

QS News

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- [Scott Marcinkow](#), Harper Grey LLP – [Employment Standards Regulation](#)

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LOCAL GOVERNMENT

Local Government News:

Case Summary: The Duty to Defend: A Clarion Call

Surrey (City) v. Co-operators General Insurance Co., [2023] B.C.J. No. 1069, [2023 BCSC 955](#), British Columbia Supreme Court, June 5, 2023, A. Walkem J.

The insurer was required to defend an additional insured because there was at least a mere possibility of coverage based on the allegations in the pleading. A gym user was injured while using a leg press machine at the Surrey Recreation and Leisure Centre. He sued the City of Surrey ("Surrey"), alleging that he had been hurt when a pin had fallen out of the machine. He said the pin in question had not been designed for the machine in which it had been placed. Surrey had contracted with two individuals and a fitness equipment repair entity (collectively, "Elk") for the provision of weekly maintenance and repair services, as well as quarterly preventative maintenance. The contract required that Elk have in place commercial general liability insurance on an occurrence basis, naming Surrey as an additional insured. The coverage extended to death, bodily injury and property damage arising directly or indirectly out of the work or operations of Elk and its employees and agents. Elk duly obtained a policy with Co-operators General Insurance Co. ("Co-operators"). The policy contained an exclusion clause for bodily injury arising out of any act or omission of Surrey or its employees. Read the [full article](#) by [Siobhan H. Sams](#) with Harper Grey LLP.

Empty Homes Tax Amended to Add Exemption for Completed

But Unsold Condominiums in Vancouver

Vancouver's Empty Homes Tax (the "EHT") was first introduced in 2017 with the intention of encouraging owners to rent their vacant residential properties to help alleviate pressure on Vancouver's rental market. Subject to certain restrictions, residential properties which are tenanted or considered a principal residence generally do not pay EHT. The current annual tax payable on a residential property declared empty under the EHT bylaw is 3% of the assessed value, unless an exemption is available. Read the [full article](#) by [Craig Shirreff](#) and [Will Fraser](#) with McCarthy Tétrault.

Trade Agreements – Rights and Requirements 101

Trade agreements apply to public organizations, such as local governments, Crown corporations, health authorities and school districts, and may impact the process by which they procure goods and services (including construction). It is important for public organizations, and vendors that may supply them with goods and services, to understand the rules, limitations and exceptions that may operate for different types of procurements. Read the [full article](#) by [Kai Hsieh](#) with Civic Legal LLP.

'One Size Fits All' Approach Doesn't Work for Housing, Say Rural BC Municipalities

Two rural Island municipalities on a list of communities that might have to meet future housing targets are asking the Housing Ministry to avoid a one-size-fits-all approach as it take steps to increase the province's housing supply. The mayors of North Saanich and Metchosin, two of the 47 municipalities identified in the list, have penned letters to Housing Minister Ravi Kahlon arguing a provincewide approach to increasing density might not suit more rural communities. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Haida Nation Recognition Act	NEW July 18/23	c. 24, SBC 2023, Bill 18 , sections 1 to 3 only (in force by Reg 197/2023)



COMPANY & FINANCE

Company and Finance News:

New Tax Rules for Certain Pension Contribution Errors

Long awaited amendments to ease the process of correcting contribution errors in Defined Contribution ("DC") pension plans are now law. Federal [Bill C-47](#) passed and received Royal Assent on June 22, 2023. It includes certain eagerly awaited pension-related amendments to various statutes. This article considers the new rules for correcting contribution errors in DC pension plans under the [Income Tax Act](#) (Canada) and its regulations (the "Tax Act"), and identifies some unresolved issues. Read the [full article](#) by [Allyson Marta](#) with Fasken Martineau DuMoulin.

Amendments to Societies Act

On July 7, the [Societies Act](#) was amended by [2021 Bill 19](#), the *Societies Amendment Act, 2021*. The recent amendments seek to refine the Act by increasing transparency and flexibility for societies and protecting the information of society members, and include:

- requiring societies to disclose the remuneration of any employee or contractor that exceeds the amount set by regulation (currently \$75,000), which will apply to financial statements presented to members at annual general meetings held one year after this amendment takes effect;
- extending time periods for limited restorations of a society or allowing the conversion to full restorations without any time limit;
- allowing an extraprovincial non-share corporation to remove an attorney by filing a notice with the registrar; and
- requiring a resigning attorney to give the resignation to the corporation at least two months before the resignation takes effect and file a notice of resignation with the registrar.

Code of Market Conduct for All Insurers Conducting Business in British Columbia

The goal to modernize the British Columbia Financial Services Authority's (BCFSA) approach to market conduct supervision and oversight includes the requirement for insurers operating in British Columbia (BC) to adopt and follow a Code of Market Conduct established by the BCFSA. On July 10, 2023, the BCFSA released a regulatory statement establishing the Insurer Code of Market Conduct (Code) that all insurers authorized to conduct business in BC must adopt and ensure compliance effective April 1, 2024. This requirement applies to all BC incorporated insurance companies, extra provincial insurance corporations, societies deemed under the [Financial Institutions Act](#), and mutual fire insurance companies, but excludes reinsurers, reciprocal exchanges and captive insurance companies. Failure to comply with the adoption of the Code by the effective date may result in enforcement action by the BCFSA. Read the [full article](#) by Derek Levinsky and Taschina Ashmeade with Dentons LLP.

Reverse Gear: Supreme Court of British Columbia Provides Guidance on Reverse Vesting Orders in Insolvency Proceedings

The use of Reverse Vesting Orders ("RVOs") has become a common occurrence in Canadian insolvency proceedings in recent years. However, in [PaySlate Inc. \(Re\)](#) the Supreme Court of British Columbia initially declined to grant an RVO and instead offered

guidance on when this extraordinary remedy is appropriate. Read the [full article](#) by [Noor Mann](#) and [Jacqueline Ovsenek](#) with Lawson Lundell LLP.

