2026 Bill 41

Second Session, 31st Legislature, 5 Charles III

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 41

FINANCIAL STATUTES AMENDMENT ACT, 2026 (NO. 2)

THE PRESIDENT OF TREASURY BOARD AND MINISTER OF FINANCE

First Reading . . . . . .

Second Reading . . . . . .

Committee of the Whole . . . . . .

Third Reading . . . . . .

Royal Assent . . . . . .

BILL 41

2026

FINANCIAL STATUTES AMENDMENT ACT, 2026 (NO. 2)

(Assented to , 2026)

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

Alberta Corporate Tax Act

Amends RSA 2000 cA-15

1(1) The *Alberta Corporate Tax Act* is amended by this section.

NOTE: 1(1) Amends chapter A-15 of the Revised Statutes of Alberta 2000.

(2) Section 77(5)(a)(vii) is amended by adding "or the *Automobile Insurance Act*" **after** "*Insurance Act*".

NOTE: (2) Section 77(5)(a)(vii) presently reads:

(5) Tax information may be communicated as follows:

(a) to a person employed or engaged by the Government of Alberta if the tax information is

(vii) to be used solely for the purposes of administering the Insurance Act;

(3) This section comes into force on Proclamation.

NOTE: (3) Coming into force.

Alberta Personal Income Tax Act

Amends RSA 2000 cA-30

2(1) The *Alberta Personal Income Tax Act* is amended by this section.

NOTE: 2(1) Amends chapter A-30 of the Revised Statutes of Alberta 2000.

(2) The following is added after Part 1, Division 4.2:

Division 4.3
Refundable Tax Credit

Interpretation

35.5(1) In this Division,

(a) "adjusted income", "cohabiting spouse or common-law partner", "qualified relation" and "return of income" have the same meanings as in section 122.5 of the federal Act;

(b) "eligible individual", in relation to a month specified for a taxation year, means an individual, other than a trust, who has, before the specified month, attained the age of 18 years;

(c) "overpayment" means an overpayment that an individual is deemed to have made under section 35.6.

(2) Notwithstanding subsection (1), a person is not an eligible individual and is not a qualified relation, in relation to a month specified for a taxation year, if the person

(a) died before the specified month,

(b) is confined to a prison or similar institution for a period of at least 90 days that includes the first day of the specified month,

(c) is at the beginning of the specified month a non-resident person, other than a non-resident person who

(i) is at that time the cohabiting spouse or common-law partner of a person who is deemed under subsection 250(1) of the federal Act to be resident in Canada throughout the taxation year that includes the first day of the specified month, and

(ii) was resident in Canada at any time before the specified month,

or

(d) is at the beginning of the specified month a person described in paragraph 149(1)(a) or (b) of the federal Act.

Refundable tax credit — deemed overpayment

35.6 If, in relation to a month specified for a taxation year, an eligible individual has filed a return of income for the taxation year, the adjusted income of the eligible individual is equal to or less than the threshold prescribed for the specified month and the eligible individual was resident in Alberta on the first day of the specified month, the eligible individual is deemed to have made an overpayment in the specified month on account of the eligible individual's liability under this Act for the taxation year equal to the amount, if any, determined by the formula

A + B

where

A is

(a) if a tax credit amount is prescribed for the specified month, the prescribed tax credit amount, or

(b) if no tax credit amount is prescribed for the specified month, $0;

B is, if the eligible individual has a qualified relation in relation to the specified month, an amount equal to the amount determined under A.

Only one eligible individual

35.61 Notwithstanding section 35.6, if an individual is a qualified relation of another individual in relation to a month specified for a taxation year and both those individuals would be, but for this section, eligible individuals in relation to the specified month, only the individual that the Provincial Minister designates is the eligible individual in relation to the specified month.

Repayment resulting from death

35.7(1) Subject to subsection (2), no obligation to repay all or a portion of a refund of an overpayment under this Division arises as a result of the death of a person who, but for the person's death, would be an eligible individual or qualified relation for the purposes of that overpayment.

(2) Subsection (1) does not apply with respect to a refund of an overpayment or any portion thereof if the refund or portion of the refund arose as a result of the provision of false or misleading information.

Application of federal Act

35.71(1) Subsections 122.5(4), (6.1), (6.2) and (7) of the federal Act apply in respect of this Division.

(2) In applying subsection 122.5(6.1) of the federal Act in respect of an overpayment, paragraph 122.5(6.1)(c) of the federal Act shall be read as "the individual becomes or ceases to be resident in Alberta".

Payment of refund

35.8(1) A refund of an overpayment and costs relating to the refund are payable from the taxes, interest, penalties and other amounts collected under this Act.

(2) Notwithstanding section 54(1), no interest is payable by the Provincial Minister on an overpayment.

Protection for refund

35.81(1) A refund of an overpayment

(a) subject to clause (b), may not be charged or given as security,

(b) may not be assigned except under a prescribed enactment,

(c) is exempt from

(i) writ proceedings as defined in the *Civil Enforcement Act*, and

(ii) distress proceedings authorized under the *Civil Enforcement Act* or any other law that is in force in Alberta,

and

(d) may not be retained by way of deduction or set off except in respect of amounts that have been paid under this Division.

(2) Anything done in contravention of subsection (1) is void.

Regulations

35.9 The Lieutenant Governor in Council may make regulations

(a) establishing rules to determine if an individual was resident in Alberta for the purposes of section 35.6;

(b) prescribing thresholds for the purposes of section 35.6;

(c) prescribing tax credit amounts for the purposes of clause (a) of the description of A in the formula in section 35.6;

(d) specifying, with or without modifications, additional provisions of the federal Act that apply in respect of an overpayment;

(e) prescribing enactments for the purposes of section 35.81(1)(b).

