

## **Highlights of the *Practice Checklists Manual* 2025 Update**

The 2025 update reflects legislative amendments, new case law, and changes to practice. Except where otherwise noted, each checklist is current to approximately September 4, 2025. The following highlights are not exhaustive; see the checklists for more details.

### **Corporate and Commercial Law**

- ***Investment Canada Act***. Recent amendments to the *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.) (the “*Investment Canada Act*”) and changes to policy announced by the Minister of Innovation, Science and Industry (the “Minister”) continue to address changing threats that may arise from foreign investment. The net benefit review thresholds have also been updated.
  - **Modernization**. *An Act to Amend the Investment Canada Act*, S.C. 2024, c. 4 received Royal Assent on March 22, 2024, with certain amendments coming into force September 3, 2024. The amendments further the Minister’s ability to detect, review, and restrict foreign investments that are potentially injurious to Canadian national security.
  - **Investment digital media sector**. Foreign investors and Canadian businesses in the investment digital media sector (the “IDM sector”) must review their investment plans for potential connections to entities owned or influenced by hostile foreign states and consult with Innovation, Science and Economic Development Canada’s Investment Review Division at least 45 days before implementing any investment. Foreign investors in Canada’s IDM sector must ensure their investments support the creation and retention of Canadian intellectual property and comply with stringent undertakings and possible reviews for net benefit by the Minister of Canadian Heritage, focusing on maintaining Canadian control and cultural expression.
  - **Guidelines on the National Security Review of Investments**. On March 5, 2025, the Minister announced updates to the *Investment Canada Act* Guidelines on National Security Review of Investments. These guidelines set out the process for reviewing foreign investments, such as the establishment or acquisition of a Canadian business, to determine whether they pose a risk to Canada’s national security based on the factors identified in the guidelines.
  - **Net benefit review thresholds**. For minimum enterprise values or asset values of Canadian businesses triggering a review to determine whether a foreign investment is likely to result in a net benefit to Canada, see the [net benefit review thresholds](#) effective for 2025.
- **Mandatory disclosure regime to report transactions**. Enhanced mandatory disclosure rules under ss. 237.3 to 237.4 of the *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) consist of changes to the existing reportable transaction rules and a new rule to report “notifiable transactions”. These rules apply to transactions occurring after June 21, 2023. Members of the legal profession are caught by the rules through the definition of an “advisor” and are therefore exposed to the possibility of substantial penalties. Legal professionals are currently exempt from the rules pending determination of the Federation of Law Societies’ of Canada’s challenge to the constitutionality of these rules on the grounds that they infringe the *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (U.K.), c. 11 (specifically, that the rules create potential conflicts of interest between legal professionals and their clients). Other parties, such as clients and accountants, are not exempt from the rules. Lawyers should consider advising their clients to consult with accountants and other professionals, such as tax counsel, on their obligations as well as updating their reporting correspondence.

- **Transparency register.** Private companies incorporated under the *Business Corporations Act*, S.B.C. 2002, c. 57 must create and maintain a “transparency register” of information about “significant individuals” (as defined by s. 119.11 of the *Business Corporations Act*). Consult the *Business Corporations Act* and British Columbia government websites to confirm compliance. Under the *Business Corporations Amendment Act, 2023*, S.B.C. 2023, c. 20, expected to take effect in fall 2025, private British Columbia companies will be required to file their transparency register information online with the BC Business Registry: (i) within six months of incorporation, amalgamation, restoration, or continuation; (ii) within 15 days of the company becoming aware of any changes to its transparency register; and (iii) annually (within prescribed period yet to be announced). For further information, see the Government of British Columbia’s website and the associated modernization updates.
- **Canada Business Corporations Act.** Amendments to the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 (the “CBCA”) which took effect August 31, 2022, require distributing corporations (generally, only public companies governed under the CBCA) to comply with new requirements with respect to the election of directors. Note the amendments in s. 106 of the CBCA, with respect to “majority voting” and “individual election” requirements. Accordingly, if a CBCA company is being incorporated, and particularly if it may become a reporting issuer, attention should be given to the company’s articles with respect to electing and appointing its directors. As of January 22, 2024, corporations created under the CBCA are required to file information regarding individuals with significant control (“ISC”) with Corporations Canada and to keep a copy of their ISC register with their corporate records.
- **Purpose-built rental exemption.** Effective January 1, 2024, certain new purpose-built rental buildings are exempt from the further 2% property transfer tax applied to residential property values that exceed \$3,000,000 and meet the eligibility requirements.
- **Competition Act.**
  - **Provisions related to restrictive covenants and exclusivity clauses.** Landlords and tenants may negotiate restrictive covenants and exclusivity clauses in their leases to: control tenant use and tenant mix; grant a tenant the exclusive right to conduct certain activities; and restrict other tenants from conducting those activities. Amendments to the *Competition Act*, R.S.C. 1985, c. C-34 (the “Competition Act”) came into effect on December 15, 2023. The Competition Bureau of Canada issued “*Competitor Property Controls and the Competition Act*”, dated June 4, 2025, which outlines the Competition Bureau’s enforcement approach to competitor property controls under the *Competition Act* following Royal Assent of Bill C-56 (<https://competition-bureau.canada.ca/en/how-we-foster-competition/education-and-outreach/publications/competitor-property-controls-and-competition-act>). The Competition Bureau has taken the position that restrictive covenants and exclusivity clauses may amount to property controls insulating firms from competition, thereby falling under the “abuse of dominance” and the “anti-competitive collaboration” provisions under ss. 78 and 90.1 of the *Competition Act*, respectively. Lawyers should review the *Competition Act* and the Competition Bureau’s guidance to determine whether any such restrictive covenant or exclusivity clause granting a tenant exclusive rights to carry on a particular activity, or restricting certain tenants from carrying out certain activities, amounts to a “competitor property control” subject to risk enforcement action by the Competition Bureau before the Competition Tribunal. Upon determining that a competitor property control is contrary to the *Competition Act*, the Competition Bureau may seek remedies including: prohibiting the terms of the competitor property control and its enforcement; requiring other measures to restore competition where necessary; and seeking administrative monetary penalties. Where a competitor property control raises issues under s. 90.1 of the *Competition Act*, the Competition Bureau will consider all parties to the agreement to be potential targets of its investigation (tenants and landlords alike).

