federal government, Cowichan Tribes now exercises jurisdiction over child and family services for its members living on Vancouver Island and the Gulf Islands.

A new set of provincial court rules has been co-developed with Cowichan Tribes to set out the procedures for the provincial court where a matter involving a Smun'eem (Cowichan child) is brought before the court under Cowichan Tribes' law, [Snuw'uy'ulhtst tu Quw'utsun Mustimuhw u' tu Shhw'a'luqwa'a' i' Smun'eem \(laws of the Cowichan people for families and children\)](#). The initial court registry for these matters is in Duncan. Read the government [news release](#).

**Inclusivity, Transparency Improved for Child Care**

The Province is reaffirming its ongoing commitment to making child care more affordable, inclusive and culturally safe through the [Early Learning and Child Care Act](#) .

The Province will bring this act into force on Sept. 1, 2024, to replace and improve on the existing [Child Care BC Act](#) and [Child Care Subsidy Act](#) . Read the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Regulation (291/96)	July 15/24	by <a href="#">Reg 211/2024</a>

Child, Family and Community Service Act	July 30/24	by 2022 Bill 38, c. 40, section 17 (a) only (in force by <a href="#">Reg 246/2024</a> ), <a href="#">Indigenous Self-Government in Child and Family Services Amendment Act</a>
Child, Family & Community Service Regulation (527/95)	July 15/24	by <a href="#">Reg 211/2024</a>
Official Reporters (Supreme Court) Regulation (227/2021)	July 2/24	by <a href="#">Reg 175/2024</a>
Provincial Court (Snw'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)	<b>NEW</b> Aug. 1/24	see <a href="#">Reg 187/2024</a>
Representative for Children and Youth Regulation (103/2007)	July 8/24	by <a href="#">Reg 198/2024</a>
Supreme Court Civil Rules (168/2009)	July 2/24	by <a href="#">Reg 166/2024</a>
Supreme Court Family Rules (169/2009)	July 2/24	by <a href="#">Reg 166/2024</a>



## FOREST & ENVIRONMENT

### Forest and Environment News:

#### **Forest and Range Practices Act Amendments**

Effective July 15, 2024, amendments were made to the [Forest and Range Practices Act](#) by [2021 Bill 23](#) and [2023 Bill 41](#). Bill 23 establishes a new forest landscape planning framework to replace the current forest stewardship planning regime. The changes in 2023 Bill 41 are consequential to the Bill 23 changes, and expand the circumstances where a minister must refuse to issue cutting permits and road permits.

#### **Energy Resource Activities Act Amendments**

On July 22, changes made by 2018 Bill 56, the [Oil and Gas Activities Amendment Act, 2018](#), were brought into force, amending the [Energy Resource Activities Act](#) to require BCER to impose off-site environmental mitigation activities when issuing or amending a permit for certain energy resource activities.

#### **British Columbia Announces Regulation to Facilitate Dispute Resolution with Indigenous Groups During Environmental Assessments**

On July 9, 2024, the [Environmental Assessment Dispute Resolution Facilitators Regulation](#) (the "Regulation") came into force in British Columbia. The Regulation arrives almost five years after the "new" [Environmental Assessment Act](#) (the "EAA") came into force in 2019.

The Regulation follows years of engagement regarding its development including the release of the Dispute Resolution Regulation Discussion Paper in May 2023, Dispute Resolution Interim Approach in June 2023 and a What We Heard and Summary of Engagement report in March 2024. Read the [full article](#) by [Dani Bryant](#) and [Samuel Geisterfer](#) with Fasken.

#### **Case Update – This Time, Polluter Doesn't Pay Under the EMA: Cordy Environmental Inc. v. Obsidian Energy Ltd., 2024 BCCA 226**

We previously reported on this case (at the Supreme Court Level) [here](#).

On appeal ( *Cordy Environmental Inc. v. Obsidian Energy Ltd.*, [2024 BCCA 226](#)) the B.C. Court of Appeal has now reversed that decision, and clarified the law on recoverability of contractor costs under the [Environmental Management Act](#), SBC 2003, c.3 (the "EMA").

In the decision below, the plaintiff, Cordy Environmental Inc. ("Cordy"), was a contractor providing remediation services. Cordy sued a previous owner of the property who was alleged to have contaminated the site. The apparent motivation was that Cordy's customer, who now owned the site, had gone into receivership and its assets sold to a third party (free of any claim from Cordy). Read the [full article](#) by [Thomas D. Boyd](#) with Lawson Lundell LLP.

#### **New Plastic Items Banned Starting July 15**

On July 15, the [Single-Use and Plastic Waste Prevention Regulation](#) was amended by [B.C. Reg. 254/2023](#) as part of the next phase of the [CleanBC Plastics Action Plan](#). The changes ban plastic shopping bags, food service items such as cups or cartons that are made from biodegradable plastic, Styrofoam, PVC or PVDC, and all oxo-degradable plastics. More information about upcoming changes to the Single-Use and Plastic Waste Prevention Regulation can be found [here](#).

#### **BC Forest Practices Board Releases 2023-2024 Annual Report**

The BC Forest Practices Board has published its 2023-2024 annual report, marking 28 years of commitment to improving forest and range practices across British Columbia. The report provides an in-depth overview of the Board's accomplishments over the past fiscal year, addressing key issues and setting strategic priorities for the future. Read the [report](#) from the Forest Practices Board.

**Federal Government Publishes Notice Requiring PFAS Information and Updates its Draft State of PFAS and Risk Management Scope Reports**

On July 27, 2024, the Federal Government published a [Notice with respect to certain per- and polyfluoroalkyl substances \(PFAS\)](#) in the Canada Gazette under paragraph 71(1)(b) of [Canadian Environmental Protection Act, 1999](#) (CEPA). The purpose of the Notice is to gather information on 312 PFAS substances listed in Schedule 1 of the Notice to establish baseline commercial use data and support future activities related to the regulation of the class of PFAS. The Federal Government has also published a companion Guidance manual to assist with responding to the Notice. The deadline for reporting under the Notice is January 29, 2025. Read the [full article](#) by [Sarah Gilbert](#), [Julia Schatz](#), [Sharon Singh](#) and [Sean Assié](#) with Bennett Jones LLP.

**Environmental Appeal Board Decisions**

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [School District No. 83 v. Director, Environmental Management Act](#) [Consent Order – Appeal Dismissed; Administrative Penalty Fixed]
- [Michael Rapier & Citizens for My Sea to Sky v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

[Integrated Pest Management Act](#)

- [MKY Holdings Ltd. v. Administrator](#) [Final Decision – Appeal Granted; Determination Reversed]

[Wildlife Act](#)

- [Robert Serrouya v. Director, Wildlife Act](#) [Dismissal Order – Appeal Dismissed]
- [James \(Jim\) Munroe v. Deputy Regional Manager, Recreational Fisheries & Wildlife Programs, Omineca Region, Ministry of Forests](#) [Final Decision – Appeal Allowed; Application for Costs Denied]

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

**Forest Appeals Commission Decisions**

The following Forest Appeals Commission decisions were made recently:

[Forest and Range Practices Act](#)

- [Canabo Cattle Co Ltd. v. Government of British Columbia](#) [Final Decision – Appeal Dismissed; Order Confirmed]

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> )	Aug. 1/24	by <a href="#">Reg 178/2023</a>
Administrative Orders and Remedies Regulation (101/2005)	July 15/24	by <a href="#">Reg 219/2024</a>
BC Carbon Registry Regulation (25/2024)	July 8/24	by <a href="#">Reg 185/2024</a>
Carbon Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 28, 29, 31, 32, 36 and 39 to 41 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Carbon Tax Regulation (125/2008)	July 8/24	by <a href="#">Reg 186/2024</a>
	July 15/24	by <a href="#">Reg 210/2024</a>
Code of Practice for Agricultural Environment Management (8/2019)	July 15/24	by <a href="#">Reg 8/2019</a> as amended by <a href="#">Reg 179/2024</a>
Controlled Recreation Area (Resort Timber Administration Act) Regulation (166/2007)	July 3/24	by <a href="#">Reg 150/2024</a>



