

ATTORNEY GENERAL AND MINISTER
RESPONSIBLE FOR HOUSING

BILL 21 – 2021

MISCELLANEOUS STATUTES AMENDMENT ACT (No. 2), 2021

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – ATTORNEY GENERAL AMENDMENTS

Civil Resolution Tribunal Act

1 Sections 56.6 and 56.7 of the Civil Resolution Tribunal Act, S.B.C. 2012, c. 25, are repealed and the following substituted:

Time limit for application for judicial review

- 56.6** (1) An application for judicial review of a decision of the tribunal must be commenced within 60 days of the date the decision is given.
- (2) Despite subsection (1), either before or after expiration of the time, the Supreme Court may extend the time for making the application on terms the Supreme Court considers proper, if the Supreme Court is satisfied that
- (a) there are serious grounds for relief,
 - (b) there is a reasonable explanation for the delay, and
 - (c) no substantial prejudice or hardship will result to a person affected by the delay.

Standard of review if tribunal has exclusive jurisdiction or specialized expertise

- 56.7** (1) The tribunal must be considered to be an expert tribunal relative to the courts in relation to a decision of the tribunal
- (a) concerning a claim within the exclusive jurisdiction of the tribunal, or
 - (b) concerning a claim in respect of which the tribunal is to be considered to have specialized expertise, other than a decision of the tribunal concerning a claim described in section 133 (1) (c) [*claims within jurisdiction of tribunal for accident claims*].

- (2) On an application for judicial review of a decision of the tribunal for which the tribunal must be considered to be an expert tribunal, the standard of review to be applied is as follows:
 - (a) a finding of fact or law or an exercise of discretion by the tribunal must not be interfered with unless it is patently unreasonable;
 - (b) questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly;
 - (c) for all matters other than those identified in paragraphs (a) and (b), the standard of review to be applied to the tribunal's decision is correctness.

Standard of review – other tribunal decisions

- 56.8** (1) This section applies to an application for judicial review of a decision of the tribunal other than a decision for which the tribunal must be considered to be an expert tribunal under section 56.7.
- (2) The standard of review to be applied to a decision of the tribunal is correctness for all questions except those respecting
- (a) a finding of fact,
 - (b) the exercise of discretion, or
 - (c) the application of common law rules of natural justice and procedural fairness.
- (3) The Supreme Court must not set aside a finding of fact by the tribunal unless
- (a) there is no evidence to support the finding, or
 - (b) in light of all the evidence, the finding is otherwise unreasonable.
- (4) The Supreme Court must not set aside a discretionary decision of the tribunal unless it is patently unreasonable.
- (5) Questions about the application of common law rules of natural justice and procedural fairness must be decided having regard to whether, in all of the circumstances, the tribunal acted fairly.

Discretionary decision – patently unreasonable

- 56.9** For the purposes of sections 56.7 (2) (a) and 56.8 (4), a discretionary decision is patently unreasonable if the discretion
- (a) is exercised arbitrarily or in bad faith,
 - (b) is exercised for an improper purpose,
 - (c) is based entirely or predominantly on irrelevant factors, or
 - (d) fails to take statutory requirements into account.

- 2** *Section 115 (2) is amended by striking out “section 56.7 (1) (a) [standard of review]” and substituting “Part 5.1 [Judicial Review of Tribunal Decisions]”.*

- 3 *Section 116 (2) is amended by striking out “section 56.7 (1) (b) [standard of review]” and substituting “Part 5.1 [Judicial Review of Tribunal Decisions]”.*

Offence Act

- 4 *Section 1 of the Offence Act, R.S.B.C. 1996, c. 338, is amended*

(a) by repealing the definitions of “enforcement officer” and “ticketed amount” and substituting the following:

“enforcement officer” means any person or member of a class of persons designated as an enforcement officer

- (a) under section 132, for the purposes of enforcing an enactment of the Province, or
- (b) under a treaty first nation law, for the purposes of enforcing a treaty first nation law of the treaty first nation;

“ticketed amount” means,

- (a) in relation to an alleged contravention of an enactment for which a violation ticket is issued under section 14, the aggregate of the following amounts:
 - (i) the fine prescribed for the contravention or, if 2 fines are prescribed for the contravention, the fine payable at the time of payment;
 - (ii) the victim surcharge levy to be paid with that fine under section 8.1 of the *Victims of Crime Act*, and
- (b) in relation to an alleged contravention of a treaty first nation law for which a violation ticket is issued, the fine established for the contravention under the treaty first nation laws of the treaty first nation or, if 2 fines are established for the contravention, the fine payable at the time of payment; ,