NOTE: (2) Division 4.3 Refundable Tax Credit.

Automobile Insurance Act

Amends SA 2025 cA-47

3(1) The *Automobile Insurance Act* is amended by this section.

NOTE: **3**(1) Amends chapter A-47 of the Statutes of Alberta, 2025.

(2) The heading preceding section 1 is amended by striking out "Definitions" and substituting "Interpretation".

NOTE: (2) The heading preceding section 1 presently reads:

Part 1
Definitions and Application

(3) Section 1 is amended

(a) by renumbering it as section 1(1);

(b) in subsection (1)

(i) by repealing clause (a) and substituting the following:

(a) "accident" means an event resulting in bodily injury or death or loss of or damage to property arising from the use or operation of an automobile, including from the load of an automobile or a trailer used in connection with an automobile;

(a.1) "additional coverage" means automobile insurance that an insurer may make available that supplements basic coverage and includes collision and comprehensive coverage;

(ii) in clause (c) by striking out "aircraft or railway rolling stock that runs on rails" **and substituting** "aircraft, railway rolling stock that runs on rails or a vehicle or device exempted from the application of the Act under section 2.01";

(iii) by adding the following after clause (c):

(c.1) "basic coverage" means automobile insurance covering liability provided for under section 2.5, direct compensation for property damage provided for under section 2.67, compensation provided for under Part 2 and excess compensation provided for under section 6;

(iv) by adding the following after clause (d):

(d.1) "Board" means the Automobile Insurance Rate Board continued under section 82.2;

(v) by repealing clauses (e.1) and (f);

(vi) in clause (g) by striking out "compensation" **and substituting** "a benefit or an expense";

(vii) by repealing clause (h);

(viii) by adding the following before clause (i):

(h.1) "contract" means a contract of automobile insurance and includes a certificate, interim receipt, renewal receipt or other writing evidencing the contract, whether sealed or not, and a binding oral agreement;

(ix) by adding the following after clause (i):

(i.1) "death" means, except where the context requires otherwise, death sustained as a result of an accident;

(x) by repealing clause (j);

(xi) by repealing clause (k) and substituting the following:

(k) "dependant" means, in respect of a person at the time of an accident,

(i) the spouse or adult interdependent partner of the person,

(ii) a person who is married to, but is legally or de facto separated from, the person,

(iii) a person whose marriage to the person has been dissolved by a final judgment of divorce or declared a nullity and who is entitled to receive support from the person under a judgment or agreement,

(iv) a child of the person who

(A) is under the age of 18 years, or

(B) substantially depends on the person,

(v) a parent of the person who substantially depends on the person, or

(vi) a grandparent, step-parent or sibling of the person who

(A) resides in the same dwelling premises as the person, and

(B) substantially depends on the person because of mental or physical disability;

(xii) by adding the following after clause (k):

(k.1) "electronic insurance claims information system" means the electronic insurance claims information system that the Minister may establish under section 96.1;

(xiii) by repealing clause (m);

(xiv) by repealing clause (n) and substituting the following:

(n) "insured" means

(i) in Part 2, an insured person, and

(ii) except in Part 2, a person insured under a contract, whether or not the person is named in the contract or described in the contract as an insured person;

(n.01) "insured person" means, in respect of a particular contract,

(i) the named insured, any person specified in the contract as a driver of the insured automobile and, if the named insured is an individual, a dependant of the named insured, or of the named insured's spouse or adult interdependent partner if the named insured, specified driver or dependant is involved in an accident in or outside Alberta that involves the insured automobile or another automobile,

(ii) a person who is involved in an accident involving the insured automobile, if the accident occurs in Alberta, or

(iii) a person who is an occupant of the insured automobile or while not an occupant is struck by the insured automobile and who is a resident of Alberta or was a resident of Alberta at any time during the 60 days before the accident, if the accident occurs outside Alberta;

(xv) by repealing clauses (n.1) and (p);

(xvi) by repealing clause (q) and substituting the following:

(q) "motor vehicle liability policy" means a motor vehicle liability policy as defined in the *Insurance Act*;

(xvii) by adding the following after clause (q):

(q.1) "named insured" means a person named in a contract as an insured;

(xviii) by repealing clauses (r), (s) and (t);

(xix) by adding the following before clause (u):

(t.1) "personal information" means information about an identifiable individual and includes health information as defined in the *Health Information Act*;

(xx) by repealing clauses (u) and (w);

(c) by adding the following after subsection (1):

(2) For the purposes of subsection (1)(k),

(a) a child of a person includes

(i) a biological child, an adopted child or a child who the person demonstrates a settled intention to treat as the person's own child determined using the factors set out in section 48(2) of the *Family Law Act*, and

(ii) a child who is born on or after the date of an accident but who was in utero at the time of the accident,

and

(b) a parent of a child includes a biological parent, an adoptive parent or a person who demonstrates a settled intention to treat the child as the person's own child determined using the factors set out in section 48(2) of the *Family Law Act*.

(3) A child who is born on or after the date of an accident and who sustains bodily injury on or after birth as a result of the child's mother's bodily injury or death sustained in the accident while pregnant with the child is entitled to compensation under Part 2 as if the child was an insured person on the date of the accident.

(4) Where a word or expression is defined in the *Insurance Act*, the definition of that word or expression has the same meaning in this Act unless

(a) the word or expression is defined in this Act or a regulation under this Act for the purposes of this Act, or

(b) the context otherwise requires.

