

# Quickscribe Reporter

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## Vol: XXIII – Issue 6 – June 2024

### QS News

#### New Definitions Feature on Quickscribe

In legislation, the definition of a word or term is often buried within the law itself and not necessarily listed in the designated glossary or definitions section. To complicate matters further, there may be different definitions of the same term within a law, depending on the context and section it is applied.

To assist you, Quickscribe includes a dedicated "Definitions" page that is accessible via the top navigation bar that appears when you open any law on Quickscribe. This page not only displays all the various definitions throughout a law in one convenient location, but also now includes the corresponding sections from which the definitions are pulled.

Another advantage of this feature is that the Definitions page opens in a separate window, allowing you to maintain your place in the document.

We hope that this new Definitions feature will make your legal research easier.

### New Annotations

New Annotations have been added to Quickscribe:

- [Bill Buholzer](#), Young Anderson – [Local Government Act](#)
- [OnPoint Legal Research](#) – [Builders Lien Act](#), [Business Corporations Act](#), [Community Charter](#), [Court Order Interest Act](#), [Family Law Act](#), [International Commercial Arbitration Act](#), [Protection of Public Participation Act](#), [Residential Tenancy Act](#), [Vancouver Charter](#), [Federal Child Support Guidelines](#), [Supreme Court Civil Rules](#)

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

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

### Looking for Previous Reporters?

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

## Reporter Categories

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**COMPANY & FINANCE**

## Company and Finance News:

### The CRA's Proposed New Audit Powers: More Discretion, More Time to Reassess, Less Judicial Oversight

Budget 2024 introduced several proposals designed to give the Canada Revenue Agency ("CRA") additional powers to obtain information and enhance compliance with information requirements. The proposed measures would apply to information requests under the [Income Tax Act](#), the [Excise Tax Act](#) and certain other tax statutes. The stated intent of the proposed amendments is to "enhance the efficiency and effectiveness of tax audit and facilitate the collection of tax revenues on a timelier basis." However, the proposed changes really have the effect of significantly tilting the playing field in favor of the CRA when it comes to collecting information from taxpayers, and threatens to limit reasonable protections that taxpayers currently have to withhold the production of privileged and confidential information. This article will discuss three major changes: (i) a new penalty for compliance orders; (ii) a notice of non-compliance; and (iii) the ability to question under oath or affirmation. Read the [full article](#) by Almut MacDonald with McCarthy Tétrault LLP.

### Procedural Barriers to Justice in Tax Disputes

The *Tax Court of Canada (the "Tax Court") in Anderson v. The King*, [2024 TCC 72](#) ("Anderson"), an informal procedure case, recently found that it could not extend the time for a taxpayer to file an objection, that it could not hear an appeal following a late objection, and that it did not have jurisdiction to hear an appeal of the Minister's refusal to accept a T1 Adjustment request. The decision emphasizes the importance of taking the correct procedural steps when advancing a tax dispute, and raises questions respecting what the Tax Court and Parliament can do to reduce procedural barriers to justice in tax disputes. Read the [full article](#) by Jesse Waslowski and Rojin Esmaeili with McCarthy Tétrault LLP.

### Canada's Clean Economy Tax Credits Receive Royal Assent

In order to encourage early adoption of clean technologies across Canada, and in response to the significant clean-technology incentives promulgated under the U.S. *Inflation Reduction Act*, the Federal Government of Canada introduced the following refundable, clean economy investment tax credits ("ITCs") over the course of Budgets 2022 to 2024:

1. Clean Technology ("Clean Tech") ITC
2. Carbon Capture, Utilization and Storage ("CCUS") ITC
3. Clean Hydrogen ("CH") ITC
4. Clean Technology Manufacturing ("CTM") ITC
5. Clean Electricity ITC

On Thursday, June 20, 2024, the enabling legislation for the first four of the above five ITCs ([Bill C-59](#) and [Bill C-69](#)) received royal assent - an important legislative step toward the enactment of legislation which will have wide ranging impact across many key Canadian industry verticals. The following provides a high-level summary of these four ITCs. Our bulletins for [Budget 2022](#), [Budget 2023](#), [Fall Economic Statement 2023](#) and [Budget 2024](#) contain details regarding the five clean economy ITCs. Read the [full article](#) by Zin Jiang and Laura Gheorghiu with Gowling WLG.

### Clearing the Air: Canada Adopts New Greenwashing Laws under the Competition Act

New amendments to the [Competition Act](#) in Canada are now in force via [Bill C-59](#) after receiving royal assent on June 20, 2024. Many of these amendments target "greenwashing" – a common shorthand for misleading environmental claims about products or business practices. In Canada, greenwashing has been regulated primarily as a form of deceptive marketing, recognized as anti-competitive conduct. As a result, regulatory oversight over greenwashing has come under the purview of Competition Bureau Canada (the "Competition Bureau"). The new amendments to the *Competition Act* introduce a more targeted prohibition against greenwashing, and expand the means of enforcement as follows:

**First, Bill C-59 introduces explicit prohibitions against deceptive environmental claims**, requiring that such claims be based on "adequate and proper tests" or "internationally recognized methodologies." While this clarifies that environmental claims must be supported by "adequate and proper" testing, there continues to be some ambiguity with respect to these standards, although the Competition Bureau is actively monitoring parallel guidance in the United States and the European Union, where new directives and updates are also underway to standardize environmental claims. Read the [full article](#) by Christopher Oates, Melissa Tehrani and Aweis Osman with Gowling WLG.

### Seven Lessons Learned after Year One of Supply Chain Reporting in Canada

For many businesses operating in Canada, May 31, 2024 marked the first annual deadline for filing annual reports under Canada's [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#), formerly known as [Bill S-211](#) or the *Modern Slavery Act* (the Act). As we have previously discussed, the Act casts a wide net with respect to the businesses that are subject to its reporting obligations, which requires disclosure of the steps taken during the previous financial year to reduce the risk of forced labour or child labour in the business' supply chain. Given the short timeline between implementation of the Act and the reporting deadline, reporting entities and government institutions were required to move quickly to prepare their reports, often in the face of unclear and/or changing guidance. Now that the dust has settled, it is important to consider the takeaways and next steps to affect a seamless reporting period next year. Read the [full article](#) by [Laura Levine](#), [Benedict S. Wray](#) and [Nasra Moumin](#).

### Now It's Here: What to Do About the New Capital Gains Tax

Changes to the capital gains tax in Canada have created ripples across the corporate landscape. As a business owner or investor, it's crucial to understand how this tax impacts you, your business and your investments. It's time we discuss, from a Canadian tax perspective, what steps you can take to navigate these changes effectively.

### Understanding the New Capital Gains Tax

Capital gains tax is levied on the profit realized from the sale of assets or investments. The new rules, purportedly introduced (at least in part) to increase government revenue, have significant implications for corporations, investors, and high-net-worth individuals. The tax rate changes and adjustments in exemptions can affect your financial planning and investment strategies.

Read the [full bulletin](#) by Lori Bokenfohr with Fasken.

### Green Light for Exempt Market Dealers to Participate in Public Offerings

On June 20, 2024, the securities regulatory authorities in Alberta, British Columbia, Nova Scotia, Ontario, Québec, and Saskatchewan (the “participating jurisdictions”) published local blanket orders (collectively, the “Blanket Orders”) pursuant to which exempt market dealers (“EMDs”) will be permitted to participate in offerings under a prospectus as members of selling groups. The Blanket Orders, which are substantively harmonized across the participating jurisdictions, became effective June 20, 2024 and are to remain in effect until December 20, 2025. The time-limited Blanket Orders are intended to support capital-raising by early-stage businesses by providing EMDs with an ability to participate in public offerings. EMDs play an important role in assisting issuers raise capital through private placement offerings without the use of a prospectus. Until now, EMDs have not been able to participate in prospectus offerings. The Blanket Orders will enable EMDs to continue to support issuers in their capital raising efforts should they pursue prospectus offerings and are expected to provide more capital-raising opportunities for Canadian small businesses. Read the [full article](#) by [Derek Sigel](#), [Robbie Grossman](#), [Sydney Kert](#), [Jamie Mandell](#) and [Sophie Gadbois](#) with DLA Piper.

### Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

#### Provincial sales tax (PST)

- **June 24, 2024**

[Bulletin CTB 005, Penalties and Interest \(PDF, 190KB\)](#), has been updated to add information about new penalties for carbon tax, motor fuel tax and PST (including the municipal and regional district tax), effective July 1, 2024.

- **June 26, 2024**

Forms on the [provincial sales tax forms page](#) have been updated to standardize the certification statement. All PST refund forms on that page have also been updated to include new documentation requirements such as needing to provide photo ID, incorporation certifications or other additional documentation as applicable. [FIN 491, Certificate of Exemption – Contractor \(PDF, 210KB\)](#), and [FIN 493, Certificate of Exemption – Subcontractor \(PDF, 170KB\)](#), have been updated to clarify that contractors and subcontractors are only required to provide a PST number if they have one.

- **July 2, 2024**

The following two bulletins have been revised to add information about who can claim a refund from us when PST is paid to a supplier for goods purchased for resale:

- [Bulletin PST 104, Wholesalers \(PDF, 300KB\)](#)
- [Bulletin PST 208, Goods for Resale \(PDF, 320KB\)](#)

#### Motor fuel tax and carbon tax

- **June 20, 2024**

[FIN 143, Application for Refund of Carbon Tax – Deputy Collector or Retail Dealer \(PDF, 270KB\)](#), has been updated to:

- Include a section for applicants to claim fuel sold to B.C. Output-Based Pricing System (B.C. OBPS) registrants
- Require photo ID for individuals or sole proprietorships
- Require incorporation certificates for corporations not registered in B.C.
- Include information about additional documentation which may be requested when we review your claim

[Bulletin MFT-CT 003, Coloured Fuels and Other Substances \(PDF, 210KB\)](#), has been updated to:

- Reword information about fines for non-compliance

- **June 24, 2024**

[Bulletin CTB 005, Penalties and Interest \(PDF, 190KB\)](#), has been updated to add information about new penalties for carbon tax, motor fuel tax and PST (including the municipal and regional district tax), effective July 1, 2024.