*Quickscribe Reporter*

Emission Offset Project Regulation (250/2015)	July 8/24	by <a href="#">Reg 185/2024</a>
Environmental Assessment Dispute Resolution Facilitator Regulation (204/2024)	<b>NEW</b> July 9/24	see <a href="#">Reg 204/2024</a>
Forest Act	July 15/24	by 2021 Bill 23, c. 37, sections 1, 3 and 4 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2021</a>
		by 2023 Bill 41, c. 43, sections 40, 77 and 78 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2023</a>
Forest and Range Practices Act	July 15/24	by 2021 Bill 23, c. 37, sections 30, 31, 33 to 44, 49, 51, 62, 64, 65, 69, 74, 75, 82 to 84, 86, 87, 91, 93 and 95 to 97 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2021</a> , as amended by 2023 Bill 41, c. 43, sections 120 and 122 only (in force by <a href="#">Reg 62/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2023</a> , and 2023 Bill 14, c. 10, section 287 only (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Modernization) Amendment Act, 2023</a>
		by 2023 Bill 41, c. 43, sections 126 and 128 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2023</a>
Forest Planning and Practices Regulation (14/2004)	July 15/24	by <a href="#">Reg 219/2024</a> and <a href="#">Reg 221/2024</a>
Forest Practices Board Regulation (15/2004)	July 15/24	by <a href="#">Reg 219/2024</a>
Forest Recreation Regulation (16/2004)	July 15/24	by <a href="#">Reg 219/2024</a>
Greenhouse Gas Emission Administrative Penalties and Appeals Regulation (248/2015)	July 8/24	by <a href="#">Reg 185/2024</a>
Greenhouse Gas Emission Reporting Regulation (249/2015)	July 8/24	by <a href="#">Reg 185/2024</a>
Interest Rate Under Various Statutes Regulation (386/92)	July 5/24	by <a href="#">Reg 181/2024</a>
Logging Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 113 and 115 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Municipal Wastewater Regulation (87/2012)	Aug. 1/24	by <a href="#">Reg 178/2023</a>
Muskwa-Kechika Management Area Act	July 15/24	by 2021 Bill 23, c. 37, section 110 only (in force by <a href="#">Reg 219/2024</a> ), <a href="#">Forests Statutes Amendment Act, 2021</a>
Oil and Gas Waste Regulation (254/2005)	July 8/24	by <a href="#">Reg 192/2024</a>
Park Act	July 5/24	by 2024 Bill 25, c. 23, section 7 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>
Pesticide Control Act Regulations (319/81)	<b>REPEALED</b> July 8/24	by <a href="#">Reg 184/2024</a>
Professional Governance Act	July 1/24	by 2023 Bill 39, c. 32, sections 71 to 77 only (in force by <a href="#">Reg 129/2024</a> ), <a href="#">International Credentials Recognition Act</a>
Provincial Forest Use Regulation (176/95)	July 15/24	by <a href="#">Reg 223/2024</a>
Public Notification Regulation (202/94)	July 8/24	by <a href="#">Reg 193/2024</a>

Single-Use and Plastic Waste Prevention Regulation (254/2023)	July 15/24	by <a href="#">Reg 254/2023</a>
Tax Appeals Regulation (135/2024)	<b>NEW</b> July 1/24	see <a href="#">Reg 135/2024</a>
Tree Farm Licence Management Plan Regulation (280/2009)	July 15/24	by <a href="#">Reg 219/2024</a>
Tree Seeds and Services Regulation (138/2019)	July 15/24	by <a href="#">Reg 222/2024</a>
Water Sustainability Regulation	July 8/24	by <a href="#">Reg 184/2024</a>
Wildlife Management Areas Regulation (12/2015)	July 9/24	by <a href="#">Reg 203/2024</a>

 **HEALTH**

**Health News:**

**Years After Insite Ruling, B.C. Drug Policy Landscape Still in Flux**

In 2021, the Vancouver-based Drug User Liberation Front approached Health Canada with a proposal. It wanted permission to buy heroin, cocaine and methamphetamine on the dark web before having the drugs tested for contaminants and selling them to users through its "compassion club and fulfilment centre." Health Canada rejected the application for exemption from drug laws, saying DULF's plan presented too many public health and safety risks — but the group went ahead with it anyway, saying it would save lives. The unsanctioned operation would trigger a political firestorm, arrests and constitutional challenges. Lawyers for DULF are now waiting to hear if a judge will agree that Health Canada violated drug users' Charter rights when it refused to grant the exemption, while DULF prepares a second Charter challenge as part of its defence of its two co-founders, Eris Nyx and Jeremy Kalicum, who were arrested and charged with possession for the purpose of trafficking. Read the [CBC article](#).

**BC Supreme Court Dismisses Negligence Claim against Anesthesiologist over Epidural Complications**

In a [recent decision](#), the BC Supreme Court dismissed a medical negligence claim against an anesthesiologist brought by a plaintiff who experienced complications during the administration of an epidural. The plaintiff, who was expecting her first child, was admitted to Surrey Memorial Hospital. The anesthesiologist, the defendant in this case, attempted to administer an epidural. During the procedure, the epidural needle broke, leaving a fragment in the plaintiff's back, which had to be surgically removed. The plaintiff argued that the anesthesiologist was negligent, causing significant back pain due to the use of excessive force and numerous redirections of the needle. Read the [full article](#) by Angelica Dino with *Canadian Lawyer*.

**BC Drops COVID-19 Vaccine Mandate for Health-care Workers**

Provincial health officer Dr. Bonnie Henry has ended the COVID-19 public health emergency, and along with it, the vaccine mandate for health-care workers. Henry made the announcement Friday morning [July 26]. "I am confident there's no longer a need for this public health emergency and the powers that come under that to remain in place," she said. About 2,500 British Columbian health-care workers, 900 in the Interior Health region, were terminated in 2021 for being unvaccinated. B.C. was one of the last jurisdictions in the world to drop its COVID-19 vaccine mandate for health-care workers. Henry says after reviewing all the data she is confident the province has reached the point where there is no longer a need for the public health emergency and all requirements that remain can be lifted. Read the *BIV* [article](#).

**BC Launches New Vaccine Registry for Healthcare Workers**

Healthcare workers in British Columbia must now report their vaccination status against a number of diseases as the provincial government starts a new vaccine registry. All health-care workers in public health-care facilities must report their immunization for COVID-19 and influenza and their immune status for other critical vaccine preventable diseases. Read the [full article](#) by Jim Wilson on *Canadian HRReporter*.

<b>Act or Regulation Affected</b>	<b>Effective Date</b>	<b>Amendment Information</b>
Drug Schedules Regulation (9/98)	July 2/24	by <a href="#">Reg 174/2024</a>
Emergency Medical Assistants Regulation (210/2010)	July 23/24	by <a href="#">Reg 243/2024</a>
Health Professions Designation and Amalgamation Regulation (270/2008)	July 2/24	by <a href="#">Reg 167/2024</a>



## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### **Worker or Dependent Contractor? Recent BC Decision Examines Important Considerations**

A recent BC Supreme Court decision [ [2024 BCSC 1066](#) ] discusses factors that courts will consider when assessing whether a worker is an independent contractor, an employee or an intermediate classification of dependent contractor. One key consequence of a worker being found to be a dependent contractor instead of an independent contractor is that dependent contractors are entitled to receive common law reasonable notice upon termination, whereas independent contractors are not.

The court identified the following considerations when deciding whether a worker is a dependent contractor. Read the [full article](#) by [Matthew E. Wray](#) with Miller Thomson LLP.