NOTE: (3) Section 1 presently reads in part:

1 In this Act,

(a) "accident" means an event resulting in bodily injury or death arising from the use or operation of an automobile and includes bodily injury or death caused by the load of an automobile or a trailer used in connection with an automobile;

(c) "automobile" includes a trolley bus and a self-propelled vehicle, and the trailers, accessories and equipment of automobiles, but does not include watercraft, aircraft or railway rolling stock that runs on rails;

(e.1) "care recipient", in relation to an insured, means a person

(i) who is

(A) under 16 years of age, or

(B) regularly unable to hold employment,

and

(ii) to whom the insured provides care;

(f) "catastrophic injury" means a bodily injury prescribed as a catastrophic injury in the regulations;

(g) "claimant" means an insured or other person who makes a claim with an insurer for payment of compensation under this Act;

(h) "compensation" means a benefit or an expense;

(j) "deceased" means an insured who dies as a result of an accident;

(k) "dependant", in relation to an insured, means any of the following:

(i) a person who, at the time of the accident,

(A) is under 18 years of age, and

(B) relies on the insured for financial support and for whose support the insured is legally liable;

(ii) a person who, at the time of the accident,

(A) is 18 years of age or over,

(B) resides in the same dwelling premises as the insured, and

(C) principally relies on the insured for financial support because of mental or physical disability;

(iii) a parent, including the spouse or adult interdependent partner of a parent, of an insured, who, at the time of the accident,

(A) resides in the same dwelling premises as the insured, and

(B) principally relies on the insured for financial support,

(iv) a prescribed person;

(m) "full-time earner" means an insured who, at the time of an accident, holds regular employment on a full-time basis, but does not include a minor or student;

(n) "insured" means a person who, under section 5, is entitled to compensation in respect of their bodily injury or death sustained as a result of an accident;

(n.1) "medical assessment" means an assessment of a claimant's bodily injury required by an insurer under section 57;

(p) "minor" means an insured who is under 18 years of age at the time of an accident;

(q) "motor vehicle liability policy" means

(i) a motor vehicle liability policy as defined in the Insurance Act, or

(ii) a financial responsibility card issued by the Superintendent to a corporation under section 825 of the Insurance Act;

(r) "non-earner" means an insured who, at the time of the accident, is not employed but is able to work, but does not include

(i) a minor,

(ii) a student, or

(iii) an insured

(A) who has not held employment in the 2 years immediately preceding the date of the accident, and

(B) who, in an insurer's opinion, would not have held employment in the future had the accident not occurred;

(s) "part-time earner" means an insured who, at the time of an accident, holds regular employment on a part-time basis, but does not include a minor or a student;

(t) "permanent impairment" means a bodily injury prescribed as a permanent impairment in the regulations;

(u) "student" means an insured who, at the time of an accident, is

(i) 18 years of age or older and attending a secondary school or post-secondary institution on a full-time basis, or

(ii) a minor who has completed the requirements for graduation from secondary school and is attending a post-secondary institution on a full-time basis;

(w) "temporary earner" means an insured who, at the time of an accident, holds regular employment on a temporary basis, but does not include a minor or student;

(4) Section 2 is repealed and the following is substituted:

Application

2(1) Unless otherwise provided in this Act, this Act applies

(a) with respect to Part 1.1

(i) to a contract entered into, including any renewal, on or after the date this section comes into force, and

(ii) to a contract in place on the date this section comes into force, as set out in subsection (2),

(b) with respect to Parts 2, 3 and 4, to an accident that occurs on or after the date this section comes into force,

(c) with respect to Part 4.2, in respect of an action or contravention occurring on or after the date this section comes into force, and

(d) except as provided in clauses (a) to (c), on and after the date this section comes into force.

(2) Despite anything to the contrary contained in a contract in place on the date this section comes into force, every contract is deemed, on the date this section comes into force, to

(a) include the provisions and statutory conditions required under Part 1.1, and

(b) provide the compensation set out in Part 2.

(3) A Government approved industry plan under section 609 of the *Insurance Act* that was in place immediately before the coming into force of this section is deemed to be a Government approved industry plan under section 90.21 of this Act.

(4) A financial responsibility card that was issued under Part 7 of the *Insurance Act* and includes a period that expires on or after the date this section comes into force is deemed to be a financial responsibility card issued under this Act.

Excluded vehicles

2.01 This Act does not apply in respect of a vehicle or device excluded from the application of the Act in the regulations.

Territorial limits

2.02 This Act applies

(a) with respect to a contract, to the ownership, use or operation of an insured automobile within Canada and a jurisdiction of the United States of America and on a vessel travelling between ports of those countries, and

(b) to an accident that occurs in Canada or a jurisdiction of the United States of America or on a vessel travelling between ports of those countries.

NOTE: (4) Section 2 presently reads:

2 This Act applies to an accident that occurs on or after the date this section comes into force.

(5) The following is added before section 3:

Part 1.1
Automobile Insurance Contracts

Division 1
General

Definitions

2.1 In this Part,

(a) "licensed insurer" means an insurer that holds a licence under the *Insurance Act* authorizing the insurer to undertake automobile insurance;

(b) "non-Alberta policy" means an owner's policy evidencing a contract that is not made in Alberta;

(c) "non-owner's policy" means a contract insuring a person solely in respect of the use or operation by the person or on the person's behalf of an automobile that the person does not own;

(d) "owner's policy" means a contract insuring a person in respect of the ownership, use or operation of an automobile owned by the person and within the description or definition of automobile in the contract and, if the contract so provides, in respect of the use or operation of any other automobile;

(e) "unlicensed insurer" means an insurer that does not hold a licence under the *Insurance Act* authorizing the insurer to undertake automobile insurance.

Non-application of Part

2.11(1) This Part does not apply to contracts insuring only against

(a) loss of or damage to an automobile while in or on described premises,

(b) loss of or damage to property carried in or on an automobile, or

(c) liability for loss of or damage to property carried in or on an automobile.