- **June 27, 2024**

Forms on the motor fuel tax and carbon tax forms page have been updated to standardize the certification statement. The following forms have also been updated to include new documentation requirements such as needing to provide photo ID, incorporation certifications or other additional documentation as applicable.

- [FIN 110A, Application for Refund of Carbon Tax Greenhouse Growers – Purchaser \(PDF, 190KB\)](#)
- [FIN 110B, Application for Refund of Carbon Tax Greenhouse Growers – Seller \(Propane\) \(PDF, 200KB\)](#)
- [FIN 141, Off-Highway Refund Application \(PDF, 370KB\)](#)
- [FIN 147, Application for Refund of Motor Fuel Tax – Purchaser of Fuel \(PDF, 320KB\)](#)
- [FIN 152, Application for Refund of Motor Fuel Tax – Deputy Collector or Retail Dealer \(PDF, 220KB\)](#)
- [FIN 159, Stationary Engine Refund Application \(PDF, 330KB\)](#)

#### Tobacco tax

- **June 17, 2024**

The B.C. Ministry of Finance is undertaking a project to review the British Columbia [Tobacco Tax Act](#). As part of the review, the Ministry is engaging in consultations. Our website has been updated to include information about the [Tobacco Tax Act Review Project consultations](#). The deadline to provide feedback is September 19, 2024.

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

**BC Securities – Policies & Instruments**

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

- [25-312](#) – CSA Staff Notice Reminder of Cessation of CDOR on June 28, 2024 (Target Publication Date June 06, 2024)
- [31-930](#) – Coordinated Blanket Order 31-930 – Exemption to allow Exempt Market Dealer Participation in Selling Groups in Offerings of Securities under a Prospectus

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

Act or Regulation Affected	Effective Date	Amendment Information
Designated Accommodation Area Tax Regulation (93/2013)	June 1/24	by <a href="#">Reg 13/2024</a>
Designated Institutions Regulation (158/2003)	June 10/24	by <a href="#">Reg 127/2024</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>
Provincial Sales Tax Act	July 1/24	by 2024 Bill 3, c. 13, sections 205, 210, 219 to 221, 223, 227, 229 to 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)	RETRO to Feb. 23/24	by <a href="#">Reg 134/2024</a>
	RETRO to Apr. 25/24	by <a href="#">Reg 149/2024</a>
	June 17/24	by <a href="#">Reg 134/2024</a> and <a href="#">Reg 137/2024</a>
	June 28/24	by <a href="#">Reg 132/2024</a>
	July 1/24	by <a href="#">Reg 146/2024</a>
Provincial Sales Tax Regulation (96/2013)	June 17/24	by <a href="#">Reg 137/2024</a>
	July 1/24	by <a href="#">Reg 148/2024</a>
Tax Appeals Regulation (135/2024)	NEW 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 & MINES**

**Energy and Mines News:**

**Officer and Director Liability for Environmental Offences May Not Require Proof of Knowledge of the Underlying Infraction: *R. v. Mossman*, 2024 BCSC 443**

The lengthy and storied judicial history of the environmental prosecutions arising from Banks Island Gold Ltd.'s ("BIG") mining operations in Northwestern British Columbia (BC) is not over and its full impact is not yet clear.

In the latest chapter, the BC Supreme Court, on March 15, 2024, issued reasons in *R v. Mossman*, [2024 BCSC 443](#) in which the Court:

- i. upheld convictions against Mr. Benjamin Mossman, a director, president, chief operating officer of BIG, and Mine Manager under the BC [Mines Act](#), on 14 charges arising from BIG's exceedances of permitted limits for the discharge of Zinc and Total Suspended Solids (the "Exceedance Offences"); and
- ii. allowed the Crown's appeals from the trial judge's acquittals of Mr. Mossman in relation to four charges of failing to report various discharges from the mine (the "Reporting Offences") and two charges of having discharged waste/deleterious substances (the "Discharge Offences"), and remitted these two sets of charges back for a new trial (which, if it proceeds, will be the third trial in this saga).

Read the [full article](#) by [Nicholas Hughes](#), [Val Lucas](#) and [Sarah Xu](#) with McCarthy Tétrault.

### **Canada's Federal Government Commits to Expedite, Streamline and Stimulate Mining Exploration and Permitting – But is it Enough?**

Is a new day dawning in Canadian mining? After years of underwhelming policy support, Canada's federal government is pivoting from being a disinterested gatekeeper to being a more invested partner and project enabler.

This move is most welcome. The global mining and critical minerals industries stand at an inflection point and Canada is at the centre of the crossroads: beyond this reboot of government backing, mining in Canada benefits from numerous longstanding industry advantages, including deeper mining financial, legal and technical expertise than any other jurisdiction globally. Read the [full article](#) by [Krisztián Tóth](#), [John S.M. Turner](#) and [Paul Blyschak](#) with Fasken.

### **New Research Facility in British Columbia to Produce Hydrogen Using Hydropower and Solar**

A \$23 million Smart Hydrogen Energy District (SHED) has been launched at the University of British Columbia, Canada, that will use hydropower and solar energy to produce hydrogen.

According to the government, British Columbia generates most of its electricity by harnessing the power of flowing water. The rest comes from forest biomass, wind, natural gas, solar and landfill gas.

The SHED will be equipped with a hydrogen fueling station and will produce hydrogen using hydropower and solar energy to operate a water electrolyser. It is one of the first initiatives in Canada to combine hydropower, solar and hydrogen energy at a single site, connecting these renewable energy sources to a unified micro-grid, according to the university. SHED will be the province's first hydrogen station to serve light- and heavy-duty vehicles. Read the [full article](#) from *Hydro Review*.

### **Taking Residency Seriously: BC Court of Appeal Confirms the Requirement and Test for Residency in Class Proceedings**

The certification of a class action in British Columbia requires meeting a variety of legal requirements. One of these is the requirement that the representative plaintiff be a "resident of British Columbia."

But what happens when the proposed representative plaintiff is not a natural person, such as a corporation?

In *MM Fund v. Excelsior Mining Corp.*, [2024 BCCA 163](#), the BC Court of Appeal considered for the first time whether and how that residency requirement should be applied to an entity (rather than a natural person) in class proceedings. The Court found that the "management and control" test, which has been applied in analogous areas of law, was applicable. They went on to apply that test to find that the plaintiff did not have standing to bring their claim as a class action. Read the [full article](#) by [Tom A. Posyniak](#) with Fasken.

### **B.C. Hydro to Offer Rebates for Solar Panels, Battery Storage**

Battery Storage People in British Columbia who install rooftop solar panels will soon be able to apply for up to \$10,000 in rebates from B.C. Hydro, the utility says.

The rebate program, announced Thursday [June 27], is set to roll out in July and will be available to homeowners who install qualifying power systems, offering up to \$5,000 toward solar photovoltaic panels and up to \$5,000 toward a battery-storage system.

The installed equipment would have to be approved by B.C. Hydro in order to qualify for the rebates. The utility says it also plans to expand the program to apartment buildings, small businesses, social housing and Indigenous communities, for rebates of up to \$150,000.

Customers who sign onto the program can also register to have excess energy sent into the wider grid, for credit on future consumption. Read the *CBC* [article](#).

### **BC Energy Regulator Announcements**

The following BC Energy Regulator announcements were posted recently:

- [TU 2024-05](#) – Updated Submissions Due Report Supports Compliance
- [IU 2024-09](#) – 2023 Wildfire Season Roundtable Report Released
- [TU 2024-06](#) – Updated Line Lists for Requirements for Consultation and Notification (RCNR) and Rights Holder Engagement (RHE)
- [TU 2024-07](#) – Environmental Guidance Updates – Environmental Protection and Management Guideline (EPMG)
- [TU 2024-08](#) – Updates to the Application Management System (AMS) for the Retirement of Area Based Analysis (ABA)

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

**Updates to Natural Resource Taxes**

The following updates to natural resource taxes were posted recently:

**Oil and natural gas royalties and taxes**

• **June 26, 2024**

The [Oil and gas royalties and freehold production tax web pages](#) have been updated to include the latest information on oil and gas regulations and have been reorganized for clarity and easier navigation.

This update includes the following new web pages:

- [Understanding oil royalty calculations](#)
- [Understanding natural gas royalty calculations](#)
- [Contact information](#)

As part of this update, the Oil and Gas Royalty Handbook has been incorporated into the Oil and gas royalties and freehold production tax web pages.

Check out the new layout and update any bookmarks you may have.

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

Act or Regulation Affected	Effective Date	Amendment Information
Energy Resource Activities Act	June 1/24	by 2018 Bill 15, c. 15, section 1 (in force by <a href="#">Reg 267/2023</a> ), <a href="#">Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018</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)	June 10/24	by <a href="#">Reg 124/2024</a>
	July 1/24	by <a href="#">Reg 125/2024</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>



**FAMILY & CHILDREN**

**Family and Children News:**

**Non-Disclosure of Financial Info Impedes Timely Resolution of Family Disputes: BC Supreme Court**

In a recent family law case, the BC Supreme Court has emphasized the importance of financial disclosure between two former spouses.

In *J.M.F. v J.S.F.*, [2024 BCSC 882](#), the court finalized the parties' divorce, addressing major outstanding issues involving changes to support obligations and appropriate remedies for failure to provide financial disclosure. Both parties filed cross-applications concerning support issues. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer* magazine.

**Child Capacity in Health Decisions**

A child who is deemed to possess the cognitive, mental or developmental capacity to exercise their legal right to consent to treatment, may make their own health care treatment decisions independent of their parents' or guardians' wishes. In B.C., there is no set age when a child is considered capable to give consent. Children are able to make their own health care and mental health decisions in B.C.

The UN Convention on the Rights of the Child (CRC), in Article 12 provides that State Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with age and maturity of the child. Read the [full article](#) by Michael Zimmerman, published in *BarTalk*.

**How Does the Court Decide if Debt Can Be Spousal Support?**

Individuals and families have several options for protecting family wealth in the event of a breakdown in a spousal relationship. One key tool is a family law agreement, which allows spouses to dictate certain obligations as to spousal support and division of family property and debt upon separation.