#### **New Draft Information Security Guideline Released for Pension Plans**

On July 8th, the B.C. Financial Services Authority ("FSA") released a new draft Information Security Guideline, and opened a consultation period set to close on September 6th, 2024. The new draft Guideline will apply exclusively to pension plan administrators ("PPA"). Read the [full article](#) by [Lisa Chamzuk](#) and [Jessica Kim](#) with Lawson Lundell LLP.

#### **Clearing the Cache: BC Court Orders for Return of Data in Privacy Breach Dispute**

In *British Columbia (Attorney General) v. Gondor*, [2024 BCSC 1077](#), the British Columbia Supreme Court considered the granting of a court order for the return and destruction of internal files leaked in a privacy breach dispute between a former employee and his employer who is a public body.

This decision provides an example of a remedy that a public body may seek in the event personal information in their custody or under their control was obtained by a person or an entity without authorization. Read the [full article](#) by [Yue Fei](#), [Kristen Shaw](#) and [Claire Wanhella](#) with McMillan LLP.

#### **Warning to Avoid "Two-Step Offers" with Successful Job Applicants**

A recent case from the BC Supreme Court serves as a warning to employers regarding the pitfalls of providing applicants with detailed job offers and then subsequently providing applicants with their employment agreement for signature.

In *Adams v. Thinkific Labs Inc.*, the employer sent an email to Ms. Adams, the successful job applicant, on August 19, 2021, setting out a "detailed and extensive" offer of employment (the "August 19 Email"). The August 19 Email included details regarding Ms. Adams' compensation, stock options, benefits, certain bonus entitlements, vacation entitlements, and the employee's work schedule. In the August 19 Email, the employer requested Ms. Adams respond with her full legal name and desired start date and indicated that upon receipt of that information, the employer would provide Ms. Adams with her official employment agreement. Read the [full article](#) by [Andrea Raso](#), [Catherine Repel](#) and [Debbie Preston](#) with Clark Wilson LLP.

#### **Be Careful What You Promise: BCSC Considers Factors in Inducement of Long-Time Employee**

In *Ferweda v. Mercer Celgar Limited Partnership*, [2024] B.C.J. No. 882, the British Columbia Supreme Court ruled that Celgar induced Ferweda from their previous employment. Upon without cause termination of Ferweda's employment, Celgar owed Ferweda 12 months in lieu of notice after less than two and half years of employment.

Ferweda had worked as an operation specialist for Celgar for just under two and a half years before he was let go without cause citing downsizing as the rationale. Prior to working for Celgar, Ferweda held a similar position with Catalyst Paper Construction for 27 years. Read the [full article](#) by Julia Brewster on *Law360 Canada*.

#### **Second Highest Injury to Dignity Award Issued by the BC Human Rights Tribunal**

This year, the BC Human Rights Tribunal (the "Tribunal") issued the second highest award in British Columbia for damages to injury to dignity, hurt feelings and self respect in *Ms. L v. Clear Pacific Holdings Ltd. and others*, 2024 BCHRT 14.

*Ms. L v. Clear Pacific Holdings Ltd.* is an unusual case. The respondents did not participate in the hearing, so the Tribunal relied solely on the evidence provided by Ms. L, including her oral evidence, documentary evidence, expert evidence, and testimony from her father on the impacts the events had on Ms. L. Read the [full article](#) by [Lauren Soubolsky](#) with McCarthy Tétrault LLP.

#### **A Tale of Two Settlement Agreements**

In our May Newsletter, we reviewed an Ontario Human Rights Tribunal decision, *L.C.C. v. M.M.* that upheld the terms of a settlement agreement which had been breached by the employee complainant. The decision was notable for its strict contract law approach, as opposed to the more nuanced, policy-driven approach typical in employment law. The Tribunal adopted this approach due to the facts of the case and to avoid creating a "disincentive for respondents to settle human rights applications." We noted that such a strict approach might be expected in these circumstances, particularly if independent legal advice and a negotiation process were involved.

A recent B.C. Human Rights Tribunal decision, *Fyffe v. University of British Columbia*, illustrates a different outcome when there

hasn't been independent legal advice or an adequate negotiation process. In this case, the release of the claim in the settlement agreement did not withstand scrutiny and was not upheld. It is important to note the differing circumstances and the different legal approaches in the two decisions. Read the [full article](#) in the Overholt Law Newsletter.

Act or Regulation Affected	Effective Date	Amendment Information
Employer Health Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 50 and 53 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Employment and Assistance Regulation (263/2024)	Aug. 1/24	by <a href="#">Reg 199/2024</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	Aug. 1/24	by <a href="#">Reg 199/2024</a>
Employment Standards Regulation (396/95)	July 8/24	by <a href="#">Reg 191/2024</a>
Health Care Employers Regulation (427/94)	July 15/24	by <a href="#">Reg 234/2024</a>
International Credentials Recognition Act	<b>NEW</b> July 1/24	c. 32, SBC 2023, <a href="#">Bill 39</a> , sections 1 to 15, 17 to 20, 25 to 68 and 70 only (in force by <a href="#">Reg 129/2024</a> )
International Credentials Recognition Regulation (129/2024)	<b>NEW</b> July 1/24	see <a href="#">Reg 129/2024</a>
Social Services Employers Regulation (84/2003)	July 15/24	by <a href="#">Reg 234/2024</a>



## LOCAL GOVERNMENT

### Local Government News:

#### **New Legislation Enhances Fire Safety for People, Communities [Fire Safety Act]**

People and communities will be better protected from structure fires as the provincial government implements legislation to enhance fire safety through an enhanced system of inspections and effective enforcement. The [Fire Safety Act](#) (FSA) replaces the previous [Fire Services Act](#) and reflects significant advancements in fire protection and a deeper understanding of fire behaviour since the last substantial update of the *Fire Services Act* in 1979. “The *Fire Safety Act* is a significant step forward in ensuring the safety of all British Columbians,” said Mike Farnworth, Minister of Public Safety and Solicitor General. “This modern legislation provides fire services with the tools they need to improve compliance with fire-safety codes and legislation, ultimately protecting lives, communities and property.” The FSA introduces enhanced monitoring to identify higher-risk buildings, a penalty system to incentivize owner compliance with fire-safety legislation and the BC Fire and BC Building Codes, and more effective enforcement tools. These updates are crucial for preventing fire-related tragedies and damage in residential, commercial and industrial properties. Read the full government [news release](#).

#### **Court of Appeal Finds Claims of Violation of Privacy and Negligence Arguable in the Wake of Privacy Breach**

In the recent decision *G.D. v. South Coast British Columbia Transportation Authority*, [2024 BCCA 252](#) (“GD v. Translink”) the British Columbia Court of Appeal (“BCCA”) found that it is at least arguable that an organization which collects and holds third-party personal information, without adequately protecting that information from a data breach, is liable for the statutory tort of violation of privacy. The BCCA also found that it was at least arguable that a claim based on negligence for breach of a common law duty of care could be advanced along the same lines. Read the [full bulletin](#) by James Barth & Aishling Carson with Young Anderson Barristers & Solicitors.

#### **All’s Fair in Love and Latecomer Fees**

In the recent decision *Ironclad Developments Inc. v. West Kelowna (City)*, [2024 BCSC 1285](#), the Honourable Madam Justice Hardwick held that local governments do not owe procedural fairness rights to property owners when charging them latecomer fees. The City of West Kelowna successfully defended a challenge from a developer (“Ironclad”) alleging the City acted unfairly when it charged Ironclad a substantial latecomer fee. In this case, had the decision been one which requires procedural fairness, Hardwick J would have applied the doctrine of legitimate expectations to quash the City’s decision. However, because latecomer regimes are “inherently legislative” they are not subject to procedural fairness duties. Nevertheless, the decision in *Ironclad Developments* is a good reminder to all municipal officials to be conscious of creating and honouring legitimate expectations regarding the decision-making process they will follow. Read the [full article](#) by Mel van Fram with Stewart McDannold Stuart.

