

No. 120

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2nd Session, 15th Legislature, Alberta  
13 Elizabeth II

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## **BILL 120**

A Bill to amend The Motor Vehicle Accident Claims Act

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HON. MR. TAYLOR

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## Explanatory Note

**1.** This Bill amends chapter 46 of the Statutes of Alberta, 1964.

**2.** The definition of "motor vehicle" (which excludes tractors from its meaning) is amended to include certain tractors.

**3.** Section 3, subsection (1) presently reads:

3. (1) There is hereby established a fund to be known as the Motor Vehicle Accident Claims Fund, which shall be held by the Provincial Treasurer as part of the General Revenue Fund in a special account.

**4.** Section 4, subsection (1) presently reads:

4. (1) The owner of every motor vehicle shall, in each year,  
(a) when applying for registration of the motor vehicle pursuant to The Vehicles and Highway Traffic Act or The Public Service Vehicles Act, and  
(b) in addition to the registration fee required to be paid under those Acts,  
pay to the Minister a fee in respect of that motor vehicle of the amount prescribed by the Lieutenant Governor in Council.

The amendment will eliminate the double payment of fees.

**5.** Section 5, subsection (1) presently reads:

5. (1) The owner of an uninsured motor vehicle shall, in each year,  
(a) when applying for registration of the motor vehicle pursuant to The Vehicles and Highway Traffic Act or The Public Service Vehicles Act, and  
(b) in addition to the registration fee required to be paid under those Acts and the fee required to be paid under section 4,  
pay to the Minister a fee in respect of that motor vehicle of the amount prescribed by the Lieutenant Governor in Council.

**6.** Exemption from payment of fee under the Act.

**7.** Section 6, subsections (1) and (3) presently read:

6. (1) The Registrar shall not register any motor vehicle under The Vehicles and Highway Traffic Act or The Public Service Vehicles Act unless the fee payable under section 4 or 5, as the case may be, is paid.

(3) When a registered motor vehicle ceases to be an insured motor vehicle, the registration of the motor vehicle is suspended until the Registrar is notified of the change and the fee payable under section 5 is paid.

# BILL

No. 120 of 1965

An Act to amend The Motor Vehicle Accident Claims Act

(Assented to \_\_\_\_\_, 1965)

**H**ER 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 Claims Act* is hereby amended.

**2.** Section 2, clause (f) is amended by adding the following after subclause (ii):

but including a tractor required to be registered under *The Public Service Vehicles Act* or the regulations thereunder.

**3.** Section 3, subsection (1) is amended by striking out the words "as part of the General Revenue Fund".

**4.** Section 4, subsection (1) is amended

(a) as to clause (a) by striking out the words "or *The Public Service Vehicles Act*",

(b) as to clause (b) by striking out the words "those Acts" and by substituting the words "that Act".

**5.** Section 5, subsection (1) is amended

(a) as to clause (a) by striking out the words "or *The Public Service Vehicles Act*",

(b) as to clause (b) by striking out the words "those Acts" and by substituting the words "this Act".

**6.** The following section is added after section 5:

**5a.** Sections 4 and 5 do not apply to a motor vehicle owned by the Crown or to a motor vehicle being registered as an antique motor vehicle.

**7.** Section 6 is amended

(a) as to subsection (1) by striking out the words "or *The Public Service Vehicles Act*",

(b) as to subsection (3) by striking out the words

**8. Section 7, subsection (4) reads:**

- (4) Where an amount is paid out of the Fund pursuant to subsection (3), the Administrator is subrogated to the rights of the person to whom the amount was paid and the Administrator
- (a) may maintain an action in the name of that person or in the name of the Administrator against all or any persons liable for the injury, death, loss or damage in respect of which the payment was made, and
- (b) may commence the action at any time within twelve months after the date of the payment out of the Fund, notwithstanding section 131 of The Vehicles and Highway Traffic Act.

**9. Section 8, subsection (1) presently reads:**

- 8. (1) Where a plaintiff notes a defendant in default in an action for damages for
  - (a) bodily injury to or the death of a person, or
  - (b) loss of or damage to property in an amount exceeding fifty dollars,arising out of the use or operation within Alberta of a motor vehicle, the plaintiff shall forthwith serve upon the Administrator a notice in writing advising him that the defendant has been noted in default, and the plaintiff may not apply for an order for final judgment or assessment of damages until thirty days after the service of the notice.

**Subsections (2) and (3) are revised to conform to the change in subsection (1). Subsection (4) reads in part:**

- (4) Where after the investigation the Administrator disputes the liability of the defendant to the plaintiff, the Administrator
  - (a) may, on behalf of and in the name of the defendant, file a defence, make payment into court, appear by counsel at the trial, take any action that the defendant could have taken under the Consolidated Rules of the Supreme Court or take any other action he considers appropriate, and

“notified of the change and” and by substituting the words “satisfied that the motor vehicle is re-insured or”.