Canada Revenue Agency Publishes Guidance on Mandatory Disclosure Rules

On July 6, 2023, the Canada Revenue Agency (CRA) posted on its website new [administrative guidance](#) (CRA Guidance) on the application and administration of the revised mandatory disclosure rules in the [Income Tax Act](#) (ITA) that were included in the [Budget Implementation Act](#) (Bill C-47) released on April 17, 2023. For our Bulletin discussing the revised mandatory disclosure rules, please see [Blakes Bulletin: Mandatory Disclosure Update: Department of Finance Introduces Revised Rules in the House of Commons](#). Bill C-47 received Royal Assent on June 22, 2023. The CRA Guidance was contemplated in the explanatory notes (Explanatory Notes) that were released with Bill C-47. It was developed with input from the Department of Finance and various stakeholder groups, and it is expected that the CRA may update the guidance as they continue to consider submissions received. The CRA is also expected to release updated versions of the mandatory reporting forms in the near term, but the forms have not been published as of the date of this bulletin. Read the [full article](#) by [Lara Friedlander](#), [Jeffrey Shafer](#), [Chris Sheridan](#) and [Andrew Spiro](#) with Blake, Cassels & Graydon LLP.

British Columbia's Money Services Businesses Act Receives Royal Assent

On May 11, 2023, British Columbia's [Money Services Businesses Act](#) (BC MSB Act) received royal assent. The BC MSB Act will be the province's first statute of this kind and will be administered by the British Columbia Financial Services Authority (BCFSA). BCFSA will appoint a Superintendent of Money Services Businesses (MSBs) to spearhead this new mandate and has stated it expects to regulate 578 MSBs operating in the province. The path forward for MSBs promises to be: first, registration; second, regulation; and in turn, enforcement. Early adoption of best practices within the industry will mitigate the impact of regulation and the risk of enforcement and civil claims that inevitably follow. The coming-into-force date has not yet been announced, but impacted businesses will be given time to prepare to register. Read the [full article](#) by [Stephen J. Redican](#), [Cindy Y. Zhang](#) and [Ross McGowan](#).

Legislative Amendments Empower BC Securities Commission to Combat Investment Market Misconduct

The BC Securities Commission (BCSC) has announced that a comprehensive package of legislative amendments came into force on July 17, enhancing the BCSC's powers to investigate investment market misconduct and hold people accountable for their illegal acts. One of the key updates to BC's [Securities Act](#) is a provision that empowers the BCSC to take swift action against non-cooperative individuals who fail to comply with a summons or demand for information. Previously, the BCSC had to resort to time-consuming court processes such as applying to the Supreme Court for an order that a non-cooperative person be liable for contempt. Now, the BCSC can use its administrative procedures to impose faster consequences, including market participation restrictions and administrative penalties of up to \$1 million. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

Recent Tax Ruling Undermines Purpose of Proposed Reforms to General Anti-avoidance Rule: Lawyer

The recent Supreme Court of Canada decision involving the [Income Tax Act](#)'s general anti-avoidance rule has undercut the need for the federal government's proposed legislative reforms, says Laurie Goldbach, a tax litigator at BLG. The court released its ruling in *Deans Knight Income Corp. v. Canada*, 2023 SCC 16 on May 26. The case dealt with a company that executed a complex series of transactions to capitalize on tax benefits held by another company. The SCC found the transactions, which transferred tax deductions acquired through non-capital losses, were abusive under the general anti-avoidance rule (GAAR). Read the [full article](#) by [Aidan Macnab](#) on *Canadian Lawyer*.

Update to PST Information

The provincial government recently made revisions to [Bulletin PST 400](#), PST Refunds, to

- clarify that you should not submit original documents with your application
- clarify that we may ask you to provide additional supporting documentation or proof of payment
- clarify that Electronic Funds Transfer documents and third-party payment system documents must show the name of the payee
- clarify that it is your responsibility to submit an accurate and complete refund application
- clarify when interest starts accruing for refunds
- clarify that the federal luxury tax is not considered a sales tax for the purposes of determining refund eligibility for motor vehicles removed from B.C.
- add information about refunds for PST paid on motor vehicles where an appraisal is obtained within 30 days from the registration of a motor vehicle purchased at a private sale or imported from outside Canada, and both the appraised value and the declared purchase price are less than the average wholesale value
- reflect a Budget 2022 change, effective June 3, 2022, allowing persons operating a commercial rail service to store items not used for a taxable purpose in inventory for up to 24 months
- add information about refunds for PST paid on fossil fuel combustion systems and heat pumps where the contractual agreement was affected by changes in PST rates on April 1, 2022

BC Securities – Policies & Instruments

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

- [81-336](#) – Guidance on Crypto Asset Investment Funds that are Reporting Issuers
- [13-932](#) – CSA Notice regarding Coordinated Blanket Order 13-932 *Exemptions from certain requirements in connection with the launch of the System for Electronic Data Analysis and Retrieval* +

- [13-933](#) – CSA Notice regarding Coordinated Blanket Order 13-933 Temporary exemption from the requirement to transmit a report of exempt distribution through SEDAR+ in connection with distributions of eligible foreign securities to permitted clients
- [BC Notice 2023/07](#) – Notice of Amendments to the *Securities Act*
- [31-363](#) – Joint CSA and CIRO Staff Notice 31-363 – Client Focused Reforms: Review of Registrants' Conflicts of Interest Practices and Additional Guidance

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

Act or Regulation Affected	Effective Date	Amendment Information
Business Corporations Act	July 7/23	by 2021 Bill 19, c. 24, sections 85 to 87 only (in force by Reg 173/2023), Societies Amendment Act, 2021
Climate Action Tax Credit Regulation (135/2008)	July 1/23	by Reg 148/2023
Designated Accommodation Area Tax Regulation (93/2013)	July 1/23	by Reg 113/2023
	July 10/23	by Reg 182/2023
Income Tax Act	July 1/23	by 2023 Bill 10, c. 23, sections 58, 62 and 64 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Pension Benefits Standards Act	July 17/23	by 2023 Bill 4, c. 1, section 1 only (in force by Reg 190/2023), Finance Statutes Amendment Act, 2023
Pooled Registered Pension Plans Act	July 17/23	by 2023 Bill 4, c. 1, section 2 only (in force by Reg 190/2023), Finance Statutes Amendment Act, 2023
Provincial Sales Tax Act	July 1/23	by 2023 Bill 10, c. 23, sections 156, 157, 162 to 165 and 170 only (in force by Royal Assent), Budget Measures Implementation Act, 2023
Provincial Sales Tax Exemption and Refund Regulation (97/2013)	July 1/23	by Reg 210/2022 and Reg 128/2023
Securities Act	July 17/23	by 2023 Bill 4, c. 1, sections 3, 4, 5 (a), (c) and 6 to 17 only (in force by Reg 190/2023), Finance Statutes Amendment Act, 2023
Securities Rules (194/97)	July 17/23	by Reg 190/2023
Societies Act	July 7/23	by 2021 Bill 19, c. 24, sections 9, 31, 32, 36 to 45, 47, 48, 50, 52 and 62 only (in force by Reg 173/2023), Societies Amendment Act, 2021
		by 2023 Bill 24, c. 16, sections 7 and 8 only (in force by Reg 173/2023), Miscellaneous Statutes Amendment Act (No. 2), 2023



