

Quickscribe Reporter

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Vol: XXIII – Issue 5 – May 2024

QS News

Spring Session Concludes – No Fall Session

The spring session of the BC Legislature wrapped up on May 16th. There were a total of 28 government bills, 28 members' bills and one private bill. By May 16th, all but one of the government bills, Bill 12, and the private bill had achieved Royal Assent. There will be no fall legislative session this year due to the upcoming provincial elections. If you would like to track the progress of bills, or to track changes to any laws that bills amend, we suggest signing up to the BC Legislative Digest alert via the [My Alerts](#) tab.

New Bills

The following bills were introduced in May:

Government Bills

- [Bill 26](#) – Name Amendment Act (No. 2), 2024
- [Bill 27](#) – Municipalities Enabling and Validating (No. 5) Amendment Act, 2024
- [Bill 28](#) – Supply Act, 2024–2025

Members' Bills

- [Bill M217](#) – Non-Disclosure Agreements Act
- [Bill M218](#) – British Columbia Transit Amendment Act, 2024
- [Bill M219](#) – Defibrillator Public Access Act, 2024
- [Bill M220](#) – Control of Foreign Funding and Electoral Influence Act
- [Bill M221](#) – Family Compensation Amendment Act, 2024
- [Bill M222](#) – Early Learning and Child Care Amendment Act, 2024
- [Bill M223](#) – Wildfire (Carter's Law) Amendment Act, 2024
- [Bill M224](#) – Emergency and Disaster Management Amendment Act, 2024
- [Bill M225](#) – Freedom of Information and Protection of Privacy Amendment Act, 2024
- [Bill M226](#) – Land Title Amendment Act, 2024
- [Bill M227](#) – Social Workers Amendment Act, 2024
- [Bill M228](#) – Victims of Crime (Publication Ban Choice and Awareness) Amendment Act, 2024

For more information on the status of these or any other bills, visit our dedicated [Bills page](#), located on the left navigation. If you wish to be notified when these or other changes come into force, check out Quickscribe's customizable alerts via the [My Alerts](#) page. Quickscribe alerts are included with your subscription so feel free to select the alerts that work best for you!

New Annotations

New Annotations have been added to Quickscribe:

- [Rachel Roy](#), Allevato Quail & Roy – [Voting Options Regulation](#)
- [Teresa Tomchak](#), Osler, Hoskin & Harcourt LLP – [Securities Act](#)

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

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COMPANY & FINANCE

Company and Finance News:

Opening the Books: Public Access to ISC Information under the CBCA

Recent amendments to the [Canada Business Corporations Act](#) ("CBCA") have significantly changed Canada's beneficial ownership transparency requirements. Corporations Canada now requires the filing of information on individuals with significant control over a corporation ("ISCs"). Certain information filed with Corporations Canada will now be made available to the public by way of a free, publicly accessible registry. These changes to the CBCA's beneficial ownership requirements bring the federal regime in line with those of other jurisdictions that have moved towards the public disclosure of beneficial owners. Read the [full article](#) by Matthew Brooker, Marcus Hinkley, Zafar B. Jaffer and Derek Varrin with Gowling WLG.

Tolko Industries Ltd. v. British Columbia – Clarifying “non-qualifying activity” under the Provincial Sales Tax Exemption and Refund Regulation

The British Columbia Supreme Court recently clarified the definition of “non-qualifying activity” under subsection 90(1) of the [Provincial Sales Tax Exemption and Refund Regulation](#), BC Reg 97/2013 (the “PSTERR”) in *Tolko Industries Ltd. v. British Columbia 2024 BCSC 599*. The issue was whether pipes used to move steam (“Steam Pipes”) at Tolko’s place of business qualified for an exemption from Provincial Sales Tax (the “PST”) under section 101 of the PSTERR. The Steam Pipes were used at a fully integrated manufacturing site (the “Site”) that Tolko operated. At the Site, Tolko produced electricity and wood products for sale, as well as steam, compressed air, and electricity for its own use. The steam was produced at a Co-Generation Plant on the Site and was used in part to produce electricity and in part in the manufacture of the wood products. The Steam Pipes in issue were used at the Site to transfer the steam from the Co-Generation Plant over to the wood products production plants. Read the [full article](#) published by [Adrian Zee](#) with Thorsteinssons LLP.

FCA Confirms Minister’s Permissible Alternative Arguments under s. 152(9)

In [TPine](#), the Federal Court of Appeal (the “FCA”) considered the Minister of National Revenue’s (the “Minister”) power to raise new arguments at “any time” after the expiration of the normal reassessment period. This is the first appellate-level decision to consider subsection 152(9) of the [Income Tax Act](#) (Canada) (the “Act”) since it was amended in 2016. The FCA provided a helpful review of its prior jurisprudence and concluded that the 2016 amendment did not impose new restrictions on the Minister’s ability to raise new or alternative arguments. For this reason, jurisprudence from before the 2016 amendment remains available to support the Minister’s ability to raise new or alternative arguments. However, it is unclear how courts might allow the Minister to raise alternative arguments that “the income to which an [assessed] amount relates was from a different source”. Read the [full article](#) by Jesse Waslowski and Caine Chapman with McCarthy Tétrault.

DAC Investment – Tax Court Rules that “non-CCPC planning” Is Not Abusive under GAAR

Yesterday [May 9], the Tax Court of Canada released its decision in [DAC Investment Holdings Inc. v R](#). Led by Matthew Williams, Florence Sauve, and Brittany Rossler, the decision represents a major win for taxpayers across the country. In DAC, the appellant took steps to change its status from a Canadian-controlled private corporation (“CCPC”) to a private corporation that was not a CCPC. In doing so, the appellant moved “from one taxing regime with its pluses and minuses to another taxing regime with different pluses and minuses.” (para. 223) Read the [full article](#) prepared by Katherine Neil with Thorsteinssons LLP.

CSA Update Guidance on ESG-Related Investment Fund Disclosure

The Canadian Securities Administrators (“CSA”) have released a revised version of their previous guidance on investment fund disclosure relating to environmental, social and governance (“ESG”) matters (the “Notice”). The Notice was updated to reflect the

CSA's findings in reviews of fund disclosure documents and sales communications conducted in 2022 and 2023 (the "ESG-Focused Reviews"). While the Notice responds to developments in ESG investing and provides more guidance for certain funds, it does not create new or modify existing legal requirements. Read the [full article](#) published by Stikeman Elliott.

Standing Committee Proposes More (Tough) Changes to the Competition Act: Insights on Drip Pricing, Sale Discounts, Greenwashing, and Private Access Rights

[Bill C-59](#) was presented to the House of Commons on May 6 with significant amendments from the Standing Committee on Finance. These changes further strengthen the deceptive marketing provisions of the [Competition Act](#) with particular reference to misleading price representations and environmental claims. For businesses, the proposed amendments to the deceptive marketing provisions will increase compliance burdens and litigation risk, consistent with the general theme of the series of [Competition Act](#) amendments put forward in 2022, 2023 and now in 2024. While the stated purpose of the amendments exercise over the past several years has been to foster greater productivity and lower inflation, and to benefit the Canadian economy, the actual likely practical effect of the changes on businesses is to increase their compliance costs, increase their potential liability, and provide more parties with standing to sue them. Read the [full article](#) by Irma Shaboian with Stikeman Elliott.

Updates to BC Sales Taxes

The following updates to sales taxes were recently posted:

Provincial sales tax (PST)

- **May 24, 2024**

[Bulletin PST 305, Containers and Packaging Materials \(PDF, 340KB\)](#), has been revised to:

- Clarify that for the purposes of this bulletin, exempt from PST may also mean a non-taxable good or service that is not subject to PST
- Clarify when you pay PST on containers and packaging materials that you use when providing a service
- Remove the reference to returnable alcoholic beverage containers from the list of reusable containers that is used to package or deliver goods and can be returned and reused
- Clarify when you must collect PST on containers and packaging materials even if the goods or services themselves are exempt from PST
- Clarify when you do not collect PST on containers and packaging materials including when the bundled sales exemption applies and when they are considered incidental to your service

- **May 27, 2024**

The following real property contractor bulletins have been revised for various updates.

[Bulletin PST 500, PST Overview for Real Property Contractors \(PDF, 300KB\)](#)

- Clarified that a contractor includes one who supplies goods and arranges for a third party to install those goods on their behalf if the goods become part of real property
- Clarified that a contractor does not charge their customer PST on installation services if the goods become part of real property

[Bulletin PST 501, Real Property Contractors \(PDF, 340KB\)](#)

- Clarified that a contractor includes one who supplies goods and arranges for a third party to install those goods on their behalf if the goods become part of real property
- Clarified that a contractor does not charge their customer PST on installation services if the goods become part of real property
- Clarified the exemption criteria for contractors when fulfilling contracts with persons exempt from PST

[Bulletin PST 502, Examples – Goods That Generally Become Part of Real Property and Goods That Do Not \(PDF, 310KB\)](#)

- Added cranes (permanently attached and expected to remain on site for its useful life) to the list of goods that generally become part of real property
- Clarified that hot tubs generally become part of real property when attached to land or buildings Clarified that permanent signage generally becomes part of real property
- Clarified that temporary signs and banners generally do not become part of real property

[Bulletin PST 503, Affixed Machinery \(PDF, 340KB\)](#)

- Updated formatting and language for consistency

[Bulletin PST 504, Contractors Who are Also Retailers or Wholesalers \(PDF, 330KB\)](#)

- Clarified when contractors are eligible for a refund of PST paid when using goods fulfilling contracts with exempt persons
- Updated the list of other relevant documents to support a refund claim when fulfilling contracts with exempt persons

Motor fuel tax and carbon tax

- **May 8, 2024**

The following bulletin and webpage have been updated to include information on the B.C. output-based pricing system carbon tax exemption:

- [Bulletin CT 002, Carbon Tax Refunds for Purchasers \(PDF, 190KB\)](#)
- [Motor fuel tax and carbon tax exemptions](#)

[Bulletin MFT-CT 001, Fuel Sellers \(PDF, 240KB\)](#), has been updated to:

- Reword information about fines for non-compliance
- Add information on the carbon tax exemption for B.C. output-based pricing system registrants

- Revise information on tax rate changes

• **May 28, 2024**

[Bulletin MFT-CT 007, Refunds for Deputy Collectors and Retail Dealers \(PDF, 170KB\)](#), has been updated to:

- Add information reminding fuel sellers that they are required to record specific information or collect documentation that supports exempt sales or fuel sold at a lower rate of tax or security
- Add information on the carbon tax exemption for B.C. output-based pricing system registrants
- Clarify that collectors must claim refunds or credits on their tax returns

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

BC Securities – Policies & Instruments

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

- [96-931](#) – Exemption from derivatives reporting requirements in Multilateral Instrument 96-101 Trade Repositories and Derivatives Data Reporting for certain derivatives data relating to the Canadian dollar offered rate
- [81-102](#) – CSA Notice of Publication Amendments to National Instrument 81-102 Investment Funds and Changes to Companion Policy 81-102CP to National Instrument 81-102 Investment Funds to Accommodate a Range of Settlement Cycles for Mutual Funds
- [24-101](#) – Amended National Instrument 24-101 Institutional Trade Matching and Settlement and Changes to Companion Policy 24-101 Institutional Trade Matching and Settlement
- [25-102](#) – CSA Notice and Request for Comment - Proposed Amendments to Multilateral Instrument 25-102 Designated Benchmarks and Benchmark Administrators and Proposed Changes to Companion Policy 25-102 Designated Benchmarks and Benchmark Administrators

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

Act or Regulation Affected	Effective Date	Amendment Information
Climate Action Tax Credit Regulation (135/2008)	May 13/24	by Reg 100/2024
Designated Accommodation Area Tax Regulation (93/2013)	June 1/24	by Reg 13/2024
InBC Investment Corp. Act	May 20/24	by 2021 Bill 5, c. 13, section 35 (3) only
Interactive Digital Media Tax Credit Regulation (187/2010)	May 21/24	by Reg 111/2024
National Instrument 24-101 <i>Institutional Trade Matching and Settlement</i> (64/2007)	May 27/24	by Reg 109/2024
Notaries Act	May 16/24	by 2024 Bill 21, c. 26, section 314 only (in force by Royal Assent), Legal Professions Act
Special Accounts Appropriation and Control Act	May 3/24	by 2023 Bill 3, c. 2, section 10 only (in force by Reg 92/2024), Miscellaneous Statutes Amendment Act, 2023

 **ENERGY & MINES**

Energy and Mines News:

Energy Resource Activities Act Amendment

On June 1, 2024, the [Energy Resource Activities Act](#) was amended by [2018 Bill 15, c. 15](#) and [2019 Bill 14, c. 26](#) to add authority for the regulator to exercise powers under sections 12.2 to 12.8 of the [Heritage Conservation Act](#).

Residents Only: B.C. Court of Appeal Confirms Plaintiff Residency Requirement for Class Actions

On April 30, 2024, the British Columbia Court of Appeal confirmed in [MM Fund v. Excelsior Mining Corp.](#) that only residents of B.C. may commence class actions under the provincial [Class Proceedings Act](#) (CPA), with the effect of preventing non-residents from commencing proposed class actions in the province for perceived procedural advantage. The Court of Appeal also clarified that for the purpose of the CPA, a corporation or trust is "resident" where its central management and control takes place. Read the [full article](#) by [James Sullivan, KC](#), [Robin Reinertson](#), [Joshua Hutchinson](#) and [Marie Turcott](#) with Blake, Cassels & Graydon LLP.

Amping up the Rules: BC to Regulate

Crypto-Mining Electricity Use

On May 7, 2024, the Province of British Columbia (the "Province" or "BC") enacted Bill 24, [Energy Statutes Amendment Act, 2024](#), 5th Sess, 42nd Parl, British Columbia, 2024 ("Bill 24"). Upon receiving royal assent on May 16, Bill 24 amended the [Utilities Commission Act](#) (the "UCA") to enable the Province to enact regulations regarding public utilities' provision of electricity service to cryptocurrency miners. Until regulations are published, the implications of this broad power to regulate power supply for Cryptocurrency mining ("crypto-mining") remain an open question.

This post reviews the history and details of the proposed legislative amendments, as well as the next steps and potential implications of the Province's efforts to regulate the provision of electricity service to cryptocurrency miners. Read the [full article](#) by [Kimberly J. Howard](#), [Dave Nikolejsin](#), [Val Lucas](#), [Rachael Carlson](#) and [Katherine Griffin](#) with McCarthy Tétrault LLP.

Feds Lean on B.C. to Produce More Critical Minerals

B.C. is playing a crucial role in the federal government's plan to ensure Canada produces 31 minerals deemed critical to the economic future.

During a Conversations Live project hosted by Stuart McNish on Wednesday night, an expert panel outlined how these important minerals are part of a larger geopolitical movement and that B.C. has huge prospects for growth and job creation in mining.

As an example, Michael Goehring, president and CEO of the Mining Association of B.C., said that B.C. produces 80 per cent of Canada's copper and that mineral is turned into the "electrification metal." Read the [Vancouver Sun article](#) (paywall).

New Regulations Keep Mining Sector Safe for People, Environment

The Province is taking action to protect the environment and help keep people working in the mining sector safe through regulatory amendments that will further reduce exposure to risks on B.C. mine sites.

The Province is committed to continuously improve, strengthen and reform the regulatory framework, fostering a sustainable and safe mining industry that creates secure, family-supporting jobs.

The [Health, Safety and Reclamation Code for Mines in British Columbia](#) includes regulatory standards that address all stages of a mine's life from exploration to mine development, operation, closure and reclamation. Read the government [news release](#).

Transitioning Period Set for Jade Mining in Northwestern B.C.

The Province has established an immediate [Environment and Land Use Act order](#) prohibiting jade mining activities on new tenures in northwestern B.C.

Current tenure holders listed in the order will be able to continue jade mining for five years with enhanced reclamation requirements.

The [Environment and Land Use Act order](#) is limited to jade mining activities in northwestern B.C. The order does not impact other mining operations in the region, nor does it affect existing or new jade tenures in other areas of B.C. Read the government [news release](#).

BC Energy Regulator Announcements

The following BC Energy Regulator announcements were posted recently:

- [IU 2024-06](#) – Information Session for Heritage Conservation Act Permitting
- [TU 2024-04](#) – New Approaches to Managing the Effects of Energy Development Replaces Area-based Analysis
- [IU 2024-07](#) – Release of Multi-year Aerial Leak Survey of Decommissioned Wells Report
- [IU 2024-08](#) – Permits Required for Hydrogen, Ammonia and Methanol Operators

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

Updates to Natural Resource Taxes

There were no updates to natural resource taxes posted recently. For more information, visit the BC government [website](#).

Act or Regulation Affected	Effective Date	Amendment Information
Clean Energy Act	May 16/24	by 2024 Bill 24, c. 20, sections 1 to 3 only (in force by Royal Assent), Energy Statutes Amendment Act, 2024
Energy Resource Activities Act	June 1/24	by 2018 Bill 15, c. 15, section 1 (in force by Reg 267/2023), Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018
Utilities Commission Act	May 16/24	by 2024 Bill 24, c. 20, sections 4 to 6 only (in force by Royal Assent), Energy Statutes Amendment Act, 2024
Water Utility Act	May 16/24	by 2024 Bill 24, c. 20, sections 4 to 6 only (in force by Royal Assent), Energy Statutes Amendment Act, 2024



FAMILY & CHILDREN

Family and Children News:

BC Court of Appeal Overturns Ruling Requiring Disclosure of Privileged Information on Birth Alerts

The BC Court of Appeal has overturned a decision that required the Ministry of Children and Family Development to disclose solicitor-client privileged information about birth alerts.

The [ruling](#) came after digital news platform IndigiNews requested access to records regarding birth alerts issued between June 2019 and September 2020. The Ministry had issued birth alerts for decades when they were concerned that a mother might put a newborn at risk. Hospitals were notified upon the mother's admission, and a social worker would assess whether the baby should be taken into government care. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Changes to Prescribed Forms for Child, Family and Community Service

On May 16, changes were made to the [Child, Family and Community Service Act](#) and [Child, Family and Community Service Regulations](#) to update various forms and notifications.