- **Greenwashing provisions.** The *Competition Act* added new provisions that took effect June 20, 2024. The new provisions require companies making environmental claims about their products or services to support these claims with adequate and proper testing. Furthermore, any statements regarding the environmental benefits of a business or its activities must be substantiated using “internationally recognized methodologies”. On June 5, 2025, the Competition Bureau issued guidance detailing its expectations (e.g., what constitutes a recognized methodology, and principles for substantiation and future-oriented claims), though the guidelines are not binding.
- ***Business Practices and Consumer Protection Act.*** Bill 4, the *Business Practices and Consumer Protection Amendment Act, 2025* received Royal Assent on March 31, 2025. The consequential amendments will come into force by regulation and are expected to introduce provisions that prohibit suppliers from mandating dispute resolution processes through consumer contract terms. Parties may still mutually agree to submit to arbitration or another form of dispute resolution.
- **Removing oneself as a director.** Effective May 4, 2023, a person who claims not to be a director but who is recorded as a director in a company’s notice of articles may, on notice to the company, apply to the registrar for the removal of their name and address from the company’s notice of articles (*Business Corporations Act*, s. 127.1, as amended B.C. Reg. 114/2023). On application, the registrar must alter the company’s notice of articles if the applicant provides satisfactory proof that they are not a director of the company, and the company failed to file a notice of change of directors with the registrar.
- **Resolutions upheld despite being made during annual general meeting not called in accordance with company’s articles.** In *Yinghe Investment (Canada) Ltd. v. CCM Investment Group Ltd.*, 2024 BCCA 285, a dispute arose when an annual general meeting was held without proper adherence to the company’s articles (the meeting was called by a single director instead of the required plural “directors”). The court found that the chambers judge did not err in exercising his discretion under s. 229 of the *Business Corporations Act*, as the decision to allow certain resolutions to stand was made in the company’s best interests.
- ***Income Tax Act.*** Amendments to the *CBCA* that took effect November 2, 2023, authorize the communication of certain taxpayer information to an official of the Department of Industry for the purpose of verifying and validating the data that must be filed by certain private corporations under s. 21.21 of the *CBCA* in relation to the corporate beneficial ownership registry.
- **Forced sale provisions and anti-deprivation rule.** In *ATB Financial v. Mayfield Investments Ltd.*, 2025 ABKB 61, the court declared a forced sale provision triggered by the bankruptcy of a shareholder to be void and unenforceable, as it violated the anti-deprivation rule. While not yet considered by courts in British Columbia a similar outcome is possible and this case should accordingly be considered when drafting shareholders agreement.
- **Amendments to the *Land Title Act* and *Property Law Act*.** The *Land Title and Property Law Amendment Act, 2024*, S.B.C. 2024, c. 9 came into force May 21, 2024, amending the *Land Title Act*, R.S.B.C. 1996, c. 250 and the *Property Law Act*, R.S.B.C. 1996, c. 377. The amendments recognize the power and capacity of a First Nation to hold, acquire, and dispose of land in the name of the First Nation as owner and register its ownership in the land title office in its First Nation name.

### Criminal Law

- **Practice directions.** Check the Courts of British Columbia website ([bccourts.ca](http://bccourts.ca)) to obtain up-to-date Practice Directions and Notices to the Profession on subjects including: remote proceedings; processes to appear before a specific judge; forms of address; withdrawing as counsel;

administrative aspects of oaths and affirmations in court, and methods of appearance by counsel and accused persons for all levels of court.