FOREST & ENVIRONMENT

Forest and Environment News:

Recent Forest Legislation Amendments

As mentioned in the last Quickscribe Reporter, provisions of 2021 Bill 28, the [Forest Amendment Act, 2021](#), came into force on July 15. These amendments added Parts 15 to 19 to the [Forest Act](#), which will allow areas of Crown land to be designated as special purpose areas, for an access purpose, for a non-timber production purpose, or for one or more first nation purposes, BCTS licence purposes or community forest agreement purposes. The bill also provides for compensation to certain licence or permit holders who may be impacted by special purpose areas. Other amendments authorize the reduction to allowable annual cuts of forest licences

for the purposes of entering into forest licences with first nations or entering into BCTS licences.

Never Going to Let You Go: BC's EMA May Allow Creditors to Seek Recovery from Third Parties for Environmental Remediation Claims

The recent decision from the Supreme Court of British Columbia (the "Court") in *Cordy Environmental Inc. v Obsidian Energy Ltd.*, [2023 BCSC 1198](#) ("*Cordy Environmental*") has opened the door for creditors of an insolvent company to recover pre-filing amounts relating to environmental remediation from certain third parties. The main issue in *Cordy Environmental* was whether a service company that performed remediation work on a pipeline spill could rely on the statutory indemnification provisions under the [Environmental Management Act](#), S.B.C. 2003, c. 53 (the "EMA") to recover unpaid amounts from a prior owner of the pipeline with whom the service company had no contractual relationship.

The trial judge found that, pursuant to EMA s. 47, the prior owner of the pipeline may be jointly and separately liable for the costs of remediation incurred by the service company, and that such liability is independent of any contractual relationship between the parties. Further, the Court held that the prior owner's liability for the costs of remediation continues to operate notwithstanding the insolvency of the party that originally created the obligations owing to the service company for its remediation work. Read the [full article](#) by [Robyn Gurofsky](#), [Anthony Mersich](#) and [Rebecca Barclay Nguinambaye](#) with Fasken Martineau DuMoulin LLP.

Practicing Landscape Fire Management – Technical Bulletin

As a companion document to its special report, [Forest and Fire Management in BC: Toward Landscape Resilience](#), the Forest Practices Board has produced a technical bulletin to help land managers put Landscape Fire Management into practice. The bulletin describes six key principles for practicing landscape fire management, including:

1. Defining the landscape
2. Understanding current and projected conditions
3. Understanding risks to values
4. Setting complementary wildland fire objectives across land use zones
5. Coordinating intervention
6. Adaptive management

Read the [bulletin](#) from the Forest Practices Board.

Legal Challenges Threaten Net-Zero Pledges

The legal risks associated with voluntary climate action to transition to net-zero emissions are becoming real for companies as they face the possibility of prosecution for antitrust violations. To guarantee the effectiveness of their net-zero pledges, firms are now calling for a more stable and predictable legal environment.

According to [Net Zero Tracker](#), almost half of the world's largest firms have set net-zero commitments. Among them are banks, asset owners and insurers. Different net-zero financial alliances were established in the lead-up to COP26 to mobilize the financial sector around the goals of the Paris Agreement. Financial institutions recognized the long-term business risks of climate change and understood the commercial value of collaborating towards net-zero. But we know that pollution is an environmental externality. In the absence of regulatory sticks or financial carrots to reduce emissions, firms are incentivized to emit greenhouse gases without restraint, leading to the everlasting tragedy of the commons. Read the [full article](#) by [Julien O. Beaulieu](#) in the *CBA National* magazine.

British Columbia Takes Action on Plastic Waste

On July 14, 2023, the Province of British Columbia published the [Single-Use and Plastic Waste Prevention Regulation](#), which will come into effect on December 20, 2023. This regulation will lead to the phasing-out of oxo-degradable plastic packaging and products, shopping bags, and food service ware and accessories in British Columbia.

The publication of this regulation ends a multi-year consultation process pursuant to the CleanBC Action Plan, which launched in 2019. Read the [full article](#) by [Mark Youden](#), [Emma Hobbs](#) and [Wynona Klemt](#) with Gowling WLG.

International Sustainability Standards Board Releases Sustainability Disclosure Standards

On June 26, 2023, the International Sustainability Standards Board (ISSB) released the final versions of its first two global sustainability disclosure standards for financial reporting (the ISSB Standards). The ISSB aims to position the ISSB Standards as the global baseline for voluntary sustainability reporting. Canada and British Columbia have indicated strong support for the ISSB Standards, but have refrained from outlining whether they will adopt them, and if they do, to what extent and when. The Canadian Sustainability Standards Board (CSSB), which became fully operational following the release of the ISSB Standards, will guide the implementation of the ISSB Standards in Canada. Read the [full article](#) by [Erik Coates](#), [Radha Curpen](#) and [Sharon Singh](#) with Bennett Jones LLP.

Nuxalk, KITASOO XAI'XAIS Guardians Appointed with Park Ranger Authority

The KITASOO XAI'XAIS and Nuxalk First Nations, along with BC Parks, have launched a new pilot program that designates 11 Indigenous guardians with the same legal authorities as park rangers within the parks and protected areas in their ancestral territories.

Six KITASOO XAI'XAIS and five Nuxalk guardians recently received park ranger appointments during ceremonies held in Klemtu and Bella Coola to mark the official launch of the Shared Compliance and Enforcement Pilot Program. The pilot is the first project of its kind in B.C. Read the full government [news release](#).

