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IMPORTANT INFORMATION

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Emergency Program Act
**COMPENSATION AND DISASTER FINANCIAL ASSISTANCE
REGULATION**

[includes amendments up to B. C. Reg. 201/2006, July 13, 2006]

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Part 1 – Compensation

Definitions

- 1 In this regulation:

"Act" means the *Emergency Program Act*;

"assessed value" means assessed value determined under the *Assessment Act*;

"manufactured home" has the same meaning as in the *Manufactured Home Act*;

"structure" includes trailers and manufactured homes that are not capable of being readily moved and are insured for fire and theft.

Compensation must be paid

- 2 An owner of real or personal property that is lost or damaged as a result of being acquired or used under section 10 (1) (d) or 13 (1) (b) or (c) of the Act is entitled to compensation under this Part for that property in an amount equal to the lesser of

- (a) the amount required to repair the property to the condition it was in immediately before its use or acquisition, and
- (b) the amount required to replace the property with property of the nature, value and quality of the property being replaced.

Procedure for the payment of required compensation

- 3** (1) The government or the local authority, as the case may be, that is obligated to provide compensation for lost or damaged property under section 2 must, within 60 days after the later of the conclusion of the emergency or disaster in response to which the property was used or acquired and the date on which the government or local authority receives a claim for compensation under section 2,
- (a) make an offer of compensation to the owner referred to in section 2, or
 - (b) if no offer is made or the offer made is rejected, appoint a person to act as an adjuster to assess the amount of compensation that is payable under section 2.
- (2) If an offer made under subsection (1) (a) is accepted, the government or local authority, as the case may be, must promptly provide to the claimant the amount of the accepted offer.
- (3) If a person is appointed as adjuster under subsection (1) (b), the adjuster must determine the amount of compensation that the adjuster considers should be paid under section 2 and must notify the claimant of that determination.
- (4) The adjuster must notify the government or local authority by which the adjuster was appointed of the amount of compensation that the adjuster has determined should be paid under section 2 and whether
- (a) the claimant agrees with the determination, or
 - (b) the claimant disputes the determination.
- (5) After receiving a notice from an adjuster under subsection (4) (a), the government or local authority, as the case may be, must promptly
- (a) provide to the claimant the amount of compensation determined by the adjuster, or
 - (b) if the government or local authority disputes the determination, proceed under subsection (6).
- (6) After receiving a notice from an adjuster under subsection (4) (a)

with which the government or local authority disagrees or a notice under subsection (4) (b), the government or local authority, as the case may be, must promptly

(a) notify the claimant as to the claimant's right to elect the number of arbitrators to be appointed under section 19 (3) (a) of the Act, and

(b) initiate arbitration under section 19 of the Act.

Arbitration

- 4** If an arbitration is held in respect of the amount of compensation that is to be provided to a claimant under section 2, the government or local authority, as the case may be, must, promptly after receiving notice of the result of the arbitration, make payment to the claimant of the amount determined in the arbitration to be payable.

Compensation may be paid

- 5** (1) The government may, but need not, provide compensation under section 19 (2) of the Act to a person who claims compensation under section 6 in respect of the claimant's real or personal property that was lost or damaged as a result of any action taken by the government under section 7, 8 (1) or 10 (1) of the Act, other than the acquisition or use of the property under section 10 (1) (d) of the Act.

(2) The government may in its sole discretion set guidelines respecting

(a) the claimants or classes of claimants to which compensation may be paid under this section,

(b) the period of time within which a claim for compensation under this section must be received by the government,

(c) the basis on which the amounts of compensation that may be paid under this section are to be calculated, and

(d) the maximum amount of compensation that may be paid under this section to any one claimant.

(3) No claimant referred to in subsection (1) may receive any compensation under this Part in excess of the amount to which the claimant is entitled under subsection (2) (c) or (d).

Procedure for paying available compensation

- 6** (1) A claimant referred to in section 5 (1) must, within the period of

time specified under section 5 (2) (b), provide to the government written notice that the person is claiming compensation.

(2) After the government receives the notice referred to in subsection (1), it may

(a) determine that the claimant is not eligible to receive compensation under this section, or

(b) if it considers that the claimant may be eligible for compensation,

(i) make an offer of compensation to the person, or

(ii) if no offer is made or the offer made is rejected, appoint a person to act as an adjuster to assess the amount of compensation, if any, to which the claimant may be entitled.

(3) If the government makes a determination under subsection (2) (a), no compensation is payable to the claimant under this section.

(4) If an offer made under subsection (2) (b) (i) is accepted, the government must promptly provide to the claimant the amount of the accepted offer.

(5) If a person is appointed as adjuster under subsection (2) (b) (ii), the adjuster must, in consultation with the claimant, determine the maximum amount of compensation that could be paid under the guidelines established under section 5 (2) and notify the claimant of that determination.

(6) The adjuster must notify the government of the maximum amount of compensation that the adjuster has determined could be paid to the claimant under section 5 and whether

(a) the claimant agrees with the determination, or

(b) the claimant disputes the determination.

(7) After receiving a notice from an adjuster under subsection (6), the government must determine the amount of compensation, if any, that it is willing to provide to the claimant and must

(a) if that amount is equal to the maximum amount referred to in subsection (6), promptly provide payment of that amount to the claimant and notify the adjuster of that payment, or

(b) in any other case, notify the adjuster, in writing, of the amount of compensation, if any, it is prepared to provide to the claimant.

(8) An adjuster who receives a notice under subsection (7) (b) must advise the claimant as to the amount of compensation, if any, the government is prepared to provide and seek a written notice of acceptance of that offer from the claimant.

(9) If the claimant accepts the amount of compensation offered under subsection (7) (b), the claimant must provide a written notice of acceptance to the adjuster and the adjuster must provide that written notice of acceptance to the government.

(10) After receiving a written notice of acceptance under subsection (9), the government must promptly provide to the claimant payment of the amount offered and notify the adjuster of that payment.

(11) If the claimant does not accept the amount of compensation offered under subsection (7) (b), the claimant must, if the claimant wishes to have the claim arbitrated, provide written notice to the minister

(a) requesting the initiation of the arbitration proceedings provided for in section 19 (3) of the Act, and

(b) electing the number of arbitrators to be appointed under that section.