However, the basis for entitlement to support differs substantively from a spouse's entitlement to property division under the law, which can affect one spouse's ability to recover certain costs resulting from the relationship. In a recent case [[2024 BCSC 331](#)] heard by the Supreme Court of British Columbia, the court was asked to determine whether a debt owed by one spouse to the other could be recharacterized as lump sum spousal support. Read the [full article](#) by [Chantal M. Cattermole](#) and [Kyle Gough](#) with



Clark Wilson LLP.

### Social Work Oversight Engagement Report Released

A social work oversight [engagement report](#) provides an understanding of the diverse range of needs, perspectives and opinions surrounding social work oversight gathered during an extensive public consultation.

Between spring 2022 and fall 2023, the Ministry of Children and Family Development engaged with social workers, ministry partners and the public on several topics, such as practice requirements, standards and ethics; recruitment and retention; equity, inclusion, anti-racism; and truth and reconciliation with Indigenous Peoples. Read the government [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Adoption Regulation (291/96)	June 10/24	by <a href="#">Reg 123/2024</a>
Child, Family & Community Service Regulation (527/95)	June 10/24	by <a href="#">Reg 123/2024</a>
Family Law Act Regulation	June 28/24	by <a href="#">Reg 132/2024</a>
Statutory Property Guardianship Regulation (115/2014)	June 28/24	by <a href="#">Reg 132/2024</a>



## FOREST & ENVIRONMENT

### Forest and Environment News:

#### Harmony at Last? Amendments to Canada's *Impact Assessment Act* Seek to Harmonize Federal and Provincial Assessments

The [Impact Assessment Act](#) ("IAA") has been amended with implications for the assessment and approval of major energy, infrastructure and mining projects going forward. The federal government unveiled amendments to the IAA in the [Budget Implementation Act, 2024, No. 1](#) ("Bill C-69"), which received royal assent on June 20, 2024.

The amendments are intended to ensure the IAA is more efficient and constitutionally sound. In a landmark opinion [[2023 SCC 23](#)] issued on October 13, 2023, the Supreme Court of Canada found core components of the IAA to be unconstitutional, including the "screening decision" (whether a federal impact assessment is required), and the "public interest decision" (where a decision is made to allow a project to proceed or not). Read the [full article](#) by Liane Langstaff, co-authored by 2024 articling students Stacy Porter and Maggie Sainty with Gowling WLG.

#### Changes to Combustible Dust: New Regulations Coming for B.C. Industries

In British Columbia's forestry sector, there has been no year in recent history filled with more preventable tragedies than 2012. In January of 2012, the Babine Forest Products sawmill in Burns Lake suffered an explosion that resulted in the deaths of two workers while injuring 20 others. A few months later in April 2012, about a 2.5-hour drive from Burns Lake in B.C.'s Northern Interior, the Lakeland Mills sawmill in Prince George exploded, killing another two workers and injuring 22 more people. The investigations into these explosions found one culprit responsible: combustible dust. Since that time, regulations have been tightened to ensure better management of combustible dust throughout the province.

B.C.'s management of combustible dust was the topic of the closing keynote presentation for the 2024 Global Dust Safety Conference, which took place earlier this year. The presentation, "Upcoming release process for the proposed British Columbia regulations for combustible dust. Why they are needed and what it means for industries in B.C.," was presented by Rodney Scollard, senior policy and legal advisor, and Mike Tasker, CRSP occupational safety officer with WorkSafeBC. Read the [article](#) from Canadian Forest Industries.

#### Wildlife Habitat Areas

[Notice is hereby given](#) that the boundary of Wildlife Habitat Area 1-060 in the South Island Natural Resource District was amended on June 6, 2024 by order made under authority of Section 10(1) of the [Government Actions Regulation](#) (B.C. Reg. 582/2004). Details of the order may be obtained from the Ecosystems Section, West Coast Region, Ministry of Water, Land and Resource Stewardship, 2080 Labieux Road, Nanaimo, BC V9T 6J9, or from the following website: [http://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show\\_approved](http://www.env.gov.bc.ca/cgi-bin/apps/faw/wharesult.cgi?search=show_approved) [je20]

#### New Interior Appraisal Manual Posted

The new [Interior Appraisal Manual](#) came into effect on July 1, 2024, with a cost base of 2022. Some of the changes include:

- adding new definitions, "Blown down" and "Logical Unit";
- updating the estimated winning bid equation;
- updating table values in Tables 3-1 to 3-3, 4-1, 4-3 to 4-8, 6-6 and 6-8;
- adding a new section on portable platforms;

- updating values for equipment and labour rates; and
- updating the Enhanced Silviculture Regimes table.

Quickscribe will publish the new version of the manual to our site within the next few days.

### **Expanding the Scope of Cost-Recovery Actions under BC's *Environmental Management Act***

A recent decision of the BC Supreme Court has opened the door for more creative ways for parties to recover remediation costs pursuant to the cost-recovery mechanism in BC's [Environmental Management Act](#). The decision of *Cordy Environmental Inc. v. Obsidian Energy Ltd.*, [2023 BCSC 1198](#), which is currently under appeal, allows contractors to recover the cost of unpaid remediation work against former owners or operators of contaminated sites.

This decision significantly expands the liability of former owners, operators and other responsible persons, who may soon find themselves footing the bill for unpaid invoices they had no part in authorizing. Read the [full article](#) by [Caryna Miller](#) and [Joshua Hoenisch](#) with Harper Grey LLP.

### **CFIA Expands Emerald Ash Borer Regulation in B.C.**

The Canadian Food Inspection Agency (CFIA) has updated its regulated areas for emerald ash borer (EAB – *Agrilus planipennis*) to include an area in British Columbia, in an effort to slow the insect's spread.

The regulated area in British Columbia includes the City of Vancouver, the University of British Columbia (UBC) campus and the University Endowment Lands (UEL). This is the first expansion of the EAB regulated area in British Columbia. Read the [article](#) from Canadian Forest Industries (paywall).

### **How the T̓sid̓del First Nation and the Tl'etinqox Government are Integrating Indigenous Practices into Forest Rehabilitation**

In 2018, the T̓sid̓del First Nation and the Tl'etinqox Government created Central Chilcotin Rehabilitation Ltd. (CCR) – a joint venture company whose work and values incorporates traditional wisdom through Indigenous practices. Although CCR's focus is to coordinate large-scale forestry programs and initiatives within the Nations' traditional territories, all work showcases how traditional wisdom through Indigenous practices can intersect with modern forestry practices. By prioritizing the restoration of connections to traditional lands, the incorporation of Indigenous ecological knowledge, the creation of cultural spaces, the inclusion of Indigenous-led decision-making, and building meaningful partnerships, CCR is not just revitalizing landscapes, but also honouring the rich heritage of Indigenous communities and holding space for healing intergenerational trauma. Read the [full article](#) by Percy Guichon, Clayton Charleyboy, and Daniel Persson in the *BC Forest Professional* Summer 2024 issue.

### **What is a Limited Licence and Who is it Designed for?**

My last article in the winter 2024 edition of *BC Forest Professional* introduced FPBC's latest designation – the Affiliated Forest Professional (AFP.) This designation enables people with a wider range of educational backgrounds to register and practice professional forestry. The AFP is one of the tools FPBC created to align professionals to the scope of practice they provide while respecting the law under the [Professional Governance Act](#). An AFP holder, as well as a Registered Forest Technologist (RFT), may also be eligible for a limited licence.

A limited licence is a licence granted by FPBC to an eligible registrant to practise in a specific area of a reserved practice. The licence may define a limited expansion of scope for an RFT, or it may define a single area of practice for an AFP holder (or other associate registrant) who is not authorized to engage in any other aspect of a reserved practice. Read the [full article](#) by Casey Macaulay in the *BC Forest Professional* Summer 2024 issue.

### **Tackling Environmental Racism in Canada**

After years of lobbying by advocates and affected communities, and multiple iterations, Canadian legislation aimed at addressing and preventing environmental racism has become law.

[Bill C-226](#) – *An Act respecting the development of a national strategy to assess, prevent and address environmental racism and to advance environmental justice* – received royal assent on June 20 after a long journey through Parliament. It is Canada's first law focused on the longstanding practice of disproportionately siting polluting industries and environmental hazards near Indigenous, Black and other marginalized communities. Read the [full article](#) by [Maira Donovan](#) in the *CBA National*.

### **Fines for Illegal Hunting and Fishing More Than Double in B.C.**

Fines for illegal hunting and fishing in British Columbia are more than doubling as the province cracks down on offences against wildlife.

The Ministry of Forests says the new scale of fines effective Tuesday under the [Wildlife Act](#) ranges from \$345 to \$1,495, up from the current range of \$115 to \$575.

The biggest fines apply to people who hunt or possess big game out of season. The ministry says in a news release the new penalties "better reflect the serious nature" of wildlife offences and acknowledge the importance of wildlife to B.C. Read the [BIV article](#).