(2) This Part does not apply to a contract insuring only the interest of a person who has a lien on, or has as security legal title to, an automobile and who does not have possession of the automobile.

Non-application of certain provisions to Part 2 or 3

2.12(1) The following sections do not apply in respect of Part 2 or 3:

(a) section 2.16;

(b) Statutory Conditions 1 to 7 in section 2.2;

(c) section 2.41;

(d) section 2.42;

(e) section 2.43;

(f) section 2.44;

(g) section 2.45;

(h) section 2.51;

(i) section 2.52;

(j) section 2.53;

(k) section 2.65;

(l) section 2.66;

(m) section 2.67.

(2) If there is a conflict between a provision in Part 2 or 3 and the application of a provision in Part 1.1 to Part 2 or 3, the provision in Part 2 or 3 governs to the extent of the conflict.

Approval of forms

2.13(1) An insurer must not use a form of application, policy, endorsement or renewal or continuation certificate in respect of automobile insurance other than a form approved by the Superintendent.

(2) An insurer may require additional information in an approved application form, but that additional information does not constitute part of the application for the purposes of section 2.16.

(3) When, in the opinion of the Superintendent, a provision of this Act, including any statutory condition, is wholly or partly inappropriate to the requirements of a contract or is inapplicable by reason of the requirements of any Act, the Superintendent may approve a form of policy, or part of a form of policy, or a form of endorsement evidencing a contract sufficient or appropriate to insure the risks required or proposed to be insured, and the contract evidenced by the policy or endorsement in an approved form is effective and binding according to its terms even if those terms are inconsistent with, vary, omit or add to any provision or statutory condition of this Act.

(4) Except as to matters described in section 2.42, the Superintendent may, if the Superintendent considers it to be in the public interest, approve a form of or endorsement to a motor vehicle liability policy that extends the insurance beyond that required by this Act.

(5) The Superintendent, in granting an approval under subsection (4), may require the insurer to charge an additional premium for the extension and to state that fact in the policy or in any endorsement.

(6) The Superintendent may approve a form of owner's policy containing insuring agreements and provisions in conformity with this Act for use by insurers, which, for the purposes of section 2.15, is the standard owner's policy.

(7) When the Superintendent approves a form referred to in subsection (6), the Superintendent

(a) must publish the form on a website of the Minister's department, and

(b) may publish the endorsement forms approved for use with the standard owner's policy.

(8) The Superintendent may revoke an approval given under this section, and an insurer must not, after receiving notification of the revocation in writing, use or deliver a form that contravenes that notification.

(9) The Superintendent must, on request of any interested insurer, specify in writing the Superintendent's reasons for granting, refusing or revoking an approval of a form.

(10) The Superintendent may at any time approve an amendment to any form previously approved under this section, and if the Superintendent does so, the Superintendent

(a) must publish the amendment on the Superintendent's website, and

(b) may publish an amendment to the endorsement forms approved for use with the standard owner's policy.

(11) After the Superintendent publishes an amendment on the Superintendent's website, the amendment is deemed to be incorporated into the previously approved form and into any contract that incorporated that form on the date set out by the Superintendent.

(12) An amendment referred to in subsection (11) also applies to contracts entered into or renewed after the date referred to in that subsection.

Agents

2.14 A person carrying on the business of financing the sale or purchase of automobiles, an automobile dealer or an insurance agent or an officer or employee of such a person, dealer or insurance agent must not act as the agent of an applicant for the purpose of signing an application for automobile insurance.

Application for insurance

2.15(1) An application for insurance by the insured must be contained in the motor vehicle liability policy issued by the insurer.

(2) If a motor vehicle liability policy differs from an application, the insurer must notify the named insured in writing how the policy differs from the application.

(3) The insured is deemed to have accepted the motor vehicle liability policy unless, within 2 weeks from the receipt of the notification under subsection (2), the insured informs the insurer in writing that the insured rejects the policy.

(4) If the insurer does not receive a signed application prior to issuing a motor vehicle liability policy, the insurer must deliver to the named insured, or to the agent for delivery, a copy of a form of application to be completed and signed by the insured and returned to the insurer.

(5) Subject to subsection (8), the insurer must deliver to the named insured, or to the agent for delivery, a copy of the motor vehicle liability policy and every endorsement or other amendment to the policy.

(6) If the insured rejects the motor vehicle liability policy under subsection (3), the insurer must, as soon as practicable, refund the excess of premium the insured actually paid over the prorated premium for the expired time, but in no event is the prorated premium for the expired time to be less than any minimum retained premium specified in the policy.

(7) Despite subsection (6), if the insured failed to disclose material information on the application the knowledge of which would have

resulted in the insurer charging a higher premium than what was charged, the amount that the insurer is required to refund under subsection (6) is the excess of premium the insured actually paid over the short rate premium for the expired time calculated as if the higher premium had been charged.

(8) When an insurer uses the standard owner's policy, it may, instead of issuing the policy, issue a certificate in a form approved by the Superintendent, which, when issued, is of the same force and effect as if it were the standard owner's policy, subject to the limits and coverages shown on the certificate by the insurer and any endorsements issued concurrently with the certificate or subsequent to the certificate, but at the request of an insured at any time, the insurer must issue the standard owner's policy and a copy of the written application or purported application as required by subsection (1).

(9) When an insurer issues a certificate under subsection (8), subsection (11) and section 2.65(3) apply with all necessary modifications.

(10) When an insurer issues a certificate under subsection (8), proof of the contents may be given by production of a copy of the standard owner's policy approved by the Superintendent.

