

Bill No. 81 of 1950.

A BILL TO AMEND THE MOTOR VEHICLE
ACCIDENT INDEMNITY ACT.

NOTE.

This Bill amends *The Motor Vehicle Accident Indemnity Act*, being chapter 11 of the Statutes of Alberta, 1947.

Section 2(c) which defines "motor vehicle" is amended to make the definition correspond to the definition of "motor vehicle" found in *The Vehicles and Highway Traffic Act*. Excluded from the definition are rubber tired tractors and trolley buses.

Section 6a is amended by the addition of three new clauses. The section lists the various sets of circumstances under which the Minister may order the release of a motor vehicle from impoundment. The effect of the amendment is to add three more sets of circumstances under which impounded vehicles may be released. The vehicle may be released if it is so badly damaged that it is impractical to repair it so that it can be driven again. It may also be released if the garageman's lien for storage and repairs exceeds the value of the vehicle. It may also be released if it has been seized under an execution issued pursuant to a judgment recovered against the owner in respect of the accident that resulted in the impounding.

Subsection (1) of section 7a is struck out and a new subsection is substituted. The subsection presently requires that every statement of claim in an action for damages resulting from bodily injury or death in a motor vehicle accident shall be served upon the Superintendent. The effect of the amendment is to require in addition that statements of claim in an action for damages resulting from damage to property in a motor vehicle accident where the damage exceeds one hundred dollars and the plaintiff has noted the defendant in default should also be served on the Superintendent. The Fund now pays unsatisfied judgments in respect of property damage in excess of one hundred dollars and the Superintendent should be notified of these proceedings where there is any likelihood of a claim being made against the Fund.

Section 8(6) is amended. This subsection presently prescribes the maximum limits for the amounts which the Provincial Treasurer may pay from the Fund. These maximum amounts are reduced by any amount the applicant has recovered from the judgment debtor. The effect of the amendments is that the maximum amounts shall also be reduced by any amount that has been paid out of the Fund

under section 13 to the applicant or to a hospital or a doctor on his behalf. The effect of this is that the total amount that a judgment creditor can obtain from the Fund for hospital expenses under section 13 and for damages under this section is the maximum limit prescribed in this section, namely, five thousand dollars for injury to one person or ten thousand dollars for injuries to two or more persons.

A new section is added immediately after section 8. Section 7a provides that certain pleadings and notices shall be served upon the Superintendent. The purpose of these provisions is to give the Superintendent an opportunity to defend in a case where the Fund may become liable to pay a judgment. However, if a judgment is recovered without giving the required notices there is very little to prevent recovery of such a judgment from the Fund. This new section deals with such a case by providing that no such judgment shall be paid out of the Fund without the consent in writing of the Superintendent. If the judgment creditor wishes to obtain payment of the judgment out of the Fund and the Superintendent refuses to consent the judgment creditor may apply by notice of motion to a judge for an order directing that his judgment be set aside. If the judge grants the order the applicant thereupon serves the Superintendent with a copy of the order and the pleadings and then the Superintendent may defend the action in the manner provided in section 7a.

Section 13(1) is amended. The effect of the amendment is to place certain limitations on the persons to whom the hospital and medical expenses may be paid out of the Fund. In order to qualify for receipt of hospital or medical expenses under this section the applicant must have been injured in Alberta. The applicant must also either be a resident of the Province or if he is a non-resident he must have been injured through the operation of a motor vehicle registered in the Province. Also, the medical and hospital expenses must have been incurred in the Province. This makes it clear that the Fund is not intended to protect residents of other jurisdictions who receive hospital or medical treatment elsewhere than in the Province.

Section 13 is amended by the addition of a new subsection (2a). This new subsection provides that the maximum amount that may be paid for hospital and medical expenses as a result of injuries to one person in one accident is five thousand dollars.

KENNETH A. MCKENZIE,
Acting Legislative Counsel.

(This note does not form any part of the Bill but is offered in explanation of its provisions.)

BILL

No. 81 of 1950.

An Act to amend The Motor Vehicle Accident Indemnity Act.