### **Environmental Appeal Board Decisions**

The following Environmental Appeal Board decisions were made recently:

#### [Environmental Management Act](#)

- [Citizens for My Sea to Sky v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]
- [Citizens for My Sea to Sky v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]



- [Deep Water Recovery Ltd. v. Director, Environmental Management Act](#) [Stay Application Decision – Denied]
- [Thompson Creek Metals Company Inc. v. Director, Environmental Management Act](#) [Consent Order – Decision Reversed]

[Integrated Pest Management Act](#)

- [Diane Czyzewski v. Administrator, Integrated Pest Management Act](#) [Summary Dismissal – Appeal Dismissed]
- [Westbank First Nation v. Administrator, Integrated Pest Management Act](#) [Dismissal Order – Appeal Dismissed]

[Wildlife Act](#)

- [Craig Tuck v. Deputy Regional Manager of Recreational Fisheries & Wildlife Programs, Ministry of Water, Land and Resource Stewardship](#) [Dismissal Order – Appeal Dismissed]

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](#)

- [0793663 B.C. LTD. v. Government of British Columbia](#) [Final Decision – Appeal Allowed in Part]

[Wildfire Act](#)

- [Michael Holmes v. Government of British Columbia](#) [Consent Order – Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
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)	June 17/24	by <a href="#">Reg 137/2024</a>
Closed Areas Regulation (76/84)	June 25/24	by <a href="#">Reg 161/2024</a>
Hunting Regulation (190/84)	June 25/24	by <a href="#">Reg 161/2024</a>
Limited Entry Hunting Regulation (134/93)	June 25/24	by <a href="#">Reg 161/2024</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>
Motor Vehicle Prohibition Regulation (18/2024)	June 25/24	by <a href="#">Reg 161/2024</a>
Park, Conservancy and Recreation Area Regulation (180/90)	June 26/24	by <a href="#">Reg 154/2024</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>
Protected Areas of British Columbia Act	June 17/24	by 2024 Bill 9, c. 10, section 12 only (in force by <a href="#">Reg 131/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act, 2024</a>
Wildlife Act Commercial Activities Regulation (338/82)	June 17/24	by <a href="#">Reg 145/2024</a>
	June 25/24	by <a href="#">Reg 161/2024</a>
Wildlife Act General Regulation (340/82)	June 25/24	by <a href="#">Reg 161/2024</a>

**BC Supreme Court Upholds Stay on Physician's Access to Information Requests**

The Supreme Court of British Columbia upheld the Information and Privacy Commissioner's decision to stay all of a physician's access to information requests related to his Medical Services Plan billing issues, making the decision procedurally fair and reasonable. In *Cimolai v British Columbia (Information and Privacy Commissioner)*, [2024 BCSC 948](#), the physician faced a 2017 audit by the Medical Services Commission (MSC), resulting in an order to repay a significant amount and a three-year suspension from billing MSP. Seeking information related to this audit, the physician filed numerous requests under the [Freedom of Information and Protection of Privacy Act](#) (FIPPA), leading to 126 requests for review and 24 reconsideration requests to the Office of the Information and Privacy Commissioner (OIPC) between 2017 and 2022. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

**Amendments to Cannabis Regulations Proposed by Health Canada**

New changes to Canada's cannabis regulations have been [proposed](#) by Health Canada and are subject to consultation and request for comments until July 8, 2024. The amendments come amidst calls from industry and stakeholders to reduce the regulatory administrative burden associated with their participation in the cannabis market. The changes proposed include new requirements for licensing, personnel and physical security measures, production, packaging and labelling, record keeping and reporting. In 2018, Canada's [Cannabis Act](#) (the "Act") came into force to govern the production, advertising, distribution, sale, and possession of cannabis in Canada. The [Cannabis Regulations](#) (the "Regulations") created under the Act provide for specific rules in relation to these activities, including requirements regarding licences, packaging and labelling, and physical and personnel security requirements. There are also other related regulations and orders governing the cannabis market, including the [Industrial Hemp Regulations](#), the [Natural Health Products Regulations](#), and the [Cannabis Exemption \(Food and Drugs Act\) Regulations](#). Read the [full article](#) by [Jaclyne Reive](#) an [Jacqueline Rintjema](#) with Miller Thomson LLP.

**Damages Reduced in Breast Cancer Misdiagnosis Case: BC Court of Appeal**

"The BC Court of Appeal partially allowed an appeal by a pathologist, reducing damages in a breast cancer misdiagnosis case that led to an unnecessary mastectomy. In *Wolber v. Ivanova*, [2024 BCCA 203](#), Elena Ivanova underwent a right mastectomy and sentinel node biopsy based on a diagnosis of a rare and aggressive form of breast cancer. This diagnosis was derived from a pathology report prepared by Dr. Robert Wolber. However, post-surgery analysis of the excised tissue showed no signs of cancer. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

**BC Merges Health-profession Colleges**

British Columbia's government has amalgamated 11 health-professional colleges into two, setting the foundation for what it says is stronger oversight. Health Minister Adrian Dix says merging the colleges is part of the government's plan to ensure health professionals are regulated more consistently and robustly. The new College of Health and Care Professionals of BC will oversee roles including dietitians, occupational and physical therapists, optometrists and opticians, psychologists, and speech and hearing professionals. The College of Complementary Health Professionals of BC will regulate chiropractors, massage therapists, naturopathic physicians, acupuncturists and practitioners of traditional Chinese medicine. Read the CBC [article](#).

**Authorities Shutter Vancouver Pharmacy Citing Multiple Violations of Federal Drug Laws**

A Vancouver pharmacy has been shuttered after inspections found multiple violations of federal drug laws and provincial legislation, as well as evidence of criminal activities and public safety risks related to its delivery service, according to the College of Pharmacists of BC.

The licence of Health Hub Pharmacy on Fraser Street and the college registration of pharmacist Sukhpreet Singh Sidhu are suspended, effective Friday [June 28], pending completion of an investigation and any resulting disciplinary proceeding. The pharmacy began transferring its patients out last week. The college said Health Hub had about 300 patients. Read the *BIV* [article](#).

**LFP Billing for Facility-based Care Launches Today**

Today [June 24], billing under the LFP Payment Model begins for inpatient care, pregnancy and newborn care, long-term care, and palliative care in facilities. The initial launch of the LFP Payment Model in February 2023 was an exciting milestone for family medicine and the expansion to include facility-based care builds on that success. The beginning of facility-based billing represents a monumental amount of work and sets a record in BC for the number of codes added to MSP/Teleplan at a single time. Read the [full article](#) on the Doctors of BC website.

Act or Regulation Affected	Effective Date	Amendment Information
Assisted Living Regulation (189/2019)	June 28/24	by <a href="#">Reg 132/2024</a>
Chiropractors Regulation (414/2008)	June 28/24	by <a href="#">Reg 31/2024</a>
Community Living Authority Regulation (231/2005)	June 28/24	by <a href="#">Reg 132/2024</a>
Dietitians Regulation (279/2008)	June 28/24	by <a href="#">Reg 32/2024</a>

Health Care Consent Regulation (20/2000)	June 28/24	by <a href="#">Reg 132/2024</a>
Human Tissue Gift Act	June 17/24	by 2023 Bill 24, c. 16, sections 9 and 10 only (in force by <a href="#">Reg 143/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2)</a> , 2023
Massage Therapists Regulation (280/2008)	June 28/24	by <a href="#">Reg 31/2024</a>
Naturopathic Physicians Regulation (282/2008)	June 28/24	by <a href="#">Reg 31/2024</a>
Occupational Therapists Regulation (286/2008)	June 28/24	by <a href="#">Reg 32/2024</a>
Opticians Regulation (287/2008)	June 28/24	by <a href="#">Reg 32/2024</a>
Optometrists Regulation (33/2009)	June 28/24	by <a href="#">Reg 32/2024</a>
Physical Therapists Regulation (288/2008)	June 28/24	by <a href="#">Reg 32/2024</a>
Psychologists Regulation (289/2008)	June 28/24	by <a href="#">Reg 32/2024</a>
Residential Care Regulation (96/2009)	June 28/24	by <a href="#">Reg 132/2024</a>
Speech and Hearing Health Professional Regulation (413/2008)	June 28/24	by <a href="#">Reg 32/2024</a>
Traditional Chinese Medicine Practitioners and Acupuncturists Regulation (290/2008)	June 28/24	by <a href="#">Reg 31/2024</a>



## LABOUR & EMPLOYMENT

### Labour and Employment News:

#### BC Court of Appeal Affirms Plaintiffs Can Bring Novel Claims for Duty of Good Faith Breaches in Employment Contexts

In the recent decision of *British Columbia v Taylor*, [2024 BCCA 44](#), the BC Court of Appeal found that the duty of good faith is a developing area of law in the employment context and courts should permit plaintiffs to bring novel claims in this area.

In this case the plaintiff, Ms. Taylor, claimed that she was wrongfully dismissed from her employment with the Province of British Columbia in 2017 and that the Province breached their duty of good faith in her employment and termination of her employment. Read the [full article](#) by [Christopher J. Wiebe](#) and [Tristan Kimball](#) with Lawson Lundell LLP.

#### Province's International Credentials Recognition Act Takes Effect

B.C.'s [International Credentials Recognition Act](#) (ICRA) took full effect on July 1, promising to make credential recognition for internationally trained professionals "more transparent, efficient and fair."

According to government, the legislation was enacted as the BC area expects one million job openings in the next 10 years, and most positions will be filled by foreign professionals trained from their respective countries. Read the [full article](#) by Noel Sales Barcelona in the *Canadian HRReporter*.

#### Human Rights Complaint Proceeds to Hearing, Despite Signed Release

The BC Human Rights Tribunal (the "Tribunal") recently issued a decision in *Fyffe v. University of British Columbia*, 2024 BCHRT 88. In that case, the University had applied to the Tribunal to dismiss the complaint without a hearing on the ground that it would not further the purposes of the [Human Rights Code](#) (the "Code") to allow the complaint to proceed, as the complainant had signed a release agreement releasing the University from all claims related to the termination of her employment, including claims arising under the Code. The Tribunal denied the University's application and held that the complaint would proceed to a hearing where the issue of whether the release agreement barred the claim could be raised again by the University and decided after oral evidence. In applications to dismiss, the parties typically submit affidavit evidence in support of their positions and there is no oral testimony. Read the [full article](#) by [S. Michelle Blendell](#) with Young Anderson Barristers & Solicitors.

#### British Columbia Unveils Pay Transparency Reporting Tool

The British Columbia government has created a "[Pay Transparency Reporting Tool](#)" (the "Reporting Tool") to assist employers in

meeting their reporting obligations under the [Pay Transparency Act](#) (the "Act"). This blog supplements [our previous post](#) providing details on the reporting requirements.

As discussed in our prior blog, the Act and the associated [Pay Transparency Regulation](#) detail the reporting obligations and methodologies for reporting employers. The Reporting Tool provides an online forum for employers to enter their pay transparency data and generate their report. Employers will need a Business BCeID to access the Reporting Tool. The government has also issued a [guidance document](#) to assist employers in navigating the Reporting Tool. Read the [full article](#) by [Gary T. Clarke](#) and [Cameron Penn](#) with Stikeman Elliot.

**More than Words: An Employer's Conduct Can Invalidate a Termination Clause**

Despite the fact that an employment contract contained enforceable termination language, the British Columbia Supreme Court recently found that an employee was entitled to common law reasonable notice and \$25,000 in punitive damages as a result of the employer's repudiatory conduct towards the employee.