Arbitration

7 (1) The arbitrators in an arbitration under section 6 (11) must determine the amount of compensation, if any, to which the claimant is entitled under the guidelines established by the government under section 5 (2).

(2) The government must, promptly after receiving notice of the result of the arbitration, make payment to the claimant of the amount determined under subsection (1).

Part 2 — Disaster Financial Assistance

Division 1 — Interpretation

Definitions and application

8 (1) In this Part and in Schedules 1 to 4:

"charitable or volunteer organization" means a not for profit charitable organization that

(a) in the opinion of the minister, provides a benefit or service to the community at large,

(b) has been in existence for at least 12 months, and

(c) is registered under the *Society Act*;

"eligible business materials", in relation to a small business, means items essential to the operation of the small business;

"eligible business structure", in relation to a small business, means a structure that is essential to the operation of the small business;

"eligible charitable or volunteer materials", in relation to a charitable or volunteer organization, means items essential to the operation of the charitable or volunteer organization;

"eligible charitable or volunteer structure", in relation to a charitable or volunteer organization, means a structure that is essential to the operation of the charitable or volunteer organization;

"eligible claimant" means a claimant described in section 9 (a) to (e);

"eligible costs" does not include costs or expenses

(a) recoverable at law, or for which insurance was reasonably and readily available,

(b) of a class or kind for which provision is made in whole or in part under any other program offered by local, provincial, federal or international governments or agencies,

(c) to repair damage caused to a structure or facilities by a hazard if assistance had previously been provided to prevent damage from that or a similar type of hazard and that assistance was not used for that preventive work as required,

(d) that are a normal risk of a business, trade, calling or enterprise,

(e) for repair, rebuilding or replacement that cannot be considered essential to a home, livelihood or community service, including, without limitation, non-essential roads and bridges, landscaping or pleasure items,

(f) for repair, rebuilding or replacement of a structure owned by industry, a government corporation or a business that is not a small business, other than a structure owned by a

government corporation supplying sewer or water services,

(g) to repair, rebuild or replace items or facilities for which there is no proof of ownership, title or rights and privileges assigned by way of lease or permit,

(h) to repair, rebuild or replace structures, including, without limitation, buildings, fixtures, retaining walls, dikes and septic systems, that had significantly deteriorated before the disaster through neglect or undue wear and tear, or

(i) that, in the case of a charitable or volunteer organization, are incurred as a result of a disaster and are recovered from agencies such as the Canadian Disaster Relief Fund or from disaster fund raising drives;

"eligible expense" means

(a) eligible personal expense as defined in Schedule 1,

(b) eligible small business expense as defined in Schedule 2,

(c) eligible farm operation expense as defined in Schedule 3, or

(d) eligible charitable or volunteer expense as defined in Schedule 4;

"eligible farm materials" , in relation to a farm operation, means items essential to the operation of the farm operation;

"eligible farm structure", in relation to a farm operation, means a structure that is essential to the operation of the farm operation;

"eligible materials" means

(a) eligible personal effects,

(b) eligible business materials,

(c) eligible farm materials, or

(d) eligible charitable or volunteer materials;

"eligible personal effects" means

(a) for an owner of a structure referred to in section 9 (a), the necessities of life owned by and required for the owner or any of the other permanent residents of the structure, and

(b) for a tenant in a structure referred to in section 9 (b), the

necessities of life owned by and required for the tenant or any of the other permanent residents of the structure;

"eligible residence" means a structure owned by a claimant and occupied by the claimant as the claimant's principal residence;

"eligible structure" means

- (a) an eligible residence,
- (b) an eligible business structure,
- (c) an eligible farm structure, or
- (d) an eligible charitable or volunteer structure;

"farm operation" means an operation that

- (a) is identified in the current assessment of the British Columbia Assessment Authority as a developing or established agricultural operation,
- (b) is owned and operated by a person whose full-time employment is as a farmer, and
- (c) is the means by which the owner of the farm operation derives the majority of that person's income;

"principal residence" means, in relation to an individual claiming assistance under this Part, the residence that is occupied by the individual as the individual's home, the residence in which the majority of the individual's personal effects are located and

- (a) the residence of which the individual is, at the time of the occurrence of the disaster in respect of which the assistance is claimed, an owner and for which the individual
 - (i) received a grant under section 2 of the *Home Owner Grant Act* or would have been entitled to receive such a grant but for section 2 (3) of that Act or Schedule 1 or Schedule 2 of that Act, or
 - (ii) is entitled or would, but for section 2 (3) of the *Home Owner Grant Act* or Schedule 1 or Schedule 2 of that Act, be entitled to receive a grant under section 2 of that Act as a result of becoming an owner of the residence after the date on which the last grants under that Act were provided,
- (b) if the individual is not an owner of a residence, the

residence of which the individual is, at the time of the occurrence of the disaster in respect of which the assistance is claimed, an eligible occupant within the meaning of the *Home Owner Grant Act* and for which a person, other than the individual,

(i) received a grant under section 3, 4 or 5 of that Act for the benefit of the individual or would have been entitled to receive such a grant but for section 3 (4), 4 (4) or 5 (4) of that Act or Schedule 1 or Schedule 2 of that Act, or

(ii) is entitled or would, but for section 3 (4), 4 (4) or 5 (4) of that Act or Schedule 1 or Schedule 2 of that Act, be entitled to receive a grant for the benefit of the individual under section 3, 4 or 5 of that Act as a result of the individual becoming an eligible occupant of the residence after the date on which the last grants under that Act were provided, or

(c) if, at the time of the occurrence of the disaster in respect of which the assistance is claimed, the individual is neither an owner of a residence nor an eligible occupant of a residence within the meaning of paragraph (b) or is an owner or eligible occupant of a residence but has permanently ceased residing in the residence of which the individual is an owner or eligible occupant, the residence in which the individual resides for at least 1/2 of each year or of which the individual has assumed occupancy for the purpose of residing there for at least 1/2 of each year;

"small business" means a business

(a) that is managed by the owner of the business on a day to day basis,

(b) the income from which is the owner's major source of income,

(c) the gross sales of which are less than \$1 million per year, and

(d) that employs less than 50 employees at any one time.