(Assented to , 1950.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. *The Motor Vehicle Accident Indemnity Act*, being chapter 11 of the Statutes of Alberta, 1947, is hereby amended as to section 2, clause (c) by striking out the words "traction engines" and by substituting the words "tractors equipped with rubber tires, traction engines, trolley buses".

2. The said Act is further amended as to section 6a by adding immediately after clause (e) the following new clauses:

- "(f) the Minister is satisfied that the motor vehicle is so damaged that it is impracticable to repair it so that it can be driven on the highway;
- "(g) the Minister is satisfied that the garageman's lien for storage and repairs exceeds the value of the motor vehicle;
- "(h) the motor vehicle has been seized under an execution issued pursuant to a judgment recovered against the owner of the motor vehicle in respect of the accident that resulted in the impounding of the motor vehicle."

3. The said Act is further amended by adding immediately after section 6c the following new section:

"6d. Any bond, money or security deposited as proof of financial responsibility in order to obtain the release of an impounded motor vehicle may be returned to any person who, after depositing the same, has furnished the evidence required and obtained the release of the motor vehicle pursuant to the provisions of section 6b."

4. The said Act is further amended as to section 7a by striking out subsection (1) and by substituting the following:

- "7a.—(1) In any action for damages,—
 - "(a) resulting from bodily injury to or the death of any person occasioned by or arising out of the operation or use of a motor vehicle where the damages claimed exceed the sum of one hundred dollars;

“(b) resulting from damage to property occasioned by or arising out of the operation or use of a motor vehicle where damages claimed exceed the sum of one hundred dollars and the plaintiff notes the defendant in default;

a copy of the statement of claim and all subsequent pleadings shall be served upon the Superintendent by the party to the action who issues or files the same.”.

5. The said Act is further amended as to section 8, subsection (6), clause (b) by adding immediately after the words “judgment debtor,” the words “and shall also be reduced by such sum or sums as may have been paid out of the Fund pursuant to section 13 to the applicant or to a hospital or a doctor on his behalf”.

6. The said Act is further amended by adding immediately after section 8 the following new section:

“8a.—(1) If a judgment is recovered in any case where there has been non-compliance with any provision of section 7a, subsections (1) or (3) requiring service on the Superintendent, no order shall be made directing payment of the judgment out of the Fund without the consent in writing of the Superintendent.

“(2) If the judgment creditor wishes to obtain payment of the judgment out of the Fund and if the Superintendent refuses to consent pursuant to subsection (1), the judgment creditor may apply by notice of motion to a judge of the Supreme Court for an order directing that the judgment be set aside.

“(3) Upon the hearing of the application, if the judge grants the order setting the judgment aside the applicant for the order shall forthwith serve the Superintendent with a copy of the order and with the pleadings and notice required by section 7a and thereupon the Superintendent, by a statement of defence, may dispute the liability of the defendant to the plaintiff and may defend the action as provided in section 7a.”.

7. The said Act is further amended as to section 13,—

(a) by striking out the words “and the Superintendent if satisfied as to the facts with respect to the claim” where they occur in subsection (1) and by substituting the words “and the Superintendent if satisfied,—

“(a) as to the facts with respect to the claim;

“(b) that the applicant was injured in the Province;

“(c) that the applicant is either a resident of the Province or if a non-resident that he was injured through the operation of a motor vehicle registered in the Province;

“(d) that the application is for reimbursement of medical and hospital expenses incurred in the Province;”;

- (b) by adding immediately after subsection (2) the following new subsection:

“(2a) The Provincial Treasurer shall not be required to pay out of the Fund more than five thousand dollars for hospital and medical expenses incurred as the result of the injuries to one person in one accident.”.

8. This Act shall come into force on the first day of July, 1950.

No. 81

THIRD SESSION
ELEVENTH LEGISLATURE

14 GEORGE VI

1950

BILL

An Act to amend The Motor Vehicle
Accident Indemnity Act.

Received and read the

First time

Second time

Third time

HON. MR. HOOKE.
