

## Publisher's Note

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<p style="text-align: center;"><b>DLA PIPER'S BRITISH COLUMBIA FORESTRY LAW</b> Garry E. Mancell, Brian D. Gilfillan and Jeff Waatainen Release No. 2, December 2021</p>
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### Publisher's Special Release Note 2021

The pages in this work were reissued in September 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the September 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

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### **What's New in this Update:**

This update features statutory amendments, new case law and/or commentary to the *Forest and Range Practices Act*, *Forest Act* and *Wildfire Act*.

### **Highlights:**

#### **Case Highlights**

- *Yahey v. British Columbia*, 2021 BCSC 1287 (B.C. S.C.) is discussed at *Forest Act*, Part 3, Division 1: The B.C. Supreme Court granted declarations that the province breached its obligations under Treaty 8. The province did so by causing or permitting cumulative impacts of industrial development, including forestry development, and taking up lands to such an extent for such development, to meaningfully diminish the Blueberry First Nation's exercise of its treaty rights. The court also granted declarations that the province may not continue to authorize activities that breach its promises under the Treaty (stayed for six months) and that the province and Blueberry First Nation are to diligently consult and negotiate to establish enforceable mechanisms to assess and manage such cumulative impacts.
- *Buhler and British Columbia, Re*, 2021 CarswellBC 964 (B.C. Forest Appeals Comm.) is discussed at:
- *Knighco Industries Ltd. and British Columbia, Re*, 2021 CarswellBC 1935 (B.C. Forest Appeals Comm.) is discussed at *Wildfire Act*, s. 27 and *Forest and Range Practices Act*, s. 71: For the purposes of the determination of an administrative penalty:
  - the failure of a person that has contravened a provision to ensure that its contractor knew of and was committed to compliance with regulatory requirements, and to supervise the activities of the contractor, may increase the "gravity" or "deliberateness" of the contravention; and
  - it is appropriate to consider the entirety of the financial consequences imposed on the person found in contravention, including any order to pay government's fire control costs.
- *Forest Practices Board and British Columbia, Re*, 2018 CarswellBC 2629 (B.C. Forest Appeals Comm.) is discussed at *Forest and Range Practices Act*, s. 71(5): For the purposes of the determination of an administrative penalty, the failure of a person that has contravened a provision to permit its employees to interview with compliance and enforcement investigators, or to provide responsive answers to the investigators' questions, may count against the person in terms of that person's "cooperativeness".

### **ProView Developments**

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work

- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages