

LEGISLATIVE BRIEFING

A Regional Employers Services Publication

Vol. 32, December 15, 2021

metrovancover

RES | REGIONAL
EMPLOYERS
SERVICES

LEGISLATION TO UPHOLD INDIGENOUS RIGHTS IN B.C. – RECEIVE ROYAL ASSENT

In November 2021, the BC Government tabled the [Human Rights Code Amendment Act, 2021 \(Bill 18\)](#), which adds Indigenous identity as a protected ground against discrimination in the *B.C. Human Rights Code* (Code). Also tabled was the [Interpretation Amendment Act, 2021 \(Bill 29\)](#), which amends the *Interpretation Act* to make it clear that all provincial laws uphold, and do not diminish, the rights of Indigenous people protected under Section 35 of the Canadian Constitution. This is known as a universal non-derogation clause. Both Bill 18 and Bill 29 received Royal Assent on November 25, 2021.

B.C. Human Rights Code

Currently the *B.C. Human Rights Code* provides protection from discrimination on the grounds of race, colour, ancestry, place of origin and religion. While the BC Human Rights Tribunal has interpreted these grounds to encompass Indigenous identity, the Bill 18 amendments make the protection explicit by adding “Indigenous identity” as a protected ground.

Bill 18 added “Indigenous identity” as a prohibited ground of discrimination under the Code. The amendments also added the following definition of “Indigenous” to the Code:

- “Indigenous”, in relation to a person, means Indigenous within the meaning of “Indigenous peoples” as defined in the Declaration on the Rights of Indigenous Peoples Act;

Interpretation Act

The purpose of the *Interpretation Act* is to provide guidance and assistance for the interpretation of laws where their meaning is not clear, and it applies to every piece of legislation unless the legislation notes otherwise. The amendments to the *Interpretation Act*, which were developed in consultation with Indigenous representative organizations, adds an interpretive direction that all provincial acts and regulations must be read so as to be consistent with the UN Declaration. This November 17, 2021 BC Government [news release](#) provides additional background on the provincial government’s obligations under the *Declaration Act*, which align laws with the UN Declaration.



The amendments to the Interpretation Act are as follows:

Section 35 of Constitution Act, 1982 and Declaration

8.1 (1) In this section:

"**Declaration**" has the same meaning as in the Declaration on the Rights of Indigenous Peoples Act;

"**Indigenous peoples**" has the same meaning as in the Declaration on the Rights of Indigenous Peoples Act;

"**regulation**" has the same meaning as in the Regulations Act.

(2) For certainty, every enactment must be construed as upholding and not abrogating or derogating from the aboriginal and treaty rights of Indigenous peoples as recognized and affirmed by section 35 of the Constitution Act, 1982.

(3) Every Act and regulation must be construed as being consistent with the Declaration.

QUESTIONS?

If you have any comments or questions about this update, please e-mail RES360@metrovancover.org or call 604-451-6558.

SOURCES

"Province introduces legislation to uphold Indigenous rights" November 17, 2021.

[Province introduces legislation to uphold Indigenous rights | BC Gov News](#)

"Bill 18 – 2021 Human Rights Code Amendment Act, 2021 – Royal Assent." November 25, 2021.

https://www.leg.bc.ca/content/data%20-%20ldp/Pages/42nd2nd/3rd_read/gov18-3.htm

"Bill 29 -2021 Interpretation Amendment Act, 2021 – Royal Assent." November 25, 2021.

https://www.leg.bc.ca/content/data%20-%20ldp/Pages/42nd2nd/3rd_read/gov29-3.htm