Anti SOGI Protests on B.C. School Grounds Banned Under New Legislation [Now in Force]

A [new law](#) will allow police to arrest or ticket anyone impeding access, disrupting educational activities or attempting to intimidate anyone within 20 metres of public school grounds in B.C. On Wednesday, B.C. Premier David Eby said the legislation was aimed at preventing disruptive behaviour, including aggressive protests, on school grounds. "While everyone has a right to freedom of expression, disrupting or scaring kids while they're learning in schools should be, and soon will be, illegal," said Premier David Eby. Read the [full article](#) in the *Vancouver Sun* (paywall).

BC Supreme Court Rules for Equal Asset Division in Port Alberni Property Dispute

The BC Supreme Court ruled for an equal division of assets in the dispute between former spouses who operated a bed and breakfast in Port Alberni.

The dispute in *Creelman v Heuser*, [2024 BCSC 754](#), involves a long-standing property dispute between Kenneth Creelman and Cheryl Heuser following their separation in March 2020. The couple, who had been married for 27 years and jointly operated a bed and breakfast in Port Alberni, BC, presented conflicting claims regarding the division of family property and debts. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Act or Regulation Affected	Effective Date	Amendment Information
Child, Family and Community Service Act	May 16/24	by 2024 Bill 5, c. 5, section 5 only (in force by Reg 102/2024), Child, Family and Community Service Amendment Act, 2024
Child, Family & Community Service Regulation (527/95)	May 16/24	by Reg 102/2024
Official Reporters (Supreme Court) Regulation (227/2021)	May 7/24	by Reg 94/2024
Provincial Court (Child, Family & Community Service) Rules (533/95)	May 16/24	by Reg 103/2024



FOREST & ENVIRONMENT

Forest and Environment News:

B.C. Implements New Output-Based Pricing System for Carbon Emissions

Recently, British Columbia made changes to its industrial greenhouse gas emissions regime by implementing a mandatory carbon emissions output-based pricing system (OBPS) for major industrial operations. The OBPS replaces the CleanBC Industrial Incentive Program (CIIP).

The OBPS is intended to reduce industrial greenhouse gases to meet B.C.'s climate goals set out in the CleanBC Roadmap to 2030, while meeting the national standards. Read the [full article](#) by [Holly Stewart](#), [Tony Crossman](#) and [Matthew Vreugde](#) with Blake, Cassels & Graydon LLP.

B.C. Imposes New Rules on Boaters to Stop Spread of Parasite

British Columbia's chief veterinarian has issued an [order](#) making it illegal to transport boats or other watercraft without removing the drain plug to prevent the spread of whirling disease.

Whirling disease, which is fatal in fish, is caused by a microscopic parasite that mainly targets salmon and trout. The Ministry of Water, Land and Resource Stewardship says the order takes effect on Friday [May 17] and is also intended to keep invasive mussels out of B.C. waterways.

Boat operators are required to clean, drain and dry all watercraft and remove all mud, sand and plants before leaving the shore. Vessels will also have to dry out for at least 24 hours before entering new waters. Read the [CBC article](#).

BC's Public Interest Bonding Strategy Expands the Reach of "Polluter Pays"

The Public Interest Bonding Strategy ("Strategy") was created to ensure owners of large industrial projects pay for environmental clean-up if projects are not fully decommissioned or are abandoned. The Strategy is being developed in two phases: Phase 1 addresses foreseen clean-up costs of new and existing facilities permitted under BC's [Environmental Management Act](#) ("EMA") and Phase 2 will address unforeseen clean-up costs of facilities permitted under the EMA, and foreseen costs of facilities authorized under other legislation. The Ministry of Environment and Climate Change Strategy ("Ministry") launched consultations on the Strategy in 2022. Read the [full article](#) by [Sabrina Spencer](#) and [Tara Bishop](#) with Fasken Martineau DuMoulin LLP.

Preparing BC Forestry Workers for Wildfires

Last year's wildfire season in BC was the most destructive on record, with 2.8 million hectares burned – more than double any previous year. The fires caused significant disruption to the work and lives of many people in BC, and the impact was felt strongly by those in the forest industry. Evacuations and alerts, oppressive smoke, high heat, area closures, and lack of access to industry critical resources, including helicopters, were among the many challenges faced by the industry.

The influence of El Niño contributed to the warm and dry climate throughout 2023, and this pattern has continued into the spring of 2024. Coupled with below-average precipitation and above-average temperatures expected over the coming months, the prolonged drought conditions are once again setting the stage for a challenging 2024 fire season across the province. Read the [full article](#) in the *Forest Safety News* June 2024 issue.

Right to Life, Liberty, Security of the Person, and Perhaps an Environment Free from Climate Change

While common law tends to evolve methodically, the impending climate crisis does not. The Federal Court of Appeal grappled with this dilemma in *La Rose v Canada*, [2023 FCA 241](#) ("*La Rose FCA*"), ultimately reinvigorating the plaintiffs' claims by concluding that climate change issues are justiciable and the governments' response (or lack thereof) may ground a section 7 [Charter](#) challenge.

The *La Rose FCA* decision concerns two separate actions. Both actions alleged that the Federal Government failed in its response to climate change which, as a result, violated the plaintiffs' section 7 (right to life, liberty, and security of person) and section 15 (equality provision) *Charter* rights. Read the [full article](#) by [Susan Fridlyand](#) with Woodward & Company LLP.

B.C. Provides Update on Old-Growth Conservation

The Province is securing a better future for B.C.'s forests and communities by taking better care of more old-growth forests, supporting local jobs and building a more sustainable and resilient forestry industry.

Released on Tuesday, May 21, 2024, the B.C. government's [update](#) reports on work underway in response to the 14 recommendations made by an independent panel in a 2020 review of B.C.'s old forests. It also outlines next steps as the Province and First Nations, alongside the forestry sector, workers and communities, take action to better care for forests, provide stability for B.C.'s forestry communities, and address challenges associated with climate change and wildfires. Read the government [news release](#).

B.C. Forest Industry Urges Government Action Amidst Mill Closures

Linda Coady, president and CEO of the BC Council of Forest Industries (COFI), has voiced concerns over the escalating closures and curtailments of lumber, pulp, and paper mills in B.C.

Coady emphasized the urgent need for the provincial government to swiftly address challenges in timber supply stabilization. Read the [article](#) from Canadian Forest Industries.

Hunting Regulation Changes Support Wildlife Stewardship, Reconciliation

The Province is updating [limited-entry hunting regulations](#) to sustainably manage B.C. wildlife, respect First Nations' hunting rights and provide hunters with a diversity of recreational and economic opportunities.

The recent changes affect the hunting of moose, caribou, elk, bighorn sheep, thimhorn sheep, mountain goats, white-tailed deer and mule deer.

Some regulation changes present new hunting opportunities in various parts of the province, including one regulation that was converted to a general open-season hunt for antlerless white-tailed deer in the Cariboo Region. Read the government [news release](#).

Stronger Enforcement Options Will Stop Illegal Activities in B.C. Parks

British Columbia's natural environment will be better protected with stronger enforcement to stop people from committing environmental crimes in provincial parks, protected areas and ecological reserves.

Regulatory changes are being made today [May 3] to the [Park Act](#) and [Ecological Reserve Act](#) to bring administrative penalties of as much as \$500,000 into the list of enforcement options available to BC Parks staff. Read the government [news release](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [KMS Tools and Equipment Ltd. v. Director, Environmental Management Act](#) [Final Decision – Appeal Dismissed]
- [Kensington Union Bay Properties GP Ltd. v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

[Integrated Pest Management Act](#)

- [Communities United for Clean Air and Dr. Tynan v. Administrator, Integrated Pest Management Act](#) [Decision on Stay Applications – Denied]

[Water Sustainability Act](#)

- [Kathleen and John Ehrlich v. Water Manager](#) [Document Production Application Decision – 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](#)

- [Cassiar Forest Corp. v. Government of British Columbia](#) [Preliminary Decision on Document Production – Denied]
- [Tk'emlupsemc Forestry Development Corporation v. Government of British Columbia](#) [Final Decision – Allowed in Part]
- [Lemare Lake Logging Ltd. and Lions Gate Forest Products Ltd. v. Government of British Columbia](#) [Final Decision – Appeals Granted]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties (Ecological Reserve Act) Regulation (92/2024)	NEW May 3/24	see Reg 92/2024
Administrative Penalties (Park Act) Regulation (93/2024)	NEW May 3/24	see Reg 93/2024
Ecological Reserve Act	May 3/24	by 2023 Bill 3, c. 2, sections 3 to 5 only (in force by Reg 92/2024), Miscellaneous Statutes Amendment Act, 2023
Great Bear Rainforest (Forest Management) Regulation (327/2016)	May 23/24	by Reg 113/2024
Great Bear Rainforest (Special Forest Management Area) Regulation (325/2016)	May 23/24	by Reg 113/2024
Hunting Regulation (190/84)	May 16/24	by Reg 108/2024
Limited Entry Hunting Regulation (134/93)	May 16/24	by Reg 108/2024
Management Unit Regulation (64/96)	May 16/24	by Reg 108/2024
Park Act	May 3/24	by 2023 Bill 3, c. 2, sections 6 to 8 only (in force by Reg 92/2024), Miscellaneous Statutes Amendment Act, 2023



Health News:

New Report Published on Access to Justice

and the BC Mental Health Act

A recently published report documents significant access to justice barriers for people who are detained and experiencing constitutional rights impacts under the [Mental Health Act](#) in BC. Through engagement with people most directly impacted, data analysis, and legal research, *Upstream Barriers, Downstream Crisis: Denial of Justice under BC’s Mental Health Act* shows how BC has reached an access to justice crisis and what we can do about it. The action areas identified include addressing disparities in legal aid compensation rates for lawyers, creating a government-funded service designed to fulfill constitutional rights to legal advice upon detention, and eliminating legislative and policy barriers to hearings. Read the full report and interactive summaries of the publication’s main points on the [Health Justice website](#). [Quickscribe plans to leverage the [Supplemental Notes](#) feature to make references to this Report adjacent to relevant sections of the Act.]