Environmental Appeal Board Decisions

The following Environmental Appeal Board decisions were made recently:

[Environmental Management Act](#)

- [District of Sicamous v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]
- [Halcyon Hot Springs Resort Ltd. v. Director, Environmental Management Act](#) [Dismissal Order – Appeal Dismissed]

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

Act or Regulation Affected	Effective Date	Amendment Information
Administrative Penalties Regulation (Environmental Management Act) (133/2014)	July 17/23	by Reg 188/2023 and Reg 189/2023
Administrative Penalties Regulation (Integrated Pest Management Act) (134/2014)	July 17/23	by Reg 188/2023
Advertising, Deposits, Disposition and Extensions Regulation (55/2023)	July 15/23	by Reg 158/2023
Allowable Annual Cut Administration Regulation (69/2009)	July 15/23	by Reg 159/2023
Code of Practice for Agricultural Environment Management (8/2019)	July 15/23	by Reg 8/2019
Community Tenures Regulation (352/2004)	July 15/23	by Reg 158/2023
Deletions and Expropriations (for Parks, Conservancies and Recreation Areas) Regulation (156/2023)	NEW July 15/23	see Reg 156/2023
Designated Areas Compensation Regulation (154/2023)	NEW July 15/23	see Reg 154/2023
Disposition and Change of Control Regulation (351/2004)	July 15/23	by Reg 158/2023
Forest Act	July 15/23	by 2021 Bill 28, c. 38, sections 18, 25, 29, 31, 34, 41, 44, 51, 56, 57 and 61 to 65 only (in force by Regs 153/2023, 154/2023, 155/2023 and 156/2023), Forest Amendment Act, 2021
		by Reg 157/2023
Forest and Range Practices Act	July 15/23	by 2021 Bill 28, c. 38, sections 18, 25, 29, 31, 34, 41, 44, 51, 56, 57 and 61 to 65 only (in force by Reg 158/2023), Forest Amendment Act, 2021
Forest Planning and Practices Regulation (14/2004)	July 15/23	by Reg 158/2023
Greenhouse Gas Emission Control Regulation (250/2015)	July 7/23	by Reg 169/2023
Greenhouse Gas Industrial Reporting and Control Act	July 7/23	by 2023 Bill 10, c. 23, sections 41 (d), (e), (f) and (h) only (in force by Reg 169/2023), Budget Measures Implementation Act, 2023
Hazardous Waste Regulation (63/88)	Aug. 1/23	by Reg 170/2023
	July	by 2021 Bill 28, c. 38, sections 71 to 74 only (in force by Reg

Park Act	15/23	156/2023), Forest Amendment Act, 2021
Reductions for First Nation Purpose or BCTS Licence Purpose Regulation (155/2023)	NEW July 15/23	see Reg 155/2023
Special Purpose Areas Regulation (153/2023)	NEW July 15/23	see Reg 153/2023



Health News:

Health Professions and Occupations Act – Early Consolidation

The *Health Professions and Occupations Act*, [Bill 36](#), received Royal Assent on November 24, 2022, and will replace the existing *Health Professions Act* when it comes into force. The new legislation reflects recommendations set out in the [2018 Cayton Report](#), the result of an independent inquiry by UK regulatory expert Harry Cayton, commissioned by BC's Minister of Health. For your convenience, Quickscribe has published [an early consolidation](#) of the new Act, along with Hansard references at section levels.

BC Supreme Court Adds ER Doctor in Medical Negligence Case as It Would Be 'Just and Convenient'

The BC Supreme Court has allowed a plaintiff's request to include another doctor in a medical negligence case because it would be "just and convenient." In *Stutt v Hung*, [2023 BCSC 1085](#), Kerri Ann Stutt filed a medical negligence claim for her treatment at Richmond General Hospital (RGH) in 2019. She alleges that the care she received from various healthcare professionals fell below the required standards. She claimed that a spinal epidural abscess she was experiencing was misdiagnosed and mistreated, causing her to suffer a severe spinal cord injury and leaving her a wheelchair-bound paraplegic. Stutt's condition includes bowel and bladder function loss and recurring bladder infections. She requires daily assistance for self-care and has been left permanently wheelchair-bound. Read the [full article](#) by [Angelica Dino](#) on *Canadian Lawyer*.

No More MAiD Delays

The CBA's End of Life Working Group asks the government to move forward with medical assistance in dying in circumstances where the sole underlying condition is a mental illness. Further delays to the eligibility for medical assistance in dying, or MAiD, in circumstances where the sole underlying condition is a mental illness are deeply concerning and should not be prolonged. That's the gist of a [letter](#) to Justice Minister David Lametti and Health Minister Jean-Yves Duclos from the Canadian Bar Association's End of Life Working Group. The CBA's commitment to clarifying the law about end-of-life decision-making goes back nearly a decade. "The CBA supports MAiD for persons with mental illnesses and mature minors, and supports advance requests for MAiD, with appropriate safeguards." It has made recommendations to that effect consistently over the years. Read the [full article](#) by Brigitte Pellerin on CBA National.

Man Showing No Active Symptoms to Continue Receiving Involuntary Psychiatric Treatment: BC Court

A man who receives involuntary psychiatric treatment under British Columbia's *Mental Health Act* has lost at the Court of Appeal arguing that the Act's provisions require that he manifest active symptoms of serious impairment to remain subject to the treatment. "This decision is a further step in an already very restrictive mental health regime," says Carly Peddle, a lawyer at MacKay Boyar in Vancouver who represented the BC Civil Liberties Association, an intervenor in the case. "The BC *Mental Health Act* is one of the most restrictive and least liberty-encouraging statutes compared to other provinces across Canada." Read the [full article](#) by [Aidan Macnab](#) on *Canadian Lawyer*.

Research and Public Health Groups Cannot Agree on Whether Aspartame Is, or Is Not, Carcinogenic.

If the purpose of science is to explain and understand, a number of organizations that embrace the scientific method and publish regularly on public health are not doing a very good job of either. About a month ago, I posted information about a study suggesting that sucralose, the nation's leading sugar substitute, might be a cause of cancer. Now sucralose's nutritive non-sugar sweetener counterpart, aspartame, has become the subject of a highly publicized scientific debate over its potential toxicity. Aspartame has been used widely since the 1980s in various food and beverage products such as diet drinks, yogurt, breakfast cereal, toothpaste, and even in some medications such as cough drops and chewable vitamins. Consumers rely on products containing aspartame and other sweeteners to reduce their sugar consumption. Read the [full article](#) by Paul Benson, with Michael Best & Friedrich LLP.