#### **Low Carbon Energy Regulation**

Several local governments are considering low carbon energy system regulation for new buildings and some retrofits. Generally,

local governments outside of Vancouver do not have authority to modify or impose more stringent building regulations with respect to energy conservation and the reduction of greenhouse gas emissions than as set out in the Energy Step Code and the Zero Carbon Step Code. The Zero Carbon Step Code may provide authority to reject renewable natural gas as a pathway to compliance for Part 3 buildings. For lands within a designated energy conservation or greenhouse gas reduction development permit area (DPA), a local government may prescribe development permit guidelines with respect to machinery, equipment and systems external to buildings and other structures: [s. 491\(9\)\(e\) of the Local Government Act](#) (LGA). This authority likely allows for the compulsory connection to district energy systems, municipal electricity services, heat pumps, solar panels, geothermal heating apparatus, irrigation systems using recycled water, and other energy efficient systems. Read the [full article](#) by Janae Enns and Don Lidstone, K.C., published in the June 2024 Edition of the Lidstone & Company Law Letter.

### Summary of Input: EDMA Regulations for Local Authorities

The Ministry of Emergency Management and Climate Readiness (EMCR) has released a [summary of input](#) received to its 2023 discussion paper, [BC's Modernized Emergency Management Legislation: Regulations for Local Authorities](#). Responses from local governments, emergency management organizations and First Nations revealed four overarching themes, including the need for provincial funding and support. As part of the first theme, local authorities (municipalities, regional districts and Modern Treaty Nations) noted issues related to funding, staffing and access to necessary information and expertise. Provincial funding is being asked for to address emergency management requirements (e.g., risk assessments, emergency management plans, business continuity plans), staffing shortages, and to help facilitate effective consultation and cooperation. These comments align with UBCM's long-standing request for a long-term local government funding and capacity-building framework to address new and existing emergency management responsibilities. Read the UBCM [article](#).

### Recriminalization and Municipalities

The recent ups and downs of drug decriminalization are known. On January 31, 2023, Canada decriminalized possession of small amounts of illicit drugs in most locations in BC. Public consumption of those drugs quickly became a concern, especially for municipalities. In the fall of 2023, the Province enacted legislation to prohibit public consumption, but a group called Harm Reduction Nurses Association obtained a court injunction preventing the legislation from coming into force. In May 2024, at the request of the Province, Canada recriminalized public possession of illicit drugs in BC. This article will not rehash these events but will instead identify issues specific to local governments and make some observations as to "lessons learned". Read the [full article](#) by Anthony Price, published in the June 2024 Edition of the Lidstone & Company Law Letter.

### Nearly 90% of BC Communities Have Adopted Small-Scale Multi-Unit Housing Legislation

Provincial legislation to fix outdated zoning rules and create more small-scale multi-unit homes (row homes, triplexes and townhouses) has now been adopted into local bylaws, or will soon be adopted, by almost 90% of communities throughout BC, paving the way for more housing options for people with middle incomes. "People expect governments to work together to tackle the housing crisis and provide more homes for people," said Ravi Kahlon, Minister of Housing. "We are encouraged that the vast majority of local governments have worked hard to adopt much-needed provincial legislation to fix old zoning rules and deliver the types of homes that people need." Out of 188 local governments in BC, 162 have adopted the small-scale multi-unit legislation by passing local bylaws, with another nine communities actively working to adopt the legislation. Local governments were required to make changes to zoning bylaws by June 30, 2024, to allow either a minimum of one secondary suite or detached accessory dwelling unit; a minimum of three to four dwelling units; or a minimum of six dwelling units in areas near bus stops with frequent transit service, depending on location. Read the government [news release](#).

### Supreme Court Considers Impact of Zoning in Constructive Expropriation

In the recent decision of *St. John's (City) v. Lynch*, [2024 SCC 17](#), the Supreme Court of Canada clarified the law on constructive expropriation. The Court examined how zoning and land use regulations impact the compensation owed to a property owner for expropriation. The Court confirmed that local governments are required to compensate property owners for constructive expropriation, based on the fair market value of the property being expropriated. However, the Court held that zoning and land-use restrictions will factor into the fair market value, insofar as any restrictions were imposed on the property for an independent public purpose other than an intended expropriation of the property. Read the [full post](#) by Kyle Falk-Varcoe with Steward McDannold Stuart.

### BC Gives West Vancouver Ultimatum to Adopt Density Zoning Bylaw

The province has given the District of West Vancouver an ultimatum over housing densification. The BC government says the community must pass bylaws within a month to allow multi-unit buildings on single-family and duplex lots. If the district doesn't comply, the province says it will make the change itself. "We're dealing with a housing crisis, and far too many people are struggling to find available housing in our communities," said Ravi Kahlon, BC's housing minister. Introduced in November, [Bill 44](#) requires BC municipalities to rezone in order to increase small-scale, multi-unit housing. The province set a June 30 deadline for communities with at least 5,000 residents to change zoning rules to allow for up to four units to be built on single-family or duplex lots and up to six units on those near transit hubs. On Thursday [July 26], the province singled out West Vancouver as the local government not in compliance. The district's councillors had unanimously rejected multiplex development in late May. Read the CBC [article](#).

### Should BC Cities Rethink Their Shady Priorities?

How much shade is too much shade? In BC's warming cities, it's a question increasingly pushing city planners to rethink what building developments should get approved, and which should be reworked to avoid casting a shadow on a nearby public space. Brent Toderian, a prominent urban-planning advisor who previously served as Vancouver's chief planner, said that for decades, cities across Canada have prioritized sunlight over almost everything else. That might have made sense a decade ago when BC's coastal cities saw gloomy, wet skies as the biggest damper on public spaces. But three years after a heat wave killed 619 people across the province, expectations have changed, and Toderian says city planners have failed to respond fast enough to the threat of deadly heat. Read the *BIV* [article](#).

### UBCM: Province Steps Back from Enacting Shelter Criteria Legislation

The Province of BC has [decided](#) that it will not bring into force legislation presently to establish shelter criteria when local governments seek injunctions for decampment. [Bill 45](#), which received Royal Assent last fall, amended the [Community Charter](#) and [Vancouver Charter](#) to require local governments who seek injunctions for removing encampments to ensure there is reasonably available shelter to a certain standard. UBCM [opposed](#) the legislation on the grounds that the province is not providing adequate shelter space to the quality established by the legislation in BC communities. As a result, if enacted, the legislation would make it highly unlikely that a court would grant local governments an injunction for decampment. The likely result of the legislation would be an increasing number of encampments in B.C.'s communities. Read the full [UBCM press release](#).

### PIBC Survey

PIBC has spent the past six months delivering peer learning opportunities related to the new provincial housing legislation. Now that they have finished their phase one activities, they are once again asking for input from practitioners working in the housing arena (and related areas) about their pain points, gaps in resources, and other needs related to implementing the new legislation. This [survey](#) will help PIBC tailor future Peer Learning Network (PLN) activities and resources to better address your needs. The survey will remain open for responses until August 14, 2024.