BC Supreme Court Upholds Solicitor-client Privilege in Medical Negligence Case

The BC Supreme Court dismissed an application by Dr. Gerald Nemanishen, which argued that the plaintiff, Warren Homan, waived privilege in his reply to a medical negligence claim. The dispute in *Homan v Nemanishen*, [2024 BCSC 735](#) centered around the confidentiality of solicitor-client privilege. Dr. Nemanishen’s application claimed that Homan had inadvertently waived privilege by detailing his engagement with legal counsel and the timing of receiving medical records in his legal pleadings. These documents were pivotal in addressing a limitation defence that Dr. Nemanishen raised, arguing the claim was time-barred under the [Limitation Act](#). Read the [full article](#) by Angelica Dino with *Canadian Lawyer*.

Consultation Begins to Designate Psychotherapy as Regulated Health Profession

The Province is introducing changes to increase patient safety and create more consistent care delivery for people accessing mental-health services as consultation begins to designate those who offer psychotherapy as a regulated health profession under the [Health Professions Act](#). The practise of psychotherapy is used to treat mental-health conditions, disorders and psychological problems, which can involve directly treating a patient’s psyche. Those who offer psychotherapy with a focus on patients’ mental health may include some individuals currently using titles such as clinical counsellors, counselling therapists and psychotherapists. Read the government [news release](#).

BC Supreme Court Upholds COVID Vax Mandate for Healthcare Workers

The British Columbia Supreme Court has upheld the COVID-19 vaccination mandate issued by Provincial Health Officer (PHO) Dr. Bonnie Henry which continues to be in effect today. With this, the 15 petitioners – included in three separate petitions – who lost their jobs for not complying with the mandate will not be getting their jobs back any time soon. BC Supreme Court Justice Simon Coval dismissed the petitions, with an exception. Read the [full article](#) by Jim Wilson with *Canadian HRReporter*.

BC Case Comment: Obtaining a Committeeship Order When You Have an Adult Guardianship Order in Another Jurisdiction

A person may be appointed as a committee to manage an incapable person and/or their affairs. The usual process is to bring an application under the [Patients Property Act](#) [RSBC 1996] Chapter 349 for an order declaring the person incapable, and the appointment of a committee.

A person applying for a committee order must provide affidavits of two medical practitioners setting out their opinion that the person who is the subject of the application is, because of mental infirmity arising from disease, age or otherwise, or disorder or disability of mind arising from the use of drugs, incapable of managing their person or their affairs. Without the two affidavits, the court cannot make the order under the act. Read the [full article](#) by James Zaitsoff on the BC Estate Litigation Blog.

BC Considering Making CPR Training, Naloxone Training Mandatory in Schools

"One group is calling for life-saving lessons to be mandatory in high schools in British Columbia, and they want overdose response to be included in the curriculum. With this change, "the students learn what are opioids, and how do opioid overdoses happen. They learn what is naloxone, and how does it work. And then they learn how to respond to a suspected opioid overdose," said Sandra Clark, the executive director of the ACT Foundation, a charity that trains people in how to perform CPR and administer naloxone to reverse overdoses, in a CTV News report. Read the [full article](#) by Jim Wilson on *Canadian Occupational Safety*.

Act or Regulation Affected	Effective Date	Amendment Information
Psychologists Regulation (289/2008)	May 1/24	by Reg 204/2022

 **LABOUR & EMPLOYMENT**

Labour and Employment News:

New Federal Ban on Replacement Workers

On May 27, 2024, the House of Commons unanimously passed [Bill C-58](#) (the "Bill"), which seeks to restrict federally-regulated employers from hiring replacement workers during lockouts or strikes.

If the Bill is passed by the Senate and receives Royal Assent, as is anticipated, it will make several consequential amendments to the [Canada Labour Code, 1985](#) (the "Code"), including the following:

1. Prohibiting employers or persons acting on their behalf from using the services of certain categories of persons to perform

- all or part of the duties of an employee in the bargaining unit on strike or lockout;
- 2. Removing the requirement of demonstrating a purpose of undermining a trade union's representational capacity;
- 3. Requiring employers and trade unions to agree upon activities that need to be maintained in the event of a legal strike or lockout; and
- 4. Imposing penalties and authorizing regulations to promote compliance.

Read the [full article](#) by [Prateek Awasthi](#) with Mathews, Dinsdale & Clark LLP.

A Failed Judicial Review by Terminated Employee Who Threatened Violence

[Wepruk v. Canada \(Attorney General\)](#), [2024] F.C.J. No. 526, Federal Court of Appeal, March 21, 2024, M.J.L. Gleason, M. Biringer and E. Walker JJ.A.

An employee of Health Canada stated that she would soon "snap" and "commit violence" toward her manager and was later terminated for cause following an investigation and disciplinary hearing. The employee applicant grieved the decision to the Federal Public Sector Labour Relations and Employment Board, who upheld the employer's decision. The Federal Court confirmed the Board's decision as reasonable and procedurally fair.

This case concerns the judicial review of a decision of the Federal Public Sector Labour Relations and Employment Board (the "Board") to dismiss the applicant's grievance and uphold the employer's termination of the applicant. Read the [full article](#) by [Roshni Veerapen](#) with Harper Grey LLP.

BC Supreme Court Dismisses Class Action in Tim Hortons 'No-Hire' Clause Case

The BC Supreme Court has [dismissed](#) a proposed class action lawsuit against Tim Hortons, ruling that there are no genuine issues for trial concerning the "no-hire" clause in its franchise agreements.

The plaintiff, a former employee, sought to certify a class of all current and former employees of Tim Hortons in Canada, alleging that the clause unlawfully suppressed wages and restricted employment mobility. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Employer alert: Canada to Increase Off-Campus Work Hours for International Students This Fall

As of May 1, 2024, Canada ended its temporary waiver of the 20-hour-per-week limit on the number of hours that international students are allowed to work during academic sessions.

However, the Minister of Immigration recently announced that in the fall of 2024, the number of hours international students may work off-campus during academic sessions will be increased from 20 to 24 hours per week. Further details will be provided in due course. Read the [full article](#) by [Bill MacGregor](#) with Gowling WLG.

"Dependent" Contractors Entitled to Reasonable Notice of Termination

A worker's classification as an employee, independent contractor, or dependent contractor comes with significant legal implications, which affect the rights and obligations of both workers and employers. While many businesses are familiar with the categories of employee and independent contractor, some may not be aware of the intermediary: dependent contractors. As dependent contractors are increasingly recognized by the courts, it is important that employers become aware of this status and its legal significance. The recent BC Supreme Court case *Cvjetkovich v. Breezemax Web (Ca) Ltd.*, [2024 BCSC 808](#), explored the classification of dependent contractors. Read the [full article](#) by [Emma Jerrott](#) with Harper Grey LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Act	May 13/24	by 2024 Bill 7, c. 4, sections 4, 8 and 10 only (in force by Reg 98/2024), Social Development and Poverty Reduction Statutes Amendment Act, 2024
Employment and Assistance Regulation (263/2002)	May 13/24	by Reg 98/2024
	June 1/24	
Employment and Assistance for Persons with Disabilities Act	May 13/24	by 2024 Bill 7, c. 4, section 23 only (in force by Reg 98/2024), Social Development and Poverty Reduction Statutes Amendment Act, 2024
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	May 13/24	by Reg 98/2024
	June 1/24	

Local Government News:

Reminder: June 30 Changes to Bylaws for Transit-Oriented Areas and SSMUH Requirements

As of June 30, provisions of [Bill 47](#), the *Housing Statutes (Transit-Oriented Areas) Amendment Act, 2023*, will come into 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](#).

TOA Policy Manual Updated – May 29th

On May 29, the [Provincial Policy Manual: Transit-Oriented Areas](#) was updated to provide further clarification on how to identify a transit-oriented area (TOA). TOAs enclose land within either a 400m or 800m radius around a transit station, as measured from the distances and coordinates established in the [regulations](#). Local governments must use these distances and coordinates when preparing their TOA bylaws.