New Restrictions on Advertising Food and Drinks to Children

On June 28, 2023, Ad Standards' new [Code for the Responsible Advertising of Food and Beverage Products to Children](#) (FBA Code) took effect. The FBA Code and its complementary *Guide for the Responsible Advertising of Food and Beverage Products to Children* set new restrictions on advertising certain foods to children. Ad Standards is the advertising non-profit, self-regulatory body that administers the *Canadian Code of Advertising Standards* and sets the criteria for acceptable advertising in Canada. Companies in the food and beverage industry are encouraged to review the new standards and expectations under the FBA Code, which are now in force. Under the FBA Code, no advertising for a food or beverage product may be primarily directed at a child unless the product satisfies specific nutrition criteria. This core restriction applies to advertising *featuring* a food or beverage product directed to

residents of Canada in any media (including social media, streaming services, applications and games). "Child" is defined as a person under 13 years of age. Read the [full article](#) by [Laura Weinrib](#), [Pei Li](#) and [Lindsay Toth](#) with Blakes.

BC Stops Collecting Vaccine Status Information from Health-care Colleges

B.C.'s provincial health officer has [lifted](#) a pandemic-related order around the collection of vaccine status information for healthcare workers, but that doesn't mean unvaccinated staff will be allowed to return to work. Dr. Bonnie Henry on Friday [July 14] repealed an order that required health professional regulatory colleges to obtain vaccination status data about their registrants. The repealed order also allowed regulatory colleges to share vaccination status with post-secondary institutions. Read the [BIV article](#).

Act or Regulation Affected	Effective Date	Amendment Information
Access to Services (COVID-19) Act	REPEALED July 1/23	by c. 33, SBC 2021, s. 7
Health Care Employers Regulation (427/94)	July 17/23	by Reg 195/2023
Health Professions Designation and Amalgamation Regulation (270/2008)	July 7/23	by Reg 171/2023 and Reg 172/2023



LABOUR & EMPLOYMENT

Labour and Employment News:

British Columbia Court Finds Termination Clause Enforceable Because It Complied with Statutory Individual Notice Provisions

- Supreme Court of British Columbia held that a termination clause was enforceable because it met the minimum statutory requirements for notice in individual termination scenarios; it did not matter that the agreement in this case waived the minimum notice requirement for group terminations under the [Employment Standards Act](#).
- This decision deviates from how courts in Ontario interpret termination clauses; there, factfinders must analyze termination agreements as a whole rather than on a piecemeal basis, and if any termination provision in the agreement is contrary to the requirements of the *Employment Standards Act, 2000*, all termination provisions in the contract will be considered unenforceable.

In *Forbes v. Glenmore Printing Ltd.*, [2023 BCSC 25](#), the Supreme Court of British Columbia (BC) disagreed with the employee's argument that the termination clause in his employment agreement was invalid because it required the notice to which he would be entitled only under the individual termination provisions in section 63 of the *Employment Standards Act* (BC ESA), and effectively waived the minimum notice to which he would be entitled under the group termination provisions in s. 64 of the BC ESA. The court dismissed the employee's action, finding that the termination clause was enforceable because s. 63, not s. 64, establishes the minimum statutory requirements needed to oust the common law entitlement to reasonable notice, and the termination clause allowed for the same notice provided for in s. 63. Read the [full article](#) by [Rhonda B. Levy](#) and [Barry Kuretzky](#) with Littler Mendelson P.C.

Correcting Contribution Errors in Respect of Defined Contribution Pension Plans – New Rules Now in Force

On June 22, 2023, [Bill C-47 received royal assent](#), implementing a variety of amendments to the [Income Tax Act](#) (Canada) (ITA) and its [regulations](#) (ITA Regulations) tabled as part of the 2023 Federal Budget. As we previously discussed in our blog, *Fixing Contribution Errors for Defined Contribution Pension Plans*, this includes amendments which permit retroactive contributions to defined contribution (DC) registered pension plans, a long anticipated change originally introduced as part of the 2021 Federal budget.

Correcting Under-Contributions

As a reminder, the ITA and ITA Regulations previously did not permit retroactive contributions to DC registered pension plans. Instead, DC contribution error corrections made in a year were limited by that year's annual contribution limit. The ITA amendments stemming from Bill C-47 provide greater flexibility – permitting corrective contributions in respect of an individual plan member to be made in respect of any of the previous ten calendar years, subject to certain limitations.

Read the [full article](#) by [Jordan N. Fremont](#), [Hennadiy Kutsenko](#) and [Ben Sissons](#) with Bennett Jones LLP.

Audio Recordings from Work Vehicle Are Admissible as Evidence in Termination Grievance

Two corrections officers were terminated for professional misconduct following an incident, that occurred during the transportation of an inmate to and from a hospital for medical treatment. The incident was reported to the employer by a hospital employee, who stated the two corrections officers conducted themselves in an offensive and unprofessional manner.

The employer began an investigation. As part of its investigation, the employer decided to review audio recordings that were made automatically in the inmate transport vehicle while its engine was on. The corrections officers were not aware that audio recordings

were being made of their conversations and statements. Read the [full article](#) by [Lennie Lejasisaks](#) with Fasken Martineau DuMoulin.

New Pay Transparency Act Not Entirely Clear on Obligations Imposed on BC Employers

Employers in BC have new prohibitions and obligations under the [Pay Transparency Act](#) (the "Act"), which was introduced and passed this spring in a stated effort to address systemic discrimination in the workplace, and to help close the gender pay gap.

Prohibitions

Upon the Act becoming law on May 11, 2023, employers in BC are prohibited from:

1. obtaining information on the pay history of an applicant, unless this information is publicly available; and
2. retaliating against employees who:
 - a. make inquiries about their own pay;
 - b. disclose their pay information to a colleague or to an applicant with the same employer;
 - c. ask the employer about a pay transparency report or information contained within it;
 - d. ask their employer to comply with the Act; or
 - e. report their employer for failure to comply with the Act.