(2) This Part applies in the event of a disaster in respect of which the Lieutenant Governor in Council or the minister has determined that disaster financial assistance may be provided.

Division 2 — Acceptance of Claim

Eligibility for assistance

9 The following claimants may be eligible to receive assistance under this Part if they have, before receiving that assistance, provided notice to the Provincial Emergency Program of any civil litigation they have initiated to recover some or all of the loss, costs or damages they suffered as a result of the disaster and if and to the extent only that their claim has been accepted under this Part:

(a) an owner of a structure damaged or destroyed in a disaster if the structure constituted the principal residence of the owner;

(b) a tenant whose eligible personal effects, while in the tenant's principal residence, are damaged or destroyed in a disaster;

(c) the owner of a small business;

(d) the owner of a farm operation;

(e) a charitable or volunteer organization.

Acceptable claims

10 (1) Subject to sections 11 and 12 and subsection (2) of this section, any one or more of the following claims may be accepted from an eligible claimant:

(a) a claim for eligible personal expenses as that term is defined in Schedule 1;

(b) a claim for eligible small business expenses as that term is defined in Schedule 2, if and to the extent that the claimant is the owner of a small business and can demonstrate that without the claimed assistance the future of the business could be placed in jeopardy;

(c) a claim for eligible farm operation expenses as that term is defined in Schedule 3, if and to the extent that the claimant is the owner of a farm operation and can demonstrate that without the claimed assistance the future of the farm operation could be placed in jeopardy;

(d) a claim for eligible charitable or volunteer expenses as that term is defined in Schedule 4, if and to the extent that

the claimant is a charitable or volunteer organization and can demonstrate that without the claimed assistance the future of the charitable or volunteer organization could be placed in jeopardy.

(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 the claimant is the owner of the structure in respect of which the claim is made.

Calculation of assistance for eligible materials

11 A claim for any item of eligible materials damaged or destroyed in a disaster may be accepted for not more than an amount equal to the lesser of

(a) the cost to repair the item to the condition it was in immediately before the disaster, and

(b) the cost to replace the item with a basic model of that item.

Calculation of assistance for eligible structures

12 (1) A claim for an eligible structure damaged or destroyed in a disaster may be accepted for an amount equal to the lesser of

(a) the cost to repair the structure to the condition it was in immediately before the disaster,

(b) the cost to rebuild the structure,

(c) the cost to replace the structure, and

(d) the assessed value of the structure.

(2) Despite subsection (1), if an eligible structure is damaged or destroyed in a disaster and in the opinion of the director retention of the structure on the land on which the structure stood before the disaster constitutes a potential threat to life or safety, the Provincial Emergency Program may accept a claim for that eligible structure for an amount equal to the lesser of

(a) the cost to relocate the structure and to repair it to the condition it was in immediately before the disaster, and

(b) the assessed value of the structure.

(3) The cost to repair an eligible structure under subsection (1) (a) or (2) (a) includes the costs needed to repair the structure to a

condition that meets the prevailing codes in the applicable area.

(4) The cost of relocation under subsection (2) (a) does not include the costs to acquire the land to which the eligible structure could be relocated.

Division 3 – Limits on Payment of Assistance on Accepted Claims

Limit to assistance

13 Subject to this Division, the amount of assistance payable under this Part in respect of any claim accepted under Division 2 is 80% of the amount by which the amount of the accepted claim exceeds \$1 000, to a maximum payable under this Part for an accepted claim of \$300 000.

[am. B.C. Reg. 85/2005.]

Multiple claims for assistance for repair

14 If assistance has been provided under this regulation on 2 occasions to repair, rebuild or replace a structure in a disaster prone area, a claimant seeking assistance to repair, rebuild or replace the structure is ineligible to receive that further assistance unless the minister determines that, after the second occasion, all corrective or preventive actions reasonably possible to avoid recurrence of the damage or destruction were taken.

No assistance for structures in flood plain area

15 If an area is designated under the *Municipal Act* as flood plain and a structure is built or installed in that area after the area has been so designated, no assistance will be provided to repair, rebuild or replace the structure if it is damaged in a flood unless the structure was determined by the Minister of Environment, Lands and Parks or by Canada Mortgage and Housing Corporation to have been properly flood protected.

Claimant must act to protect property

16 Assistance for an accepted claim may be reduced or denied if, in the minister's opinion, the claimant took no or insufficient action to protect the claimant's property before, during or after the occurrence of a disaster.

Effect of litigation on payment of assistance

17 (1) If civil litigation is initiated by a claimant to recover some or all of the loss, costs or damages suffered as a result of a disaster, assistance must not be paid to the claimant under this regulation unless

(a) before payment of the assistance, the claimant agrees, in a manner satisfactory to the Provincial Emergency Program, that if judgment is awarded to the claimant in the litigation and the judgment includes an award in respect of an eligible expense for which assistance is provided, the claimant will repay to the government the portion of the amount recovered under the judgment that is attributable to that eligible expense up to a maximum amount repayable under this paragraph of the amount of assistance received by the claimant in respect of that eligible expense, or

(b) the assistance is paid after the conclusion of the litigation in an amount that reflects the recovery made by the claimant under the judgment.

(2) For the purposes of subsection (1) (a), if less than the full amount of the judgment referred to in that subsection is recovered by the claimant, the portion of the amount recovered under the judgment that is attributable to an eligible expense is the proportion of the amount recovered that the judgment awarded in respect of the eligible expense bears to the whole of the judgment amount awarded.

Restrictive covenants

18 If assistance is claimed for or in respect of a structure and one or more restrictive covenants are registered on the title to the land on which the structure was located,

(a) if the placement or construction of the structure was not done in compliance with the restrictive covenants and that breach contributed in whole or in part to the damage to the structure, no assistance is payable under this Part in respect of the structure, or

(b) if assistance is available to the claimant, the maximum amount of assistance available to the claimant is the lesser of

(i) the amount to which the claimant would have been entitled under section 12 (1), and

(ii) the amount required to repair, rebuild or replace the structure to a reasonable standard that conforms

with the restrictive covenant.

