

No. 107

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 107

A Bill to amend The Motor Vehicle Accident Claims Act

HON. MR. TAYLOR

1. This Bill amends chapter 56 of the Statutes of Alberta, 1964.

2. This corrects a typographical error.

3. Section 5a presently reads:

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.

4. Section 8, subsection (4) presently reads:

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

(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

(b) may, on behalf of and in the name of the defendant, conduct his defence and where he considers it advisable to do so, consent to judgment in whatever amount he considers proper in all the circumstances.

The new subsection is self-explanatory.

BILL

No. 107 of 1966

An Act to amend The Motor Vehicle Accident Claims Act

(Assented to _____, 1966)

HER 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 5, subsection (1), clause (b) is amended by striking out the words "this Act" and by substituting the words "that Act".

3. Section 5a is struck out and the following is substituted:

5a. Notwithstanding anything contained in this Act, the Lieutenant Governor in Council may by regulation define and exempt any classes of motor vehicles from the application of sections 4 and 5.

4. Section 8 is amended

(a) by striking out subsection (4) and by substituting the following:

(4) After making the investigation the Administrator in his discretion may, on behalf of and in the name of the defendant, file a defence, make payment into court, appear by counsel for trial, consent to judgment in whatever amount he considers proper in all the circumstances or take any other action that the defendant could have taken under the Consolidated Rules of the Supreme Court or any other action he considers appropriate.

(b) by adding the following subsection:

(6) Where the Administrator instructs a solicitor to act for him under this section, all acts done by the solicitor shall be deemed to have been done by the solicitor while acting upon instructions from the defendant.

5. The amendment to subsection (1) corrects a typographical error.

Subsection (4b) is self-explanatory.

6. Section 11, subsections (1) and (3) 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

(a) the name of neither the owner nor the operator of the motor vehicle is known or ascertainable, or

(b) the name of the operator is not known or ascertainable and the owner may not be 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.

(3) Where after an action has been commenced in respect of bodily injury to or the death of a person arising out of the use or operation within Alberta of a motor vehicle, it is alleged that the injury or death was caused or contributed to by another motor vehicle, but

(a) the name of neither the owner nor the operator of the motor vehicle is known or ascertainable, or

(b) the name of the operator is not known or ascertainable and the owner is not liable to an action for damages for injury or death,

the Administrator may be added as a nominal defendant on the application of any party and shall be added as a nominal defendant on his own application.

5. Section 9 is amended

- (a) as to subsection (1) by striking out the words "judgment or damages" and by substituting the words "judgment for damages",
- (b) by adding the following subsection after subsection (4a):
 - (4b) Where the judgment debtor is represented by a solicitor, the judgment creditor may serve a copy of the assignment on that solicitor and that service shall be deemed to be service upon the judgment debtor.

6. Section 11 is amended

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

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

- (a) the name of neither the owner nor the operator of the motor vehicle is known or ascertainable, or
- (b) the name of the operator is not known or ascertainable and the owner may not be liable to an action for damages for injury or death or property damage,

any person who has a cause of action against the unknown owner or operator in respect of that bodily injury or death or property damage 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 or property damage.

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

(3) Where after an action has been commenced in respect of bodily injury to or the death of a person or damage to property arising out of the use or operation within Alberta of a motor vehicle, it is alleged that the injury or death or property damage was caused or contributed to by another motor vehicle, but

- (a) the name of neither the owner nor the operator of the motor vehicle is known or ascertainable, or
- (b) the name of the operator is not known or ascertainable and the owner may not be liable to an action for damages for injury or death or property damage,

7. Section 13, subsection (7), clause (f) presently reads:

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

.....
(f) any amount that the applicant has recovered or can recover by reason of the existence of a contract of automobile insurance, and the amount so determined is the amount payable out of the Fund by the Provincial Treasurer.

8. Section 14 presently reads:

14. (1) No payment shall be made out of the Fund in respect of an amount paid or payable by an insurer by reason of the existence of a contract of automobile insurance, and

(a) no amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a contract of automobile insurance, and

(b) no amount so sought shall be sought for payment to an insurer to reimburse or otherwise indemnify the insurer by reason of the existence of a contract of automobile insurance.

(2) No payment shall be made out of the Fund to indemnify any person with respect to any amount

(a) which as the result of the ownership, use or operation of a motor vehicle by him, he is liable to pay and has paid to another person, and

(b) which he is entitled to recover from another person by way of indemnity or contribution.

(3) No payment shall be made out of the Fund to indemnify the owner of a motor vehicle for loss of or damage to property of the owner arising out of the use or operation of that motor vehicle and for which the operator is responsible.

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

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

(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.