The updates also include clarification with respect to off-street parking for residential use, requiring local governments to adopt a bylaw that reflects the new parking restrictions set out in the [Local Government Act](#) or [Vancouver Charter](#), by June 30, 2024, a copy of which can be sent by email to the [Ministry of Transportation and Infrastructure](#).

Questions of Duty, Discretion and Liability: When Every Bylaw Cannot be Effectively Enforced Everywhere All at Once

A local government bylaw enforcement officer will be aware of many bylaw contraventions within their community. The responses from the community and the local government to these contraventions may differ widely. Some contraventions will be the source of many complaints, whereas others will only be noticed by local government staff. Some contraventions will be committed by difficult, defiant individuals, whereas other contraveners will attract sympathy. And some contraventions will raise significant safety concerns, whereas other contraventions appear to be harmless breaking of the rules. These differences, combined with budgetary and other resource limitations, require the exercise of discretion in enforcement, with some contraventions being prioritized over others. The courts have repeatedly recognized the need for such discretion in effective local government regulation, but the courts have also identified some important limits. Read the [full article](#) by [Michael Moll](#) with Civic Legal LLP.

The Continuing Saga of Non-conforming Use Law in British Columbia: Court of Appeal interprets section 529 of the Local Government Act; Supreme Court of Canada refuses leave to appeal in a different case

Sakinaw Lake might be another casualty in the war waged against hidden gems by social media oversharing. But in case you didn't already know, it's an idyllic body of fresh water where the sounds of nature are interrupted only by the buzz of motorized watercraft, and the replacement of quaint lakefront cottages, built before zoning was introduced, hampered only by a "Kafkaesque" maze of regulatory hurdles and bureaucratic delay. At least, that is what the Supreme Court of British Columbia found following seven days of argument on a question about the Sunshine Coast Regional District's right to enforce against zoning bylaw breaches after it issued a permit to demolish and replace a 4800 square foot "cottage" perched just 30 feet from Sakinaw Lake's natural boundary. The cottage could have remained exactly as it was despite its proximity to the lake because it was built there before any bylaws contemplated otherwise. In other words, it was protected from those bylaws by section 529 of the [Local Government Act](#). Read the [full bulletin](#) by Guy Patterson with Young Anderson Barristers & Solicitors.

Approval Exemption (Controlled Access Highway)

Effective May 10, the [Approval Exemption \(Controlled Access Highway\) Regulation](#), B.C. Reg. 99/2024, came into force. The new Regulation provides that a municipality or regional district is exempt from the requirement for approval of the minister respecting a zoning bylaw for development near a controlled access highway if:

- the bylaw is made only for the purpose of complying with [section 481.3 \[zoning bylaws and small-scale multi-family housing\] of the Local Government Act](#),
- the bylaw permits the use and minimum density of use set out in section 481.3 of the *Local Government Act* or a regulation made under that section, and
- the bylaw does not permit a density of use that is greater than the minimum density of use set out in section 481.3 of the *Local Government Act* or a regulation made under that section.

Concerns Raised over Urban Containment Boundary as Saanich Adopts new OCP

Coun. Judy Brownoff, who voted against the new OCP, said new wording in the document seems to make it easier to expand the urban containment boundary. The District of Saanich's new Official Community Plan was adopted Tuesday [May 7], despite opposition from two councillors concerned about the future of the urban containment boundary, which protects rural land from most forms of development. During lengthy deliberations before the plan was adopted by a 7-2 vote, Coun. Judy Brownoff said new wording in the document seems to make it easier to expand the urban containment boundary. Under the previous policy, she said, bylaws or resolutions allowing a major expansion to the urban containment boundary could not be adopted without assent via referendum or plebiscite. The new wording, however, says major changes to the urban containment boundary can be considered if it's the outcome of a review of the regional growth strategy. Read the full *Times Colonist* [article](#) (paywall).

How New Amendments to the Local Government Act Can Affect Developers and Contractors: An Overview of the Housing Statutes Amendment Act, 2024, SBC 2024, c 11

In addition to the slew of changes made to the [Local Government Act](#) and [Community Charter](#) last year and earlier this year, the

Province of British Columbia's recently-enacted [Housing Statutes Amendment Act, 2024](#) (the "Housing Act") came into force on April 25, 2024, further changing the *Local Government Act* and *Community Charter* by expanding local government powers and providing local governments with increased ability to implement density bonus conditions and to regulate affordable and special needs housing, works and services, and sustainable transportation measures. Accordingly, developers and contractors should be aware of potential changes coming to their municipality or regional district that may affect future building projects. Read the [full article](#) by Kai Hsieh with Civic Legal LLP.

Guidance Provided for Indigenous Engagement Required by EDMA

The Province has developed new [guidance](#) for emergency management partners, including local governments, related to engagement responsibilities included in the [Emergency and Disaster Management Act](#) (EDMA). The guidance will be updated annually, and as new tools and regulations associated with the EDMA come into effect. Read the UBCM [article](#).

Province Sets Targets that Could Significantly Expand Application of Housing Supply Act

In their most recent [Service Plan](#), the Ministry of Housing has indicated that cumulative targets for "specified municipalities assigned housing targets" will increase to 68-80 municipalities by 2026/27. When the [Housing Supply Act](#) was originally enacted, the Province indicated that it would be applied to set housing targets in municipalities with the greatest need and highest projected growth. The increase of communities required to meet targets represents a significant expansion in the scope of the initiative. Read the UBCM [article](#).

Federal Government Approves Decriminalization Changes

The federal government has approved the Province of BC's request to further control consumption of illicit drugs in public spaces. The change took place immediately as of May 7, 2024. Possession of small amounts of illicit drugs is still permitted. The Province issued its request on April 26, asking Health Canada to make it illegal to use illicit drugs in all public spaces, including inside hospitals, on transit, and in parks. With this change, police now have the ability to ask users to leave an area, seize drugs when necessary, or arrest a person if required. Read the UBCM [article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Approval Exemption (Controlled Access Highway) Regulation (99/2024)	NEW May 10/24	see Reg 99/2024
Assessment Authority Act	June 1/24	by 2024 Bill 3, c. 13, section 18 only (in force by Royal Assent), Budget Measures Implementation Act, 2024
Building Act General Regulation (131/2016)	May 28/24	by Reg 119/2024
Municipalities Enabling and Validating Act (No. 5)	May 16/24	by 2024 Bill 27, c. 24, sections 1 to 3 only (in force by Royal Assent), Municipalities Enabling and Validating (No. 5) Amendment Act, 2024
Short-Term Rental Accommodations Act	May 1/24	by 2023 Bill 35, c. 32, sections 1 (part), 13 (a) and (c), 14 (1), 16, 17 (1) (a), (b) (i) (A) and (C), and (c), (2) (b), 18, 19 (5), 21 (b), 26 to 30, 35 (3) (b), 36 and 38 (2) (n) only (in force by Reg 268/2023 and Reg 85/2024), Short-Term Rental Accommodations Act
Short-Term Rental Accommodations Regulation (268/2023)	May 1/24	by Reg 85/2024
Vancouver Foundation Act	REPEALED May 16/24	by 2024 Bill Pr401, c. 21, section 26 only (in force by Royal Assent), Vancouver Foundation Act
Vancouver Foundation Act	NEW May 16/24	c. 21, SBC 2024, Bill Pr401 , c. 21, sections 1 to 25 only (in force by Royal Assent)
Water Utility Act	May 16/24	by 2024 Bill 24, c. 20, sections 4 to 6 only (in force by Royal Assent), Energy Statutes Amendment Act, 2024



MISCELLANEOUS

Miscellaneous News:

Name Act Changes

On May 13, the BC government tabled Bill 26, the [Name Amendment Act \(No. 2\), 2024](#), which proposes to prohibit persons convicted of serious [Criminal Code](#) offences from legally changing their names. Amendments will be made to the [Name Act](#) to prevent a legal name change by persons who have been convicted of prescribed offences, are declared a dangerous or long-term offender, or are found not criminally responsible for a prescribed offence due to a mental disorder. The Bill will allow the Vital Statistics Agency to request, receive and review the results of criminal record checks for individuals applying to change their names. The specific offences for the purpose of the name-change prohibition will be identified by regulation and will include [Criminal Code](#) offences that are dangerous and cause significant harm to others, such as homicide or aggravated sexual assault and offences that target children. According to Health Minister Adrian Dix, the bill will prevent convicted criminals and individuals who have committed offences causing serious harm to others from evading accountability and avoiding the negative consequences of their actions by legally changing their names. The legislation follows the recent introduction of a member's bill, [Name Amendment Act, 2024](#), by MLA Kevin Falcon after learning that Allan Schoenborn, who was found not criminally responsible for killing his three children more than a decade ago, had legally changed his name and attempted to have a publication ban imposed on his new identity.

BC Court Affirms Privacy Commissioner's Authority over Federal Political Parties' Data Collection

The Supreme Court of British Columbia has upheld the applicability of the province's [Personal Information Protection Act](#) (PIPA) to the collection, use, and disclosure of personal information by federal political parties (FPPs) registered under the [Canada Elections Act](#) (CEA).