Read the [full article](#) by [Iman Hosseini](#) and [Sarah Richmond](#) with Alexander Holburn Beaudin + Lang LLP.

Reminder for Federally-Regulated Employers: Canada Labour Code Amendments Now in Force

Amendments to the [Canada Labour Code](#) (the "CLC") and the [Canada Labour Standards Regulations](#) (the "Regulations") regarding employee information and reimbursement of work-related expenses came into force on July 9, 2023.

Employee Information

The CLC amendments which came into force last week require employers to provide employees with a written statement containing information relating to their employment within 30 days of the start of employment. The Regulations outline what information must be contained in the statement, which includes information regarding the term of employment, a description of the necessary qualifications and required training for the position, hours of work and compensation. Employers must retain a copy of the employment statement for 36 months after an employee's employment ends, and provide additional copies to the employee upon request.

Read the [full article](#) by [Nicole Deniset](#) with McCarthy Tetrault.

Act or Regulation Affected	Effective Date	Amendment Information
Employment and Assistance Regulation (263/2002)	July 1/23	by Reg 141/2023
	Aug. 1/23	by Reg 161/2023
Employment and Assistance for Persons with Disabilities Regulation (265/2002)	July 1/23	by Reg 141/2023
	Aug. 1/23	by Reg 161/2023
Public Service Labour Relations Act	July 15/23	by 2023 Bill 5, c. 27, section 1 only (in force by Reg 183/2023), Public Service Labour Relations Amendment Act, 2023



MOTOR VEHICLE & TRAFFIC

Motor Vehicle and Traffic News:

Canada Amps Up Enforcement of the *Motor Vehicle Safety Act* and Regulations – Transport Canada's Long-Awaited Administrative Monetary Penalties (AMPs) Regime Will Come into Full Force on October 3, 2023

On July 1, 2023, Canada celebrated both its birthday and the coming into force of amendments to the [Motor Vehicle Safety Act](#) (the "MVSA" or the "Act") that provide Transport Canada with new enforcement powers, including the ability to impose administrative monetary penalties ("AMPs") for violations of certain provisions of the Act and the [Motor Vehicle Safety Regulations](#) ("MVSr"). The amendments were added to the Act back in 2018. On July 5, 2023, the new [Administrative Monetary Penalties \(Motor Vehicle Safety\) Regulations](#) ("AMPs Regs") were published in their final form. The AMPs Regs complete the AMPs scheme set out in the Act by designating which provisions of the MVSA, the MVSr and orders for which an AMP could be issued. The AMPs Regs will come into force on Tuesday, October 3, 2023, following a 90-day transition period to provide stakeholders with sufficient time to familiarize themselves with the regulations and associated policies and operating procedures. Read the [full article](#) by [Timothy Cullen](#) with McMillan LLP.

Uninsured Motorist Protection (UMP) in British Columbia: Essential Coverage and Important Facts You Need to Know

Uninsured Motorist Protection (UMP) is insurance coverage in British Columbia that provides financial protection to drivers who are involved in accidents with uninsured or underinsured motorists. It helps cover medical expenses, and other losses resulting from the accident. Here are four facts you may not know about this type of coverage. Read the [full article](#) by [Rose Keith](#) with Harper Grey LLP.

Electronic Logging Devices Will Make Roads Safer

Commercial vehicle operators will have tools to support safer travel this summer, as mandated use of electronic logging devices (ELDs) will come into effect throughout the province on Tuesday, Aug. 1, 2023.

ELDs automatically track drivers' time behind the wheel, reducing the likelihood of driving while tired and helping to ensure they stick to the allowable regulation driving time in a day.

The requirement for ELDs in B.C. was announced in February 2023, giving B.C. carriers six months to install ELDs throughout their fleets and to complete driver and dispatcher training. Government has partnered with carriers to introduce this tool to increase safety and reduce the risks associated with driver fatigue. Read the government [news release](#).

BC Supreme Court Rejects Defense of Failure to Mitigate Loss in Car Crash Case

The BC Supreme Court has rejected the argument that the plaintiff in a motor vehicle accident failed to mitigate her loss with continued treatment, finding no real and substantial possibility her condition would have improved with additional treatment.

In *McWilliams v. Hardy*, [2023 BCSC 1259](#), Morgan McWilliams was driving her mother's car when she was struck hard from behind by a vehicle driven by the defendant, Ronald Hardy. McWilliams sustained various physical injuries from the collision and claimed that the pain from her injuries continued to impair her quality of life and her ability to work and perform household chores. In addition, she claimed that she suffered from depression and debilitating driving anxiety due to the collision. Read the [full article](#) by [Angelica Dino](#) in the *Canadian Lawyer*.

Canada's Renewed Attempt to Regulate Airports: The Introduction of Bill C-52

On June 20, 2023, [An Act to enact the Air Transportation Accountability Act and to amend the Canada Transportation Act and the Canada Marine Act](#) was introduced in the House of Commons by the Hon. Omar Alghabra, Minister of Transport. This much awaited legislation follows failed attempts in 2003 and 2006 by Parliament to update the legislative frameworks for airports, airport authorities and other airport operators. On the heels of the COVID-19 pandemic and public concern over airport and airline delays, lost bags and stranded passengers, the Minister of Transport has indicated that the changes proposed by the Bill are intended to "help create a transportation sector that is more efficient, transparent and accountable". This blog summarizes the aspects of the Bill relevant to the air transportation sector. Read the [full article](#) by [Jody E. Aldcorn](#), [Rachael Carlson](#) and [Eric Driver](#) with McCarthy Tetrault.

BC Court of Appeal More Than Doubles Damages Awarded in Car Accident Case

A judge of the lower court failed to compare an injured party's likely future earnings if the accident had not occurred with her likely future earnings after the accident happened, the B.C. Court of Appeal recently said.

In February 2014, the appellant was injured as a passenger in a rear-ended car. At the time, she was 19 years old, was working full-time at a retail company, and was earning minimum wage. According to the judge's findings, the accident caused her fibromyalgia; chronic back pain, which continued until the present and which would likely continue into the future; and anxiety, which developed into depression and into a panic disorder for several months. Read the [full article](#) by [Bernise Carolino](#) in the *Canadian Lawyer*.