Clauses (a), (b) and (c) are amended with respect to insurance limitations on claims. Clauses (d), (e) and (f) are merely re-enactments of the present subsection (2), (3) and (4), respectively, with wording changes.

The new section 14a provides that a self-insuring corporate owner will not be allowed to claim from the Fund for property damage.

the Administrator may be added as a nominal defendant on the application of any party and shall be added as a nominal defendant on his own application.

7. Section 13, subsection (7) is amended by striking out clause (f) and by substituting the following:

- (f) any amount that the applicant has recovered or can recover by reason of the existence of any prepaid medical, dental or hospital services or a contract of insurance, other than a contract of life insurance,

8. Section 14 is struck out and the following sections are substituted:

14. Where application is made for payment out of the Fund no payment shall be made

- (a) in respect of any amount paid or payable by an insurer by reason of the existence of a contract of prepaid medical, dental or hospital services or a contract of insurance, other than life insurance, or
- (b) in lieu of the applicant making a claim or receiving payment that is payable by reason of the existence of a contract of prepaid medical, dental or hospital services or a contract of insurance, other than life insurance, or
- (c) to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a contract of prepaid medical, dental or hospital services or a contract of insurance, other than life insurance, or
- (d) to indemnify any person with respect to any amount
 - (i) which as the result of the ownership, use or operation of a motor vehicle by him, he is liable to pay and has paid to another person, or
 - (ii) which he is entitled to recover from another person by way of indemnity or contribution,or
- (e) to indemnify the owner of a motor vehicle for loss of or damage to property of the owner arising out of the use or operation of that motor vehicle and for which the operator is responsible, or
- (f) in respect of
 - (i) bodily injury to or the death of a person, or
 - (ii) 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 unless a judgment is obtained against a person other than the municipality.

9. This amendment makes the section consistent with the amendments to section 14.

10. This is merely an addition to regulation making powers.

11. Section 21, subsection (2), clause (c) presently reads:

(2) Where the motor vehicle is being operated

.....

(c) by a mechanic who has custody of the vehicle for the purpose of repairs,

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

12. 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, 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.

This amendment clarifies the rules governing payment out of the Fund where an action has been in court for some time.

13. This provides for disposal of bad debts to the Fund.

14a. Notwithstanding anything in this Act, no payment shall be made out of the Fund to a corporation that has complied with section 168 of *The Vehicles and Highway Traffic Act* with respect to any damage to property of the corporation arising out of the use or operation of a motor vehicle.

9. Section 19, subsection (2) is amended by adding the word "and" at the end of clause (d) and by adding the following clause:

- (e) that the applicant cannot recover the claim pursuant to a contract of prepaid medical, dental or hospital services or any contract of insurance, other than life insurance,

10. Section 20, subsection (2) is amended by adding the word "and" at the end of clause (j) and by adding the following clause:

- (k) prescribing the rates at which fees and costs may be paid to chiropractors for services rendered under this Act.

11. Section 21, subsection (2) is amended by adding the word "or" at the end of clause (c) and by adding the following clause:

- (d) by the proprietor of or an employee of a service station who has, on behalf of the service station, the custody of a motor vehicle in the course of service station business duties relating to the vehicle,

12. Section 27 is amended by striking out subsection (8) and by substituting the following:

(8) Where a judgment is obtained on or after the first day of July, 1966 in respect of any action pursuant to which application may be made for payment out of the Fund, any such application shall be made in accordance with and subject to this Act, but notwithstanding anything in this Act, in no case shall there be paid out of the Fund in respect of any such judgment any amount exceeding the limits which are or would have been applicable under this Act or the repealed Act, as the case may be, at the time the particular cause of action arose in respect of which the judgment is given.

13. The following section is added after section 27:

27a. (1) In any case where

- (a) a payment on a judgment has been made from the Fund or the Unsatisfied Judgment Fund, as the case may be, to an applicant,

14. Commencement of Act.

- (b) more than ten years have elapsed since such payment has been made, and
- (c) there is supporting evidence on the file to indicate that every reasonable step has been taken to recover the amount so paid or a portion thereof from the person liable to the Fund in respect of that judgment,

the Lieutenant Governor in Council may, on recommendation of the Minister, authorize the account to be closed and authorize the debt to be discharged.

(2) Where the Lieutenant Governor in Council makes an authorization referred to in subsection (1), the Administrator shall do the acts so authorized.

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

No. 107

THIRD SESSION
FIFTEENTH LEGISLATURE
14 ELIZABETH II
1966

BILL

An Act to amend The Motor Vehicle
Accident Claims Act

Received and read the

First time

Second time

Third time

HON. MR. TAYLOR