(b) by adding the following definitions:

“treaty first nation” means a treaty first nation prescribed by regulation;

“treaty first nation law” means

- (a) a law made by a treaty first nation in accordance with the final agreement to which the treaty first nation is a party,
- (b) a law made by a treaty first nation in accordance with a provincial or federal enactment that delegates law-making authority to the treaty first nation, or
- (c) a law made by a treaty first nation in accordance with an agreement between the Province or Canada and the treaty first nation; , **and**

(c) by repealing the definition of “violation ticket” and substituting the following:

“violation ticket” means

- (a) a violation ticket referred to in section 14, excluding the instructions prescribed under section 132 (2) (a.3), or
- (b) a violation ticket issued under a treaty first nation law.

5 Section 11 is amended by striking out “under section 14”.

6 The following section is added:

Application of provisions for disputing violation ticket issued by treaty first nation

- 14.2** (1) The following provisions of this Act apply in relation to the dispute of a violation ticket issued under a treaty first nation law as if the law were an enactment of the Province:
- (a) section 1;
 - (b) section 8;
 - (c) section 11;
 - (d) subject to subsection (2) of this section, sections 15 (5) to 133.
- (2) Without limitation, the following provisions of this Act do not apply in relation to the dispute of a violation ticket issued under a treaty first nation law:
- (a) section 16 (1);
 - (b) section 18;
 - (c) section 18.1;
 - (d) section 31 (2.1) to (4);
 - (e) section 81 (8);
 - (f) the provisions of this Act that do not apply to violation tickets.

7 Section 15 is amended

(a) by adding the following subsections:

- (0.1) For the purposes of applying this section to a violation ticket issued under a treaty first nation law, any reference in this section to the Insurance Corporation of British Columbia is to be read as a reference to the treaty first nation under whose law the violation ticket was issued.
- (3.1) A person on whom a violation ticket issued under a treaty first nation law has been served or a person to whom a violation ticket issued under a treaty first nation law has been mailed may dispute the allegation or the ticketed amount indicated on the ticket in accordance with the procedures and within the time provided under the applicable treaty first nation law.

(3.2) For certainty, subsections (1) to (3) and (4) do not apply to a dispute of a violation ticket issued under a treaty first nation law. ,

(b) by repealing subsection (5) and substituting the following:

(5) A copy of the violation ticket must be referred to the Provincial Court for a hearing when the notice of dispute containing the information referred to in subsection (3) or the information required under a treaty first nation law is

(a) delivered to the address set out

(i) in the violation ticket, or

(ii) in the instructions prescribed under section 132 (2) (a.3) or established under the treaty first nation law, or

(b) given at the location set out

(i) in the violation ticket, or

(ii) in the instructions prescribed under section 132 (2) (a.3) or established under the treaty first nation law. ,

(c) in subsection (8.1) by adding “or established for the violation ticket under a treaty first nation law” after “instructions prescribed for the violation ticket under section 132 (2) (a.3)”,

(d) in subsection (9) (c) by adding “or established for the violation ticket under a treaty first nation law” after “instructions prescribed for the ticket under section 132 (2) (a.3)”, and

(e) in subsection (11) by adding “or the applicable provision of a treaty first nation law” after “section 16 (1)”.

8 Section 15.3 (1) is amended by adding “or a violation ticket issued under a treaty first nation law” after “in respect of a prescribed offence”.

9 Section 15.4 is amended

(a) in subsection (1) by adding “or, in the case of a notice of dispute delivered in respect of a violation ticket issued under a treaty first nation law, in the form, if any, established under the applicable treaty first nation law” after “in the prescribed form”, and

(b) in subsection (3) by striking out “7th day” and substituting “seventh day”.

10 Section 16 is amended

(a) in subsection (2) (b) by adding “or under a treaty first nation law” after “under subsection (1)”, and

(b) in subsection (2.1) (b) by adding “or under a treaty first nation law” after “the dispute period under subsection (1)”.

11 Section 17 is amended by adding “or under a treaty first nation law” after “under section 14 (11), 15 (12) or 16 (1)”.

12 Section 81 is amended

(a) in subsection (2) by adding “or under a treaty first nation law designated under subsection (9)” after “an offence under a prescribed enactment”, and

(b) by adding the following subsection:

(9) A treaty first nation may make a treaty first nation law that designates a treaty first nation law of the treaty first nation for the purposes of subsection (2).