(11) Every application form and motor vehicle liability policy must include a copy of section 2.16(1) printed or stamped on its face in conspicuous bold type.

Misrepresentation, fraud or violation of condition

2.16(1) A claim by an insured is invalid and the right of the insured to recover indemnity is forfeited if the insured,

(a) when applying for a contract,

(i) gives false particulars of the described automobile to be insured to the prejudice of the insurer, or

(ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated in the application,

(b) contravenes a term of the contract or commits a fraud, or

(c) wilfully makes a false statement in respect of a claim under the contract.

(2) A statement of the applicant must not be used in defence of a claim under the contract unless it is contained in the signed application for the contract or, when no signed application is made, in the purported application, or part of the application, that is contained in the policy.

(3) A statement contained in a copy of the purported application, or part of the application, other than a statement describing the risk and the extent of the insurance, must not be used in defence of a claim under the contract unless the insurer proves that the applicant made the statement attributed to the applicant in the purported application or part of the application.

Adverse contractual action

2.17(1) In this section, "adverse contractual action" means

(a) refusing to provide a premium quotation within a reasonable time,

(b) refusing to process an application for automobile insurance,

(c) refusing to issue a contract,

(d) refusing to renew a contract,

(e) terminating a contract,

(f) cancelling a contract,

(g) refusing to provide any coverage or endorsement,

(h) refusing to continue any coverage or endorsement, or

(i) any action respecting a contract not referred to in clauses (a) to (h) that is prescribed by regulation as an adverse contractual action.

(2) This section applies only to adverse contractual actions taken in respect of basic coverage on private passenger vehicles.

(3) An insurer, insurance agent or insurance broker must not, directly or indirectly, take any adverse contractual action with

respect to an insured or an applicant for a contract except for one or more of the following reasons:

(a) the non-payment of a premium or any portion of a premium;

(b) the failure of the insured or applicant for a contract to inform the insurer or to keep the insurer informed, if requested to do so by the insurer, as to who is the principal driver of the automobile for which the insurance coverage is or is to be issued;

(c) in the case of an insurer that is a provincial or extra-provincial company, the insurer is required to cease to undertake or to offer to undertake insurance in Alberta under section 25(2) of the *Insurance Act*;

(d) the insurer's licence is suspended or cancelled under section 54, 55, 819 or 819.1 of the *Insurance Act*;

(e) in the case of an insurer that is a federally authorized company, the federal Superintendent of Financial Institutions has ordered or otherwise directed the insurer to cease carrying on business or insuring risks in Canada;

(f) the insurer has filed a notice under section 90.22(3) that the insurer intends to withdraw from the business of automobile insurance;

(g) where permitted by regulation, any reason not referred to in clauses (a) to (f) that is prescribed by regulation.

(4) Subject to the regulations, an insurer may refuse to renew or issue a contract to a person who is liable for arrears of a premium or any portion of a premium that is owing in respect of a contract if

(a) the person applies to the insurer to renew or issue a contract or to another insurer to issue a contract,

(b) the insurer takes adverse contractual action because those arrears have not been paid, and

(c) the arrears remain unpaid.

(5) This section applies despite any other Act.

Statutory conditions

2.2(1) Subject to sections 2.13(3), 2.21 and 2.65(2),

(a) the conditions set out in this section are statutory conditions and are deemed to be part of every contract and must be printed in every policy under the heading "Statutory Conditions", and

(b) no variation of, omission of or addition to any statutory condition is binding on the insured.

(2) In this section, "policy" does not include an interim receipt or a binder.

(3) Statutory Conditions 1 to 7 do not apply in respect of Part 2.

Statutory Conditions

In these statutory conditions, unless the context otherwise requires, "insured" means a person insured by the contract whether named in the contract or not.

MATERIAL CHANGE IN RISK 1(1) The named insured must promptly notify the insurer or its agent in writing of any change in the risk material to the contract and within the named insured's knowledge.

(2) Without restricting the generality of subparagraph (1) of this condition, "change in the risk material to the contract" includes

(a) any change in the insurable interest of the named insured in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy and Insolvency Act* (Canada), and

(b) in respect of insurance against loss of or damage to the automobile,

(i) any mortgage, lien or encumbrance affecting the automobile after the application for the contract, and

(ii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the contract or any portion of the contract.

PROHIBITED USE BY INSURED **2(1)** The insured must not drive or operate the automobile

(a) unless the insured is for the time being either authorized by law or qualified to drive or operate the automobile,

(b) while the insured's licence to drive or operate an automobile is suspended or while the insured's right to obtain a licence is suspended or while the insured is prohibited under order of any court from driving or operating an automobile,

(c) while the insured is under the age of 16 years or under any other age prescribed by the law of the province in which the insured resides at the time the contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to the insured,

(d) for any illicit or prohibited trade or transportation, or

(e) in a race or speed test.

PROHIBITED USE BY OTHERS **(2)** The insured must not permit or allow the use of the automobile

(a) by any person

(i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or

(ii) while that person is under the age of 16 years or under any other age prescribed by the law of the province in which the person resides at the time the contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to the person,

(b) by any person who is a member of the household of the insured while the person's licence to drive or operate an automobile is suspended or while the person's right to obtain a licence is suspended or while the person is prohibited under order of any court from driving or operating an automobile,

(c) for any illicit or prohibited trade or transportation, or

(d) in a race or speed test.

REQUIREMENTS WHERE BODILY INJURY OR DEATH OR LOSS OR DAMAGE TO PROPERTY **3(1)** The insured must

(a) promptly give written notice to the insurer, with all available particulars, of any accident involving bodily injury or death or loss or damage to property and of any claim made on account of the accident,

(b) verify by statutory declaration, if required by the insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under the contract, and

(c) forward immediately to the insurer every letter, document, advice or statement of claim received by the insured from or on behalf of the claimant.