Act or Regulation Affected	Effective Date	Amendment Information
Agricultural Land Commission Act	July 5/24	by 2024 Bill 25, c. 23, section 4 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>
Agricultural Land Reserve Use Regulation (30/2019)	July 25/24	by <a href="#">Reg 244/2024</a>
Cannabis Licensing Regulation (202/2018)	July 16/24	by <a href="#">Reg 238/2024</a>
Development Cost Levy and Amenity Cost Charge Exemption Regulation (201/2024)	<b>NEW</b> July 8/24	see <a href="#">Reg 201/2024</a>
Emergency and Disaster Management Act	July 8/24	by 2023 Bill 31, c. 37, sections 41 (1) (a), (b), (c), 43 (1) to (3), (6) (a) to (c) and 44 (in force by <a href="#">Reg 190/2024</a> ), <a href="#">Emergency and Disaster Management Act</a>
Emergency and Disaster Management Regulation (235/2023)	July 8/24	by <a href="#">Reg 190/2024</a>
Emergency Program Management Regulation (477/94)	<b>REPEALED</b> July 8/24	by <a href="#">Reg 184/2024</a>
Fees Regulation (244/2011)	July 2/24	by <a href="#">Reg 173/2024</a>
Fire Safety Act	<b>NEW</b> Aug. 1/24	c. 19, SBC 2016, <a href="#">Bill 4</a> , whole Act except section 56 (b) (in force by <a href="#">Reg 248/2024</a> ), as amended by 2017 Bill 9, c. 10 (in force by Royal Assent), <a href="#">Miscellaneous Statutes (Minor Corrections) Amendment Act, 2017</a> , and 2018 Bill 7, c. 5 (in force by Royal Assent), <a href="#">Miscellaneous Statutes Amendment Act, 2018</a>
Fire Safety Regulation (248/2024)	<b>NEW</b> Aug. 1/24	see <a href="#">Reg 248/2024</a>
Fire Services Act	<b>REPEALED</b> Aug. 1/24	by 2016 Bill 4, c. 19, section 56 (a) only (in force by <a href="#">Reg 248/2024</a> ), <a href="#">Fire Safety Act</a>
Fire Services Fees Regulation (123/94)	<b>REPEALED</b> Aug. 1/24	by 2016 Bill 4, c. 19, section 56 (c) only (in force by <a href="#">Reg 248/2024</a> ), <a href="#">Fire Safety Act</a>
Haida Nation Recognition Act	July 5/24	by 2024 Bill 25, c. 23, sections 1 to 3 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>
Local Authority Emergency Management Regulation (380/95)	<b>REPEALED</b> July 8/24	by <a href="#">Reg 184/2024</a>

Organized Crime Agency of British Columbia Operations Regulation (229/2002)	July 8/24	by <a href="#">Reg 184/2024</a>
Right to Farm Regulation (261/97)	July 15/24	by <a href="#">Reg 226/2024</a>



## MISCELLANEOUS

### Miscellaneous News:

#### Recent and Upcoming Changes to Supreme Court Civil Rules

Effective July 2, the [Supreme Court Civil Rules](#) were amended by [B.C. Reg. 166/2024](#). Rule-22-3 (3) was removed, as well as the fees for copies of transcripts from Appendix C, as transcripts will now be produced in electronic format only and no longer in paper. On September 9, the Rules will be amended by [B.C. Reg. 165/2024](#). The changes will allow a person to swear or affirm an affidavit before another person by video conference, provided the affidavit states, in its last paragraph, that the affidavit was not physically present before the other person but was in that person's presence using video conferencing. Forms 15, 16, 60, 78, 80, 83, 109 and 120 will be updated to reflect these changes.

#### New Revised Civil Forfeiture Act and Concordance

A newly revised [Civil Forfeiture Act](#) is now available on Quickscribe. The Act was brought into force on June 17, 2024 by [BC Regulation 151/2024](#). Please refer to the [Tables of Concordance](#) to cross-reference provisions of the former version of the Act with the revised version and vice versa.

#### No Absolute Immunity for Unconstitutional Laws

The Supreme Court of Canada has ruled that the state is liable when Parliament enacts legislation that is later found to be unconstitutional. "The state is not entitled to an absolute immunity from liability for damages when it enacts unconstitutional legislation that infringes on [Charter](#) rights," Chief Justice Richard Wagner and Justice Andromache Karakatsanis jointly wrote for the majority in the split [5-2-2 decision](#). "The government and its representatives are required to exercise their powers in good faith and to respect the 'established and indisputable' laws that define the constitutional rights of individuals." Read the [full article](#) by Dale Smith with CBA National.

#### Blueberry River First Nations Files Claim against BC for the Gundy Plan

On July 8, 2024, Blueberry River First Nations (BRFN) filed a Notice of Civil Claim against B.C. with respect to the Gundy Plan, which is the first implementation plan under the precedent-setting Blueberry River First Nations Implementation Agreement (the BRFN Agreement). The claim alleges that the Gundy Plan was made contrary to the parties' understandings, commitments, and obligations in the BRFN Agreement. This raises important questions about BRFN governance and the implementation challenges inherent in the BRFN Agreement, which continue to cast uncertainty on resource development in northeast B.C. Read the [full article](#) by Sander Duncanson, Sean Sutherland and Joey Chan with Osler.

#### BC Supreme Court Denies Injunction against Implementation of Legal Professions Act

The BC Supreme Court denied the Law Society of British Columbia's (LSBC) request for an injunction to halt the implementation of the [Legal Professions Act](#) pending a constitutional challenge, ruling that no irreparable harm was demonstrated and emphasizing the law society's necessary role in the transitional planning process. The [LSBC sought to halt the implementation of the act's transitional provisions](#) and to prevent the Lieutenant Governor in Council from enacting the remaining sections of the act until the constitutional challenge is resolved. The act, passed by the British Columbia Legislature on May 16, establishes a single regulator for legal professionals in the province. This new regulator, the Legal Professions of British Columbia (LPBC), will oversee lawyers, notaries public, paralegals, and any new classes of legal professionals created by Cabinet regulation. Read the [full article](#) by Angelica Dino, published on *Canadian Lawyer*.

#### Invasion of the Data Snatchers: BC Court of Appeal Clarifies Possible Scope of Privacy Claims Against Data Custodians in Data Breaches

On July 4, 2024, the B.C. Court of Appeal issued a duo of class action appeal decisions considering the potential scope of statutory and common law privacy claims against data custodians that fall victim to cyberattacks in data breach cases. In both [G.D. v. South Coast British Columbia Transportation Authority](#) (G.D.) and [Campbell v. Capital One Financial Corporation](#) (Campbell), the B.C. Court of Appeal affirmed that numerous causes of action may arguably be available even against data custodians innocent of any intentional wrongdoing, including the statutory tort of violation of privacy pursuant to the BC *Privacy Act*. These decisions follow the BC Court of Appeal's decision earlier this year in [Situmorang v. Google LLC](#), in which the court left open the question of whether the tort of intrusion upon seclusion exists in B.C., in addition to the statutory tort of violation of privacy. Read the [full article](#) by [Joshua Hutchinson](#), [Robin Reinertson](#) and [Lyann Danielak](#) with Blakes.

#### Damages Awarded Under Intimate Images Act

A recent decision of the Civil Resolution Tribunal applied the *Intimate Images Act*, awarding the Claimant \$5,000 in damages. The Tribunal used the findings in the from the protection order, leaving the only issue to be decided being quantum of damages. The respondent failed to participate in the proceeding and was found in default. The Civil Resolution Tribunal has jurisdiction under section 6 of the [Intimate Images Protection Act](#), which creates a statutory tort for the nonconsensual sharing or threatened sharing of intimate images. Under the Act, the tribunal may order compensatory, aggravated and punitive damages up to the CRT's \$5,000 monetary limit. Protection orders had previously been issued and the

only issue before the tribunal in this hearing was whether the applicant was entitled to damages, and if so, how much. The respondent had accessed the applicant's phone and sent himself the intimate images of the applicant which he found on her phone. When the applicant confronted him about this, he offered to send intimate images of himself and also threatened to post the applicant's photos all over social media. In the protection order proceedings, the Tribunal concluded that the images were "intimate images" as defined in the act and also that they had been shared without the applicant's consent and that the respondent had threatened to share them. Read the [full article](#) by Rose Keith, KC, with Harper Grey.