13 Section 88 is amended by adding the following subsection:

(3) If a minimum fine is established under a treaty first nation law for contravention of a provision of a treaty first nation law and if the treaty first nation makes a treaty first nation law that designates the provision as a provision to which subsection (1) does not apply, a justice must not impose under subsection (1) a fine of less than the minimum established.

14 The following section is added:

Appropriation for transfer of ticketed amounts to treaty first nations

131.1 The minister must pay out of the consolidated revenue fund to a treaty first nation any ticketed amount paid to the government in relation to a violation ticket issued by the treaty first nation.

15 Section 132 (2) is amended

(a) in paragraph (d) (i) and (ii) by striking out “30th day” and substituting “thirtieth day”, and

(b) by adding the following paragraph:

(e.1) prescribing a treaty first nation for the purposes of the definition of “treaty first nation” in section 1, with the consent of the treaty first nation; .

- 16 *Section 132 (2.1) (a) and (b) is amended by striking out “30th day” and substituting “thirtieth day”.*

Representative for Children and Youth Act

- 17 *Section 1 of the Representative for Children and Youth Act, S.B.C. 2006, c. 29, is amended*

(a) in paragraph (e) of the definition of “designated services” by striking out “and young adults”, and

(b) by adding the following definition:

“included adult” means an adult under 27 years of age who

- (a) is receiving or is eligible to receive community living support under the *Community Living Authority Act*, or
- (b) received, as a child, a reviewable service; .

- 18 *Section 6 is amended*

(a) by repealing subsection (1) (a.1) and substituting the following:

- (a.1) support, assist, inform and advise included adults and their families respecting prescribed services and programs, which activities include, without limitation,
 - (i) providing information and advice to included adults and their families about how to effectively access prescribed services and programs and how to become effective self-advocates with respect to those services and programs,
 - (ii) advocating on behalf of an included adult receiving or eligible to receive a prescribed service or program, and
 - (iii) supporting, promoting in communities and commenting publicly on advocacy services for included adults and their families with respect to prescribed services and programs; , **and**

(b) by repealing subsection (2).

- 19 *Section 30 (1) is amended by striking out “the needs of children, and young adults as defined in that section, are met” and substituting “the needs of children and included adults are met”.*

Safety Standards Act

- 20 *Section 2 (1) (b) of the Safety Standards Act, S.B.C. 2003, c. 39, is amended by adding the following subparagraph:*
(i.1) amusement devices; .
- 21 *Section 80 (2) (c) is amended by striking out “14th day” and substituting “fourteenth day”.*

Victims of Crime Act

- 22 *Section 8.1 of the Victims of Crime Act, R.S.B.C. 1996, c. 478, is amended by adding the following subsection:*
(2.1) Despite subsection (2), no victim surcharge levy is payable in respect of a fine that a person pays or is obligated to pay under the *Offence Act* for the contravention of a treaty first nation law as defined under that Act.

Transitional Provision

Civil Resolution Tribunal Act transition – application of Part 5.1

- 23 Part 5.1 of the *Civil Resolution Tribunal Act*, as amended by this Act, applies to all applications for judicial review of a decision of the tribunal, whether the applications are made before or after the coming into force of the amendments made to the *Civil Resolution Tribunal Act* by this Act.

**PART 2 – CHILDREN AND FAMILY
DEVELOPMENT AMENDMENTS**

Adoption Act

- 24 *Section 70 of the Adoption Act, R.S.B.C. 1996, c. 5, is amended*
(a) by repealing subsection (1) (b) and substituting the following:
(b) is necessary
(i) to enable a director or an adoption agency to locate a person for the purposes of this Act,
(ii) for the health or safety of an adopted person, or
(iii) for the purpose of section 70.2 of this Act. , *and*

(b) by repealing subsection (4) (a) and (b) and substituting the following:

- (a) is obtained under the *Child, Family and Community Services Act*, and
- (b) is necessary
 - (i) to enable the director or an adoption agency to exercise the powers or perform the duties or functions given to them under Parts 2, 3 and 4 and sections 61 and 62 of this Act, or
 - (ii) for the purpose of section 70.2 of this Act.

25 The following section is added:

Disclosure in relation to registration

- 70.2** (1) Subject to subsection (2), a director may disclose the following information to the registrar under the *Indian Act* (Canada) for the purpose of determining whether to register an adopted person under section 5 of that Act:
- (a) identifying or other information about
 - (i) the adopted person, or
 - (ii) the relatives of the adopted person;
 - (b) any other identifying or other information that the director considers might be relevant to the determination.
- (2) The director may disclose information under subsection (1) only if the director is satisfied that the information
- (a) will be used and disclosed by the registrar only for the purpose of the determination referred to in that subsection, and
 - (b) will not be disclosed to
 - (i) the adopted person or a relative of the adopted person, or
 - (ii) another person, other than for the purpose of that determination.