- **Official language rights.** Courts must advise an accused person of their fundamental right to a trial in the official language of their choice. See *R. v. Tayo Tompouba*, 2024 SCC 16; s. 530(3) of the *Criminal Code*; [Provincial Court of British Columbia Criminal Practice Direction CRIM 20—Language of Accused](#) and [Supreme Court of British Columbia Criminal Practice Direction CPD-10—Language of the Accused](#).
- **Admissibility of evidence relating to prior sexual activity.** Where evidence of prior sexual history is being led, see *R. v. Kinamore*, 2025 SCC 19 for substantive and procedural requirements. Also see *R. v. Crawford*, 2025 BCCA 17, where the court considered proximate sexual activity and the application of the s. 276 regime. Where the evolution of a witness's testimony at trial results in a material change in circumstances, the court may revisit an earlier s. 276 ruling in light of the new evidence or information (*R. v. T.W.W.*, 2024 SCC 19).
- **Air of reality for included offences.** In *R. v. Pan*, 2025 SCC 12, the Supreme Court of Canada considered the air of reality test for included offences.
- **Publication bans.** Section 648(1) of the *Criminal Code* does not automatically apply to all pre-trial conferences or pre-trial hearings. See *La Presse inc. v. Quebec*, 2023 SCC 22. See [Supreme Court of British Columbia Practice Direction CPD-9—Restriction on Publication of Information from Conferences in Criminal Proceedings](#) and [Provincial Court of British Columbia Criminal Practice Direction CRIM 19—Procedure for Applications to Vary or Revoke a Publication Ban under s. 486.51 of the Criminal Code](#)
- **Fitness to stand trial.** The Supreme Court of Canada considered the test for fitness to stand trial pursuant to s. 2 of the *Criminal Code* in *R. v. Bharwani*. 2025 SCC 26.
- **Amendments to bail provisions of the *Criminal Code*.** For persons accused of offences under s. 515(4.3) of the *Criminal Code*, R.S.C. 1985, c. C-46, a condition of release may now include that the accused wear an electronic monitoring device if the Attorney General makes the request (s. 515(4.2)).
  - A reverse onus for bail is on persons charged with a serious offence (offences that carry a maximum penalty of at least 10 years imprisonment) involving violence (threatened, attempted, or used) and the use of a weapon, where that person was previously convicted with the same criteria within the previous five years (s. 515(6)(b.2)).
  - A reverse onus for bail is on persons charged with an offence in the commission of which violence was allegedly used, threatened, or attempted against their intimate partner, and that person was previously convicted or discharged under s. 730 of an offence in the commission of which violence against any intimate partner of theirs was used, threatened, or attempted (s. 515(6)(b.1)).
- **Availability of faint hope clause.** In 2011, Parliament introduced certain amendments to the *Criminal Code* which had the effect of prospectively canceling the legal entitlement of first-degree murder convicts to apply for a reduction in their parole ineligibility after 15 years of imprisonment. The court in *R. v. Mariani*, 2025 BCSC 129, found these amendments violate s. 12 of the *Charter*. In a subsequent decision indexed at 2025 BCSC 1298, the court found ss. 745.01(2) and 745.6(1)(a.1) could not be saved under s. 1 of the *Charter* and declared them of no force and effect. This means that offenders sentenced after 2011 and who are otherwise eligible (e.g. did not commit multiple murders) retain the right to apply for a reduction in parole eligibility after 15 years of imprisonment and must be advised of that right at the time of sentencing.
- **Sentencing young offenders as adults.** In *R. v. I.M.*, 2025 SCC 23, the Supreme Court of Canada held that to sentence a youth as an adult under s. 72(1) of the *Youth Criminal Justice Act*, S.C. 2002, c. 1, the Crown must prove a two-pronged test. First, the Crown is required to rebut the presumption

of diminished capacity beyond a reasonable doubt; and second, the Crown must satisfy the court that a youth sentence would be insufficient in length to hold the young person accountable for their wrongful conduct.