Major federal political parties challenged this decision, which stemmed from an order issued by the Office of the Information and Privacy Commissioner for British Columbia (OIPC). Read the [full article](#) by Angelica Dino with *Canadian Lawyer*.

Will the Haida Nation's Rising Tide Agreement Raise all Boats?

The James Bay and Northern Quebec agreement, the first of Canada's first modern land claim agreement and treaty, runs to nearly 500 pages, single-spaced. The title lands agreement between the Haida Nation and British Columbia, signed in mid-April, wraps up in eight pages, plus four for signatures, appendices, and maps. Leave it to the Haida to find novel ways to save trees. The "Rising Tide" agreement isn't just about trees, of course. Nor is it a treaty. It doesn't settle every outstanding question about the relationship between the Haida Nation and the Crown – it isn't meant to. Facing a 2026 court date to decide the Haida's land claim (a case the Haida Nation was widely expected to win), the province opted instead for direct negotiations that led to a first-of-its-kind negotiated deal recognizing the Haida's Aboriginal title to all of terrestrial Haida Gwaii. The deal doesn't end the Haida's court case, however. Read the [full article](#) by Doug Beazley with CBA National.

The Importance of Section 490 Compliance: R. v. Gill Upheld by the BC Court of Appeal

In *R. v. Gill*, [2024 BCCA 63](#), the BC Court of Appeal dismissed the Crown's appeal of Justice Masuhara's tripartite decision in *R. v. Gill*, a series of *voir dire*s that led to the exclusion of crucial evidence in a murder investigation due to what the Court described as "a policy of systematic non-compliance" with [section 490 of the Criminal Code](#). In April 2011, a collision occurred between two vehicles travelling in the same direction in adjacent lanes in Surrey, BC. From what appeared to be a road rage incident, the deceased was shot and killed after he left his vehicle to speak with the other driver. The identity of the shooter was uncertain. Subsequent investigation led to the execution of a search warrant at Mr. Gill's home address by the RCMP's Integrated Homicide Investigation Team ("IHIT") for "Samandeep GILL's cellular telephone". No other cellphones were mentioned in the warrant, but police seized a total of 9 cellphones found at the residence, as well as a home security system manufactured by SVAT (the "SVAT Device"). Read the [full article](#) by David McKnight and Naomi Krueger with Alexander Holburn Beaudin + Lang LLP.

Can the Federal Government Ban the 'Big Lie' in Elections?

Given the preponderance of "Big Lie" claims in the United States that spread falsehoods about election fraud, it's no surprise that among the federal government's proposed amendments to the [Canada Elections Act](#) is a new offence for spreading misinformation aimed at affecting the results or disrupting the conduct of an election. That includes false or misleading information about how elections are conducted, who can vote and how, and in particular, how votes are counted and the results. In addition to measures to make voting easier with more eligible days to vote, and greater flexibility as to polling stations within the riding, [Bill C-65](#) also changes privacy obligations for political parties, setting out new requirements for the protection of personal information, including a policy that addresses the collection, use, disclosure, retention, and disposal of it. Read the [full article](#) by Dale Smith with CBA National.

SCC Decision Shot Both Sides v Canada (Attorney General), 2024 SCC 12

On April 12, 2024, the Supreme Court of Canada released its unanimous decision in [Shot Both Sides v Canada](#). The SCC held that treaty infringement claims were enforceable and actionable in Canadian courts prior to the coming into force of [s. 35\(1\) of the Constitution Act, 1982](#), and thus the claim was barred by limitations. However, the SCC held declaratory relief was warranted in the circumstances and issued declarations to restore the relationship between the Blood Tribe and the Crown and to promote reconciliation. The SCC's award of declaratory relief could have significant implications for First Nations in treaty entitlement and other historic cases, where a legal statement of rights, Crown duties, and confirmation that Crown conduct was dishonourable could help advance justice. Read the [full article](#) authored by Alexis Giannelia and Emmaline English with Woodward & Company LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Anti-Racism Act	NEW May 16/24	c. 22, SBC 2024, Bill 23 , sections 1 to 31 only (in force by Royal Assent)

Election Financing Regulation (170/2020)	May 16/24	by Reg 106/2024
Government Body Designation (Public Interest Disclosure) Regulation (58/2022)	June 1/24	by Reg 112/2024
Leadership Contestant Financing Regulation (24/2020)	May 16/24	by Reg 106/2024
Legal Profession Act	May 16/24	by 2024 Bill 21, c. 26, sections 311 to 313 only (in force by Royal Assent), Legal Professions Act
Legal Professions Act	NEW May 16/24	c. 26, SBC 2024, Bill 21 , sections 215 and 223 to 229 only (in force by Royal Assent)
Nomination Contestant Regulation (25/2020)	May 16/24	by Reg 106/2024
Notaries Act	May 16/24	by 2024 Bill 21, c. 26, section 314 only (in force by Royal Assent), Legal Professions Act
Political Party and Constituency Association Financial Reports Regulation (26/2020)	May 16/24	by Reg 106/2024
Safe Access to Schools Act	NEW May 16/24	c. 18, SBC 2024, Bill 22 , whole Act in force by Royal Assent
Third Party Sponsor Regulation (107/2024)	NEW May 16/24	by Reg 107/2024
Third Party Sponsor Disclosure Report Regulation (171/2020)	REPEALED May 16/24	by Reg 107/2024
Voting Options Regulation (69/2022)	May 16/24	by Reg 106/2024



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

New Rules Will Protect Vulnerable Road Users

Starting Monday, June 3, 2024, drivers must keep new minimum distances from people walking and riding on roads in British Columbia.

New rules will protect vulnerable road users, requiring drivers to keep at least one metre away when passing.

Vulnerable road users include pedestrians, cyclists, motorcyclists, individuals on animals or in vehicles pulled by animals, and people who use electric wheelchairs, mobility scooters and electric kick scooters. Read the government [news release](#).

Dangerous Goods Marks

This bulletin explains the labelling and placarding requirements. It does not change, create, amend or suggest deviations to the [Transportation of Dangerous Goods Regulations](#) (TDG Regulations). For specific details, consult Part 4 of the TDG Regulations.

The term "dangerous goods safety mark" is replaced with "dangerous goods mark" throughout the English version of the TDG Regulations and this document to reflect the terminology being used in the Act. This change will allow internal consistency with no change in the meaning. The terminology in the TDG Regulations is being modified as the TDG Regulations are updated. From [Transport Canada](#).

In-Cab Warning Devices Required in Dump Trucks as of Saturday [June 1]

Technology will help keep B.C.'s roads safer for all drivers as in-cab warning devices to prevent infrastructure crashes become mandatory for all commercial vehicles with dump boxes.

This change will support greater safety for commercial drivers and all travellers.

As of Saturday, June 1, 2024, commercial vehicles with dump boxes that can rise above 4.15 metres are required under B.C.'s [Motor Vehicle Act Regulations](#) to have in-cab warning devices installed to alert the driver when the dump box is raised. Read the government [news release](#).

BC Supreme Court Denies Injunction Against Cap on Disbursements in Motor Vehicle Injury Cases

The BC Supreme Court has [denied an application](#) by the Trial Lawyers Association of British Columbia (TLABC) to suspend the regulation imposing a cap on recoverable disbursements in motor vehicle personal injury actions.

The petitioners sought an interlocutory injunction against section 5 of the [Disbursements and Expert Evidence Regulation](#) (DEER), pending a constitutional challenge. The Attorney General of British Columbia and Isabel Leontine Snelgrove opposed the application. Snelgrove is the defendant in a separate action for injuries sustained in a motor vehicle accident. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Report Released on Passenger Directed Vehicles

The Special Committee on Passenger Directed Vehicles has delivered its [report](#) to the Legislative Assembly of BC. The report provides 34 recommendations, including one related to transportation in small, rural, and remote communities.

In May 2023, the Legislative Assembly appointed a Special Committee to Review Passenger Directed Vehicles, under the [Passenger Transportation Act](#). The Special Committee was tasked with reviewing passenger-directed vehicle services and transportation network companies such as Uber and Lyft. Read the [article](#) from the Union of BC Municipalities.

Automotive OEMs Take Note: BC Tunes Up Approach to Vehicle Service Contracts

On April 25, 2024, the British Columbia Financial Services Authority ("BCFSA") issued [Regulatory Statement 24-008](#) ("RS 24-008"), clarifying the limits of "vehicle warranty insurance" and "product warranty insurance" as well as the scope of "automobile insurance." RS 24-008 will have significant impact on and require automobile manufacturers and automobile dealers to revisit the underwriting and sale of vehicle service contracts in British Columbia ("BC").

The BCFSA has long considered product warranties and vehicle warranties to be insurance. Product warranty insurance and vehicle warranty insurance are defined as follows in the [Classes of Insurance Regulation](#) passed under BC's [Financial Institutions Act](#) ("FIA"). Read the [full article](#) by [Belinda A. Bain](#) and [Rachel B. Runge](#) with Gowling WLG.

