

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 227

, Approved and Ordered April 28, 2022

  
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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 Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, is amended as set out in the attached Schedule.



\_\_\_\_\_  
Minister of Public Safety and Solicitor General  
and Deputy Premier



\_\_\_\_\_  
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: *Emergency Program Act*, R.S.B.C. 1996, c. 111, s. 28 (2) (d)

Other: OIC 310/95

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R10598718

## SCHEDULE

**1 Section 8 (1) of the Compensation and Disaster Financial Assistance Regulation, B.C. Reg. 124/95, is amended**

**(a) by adding the following definition:**

**“corporate interest holder”**, in relation to a corporation, means an individual who is, in respect of the corporation, a corporate interest holder within the meaning of section 8.1; ,

**(b) in the definition of “eligible personal effects” by striking out “and” at the end of paragraph (a) and by adding the following paragraph:**

(a.1) for an occupant of a structure referred to in section 9 (a.1), the necessities of life

(i) owned by the occupant, the corporation referred to in section 9 (a.1) (ii) or any other permanent residents of the structure, and

(ii) required for the occupant or any other permanent residents of the structure, and ,

**(c) by repealing the definition of “eligible residence” and substituting the following:**

**“eligible residence”** means,

(a) in the case of a claimant described in section 9 (a.1), a structure occupied by the claimant as the claimant’s principal residence, and

(b) in any other case, a structure owned by a claimant and occupied by the claimant as the claimant’s principal residence; , **and**

**(d) in the definition of “small business” by repealing paragraphs (b) and (c) and substituting the following:**

(c) the gross revenues of which were greater than \$10 000 but less than \$2 000 000 in the year immediately preceding the occurrence of the disaster in respect of which assistance is claimed, and .

**2 The following section is added:**

**Meaning of “corporate interest holder”**

**8.1 (1)** An individual is a corporate interest holder in respect of a corporation if any of the following apply:

(a) the individual has legal or beneficial ownership or control, directly or indirectly, of

(i) shares of the corporation representing 25% or more of the value of the equity of that corporation, or

(ii) 25% or more of the voting rights in respect of the corporation;

(b) the individual has the right, directly or indirectly, to appoint or remove from office the majority of the board of directors of the corporation;

- (c) the individual has the right to exercise or does exercise, under a unanimous shareholders' agreement or otherwise, significant influence or control over the corporation.
  - (2) For the purposes of subsection (1) (a) or (b), a direct or indirect interest, power or right includes an interest, power or right that an individual has
    - (a) alone,
    - (b) together with one or more persons with common interests, or
    - (c) through
      - (i) a corporation,
      - (ii) a trustee of a trust,
      - (iii) a personal or legal representative,
      - (iv) an agent, or
      - (v) any other intermediary.
- 3 Section 9 is amended by adding the following paragraph:**
- (a.1) an occupant of a structure damaged or destroyed in a disaster if
    - (i) the structure constituted the principal residence of the occupant, and
    - (ii) the occupant is a corporate interest holder in a corporation that is an owner of the structure; .
- 4 Section 10 (2) is repealed and the following substituted:**
- (2) No claim under section 1 (a) of any of Schedules 1 to 4 may be accepted for structural repair to or for the rebuilding, replacement or relocation of a structure unless
    - (a) the claimant is the owner of the structure, or
    - (b) in the case of a claim in respect of a structure referred to in section 9 (a.1), the claimant is a claimant described in that section in respect of the structure.
- 5 Section 28 (c) is repealed and the following substituted:**
- (c) for any other claim,
    - (i) in the case of a local government body other than a municipality or regional district, 95% of the amount by which the amount of the accepted claim exceeds \$1 000, and
    - (ii) in the case of a municipality or regional district, the greater of the following:
      - (A) the amount of assistance payable in respect of the accepted claim as determined in accordance with section 28.1 (3);
      - (B) 90% of the amount of the accepted claim.
- 6 The following section is added:**

**Municipality or regional district**

- 28.1** (1) In this section, “**population estimate**”, in relation to a municipality or regional district, means the most recent population estimate for the municipality or regional district issued by the director under the *Statistics Act* (British Columbia) based on the Census of Canada.
- (2) For the purposes of subsection (3), the amount of the accepted claim on a per capita basis is the amount equal to the amount of the accepted claim of the municipality or regional district, as the case may be, divided by the population estimate for that municipality or regional district.
- (3) For the purposes of section 28 (c) (ii) (A), the amount of assistance payable in respect of the portion of the accepted claim on a per capita basis that falls within a tier set out in Column 1 of the following table is equal to the percentage set out opposite in Column 2 of that portion of the accepted claim on a per capita basis:

**Table**

<b>Item</b>	<b>Column 1</b>	<b>Column 2</b>
	<b>Tier of accepted claim on per capita basis</b>	<b>Amount of assistance payable</b>
1	\$0.00 to \$1.00	5%
2	\$1.01 to \$3.00	25%
3	\$3.01 to \$5.00	50%
4	\$5.01 to \$7.00	75%
5	\$7.01 or greater	95%

