

BILL 33

2003

INSURANCE AMENDMENT ACT, 2003

(Assented to _____, 2003)

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

Amends RSA 2000 c1-3

1 The *Insurance Act* is amended by this Act.

2 The following is added after section 626:

Reductions from automobile accident claim awards

626.1(1) In this section,

- (a) “accident” means an accident arising from the use or operation of an automobile that occurs after the commencement of the provision of this section in respect of which interpretation of the word becomes material;
- (b) “accident claim” means a claim for loss or damage from bodily injury or death arising from an accident;
- (c) “award” means a judgment or settlement in respect of an accident claim;
- (d) “prescribed” means provided for in regulations made under subsection (7).

(2) To the extent that an award is for or is determined with reference to loss of earnings, the amount of the award shall be reduced by

- (a) income tax, if the award is not subjected to income tax,
- (b) contributions by employees, and 50% of contributions by self-employed persons, under the *Canada Pension Plan* (Canada), and
- (c) premiums under the *Employment Insurance Act* (Canada) relating to the state of being employed,

that would be or would have been payable on or with reference to the lost earnings, both before and after the award, had the accident not occurred.

(3) Subject to subsection (5), the whole of or the portion of an award that is for or is calculated with reference to a head of damages to which any payment in any form specified in any clause of subsection (4) relates shall be reduced by the aggregate of all payments, both before and after the award, and net of tax, contributions and premiums referred to in subsection (2)(a) to (c) paid or payable on those payments (so far as applicable), that

- (a) are received by or on behalf of the claimant as a result of or otherwise in respect of the accident,
- (b) are in any form specified in subsection (4)(a) to (g), and
- (c) relate to that head of damages.

(4) The forms of payment referred to in subsection (3) are

- (a) medical, dental, disability, rehabilitation, income continuation or replacement and hospitalization benefits paid on a no-fault basis and received by or on behalf of a resident of a jurisdiction other than Alberta under a contract of automobile insurance,
- (b) medical care and sickness and accident benefits comprising medical care or goods or services that are not provided under the *Alberta Health Care Insurance Act* or, where the claimant is a resident of another jurisdiction, the equivalent legislation of that jurisdiction, or that exceed the limits for that care or

those goods or services under that Act or equivalent legislation,

- (c) proceeds of a policy of insurance that falls within Subpart 6 of Part 5 or the legislation of another jurisdiction that is equivalent to that Subpart,
- (d) benefits under a prescribed income continuation or replacement plan or scheme,
- (e) disability pensions under the *Canada Pension Plan* (Canada) or under any equivalent legislation of a jurisdiction outside Canada,
- (f) compensation under legislation of another jurisdiction that is equivalent to the *Workers' Compensation Act* and its regulations, in respect of disability, medical, dental, rehabilitation or hospitalization expenses, and
- (g) any other prescribed payments, benefits or compensation under the laws of any jurisdiction, other than laws referred to in clauses (e) and (f).

(5) Where a person makes or assumes liability for a payment referred to in subsection (3) and is (disregarding subsection (3)) subrogated to the claimant's rights in respect of that payment, no reduction shall be made under that subsection to any extent that would affect that right of subrogation.

(6) The reference in subsection (3) to payments received is deemed to include circumstances where a legal obligation to make the payments or to provide related benefits referred to in subsection (4) to or on behalf of the claimant (netted, where applicable, as referred to in subsection (3)) has been established or acknowledged before the award.

(7) For the purposes of this section, the Lieutenant Governor in Council may make regulations

- (a) respecting any matter or thing that may be or is to be prescribed for the purposes of this section, and
- (b) defining, for the purposes of this section, any expression used in it and not defined in subsection (1).

3 If section 30 of the Bill for the *Financial Sector Statutes Amendment Act, 2003* (introduced in the Spring 2003 sitting of the Third Session of the 25th Legislature as Bill 12), to the extent that that section would add a new section 15.1 to the *Insurance Act*, is enacted by the Legislature at that sitting, then section 2 of this Act is amended, so far as it adds a new section 626.1(4) to the *Insurance Act*,

(a) by adding the following after subsection (4)(d):

(d.1) benefits under an income replacement plan or scheme referred to in section 15.1,

(b) in subsection (4)(g) by adding “(d.1),” before “(e)”.

4 The *Hospitals Act* is amended by adding the following after section 61:

Application of s626.1, Insurance Act

61.1 Nothing in section 626.1 of the *Insurance Act* affects the application of this Part.

5 The *Workers’ Compensation Act* is amended in section 1.1 by adding “and, to avoid any doubt, nothing in section 626.1 of the *Insurance Act* affects the application of this Act” after “this Act”.

6 This Act comes into force on Proclamation.

Explanatory Notes

1 Amends chapter I-3 of the Revised Statutes of Alberta 2000.

2 Reductions from automobile accident claim awards.

3 Amendments based on other Bill introduced, but not enacted, before printing of this Bill.

4 Amends chapter H-12 of the Revised Statutes of Alberta 2000.

5 Amends chapter W-15 of the Revised Statutes of Alberta 2000.

6 Coming into force.