

PROVINCE OF BRITISH COLUMBIA
ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 374

, Approved and Ordered June 30, 2021



~~Lieutenant Governor~~
Administrator

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ^{Administrator}~~Lieutenant Governor~~, by and with the advice and consent of the Executive Council, orders that

- (a) effective July 1, 2021, the Residential Tenancy Regulation, B.C. Reg. 477/2003, is amended as set out in the attached Schedule 1,
- (b) effective July 1, 2021, the Manufactured Home Park Tenancy Regulation, B.C. Reg. 481/2003, is amended as set out in the attached Schedule 2, and
- (b) effective January 1, 2022, the Residential Tenancy Regulation, B.C. Reg. 477/2003, is amended as set out in the attached Schedule 3.



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: *Residential Tenancy Act*, S.B.C. 2002, c. 78, s. 97;
Manufactured Home Park Tenancy Act, S.B.C. 2002, c. 77, s. 89

Other: OIC 1239/2003; OIC 1236/2003

R10527033

SCHEDULE 1

1 Part 4 of the Residential Tenancy Regulation, B.C. Reg. 477/2003, is amended by adding the following section:

Definitions for Part

21.1 (1) In this Part:

“**another source**” includes a grant scheme or similar scheme, an insurance plan and a settlement of a claim;

“**dwelling unit**” means the following:

- (a) living accommodation that is not rented and not intended to be rented;
- (b) a rental unit;

“**eligible capital expenditures**” means capital expenditures described in section 23.1 (4);

“**greenhouse gas**” has the same meaning as in the *Climate Change Accountability Act*;

“**major component**”, in relation to a residential property, means

- (a) a component of the residential property that is integral to the residential property, or
- (b) a significant component of a major system;

“**major system**”, in relation to a residential property, means an electrical system, mechanical system, structural system or similar system that is integral

- (a) to the residential property, or
- (b) to providing services to the tenants and occupants of the residential property;

“**specified dwelling unit**” means

- (a) a dwelling unit that is a building, or is located in a building, in which an installation was made, or repairs or a replacement was carried out, for which eligible capital expenditures were incurred, or
- (b) a dwelling unit that is affected by an installation made, or repairs or a replacement carried out, in or on a residential property in which the dwelling unit is located, for which eligible capital expenditures were incurred.

(2) For certainty, the following are not eligible capital expenditures:

- (a) capital expenditures described in section 23.1 (5);
- (b) an amount equal to the value of a landlord’s labour for installations, repairs or replacements described in section 23.1 (4).

2 Section 23 is amended

(a) by repealing subsection (1) and substituting the following:

(1) A landlord may apply under section 43 (3) [*additional rent increase*] of the Act for an additional rent increase, other than for eligible capital expenditures, if one or more of the following apply:

- (a) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property;
- (b) the landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property, if the financing costs could not have been foreseen under reasonable circumstances;
- (c) the landlord, as a tenant, has received an additional rent increase under this section or section 23.1 for the same rental unit .

(b) in subsection (2) by striking out “paragraph (1) (b), (c), or (d)” and substituting “subsection (1) (a) or (b)”,

(c) by repealing subsection (3) (f), and

(d) in subsection (5) by striking out “the approved increase is not” and substituting “the additional rent increase approved under this section is not” and by striking out “a future” and substituting “any future”.

3 The following sections are added to Part 4:

Additional rent increase for eligible capital expenditures

- 23.1** (1) Subject to subsection (2), a landlord may apply under section 43 (3) [*additional rent increase*] of the Act for an additional rent increase in respect of a rental unit that is a specified dwelling unit for eligible capital expenditures incurred in the 18-month period preceding the date on which the landlord makes the application.
- (2) If the landlord made a previous application for an additional rent increase under subsection (1) and the application was granted, whether in whole or in part, the landlord must not make a subsequent application in respect of the same rental unit for an additional rent increase for eligible capital expenditures until at least 18 months after the month in which the last application was made.
- (3) If the landlord applies for an additional rent increase under this section, the landlord must make a single application to increase the rent for all rental units on which the landlord intends to impose the additional rent increase if approved.
- (4) Subject to subsection (5), the director must grant an application under this section for that portion of the capital expenditures in respect of which the landlord establishes all of the following:
- (a) the capital expenditures were incurred for one of the following:
 - (i) the installation, repair or replacement of a major system or major component in order to maintain the residential property, of which the major system is a part or the major component is a component, in a state of repair that complies with the health, safety and housing standards required by law in accordance with section 32 (1) (a) [*landlord and tenant obligations to repair and maintain*] of the Act;

- (ii) the installation, repair or replacement of a major system or major component that has failed or is malfunctioning or inoperative or that is close to the end of its useful life;
 - (iii) the installation, repair or replacement of a major system or major component that achieves one or more of the following:
 - (A) a reduction in energy use or greenhouse gas emissions;
 - (B) an improvement in the security of the residential property;
 - (b) the capital expenditures were incurred in the 18-month period preceding the date on which the landlord makes the application;
 - (c) the capital expenditures are not expected to be incurred again for at least 5 years.
- (5) The director must not grant an application under this section for that portion of capital expenditures in respect of which a tenant establishes that the capital expenditures were incurred
- (a) for repairs or replacement required because of inadequate repair or maintenance on the part of the landlord, or
 - (b) for which the landlord has been paid, or is entitled to be paid, from another source.