Division 4 — Process for Payment of Assistance

Payment process

- 19** (1) In this section adjuster means a person appointed to act as an adjuster under subsection (2).
- (2) If a disaster occurs for which assistance may be provided under this Part, the minister must appoint one or more persons to act as adjusters for the area affected by the disaster.
- (3) A person seeking assistance under this Part must, within 90 days after the Lieutenant Governor in Counsel or the minister makes a determination under section 8 (2) that disaster financial assistance may be provided, notify the Provincial Emergency Program that assistance will be sought.
- (4) On receipt of a notification under subsection (3), the Provincial Emergency Program must
- (a) provide to the applicant a form to be completed by the applicant to apply for assistance, and
 - (b) notify the applicant of the identity of the persons appointed as adjusters and the means by which those persons may be contacted.
- (5) The applicant must, promptly after receipt by the applicant of the form referred to in subsection (4) (a), provide to an adjuster the completed application form along with all available documentation in support of the claim including invoices for any essential goods or services acquired before the application was submitted.
- (6) An adjuster who receives the documentation referred to in subsection (5) must determine the amount of assistance the adjuster considers appropriate under this regulation and must notify the claimant of that determination.
- (7) The adjuster must notify the Provincial Emergency Program of the amount of assistance that the adjuster recommends under this regulation and must include a statutory declaration of the applicant in which the applicant must
- (a) indicate whether the applicant agrees with the recommendations of the adjuster, and
 - (b) if the applicant disagrees with parts of those recommendations, state which parts the applicant is in

disagreement with and why.

(8) After receiving a notice from an adjuster under subsection (7), the Provincial Emergency Program must review the adjuster's recommendation and must notify the adjuster, in writing, of the results of that review and, if some or all of the claim has been accepted by the Provincial Emergency Program, of the amount of assistance that is to be provided to the applicant and the adjuster must advise the applicant of that amount.

(9) After the amount of assistance that is to be provided to an applicant under this section has been determined, the Provincial Emergency Program must promptly pay that amount to the applicant.

Part 3 – Disaster Financial Assistance for Local Government Body

Division 1 – Interpretation

Definitions and application

20 (1) In this Part and in Schedule 5:

"eligible local government body materials", in relation to a local government body, means equipment and materials essential to the functions and operation of the local government body including, without limitation, essential office and institutional furnishings;

"eligible local government body structure", in relation to a local government body, means a structure that is essential to the functions and operations of the local government body including, without limitation, government and public buildings, schools, hospitals, public libraries, penal institutions, welfare institutions, police stations, fire stations, and structures essential to the operation of public recreational facilities such as bathing beaches, zoos and parks;

"eligible public works" includes streets, roads, bridges, dams, breakwaters, wharves, dikes, levees, drainage facilities, flood control and irrigation systems and publicly owned sewer and water utilities;

"eligible costs" does not include costs or expenses

- (a) recoverable at law, or, subject to section 22 (3), for which insurance was reasonably and readily available,
- (b) of a class or kind for which provision is made in whole or in part under any other program offered by local, provincial, federal or international governments or agencies,
- (c) to repair damage caused to a structure or facilities by a hazard if assistance had previously been provided to prevent damage from that or a similar type of hazard and that assistance was not used for that preventive work as required,
- (d) that are a normal risk of a business, trade, calling or enterprise,
- (e) for repair, rebuilding or replacement that cannot be considered essential to the public welfare including, without limitation, non-public roads and bridges or landscaping,
- (f) that are normal operating expenses including, without limitation, regular salaries or equipment operating costs,
- (g) to repair or replace items or facilities for which there is no proof of ownership, title or rights and privileges assigned by way of lease or permit,
- (h) to repair, rebuild or replace structures, including, without limitation, buildings, fixtures, retaining walls, dikes and septic tank systems, that had significantly deteriorated before the disaster through neglect or undue wear and tear, or
- (i) incurred as a result of a disaster that are recovered from agencies such as the Canadian Disaster Relief Fund or from disaster fund raising drives;

"local government body" means

- (a) an educational body within the meaning of the *Freedom of Information and Protection of Privacy Act*,
- (b) a local government body within the meaning of the *Freedom of Information and Protection of Privacy Act*,
- (c) a health care body within the meaning of the *Freedom of Information and Protection of Privacy Act*, or
- (d) a social services body within the meaning of the *Freedom of Information and Protection of Privacy Act*;

"public facility" means an eligible local government body structure or any one of the eligible public works.

(2) This Part applies in the event of a disaster in respect of which the Lieutenant Governor in Council or the minister has determined that disaster financial assistance may be provided to a local government body.

[am. B.C. Reg. 201/2006.]

Division 2 — Acceptance of Claim

Eligibility for assistance

21 A local government body may be eligible to receive assistance under this regulation

(a) if it has, before receiving that assistance, provided notice to the Provincial Emergency Program of any civil litigation it has initiated to recover some or all of the loss, costs or damages it suffered as a result of the disaster, and

(b) if and to the extent only that its claim has been accepted under this Act.

Acceptable claims

22 (1) Subject to sections 23 to 27 and subsection (2) of this section, a claim for eligible local government body expenses as that term is defined in Schedule 5 may be accepted from a local government body.

(2) No claim for structural repair to or rebuilding or replacement of a public facility under section 1 (a) of Schedule 5 may be accepted unless the claimant is the owner of the public facility in respect of which the claim is made.

(3) A local government body that has elected for self-insurance is entitled to the assistance available under this Part even though private insurance could have been purchased.

Structural repair, rebuilding or replacement

23 (1) Subject to section 25, no claim may be accepted for repair, rebuilding or replacement of a public facility damaged or destroyed in a disaster unless

(a) the repair, rebuilding or replacement is completed to a standard that

- (i) adheres to the prevailing codes in the affected area, and
 - (ii) is approved by the government, and
- (b) subject to subsection (2), the tendering practices and wage rates used for the repair, rebuilding or replacement are approved by
- (i) the local government body, and
 - (ii) the government.