Act or Regulation Affected	Effective Date	Amendment Information
Electronic Court Documents Regulation (60/2005)	July 2/24	by <a href="#">Reg 166/2024</a>
Miscellaneous Registrations Regulation (81/2004)	July 15/24	by <a href="#">Reg 228/2024</a>
Police Act	July 16/24	by 2024 Bill 17, c. 16, sections 64, 112, 117 and 118 only (in force by <a href="#">Reg 239/2024</a> ), <a href="#">Police Amendment Act, 2024</a>
Sound Recording Regulation (249/78)	July 2/24	by <a href="#">Reg 166/2024</a>
South Coast British Columbia Transportation Authority Police Service Operations Regulation (484/2004)	July 8/24	by <a href="#">Reg 184/2024</a>
Stl'atl'imx Tribal Police Service Complaints and Operations Regulation (385/99)	July 8/24	by <a href="#">Reg 184/2024</a>
Victims of Crime Act	July 5/24	by 2021 Bill 21, c. 27, section 22 only (in force by <a href="#">Reg 179/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
Victoria and Esquimalt Municipal Policing Reorganization Regulation (205/2024)	<b>NEW</b> Aug. 1/24	see <a href="#">Reg 205/2024</a>



## MOTOR VEHICLE & TRAFFIC

### Motor Vehicle and Traffic News:

#### BC Supreme Court Allows Insurance Claim Despite Unidentified Driver in Car Crash Case

The British Columbia Supreme Court ruled [ [2024 BCSC 1045](#) ] that an employee of Hertz Canada Ltd. can pursue an insurance claim with Insurance Corporation of British Columbia (ICBC) despite not identifying the driver who rear-ended her.

Kimberly Bui was driving a Hertz rental vehicle when a pick-up truck rear-ended her near Hastings Street and Willingdon Avenue in Burnaby, BC. This incident occurred during her first month of employment with Hertz. She was accompanied by her assistant manager, who instructed her to remain in the vehicle while he spoke with the pick-up truck driver. Despite this interaction, the driver's contact information was not recorded. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

#### B.C. Truckers Say Proposed Changes to Licensing System Could Lead to Job Losses

In the 25 years since Tom Johnson started his Delta-based trucking company, he's endured several port strikes and the uncertainty of the global pandemic. However, the changes being proposed by the office that oversees B.C.'s container trucking industry could cause unprecedented job losses, Johnson said.

He and other container truck operators are worried that licensing changes proposed by the Office of the B.C. Container Trucking Commissioner (OBCCTC) will hurt small- and medium-companies that move goods to and from the Port of Vancouver.

Truck companies must be licensed to gain access to the port. Trucks with licenses, or tags, often do a short-haul run with the container to a warehouse – which is called drayage. To save on costs, many of the licensed companies will get so-called "shadow" companies, whose trucks are not licensed, to move containers on long-haul trips.

According to a report released by the office [early May], companies will soon be "prohibited from co-operating with any non-licensee performing off-dock work within the Lower Mainland." Commissioner Glen MacInnes said the aim is to crack down on companies that are subcontracting to unlicensed container trucks and, as a result, paying lower rates to the drivers. Read the *Vancouver Sun* [article](#).

#### Shipping Infectious Substances



## Transport Canada [TDG Regulations]

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

An infectious substance, as defined under Section 1.4 of the TDG Regulations, is a substance known or reasonably believed to contain viable micro-organisms, such as viruses, bacteria, parasites, fungi, and other agents such as prions, that are known or reasonably believed to cause disease in humans or animals. Substances classified as infectious substances may include blood, tissue, organs, body fluids or materials contaminated by them, or cultures, that contain or may contain pathogenic. Read the document on the [Transport Canada website](#).

## The Intersection of Advanced Technology Vehicles and Personal Injury Accidents

In the last few years, technological advancements in the automotive industry have transformed the driving experience. From autonomous driving capabilities including adaptive cruise control, lane-keeping assistance, autopilot and steering assist, to sophisticated safety features including collision prevention braking, cameras triggered upon a collision, or event data recorders, these modern vehicles are now equipped with the most advanced technology. These technologies are designed not only to provide convenience and comfort, but also to reduce the likelihood and severity of accidents caused by human error, which remains a significant factor in many motor vehicle accidents.

With these innovations comes the need to develop and adapt to the role of technology in the context of personal injury accidents. The purpose of this article is to discuss the challenges and concerns that have arisen from the intersection of advanced technology vehicles and personal injury accident litigation. Read the [full article](#) by [Mallory Hendry](#), produced in partnership with Bogoroch & Associates LLP, in the *Canadian Lawyer* magazine.

## What Gives the Agency the Right (To Be Heard on Appeal)?

### Lessons from *WestJet v Lareau*

The Federal Court of Appeal ("Court") in *WestJet v Lareau*, [2024 FCA 77](#) ("Lareau") recently determined whether, and to what extent, subsection 41(4) ("S. 41(4)") of the [Canada Transportation Act](#) ("CTA") grants the Canadian Transportation Agency ("Agency") the right to be heard on appeals from its own decisions. In addition, the Court delineated the boundaries of permitted participation and discussed the Court's oversight role.

### Section 41(4) gives the Agency the right to be heard in appeals from its decisions

S. 41(4) provides simply that the "Agency is entitled to be heard by counsel or otherwise on the argument of an appeal." The Court confirmed S. 41(4) provides the Agency the right, without leave, to participate by (a) filing memoranda, (b) making oral submissions, or (c) both. However, these privileges are not equivalent to those of respondents or intervenors unless the Court expressly grants them.

Read the [full article](#) by [Elizabeth Fashler](#) and [Jack Goranson](#) with Borden Ladner Gervais LLP.

## BC Supreme Court Awards Damages Despite Credibility and Pre-Existing Condition Concerns

The BC Supreme Court awarded [ [2024 BCSC 1110](#) ] compensation to a plaintiff injured in a vehicle accident despite concerns over his credibility and pre-existing conditions.

The plaintiff, born in Iran, had a history marked by political activism and subsequent persecution. After facing imprisonment and surviving an assassination attempt, he fled to Turkey in 2009 and secured refugee status in Canada in 2011. Despite health issues stemming from a gunshot wound and limited education, the plaintiff endeavoured to work in various capacities in Canada, including cleaning, security, and truck driving. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

## CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [Bulletin 03-2024](#) – Street Hailing Prohibited for Limousine, Party Bus, Ride-Hail Operators
- [Compliance Circular 02-24](#) – Changes to Commercial Transport Regulations to Input Compliance Circulars for Wide Base Single Tires and Logging Trucks into Regulations.
- [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:

### News and Updates

- **B.C. Accessibility Standards: Transportation sector session**  
As part of ongoing efforts to implement the [Accessible B.C. Act](#), the government is developing new accessibility standards for different sectors, including transportation. On July 16, 2024, from 2:00 p.m. to 4:00 p.m., the Accessibility Directorate (part of the Ministry of Social Development and Poverty Reduction) is hosting an online consultation session to collect input on proposed Accessible Service Delivery and Employment Accessibility standards in the transportation sector. The goal of these standards is to help remove barriers for people with disabilities in B.C. Read the full [notice](#).

### Applications Received

- [19361-23](#) – Transfer from Cloud 10 Shuttle Service to Kiki Shuffle, Adanac Limousine & Van Service
- [19436-24](#) – Fleet 16 Transport Inc.

- [20281-24](#) – Christopher Joel Ducharme
- [20222-24](#) – NOW Shuttle Limited
- [19965-24](#) – Ship to Shore Transportation Ltd.