Determination of amount of additional rent increase for eligible capital expenditures

- 23.2** (1) If the director grants an application under section 23.1, the amount of the additional rent increase that the landlord may impose for the eligible capital expenditures is determined in accordance with this section.
- (2) The director must
- (a) divide the amount of the eligible capital expenditures incurred by the number of specified dwelling units, and
 - (b) divide the amount calculated under paragraph (a) by 120.
- (3) The landlord must multiply the sum of the rent payable in the year in which the additional increase is to be imposed and the annual rent increase permitted to be imposed under section 43 (1) (a) of the Act in that year by 3%.
- (4) The landlord may only impose whichever is the lower amount of the 2 amounts calculated under subsection (2) or (3).

Imposition of additional rent increase for eligible capital expenditures

- 23.3** (1) In this section:
- “**phase 1**” means the first 12 months in which the additional rent increase may be imposed to comply with the timing and notice requirements set out in section 42 [*timing and notice of rent increases*] of the Act;
- “**phase 2**” means the next 12 months after phase 1 in which the additional rent increase may be imposed to comply with the timing and notice requirements set out in section 42 of the Act;

- “phase 3”** means the next 12 months after phase 2 in which the additional rent increase may be imposed to comply with the timing and notice requirements set out in section 42 of the Act.
- (2) Subject to subsection (3), an additional rent increase for eligible capital expenditures may only be imposed in the first 12 months in which it may be imposed to comply with the timing and notice requirements set out in section 42 of the Act.
 - (3) If the amount calculated under section 23.2 (2) is higher than the amount that the landlord may impose under section 23.2 (4), the additional rent increase for eligible capital expenditures may only be imposed in up to 3 phases as follows:
 - (a) the landlord may impose the amount determined under section 23.2 (4) as an additional rent increase in phase 1;
 - (b) the landlord may impose the amount calculated in accordance with subsection (4) of this section as an additional rent increase in phase 2;
 - (c) the landlord may impose the amount calculated in accordance with subsection (5) as an additional rent increase in phase 3.
 - (4) The additional rent increase that the landlord may impose in phase 2 is the lower of the 2 following amounts:
 - (a) the amount calculated under section 23.2 (2) minus the amount the landlord was permitted to impose under section 23.2 (4);
 - (b) the sum of the following multiplied by 3%:
 - (i) the rent payable in phase 2;
 - (ii) the amount of the annual rent increase permitted to be imposed under section 43 (1) (a) of the Act at the time the additional rent increase for eligible capital expenditures for phase 2 is imposed.
 - (5) The additional rent increase that the landlord may impose in phase 3 is the lower of the 2 following amounts:
 - (a) the amount calculated under section 23.2 (2) minus the sum of the following:
 - (i) the amount the landlord was permitted to impose under section 23.2 (4);
 - (ii) the amount calculated under subsection (4) (b) of this section;
 - (b) the sum of the following multiplied by 3%:
 - (i) the rent payable in phase 3;
 - (ii) the amount of the annual rent increase permitted to be imposed under section 43 (1) (a) of the Act at the time the additional rent increase for eligible capital expenditures for phase 3 is imposed.
 - (6) If the amount of the additional rent increase approved under section 23.1 is not imposed in accordance with subsection (2) or (3) of this section, as applicable, the landlord must not carry forward the unused portion or add it to any future rent increase.
 - (7) A landlord

- (a) may impose only one additional rent increase approved under section 23.1 at one time, and
 - (b) must impose additional rent increases approved under section 23.1 in the order of applications approved under that section and, in relation to each application approved, in the order of the applicable phases.
- (8) For certainty, if an additional rent increase approved under section 23.1 is imposed in phases, the landlord may not omit imposing the additional rent increases in one of the phases in order to impose an additional rent increase subsequently approved under that section.
- (9) If a tenant vacates a rental unit before one of the additional rent increases is imposed, the landlord must not impose that additional rent increase on the new tenant of the rental unit.

Combination of rent increases

- 23.4** (1) A landlord may impose
- (a) an annual rent increase under section 22 and an additional rent increase under section 23, or
 - (b) an annual rent increase under section 22 and an additional rent increase under section 23.1.
- (2) For certainty, a landlord may not at the same time impose an additional rent increase approved under section 23 and an additional rent increase approved under section 23.1.

- 4** *Section 6 of the Schedule is amended by striking out “Once a year the landlord” and substituting “Once a year, except during the period that starts on March 30, 2020 and ends on December 31, 2021, the landlord”.*

SCHEDULE 2

- 1** *Section 5 (1) of the Schedule to the Manufactured Home Park Tenancy Regulation, B.C. Reg. 481/2003, is amended by striking out “Once a year the landlord” and substituting “Once a year, except during the period that starts on March 30, 2020 and ends on December 31, 2021, the landlord”.*
- 2** *Section 8 is amended by striking out “section of 72 (3) (b)” and substituting “section 72 (3) (b)”.*

SCHEDULE 3

- 1** *The Residential Tenancy Regulation, B.C. Reg. 477/2003, is amended by repealing section 23.3 (2) and substituting the following:*
- (2) An additional rent increase for eligible capital expenditures may only be imposed
 - (a) with the annual rent increase permitted to be imposed under section 43 (1) (a) of the Act, and

(b) subject to subsection (3), in the first 12 months in which it may be imposed to comply with the timing and notice requirements set out in section 42 of the Act.