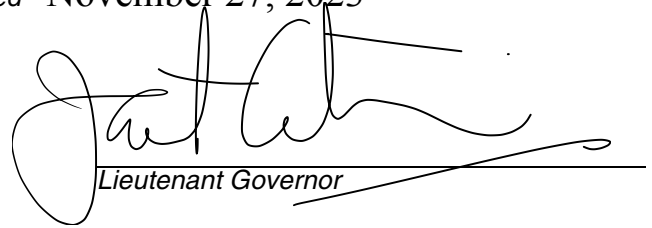


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 628

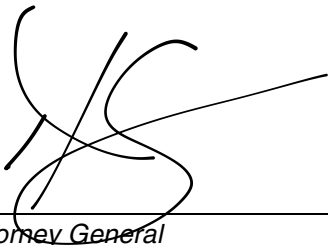
, Approved and Ordered November 27, 2023



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



Attorney General



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: OIC 468/2020

R10718643

SCHEDULE

1 Section 5 of the Disbursements and Expert Evidence Regulation, B.C. Reg. 210/2020, is amended

(a) in subsection (1) in paragraph (c) of the definition of “excluded disbursements” by striking out “proceeding” and substituting “vehicle injury proceeding”,

(b) in subsection (1) in the definition of “excluded disbursements” by repealing paragraph (d) and substituting the following:

(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). ,

(c) by repealing subsection (3), and

(d) by adding the following subsections:

(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.