(2) The insured must not

(a) voluntarily assume any liability or settle any claim except at the insured's own cost, or

(b) interfere in any negotiations for settlement or in any legal proceeding.

(3) The insured must, whenever requested by the insurer, aid in securing information and evidence and the attendance of any witness, and must cooperate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

REQUIREMENTS WHERE LOSS OR DAMAGE TO AUTOMOBILE **4(1)** When loss of or damage to the automobile occurs, the insured must, if the loss or damage is covered by the contract,

(a) promptly give written notice of the loss or damage to the insurer with the fullest information obtainable at the time,

(b) at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and

(c) deliver to the insurer within 90 days after the date of the loss or damage a statutory declaration stating, to the best of the insured's knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others in the automobile, the encumbrances on the automobile, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

(2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subparagraph (1) of this condition is not recoverable under the contract.

(3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, may be undertaken and no physical evidence of the loss or damage shall be removed

(a) without the written consent of the insurer, or

(b) until the insurer has had a reasonable opportunity to make the inspection for which provision is made in Statutory Condition 5.

(4) The insured must submit to examination under oath and must produce for examination at any reasonable place and time designated by the insurer or its representative all documents in the insured's possession or control that relate to the matters in question, and the insured must permit extracts and copies of the documents to be made.

(5) The insurer is not liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage must be ascertained or estimated according to that actual cash value with proper deductions for depreciation, however caused, and must not exceed the amount that it would cost to repair or replace the automobile, or any part of the automobile, with material of similar kind and quality, but if any part of the automobile is obsolete and out of stock, the liability of the insurer in respect of the automobile is limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.

(6) Except where a dispute resolution process has been initiated, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of similar kind and quality if, within 7 days after the receipt of the proof of loss, it gives written notice of its intention to do so.

(7) There must be no abandonment of the automobile to the insurer without the insurer's consent.

(8) If the insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, vests in the insurer.

(9) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount of the loss or damage, those questions must be determined by a dispute resolution process as provided under section 519 of the *Insurance Act* before there can be recovery under the contract, whether the right to recover under the contract is disputed or not, and independently of all other questions.

(10) There is no right to a dispute resolution process until

(a) a specific demand for it is made in writing, and

(b) the proof of loss has been delivered.

INSPECTION OF AUTOMOBILE 5 The insured must permit the insurer at all reasonable times to inspect the automobile and its equipment.

TIME AND MANNER OF PAYMENT OF INSURANCE MONEY 6(1) The insurer must pay the insurance money for which it is liable under the contract within 60 days after the insurer has received the proof of loss or, where a dispute resolution process is conducted under Statutory Condition 4(9), within 15 days after the decision is rendered.

(2) The insured may not bring an action to recover the amount of a claim under the contract unless the requirements of Statutory Conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as provided for under Statutory Conditions 3 and 4 or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

WHO MAY GIVE NOTICE AND PROOF OF CLAIM **7** Notice of claim may be given and proof of claim may be made by the agent of the named insured in the case of absence or inability of the insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for or, in the like case or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

TERMINATION **8(1)** The contract may be terminated

(a) by the insurer giving to the insured 15 days' notice of termination by recorded mail or 5 days' written notice of termination personally delivered, or

(b) by the insured at any time on request.

(2) If the contract is terminated by the insurer,

(a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event is the prorated premium for the expired time to be less than any minimum retained premium specified, and

(b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund must be made as soon as practicable.

(3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired term be deemed to be less than any minimum retained premium specified.

(4) The 15-day period referred to in subparagraph (1)(a) of this condition begins on the day the recorded mail or notification of it is delivered to the insured's postal address.

NOTICE **9(1)** Any written notice to the insurer may be delivered at, or sent by recorded mail to, the chief agency or head office of the insurer in the province.

(2) Written notice may be given to the named insured by letter personally delivered to the insured or by recorded mail addressed

to the insured at the insured's latest postal address as notified to the insurer.

(3) In this condition, "recorded" means recorded in or outside Canada.

Conditions not part of policy

2.21(1) Except as otherwise provided in the contract, the statutory conditions set out in section 2.2 do not apply to insurance described in section 2.7.

(2) When a contract does not insure against liability of the insured for bodily injury or death or loss of or damage to property, Statutory Condition 3 set out in section 2.2 is not a part of the policy and may be omitted from the printing of the conditions in the policy.

(3) When a contract does not insure against loss of or damage to the automobile, Statutory Condition 4 set out in section 2.2 is not a part of the policy and may be omitted from the printing of the conditions in the policy.

Limitation of actions

2.22(1) Unless otherwise provided in this Act, an action or proceeding against an insurer under a contract must be commenced

(a) in the case of loss of or damage to an automobile, not later than 2 years after the occurrence of the loss or damage, and

(b) in the case of bodily injury or death or loss of or damage to other property, not later than 2 years after the insured knew or ought to have known that the cause of action against the insurer arose.

(2) A policy to which this Part applies must contain the following statement:

> Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the *Automobile Insurance Act*.

Right to call expert witnesses

2.23(1) In this section,

(a) "joint expert" means an expert that is jointly appointed by all parties to a motor vehicle injury proceeding;

(b) "motor vehicle injury damages" means damages for bodily injury or death resulting from the use or operation of a motor vehicle as defined in the *Traffic Safety Act*;

(c) "motor vehicle injury proceeding" means a civil proceeding in the Court of King's Bench that includes a claim for motor vehicle injury damages.

