

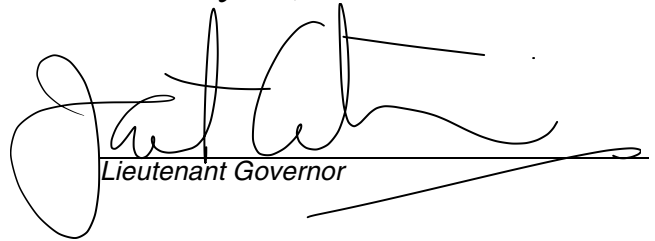
PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 075

, Approved and Ordered

February 12, 2021



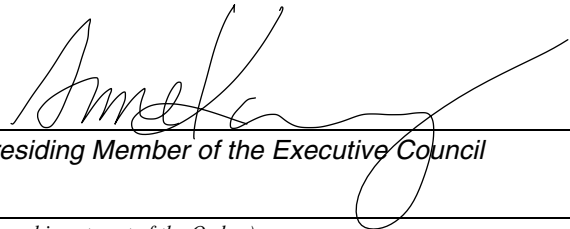
Lieutenant Governor

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 the Expert Evidence Regulation, B.C. Reg. 210/2020, is amended as set out in the attached Schedule.



Attorney General and Minister Responsible for Housing



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: *Evidence Act*, R.S.B.C. 1996, c. 124, ss. 12.1 and 12.2

Other: O.C. 468/2020

R10475933

SCHEDULE

- 1 The Expert Evidence Regulation, B.C. Reg. 210/2020, is amended by repealing the title and substituting the following:*

DISBURSEMENTS AND EXPERT EVIDENCE REGULATION .

- 2 The following sections are added:*

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;
 - (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.

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;
- (c) disbursements incurred by a party if the court ordered the costs of the proceeding to be paid as special costs;
- (d) disbursements incurred for an expert report on the issue of liability, if the court ordered that those expenses are excluded disbursements.

(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) The limits set out in subsection (2) do not apply

- (a) to a vehicle injury proceeding if
 - (i) a notice of trial was filed and served before August 12, 2020, and
 - (ii) the trial date set out in the notice of trial filed in relation to the vehicle injury proceeding is before June 1, 2021, or
- (b) to a vehicle injury proceeding if
 - (i) a notice of trial was filed and served before August 12, 2020,
 - (ii) the trial date set out in the notice of trial filed in relation to the vehicle injury proceeding is on or after June 1, 2021, and
 - (iii) the court is satisfied that the party necessarily or properly incurred disbursements before August 12, 2020 in excess of the disbursement limit.