



*Evidence Act*

DISBURSEMENTS AND  
EXPERT EVIDENCE REGULATION

**B.C. Reg. 210/2020**

Deposited and effective August 10, 2020  
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**Consolidated Regulations of British Columbia**

*This is an unofficial consolidation.*

B.C. Reg. 210/2020 (O.C. 468/2020), deposited and effective August 10, 2020, is made under the *Evidence Act*, R.S.B.C. 1996, c. 124, ss. 12.1 and 12.2.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at [www.bclaws.ca](http://www.bclaws.ca).

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at [www.bclaws.ca](http://www.bclaws.ca).

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**Definition**

- 1** In this regulation, “**Act**” means the *Evidence Act*.

**Fast track vehicle injury proceeding**

- 2** For the purposes of the definition of “fast track vehicle injury proceeding” in section 12.1 of the Act, a vehicle injury proceeding that is a fast track action under the Supreme Court Civil Rules is prescribed as a fast track vehicle injury proceeding.

**Exemptions for certain expert evidence**

- 3** (1) In this section, “**responding report**” means a report served under Rule 11-6 (4) of the Supreme Court Civil Rules.  
(2) The limits in relation to expert evidence set out in section 12.1 (2) of the Act do not apply to an expert or expert’s responding report if a party serves the responding report to respond to a report that was served on the party within 126 days before the scheduled trial date for the vehicle injury proceeding.  
(3) The limit in relation to reports from experts set out in section 12.1 (2) (a) (ii) or (b) (ii) of the Act does not apply to a supplementary report referred to in Rule 11-6 (5) or (6) of the Supreme Court Civil Rules.

**Disbursements allowed for expert reports in vehicle injury proceedings**

- 4** (1) Subject to subsection (3) and section 5, only the following amounts may be allowed or awarded to a party in a vehicle injury proceeding, other than a fast track vehicle injury proceeding, as disbursements for reports from experts on the issue of vehicle injury damages:
  - (a) the amount incurred by the party for up to 3 reports, whether or not the reports were tendered at trial, provided that
    - (i) each report was served in accordance with all applicable rules of the Supreme Court Civil Rules, and
    - (ii) each report was prepared by a different expert;

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- (b) the amount incurred by the party for any of the following reports, provided the report was served in accordance with all applicable rules of the Supreme Court Civil Rules:
    - (i) a report referred to in section 3 (1) or (2) of this regulation;
    - (ii) a report allowed under section 12.1 (3), (4) or (5) of the Act;
  - (c) the amount incurred by the party for a report prepared by an expert appointed by the court on the court's own initiative under Rule 11-5 (1) of the Supreme Court Civil Rules.
- (2) Subject to subsection (3) and section 5, only the following amounts may be allowed or awarded to a party in a fast track vehicle injury proceeding as disbursements for reports from experts on the issue of vehicle injury damages:
- (a) the amount incurred by the party for one report, whether or not the report was tendered at trial, provided that the report was served in accordance with all applicable rules of the Supreme Court Civil Rules;
  - (b) the amount incurred by the party for a report referred to in subsection (1) (b);
  - (c) the amount incurred by the party for a report referred to in subsection (1) (c).
- (3) The limits set out in subsections (1) and (2) do not apply
- (a) to amounts that were necessarily or properly incurred before February 6, 2020 for a report from an expert, or
  - (b) to a vehicle injury proceeding if
    - (i) a notice of trial was filed and served before February 6, 2020, and
    - (ii) the trial date set out in the notice of trial filed in relation to the vehicle injury proceeding was before October 1, 2020.

[en. B.C. Reg. 31/2021, s. 2.]

#### Limits on amount of disbursements

##### 5 (1) In this section:

**“disbursement limit”** means, in relation to a vehicle injury proceeding,

- (a) the amount that is 6% of the total award of damages assessed by the court in the vehicle injury proceeding or, if an offer to settle the vehicle injury proceeding is accepted, 6% of the amount offered, or
- (b) if the court dismisses the vehicle injury proceeding or, at the conclusion of the vehicle injury proceeding, does not make an award of damages, the amount determined by the court;

**“excluded disbursements”** means the following:

- (a) fees payable to the Crown under the Supreme Court Civil Rules;
- (b) fees payable to the sheriff for non-refundable deposits in civil jury trials under the Supreme Court Civil Rules;

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- (c) disbursements incurred by a party if the court ordered the costs of the vehicle injury proceeding to be paid as special costs;
  - (d) disbursements for expert evidence, or an expert report, on the issue of liability;
  - (e) disbursements that all parties to the vehicle injury proceeding have consented to allow as excluded disbursements;
  - (f) disbursements that the court has ordered to be excluded disbursements on application made under subsection (6).
- (2) Only the following may be allowed or awarded to a party in a vehicle injury proceeding as disbursements:
- (a) disbursements up to the disbursement limit;
  - (b) excluded disbursements.
- (3) Repealed. [B.C. Reg. 241/2023, s. 1 (c).]
- (4) The limits set out in subsection (2) do not apply to a vehicle injury proceeding if the trial date set out in the notice of trial filed in relation to the vehicle injury proceeding is no more than 3 months after the coming into force of this subsection.
- (5) If the trial date set out in the notice of trial filed in relation to a vehicle injury proceeding is more than 3 months after the coming into force of subsection (4), the limits set out in subsection (2) do not apply to disbursements incurred by a party if the court is satisfied that the party necessarily or properly incurred those disbursements before the coming into force of subsection (4).
- (6) On application by a party to a vehicle injury proceeding, the court may, if satisfied that the conditions set out in subsection (8) are met, order that the disbursements itemized in the order are excluded disbursements.
- (7) If disbursements to be incurred for expert evidence or expert reports are the subject of an application under subsection (6) and the applicant is also making an application under section 12.1 (5) of the Act, the applicant must make both applications at the same time.
- (8) The following are the conditions for the purposes of subsection (6):
- (a) the application is made before the disbursements are incurred;
  - (b) were the disbursements not excluded, the party making the application would suffer prejudice disproportionate to the benefit of not increasing the complexity and cost of the vehicle injury proceeding.
- (9) In an application under subsection (6), a party must include the following:
- (a) the nature and the evidentiary value of each disbursement that is the subject of the application;
  - (b) evidence of the prejudice the party would suffer were the disbursements that are the subject of the application not excluded, which must include

- (i) evidence that there is a reasonable risk that the total amount of disbursements the party intends to incur to resolve the vehicle injury proceeding will exceed the disbursement limit,
  - (ii) evidence that the disbursements that are the subject of the application are necessary to justly resolve the vehicle injury proceeding in light of the complexity of the vehicle injury proceeding or the importance of the issues in dispute, and
  - (iii) evidence that the party would be unable, without undue hardship, to incur the disbursements that are the subject of the application were those disbursements not excluded.
- (10) For certainty, this section applies to all vehicle injury proceedings, whether or not the proceeding was commenced before the coming into force of this subsection.  
[en. B.C. Reg. 31/2021, s. 2; am. B.C. Reg. 241/2023.]

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