(2) Subject to the regulations,

(a) a party to a motor vehicle injury proceeding in which the value of the claim for motor vehicle injury damages is $100 000 or more shall not tender the following at trial:

(i) expert evidence of more than 3 experts on the issue of motor vehicle injury damages;

(ii) more than one report on the issue of motor vehicle injury damages from each expert referred to in subclause (i),

or

(b) a party to a motor vehicle injury proceeding in which the value of the claim for motor vehicle injury damages is less than $100 000 shall not tender the following at trial:

(i) expert evidence of more than one expert on the issue of motor vehicle injury damages;

(ii) more than one report on the issue of motor vehicle injury damages from the expert referred to in subclause (i),

and the Court of King's Bench shall not allow a party to tender expert evidence at the trial of a motor vehicle injury proceeding if doing so would result in exceeding the limits set out in this subsection.

(3) Notwithstanding the limits set out in subsection (2), if the parties to a motor vehicle injury proceeding appoint a joint expert, a party may tender at trial the expert evidence of the joint expert.

(4) Notwithstanding the limits set out in subsection (2), with the consent of all other parties to a motor vehicle injury proceeding, a party may tender at trial

(a) expert evidence of one or more additional experts, or

(b) one or more additional reports from an expert referred to in subsection (2)(a)(i) or (b)(i) or clause (a).

(5) Notwithstanding the limits set out in subsection (2), on application by a party to a motor vehicle injury proceeding, the Court of King's Bench may, if satisfied that the conditions set out in subsection (6) are met, grant leave to

(a) allow expert evidence of one or more additional experts to be tendered, or

(b) allow the party to tender as evidence one or more additional reports from an expert referred to in subsection (2)(a)(i) or (b)(i) or (4)(a).

(6) The following are the conditions for the purposes of subsection (5):

(a) the subject-matter of the additional evidence to be tendered is not already addressed by expert evidence permitted under subsection (2) or (4);

(b) without the additional expert evidence, the party making the application would suffer prejudice disproportionate to the benefit of not increasing the complexity and cost of the proceeding.

(7) In an application under subsection (5), a party must include the following:

(a) the name of each expert whose evidence the party intends to tender at trial;

(b) the scope of expertise of each expert whose evidence the party intends to tender at trial;

(c) records that support the need for the additional evidence.

(8) Nothing in this section limits any authority of the Court of King's Bench to appoint the Court's own experts on the Court's own initiative.

Division 2
Motor Vehicle Liability Policies

Coverage of owner's policy

2.3(1) Subject to subsection (4), every owner's policy insures the named insured and every other person who with the named insured's consent drives an automobile owned by the named insured that falls within the description or definition of automobile in the owner's policy against liability imposed by law on the named insured or those other persons for loss or damage

(a) arising from the ownership, use or operation of the automobile, and

(b) resulting from bodily injury to or the death of any person and damage to property.

(2) When the owner's policy also provides insurance against liability in respect of an automobile not owned by the named insured, an insurer may stipulate in the owner's policy that the insurance is restricted to those persons who are specified in the owner's policy.

(3) If the named insured in an owner's policy dies, the following persons are deemed to be the insured under the policy:

(a) the spouse or adult interdependent partner of the deceased named insured if the spouse or adult interdependent partner resides in the same dwelling premises as the deceased named insured at the time of the deceased named insured's death;

(b) in respect of the described automobile, a newly acquired automobile acquired by the deceased named insured prior to the deceased named insured's death and a temporary substitute automobile, all as defined by the policy,

(i) a person having proper temporary custody of the automobile until grant of probate or administration to the

personal representative of the deceased named insured, and

(ii) the personal representative of the deceased named insured.

(4) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Coverage of non-owner's policy

2.31(1) Subject to subsection (2), every non-owner's policy insures the named insured and any other person specified in the policy against liability imposed by law on the named insured or that other person for loss or damage

(a) arising from the use or operation of an automobile within the definition of automobile in the policy, other than an automobile owned by or registered in the name of the named insured or that other person, and

(b) resulting from bodily injury to or the death of any person and loss of or damage to property.

(2) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Effect of lien on automobile

2.32 A person is not deemed to be the owner of an automobile by reason only that the person has a lien on the automobile or has legal title to the automobile as security.

Rights of unnamed insured

2.33 Any person insured by but not named in a contract to which section 2.3 or 2.31 applies may recover indemnity in the same manner and to the same extent as if the person were the named insured and for that purpose is deemed to be a party to the contract and to have given consideration for the contract.

Liability of insurer

2.4(1) Every contract evidenced by a motor vehicle liability policy must provide that when a person insured by the contract is involved in an accident arising from the ownership, use or operation of an

automobile in respect of which insurance is provided under the contract and resulting in bodily injury or death or loss of or damage to property, the insurer must

(a) on receipt of notice of bodily injury or death or loss of or damage to property, make any investigations, conduct any negotiations with the claimant and effect any settlement of any resulting claims that are considered expedient by the insurer,

(b) defend in the name of and on behalf of the insured and at the cost of the insurer any civil action that is brought against the insured at any time on account of bodily injury or death or loss of or damage to property, and

(c) pay all costs assessed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment on that part of the judgment that is within the limits of the insurer's liability.

(2) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Liability arising from contamination

2.41 Liability of an insured arising from contamination of property carried in an automobile is deemed not to be liability of an insured arising from the ownership, use or operation of that automobile.

Exceptions to liability of insurer — workers' compensation or repair of automobile

2.42 The insurer is not liable under a contract evidenced by a motor vehicle liability policy for any liability of an insured

(a) imposed by any workers' compensation law on any person insured by the contract, or

(b) resulting from bodily injury to or the death of any employee of any person insured by the contract while engaged in the operation or repair of the automobile.