- **Impact of decision to plead not guilty and presentation of defence on sentencing.** An accused's decision to run a trial is not to be treated as an aggravating factor on sentence, nor is the manner in which an accused person presents their defence (*R. v. Moazami*, 2025 BCCA 189). Imposing a higher sentence because an accused testified and lied would run contrary to the accused's right not to be punished for a crime for which they have not been convicted (i.e. perjury).
- **Effect of guilty plea where the Crown's case is weak.** A guilty plea "in the face of a weak Crown case is, or at least most often will be, especially mitigating" (*R. v. Attachie*, 2025 BCCA 183).
- **Conditional sentence orders ("CSO") availability.** Bill C-5 received Royal Assent on November 17, 2022, which removed most of the restrictions on CSO availability (see *Criminal Code*, s. 742.1). Thirteen days earlier, the Supreme Court of Canada held in *R. v. Sharma*, 2022 SCC 39 that the previous restrictions were constitutional.
- **CSOs for sexual offences.** In the wake of the 2022 amendments removing restrictions on CSO availability for sexual offences, the Court of Appeal nevertheless confirmed that CSOs are rarely appropriate in cases involving child sexual abuse (*R. v. C.K.*, 2023 BCCA 468 at para. 108). The court also confirmed that CSOs will rarely be appropriate for sexual assaults against adults that are prosecuted by indictment and involve "aggravating circumstances" (*R. v. Hurley*, 2024 BCCA 259 and *R. v. Maslehati*, 2024 BCCA 207). Aggravating circumstances include factors such as the invasiveness and duration of the assault, threats or use of a weapon, and the age and vulnerability of the victim (*R. v. Maslehati* at para. 74). Nevertheless, a non-penitentiary term may be appropriate where the offender establishes diminished moral blameworthiness or compelling mitigation (*R. v. Maslehati* at para. 85).
- **Section 161(1) prohibition orders.** The court may not prohibit an offender from attending at a location that is not specified under s. 161(1)(a), such as a theatre (*R. v. Veringa*, 2024 BCCA 295). An order under s. 161(1)(c) cannot prohibit a broader range of conduct than what is contemplated by the express wording of the provision (*R. v. Bevan*, 2024 BCCA 414).
- **Impact of Race and Culture Assessment Reports ("IRCA's").** IRCAs are pre-sentencing reports that help the courts better understand the effect of marginalization, racism, and social exclusion on Black and racialized offenders. This type of evidence has been admissible in some cases as relevant social context evidence (*R. v. Handule*, 2023 BCSC 1031; *R. v. Ellis*, 2022 BCCA 278; *R. v. Anderson*, 2021 NSCA 62; and *R. v. Morris*, 2021 ONCA 680). Contact [irca@legalaidsbc.ca](mailto:irca@legalaidsbc.ca) for questions about funding and availability of IRCAs.
- **Mandatory minimum sentence ("MMS") for invitation to sexual touching.** The one-year MMS for invitation to sexual touching under s. 152(a) of the *Criminal Code* has been declared unconstitutional where the Crown proceeds by indictment (*R. v. Ali*, 2025 BCSC 909). Where the Crown proceeds summarily, the 90-day MMS in s. 152(b) remains in effect.
- **Criminal Code amendments.** Counsel who do not regularly practice in the area of impaired driving and other driving offences are reminded to review Part VIII.1 of the *Criminal Code* (ss. 320.11 to 320.4) enacted in 2018, as these provisions significantly changed the investigation and prosecution of these offences.
- **Refusal and change of mind.** In *R. v. Khandakar*, 2024 ONCA 620, the court held that if a driver changes their mind about providing a sample within "the same transaction" as their initial refusal, they have not committed the offence of refusal under s. 320.15.
- **The presumption of accuracy and evidence of the alcohol standard.** In both *R. v. Kim*, 2025 ONCA 478 and *R. v. Wright*, 2025 SKCA 52, the court endorsed the reasoning in *R. v. MacDonald*,

2022 YKCA 7, *R. v. Rousselle*, 2024 NBCA 3 (application for leave to appeal granted, 2024 CanLII73616 (SCC)), and *R. c. Vigneault*, 2024 QCCA 793, to the effect that the Crown may rely on the statements contained in the certificate of a qualified technician to establish the certification of the alcohol standard, something necessary to establish the presumption set out in s. 320.32(1). See *contra*, *R. v. Goldson*, 2021 ABCA 193 (leave to appeal refused, 2022 CanLII 10371). Note also that s. 320.34(1)(e) requires that the Crown disclose to the accused a copy of the certificate of analyst, and s. 320.32(2) requires that the Crown give reasonable notice of its intention to rely on a certificate.

- **Constitutionality of mandatory alcohol screening upheld.** In *R. v. Wright*, 2025 SKCA 52, the court found that mandatory alcohol screening (“MAS”) under s. 320.27(2) infringes s. 8 of the *Charter* but is a demonstrably justified limit on that right under s. 1. See also *McLeod v. British Columbia (Superintendent of Motor Vehicles)*, 2023 BCSC 325.
- **Refusal to comply with a demand under s. 320.15 is an offence of general intent.** In *R. v. Doiron*, 2023 BCPC 127, affirmed 2024 BCSC 251, the court followed several recent cases from across Canada finding that the offence of refusal under s. 320.15 is an offence of general intent. This means the Crown must prove knowledge of a lawful demand and a refusal (or failure) to comply. It then falls to the accused to establish a reasonable excuse.
  - **Crown must disprove “a reasonable excuse”.** In *R. v. Rafeah*, 2024 ONSC 755, the court held that where there is air of reality to a defence based on “a reasonable excuse”, as found in ss. 320.15 (refusal), 320.16 (leaving the scene of an accident) and 320.17 (failure to stop for police), the Crown bears the onus of disproving it. The decision was based on the repeal of s. 794(2) via Bill C-51 in 2018. However, also see *R. v. Goleski*, 2014 BCCA 80, affirmed 2015 SCC 6.
  - **No jurisdiction to impose a driving prohibition for certain offences involving motor vehicles.** The court in *R. v. Wolfe*, 2024 SCC 34 held that the wording of s. 320.24 does not allow for a driving prohibition to be imposed on conviction for criminal negligence causing death or bodily harm, or manslaughter, where the unlawful act is committed by means of a motor vehicle.