BC Supreme Court Upholds Drivers' Liability in Car Crash Injuring Cyclist

In a [recent ruling](#), the BC Supreme Court upheld drivers' liability in a motor vehicle collision that injured a cyclist.

The incident, which took place on South West Marine Drive in Vancouver, led to a trial focused solely on liability. The court found both defendants, Ruoyun Liang and an unidentified driver, negligent and responsible for the accident that injured cyclist Quinn Anderson. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [Circular 03-21](#) – New Weight Allowances for Commercial Trucks, Truck Tractors and Buses Powered by Electricity or Hydrogen/Diesel Bi-Fuel, and Changes to Existing Weight Allowances for Full Size Commercial Vehicles Powered by LNG, CNG or LNG/Diesel
- [NSC Bulletin 02-2023](#) – Publication of Carriers Cancelled for Cause
- [CT Notice 01-24](#) – Oversize Permit Restrictions Between on Hwy 1 Between Duncan and Chemainus (Chemainus River Bridge)
- [Commercial Transport Procedures Manual](#) – Commercial Transport Procedures Manual updates now available

For more information on these and other items, visit the [CVSE website](#).

Passenger Transportation Board Bulletins

The following updates were recently published by the BC Passenger Transportation Board:

Applications Received

- [19685-24](#) – Gabriola Taxi Ltd.
- [19693-24](#) – 7th Heaven International Ltd. (Mountain Shuttle and Cab)
- [19583-24](#) – 2265281 Alberta Ltd. (Lil' Critter Croft Transport)
- [19654-24](#), [19658-24](#), [19738-24](#), [19739-24](#), [19740-24](#), [19741-24](#), [19748-24](#), [19749-24](#), [19773-24](#), [19775-24](#), [19882-24](#), [19883-24](#), [19891-24](#), [19892-24](#), [19894-24](#), [19895-24](#), [19901-24](#), [19973-24](#), [19982-24](#), [20000-24](#) – Black Top Cabs Ltd., Bonny's Taxi Ltd., Coquitlam Taxi (1977) Ltd., Delta Sunshine Taxi (1972) Ltd., Garden City Cabs of Richmond Ltd., Guildford Cab (1993) Ltd., Kimber Cabs Ltd., MacLure's Cabs Ltd., Newton Whalley Hi Way Taxi Ltd., North Shore Taxi (1966) Ltd., Queen City Taxi Ltd., Richmond Cabs Ltd., Royal City Taxi Ltd., Sunshine Cabs Limited, Surdell Kennedy Taxi Ltd., Tsawwassen Taxi Ltd., Vancouver Taxi Ltd., Vancouver Taxi Ltd. (dba Handicapped Cab)), White Rock South Surrey Taxi Ltd., Yellow Cab Company Ltd.
- [19581-24](#) – Universal Coach Line Ltd. (YVR Whistler, Skylynx)

Application Decisions

- [19529-24](#) – Bel-Air Taxi (1982) Limited [Approved]
- [20374-24 PS TOP](#) – Luxury Life Limousine Inc. [Approved]
- [19530-24](#) – Port Coquitlam Taxi Ltd. [Approved]

[18485-23](#) – 0772021 BC Ltd. (Hope Taxi) [Approved in Part]

- [20499-24 PS TOP](#) – Luxe Fleet Inc. [Approved]
- [20511-24 PS TOP](#) – Vancity Limousines 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)	May 23/24	by Reg 114/2024
Commercial Transport Act	May 23/24	by 2023 Bill 28, c. 35, sections 46, 48 and 50 only (in force by Reg 114/2024), Motor Vehicle Amendment Act (No. 2), 2023
Electric Kick Scooter Pilot Project Regulation (247/2023)	May 23/24	by Reg 114/2024
Enhanced Accident Benefits Regulation (59/2021)	May 23/24	by Reg 114/2024
Insurance (Vehicle) Act	May 23/24	by 2023 Bill 28, c. 35, sections 67, 68 (a) to (c) and 70 only (in force by Reg 114/2024), Motor Vehicle Amendment Act (No. 2), 2023
Insurance (Vehicle) Regulation (447/83)	May 8/24	by Reg 97/2024
	May 23/24	by Reg 114/2024
Motor Vehicle Act	May 23/24	by 2023 Bill 28, c. 35, sections 1 (a) and (d), 5, 11, 12, 18, 31, 37 and 42 only (in force by Reg 114/2024), Motor Vehicle Amendment Act (No. 2), 2023
Motor Vehicle Act Regulations (26/58)	June 1/24	by Reg 290/2023
Special Direction IC2 to the British Columbia Utilities Commission (307/2004)	May 8/24	by Reg 95/2024 and Reg 96/2024
Violation Ticket Administration and Fines Regulation (89/97)	June 1/24	by Reg 292/2023



OCCUPATIONAL HEALTH & SAFETY

Occupational Health and Safety News:

Protecting Your Workers from the Risk of Fatigue

Fatigue puts workers at a greater risk of sustaining injuries from hazards at work. WorkSafeBC's information sheet [Managing the risk of fatigue](#) in the workplace provides guidance for employers and workers. "This resource represents a shift in thinking about fatigue in the workplace," says Jenny Colman, an ergonomist with WorkSafeBC. "While we once saw fatigue as the hazard, we now think of it in terms of a contributory factor that can increase the risk of harm or potential for harm from work being performed. Therefore, higher protections need to be in place around the tasks performed by a worker who is tired." Read the [full article](#) by Sarah Ripplinger with WorkSafeBC.

Bill 41 and Forestry Workplaces

Are you aware that [Bill-41: Workers Compensation Act](#), came into effect in January 2024? Bill-41 establishes legal duties for employers to maintain employment opportunities for injured workers, and for employers and workers to cooperate in the process of returning to and continuing work after injuries. WorkSafeBC has various resources outlining the changes including a downloadable webinar presentation that should help explain the employer, worker and WorkSafeBC requirements. Read the [full article](#) in the June 2024 issue of *Forest Safety News*.

New Doctors of BC Policy Resolution

Calls for Elimination of Sick Notes

from [Doctors of BC](#):

For many years, Doctors of BC has publicly advocated for the elimination of routine sick note requests (for colds or the flu, etc.)

made by employers in British Columbia. In April 2024, Doctors of BC's Board of Directors approved a policy resolution that recommends the provincial government restrict the ability for employers to request their staff obtain a sick note from their doctor for medical absences. In certain circumstances, such as prolonged absence from work, or if a doctor can provide meaningful insight into an employee's condition, a sick note would be appropriate. In these instances, however, the cost of the sick note should be covered by the employer, not the employee.

Technical Safety BC Releases State of Safety 2023 Report

Technical Safety BC has released its 2023 State of Safety and Annual Report, outlining the critical safety risks and priorities for British Columbia. The report provides a comprehensive analysis of incidents, injuries, and emerging risks over the past year, serving as a resource for employers and health and safety professionals aiming to improve workplace safety across the province. "British Columbians should be able to trust that the places they work, live, and play are safe," said Phil Gothe, President and Lead Executive Officer at Technical Safety BC. "Our State of Safety and the Top Five Safety Risks highlight not only the areas of focus for our team but represent a call to action to all those across the safety system." Read the [full article](#) by Shane Mercer with *Canadian Occupational Safety Magazine*.

Forestry Employers Need to Get Ready for New First Aid Requirements

We are quickly approaching the date when, on November 1st, 2024, changes to First Aid requirements will come into effect. The amendments were approved by WorkSafeBC's Board of Directors in April 2023 and the 18-month time-lag in implementation was designed to allow employers and training providers to prepare for the changes. These amendments will apply to all workplaces and industries, but some of the key changes are especially relevant in the forestry sector because of the focus on remote and less-accessible work locations. The requirements for first aid are outlined in Part 3 of the [Occupational Health and Safety Regulation](#). They have seen very few updates over the last 20 years, which has prompted the current overhaul. Read the [full article](#) in the June 2024 issue of *Forest Safety News*.

Why BC Trades Workers Are Demanding Nasal Naloxone on Construction Sites

The list is long and tragic as carpenter C. Michael Kinsella recounts memories of friends lost to fatal overdoses. There was the kid his family spent Thanksgivings with, who lived next door during Kinsella's childhood. In 2021, after that boy grew up, he worked on a construction site alongside his father, until the day his parents found him unresponsive in their basement. And there was Kinsella's lifelong best friend who was proud of the living he made as a bricklayer until he was injured and started taking prescription opioids for pain, which led to an addiction to illicit drugs. He overdosed in 2020. Read the full *Vancouver Sun* [article](#) (paywall).