(2) A claim for repair, rebuilding or replacement of a public facility for which the approvals required by subsection (1) (b) have not been provided may be accepted in exceptional circumstances and with the prior approval of the Provincial Emergency Program.

Calculation of assistance for eligible materials

24 A claim for any item of eligible local government body materials damaged or destroyed in a disaster may be accepted for not more than the lesser of

- (a) the cost to repair the item to the condition it was in immediately before the disaster, and
- (b) the cost to replace the item with a basic model of that item.

Calculation of assistance for public facilities

25 (1) A claim for a public facility damaged or destroyed in a disaster may be accepted for an amount equal to the lesser of

- (a) the cost to repair the public facility to the condition it was in immediately before the disaster,
- (b) the cost to rebuild the public facility,
- (c) the cost to replace the public facility, and
- (d) the assessed value of the public facility.

(2) Despite subsection (1), if a public facility is damaged or destroyed in a disaster and in the opinion of the director retention of the public facility on the land on which the public facility stood before the disaster constitutes a danger to public safety or to the provision of essential local services, the Provincial Emergency Program may accept a claim for that public facility for an amount equal to the lesser of

- (a) the cost to relocate the public facility and to repair it to the condition it was in immediately before the disaster, and
 - (b) the assessed value of the public facility.
- (3) The cost of relocation under subsection (2) (a) does not include the costs to acquire the land to which the public facility could be relocated.

Calculation of assistance for compensation payment

26 A claim in respect of the compensation a local government body is obligated to pay under Part 1 as a result of a disaster may be accepted for not more than the lesser of

- (a) the amount of compensation actually paid by the local government body, and
- (b) the amount determined by the Provincial Emergency Program to represent an appropriate amount of compensation in all of the circumstances.

Calculation of assistance for general administration costs

27 A claim for general administration costs under section 1 (g) of Schedule 5 may be accepted for not more than the lesser of

- (a) the general administration costs actually paid by the local government body, and
- (b) the amount determined by the Provincial Emergency Program to represent an appropriate amount of general administration costs in all of the circumstances.

Division 3 — Limits on Payment of Assistance on Accepted Claims

Limit to assistance

28 Subject to this Division, the amount of assistance payable in respect of any claim accepted under Division 2 is

- (a) for claims referred to in section 1 (d) of Schedule 5, 100% of the amount of the accepted claim,
- (b) for claims referred to in section 1 (g) of Schedule 5, the percentage of the amount of the accepted claim, up to a maximum of 10%, that the Provincial Emergency Program determines is appropriate, and
- (c) for any other claim, 80% of the amount by which the

amount of the accepted claim exceeds \$1 000.

Multiple claims for assistance for repair

29 If assistance has been provided under this regulation on 2 occasions to repair, rebuild or replace a public facility in a disaster prone area, the local government body seeking assistance to repair, rebuild or replace the public facility is ineligible to receive that further assistance unless the minister determines that, after the second claim was made, the local government body took all corrective or preventive actions that could reasonably have been taken to avoid recurrence of the damage or destruction.

No assistance for structures in flood plain area

30 If an area is designated under the *Municipal Act* as flood plain and a public facility is built or installed in that area after the area has been so designated, no assistance will be provided to repair, rebuild or replace the public facility if it is damaged in a flood unless the structure was determined by the Minister of Environment, Lands and Parks or by Canada Mortgage and Housing Corporation to have been properly flood protected.

Claimant must act to protect property

31 Assistance for an accepted claim may be reduced or denied if the minister determines that the local government body claimant took no or insufficient action to protect the claimant's property before, during or after the occurrence of a disaster.

Effect of litigation on payment of assistance

32 (1) If civil litigation is initiated by a local government body claimant to recover some or all of the loss, costs or damages suffered as a result of a disaster, assistance must not be paid to the claimant under this regulation unless

(a) before payment of the assistance, the claimant agrees, in a manner satisfactory to the Provincial Emergency Program, that if judgment is awarded to the claimant in the litigation and the judgment includes an award in respect of an eligible expense for which assistance is provided, the claimant will repay to the government the portion of the amount recovered under the judgment that is attributable to that eligible

expense up to a maximum amount repayable under this paragraph of the amount of assistance received by the claimant in respect of that eligible expense, or

(b) the assistance is paid after the conclusion of the litigation in an amount that reflects the recovery made by the claimant under the judgment.

(2) For the purposes of subsection (1) (a), if less than the full amount of the judgment referred to in that subsection is recovered by the claimant, the portion of the amount recovered under the judgment that is attributable to an eligible expense is the proportion of the amount recovered that the judgment awarded in respect of the eligible expense bears to the whole of the judgment amount awarded.

Division 4 — Process for Payment of Assistance

Payment process generally

33 (1) If a disaster occurs for which assistance may be provided under this Part, a local government body that intends to make a claim for assistance must

(a) promptly notify the Provincial Emergency Program that it will be seeking assistance under this section, and

(b) specify the purposes for which that assistance will be sought.

(2) The Provincial Emergency Program must, after reviewing the notice provided by a local government body under subsection (1), notify the local government body as to whether it is eligible to receive some or all of the requested assistance.

(3) A local government body that has provided a notice under subsection (1) and that has been advised under subsection (2) that it is eligible for assistance under this section must, promptly after being advised of its eligibility, submit a recovery plan to the Provincial Emergency Program detailing the various projects it intends to undertake for cleanup and restoration and the recovery plan may be phased if the works detailed in the plan will take time to complete.

(4) A recovery plan submitted under subsection (3) must include

(a) an estimate of the response costs,

(b) for each project within the recovery plan, a description of the damage incurred, the work to be done and an estimate of the costs required to restore a public facility to pre-disaster

condition,

(c) an identifying project number assigned by the claimant to each project in the recovery plan, and

(d) any other information the Provincial Emergency Program may require.

(5) Recovery plans must be approved by the Provincial Emergency Program before implementation, and any work undertaken before that approval is given may ultimately be determined to be ineligible for assistance.

(6) The Provincial Emergency Program may appoint persons to act as adjusters and to conduct on-site assessments to confirm the damage described and costs estimated in the recovery plan.