### Family Law

- **Divorce Act.** On December 1, 2024, s. 23 of the *Divorce Act*, R.S.C. 1985, c. 3 (2nd Supp.) (“*Divorce Act*”) came into force in British Columbia, allowing parties to conduct *Divorce Act* proceedings in English, French, or both official languages.
- **Supreme Court Family Rules.** Recent amendments to the Supreme Court Family Rules, B.C. Reg. 169/2009 (“SCFR”) include procedures to conduct proceedings in either or both official languages under the Divorce Act (SCFR, Rule 20-7) and permitting affidavits to be sworn or affirmed by video conference (SCFR, Rule 10-4(6.1)).
- **Division of Pensions Regulation.** Effective January 1, 2025, amendments were made to the Division of Pensions Regulation, B.C. Reg. 348/2012, including: requiring plan administrators to notify limited members not yet receiving benefits, on an annual basis, of the earliest date to which the limited member is eligible to receive pension benefits (s. 11(1)(c)); new provisions for dividing LIRA and LIF benefits (s. 17(1.1)); new provisions for dividing annuities “not purchased by an administrator” (s. 17.1); and revised forms.
- **Family Law Act.** Amendments to the *Family Law Act*, S.B.C. 2011, c. 25 (the “FLA”) received Royal Assent on May 1, 2023, including amendments to: rules applying to the presumption of advancement or presumption of resulting trust (s. 81.1); exclusions applying to excluded property (ss. 85(3) and 96); designations of limited members (s. 113(2)); disability benefits (s. 122); and calculation of a limited member’s proportionate share on death of a member prior to pension commencement (s. 124). The applicability of certain amendments may depend on whether the family law proceeding is

a “pre-existing proceeding”, meaning a proceeding under the *FLA* respecting property division or to set aside or replace an agreement respecting property division, commenced before May 11, 2023.

- **Companion animals.** Provisions addressing pets as “companion animals” came into force on January 15, 2024, under s. 97 of the *FLA*. A companion animal is an animal kept primarily for the purpose of companionship, and the Supreme Court may make an order declaring who has ownership of, or right of possession to, a companion animal (s. 97(2)(a)). Spouses may make agreements with respect to ownership and possession of a companion animal.
- **Practice directions.**
  - **Supreme Court of British Columbia.** Check the Courts of British Columbia website (bccourts.ca) to obtain up-to-date Practice Directions and Notices to the Profession on subjects including: consent adjournments of applications and petitions on the chambers list; foreclosure proceedings; gowning policies for counsel; submission of electronic application records for applications meeting criteria of the Associate Judges Chambers Pilot Project; sealing orders; application to commence proceedings anonymously; and requirements for written submissions.
  - **Provincial Court of British Columbia.** Refer to the Provincial Court website (provincialcourt.bc.ca) for current notices, policies, and practice directions on matters including: default methods of attendance; scheduling continuations; electronic signatures on forms and orders; and guidelines for the length, format, and content of affidavits and exhibits.
- **Early resolution process.** Effective April 1, 2025, the Provincial Court Family Rules, B.C. Reg. 120/2020 (“PCFR”) were amended to expand early resolution registries to Abbotsford, Chilliwack, and New Westminster (in addition to Victoria, Surrey, and Port Coquitlam). Further amendments effective November 1, 2025 will expand early resolution registries to North Vancouver, Richmond, Sechelt, Pemberton, and Vancouver (Robson Square). Unless exempted, the early resolution process requires families to engage in needs assessments, parenting education, and consensual dispute resolution before filing court applications.
- **Provincial Court family forms.** In August 2024, the PCFR forms were redesigned to be shorter, clearer, and written in plain language. Supporting information was removed from the forms and placed in separate guidance materials. These forms became standard across registries in 2025.
- **CFCSA amendments.** Amendments to the *CFCSA* became effective November 24, 2022, along with further sections coming into force in 2024, and were made to help implement and align the *CFCSA* regime with the *Act Respecting First Nations, Inuit, and Métis Children, Youth and Families*, S.C. 2019, c. 24 (the “*ARFNIM*”) and the United Nations Declaration on Indigenous Peoples. The amendments updated definitions, including: “Indigenous child”, “First Nation child”, “Indigenous authority”, “Indigenous child and family services”, “Indigenous governing body”, and “Indigenous law”. The amendments are to be interpreted and administered in accordance with the following principles:
  1. Indigenous peoples have an inherent right of self-government.
  2. The inherent right of self-government includes jurisdiction in relation to Indigenous child and family services, including law making.
  3. Indigenous laws have the force of law in British Columbia.
- **ARFNIM.** The *ARFNIM* came into force on January 1, 2020 and has three declared purposes:
  1. to affirm the inherent right of self-government, which includes jurisdiction in relation to child and family services;
  2. to set out principles applicable, on a national level, to the provision of child and family services in relation to Indigenous children; and

3. to contribute to the implementation of the United Nations Declaration on the Rights of Indigenous Peoples.

In pursuing these purposes, the *ARFNIM* sets out minimum standards that must be met by provincial child protection legislation, including the *CFCSA*. It emphasizes the need for the system to shift from apprehension to prevention and give priority to services that promote preventive care to support families. The *ARFNIM* gives priority to services such as prenatal care and support to parents. In addition, it clearly indicates that no Indigenous child should be apprehended solely on the basis or as a result of the child's socio-economic conditions, including poverty, lack of housing or related infrastructure, or state of health of the child's parent or care provider. The *ARFNIM* has been considered in *British Columbia (Child, Family and Community Service) v. S.H.*, 2020 BCPC 82, and *British Columbia (Child, Family and Community Service) v. M.J.K.*, 2020 BCPC 39. The court has used the *ARFNIM* to define an Indigenous grandmother as a care provider and therefore able to be added as a party to *CFCSA* proceedings, as it is in the best interests of the child pursuant to s. 10 of the *ARFNIM* and s. 4 of the *CFCSA* (*Director and R*, 2022 BCPC 15).

