

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 594

, Approved and Ordered

November 9, 2018

  
Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective April 1, 2019,

- (a) the following provisions of the *Civil Resolution Tribunal Amendment Act, 2018*, S.B.C. 2018, c. 17, are brought into force:
  - (i) sections 16 and 38 to 42;
  - (ii) section 2 as it enacts the definition of “**accident claim**”;
  - (iii) section 4 as it enacts section 2.1 (f) of the *Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25;
  - (iv) section 9 as it enacts the words “an accident claim” in section 9 (1) (b) of the *Civil Resolution Tribunal Act*;
  - (v) section 15 as it enacts sections 16.1 (2) and (3) and 16.4 (2) (b) of the *Civil Resolution Tribunal Act*;
  - (vi) section 25 as it enacts section 56.7 (2) of the *Civil Resolution Tribunal Act*;
  - (vii) section 30 as it enacts section 93 (2) (e) of the *Civil Resolution Tribunal Act*;
  - (viii) section 32 as it enacts Division 7 of Part 10 of the *Civil Resolution Tribunal Act*, and
- (b) the Accident Claims Regulation is made as set out in the attached Appendix.

  
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Attorney General

  
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Presiding Member of the Executive Council

*(This part is for administrative purposes only and is not part of the Order.)*

Authority under which Order is made:

Act and section: *Civil Resolution Tribunal Amendment Act, 2018*, S.B.C. 2018, c. 17, s. 49;  
*Civil Resolution Tribunal Act*, S.B.C. 2012, c. 25, s. 93

Other: \_\_\_\_\_

## APPENDIX

# ACCIDENT CLAIMS REGULATION

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#### **Definitions and interpretation**

- 1 (1) In this regulation:
  - “**Act**” means the *Civil Resolution Tribunal Act*;
  - “**independent medical examination**”, in respect of an accident claim, means an examination conducted by an expert appointed by the tribunal under section 3.
- (2) In sections 5 and 6, a reference to “expenses and charges” is to be read as including
  - (a) any amounts charged by a lawyer or other representative of a party, and
  - (b) any amounts payable in relation to expert evidence.

#### **Application**

- 2 This regulation applies to accident claims under Division 7 [*Accident Claims*] of Part 10 [*Tribunal Jurisdiction*] of the Act.

#### **Independent medical examination**

- 3 On the request of a party or on the tribunal’s own initiative, if the physical or mental condition of a person is in issue, the tribunal may appoint an expert
  - (a) to conduct an independent medical examination with respect to a person’s injuries related to an accident claim, and
  - (b) to provide an opinion in the form of a report that includes the following information, to the extent that the information is applicable or within the expert’s area of practice:
    - (i) the nature and extent of the person’s injuries;
    - (ii) the person’s diagnosis;
    - (iii) the person’s condition at the time of the independent medical examination;
    - (iv) the person’s prognosis.

#### **Other expert evidence**

- 4 (1) A party may introduce expert evidence from one expert other than a report under section 3 (b).

- (2) The tribunal may allow a party to introduce evidence from up to 2 additional experts if the tribunal considers that the introduction of additional evidence is reasonably necessary and proportionate to the accident claim.

#### **Prescribed allowable expenses**

- 5 (1) For the purposes of section 49 (3) [*order for payment of expenses*] of the Act, the following prescribed limits apply to the fees, expenses and charges that one party may be required to pay to another party:
  - (a) in the case of expenses and charges associated with an independent medical examination, \$2 000 is the limit prescribed in relation to the independent medical examination, excluding reasonable travelling and out-of-pocket expenses necessarily incurred for the independent medical examination;
  - (b) in any case other than the case referred to in paragraph (a),
    - (i) \$2 000 is the limit prescribed for expenses and charges payable in relation to each expert, including any expenses and charges payable in relation to reports or other evidence prepared by each expert providing expert evidence, and
    - (ii) \$5 000 is the total limit prescribed for all recoverable fees, expenses and charges, including any expenses and charges payable under subparagraph (i).
- (2) For certainty, the total limit described in subsection (1) (b) (ii) does not include any fees, expenses and charges associated with an independent medical examination.

#### **Orders for payment for independent medical examinations**

- 6 For the purposes of section 49 (3) [*order for payment of expenses*] of the Act, an order of the tribunal in relation to an order for payment associated with an expert's independent medical examination is subject to the following prescribed restrictions:
  - (a) unless the tribunal orders otherwise, any expenses and charges associated with an expert's independent medical examination are payable
    - (i) by the requesting party, or
    - (ii) equally by the parties, if the expert is appointed on the tribunal's own initiative;
  - (b) the amounts payable by a party under paragraph (a) are recoverable by the successful party.

#### **Prescribed tribunal limit amount**

- 7 For the purposes of the definition of "**tribunal limit amount**" in section 132 [*definitions for Division – accident claims*] of the Act, \$50 000 is the maximum amount that the tribunal may award in an accident claim in accordance with section 133 (1) (c) [*claims within jurisdiction of tribunal for accident claims*] of the Act.