(7) The Provincial Emergency Program may, in respect of a recovery plan submitted for approval, approve the plan as submitted, approve the plan subject to terms and conditions that the Provincial Emergency Program may impose or reject the plan and must, after approving or rejecting the plan,

(a) notify the local government body of that decision, and

(b) if the plan is approved or is approved subject to terms and conditions, notify the local government body that funding for the approved plan will be made available in accordance with this section.

(8) After it receives notice under subsection (7) that its recovery plan has been approved, the local government body must, at any time that it becomes aware that it will require assistance in an amount greater than the amount estimated in its recovery plan, notify the Provincial Emergency Program in writing of the increased funding, by project, stating the amount required and why the increase is needed.

(9) Subject to subsection (10), claims made under this section in respect of a project referred to in the recovery plan may be submitted to the Provincial Emergency Program

(a) on the completion of that project, or

(b) if the project is phased as contemplated by subsection (3), at the end of each phase.

(10) All claims under this section must be submitted within 18 months after the date of the approval notice provided by the Provincial Emergency Program under subsection (7).

(11) Claims submitted under subsection (9) must be prepared on the

following basis:

- (a) recovery plan projects required to restore facilities must be distinguished and recorded separately from ongoing maintenance and other routine repair work;
- (b) accounts must be maintained separately by project numbers assigned in the recovery plan;
- (c) accurate time sheets for labour and equipment must be kept by project number to assist in the calculation of eligible costs;
- (d) all invoices for goods and services must be kept by project number and must be accompanied by statements indicating the reason for purchasing the goods and services and their applicability to recovery operations.

(12) After a claim has been submitted under subsection (9), the Provincial Emergency Program must review the claim and must notify the local government body, in writing, of the results of that review and, if some or all of the claim has been accepted, of the amount of assistance that is to be provided to the local government body in respect of that claim.

(13) After determining the amount of assistance that is to be provided to a local government body under this section, the Provincial Emergency Program must promptly provide payment of that amount to the local government body along with an explanation as to how the final amount was determined and the reasons for the deletion of any claimed items.

Schedule 1

1 For the purposes of section 10 (1) (a) eligible personal expenses means eligible costs incurred or required for

(a) structural repair to or replacement of an eligible residence including

- (i) foundations, footings, seals, slab floors, pilings, structural walls and attached garages,
- (ii) framing, roofing, doors, windows, materials, wall coverings, mouldings, fixtures and finishings,
- (iii) filling and levelling to restore essential access,
- (iv) wells, pumps, septic or sewer connections, water

connections, electrical servicing and space and water heating equipment and gas connections,

(v) retaining walls that form part of the eligible residence or that are essential to sustain land that is immediately adjacent to and critical to the eligible residence, and

(vi) existing protective works designed to protect banks from erosion,

(b) repair to or replacement of eligible personal effects including,

(i) for the kitchen or dining room, a stove, refrigerator, table and chairs, electrical appliances, table service and kitchen utensils, cleaning supplies and equipment, drapes and curtains and floor coverings,

(ii) for the living room, a hide-a-bed or chesterfield, a radio or a stereo system, occasional chairs and tables, lamps, floor coverings, drapes and curtains, and a television,

(iii) for the bedrooms, bedding, bedroom suites, box springs and mattresses, lamps, floor coverings, drapes and curtains,

(iv) floor coverings, curtains, towels and toiletries for one bathroom only,

(v) for the laundry room, a washer, a dryer, an iron, an ironing board, laundry supplies, curtains and floor coverings,

(vi) miscellaneous items such as clothing, household tools, prescription medicines, a sewing machine, a vacuum cleaner, a telephone, a mirror, a freezer, freezer food and root vegetables stored in a root cellar, and

(vii) specialized clothing, tools or equipment that are required for the claimant's current trade or profession and are essential for the claimant's ability, at the time of the claim, to earn the claimant's livelihood,

(c) clean up and debris removal including

(i) casual labour, including the owner, at the British Columbia minimum hourly rate, up to a maximum

of 100 person-hours, unless the Provincial Emergency Program authorizes additional labour, and

(ii) commercial services and rentals, provided that those services and rentals are not on a continuing basis and conform to rates listed in the Province of B.C. Equipment Rental Rate Guide, copies of which are held by adjusters,

(d) reasonable protective works and other measures undertaken during the occurrence of the disaster to protect life and property, including reasonable costs incurred in the removal and storage of the contents of the eligible residence, and

(e) other necessary responses to the disaster including, with the approval of the Provincial Emergency Program, temporary accommodation, if emergency shelter is not available, for up to 3 days, or, in exceptional circumstances, for a period longer than 3 days,

but does not include costs incurred or required for or in relation to

(f) seasonal or recreational structures, their contents, and associated roads or bridges,

(g) damages that are the direct result of inadequate drainage or internal sewer or storm backup for which insurance was reasonably and readily available,

(h) damage to contents located in basements, crawl spaces or similar low-lying storage areas, unless the basement, crawl space or storage area was being used as an essential living area,

(i) unoccupied homes under construction,

(j) construction materials in storage or available for use for home construction,

(k) outbuildings, detached or semi-detached garages or carports, or their contents,

(l) jacuzzis, patios, pools, fences, garden tools or landscaping,

(m) jewelry, collectibles, artwork, antiques, silverware, furs, decorative items, money and securities or books and printed matter,

(n) pets, pet supplies, livestock, poultry, pens, corrals, feeds,

- outfittings, saddlery or beekeeping equipment and supplies,
- (o) recreational items such as fishing equipment, hunting equipment, camera equipment, dark-room equipment, skates, skis, camping equipment, bicycles, games, toys, audio-visual equipment or lawn furniture,
- (p) automobiles, recreation vehicles, motorcycles, boats, planes, snowmobiles or other readily insured vehicles and vessels,
- (q) chemicals, preservatives, fuels or other like items,
- (r) wharves, docks, floats, jetties and other foreshore or backshore improvements,
- (s) illegal encroachments on or improvements of land or structures for the purpose of damage reduction, and
- (t) eroded or damaged land except for essential access routes and the removal of debris.