We have [previously written](#) on what happens when an employer does not follow the terms of a written employment contract and then attempts to rely on it later. *Klyn v. Pentax Canada Inc.*, [2024 BCSC 372](#), released on March 3, 2024, is a reminder for employers wishing to rely on the termination arrangements in their employment contracts that the work is not necessarily finished once the paperwork has been signed. Read the [full article](#) by [Rachel Counsell](#) with Fasken.

**BC Sets Minimum Wage and Other Protections for App-Based Workers**

British Columbia has introduced new regulations to establish a minimum wage and basic protections for app-based ride-hailing and delivery workers like Uber, DoorDash, and SkipTheDishes.

These rules, which will come into effect on September 3, marking a first in Canada, aim to address common concerns among app-based workers, including low and unpredictable pay, protection of tips, and lack of workers' compensation. Read the [full article](#) by Mika Pangilinan in the *Canadian Occupational Safety* magazine.

**BC Court of Appeal Displaces Presumption of Common Law Reasonable Notice in Wrongful Dismissal Case**

The BC Court of Appeal upheld the enforceability of a termination clause in an employment contract that adhered to the [Canada Labour Code](#), thereby displacing the presumption of common law reasonable notice.

In *Egan v. Harbour Air Seaplanes LLP*, [2024 BCCA 222](#), Gerard Michael Egan challenged the dismissal of his wrongful termination lawsuit against Harbour Air Seaplanes LLP. Egan, who was terminated without cause in March 2020 due to the COVID-19 pandemic, argued that he was entitled to reasonable notice at common law. The court, however, upheld the enforceability of the termination clause in his employment contract, which incorporated the notice and severance provisions of the *Canada Labour Code*. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

**Pitfalls of Dismissing Employees for Unprofessional Use of Social Media**

I will be commenting on a very interesting case that is, at its core, a case about free speech, but it also engages disciplining employees for opinions they express outside of work on social media. The case is *Kim v International Triathlon Union*, [2014 BCSC 2151](#), where the British Columbia Supreme Court found that an employee's termination for questionable posts on social media was unjust and breached her employment contract.

**Background Facts**

- Paula Kim was employed by the International Triathlon Union in the position of Senior Manager of Communications. At the time of her termination, she had worked two terms at ITU, between late 2006 and early 2009, and a second term from late 2010 until her termination.
- On November 20, 2012, ITU terminated her employment, without cause. On termination, ITU provided Ms. Kim with two weeks of her base salary in lieu of notice under the BC [Employment Standards Act](#), plus an offer of a salary continuation until December 31, 2012, if she signed a release. She did not have a written employment agreement with ITU.

Read the [full article](#) by [Angelika Erickson](#) with Whitelaw Twining.

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 (263/2002)	June 1/24	by <a href="#">Reg 98/2024</a>
	June 28/24	by <a href="#">Reg 132/2024</a>
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	June 1/24	by <a href="#">Reg 98/2024</a>
	June 28/24	by <a href="#">Reg 132/2024</a>

Employment Standards Regulation (396/95)	June 13/24	by <a href="#">Reg 130/2024</a>
	June 28/24	by <a href="#">Reg 132/2024</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>
Mental Disorder Presumption Regulation (136/2018)	June 10/24	by <a href="#">Reg 122/2024</a>
Workers Compensation Act Appeal Regulation (132/2024)	June 28/24	by <a href="#">Reg 132/2024</a>



## LOCAL GOVERNMENT

### Local Government News:

#### **New Rules for Housing Needs Reports and OCPs, and Amenity Cost Charges (Now in Force)**

On June 18, provisions of [2023 Bill 44, c. 45](#), the Housing Statutes (Residential Development) Amendment Act, 2023, were brought into force by [B.C. Reg. 152/2024](#). The amendments to the [Local Government Act](#) and [Vancouver Charter](#) require official community plans to consider the most recent housing needs report and the anticipated housing needs over a period of at least 20 years. The [Housing Needs Report Regulation](#), B.C. Reg. 90/2019, and [Vancouver Housing Needs Report Regulation](#), B.C. Reg. 91/2019, were also updated with the method for calculating the housing needed. An interim housing needs report must be completed by January 1, 2025, and official community plans and zoning bylaws must be updated by December 31, 2025. Guidance and resources for housing needs reports can be found on the BC government [website](#). Other recent changes related to the new housing initiatives include the introduction of [Prescribed Classes of Affordable Housing \(Local Government Act\) Regulation](#), B.C. Reg. 156/2024, and [Prescribed Classes of Affordable Housing \(Vancouver Charter\) Regulation](#), B.C. Reg. 157/2024, effective on June 19. These regulations list the classes of affordable housing that are exempt from paying amenity cost charges in relation to a new development. For more information on development finance tools, visit the government [webpage](#).

#### **June 30 Changes to Bylaws for Transit-Oriented Areas and SSMUH Requirements (Now in Force)**

As of June 30, provisions of [Bill 47](#), the Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023, are in force, requiring local governments to pass a bylaw to designate transit-oriented areas. These bylaws must include a map or plan or other graphic material and consider the guidelines under [section 585.5](#) of the [Local Government Act](#), such as the [Provincial Policy Manual: Transit-Oriented Areas](#). June 30 is also the deadline for local governments to update their zoning bylaws to accommodate small-scale, multi-unit housing requirements as set out in [section 481.3](#) of the LGA, unless an exemption or extension applies, and the deadline to remove minimum residential-parking requirements under [section 525](#).

#### **Bill 16 – Part One: An Overview of Tenant Protections**

[Bill 16](#) – 2024: *Housing Statutes Amendment Act, 2024*, (“Bill 16”), received royal assent on April 25, 2024. Bill 16 follows a series of other bills introduced in the fall of 2023 ([Bills 44](#), [46](#), and [47](#)), which contain provisions generally designed to increase housing supply by removing zoning constraints, especially on land within existing settled areas and close to transit, and provide new and revised tools for local governments to finance growth. Bill 16 introduces further changes to the [Local Government Act](#), [Vancouver Charter](#), and [Community Charter](#), introducing new authority for tenant protection, inclusionary zoning, and transportation demand management bylaws, and modifying existing authority for density bonus (“benefits”) zoning and the imposition of works and services requirements in connection with the subdivision and development of land. This article, is the first of a three-part series (all conveniently contained in this YA Newsletter) exploring the contents of Bill 16. Part one reviews the new tenant protection powers. Part two looks at density bonusing and inclusionary zoning. Part three addresses new and improved works and services authority, as well as transportation demand management measures. Read the [full article](#) by Christopher Gallardo Ganaban and Eman Jeddy, published in the 2024 Number 2 issue of the Young Anderson Newsletter.

#### **Permit Pitfalls: Lessons for Local Governments from Vanderhaeghe**

In the recent decision of Sunshine Coast (Regional District) v. Vanderhaeghe, [2024 BCCA 169](#) (“Vanderhaeghe”), a development permit issued based on a mistaken interpretation of a non-conforming use provision of the Local Government Act (the “LGA”) implicitly granted a homeowner a development variance permit.

#### **Background**

Ms. Vanderhaeghe wanted to replace her old waterfront cottage (the “Old Cottage”) with a new three-storey building (the “New Dwelling”). The Old Cottage was a lawful non-conforming building located within the setback area from the lake under the Regional District’s zoning bylaw. The New Dwelling would be roughly the same size and maintain the same footprint as the Old Cottage. Relying upon [s. 529 of the LGA](#), the District issued a demolition permit for the Old Cottage and a development permit and building permit for the New Dwelling.



Read the [full article](#) by Thomas Haughian with Stewart McDannold Stewart.

**Saanich Votes to Allow Secondary Suites in Rural Areas**

Saanich council has voted to legalize secondary suites in homes in rural areas of the municipality, in what the mayor called a "somewhat begrudging" decision after the province forced its hand. Saanich Mayor Dean Murdock said it wasn't his or all of council's first choice – the first major dispute between the province and Saanich over BC's efforts to increase housing across the province. Murdock said he's worried the part of the municipality outside the Urban Containment Boundary does not have the infrastructure, such as access to transit and city septic or water lines, to service the additional residents. However, he said if council refused, it could have allowed the province to set its own rules, unilaterally deciding the number of secondary suites and permitting additional garden suites on rural lots. Read the CBC [article](#).

**'What If We Say No?': Burnaby Defies BC's Transit-oriented Housing Laws**

New provincial legislation requires BC cities to allow taller buildings near transit hubs by June 30. Burnaby won't comply. In its latest protest against BC's new housing legislation, Burnaby has delayed the bylaw required by the province to allow taller housing heights near SkyTrain stations. Instead of approving three of four major approvals needed at a council meeting June 24, Mayor Mike Hurley formally tabled the bylaw for a minimum of 90 days. There was no discussion around the council table, and the motion was approved unanimously. Read the [full article](#) by Lauren Vanderdeen with Burnabynow.

**(Es)cheating Has Consequences: Escheat and Its Implications for Local Governments**

One somewhat arcane property law concept that can be relevant to local governments from time to time is the law of escheat. While the Latin roots of the word, and its roots in the allodial title system in England after the Norman Conquest, are beyond the scope of this newsletter article, for our purposes it is sufficient to note that an escheat is the reversion of property to the government. An escheat may occur, for example, when an individual dies without lawful heirs, or when a company or society is dissolved. The result of an escheat may therefore be that the government takes a sort of ownership of land or other assets owned by the individual at the time of death or other legal entity at the time the entity is dissolved. The British Columbia [Escheat Act](#) deals with certain rights and powers of the government relating to escheats. Some of these powers were considered in the Court of Appeal's recent decision in *Mowatt v. British Columbia (Attorney General)*, [2024 BCCA 157](#) ("Mowatt"). Read the [full article](#) by Jacob Lewin, published in the 2024 Number 2 issue of the Young Anderson Newsletter.