**Application Decisions**

- [20770-24 PS TOP](#) – Lower Mainland Holdings Ltd. [Approved]
- [20807-24 TOP](#) – Lightning Transport Systems Ltd. [Approved]
- [19666-24](#) – Tutt Bros Transportation Ltd. [Approved]
- [19693-24](#) – 7th Heaven International Ltd. [Approved]
- [19576-24](#) – Skeena Taxi Ltd. [Approved]
- [20925-24 TOP](#) – Excel Limousine Service Ltd. [Approved]
- [19458-24](#) – Penticton Klassic Kabs Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Commercial Transport Regulations (30/78)	July 15/24	by <a href="#">Reg 212/2024</a>
Fines Enforcement Regulation (187/96)	July 15/24	by <a href="#">Reg 180/2024</a>
Motor Fuel Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 135, 137 to 139, 143, 146, 147 and 149 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Motor Fuel Tax Regulation	July 8/24	by <a href="#">Reg 186/2024</a> and <a href="#">Reg 196/2024</a>
Motor Vehicle Act Regulations (26/58)	July 2/24	by <a href="#">Reg 169/2024</a>
	July 15/24	by <a href="#">Reg 212/2024</a>
Offence Act	July 5/24	by 2021 Bill 21, c. 27, sections 4 to 8, 10, 11 and 13 to 16 only (in force by <a href="#">Reg 179/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2021</a>
		by 2022 Bill 17, c. 14, section 7 only (in force by <a href="#">Reg 179/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act, 2022</a>
		by 2024 Bill 9, c. 10, section 11 only (in force by <a href="#">Reg 179/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act, 2024</a>
Offence Act Forms Regulation (422/90)	July 2/24	by <a href="#">Reg 171/2024</a>
	July 5/24	by <a href="#">Reg 180/2024</a>
Treaty First Nation Definition Regulation (179/2024)	<b>NEW</b> July 5/24	by <a href="#">Reg 179/2024</a>
Violation Ticket Administration and Fines Regulation (89/97)	July 2/24	by <a href="#">Reg 170/2024</a>
	July 8/24	by <a href="#">Reg 197/2024</a>
Zero-Emission Vehicles Regulation (196/2020)	July 8/24	by <a href="#">Reg 202/2024</a>



**OCCUPATIONAL HEALTH & SAFETY**

**Occupational Health and Safety News:**

## Decision on the New and Revised BC Exposure Limits Based on the 2019 and 2020 ACGIH TLVs for Selected Chemical Substances

At its May 2024 meeting, WorkSafeBC's [Board of Directors \(BOD\)](#) approved the adoption of the 2019 and 2020 new and revised American Conference of Governmental Industrial Hygienists Threshold Limit Values (ACGIH TLVs) for the following selected chemical substances:

- Chromium and Inorganic Compounds: Metallic Chromium, as Cr(0)
- Cobalt and inorganic compounds, as Co
- Cyclopentadiene
- Dicyclopentadiene
- Dicyclopentadiene, including Cyclopentadiene (8-hour TWA only)
- Manganese, elemental and inorganic compounds, as Mn
- Resin acids, as total resin acids
- Rosin core solder thermal decomposition products (colophony)
- 1,1,2,2-Tetrabromoethane
- Tin and inorganic compounds, excluding tin hydride and indium tin oxide, as Sn
- Tin and inorganic compounds, excluding Tin hydride, as Sn, Metal
- Tin and inorganic compounds, excluding Tin hydride, as Sn, Oxide and Inorganic compounds

Effective July 10, 2024, these substances will be removed from the Table of Exposure Limits for Excluded Substances in [Policy R5.48-1](#) of the *Prevention Manual* and the ACGIH TLVs will be assigned as B.C. exposure limits: Read the full WorkSafeBC [article](#).

### WorkSafeBC Summer 2024 Update: First Aid Regulatory Change

– from [BC Forest Safety](#)

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 providing additional resources to help you understand the first aid regulatory changes. [Download the WorkSafeBC Announcement](#) and share with your team.

### Board of Directors Approves Amendments to the Occupational Health and Safety Regulation

– from [WorkSafeBC](#)

At its May 2024 meeting, WorkSafeBC's Board of Directors approved amendments to the Occupational Health and Safety Regulation. The amendments relate to [Emergency Planning](#) and [Notice of Project — Tower Crane](#). Strikethrough versions of the amendments with explanatory notes can be accessed below. Deletions in the regulatory amendments are identified in strikethrough and additions are in bold text and highlighted in yellow.

- Part 5, Emergency Planning  
[Approved amendments with explanatory notes](#)  
These amendments will come into effect on February 3, 2025.
- Part 14, Notice of Project — Tower Crane  
[Approved amendments with explanatory notes](#)  
These amendments will come into effect on October 1, 2024.

These amendments were posted online for feedback during the public hearing process. Stakeholder feedback for [Emergency Planning](#) and [Notice of Project – Tower Crane](#) is available for review.

### WorkSafeBC Keeps Premium Rate at 1.55 Per cent

WorkSafeBC is maintaining its 1.55 per cent average base premium rate for the year 2025. This will be the eighth straight year that the average base premium rate has stayed at the level. The rate, however, is still subject to final approval by WorkSafeBC's board of directors. The board will finalize the 2025 premium rates in October of this year. Read the [full article](#) by Jim Wilson, published by Canadian Occupational Safety.

### OHS Policies/Guidelines – Updates

July 10, 2024

#### Guidelines – Occupational Health and Safety Regulation

- Part 5 Chemical Agents and Biological Agents
  - [Table of Exposure Limits for Chemical and Biological Substances](#)  
The table has been updated to reflect changes to OHS Policy R5.48-1 (amended July 10, 2024). Deletions are shown as strikethrough; additions and revisions are highlighted in green.

#### OHS Policies — Occupational Health and Safety Regulation

OHS Policy R5.48-1 has been amended to reflect the current exposure limits for substances listed on the new or revised Threshold Limit Values for 2023 from the American Conference of Governmental Industrial Hygienists (effective July 10, 2024).

- [R5.48-1 Controlling Exposure – Exposure Limits](#)

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:

#### Tenancy Statutes Amendments Now in Force

On July 18, changes made by [Bill 14](#), *Tenancy Statutes Amendment Act, 2024*, to the [Residential Tenancy Act](#) and the [Manufactured Home Park Tenancy Act](#) came into force. Bill 14 was introduced with the intention of protecting renters from bad-faith evictions and unfair rent increases, providing landlords with more flexibility and clearer guidelines for ending a tenancy with justified cause, and expediting the dispute resolution process. Changes now in force include:

- allowing a person who applies to the director for dispute resolution to abandon part of a claim;
- increasing the amount of notice a landlord must give a tenant when ending a tenancy for personal occupancy;
- requiring landlords to use a standardized online form to issue a personal-use eviction.

Quickscribe has published [early consolidations](#) of the remaining amendments in Bill 14 to the *Residential Tenancy Act* and *Manufactured Home Park Tenancy Act*, as they will read when the Bill is fully in force.

#### BC Court of Appeal Rules on Direct Owner-Subcontractor Arrangements under Builders Lien Act

In [Pinnacle Living \(Capstan Village\) Lands Inc. v. Fairway Recycle Group Inc.](#) (Pinnacle Living), the British Columbia Court of Appeal (Court) recently considered the ability of an owner to obtain a discharge of a lien by payment of the statutory holdback amount into court under [section 23 of the Builders Lien Act](#), in circumstances where the owner had allegedly agreed directly with the lien claimant to pay any unpaid invoices. The Court held that the owner's alleged agreement to pay invoices outstanding from a contractor to a subcontractor did not change the contractual relationship between the contractor and the subcontractor to supply work and services in relation to an improvement on the owner's land, which was the source of the subcontractor's lien rights. The owner's direct contract with the subcontractor to pay outstanding invoices was not a contract to provide work or materials, did not create lien rights and did not change or create new holdback obligations. The owner was, therefore, entitled to rely on section 23 of the *Builders Lien Act* and discharge the lien by payment of the statutory holdback amount into court. Read the [full article](#) by Andrew Kavanaugh and Sarah Cairns with Blakes.

#### Strata Depreciation Report Changes: Navigating New Requirements and Implications for Strata Corporations and Developers

The BC government has announced [new legislative changes](#) aimed at strengthening depreciation reports for strata corporations, effective July 1, 2024.

##### Impact on Strata Owners and Council Members

Depreciation reports provide estimates of the long-term repair and replacement costs of a strata corporation's shared property and assets. Previously, obtaining these reports could be deferred repeatedly as long as three-quarters of a strata corporation's owners voted annually in favor of deferral. [Updated regulations](#), taking effect on July 1, 2024, have now removed the option for deferral. All existing strata corporations with five or more strata lots are now required to obtain depreciation reports on a five-year cycle, instead of a three-year cycle. (Those who don't have depreciation reports, or whose last depreciation report was received before December 31, 2020, will need to obtain reports within specified timelines, depending on where in BC they are located). New strata corporations established between July 1, 2024, and July 1, 2027, must obtain a depreciation report within two years of their first annual general meeting, and new strata corporations established on or after July 1, 2027 must obtain one within 18 months of their first annual general meeting. Additional specific content requirements have also been included, in order to help standardize the information which these reports contain.