**7** *Section 33 is amended*

*(a) by adding the following subsections:*

- (0.1) In this section and section 34, “**advance payment**”, in respect of a project, means an advance payment of the assistance that may be provided under this section to a local government body in respect of the project.
- (8.1) After a local government body receives notice under subsection (7) that its recovery plan has been approved, the local government body may request an advance payment of the assistance that may be provided to the local government body in respect of a project referred to in the recovery plan, other than for a claim described in section 26.
- (8.2) After a request for an advance payment has been submitted under subsection (8.1), the Provincial Emergency Program must review the request and must notify the local government body, in writing, of the results of that review and, if an advance payment is to be provided, the total amount of the advance payment that is to be provided to the local government body in respect of the project.
- (8.3) In providing an advance payment to a local government body, the Provincial Emergency Program
- (a) may provide the advance payment in phases, and

(b) must not provide an advance payment that, in total, is greater than 50% of the estimated total amount of assistance payable in respect of the project. ,

*(b) in subsection (13) by adding “, subject to subsection (14),” after “the Provincial Emergency Program must”, and*

*(c) by adding the following subsection:*

(14) If an advance payment has been provided under this section to a local government body in respect of a project for which a claim has been accepted under subsection (12), the Provincial Emergency Program must deduct the amount of the advance payment from the amount of assistance that is to be paid to the local government body under subsection (13) in respect of that claim.

**8** *The following section is added:*

**Recovery of overpayment**

- 34** (1) If a local government body uses any portion of an advance payment for purposes unrelated to the project in respect of which the advance payment was provided, the portion of the advance payment used for unrelated purposes is an overpayment that may be recovered as a debt due to the government from the local government body.
- (2) If a local government body that received an advance payment does not submit a claim under section 33 in respect of the project within the period set out in section 33 (10), the amount of the advance payment is an overpayment that may be recovered as a debt due to the government from the local government body.
- (3) If the total amount of an advance payment provided to a local government body in respect of a project exceeds the total amount of assistance that is to be provided to the local government body in respect of the project, the excess is an overpayment that may be recovered as a debt due to the government from the local government body.
- (4) For certainty, the Provincial Emergency Program may recover an overpayment referred to in subsection (1) or (3) from a local government body before the local government body submits a claim under section 33 in respect of the project.

**9** *The following Part is added:*

**PART 4 – TRANSITIONAL PROVISIONS**

**Definitions**

**35** In this Part:

“**effective date**” means the date on which this Part comes into force;

“**specified disaster**” means a disaster in respect of which the Lieutenant Governor in Council or the minister, on or after November 17, 2021 but before the effective date, determined under section 8 (2) or 20 (2) that disaster financial assistance may be provided under Part 2 or 3, as the case may be.

#### Transition – general

- 36 (1) If the Lieutenant Governor in Council or the minister, before November 17, 2021, determined under section 8 (2) or 20 (2) that disaster financial assistance may be provided in respect of a disaster, this regulation as it read immediately before the effective date applies in respect of any disaster financial assistance that may be provided under Part 2 or 3, as the case may be, in relation to that disaster.
- (2) This regulation as it reads on the effective date applies in respect of any disaster financial assistance that may be provided under Part 2 or 3, as the case may be, in relation to a specified disaster.

#### Transition – eligibility for assistance under Part 2

- 37 (1) In this section:
- “**specified claim**” means an application provided under section 19 (5) before the effective date by a person seeking assistance under Part 2 as a claimant described in section 9 (a) or (c) in respect of a specified disaster;
- “**specified criteria**” means the criteria applicable to a claimant described in section 9 (a) or (c), and, for certainty, includes the criteria described in paragraph (b) or (c) of the definition of “small business” in section 8 (1) as it read immediately before the effective date.
- (2) If, before the effective date, a person who made a specified claim withdrew the specified claim after being informed by the Provincial Emergency Program that the person did not meet the specified criteria, the specified claim is deemed to have not been withdrawn and the Provincial Emergency Program must process the specified claim in accordance with this regulation as it reads on the effective date.
- (3) If the Provincial Emergency Program, before the effective date, made a determination under section 19 (8) rejecting a specified claim on the basis that the claimant did not meet the specified criteria, the determination is set aside and the Provincial Emergency Program must reconsider the specified claim in accordance with this regulation as it reads on the effective date.
- (4) Despite section 19 (3), a person seeking assistance under Part 2 as a claimant described in section 9 (a.1) or (c) in respect of a specified disaster, other than a person who made a specified claim, may, within 90 days of the effective date, notify the Provincial Emergency Program that assistance will be sought.

#### Transition – limit to assistance under Part 3

- 38 (1) In this section, “**specified claim**” means a claim, other than a claim described in section 28 (a) or (b), that is submitted under section 33 before the effective date in respect of a specified disaster.
- (2) If the Provincial Emergency Program, before the effective date, made a determination under section 33 (12) in respect of a specified claim, the determination is set aside and the Provincial Emergency Program must reconsider the specified claim in accordance with this regulation as it reads on the effective date.