**Mostertman v Abbotsford (City): Residents Seek Class Action over City of Abbotsford's Handling of Sumas Flood**

In November 2021, the Sumas Prairie in Abbotsford experienced severe flooding, which led to significant damage and displacement. The plaintiffs have applied to certify this action as a class proceeding, alleging negligence and nuisance against the City of Abbotsford. The plaintiffs claim that the magnitude of the flooding resulted from Abbotsford's failure to close the flood gates at the Barrowtown Pump Station in a timely manner. The Sumas Prairie, a floodplain in Abbotsford, is continually drained by the Pump Station, operated and maintained by Abbotsford. Regardless of precipitation, without the Pump Station's operation, the Prairie would be submerged within two to three days. The Pump Station features four flood gates designed to regulate water flow from the Fraser, Sumas, and Vedder rivers. Under normal conditions, the Sumas River flows through the open flood gates, merging with the Vedder River, and ultimately into the Fraser River. However, during reverse flow conditions, when the Fraser River's water level is higher than the Sumas River, leaving the flood gates open can result in back flooding. This can flood the Outer Sumas Prairie and, if severe, the Inner Sumas Prairie. The operating procedures mandate that the flood gates be closed when the Fraser River's water level reaches 3.0 meters. Read the [full article](#) by [David McKnight](#) and [Megan White](#) with Alexander Holburn.

**Canada Releases Summary of Contract Policing Assessment**

As part of its assessment of RCMP contract policing, the federal government has published a [summary of its engagement](#) with contract partners, including local governments. This assessment was mandated in 2021, with engagement occurring throughout Canada in 2023. UBCM members [provided input](#) through a March 2023 webinar, and the Local Government RCMP Contract Management Committee. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Assessment Authority Act	June 1/24	by 2024 Bill 3, c. 13, section 18 only (in force by Royal Assent), <a href="#">Budget Measures Implementation Act, 2024</a>
Bylaw Notice Enforcement Regulation (175/2004)	June 19/24	by <a href="#">Reg 142/2024</a>
Civil Forfeiture Act ( <i>replaces Civil Forfeiture Act, c. 29, SBC 2005</i> )	<b>STATUTE REVISION</b> June 17/24	by <a href="#">Reg 151/2024</a>
Civil Forfeiture Regulation (164/2006)	June 17/24	by <a href="#">Reg 151/2024</a>
Development Cost Charge and Amenity Cost Charge (Instalments) Regulation (166/84)	June 19/24	by <a href="#">Reg 158/2024</a>
Fees and Student Tuition Protection Fund		



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Regulation (140/2016)	June 10/24	by <a href="#">Reg 123/2024</a>
Home Owner Grant Regulation (100/2002)	June 28/24	by <a href="#">Reg 132/2024</a>
Housing Needs Report Regulation (90/2019)	June 10/24	by <a href="#">Reg 123/2024</a>
	June 18/24	by <a href="#">Reg 152/2024</a>
Liquor Control and Licensing Regulation (241/2016)	June 10/24	by <a href="#">Reg 123/2024</a>
	June 28/24	by <a href="#">Reg 132/2024</a>
Local Elections Campaign Financing Regulation (281/2021)	June 10/24	by <a href="#">Reg 123/2024</a>
Local Government Act	June 18/24	by 2023 Bill 44, c. 45, sections 3, 10, 11, 13 (part), 16, 18 and 26 only (in force by <a href="#">Reg 152/2024</a> ), <a href="#">Housing Statutes (Residential Development) Amendment Act, 2023</a> , as amended by 2024 Bill 16, c. 11 (in force by Royal Assent), <a href="#">Housing Statutes Amendment Act, 2024</a>
	June 30/24	by 2023 Bill 47, c. 48, sections 8 and 10 only (in force by <a href="#">Reg 267/2023</a> ), <a href="#">Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023</a>
Local Government Transit-Oriented Areas Regulation (263/2023)	June 30/24	by <a href="#">Reg 267/2023</a>
Prescribed Classes of Affordable Housing ( <i>Local Government Act</i> ) Regulation (156/2024)	<b>NEW</b> June 19/24	see <a href="#">Reg 156/2024</a>
Prescribed Classes of Affordable Housing ( <i>Vancouver Charter</i> ) Regulation (157/2024)	<b>NEW</b> June 19/24	see <a href="#">Reg 157/2024</a>
Sechelt Indian Government District Enabling Act Continuation Regulation (302/2005)	<b>REPEALED</b> June 10/24	by <a href="#">Reg 123/2024</a>
shishálh Nation Government District Advisory Council Regulation (156/2014) ( <i>formerly titled "Sechelt Indian Government District Advisory Council Regulation"</i> )	June 10/24	by <a href="#">Reg 123/2024</a>
shishálh Nation Government District Municipal Benefits Regulation (243/88) ( <i>formerly titled "Sechelt Indian Government District Municipal Benefits Regulation"</i> )	June 10/24	by <a href="#">Reg 123/2024</a>
shishálh Nation Government District Property Taxation Suspension Regulation (126/88) ( <i>formerly titled "Sechelt Indian Government District Property Taxation Suspension Regulation"</i> )	June 10/24	by <a href="#">Reg 123/2024</a>
shishálh Nation Government District-Sunshine Coast Regional District Participation Regulation (244/88) ( <i>formerly titled "Sechelt Indian Government District District-Sunshine Coast Regional District Participation Regulation"</i> )	June 10/24	by <a href="#">Reg 123/2024</a>
Spheres of Concurrent Jurisdiction - Environment and Wildlife Regulation (144/2004)	June 18/24	by <a href="#">Reg 155/2024</a>
Taxation Rate Cap for Class 2 Property Regulation		

(329/96)	June 10/24	by <a href="#">Reg 123/2024</a>
Vancouver Charter	June 18/24	by 2023 Bill 44, c. 45, sections 33 (part), 38, 40 and 46 only (in force by <a href="#">Reg 152/2024</a> ), <a href="#">Housing Statutes (Residential Development) Amendment Act, 2023</a> , as amended by 2024 Bill 16, c. 11 (in force by Royal Assent), <a href="#">Housing Statutes Amendment Act, 2024</a>
	June 30/24	by 2023 Bill 47, c. 48, sections 19 and 21 only (in force by <a href="#">Reg 267/2023</a> ), <a href="#">Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023</a>
Vancouver Housing Needs Report Regulation (91/2019)	June 18/24	by <a href="#">Reg 152/2024</a>
Vancouver Transit-Oriented Areas Regulation (265/2024)	June 30/24	by <a href="#">Reg 267/2023</a>



## MISCELLANEOUS

### Miscellaneous News:

#### The Dirt on Exclusion Clauses

Exclusion clauses, contractual terms that restrict or limit the rights of a party to a contract, have received consideration by our courts particularly where such clauses place a restriction or limitation on an otherwise available statutory right. In order for an exclusion clause to be valid, the intent of the contracting parties to restrict or limit otherwise available rights must be clear. A recent decision from the Supreme Court of Canada, *Earthco Soil Mixtures Inc. v. Pine Valley Enterprises Inc.*, [2024 SCC 20](#), confirms that parties should approach exclusion clauses cautiously as whether or not the intent of the parties to exclude an otherwise available right may not always be clear. The foundational case of *Tercon Contractors Ltd. v. British Columbia (Transportation and Highways)*, [2010 SCC 4](#), confirmed that a three-part test is to be followed when assessing the enforceability of an exclusion clause: Read the [full article](#) by [Roy Nieuwenburg, K.C.](#), [Scott Lamb](#) and [Rosalie A. Clark](#) with Clark Wilson LLP.

#### Navigating Civil Forfeiture and Charter Rights: Guidance from the British Columbia Supreme Court

A recent decision of the British Columbia Supreme Court in [British Columbia \(Director of Civil Forfeiture\) v Norgan](#) (“Norgan”) is one of the first to interpret and apply the BC Court of Appeal’s jurisprudence in [British Columbia \(Director of Civil Forfeiture\) v. Conrad](#) (“Conrad”). The Court of Appeal’s decision in Conrad had clarified the law and provided much needed direction on the test and principles to be applied to *Charter* arguments in civil forfeiture proceedings.

##### Background

As part of a police investigation into drug trafficking, the Vancouver Police Department executed a warrantless search of 100 Canada Post packages and found three to contain psilocybin mushrooms, a controlled substance under the [Controlled Drugs and Substances Act](#). Subsequent judicially authorized surveillance operations and searches led VPD to a residence where police located and seized \$334,890.05 in cash along with other evidence of a drug trafficking operation. Mr. Norgan was not a subject of the investigation until he attended the residence during the search and was consequently arrested and charged with drug-related offences. In addition to the criminal charges, the British Columbia Director of Civil Forfeiture filed an Amended Notice of Civil Claim against Mr. Norgan, seeking forfeiture of the Funds as proceeds of crime and an instrument of crime. Mr. Norgan disputed the Claim, claiming an ownership interest in the Funds and raising a challenge under the [Canadian Charter of Rights and Freedoms](#). The *Charter* challenge alleged that both the search of the Packages and Mr. Norgan’s arrest violated his *Charter* rights and therefore, evidence resulting from the search ought to be excluded from the Forfeiture Proceedings or the Forfeiture Proceedings ought to be stayed. Mr. Norgan signaled his intention to raise the same *Charter* arguments in his criminal trial, seeking the same remedies.

Read the [full article](#) by [Jordan Deering](#), [Robyn High](#) and Jonathan Kraft (Student) with DLA Piper LLP.

#### BC Has Jurisdiction in Intimate Image Case even though Video Was Made Out of Province: Tribunal

A man was able to seek recourse under BC’s [Intimate Images Protection Act](#) even though the video shared without his consent was filmed in and posted online from a different province. The Civil Resolution Tribunal [published its decision in the case last week](#), explaining how it determined the matter of jurisdiction. Both parties are referred to only by their initials – J.G. and R.C. The video showed the two men having sex and J.G. brought the complaint to the tribunal after he saw that R.C. had shared it on his OnlyFans and Just For Fans accounts as well as on Twitter where one of his accounts has 100,000 followers. R.C. admitted to sharing the video and did not object to taking it offline or paying damages – although he did think the claimed amount of \$5,000 was too high. Tribunal member Micah Carmody noted that the first issue to decide was whether the provincial tribunal had jurisdiction. Read the CTV [article](#).