Schedule 2

- 1** For the purposes of section 10 (1) (b) eligible small business expenses means eligible costs incurred or required for
- (a) structural repair to or replacement of eligible business structures including
- (i) foundations, footings, seals, slab floors, pilings, structural walls and attached garages,
 - (ii) framing, roofing, doors, windows, materials, wall coverings, mouldings, fixtures and finishings,
 - (iii) filling and levelling to restore essential access,
 - (iv) parking areas, pumps, services and connections and space and water heating equipment,
 - (v) retaining walls that form part of an eligible business structure or that are essential to sustain land that is immediately adjacent to and critical to an eligible business structure, and
 - (vi) existing protective works designed to protect banks from erosion,
- (b) repair to or replacement of eligible business materials

including

- (i) books and papers required to carry out the business,
- (ii) tools and equipment essential to the business,
- (iii) business furnishings, and
- (iv) inventory at replacement cost,

(c) clean up and debris removal including

- (i) casual labour, including the owner and the owner's employees, at the British Columbia minimum hourly rate, up to a maximum of 100 person-hours unless the Provincial Emergency Program authorizes additional labour, and
- (ii) commercial services and rentals, provided that those services and rentals are not on a continuing basis and conform to rates listed in the Province of B.C. Equipment Rental Rate Guide, copies of which are held by adjusters, and

(d) reasonable protective works and other measures undertaken by the small business owner during the occurrence of the disaster to protect life and property, including reasonable costs incurred in the removal and storage of the contents of an eligible business structure,

but does not include

(e) loss of wages or business operation income or loss of business opportunity, or

(f) costs incurred or required for or in relation to

- (i) damages that are the direct result of inadequate drainage or internal sewer or storm backup for which insurance was reasonably and readily available,
- (ii) unoccupied business premises under construction,
- (iii) construction materials in storage or available for construction purposes, unless those materials are inventory,
- (iv) outbuildings and their contents unless essential to the operation of the business,
- (v) landscaping,
- (vi) eroded or damaged land except for essential access routes and the removal of debris,

- (vii) chemicals, preservatives, fuels and other like items unless those items are inventory, and
- (viii) illegal encroachments on or improvements of land or structures for the purpose of damage reduction.

Schedule 3

- 1 For the purposes of section 10 (1) (c) eligible farm operation expenses means eligible costs incurred or required for
 - (a) structural repair to or replacement of eligible farm structures including
 - (i) filling and levelling to restore essential access to fields and outbuildings,
 - (ii) parking areas, pumps, services and connections and space and water heating equipment essential to farm operations,
 - (iii) fences on working farms where livestock is kept, excluding ornamental fences,
 - (iv) retaining walls that form part of an eligible farm structure or that are essential to sustain land that is immediately adjacent to and critical to an eligible farm structure, and
 - (v) existing protective works designed to protect banks from erosion,
 - (b) repair to or replacement of eligible farm materials including
 - (i) standing and harvested crops for which insurance was not available in British Columbia and for which no other government financial aid or program exists,
 - (ii) farm machinery that was not insurable,
 - (iii) bedding, pesticides, mulch, feed, seed and product losses including fertilizers, biocides, hormones and supplements essential to farm operations, and
 - (iv) livestock and poultry essential to farm operations for which insurance was not available,
 - (c) clean up and debris removal including

(i) restoration of farmland to a workable condition, including, without limitation, removal of debris, replacement of topsoil, restoration of fertility by manure or commercial fertilizer and land levelling where land gouging or surface erosion has occurred, provided that the cost of restoration does not exceed the previous assessed value of the land unit being restored and that the land was, before the occurrence of the disaster, in production or was being left fallow in accordance with good farming practices,

(ii) casual labour, including the owner and members of the owner's family, at the British Columbia minimum hourly rate, up to a maximum of 100 person-hours, unless the Provincial Emergency Program authorizes additional labour,

(iii) commercial services and rentals, provided that those services and rentals are not on a continuing basis and conform to rates listed in the Province of B.C. Equipment Rental Rate Guide, copies of which are held by adjusters, and

(iv) use of own equipment, excluding depreciation costs, at rates listed in the B.C. Equipment Rental Rate Guide plus fuel and lubricants not included in the rates listed in that guide, and

(d) reasonable protective works and other measures undertaken by the farm operator during the occurrence of the disaster to protect life and property, including reasonable costs incurred in the removal from the farmland and in the storage of machinery, livestock, poultry, harvested crops, or other items essential to farm operations,

but does not include

(e) loss of income due to loss of production or market,

(f) loss of value of land because of damage, unless the cost to restore the land is greater than the assessed value of the land immediately before the occurrence of the disaster,

(g) costs incurred or required for or in relation to

(i) pets, pet supplies, pens, corrals, outfittings or saddlery, unless essential to farm operations,

- (ii) private roads, except for essential access to fields and outbuildings,
- (iii) construction materials in storage or available for construction purposes,
- (iv) decorative landscaping, or
- (v) illegal encroachments on or improvements of land or structures for the purpose of damage reduction.

Schedule 4

- 1 For the purposes of section 10 (1) (d) eligible charitable or volunteer expenses means eligible costs incurred or required for
 - (a) structural repair to or replacement of eligible charitable or volunteer structures including
 - (i) foundations, footings, seals, slab floors, pilings, structural walls and attached garages,
 - (ii) framing, roofing, doors, windows, materials, wall coverings, mouldings, fixtures and finishings,
 - (iii) filling and levelling to restore essential access,
 - (iv) wells, pumps, septic or sewer connections, water connections, electrical servicings and space and water heating equipment,
 - (v) retaining walls that form part of an eligible charitable or volunteer structure or that are essential to sustain land that is immediately adjacent to and critical to an eligible charitable or volunteer structure,
 - (vi) outbuildings essential to the operation of the organization, and
 - (vii) existing protective works designed to protect banks from erosion,
 - (b) repair to or replacement of eligible charitable or volunteer materials including
 - (i) business books, papers, tools, equipment, and furnishings essential to the operation of the organization, and
 - (ii) inventory for sale, at replacement cost,