CVSE Bulletins & Notices

The following documents were posted recently by CVSE:

- [NSC Bulletin 01-2022](#) – Publication of Carriers Cancelled for Cause
- [Circular 03-21](#) – Highway 4 Cameron Lake Bluffs Temporary HOS Exemption
- [Compliance Circular 04-2023](#) – HOS Exemption for Non-Passenger CMVs under 11,795 kg LGVW
- [Compliance Circular 03-2023](#) – Provincial ELD Exemptions
- [Notice 02-2023](#) – [Amended MVAR Division 37](#) Now In Force

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

- **Special Committee to Review Passenger Directed Vehicles**
Section 42.1 of the Act required the Legislative Assembly to establish a Special Committee. Read the full [notice](#).
- **Notice to Taxi Licensees RE: Terms and Conditions Update**
The Passenger Transportation Board is providing notice to taxi licensees of changes the Board intends to make to Terms and Conditions (T&Cs) in their licences. Read the full [notice](#).
- **New Strategic Plan 2023-2026**
The Passenger Transportation Board (Board) has updated its three-year Strategic Plan (2023-2026). This Strategic Plan focuses on the following: positioning the Board to fulfill its expanded role and mandate; supporting ongoing organizational transformation; strengthening engagement with interest parties; and, promoting a healthy and vibrant passenger

transportation industry in BC. Read the full [notice](#).

• **Updated Materials for Public Need and Sound Economic Conditions**

The Passenger Transportation Board has updated policies and guidelines on Public Need and Sound Economic Conditions criteria. These materials include a Public Need policy, Sound Economic Conditions policy, and guidelines called Demonstrating Public Need and Sound Economic Conditions. Read the full [notice](#).

• **Taxi Rates – Cost of Living Adjustment 2023**

On March 29, 2023, the Passenger Transportation Board (Board) gave notice to licensees regarding potential changes to taxi and TNS rates regulation and invited licensees to provide feedback on the considered options. In June 2023, the Board reviewed feedback from the taxi sector and decided to initiate the construction of a new custom TCI. Read the full [notice](#).

Applications Received

- [17650-23](#) – Russel Bertram Banister and Cheryl Anne Banister (Big Mountain Little Shuttle)
- [17968-23](#) – Supreme Limousine & Chauffeur Service Ltd
- [17963-23](#) – Robert John Lee Chisan (Rockwest Construction)
- [17865-23](#) – North Coast Trail Shuttle Ltd.
- [18052-23](#) – Yellow Top Taxi Ltd.
- [16955-23](#) – 1202033 BC Ltd. (Cariboo Taxi)
- [18186-23](#) – Swiftsure Taxi Co. Ltd. (Yellow Cab Nanaimo)

Application Decisions

- [15580-22](#) – Green Coast Ventures Inc. (Whistle!) [Refused]
- [17433-23](#) – Luxe Fleet Inc. [Approved]
- [17992-23](#) – Cobble Hill Taxi 2016 Ltd. [Approved]
- [17432-23](#) – KJ Limousine Services Inc. [Approved in Part]
- [17800-23](#) – Skeena Taxi Ltd. [Approved]
- [18208-23 PS TOP](#) – Corporate City Limousine Services Ltd. [Approved]
- [17345-23](#) – Mehran Yanough (Perspolis Tour & Transport) [Refused]
- [17753-23](#) – Delta Sunshine Taxi (1972) Ltd. (Green Cab) [Approved]
- [17087-23](#) – Zayan Limousine Inc. [Refused]
- [18092-23 UPN](#) – Deborah Jean Asher and David Brand Hilton (Trips for Tips) [Approved in Part]
- [17391-23](#) – Whistler Eco Tours Ltd. [Refused]
- [17993-23](#) – A Stylish Arrival Chauffeured Service, A Stylish Arrival [Approved]

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

Act or Regulation Affected	Effective Date	Amendment Information
Electric Kick Scooter Pilot Project Regulation (90/2021)	July 10/23	by Reg 180/2023
Inspectors Authorization Regulation (372/92)	July 17/23	by Reg 191/2023
Motor Vehicle Act Regulations (26/58)	Aug. 1/23	by Reg 37/2023
Motor Vehicle Fees Regulation (334/91)	Aug. 1/23	by Reg 38/2023
Passenger Transportation Act	July 17/23	by 2022 Bill 40, c. 35, section 14 to 16 only (in force by Reg 194/2023), Passenger Transportation Amendment Act (No. 2), 2022
Passenger Transportation Regulation (266/2004)	July 17/23	by Reg 194/2023
Provincial Immigration Programs Regulation (199/2023)	Aug. 1/23	by Reg 199/2023
Use of Electronic Devices While Driving Regulation (39/2023)	Aug. 1/23	by Reg 39/2023

Violation Ticket Administration and Fines Regulation (89/97)	July 17/23	by Reg 191/2023
	July 18/23	by Reg 198/2023
	Aug. 1/23	by Reg 40/2023



OCCUPATIONAL HEALTH & SAFETY

Occupational Health and Safety News:

WorkSafeBC Keeps Premium Rate Steady at 1.55 Percent for 2024

In a move aimed at providing financial stability and predictability for employers, WorkSafeBC has revealed that the preliminary average base rate for 2024 will remain unchanged at 1.55 per cent of employers' assessable payroll. If approved by WorkSafeBC's Board of Directors, this will mark the seventh consecutive year that the average base rate has been kept at this level, reflecting the organization's commitment to maintaining steady rates. Read the [full article](#) by [Shane Mercer](#) on Canadian Occupational Safety Magazine.

Underpaid Foreign Worker with Workplace Injury Faced Harassment, Discrimination: Tribunal

An employer that underpaid a foreign worker for more than three years and accused her of lying about a workplace injury discriminated against her, the BC Human Rights Tribunal has ruled. Many of the issues in the case were related to employment standards and workers' compensation, but the worker's vulnerable position crossed into the human rights jurisdiction, says Jessica Fairbairn, a partner at Harris & Company in Vancouver. Read the [full article](#) by Jeffrey R. Smith on HRReporter.

Consultation on Proposed Amendments to Part 14 of the Occupational Health and Safety Regulation

– from [WorkSafeBC](#)

Our Policy, Regulation and Research Department is requesting feedback on proposed amendments to [Part 14, Cranes and Hoists, sections 14.73.1 to 14.75, of the Occupational Health and Safety Regulation](#). The consultation phase gives stakeholders an opportunity to provide feedback before the proposed amendments are taken to public hearing. Feedback will be accepted until **4:30 p.m. on August 25, 2023**.

