

No. 49

4th Session, 13th Legislature, Alberta
6 Elizabeth II, 1958

BILL 49

A Bill to amend The Alberta Insurance Act

HON. MR. HOOKE

Printed by L. S. WALL, Printer to the Queen's Most Excellent Majesty,
Edmonton, Alberta, 1958

Explanatory Note

2. Subsections (1) and (2) of section 46 read as follows:

"46. (1) An insurer shall give notice in writing to the Superintendent of every disputed claim arising from loss insured under a contract made in the Province.

"(2) The notice referred to in subsection (1) shall be given within sixty days after proof of the loss or of the happening of the event upon which the insurance money is to become payable."

3. (a) The purpose of this amendment is to broaden the coverage of fire policies to include the hazard of application of heat, except to goods. It is a recommendation of the Superintendents of Insurance of the Provinces.

(b) The purpose of this amendment is to define more clearly the scope of peril of fire in point of the new hazards arising from nuclear reaction and nuclear radiation. The subclause is recommended by the Superintendents of Insurance of the Provinces of Canada. Subsection (2) of section 206a presently reads:

"(2) Unless otherwise specifically provided therein, in any contract to which this Part applies, nuclear change or radioactivity shall not be considered to be a fire or an explosion but this provision shall not be construed so as to exclude loss or damage caused by fire or explosion resulting from nuclear change or radioactivity."

4. This amendment will provide a course of action in settlement of a claim where there is a disagreement or where one party neglects or refuses to appoint an appraiser under the new Statutory Condition 11. It is similar in principle to Statutory Condition 7 (7) of the Automobile Policy and is a recommendation of the Superintendents of Insurance.

BILL

No. 49 of 1958

An Act to amend The Alberta Insurance Act

(Assented to _____, 1958)

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

1. *The Alberta Insurance Act*, being chapter 159 of The Revised Statutes of Alberta, 1955, is hereby amended.

2. Section 46 is amended by striking out subsections (1) and (2).

3. Section 206*a*, as enacted by the Statutes of Alberta, 1957, chapter 34, section 19 is amended

(a) as to subsection (1), clause (a) by striking out sub-clause (i) and by substituting the following:

“(i) in the case of goods, their undergoing any process involving the application of heat;”

(b) by striking out subsection (2) and by substituting the following:

“(2) A contract to which this Part applies covers the insured property against loss or damage caused by fire or explosion within the meaning of subsection (1) and resulting from nuclear reaction or nuclear radiation, but, unless the contract otherwise specifically provides, the insured property is not covered against loss or damage caused by heat or energy alone that was created by nuclear reaction or nuclear radiation.

“(2*a*) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion within the meaning of subsection (1).”

4. The following section is added immediately after section 210:

5. The purpose of this amendment is to provide that the special coverage here permitted in automobile policies may only be paid upon the direction of the insured, not in the discretion of the insurer. Subsection (1) of section 299 reads: (The underlined words indicate the words altered.)

"299. (1) An insurer issuing an owner's policy or a driver's policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein agree to pay for each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to or alighting from the automobile specifically described in the policy or within the definition thereof appearing in the policy, within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof, if the automobile is being used by the insured named in the policy or with his consent, all reasonable expenses incurred, within one year from the date of the accident as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services."

6. A judgment creditor will, by this amendment, be required to bring the action under section 302 (1) within a year or lose the benefit of subsection (1), which reads as follows:

"302. (1) Any person having a claim against an insured, for which indemnity is provided by a motor vehicle liability policy is, notwithstanding that such person is not a party to the contract entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity, and may on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied."

7. This provision is a uniform provision and it is now recommended by the Superintendents of Insurance that it be repealed as being no longer necessary and unduly complicating accounting and actuarial insurance methods. Section 410 reads:

"410. (1) Where a society is authorized by its constitution and laws, and undertakes in the Province, to insure the lives of children, the rates of contribution for such child insurance shall be approved by an actuary, and the society shall maintain out of the rates paid upon contracts of child insurance and interest accretions thereto a separate fund for the payment at maturity of such contracts.

"(2) The actuary appointed by the society to value its contracts of insurance shall make a separate valuation of the outstanding child insurance contracts and shall show the amount of the fund held for such contracts."

“210a. In case a party fails to name an appraiser under Statutory Condition 11 of section 210 within seven clear days after being served with written notice to do so, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting, or dies, the court may appoint an appraiser or umpire on the application of the insured or of the insurer.”.

5. Section 299 is amended by striking out subsection (1) and by substituting the following:

“299. (1) An insurer issuing an owner’s policy or a driver’s policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree that at the direction of the named insured it will indemnify each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to or alighting from the automobile specifically described in the policy or within the definition thereof appearing in the policy, within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof, if the automobile is being used by the insured named in the policy or with his consent, for all reasonable expenses incurred, within one year from the date of the accident, as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services.”.

6. Section 302 is amended by adding immediately after subsection (1) the following subsection:

“(1a) No action shall be brought against an insurer under subsection (1) after the expiration of one year from the final determination of the action against the insured, including appeals if any.”.

7. Section 410 is repealed.

8. Chapter 34 of 1957 amended The Alberta Insurance Act. The sections here mentioned were uniform sections to be brought into force by proclamation in each province simultaneously. The uniform Accident and Sickness Part, provided for by the sections mentioned in clause 8 (a), were brought into force in all but two provinces as of the 1st of January, 1958. The sections mentioned in clause 8 (b) are also uniform provisions to come into force simultaneously on dates not yet determined. By the practice of the Legislative Assembly of Alberta, as referred to in 1952, parts of Acts should not be proclaimed unless the whole is proclaimed. For that reason, the Accident and Sickness amendments did not come into force in Alberta at the same time as in the other provinces, and will now be brought into force on the 1st of April, 1958.

Clause 8 (b) will permit the other uniform provisions to come into force on different dates by proclamations, to coincide with their commencement in other provinces.

9. Clauses 3 to 6 will come into force upon proclamation but not necessarily at the same time; the remaining clauses will come into force upon assent. Clauses 3 and 4 amend provisions not yet in force and which may be required to be brought into force at different times to make the commencement dates simultaneous with the commencement of similar provisions in the other provinces.

8. Notwithstanding section 42 of chapter 34 of the Statutes of Alberta, 1957,

- (a) sections 34, 36, 39, 40 and 41 of the said chapter 34 of the Statutes of Alberta, 1957, come into force on the first day of April, 1958,**
- (b) sections 2, 10, 11, 12, 13, 17, 18, 19, 20, 22, 23, 24, 25, 26, 27, 29, 30 and 38 of the said chapter 34 of the Statutes of Alberta, 1957, come into force upon a date or dates to be fixed by proclamation of the Lieutenant Governor in Council.**

9. (1) Subject to subsection (2) and except as otherwise specifically provided herein, this Act comes into force on the day upon which it is assented to.

(2) Sections 3, 4, 5 and 6 come into force on the day or days to be fixed by proclamation of the Lieutenant Governor in Council.

FOURTH SESSION

THIRTEENTH LEGISLATURE

6 ELIZABETH II

1958

BILL

An Act to amend The Alberta
Insurance Act

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. HOOKE