OHS Policies/Guidelines – Updates
May 9, 2024

Guidelines – Occupational Health and Safety Regulation
The following guideline was revised:

- Part 19 Electrical Safety
[G19.25 Assurance in writing](#)

Guidelines – Workers Compensation Act
The following guideline was revised:

- Part 2 Division 1 – Interpretation and Purpose
[G-P2-85-1 The authority to suspend the application of the Regulation](#)

The following guideline was retired:

- Part 2 Division 1 – Interpretation and Purpose
[G-P2-75\(3\)\(c\) Use of Legal Sample Bags for samples collected by WorkSafeBC officers](#)

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

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

 **PROPERTY, REAL ESTATE & CONSTRUCTION**

Property, Real Estate & Construction News:

British Columbia's Home Flipping Tax: Overview and Implications

After a series of concerns over housing affordability in British Columbia, the 42nd Parliament introduced [Bill 15 – 2024: Budget Measures Implementation \(Residential Property \(Short-Term Holding\) Profit Tax\) Act](#) (Bill 15). Bill 15 received royal assent on April 25, 2024 and the *Residential Property (Short-Term Holding) Profit Tax Act* (the Home Flipping Tax Act), which comes into effect

January 1, 2025, is estimated to generate CA\$43 million in its first fiscal year. It is intended to target speculators who purchase and sell residential property for quick profits, with the goal of curbing housing price inflation and enhancing affordability for families in British Columbia.

Key aspects

Under the Home Flipping Tax Act, profits from flipped residential properties face a 20% tax rate if the residential property is sold within one year of acquisition. The tax rate gradually decreases for sales occurring between one and two years, eventually reaching zero after two years. Any disposition within the first two years of acquisition of a residential property is a taxable transaction. Importantly, the foregoing applies to residential properties that were purchased before the effective date of the Home Flipping Tax Act, being January 1, 2025.

Read the [full article](#) by [Brigham Jagger](#), [Inder Biring](#) and [Emily LeDue](#) with Dentons LLP.

Amendments to BC’s Land Title Act and Property Law Act Enable First Nations to Own Off-reserve Land in Their Own Name

The Government of British Columbia has passed legislative amendments which will enable First Nations, for the first time ever, to register their off-reserve interests at the provincial Land Title Office (the “LTO”) in their own name. The [Land Title and Property Law Amendment Act, 2024](#), comes into force on May 21, 2024. In BC, all ownership of, and interests in, private land must be registered at the LTO to be enforceable. To register an interest in land with the LTO, parties (e.g., corporations) must fall within the definition of legal “persons” who can be registered owners under the [Land Title Act](#) and the [Property Law Act](#). However, the legal capacity of First Nation governments has remained an uncertainty for decades because a “band” is not a “person” as defined for the purposes of certain legislation. The only legal definition of the term “band” is laid out in subsection 2(1) of the [Indian Act](#) where a band is defined as a “body of Indians” and is not granted the full powers of a legal personhood. Read the [full article](#) authored by Jessica Proudfoot and Riley Brennan (articled student) with Woodward & Company LLP.

When Will a “Belt and Suspenders” Approach Work? Considering Claims where Alternative Relief Is Sought in a Builders Lien Claim

Those in the construction industry are well aware that a contractor or subcontractor who performs or work or supplies materials to an improvement is entitled to a builders lien for the price of such work and materials to the extent the same remain unpaid. It is also well-known that in order to perfect a builders lien claim, a claimant must file a notice of civil claim and register a certificate of pending litigation (CPL) against title to the lien property within one year of the lien being registered. It is common for such notices of civil claim to contain pleadings for alternate relief to support the CPL should the builders lien claim be found to be invalid. However, a recent decision of the BC Supreme Court in *Cape Group Management Ltd. v. 0793231 B.C. Ltd.*, [2024 BCSC 493](#) has made clear that this alternative relief will not always be sufficient for a lien claimant to establish an entitlement to a CPL where the related builders lien claim has failed. Read the [full article](#) by Rosalie A. Clark and Alec Kobetitch with Clark Wilson LLP.

BC Announces Online Building Permit Hub to Speed Up Homebuilding across Province

The British Columbia government says a new online “hub” will speed up building permit processes across jurisdictions. Premier David Eby says “slow and complicated” building permit processes have delayed housing development at a time when it’s urgently needed. The province says the digital building permit system will be a “one-stop shop” for local building permits, and 12 municipalities and two First Nations governments are part of the first pilot phase of the new system. Housing Minister Ravi Kahlon says the new system is unique in North America and aims to cut wait times for builders by standardizing requirements that suffer from inconsistencies in different communities. Read the [full article](#) published by BIV.

Throwing Good After Bad Can Be Okay: BC Court of Appeal Determines Owner’s Payment Did Not Have Retroactive Effect on Builders Lien Liability

This bulletin covers a recent decision from the BC Court of Appeal in *Pinnacle Living (Capstan Village) Lands Inc. v. Fairway Recycle Group Inc.*, [2024 BCCA 172](#). The decision determined that an owner entering into an agreement with a subcontractor to pay outstanding amounts owed by another subcontractor did not alter the owner’s ability to discharge the subcontractor’s lien claim under section 23 of the [Builders Lien Act](#). The owner of a mixed-use project engaged a head contractor for a project. The contractor engaged an excavation subcontractor for the project, who in turn engaged another subcontractor to perform disposal work for the project. The disposal subcontractor performed the work on the project, but the excavation subcontractor failed to pay the invoices issued by the disposal subcontractor. Read the [full bulletin](#) by Tariq Ahmed and Oliver Leung with Fasken.

Act or Regulation Affected	Effective Date	Amendment Information
Information Collection Regulation (166/2018)	May 16/24	by Reg 105/2024
Land Owner Transparency Regulation (250/2020)	May 21/24	by Reg 104/2024
Land Title Act	May 21/24	by 2024 Bill 13, c. 9, section 1 only (in force by Royal Assent), Land Title and Property Law Amendment Act, 2024
Manufactured Home Park Tenancy Act	May 16/24	by 2024 Bill 14, c. 19, sections 1, 2, 4 and 6 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2024
		by 2024 Bill 13, c. 9, section 2 only (in force by Royal

Property Law Act	May 21/24	Assent), Land Title and Property Law Amendment Act, 2024
Residential Tenancy Act	RETRO to Apr. 3/24	by 2024 Bill 14, c. 19, sections 19 and 23 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2024
	May 16/24	by 2024 Bill 14, c. 19, sections 11, 12, 15, 21, 30, 32, 35 and 38 only (in force by Royal Assent), Tenancy Statutes Amendment Act, 2024
Short-Term Rental Accommodations Act	May 1/24	by 2023 Bill 35, c. 32, sections 1 (part), 13 (a) and (c), 14 (1), 16, 17 (1) (a), (b) (i) (A) and (C), (c), (2) (b), 18, 19 (5), 21 (b), 26 to 30 and 36 only (in force by Reg 268/2023 and Reg 85/2024), Short-Term Rental Accommodations Act
Short-Term Rental Accommodations Regulation (268/2023)	May 1/24	by Reg 85/2024

 **WILLS & ESTATES**

Wills and Estates News:

Handwritten Note Revokes Will Amendment, Revives Original Will: BC Supreme Court

In a recent ruling, the BC Supreme Court found that a handwritten note effectively revoked a codicil and revived the original provisions of a will.

The dispute in *Walker Estate (Re)*, [2024 BCSC 792](#) centred on a petition filed by Catherine Lynn Walker, the estate executor, seeking the court's determination on the validity and impact of a handwritten note dated July 7, 2016. The note, purportedly written by the deceased, raised questions about its effect on a codicil dated February 25, 2016, and whether it revived clauses from a July 8, 2015 will. The application was made under s. 58 of the [Wills, Estates and Succession Act](#) (WESA). Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

B.C. Case Comment: Transfer of Property to Child Set Aside on Basis of Undue Influence

I have previously discussed that gifts are irrevocable, and so a donor cannot change their mind and seek to take back property that they have gifted. However, the Court may set aside a gratuitous transfer if it was procured by undue influence, whether that be intentional influence or unintentional influence.

In *Sandu v. Sandu* [2023 BCSC 323](#), the Court considered the transfer of property in 2016 from a husband and wife to their youngest son. The property was the parents' only substantial asset. The transfer was purportedly a gift, and no consideration was paid by the son. The parents later requested that their son transfer title to the property back into their names, and he refused to do so. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

BC Court of Appeal Rules Deceased Mother Was Incompetent to Gift Sentimental Ring

The BC Court of Appeal affirmed the chambers judge's decision to allocate a sentimental ring to a third sibling, determining that their late mother was not competent to gift it.

In *Rhodes v. Myers*, [2024 BCCA 165](#), the court heard an appeal involving a dispute over the estate administration of the parties' late mother. Two siblings, Patti Fern Rhodes and Donald Ray Myers, were named co-executors and trustees of their mother, Elizabeth Jane Myers' estate. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Relying Upon Hearsay Statements of the Deceased to Establish Intention

In many estate litigation cases, the court may benefit from evidence of the intentions of the deceased. For example, whether an asset transferred by the deceased was intended to be gift or is held in resulting trust depends upon the intention of the deceased. As the deceased person cannot give evidence, the court is often asked to rely upon out-of-court statements of the deceased to other persons – hearsay evidence. The court is asked to consider the hearsay statements for the truth of their contents, despite the fact that the person making the statement is deceased and unavailable for clarification, expansion or cross-examination.

If an exception to hearsay doesn't apply, then the court must consider whether a statement should be admitted under the principled approach to hearsay. Read the [full article](#) by [James Zaitsoff](#) on the *BC Estate Litigation Blog*.

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There were no amendments this month.

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