Child, Family and Community Service Act

26 Section 24 of the *Child, Family and Community Service Act*, R.S.B.C. 1996, c. 46, is amended

(a) in subsection (2) by striking out “despite section 79” and substituting “despite sections 79 and 79.1”, and

(b) by adding the following subsection:

- (2.1) For the purposes of this section, a person does not disclose information merely by participating in a family conference, mediation or other alternative dispute resolution mechanism by means of electronic communication, including by telephone or video.

27 Section 74 is amended

(a) in subsection (1) by striking out “Sections 74 to 79” and substituting “Sections 74 to 79.1”, and

(b) in subsection (2) (c) and (d) by striking out “section 79” and substituting “sections 79 and 79.1”.

28 Section 75 is amended

(a) by striking out “A person must not” and substituting “Subject to section 79.1 (5), a person must not”, and

(b) in paragraph (a.1) by striking out “section 24 or 79” and substituting “section 24, 79 or 79.1”.

29 The following section is added:

**Disclosure in relation to
Indigenous child and family services**

79.1 (1) In this section:

“**child and family services**” has the same meaning as in the federal Act;

“**federal Act**” means *An Act respecting First Nations, Inuit and Métis children, youth and families* (Canada);

“**Indigenous governing body**” has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*.

(2) A director may disclose information obtained under this Act if the disclosure is necessary for the administration of

(a) the federal Act, or

(b) an Indigenous law respecting child and family services that is

(i) given the force of federal law by section 21 (1) of the federal Act,
or

(ii) provided to the director by an Indigenous governing body.

(3) A director must disclose information obtained under this Act if an agreement under section 90.1 provides for the disclosure of the information by a director.

(4) For certainty, a disclosure under subsection (2) or (3) may be made without the consent of any person.

(5) Section 75 does not apply to any of the following entities in relation to information that is disclosed under this section to the entity:

(a) an Indigenous governing body;

(b) a person acting under an Indigenous law referred to in subsection (2) (b) of this section.

30 *The following section is added:*

Agreements in relation to *An Act respecting First Nations, Inuit and Métis children, youth and families* (Canada)

90.1 The minister may, on behalf of the government, enter into an agreement contemplated by any of the following provisions of *An Act respecting First Nations, Inuit and Métis children, youth and families* (Canada):

- (a) section 20 (2) [*coordination agreement*];
- (b) section 28 [*agreements – information*].

PART 3 – ENERGY, MINES AND LOW CARBON INNOVATION AMENDMENTS

Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018

31 *Section 22 of the Energy, Mines and Petroleum Resources Statutes Amendment Act, 2018, S.B.C. 2018, c. 15, is repealed.*

Oil and Gas Activities Act

32 *Section 106 (3) of the Oil and Gas Activities Act, S.B.C. 2008, c. 36, is amended by striking out “section 111 or 112 (1) (a), (b), (c), (d), (d.1) or (d.2)” and substituting “section 111, 111.1 (1) (b) or 112 (1) (a), (b), (c), (d), (d.1) or (d.2)”.*

PART 4 – FINANCE AMENDMENTS

Treaty First Nation Taxation Act

33 *Section 1 of the Treaty First Nation Taxation Act, S.B.C. 2007, c. 38, is amended by adding the following definitions:*

- “**reserve**” has the same meaning as in section 2 (1) of the *Indian Act* (Canada);
- “**surrendered lands**” has the same meaning as in section 2 (1) of the *Indian Act* (Canada);
- “**transitional exemption lands**”, in relation to a taxing treaty first nation, means lands within the treaty lands of the taxing treaty first nation that were reserve lands or surrendered lands on the day before the date that the taxing treaty first nation’s final agreement took effect.