(c) clean up and debris removal including

- (i) casual labour, including organization members, at the British Columbia minimum hourly rate, up to a maximum of 100 person-hours, unless the Provincial Emergency Program authorizes additional labour, and
- (ii) commercial services and rentals, provided that those services and rentals are not on a continuing basis and conform to rates listed in the Province of B.C. Equipment Rental Rate Guide, copies of which are held by adjusters,

(d) reasonable protective works and other measures undertaken by the charitable or volunteer organization during the occurrence of the disaster to protect life and property, including reasonable costs incurred in the removal and storage of the contents of eligible charitable or volunteer structures,

but does not include

(e) damage to church property or private recreational facilities unless, in the case of church property, the property constitutes a facility essential to the secular needs of the community or in the case of a facility, the facility is run in the community's interest and is unrestrictedly accessible to the public,

(f) loss of wages or operational income or lost business opportunity, or

(g) costs incurred or required for or in relation to

- (i) damages that are the direct result of inadequate drainage or internal sewer or storm backup for which insurance was reasonably and readily available,
- (ii) unoccupied premises under construction,
- (iii) construction materials in storage or available for construction purposes,
- (iv) landscaping,
- (v) eroded or damaged land except for essential access routes and the removal of debris,
- (vi) chemicals, preservatives, fuels and other like items, or
- (vii) illegal encroachments on or improvements of land

or structures for the purpose of damage reduction.

Schedule 5

[am. B.C. Reg. 238/95.]

- 1** For the purposes of section 22 (1) eligible local government body expenses means eligible costs incurred or required for
 - (a) structural repair to or replacement of a public facility including
 - (i) foundations, footings, seals, slab floors, pilings, structural walls and attached garages,
 - (ii) framing, roofing, doors, windows, materials, wall coverings, mouldings, fixtures and finishings,
 - (iii) filling and levelling to restore essential access,
 - (iv) parking areas, pumps, services and connections and space and water heating equipment,
 - (v) retaining walls that form part of a public facility or that are essential to sustain land that is immediately adjacent to and critical to the public facility, and
 - (vi) existing protective works designed to protect banks from erosion,
 - (b) repair to or replacement of eligible local government body materials including books, papers and other records essential to local government body functions and operation,
 - (c) clean up and debris removal including
 - (i) removal of damaged structures that constitute a threat to public safety,
 - (ii) pruning or removal of trees that constitute a threat to public safety,
 - (iii) removal of emergency works and the restoration of their sites to pre-disaster condition, and
 - (iv) necessary clearance of debris and wreckage from channels and streams, intakes and outfalls of sewers and storm drains and water supply reservoirs, and
 - (d) emergency response measures including
 - (i) the rescue and transportation of and the emergency

health arrangements and feeding, shelter and clothing for persons evacuated as a result of a disaster,

- (ii) shelter and feeding for livestock, including the restoration of facilities used for those purposes,
- (iii) measures taken to reduce the extent of damage by the removal of hazardous materials, valuable chattels, and assets from the area of immediate risk, including the provision of storage space and transportation costs,
- (iv) measures to determine the area and extent of the disaster,
- (v) containment of the disaster including the provision of essential services, equipment, material and labour for protective works, both for individual protection and for that of publicly owned institutions and utilities,
- (vi) the provision of emergency medical care to casualties of the disaster or of a resulting epidemic including the transportation of casualties from an apprehended disaster area and their return following the disaster or the transportation of regular patients to make way for casualties and their return following the disaster,
- (vii) the establishment and implementation of special security measures, and
- (viii) the establishment and operation of any one or more of special communications facilities, special registration and inquiry services, emergency control headquarters, and protective health and sanitation facilities,

(e) the deductible amounts for insurance costs,

(f) costs of inspection, appraisal, planning or design if the services for which the costs are incurred are essential to the local government body's ability to determine the costs of repair, rebuilding or replacement, provided that the claim, under this paragraph

- (i) must exclude costs incurred by the permanent staff of local government body agencies, and

- (ii) may include the cost of temporarily filling positions of full-time staff while those full-time staff are engaged

in conducting disaster assistance surveys and assessments if documentation is available specifying the positions being filled, the persons employed and the actual time during which they were so employed,

(g) general administrative costs arising out of individual projects within a recovery plan submitted under section 33 (3),

(h) replacing local government body stores or materials that are damaged or destroyed in responding to emergencies or in repairing public facilities damaged in disasters, and

(i) payment by the local government body of compensation it is obligated to pay under Part 1 as a result of the disaster, but does not include

(j) loss of operational income,

(k) amounts paid to private contractors in excess of the rates listed in the B.C. Equipment Rental Rate Guide, or

(l) costs incurred or required for or in relation to

(i) damages that are the direct result of inadequate drainage or internal sewer or storm backup for which insurance was reasonably and readily available,

(ii) works undertaken as preventive measures to guard against future disasters for which prior approval of the Provincial Emergency Program has not been obtained,

(iii) construction materials in storage or available for construction purposes, unless those materials are inventory,

(iv) Repealed. [B.C. Reg. 238/95.]

(v) landscaping,

(vi) eroded or damaged land except for essential access routes and the removal of debris,

(vii) Repealed. [B.C. Reg. 238/95.]

(viii) illegal encroachments on or improvements of land or structures for the purpose of damage reduction,

(ix) scalping of gravel beds other than the cost incurred or required to remove a deposition that is unusually heavy and that is directly related to the disaster,

(x) the purchase of special or additional equipment to

fight the disaster,

(xi) salaries of permanent employees, except for overtime,

(xii) expenditures related to preventative measures taken before the disaster, including equipment purchased or measures taken that would or should be a normal part of preparations to avoid or mitigate the effects of a disaster,

(xiii) eroded or damaged land except for essential access routes and removal of debris,

(xiv) chemicals, preservatives, fuels and other like items,

(xv) unoccupied government premises under construction,

(xvi) costs incurred in relation to illegal encroachment on or improvement of land for the purpose of damage reduction, and

(xvii) costs incurred due to the cancellation or rescheduling of regular works projects.

[Provisions of the *Emergency Program Act*, R.S.B.C. 1996, c. 111, relevant to the enactment of this regulation: sections 19, 20 and 28]