## Litigation

- **Supreme Court Civil Rules.**
  - **Remote commissioning of affidavits.** Effective September 9, 2024, affiants may swear or affirm affidavits by video conference (Supreme Court Civil Rules, Rule 22-2(6.1)). The affidavit must state, in its last numbered paragraph, that the person swearing or affirming the affidavit was not physically present before the other person but was before that person by video conference and is considered to have been sworn or affirmed in the presence, and at the location, of the person before whom the affidavit is sworn or affirmed.
  - **Applications.** Rule 8-1 was amended in 2023 to: require applicants to provide an additional copy of the notice of application to the registry; provide that an application be removed from the hearing list should the application record not comply with Rule 8-1(15); allow parties to apply for an order granting leave to permit late filing of an application record or reinstate an application to the hearing list; and authorize the application respondent to apply for an order for costs if they attend at the hearing of an application that has been removed from the hearing list.
  - **Petitions.** Rule 16-1 was amended in 2023 to require petitioners to provide an additional copy of the filed petition to the registry, and provide that petitions be removed from the hearing list if the petition record does not comply with Rule 16-1(11).
  - **Vexatious litigants.** Rule 22-9 was amended in 2023 to authorize vexatious litigants to apply for leave to file a pleading, application, or other documents.
  - **Associate judges.** Each reference in the Rules to “masters” has been substituted with “associate judges”.
  - **Gender-neutral language.** Gendered language in the Rules was substituted with gender-neutral language effective March 6, 2024.
- **Requirements for written submissions in civil proceedings.** A judge, associate judge, or registrar may permit or require parties to provide written submissions to the Court before or after a hearing and may permit a party to hand up written submissions during a hearing. For details see [Supreme Court Civil Practice Direction PD-69—Requirements for Written Submissions in Civil and Family Proceedings](#).
- **Associate Judges Chambers Pilot Project.** The Associate Judges Chambers Pilot Project provides a means for parties to submit application records electronically for some matters using Court Services

Online. For details on this pilot project, see [Supreme Court Civil Practice Direction PD-68—Associate Judges Chambers Pilot Project](#).

- **Gowning policy for counsel.** For directions about when, and for which appearances, counsel is required to gown, see [Supreme Court Civil Practice Direction PD-67—Gowning Policy for Counsel](#).
- **Witness oaths and affirmations.** For updated instructions on some administrative aspects of oaths and affirmations in court proceedings, including the use of religious or cultural items other than the Bible, see [Supreme Court Civil Practice Direction PD-24—Witness Oaths and Affirmations](#).
- **Communicating with the Court.** [Supreme Court Civil Practice Direction PD-27—Communicating with the Court](#) was updated on January 15, 2024 and sets out the guidelines for appropriate communications with the court for the limited circumstances in which it is permitted.
- **Practice direction for foreclosure proceedings.** On March 3, 2025, the Supreme Court of British Columbia issued [Supreme Court Civil Practice Direction PD-66—Foreclosure Proceedings](#). Remote attendance at foreclosure proceedings is now discouraged. In the rare circumstances where a party needs to apply for leave to attend an application in a foreclosure proceeding remotely, the party should include the following in its Form 20.1 requisition: the nature of the application (i.e., order nisi; application to shorten redemption period with or without immediate conduct of sale; etc.); and whether the application is anticipated to be opposed. If a party is granted leave on an application for approval of sale remotely, the party must arrange for an agent to attend to hand up any competing bids to the court. Sealed bids must be collected and assembled in the courtroom by 9:45 a.m. on the day of the hearing in order to be presented to the court. Foreclosure applications may be scheduled on certain days at certain registries, and counsel should consult the Supreme Court website to ensure the foreclosure application is set for the appropriate day.

### Residential Conveyancing

- **First-time home buyer GST rebate.** On May 27, 2025, the federal government tabled legislative proposals to amend the *Excise Tax Act*, R.S.C., 1985, c. E-15. The proposed amendments would introduce a new GST rebate for first-time home buyers (the “FTHB GST Rebate”). The FTHB GST Rebate would provide a rebate of 100% of the GST on the purchase of newly constructed residential properties valued at up to \$1 million by eligible first-time home buyers. Further, the amendments would gradually phase out the FTHB GST Rebate for new homes valued between \$1 million and \$1.5 million. To be considered a “first-time home buyer” for the purposes of the FTHB GST Rebate under the proposed amendments, individuals must: be at least 18 years of age; be either a Canadian citizen or a permanent resident of Canada; and not have lived in a home, whether in or outside Canada, that they owned or that their spouse or common-law partner owned in the calendar year or in the four preceding calendar years.
- **Title insurer obligations under FINTRAC:** Effective October 1, 2025, title insurers will be required to comply with the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act*, S.C. 2000, c. 17, and associated Regulations. Compliance will include verifying the identity of purchasers prior to issuing an owner's title insurance policy. As lawyers are required to obtain identity and verification information (“IDV”) pursuant to the Law Society Rules, title insurers have indicated that they will request that lawyers act as their agent to fulfill their IDV obligations. Lawyers must consider their professional obligations in deciding whether to assist and, if prepared to do so, obtain their client's informed consent prior to release of such IDV information. See the [Law Society of British Columbia's August 1, 2025 Notice to real estate lawyers: Title insurers report to FINTRAC from October 1, 2025](#) and be alert to further notices from the Law Society.