8. Section 7, subsection (4) is amended by striking out clause (b).

9. Section 8 is amended

(a) by striking out subsection (1) and by substituting the following:

8. (1) Where in an action for damages for  
(a) bodily injury to or the death of a person, or  
(b) loss of or damage to property in an amount exceeding fifty dollars,

arising out of the use or operation within Alberta of a motor vehicle, a plaintiff notes a defendant in default, the plaintiff shall forthwith serve upon the Administrator a notice in writing advising him of the facts and the plaintiff shall not take the next step in the action until thirty days after the service of the notice.

(1a) Where in an action for damages for

(a) bodily injury to or the death of a person, or  
(b) loss of or damage to property in an amount exceeding fifty dollars,

arising out of the use or operation within Alberta of a motor vehicle,

(c) a defendant's statement of defence is struck out or a defendant fails to appear by counsel at the trial, or

(d) a plaintiff receives notice that a defendant's solicitor has ceased to act,

the plaintiff may serve upon the Administrator a notice in writing advising him of the facts and the plaintiff shall not take the next step in the action until thirty days after the service of the notice.

(b) as to subsection (2) by adding after the words “subsection (1)” the words “or (1a)”,

(c) by striking out subsection (3) and by substituting the following:

(3) The Administrator may at any time within the thirty days mentioned in subsection (1) or (1a) notify the plaintiff that he intends to make an investigation and the plaintiff shall not take the next step in the action until thirty days after being so notified by the Administrator.

(3a) when a defendant is represented by counsel in an action where it appears that a claim may be made against the Fund, the Administrator may

**10. Section 9, subsection (3), clause (b) and subsection (4) read:**

(3) The Minister may refuse to authorize payment out of the Fund of any amount in respect of a judgment

.....  
(b) when the judgment was signed upon the consent or with the agreement of the defendant, or

(4) The Minister shall not authorize the payment out of the Fund of any amount in respect of a judgment until the judgment creditor assigns the judgment to the Administrator and serves a copy of the assignment on the judgment debtor.

**11. Section 11, subsection (1), clause (b) and subsection (6) presently read:**

11. (1) Where bodily injury to or the death of a person arises out of the use or operation within Alberta of a motor vehicle, and

.....  
(b) the name of the operator is not known or ascertained and the owner is not liable to an action for damages for injury or death, any person who has a cause of action against the unknown owner or operator in respect of that bodily injury or death may bring an action against the Administrator as nominal defendant, either alone or as a co-defendant with others alleged to be responsible for the injury or death.

(6) Where before judgment is granted in an action against the Administrator as nominal defendant the identity of the unknown owner or operator is ascertained, that owner or operator shall be added as a defendant in the action in substitution for the Administrator, subject to such conditions as the court prescribes.

**12. Section 13, subsection (7), clause (e) reads:**

(7) From the amount payable to a person as calculated in accordance with subsections (3) to (7) there shall be deducted

(e) any amount that the applicant has been paid or is likely to be paid by the Workmen's Compensation Board by way of compensation or award for the bodily injury or death in respect of which the application was made, and

and the amount so determined is the amount payable out of the Fund by the Provincial Treasurer.

**13. New. Prohibition on recovery from the Fund is added.**

upon notice to the plaintiff and defendant apply to be added as a party and thereupon may take any steps he considers proper to protect the interests of the Fund.

- (d) as to subsection (4) by striking out all the words preceding clause (a) and by substituting the following:

(4) After making the investigation, the Administrator, if he considers it advisable,

**10.** Section 9 is amended

- (a) as to subsection (3), clause (b) by adding after the word "defendant" the words "but without the consent of the Administrator",
- (b) by striking out subsection (4) and by substituting the following:

(4) The Minister shall not authorize the payment out of the Fund of any amount in respect of a judgment until the judgment creditor

(a) assigns the judgment to the Administrator, and

(b) serves a copy of the assignment on the judgment debtor or obtains a judge's order dispensing with such service.

(4a) Where the judgment creditor is an infant the assignment of the judgment may be made by the Public Trustee on the infant's behalf.

**11.** Section 11 is amended

- (a) as to subsection (1), clause (b) by striking out the words "is not liable" and by substituting the words "may not be liable",
- (b) as to subsection (6) by adding after the word "ascertained," the words "then, notwithstanding section 131 of *The Vehicles and Highway Traffic Act*,".

**12.** Section 13, subsection (7) is amended by adding the word "and" at the end of clause (d) and by striking out clause (e).

**13.** Section 14 is amended

- (a) as to subsection (2), clause (b) by striking out the words "owner or operator" and by substituting the word "person",
- (b) by adding the following subsection after subsection (3):

(4) No payment shall be made out of the Fund in respect of

(a) bodily injury to or the death of a person, or

**14. Section 16 presently reads:**

16. (1) No money shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister and solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as taxed on a solicitor and client basis, is filed with the Administrator.