Read the [full article](#) by Lisa Frey and Celest Xu with Lawson Lundell LLP.

#### BC Supreme Court Overturns Arbitrator's Decision in Unpaid Rent Dispute

The BC Supreme Court ruled in favour of a landlord seeking a judicial review of an arbitrator's decision on unpaid rent, finding the hearing procedurally unfair. The dispute in *City2City Real Estate Services Inc. v Wang*, [2024 BCSC 1267](#) arose from a rental agreement between the landlord and tenant, with rent set at \$6,120 per month as of January 1, 2023. On March 10, the tenant gave notice to vacate the rental unit by April 6, proposing to pay rent only up to that date. The landlord wanted the tenant to pay for the entire month of April. The arbitrator found that the tenant and the landlord's agent agreed to the partial rent payment for April based on written communications between them. Read the [full article](#) by Angelica Dino on *Canadian Lawyer*.

#### Heat Pumps and Air Conditioners

*Dear Tony:*

We are an 18-unit townhouse complex in Richmond. Two owners installed heat pumps and removed their gas furnaces without any consent of the corporation. Both units have since sold and a neighbour is complaining they were installed without proper authorization. The recent article about fines and removal of heat pumps and air conditioners has us quite concerned. Do you have any suggestions to solve this? – *Miranda W.*

**Dear Miranda:**

Alterations without following the bylaws of a strata corporation are a common occurrence across the province. They have frequently been in place for years without issue as previous strata councils simply didn't apply the bylaws. Even if they had, the record keeping with continued changes in management and turnover of councils is a chronic problem. These are common conversions in townhouses but there are implications around the location, designation of property, obligation to maintain and repair, insure and renew when the time comes.

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

**Personal-use Notice Period for Homebuyers Changing**

The Province is amending the personal use-notice period for home purchasers in BC to three months to improve conditions for first-time homebuyers, while ensuring that tenants have more than two months notice to find new housing. On July 18, 2024, the Province brought into force amendments to the [Residential Tenancy Regulation](#) requiring landlords and homebuyers to give tenants four months' notice, instead of two months when evicting for personal or caretaker use, giving displaced tenants more time to find a new home. The amount of time a tenant has to dispute such a Notice to End Tenancy (NTE) was also increased, from 15 days to 30 days. Read the government [news release](#).

**Thousands of Short-term Rentals in BC Still Operating Illegally, New Data Shows**

Nearly half of the 22,405 short-term rental listings reviewed by the BC Ministry of Housing were found to be operating illegally, according to a preliminary analysis of newly released data from short-term rental platforms that the province says it will use to step up enforcement of new restrictions. That includes more than 900 listings in Victoria and thousands more in other BC municipalities, according to the Ministry of Housing, which recently received the data from major short-term rental booking platforms. Read the [CBC article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Integrated Land and Resource Registry Regulation (180/2007)	July 15/24	by <a href="#">Reg 219/2024</a>
Land Owner Transparency Regulation (250/2020)	July 15/24	by <a href="#">Reg 224/2024</a>
Land Use Objectives Regulation (357/2005)	July 15/24	by <a href="#">Reg 219/2024</a>
Manufactured Home Park Tenancy Act	July 18/24	by 2024 Bill 14, c. 19, section 3 only (in force by <a href="#">Reg 177/2024</a> ), <a href="#">Tenancy Statutes Amendment Act, 2024</a>
Manufactured Home Park Tenancy Regulation (481/2003)	July 15/24	by <a href="#">Reg 227/2024</a>
Property Transfer Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 196 and 203 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Property Transfer Tax Regulation (74/88)	July 8/24	by <a href="#">Reg 186/2024</a>
Real Estate Services Act	Aug. 1/24	by 2004 Bill 41, c. 42
Real Estate Services Regulation (506/2004)	July 15/24	by <a href="#">Reg 235/2024</a>
	Aug. 1/24	by Reg 506/2004
Real Estate Services Rules (209/2021)	July 1/24	by <a href="#">Reg 101/2024</a>
Residential Tenancy Act	July 18/24	by 2024 Bill 14, c. 19, sections 9, 10, 17, 20, 26 to 28, 31, 33, 36 (b) (part) and 37 (c) (part) only (in force by <a href="#">Reg 177/2024</a> ), <a href="#">Tenancy Statutes Amendment Act, 2024</a>
Residential Tenancy Regulation (477/2003)	July 15/24	by <a href="#">Reg 227/2024</a>

	July 18/24	by <a href="#">Reg 177/2024</a>
Speculation and Vacancy Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 246 and 248 only (in force by <a href="#">Reg 133/2024</a> ), <a href="#">Budget Measures Implementation Act, 2024</a>
Strata Property Act	July 1/24	by 2020 Bill 14, c. 16, sections 4 and 12 only (in force by <a href="#">Reg 88/2024</a> ), <a href="#">Municipal Affairs and Housing Statutes Amendment Act (No. 2), 2020</a>
Strata Property Regulation (43/2000)	July 1/24	by <a href="#">Reg 88/2024</a>
	July 2/24	by <a href="#">Reg 172/2024</a>
	July 8/24	by <a href="#">Reg 184/2024</a>



## WILLS & ESTATES

### Wills and Estates News:

#### BC Supreme Court Orders Repayment in Family Estate Misappropriation Case

The BC Supreme Court has ruled in favour of a plaintiff in her claim against her brother regarding misappropriating their late mother's funds.

In *Calvert v Menzies*, [2024 BCSC 1302](#), the plaintiff alleged that her brother used their mother's money for his benefit, detrimentally impacting the estate and her interests as a beneficiary. The mother and her husband bought a ten-acre property in Maple Ridge in the 1950s. The husband, who passed away in 2010, left the estate, primarily consisting of this property, to his wife. The mother died in July 2018, leading to heightened disputes between the siblings. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

#### Estate Planning, Estate Administration, and Intestacy Under the *Indian Act*: Practical Considerations for Legal Professionals

Words have power and the precise and accurate use of language is always important for authors to consider and apply. Accordingly the terminology which an author chooses to use should be informed and selected with care. This is particularly true for legal writing which discusses the application of certain laws to individual people's lives.

As the title of this article conveys, this article's authors will be discussing the application of the *Indian Act* with regards to the estate planning, estate administration, and intestacy laws as these laws relate to the people which this Canadian statute currently applies. The *Indian Act* applies only to some Indigenous peoples living in Canada, it does not apply to all. Read the [full article](#) by [Gwenyth Stadig](#) and [Maddi Thomas](#) with Gowling WLG.

#### BC Supreme Court Denies Application to Sue on Behalf of Father's Estate

The BC Supreme Court recently denied [ [2024 BCSC 1152](#) ] an application to initiate legal proceedings on behalf of a deceased father's estate against his spouse.

The applicant sought permission under s. 151 of the [Wills, Estates and Succession Act](#) (WESA) to challenge changes made by her spouse to her will, which allegedly disinherited her by naming only the spouse's two biological children as beneficiaries.

The applicant, the only biological child of the deceased father, filed a lawsuit seeking a variation of the will, claiming it failed to provide adequate provision. The claims included allegations of unjust enrichment and sought a declaration that the spouse holds a one-half interest in the family home and other assets in trust for the estate. The applicant intended to continue this action on her behalf and as a representative of the estate if granted leave. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Escheat Act	July 5/24	by 2024 Bill 25, c. 23, section 5 only (in force by <a href="#">Reg 162/2024</a> ), <a href="#">Haida Nation Recognition Amendment Act, 2024</a>

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