34 Section 7.1 is amended by adding the following subsections:

- (3) Without limiting subsection (1), the Lieutenant Governor in Council may, on the request of a taxing treaty first nation, make regulations as follows:
 - (a) authorizing the taxing treaty first nation to, by law, provide exemptions from property taxes imposed or collected by the government or by the taxing treaty first nation, in relation to the ownership or occupation of land or improvements within the transitional exemption lands of the taxing treaty first nation, for eligible treaty first nation members or treaty first nation constituents of the taxing treaty first nation;
 - (b) providing exemptions described in paragraph (a).
- (4) An exemption from property taxes provided under a regulation made under subsection (3) is applicable for the period, not exceeding 2 years, that is specified in the regulations.
- (5) A law enacted by a taxing treaty first nation providing an exemption referred to in subsection (3) (a) does not apply in respect of property taxes imposed for a taxation year unless the law comes into force on or before October 31 in the preceding calendar year.
- (6) A treaty first nation member or treaty first nation constituent of a taxing treaty first nation is eligible for the purposes of a regulation made under subsection (3) if the treaty first nation member or treaty first nation constituent is or was exempt from taxation under the taxation chapter of the taxing treaty first nation's final agreement.

**PART 5 – PUBLIC SAFETY AND
SOLICITOR GENERAL AMENDMENTS**

Business Practices and Consumer Protection Act

35 Section 48 (4) of the Business Practices and Consumer Protection Act, S.B.C. 2004, c. 2, is amended by striking out “3rd” and substituting “third”.

36 Section 112.20, as enacted by section 10 of the Business Practices and Consumer Protection Amendment Act, 2019, S.B.C. 2019, c. 22, is amended

(a) by adding the following subsection:

- (1.1) If the next day that the high-cost credit grantor is open for business following the date on which the borrower enters into the agreement falls on a holiday, or if the longer period referred to in subsection (1) expires on a holiday, the time for exercising the cancellation right under subsection (1) is extended to the end of the next day that the high-cost credit grantor is open for business that is not a holiday. ,

(b) in subsection (4) by striking out “and” at the end of paragraph (a), by adding “, and” at the end of paragraph (b) and by adding the following paragraph:

(c) receipt of a cash card constitutes an advance if the cash card is in immediate effect on that receipt and can be used by the borrower to obtain cash or acquire goods or services at that time. , and

(c) by repealing subsection (5).

37 *Section 184 is amended*

(a) in paragraph (a) by striking out “5th” and substituting “fifth”, and

(b) in paragraphs (b) to (e) by striking out “3rd” and substituting “third”.

Business Practices and Consumer Protection Amendment Act, 2019

38 *Section 20 of the Business Practices and Consumer Protection Amendment Act, 2019, S.B.C. 2019, c. 22, is repealed and the following substituted:*

Transition – new and amended payday loan agreements

- 20**
- (1) Subject to subsections (3) and (4), the Business Practices and Consumer Protection Act applies to payday loan agreements entered into or amended on or after May 16, 2019.*
 - (2) The Business Practices and Consumer Protection Act, as it read immediately before May 16, 2019, applies to payday loan agreements entered into before May 16, 2019, unless and until the agreements are amended on or after that date.*
 - (3) Section 112.08 (1) (b) of the Business Practices and Consumer Protection Act, as enacted by section 7 (a) of this Act, applies to payday loan agreements entered into or amended on or after the date section 7 (a) of this Act comes into force.*
 - (4) Section 112.08 (1) (b.1) of the Business Practices and Consumer Protection Act, as enacted by section 7 (b) of this Act, applies to payday loan agreements entered into or amended on or after the date section 7 (b) of this Act comes into force.*

Transition – new and amended high-cost credit agreements

- 20.1** (1) Any provision of the *Business Practices and Consumer Protection Act* that applies to high-cost credit agreements and that is enacted by a provision of this Act applies to high-cost credit agreements entered into or amended on or after the date the provision of this Act comes into force.
- (2) The *Business Practices and Consumer Protection Act*, as it reads immediately before the date a provision of this Act that enacts a provision of that Act that applies to high-cost credit agreements comes into force, applies to high-cost credit agreements entered into before that date, unless and until the agreements are amended on or after that date.

PART 6 – TRANSPORTATION AND INFRASTRUCTURE AMENDMENTS

Passenger Transportation Act

- 39** *Section 42.1 (1) of the Passenger Transportation Act, S.B.C. 2004, c. 39, is amended by striking out “January 1, 2022” and substituting “July 1, 2023”.*

Commencement

- 40** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

| Item | Column 1 Provisions of Act | Column 2 Commencement |
|------|--|---|
| 1 | Anything not elsewhere covered by this table | The date of Royal Assent |
| 2 | Sections 4 to 19 | By regulation of the Lieutenant Governor in Council |
| 3 | Section 22 | By regulation of the Lieutenant Governor in Council |
| 4 | Section 38 | May 16, 2019 |