#### Acton Super-Save Gas Stations Ltd. v. Eneas: Proper Tenure for Businesses on Reserves

The BC Supreme Court recently issued a judgment about occupation of reserve land in *Actton Super-Save Gas Stations Ltd. v. Eneas*, [2024 BCSC 743](#) (Eneas). The decision is an important reminder that non-band members seeking to occupy or use *Indian Act* reserve land must have a valid tenure. A non-band member occupying or using reserve land without valid tenure can be subject to eviction on limited notice, as well as prosecution and civil liability in trespass.

**Background**

In *Eneas, Actton Super-Save Gas Stations Ltd.* (Super Save) operated a gas station on the reserve land of the Penticton Indian Band (also known as the SnPink'tn Indian Band). Mr. Eneas held a Certificate of Possession (CP) on the reserve and, in 1987, he built a gas station on reserve which he later purported to lease to Super Save. The supposed lease was based on a precedent provided by Super Save which did not refer to the fact that the land was on reserve. The federal Crown was not a party to the agreement, and the federal government never approved the lease. The court described the lease as a "buckshee lease", which was legally invalid and unenforceable.

Read the [full article](#) by [Roark Lewis](#) and [Chris Roine](#) with Borden Ladner Gervais LLP.

**BC Whistleblower Protection Extends to Public Post-secondary Institutions**

Following the expansion of the *Public Interest Disclosure Act* (PIDA) in British Columbia, employees in public post-secondary institutions now have enhanced protections when reporting serious wrongdoing. This legislative change, announced by Niki Sharma, BC Attorney General, aims to preserve and uphold integrity and accountability within the public service. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

**SCC Holds that the Charter Applies to Public School Boards in Landmark Decision**

On June 21, 2024, the Supreme Court of Canada (SCC) delivered its decision in *York Region District School Board v. Elementary Teachers' Federation of Ontario*. The SCC held that the *Canadian Charter of Rights and Freedoms* (Charter) applies to Ontario public school boards and that all actions carried on by Ontario public school boards, including their agents and delegates, are subject to Charter scrutiny.

The case also has important implications for the protection of privacy in workplaces across Canada and the standard of review applicable to administrative actors' decisions. Read the [full article](#) by [Brendan MacArthur-Stevens](#), [Gregory Sheppard](#) and [Ellie Marshall](#) with Blakes.

**BC Releases Draft Accessibility Standards**

Engage BC, an initiative of the Government Communications and Public Engagement (GCPE) arm of the provincial cabinet has released draft Accessibility B.C. Act Standards consultation: <https://engage.gov.bc.ca/govtogetherbc/engagement/accessible-bc-standards/>. The standards have been developed by the Provincial Accessibility Committee (<https://www2.gov.bc.ca/gov/content/governments/about-the-bc-government/accessibility/committees/provincial-accessibility-committee>) under the Accessible BC legislation passed by the legislature in 2021. The Province created standards for provincial government bodies in 2022 through regulation. Government has indicated that the final standards may be enacted as regulations under the *Accessible BC Act*. Read the Retail Council of Canada [news release](#).

Act or Regulation Affected	Effective Date	Amendment Information
Designation Regulation No. 2 (125/99)	June 28/24	by <a href="#">Reg 132/2024</a>
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	June 1/24	by <a href="#">Reg 112/2024</a>
Multiculturalism Act	June 30/24	by 2024 Bill 23, c. 22, sections 32 and 33 only (in force by Royal Assent), <a href="#">Anti-Racism Act</a>
Ticket Sales Regulation (129/2021)	June 10/24	by <a href="#">Reg 123/2024</a>



**MOTOR VEHICLE & TRAFFIC**

**Motor Vehicle and Traffic News:**

**BC Supreme Court Awards Damages in ICBC Privacy Breach Class Action**

The BC Supreme Court has awarded \$15,000 in damages to each class member in a class action lawsuit [[2024 BCSC 964](#)] against the Insurance Corporation of British Columbia (ICBC).

The case arose when an ICBC employee, Candy Elaine Rheame, improperly accessed and sold the personal information of ICBC customers. This breach resulted in the information being used for criminal activities, including arson and shooting attacks on the properties of 13 individuals. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

**Canada Announces 30-Day Consultation on Measures to Address**

**China's Trade Practices Related to Electric Vehicles**

On July 2, 2024, Canada will initiate a 30-day consultation period on potential policy responses to China's rapid rise as the world's largest manufacturer of electric vehicles (EVs). Canada alleges that unfair trade practices in the Chinese EV industry directly and indirectly threaten electric vehicles in Canada.

[Finance Canada announced](#) the consultations in a June 24, 2024, press release. The announcement states the Canadian EV industry faces unfair competition from Chinese EVs due to Chinese industrial policies and "lack of rigorous labour and environmental standards" in China's EV industry. According to Canada, these measures have created a global oversupply in EVs that risks disincentivizing investments in EV production worldwide and in Canada. Read the [full article](#) by [Sabrina A. Bandali](#), [George W.H. Reid](#) and [Andrei Mesesan](#) with Bennett Jones LLP.

**BC Court of Appeal Overturns Damages Award for Crash Injuries Due to Credibility Issues**

In a recent decision, the BC Court of Appeal overturned a damages award for motor vehicle accident injuries, citing flaws in the trial judge's findings on causation due to significant credibility issues and lack of corroborative evidence.

In *McGlue v. Girvan*, [2024 BCCA 208](#), Alasdair Girvan was involved in a motor vehicle accident when his vehicle was rear-ended by the appellant, who admitted liability. The primary issue at trial was whether Girvan could prove that the accident caused or exacerbated his injuries, which included pre-existing physical and psychological conditions. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

**CVSE Bulletins & Notices**

The following documents were posted recently by CVSE:

- [Compliance Circular 02-22](#) – Extension of Allowances for Hydro Vac Trucks with Front Mounted Hose Reels Under General Authorization and Letter of Authorization Trial
- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [CVSE 1052 Contacts](#) – Notice to industry that the List of Contacts for use with Form CVSE1052 has been updated (June 18, 2024)

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

- **Accessibility requirements for passenger transportation services**  
The Passenger Transportation Board (Board) is committed to supporting the full and equal participation of people with disabilities, as well as continuing to work towards inclusivity and accessibility across the passenger transportation industry. Read the [full notice](#).
- **Taxi cost data**  
The Passenger Transportation Board (Board) is requesting 2023 cost data from all taxi licensees. Read the [full notice](#).
- **Taxi camera program review**  
The Passenger Transportation Board (Board) has heard numerous issues raised by the taxi sector regarding the taxi camera program. Read the [full notice](#).

Applications Received

- [19727-24](#) – Waivin Flags Ltd.
- [19802-24](#) – Transfer from Douglas Reginald McLean (Encore Limousine Service) to Stacey Louise Bishop
- [19803-24](#) – President Black Car Service Inc.
- [19811-24](#) – Leroy's Limos Ltd.
- [19893-24 ICB](#) – URAY Transportation Inc. (Rider Express)
- [19977-24](#) – Quesnel Taxi Ltd.
- [20018-24](#) – City Star Limousine Service Ltd.
- [19726-24](#) – Oleksandr Porkhun (Men in Black Limo)

Application Decisions

- [20517-24 TOP](#) – Penticton Eco Taxi Ltd. [Approved]
- [19685-24](#) – Gabriola Taxi Ltd. [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Basic Vehicle Damage Coverage Regulation (4/2021)	June 3/24	by <a href="#">Reg 73/2024</a>

Head Office for I.C.B.C. (325/83)	REPEALED June 17/24	by <a href="#">Reg 139/2024</a>
Insurance (Vehicle) Regulation (447/83)	June 18/24	by <a href="#">Reg 153/2024</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 Vehicle Act	June 3/24	by 2023 Bill 23, c. 17, sections 10 (f), 18, 19, 21 and 31 (in force by <a href="#">Reg 74/2024</a> and <a href="#">Reg 75/2024</a> ), <a href="#">Motor Vehicle Amendment Act, 2023</a>
		by 2019 Bill 35, c. 36, section 107 only (in force by <a href="#">Reg 73/2024</a> ), <a href="#">Miscellaneous Statutes Amendment Act (No. 2), 2019</a>
Motor Vehicle Act Regulations (26/58)	June 1/24	by <a href="#">Reg 290/2023</a>
	June 3/24	by <a href="#">Reg 73/2024</a> , <a href="#">Reg 74/2024</a> and <a href="#">Reg 75/2024</a>
Violation Ticket Administration and Fines Regulation (89/97)	June 1/24	by <a href="#">Reg 292/2023</a>
	June 3/24	by <a href="#">Reg 74/2024</a> and <a href="#">Reg 75/2024</a>
	June 18/24	by <a href="#">Reg 145/2024</a>



## OCCUPATIONAL HEALTH & SAFETY

### Occupational Health and Safety News:

#### New First Aid Requirements for Certification and Training

Amendments to the [Occupational Health and Safety Regulation](#) requirements for first aid come into effect on November 1, 2024. In preparation for those changes, employers across the province will need to conduct a first aid assessment in accordance with the new requirements to determine what level of first aid attendant and equipment they will require. In this article, we'll discuss the changes to first aid certification levels, training and transition planning for first aid attendants, and resources that will soon be available to help employers make these changes. Read the [full article](#) in the Summer 2024 issue of *WorkSafe Magazine*.

#### BC Court Orders New Hearing on Worker's Mental Disorder Claim Due to Expert's Incomplete Information

The BC Supreme Court set aside the Workers' Compensation Appeal Tribunal's (WCAT) decision on a worker's mental disorder compensation claim due to procedural unfairness and reliance on incomplete information from an expert. In *J.T. v British Columbia (Workers' Compensation Appeal Tribunal)*, [2024 BCSC 994](#), J.T., J.T., a security guard with Scarlet West Coast Security Ltd., sought judicial review after WCAT denied his appeal against the Workers' Compensation Board's rejection of his mental disorder compensation claim. Read the [full article](#) by [Angelica Dino](#) with *Canadian Lawyer*.

#### BC Federation of Labour Welcomes Expansion of Mental Health Presumption Coverage

The British Columbia Federation of Labour (BCFED) welcomed the recent announcement from the provincial government that provides more workers with easier access to workers' compensation for psychological injuries caused by work-related trauma. Recently, the provincial government added 11 occupations to the mental health presumption under the [Workers Compensation Act](#). Read the [full article](#) by [Jim Wilson](#) published in *Canadian Occupational Safety Magazine*.