Proposed Policies Regarding Duty to Cooperate and Duty to Maintain Employment

– from [WorkSafeBC](#)

The *Workers Compensation Amendment Act (No. 2), 2022 (Bill 41)* amended the [Workers Compensation Act](#) to add a duty to cooperate and a duty to maintain employment. These new provisions will come into force January 1, 2024. Our Policy, Regulation and Research Department is releasing a discussion paper with proposed policies to provide guidance on these new provisions. You're invited to provide feedback on the discussion paper and proposed policies until **4:30 p.m. on Friday, September 1, 2023**.

New Public Health Orders

The Public Health Office (PHO) recently issued the following notice:

- [Notice of Repeal of Health Professionals COVID-19 Vaccination Status Information Order – July 14, 2023 \(PDF, 291KB\)](#)

Visit the PHO [website](#) to view this and other related orders and notices.

OHS Policies/Guidelines – Updates

Guidelines – Occupational Health and Safety Regulation

- Part 20 Construction, Excavation and Demolition [G20.112 Hazardous materials – Asbestos](#)

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

Property and Real Estate News:

BC Judge Strikes Down Refugee Appeal of a \$1.32 Million

Foreign Buyer's Tax on \$6.6 Million Home

The Supreme Court of British Columbia has struck down the claim of an Iranian refugee appealing a decision that he pay a \$1.32 million "foreign national" tax on a \$6.6-million house in West Vancouver, dismissing his arguments that his Charter rights have been infringed. Justice Geoffrey Gomery dismissed the claim on [s. 7](#) and [15](#) of the [Canadian Charter of Rights and Freedoms](#). However, he did give Kourosh Bakhtiari leave to amend his claim on s. 7 grounds. Read the [full article](#) by [Zena Olijnyk](#) on *Canadian Lawyer*.

Have a Little Faith in Me: Good Faith in Leasing Lately

This bulletin explores the duty of good faith in commercial leasing, which grows out of the Supreme Court of Canada's recent decisions in *C.M. Callow Inc. v Zollinger* ("[Callow](#)") and *Wastech Services Ltd. v Greater Vancouver Sewerage and Drainage District* ("[Wastech](#)") and earlier *Bhasin v Hrynew* ("[Bhasin](#)"). Included in this bulletin is a helpful summary of recent leasing cases and their takeaways regarding the duty of good faith for landlords and tenants.

Introduction

The duty of good faith was recognized by the Court in *Bhasin* as a common law doctrine requiring "honest, candid, forthright, or reasonable contractual performance" between two contractual counterparties. That doctrine has been refined by the Court in *Bhasin* to clarify that "parties generally must perform their contractual duties honestly and reasonably" and must not lie or knowingly mislead the other party. The Court also confirmed that this duty exists in every contract, without needing to be explicitly mentioned, and cannot be contracted out of.

Read the [full article](#) by Mervyn Allen, Ximena Pinilla and Jacob Stucken with McMillan LLP.

Does a Strata Corporation Have a Right to Key Access to a Strata Lot?

Dear Tony:

Owners in our Coquitlam building received notice that we are being forced to provide a key to access our strata lots. A bylaw is being proposed at our upcoming annual general meeting, which will require everyone (owner/landlord) to provide a key to the resident manager for the purpose of emergencies, routine inspections, and service requirements. The only service requirement we have is the routine testing of the smoke and heat detectors. This is always scheduled for the 2nd week of September and owners and tenants are always provided with at least 7 days notice for access. The notice package has indicated that if we do not provide a key, and there is an emergency access, we will be responsible for any related damages to our strata lot or other strata lots. Is a strata corporation permitted to compromise our security and safety? – *Francis W.*

Dear Francis:

The standard bylaws of the [Strata Property Act](#) make a provision both for emergency access and routine access with notice for the purpose of inspections and servicing. Your home is your private strata residence. While a strata corporation may amend access requirements to strata lots, they cannot force an owner to provide a key for access or codes for alarms that in any way may compromise their personal safety, security, or risk to their personal assets and property in the strata lot.

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

Have You Received a Monetary Order from the Residential Tenancy Branch ("RTB") and Wondered How to Collect It?

Congratulations on your favourable RTB decision! Unfortunately, the RTB cannot help you collect on the Monetary Order you just received. Instead, the [Residential Tenancy Act](#) allows an order for financial compensation up to \$35,000.00 or the return of personal property to be filed in British Columbia Provincial Court's Small Claims division ("[Small Claims Court](#)"). The Monetary Order can then be enforced like a judgment of that court. Read the [full article](#) by [Megan Wong](#) with Alexander Holburn Beaudin + Lang LLP.

Landlord Options Upon Default Under A Commercial Lease.

The starting point for determining the rights and obligations of landlords and tenants under a commercial lease is the written lease agreement. A poorly written lease can really limit a landlord's options on default by a tenant. In addition, the common law and provincial legislation, including the [Commercial Tenancy Act](#), RSBC 1996, c. 57, also outline relevant considerations when deciding on enforcement strategies. Generally, a landlord's options include terminating the Lease, suing for arrears, reletting the property on the tenant's account or commencing distraint proceedings. Read the [full article](#) by Eric Ledding with Pushor Mitchell LLP.

LTSA Changes: Retirement Of COVID Measures Effective September 30, 2023

In response to COVID-19 ("[COVID](#)"), many adjustments were made to the land title applications process in order to accommodate province-wide restrictions. Specifically, the formalities under the [Land Title Act](#) were relaxed to allow land title documents to be witnessed remotely and individuals with medical concerns were typically granted permission to sign the documents without the physical presence of an officer. Effective September 30, 2023, many of the COVID-related measures implemented by the Land Title and Survey Authority of British Columbia (the "[LTSA](#)") will be retired in line with the removal of provincial COVID restrictions. Read the [full article](#) by Paul Tonita and Marina Nichols with Pushor Mitchell LLP.

Act or Regulation Affected	Effective Date	Amendment Information
Integrated Land and Resource Registry Regulation	July	by Reg 158/2023

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