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection (1), other than the amounts taxed on a solicitor and client basis in the bill or bills of costs.

**15. Section 17 presently reads:**

17. (1) Where a payment is made out of the Fund in respect of a judgment, the Administrator shall authorize payment out of the Fund of the costs of the action but not more than the actual disbursements and taxed costs as awarded in the judgment as between the parties to the action.

(2) Where

(a) an insurer has an interest in a judgment obtained in an action maintained in part by the insurer, and

(b) the amount payable out of the Fund in respect of that judgment is reduced by reason of that interest,

the amount paid out of the Fund for costs in that action shall not be more than an amount that bears the same proportion to the total amount of the costs awarded in the judgment as the total amount of the judgment less the insurer's interest bears to the total amount of the judgment.

**16. Section 21, subsections (1) and (5) presently read:**

21. (1) The operator of a motor vehicle shall, upon request of a peace officer, produce

(a) a financial responsibility card in a form prescribed under The Vehicles and Highway Traffic Act for that vehicle evidencing that the vehicle is an insured motor vehicle, or

(b) a certificate issued by the Registrar under section 6 stating that the uninsured motor vehicle fee has been paid in respect of the motor vehicle.

(5) This section does not apply with respect to a motor vehicle that is registered in a country, state, territory or province other than Alberta or to a motor vehicle owned by the Crown.



(b) loss of or damage to property of a person, occurring while the person is in or is entering into or descending from a bus or other public transportation vehicle owned and operated by a municipality.

**14.** Section 16 is struck out and the following is substituted:

**16.** (1) No money shall be paid out of the Fund under or in respect of an order or judgment until there is filed with the Administrator the bill or bills of costs on a solicitor and client basis of the barrister and solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, either taxed by the clerk of the court or having endorsed thereon or annexed thereto,

- (a) a signed certificate of the barrister and solicitor, in the prescribed form, certifying that he has explained to the applicant his right to have the bill taxed by the clerk of the court, and
- (b) a signed acknowledgment of the applicant, in the prescribed form, acknowledging that his right to have the bill taxed by the clerk of the court has been explained to him and is understood by him.

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection (1), other than the amounts set out in a bill of costs taxed by the clerk of the court or certified and acknowledged as provided in subsection (1).

**15.** Section 17 is amended

- (a) as to subsection (1) by striking out the words "and taxed costs as awarded in the judgment as between the parties to the action" and by substituting the words "and the costs as taxed on a party and party basis under the appropriate column of Schedule C of the Consolidated Rules of the Supreme Court according to the amount involved",
- (b) as to subsection (2) by striking out all the words following clause (b) and by substituting the following:  
"the amount paid out of the Fund for the costs in that action shall not be more than the amount of costs that would have been payable if the insurer's interest had not been included in the action."

**16.** Section 21 is amended

- (a) by adding the following subsection after subsection (2):  
(2a) Where a newly acquired motor vehicle is being operated with number plates issued to an-

**17. Section 27, subsection (8) presently reads:**

(8) Where an unsatisfied judgment was obtained before the first day of May, 1964 but no application for payment out of the Unsatisfied Judgment Fund has been made before that date, any application with respect to that unsatisfied judgment shall be made in accordance with and subject to this Act.

**18. Commencement of Act.**

other motor vehicle as permitted by subsection (3) of section 11a of *The Vehicles and Highway Traffic Act*, and if the operator of the vehicle produces

- (a) proof of the purchase, within the immediately preceding fourteen days, of the newly acquired vehicle, and
- (b) a financial responsibility card or certificate for the vehicle to which the number plates are issued,

the peace officer shall give the operator of the vehicle reasonable time within which to produce a financial responsibility card or certificate for the newly acquired vehicle.

- (b) as to subsection (5) by adding at the end thereof the words "or to a motor vehicle registered as an antique motor vehicle".

**17.** Section 27 is amended

- (a) as to subsection (8) by adding at the end thereof the words ", except that where the judgment is based on a cause of action that arose before the first day of September, 1963, the limit on the amount payable out of the Fund shall be as provided by subsection (12) of section 14 of the repealed Act as that subsection read on the day the cause of action arose and not as provided in section 13 of this Act",

- (b) by adding the following subsection:

(9) Any deposits made under *The Motor Vehicle Accident Indemnity Act* shall be applied to and form part of the Motor Vehicle Accident Claims Fund and a person who has made such a deposit may apply to the Administrator for the return of the deposit and the Administrator may return the deposit if he is satisfied that the deposit should be returned.

**18.** This Act comes into force on the day upon which it is assented to.

No. 120

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SECOND SESSION

FIFTEENTH LEGISLATURE

13 ELIZABETH II

1965

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**BILL**

An Act to amend The Motor Vehicle  
Accident Claims Act

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Received and read the

First time.....

Second time.....

Third time.....

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HON. MR. TAYLOR

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