- **Property Transfer Tax Act.** Effective April 1, 2024, the qualifying value of a property for the first time home buyer exemption and the new housing exemption has increased. The first time home buyer exemption is available for a qualifying property not exceeding \$835,000 with a partial exemption if the qualifying property is more than \$835,000 but less than \$860,000 (*Property Transfer Tax Act*, R.S.B.C. 1996, c. 378, s. 4). The new housing exemption is available for a qualifying property not exceeding \$1,100,000 with a partial exemption if the qualifying property is more than \$1,100,000 but less than \$1,150,000 (s. 12.01).
- **Reduction of the criminal interest rate.** Effective January 1, 2025, Bill C-47—*Budget Implementation Act, 2023, No. 1* lowered the criminal interest rate under s. 347 of the *Criminal Code*, R.S.C. 1985, c. C-46 from a 60% effective annual rate to a 35% annual percentage rate (“APR”). The revised criminal interest rate applies to all lending arrangements in Canada, with exemptions for non-predatory loans including certain payday loans (capped at \$14 per \$100 borrowed), tax rebate advances, pawn loans with an APR below 48%, and commercial loans about \$10,000. Commercial loans ranging from \$10,000 to \$500,000 are exempt from the criminal interest rate if the APR remains below 48%, and commercial loans above \$500,000 will not be subject to any interest rate cap.
- **Remote witnessing of affidavits.** Effective September 30, 2023, the temporary measures authorized by the Registrar in Practice Bulletin 01-20 to permit the remote witnessing of affidavits as a result of the COVID-19 pandemic were rescinded. See <https://ltsa.ca/retirement-of-covid-measures-effective-september-30/>. If the circumstances warrant use of an affidavit of execution in lieu of officer certification, s. 49 of the *Land Title Act*, R.S.B.C. 1996, c. 250 remains available. Any request for remote witnessing of affidavits must be made directly to the LTSA.
- **Prohibition on the Purchase of Residential Property by Non-Canadians Act.** The *Prohibition on the Purchase of Residential Property by Non-Canadians Act*, S.C. 2022, c. 10, s. 235 came into force January 1, 2023 and prohibits the purchase of residential property by non-Canadians. The prohibition was originally scheduled to expire January 1, 2025 but was extended to January 1, 2027. There are limited exceptions for certain non-Canadians and certain residential properties.
- **Residential Tenancy Act.** Effective July 18, 2024, the notice period to end a tenancy for landlord’s (or purchaser’s) use of property is extended to four months, unless another notice period is prescribed, which will not be less than two months (*Residential Tenancy Act*, S.B.C. 2002, c. 78, s. 49(2)(a)). Landlords must generate the appropriate notice to end tenancy using the Residential Tenancy Branch’s web portal.
- **LTSA fee increases.** Most LTSA fees increased on April 1, 2025.

#### **Estate Law**

- **Probate forms.** Forms under Part 25 of the Supreme Court Civil Rules, B.C. Reg. 168/2009, have undergone several recent updates. Ensure you are using the latest versions of the forms.

#### **Human Rights**

- **Backlog strategy.** To address the Tribunal’s current backlog, it has implemented three plans:
  - (1) COVID Case Project: The COVID Case Project establishes a group dedicated to processing COVID-19 related cases that are in the initial stages of the Tribunal’s process, with those cases at the later stages continuing as normal. As of March 4, 2024, the Tribunal has reduced the number of COVID cases at screening from 946 to 107.