#### July 2024 Public Hearing on Proposed Regulatory Amendments

WorkSafeBC is holding a virtual public hearing on proposed amendments to the [Occupational Health and Safety Regulation](#). The virtual public hearing will be streamed live on **July 24, 2024**, from **10 a.m. to 2 p.m.** Further information on how to view or participate in the virtual public hearing will be provided closer to the hearing date. These details will be posted on [worksafebc.com](#). You can access the proposed amendments, along with explanatory notes, using the links below:

[Part 20, Washroom Facilities at Construction Sites](#)

[Part 16, Mobile Equipment, sections 16.21 to 16.21.1 – Seat belts](#)

Read the official WorkSafe BC [release](#).

**Enhancing Crane Safety in British Columbia**

In a significant move to enhance safety in the crane industry, WorkSafeBC has announced a comprehensive risk-reduction strategy aimed at improving crane safety across British Columbia. This initiative comes in response to the increasing number of cranes operating on complex, multi-employer worksites and a slew of recent incidents. The urgency of this strategy was amplified by four incidents earlier this year, including one fatal, and are also highlighted by the 2021 tower crane collapse in Kelowna, which claimed the lives of five workers. These events have spurred WorkSafeBC to undertake a thorough review of crane safety, informed by input from over 130 crane-sector stakeholders. Read the [full article](#) by [Shane Mercer](#) published in *Canadian Occupational Safety Magazine*.

Act or Regulation Affected	Effective Date	Amendment Information
Mental Disorder Presumption Regulation (136/2018)	June 10/24	by <a href="#">Reg 122/2024</a>
Workers Compensation Act Appeal Regulation (132/2024)	June 28/24	by <a href="#">Reg 132/2024</a>



**PROPERTY, REAL ESTATE & CONSTRUCTION**

**Property, Real Estate & Construction News:**

**British Columbia Court of Appeal Clarifies Owner’s Right to Pay Holdback into Court to Discharge Liens on Title**

If an owner agrees to pay amounts owed by a contractor to its subcontractors to avoid lien claims being filed, how does this affect the owner’s right to pay the holdback into court under [section 23 of the Builders Lien Act](#), S.B.C. 1997, c. 45 (the *Act*) to discharge lien claims? The Court of Appeal in *Pinnacle Living (Capstan Village) Lands Inc. v. Fairway Recycle Group Inc.* has recently weighed in on this important question. Section 23 of the Act allows an owner to discharge lien claims from title by paying a prescribed holdback amount into court as security if the lien claims are filed by a class of lien claimants “other than a class of lien claimants engaged by the owner.” Read the [full article](#) by the [Dentons Canada’s Construction group](#).

**Duty Calls: BCCA Considers Duty of Care Owed by Structural Consultants to Building Owners**

*Centurion Apartment Properties Limited Partnership v Sorenson Trilogy Ltd.*, [2024 BCCA 25](#)

The British Columbia Court of Appeal (BCCA) recently held that structural consultants have a *prima facie* duty of care to the owner of a building to ensure that the building does not contain defects that pose a foreseeable danger to the health and safety of its occupants.

**Background**

In 2017, 113407 B.C. Ltd. retained DB Services of Victoria Inc. (DB) to design and construct an 11-storey residential apartment building in Langford, British Columbia (BC). DB Services then retained Sorenson Trilogy Engineering Ltd. (STE) to act as structural engineers on the project. The court noted that although STE was not competent to provide structural engineering services due to a lack of expertise for this size of building, they undertook to do so anyway.

Read the [full article](#) by Denise D. Bright, Jason D. Roth, Brian P. Reid and Graham Bowden with Bennett Jones LLP.

**Electronic Meetings and Proxies**

*Dear Tony:*

Is it possible for owners in a strata corporation to determine how our general meetings are being held? Prior to the Covid era, we had in person meetings, we always struggled with a quorum, and one person always controlled the meetings with a fist of proxies. During the restrictions we held meetings electronically, our owners attending more than doubled, and very few proxies were ever issued. Now we are back at in person meetings because of our president, and he showed up at last week’s meeting with 47 proxies. In a community of 120 units, this guaranteed he had the controlling votes and determined the outcome of decisions and council. Do owners have any say in the type of meeting we hold? – *BDR, Surrey*

*Dear BDR:*

The decision on the type of meeting is determined by the strata council and within the limitations of your bylaws and the [Strata Property Act](#); however, there is an option where the owners by majority vote can direct the council, including the type of meeting being conducted. Twenty percent of the owners can petition for a special general meeting or add an agenda item at your next general meeting, to vote to direct council to conduct meetings electronically.

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

**Holdback Liens Against Holdbacks Up the Construction Chain – Hi-Tide Shoring & Foundations (2012) Ltd. v Chandos Construction Ltd.**

In the recent case of [Hi-Tide Shoring & Foundation \(2012\) Ltd. v Chandos Construction Ltd.](#), the British Columbia Supreme Court



considered whether a sub-subcontractor on a construction project may claim a holdback lien against the holdbacks held up the construction chain or was limited to claiming against the holdback that relates to the sub-subcontractor's own contract. The Court said that subcontractors may claim against holdbacks retained at each level of the construction chain up to the holdback retained by the owner. However, when it comes time to determine how much the subcontractor is paid for that claim of lien, section 34 of the [Builders Lien Act](#) may limit the amount the lien claimants may recover through such claims. Read the [full article](#) by [Marcela Quatu](#) with Civic Legal LLP.

**BC Looks to Change Building Code to Develop Single-stair Apartment Buildings**

BC will look at changing its building code to allow small apartments to be built with a single stair, adding to its reputation as the province most willing to try new ideas to create more housing supply, though the move is also drawing safety-related concerns. Canada's building code, which provinces have generally gone along with, has required two staircases per apartment building since 1941. But BC's Ministry of Housing last week published a research report outlining the optimal conditions for single staircases. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information
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>
shishálh Nation Designation Regulation (489/88)	June 10/24	by <a href="#">Reg 123/2024</a>
Short-Term Rental Accommodations Regulation (268/2023)	June 10/24	by <a href="#">Reg 128/2024</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)	June 10/24	by <a href="#">Reg 123/2024</a>
	July 1/24	by <a href="#">Reg 88/2024</a>
Real Estate Services Rules (209/2021)	July 1/24	by <a href="#">Reg 101/2024</a>
Residential Tenancy Regulation (477/2003)	June 28/24	by <a href="#">Reg 132/2024</a>

 **WILLS & ESTATES**

**Wills and Estates News:**

**BC Supreme Court Rules 'My Children' in Will Refers Only to Children from Deceased's Second Marriage**

In a recent ruling, the BC Supreme Court has ruled that "My Children" in the will refers only to children from the deceased's second marriage.

In *Ritchie v Hamilton*, [2024 BCSC 941](#), the court addressed a dispute regarding the interpretation of the will of the late Danny Lee Ball. The court ruled on a petition filed by Troy William Ritchie, who sought a declaration that the term "My Children" in the will referred only to himself and Tina Nicole Coell, excluding the deceased's other biological children from a previous marriage. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

**B.C. Case Comment: Court Awards Damages for Amount Received by Defendant from Deceased Days Before Death**

If there are suspicions transfers during the deceased's lifetime, these can be scrutinized and investigated after the death of the deceased. A personal representative ought to consider whether any large transfers should be challenged, on the basis that a gift was not intended, or that the transfer is otherwise invalid (i.e. due to undue influence, lack of capacity).

In *Schwab Estate v. Warriner* [2023 BCSC 220](#), the deceased died from a fentanyl overdose at the age of 47. He had two children, aged 11 and 9. The deceased did not leave a will. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

**Navigating Inheritance: Strategies to Preserve Family Harmony and Assets**

A recent court matter involving the death of BC real estate giant Innocenzo de Cotiis, the founder of Onni group, provides a good case study of how families can use various planning tools to protect their wealth and avoid costly litigation.

Innocenzo died in 2020. He was survived by seven children, all boys. Prior to his passing, Innocenzo settled two Alter Ego Trusts, and placed virtually all of his wealth into these Trusts. The effects of moving his assets into these Trusts are twofold: Firstly, the assets moved into the Trusts no longer form part of Innocenzo's estate and are thus sheltered from claims against his estate. Secondly, because the assets moved into the Trusts are not part of Innocenzo's estate, they are not subject to probate fees and they are not subject to public disclosure through probate. Accordingly, in the right circumstances, Alter Ego Trusts can be effective succession planning tools for individuals who seek to reduce fees on death, establish a more private succession of assets, and/or protect their assets from estate claims. Read the [full article](#) by [Michael Scott](#) and [Maria Starko](#) with Clark Wilson LLP.

**BC Supreme Court Disqualifies Lawyer Over Misuse of Privileged Documents in Estate Litigation**

The BC Supreme Court disqualified a lawyer from matters related to a deceased's estate for misusing privileged documents, emphasizing the importance of solicitor-client privilege.

In *De Cotiis Estate*, [2024 BCSC 1024](#), the deceased's former solicitor and named executor sought court orders against the lawyer for the deceased's child. The solicitor requested the return of all documents removed from the deceased's residence and that the lawyer and his firm be disqualified from advising or representing any party related to the deceased's estate. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

**B.C. Case Comment: Court of Appeal Overturns Award Against Notary Who Witnessed Signature to Land Transfer**

What duties does a notary (or lawyer) have when witnessing a signature on a document, such as a land transfer document, to ensure that the person signing the document understands that document and is voluntarily signing it? What if you are only retaining this person for the limited purpose of witnessing your signature because the document must be notarized?

In *Engman v. Canfield* [2023 BCCA 56](#), a notary witnessed a signature on a Form A Transfer document, which transferred her 20-acre property to a third party. The notary only witnessed the signature (and was paid \$50 for his services). It turned out that the transfer was part of an unconscionable purchase and sale agreement, and the transferor was "situationally vulnerable" when she signed the document. She was elderly, had health problems, and was feeling pressure to sell. She was also deprived of important information when she agreed to the sale, and the agreement was the product of unequal bargaining power and was an improvident bargain. However, the notary was not aware of any of this. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

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

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