- (2) **Outstanding Dismissal Applications Project:** The Outstanding Dismissal Applications Project focuses resources on clearing the backlog of applications to dismiss. As of March 6, 2025, the unassigned dismissal applications have been reduced to 54.
- (3) **Screening Inventory Project:** The Screening Inventory Project addresses those cases that do not fall under the COVID Case Project and are awaiting a decision. As of January 2025, the number of complaints at screening has been reduced from 1,830 at the outset of the backlog strategy to 235. There is still considerable backlog in notifying a respondent of a complaint, with more than 1,000 complaints in the Tribunal queue for which respondents have not been provided notice. The Tribunal’s timeline for notifying respondents that a complaint has been filed against them is currently approximated approximately one-and-a-half years.
- **Case path pilot.** Effective May 6, 2022, the Tribunal launched a pilot project with respect to applications to dismiss under s. 27 of the *Human Rights Code*, R.S.B.C. 1996, c. 210. Instead of allowing respondents to make an application to dismiss as of right, the Tribunal sorts cases into two paths: the Hearing Path and the Submissions Path. Only cases under the Submissions Path have the option to make an application to dismiss. If respondents are placed on the Hearing Path, they may submit a request to file an application to dismiss based on new information or circumstances that the Tribunal had not previously considered. On July 16, 2024, the Tribunal clarified that it reviews a complaint for the purpose of case path selection after the deadline for document disclosure. In March 2025, the Tribunal launched a survey seeking feedback on how to improve the Tribunal’s case path pilot and other processes. The process review is ongoing and the case path pilot has been extended to May 1, 2026 to coincide with the Tribunal’s process review.
  - **Expectations of counsel regarding historical trauma and discrimination.** On April 28, 2021, the Tribunal issued a notice to counsel encouraging all lawyers with cases involving Indigenous persons and persons with lived experience of historical trauma and discrimination to develop their competencies in those areas. Counsel are reminded of their obligation to conduct themselves in a respectful, trauma-informed manner when appearing before the Tribunal, as set out in the Tribunal’s Rules of Practice and Procedure, ss. 4 and 5 of the Mediation Policy respecting trauma-informed processes and Indigenous justice, truth, and reconciliation, and the *Code of Professional Conduct for British Columbia* (the “BC Code”). For more information, see [www.bchrt.bc.ca/](http://www.bchrt.bc.ca/).
  - **Revised policies, rules, and new forms.** On November 15, 2024, the BCHRT introduced revised policies, amended its Rules of Practice and Procedure (“BCHRT Rules”), and new forms. For more details, see <https://www.bchrt.bc.ca/revised-policies-rules-and-new-forms/>.
    - **Mediation Policy.** On November 15, 2024, the Tribunal amended the mediation policy regarding support persons. Mediators will permit a support person so long as they comply with the policy and the mediator’s reasonable directions, and do not prevent the effective and efficient conduct of the proceeding. The mediator may also give direction about the scope of the support person’s participation. On May 30, 2025, the Tribunal revised section 6E of its Mediation Policy to clarify that there is an exception to the requirement of confidentiality to the extent necessary to prove the existence or scope of the settlement.
    - **Accommodation Policy and Form 10–Accommodation Request.**
    - **Participant Access to Complaint Record Policy and Form A–Party Access to Audio Recording Request.**
    - **Public & Media Access Policy and Form B–Public Access to Complaint File During the Hearing Period.**
    - **Form 11–Notice of Change or Withdrawal of Representative.**
    - **Repeal of BCHRT Rules 18(4) and (5).**

- **Withdrawn Practice Directions.** Certain Practice Directions were withdrawn effective November 15, 2024: Terms of Participation in Mediation; Complaint Response; and Page Restrictions on Application to Dismiss a Complaint.
- **BCHRT Rule 20(5).** A respondent must complete document disclosure before filing an application to dismiss the complaint without a hearing, unless the tribunal permits otherwise.
- **BCHRT Rules 28.1 and 28.2.** For requirements to raise constitutional questions or questions of whether there is a conflict between the *Human Rights Code* and any other enactment, see Rules 28.1 and 28.2.

### **Immigration**

- **Practice notices for the Refugee Protection Division.** On September 9, 2024, the Refugee Protection Division “RPD” produced [practice notices \(“PN”\)](#) on procedural issues.
  - **Time limits for providing basis of claim forms.** Under the IRPR, a claimant must send their completed Basis Of Claim (“BOC”) to the RPD no later than 15 calendar days after day the claim is referred to the RPD. Due to the current volume of new refugee claims being made in Canada, the time limit has been extended to 45 calendar days pursuant to s. 159.8(3) of the IRPR (PN #2.1). A claimant may apply to further extend the time limits to provide the completed BOC to the RPD (PN #2.2).
  - **Signatures.** The RPD waives (removes) the requirement for some signatures (PN #3.2).
  - **Applications.** The RPD waives (removes) the requirement to provide alternate dates when requesting a change of time and date of a hearing (PN #4.1(b)). Unless directed by the RPD, the RPD waives (removes) the requirement that any evidence must be given in an affidavit or statutory declaration with applications, responses, and replies (PN #4.2).
  - **Country conditions evidence.** A party who submits country conditions evidence over the 100-page limit must make an *Application to submit voluminous disclosure to the Refugee Protection Division* (PN #4.5(b)).
  - **Minors.** Unless required by the presiding member, a minor (under 18 years of age on the date of their refugee hearing) does not need to attend their hearing (PN #5.1).
  - **Content warnings.** When filing evidence containing graphic content, such as picture or videos that show violence, serious injuries, or sexually explicit acts, the party must identify it by labelling it with “Notice: Graphic Content” (PN #5.3).
- **Practice notices for the Immigration and Refugee Board.** On April 2, 2025, the Immigration and Refugee Board (“IRB”) updated its [allegations against former counsel](#) practice notice.
- **My Case online accounts.** Counsel should open a My Case online account with the IRB (see <https://my-case-mon-dossier.irb-cisr.gc.ca/en-US/>) and ensure they are fully registered to file and receive documents. My Case is now in Phase 3 and counsel may now add up to four delegates to their account, such as legal assistants, paralegals, and associates, as well as articling students. Lawyers must create either Sign-In Partner or GCKey accounts for themselves with the federal government to facilitate registration. Counsel should also ensure they are ready for online hearings, including having adequate high-quality internet access, arrangements available for witnesses, and the ability to participate in online hearings from their personal computers enabled with the necessary hardware and software.