Exceptions to liability of insurer — repair of automobile

2.43 The insurer may provide in a contract evidenced by a motor vehicle liability policy that it is not liable for either of the following:

(a) to indemnify any person engaged in the business of selling, repairing, maintaining, servicing, storing or parking automobiles for any loss or damage sustained while engaged in the use or operation of or while working on the automobile in the course of that business unless the person is the owner of the automobile or is the owner's employee;

(b) for loss of or damage to

(i) property carried in or on the automobile, or

(ii) any property owned or rented by or in the care, custody or control of the insured.

Exceptions to liability of insurer — endorsement for machinery

2.44 Subject to the limitations and exclusions of the endorsement, the insurer may provide by endorsement to a contract evidenced by a motor vehicle liability policy that it is not liable for loss or damage resulting from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile while that automobile is at the site of the use or operation of that machinery or apparatus.

Exceptions to liability of insurer — rented, leased, nuclear material, for hire

2.45(1) In this section, "radioactive material" means

(a) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor,

(b) radioactive waste material,

(c) unused enriched nuclear fuel rods, or

(d) any other radioactive material of such quantity and quality as to be harmful to persons or property if its container were destroyed or damaged.

(2) An insurer may provide under a contract evidenced by a motor vehicle liability policy that it is not liable in any one or more of the following cases:

(a) while the automobile is rented or leased to another person;

(b) while the automobile is used to carry explosives or to carry radioactive material for research, education, development or industrial purposes or for purposes incidental to those purposes;

(c) while the automobile is used for carrying passengers for compensation or hire.

(3) Subsection (2)(a) does not include the use by an employee of the employee's automobile in the business of the employee's employer for which the employee is paid.

(4) Subsection (2)(c) does not include

(a) the use by an insured of the automobile for the carriage of another person in return for the insured's carriage in the automobile of the other person,

(b) the occasional and infrequent use by an insured of the automobile for the carriage of another person who shares the cost of the trip,

(c) the use by an insured of the automobile for the carriage of a temporary or permanent domestic worker of the insured or the insured's spouse or adult interdependent partner,

(d) the occasional and infrequent use by an insured of the automobile for the transportation of children to or from activities conducted as part of an educational program, or

(e) the use by an insured of the automobile for the carriage of a client or customer or a prospective client or customer.

Limits of motor vehicle liability policy

2.5(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to a limit of not less than $200 000, exclusive of interest and costs, against liability of the insured resulting from bodily injury to or the death of one or more persons and loss of or damage to property.

(2) A contract must be interpreted to mean that when, by reason of any one accident, liability results from bodily injury or death and from loss of or damage to property, claims against the insured arising

(a) out of bodily injury or death have priority to the extent of $190 000 over claims arising out of loss of or damage to property, and

(b) out of loss of or damage to property have priority to the extent of $10 000 over claims arising out of bodily injury or death.

(3) Nothing in this Part precludes an insurer, with respect to a limit or limits in excess of those specified in subsection (1), from increasing or reducing the limit or limits specified in the contract with respect to the use or operation of the automobile by a named person, but a reduction is not effective for a limit less than that required under subsection (1).

(4) The premium for the insurance required under this section must be shown separately on the motor vehicle liability policy from the premium for any additional or other benefits under the policy.

(5) Despite subsection (2) but subject to section 2.17, an insurer must not refuse a request by an insured or an applicant for a contract to increase the limit to one of the following amounts, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property:

(a) $500 000;

(b) $1 000 000;

(c) $2 000 000.

Crown's Right of Recovery Act

2.51 An amount that is required to be paid to the Crown under Part 1, Division 2 of the *Crown's Right of Recovery Act* must not be shown as a separate amount on

(a) an application for automobile insurance,

(b) a motor vehicle liability policy, or

(c) a certificate referred to in section 2.15(8).

Stipulation in motor vehicle liability policy

2.52(1) Every motor vehicle liability policy issued in Alberta must provide that, in the case of liability of the insured arising out of the ownership, use or operation of the automobile in any province or territory,

(a) the insurer is liable up to the minimum limits established for that jurisdiction if those limits are higher than the limits established in the policy,

(b) the insurer must not set up any defence to a claim that might not be set up if the policy were a motor vehicle liability policy issued in that jurisdiction, and

(c) the insured, by acceptance of the policy, constitutes and appoints the insurer as the insured's irrevocable attorney to appear and defend in any jurisdiction in which an action is brought against the insured arising out of the ownership, use or operation of the automobile.

(2) A provision in a motor vehicle liability policy in accordance with subsection (1)(c) is binding on the insured.

Excess insurance

2.53(1) Nothing in this Part precludes an insurer from providing under a contract evidenced by a motor vehicle liability policy insurance restricted to a limit in excess of that provided by another designated contract evidenced by a motor vehicle liability policy, whether the designated contract is first loss insurance or excess insurance.

(2) When the contract designated in the excess contract terminates or is terminated, the excess contract is also automatically terminated.

Agreements re deductible amounts

2.54 Nothing in this Part precludes an insurer from entering into an agreement with its insured under a contract evidenced by a motor vehicle liability policy providing that the insured will reimburse the insurer in an agreed amount in respect of any claim by or judgment in favour of a third party against the insured, and

the agreement may be enforced against the insured according to its tenor.

Coverage under motor vehicle liability and nuclear energy hazard liability policies

2.55(1) In this section, "nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Nuclear Safety and Control Act* (Canada).

(2) When an insured, whether named in the contract or not, is covered under a contract evidenced by a motor vehicle liability policy for loss or damage resulting from bodily injury to or the death of any person or loss of or damage to property arising directly or indirectly out of a nuclear energy hazard and is, whether named in the contract or not, also covered against that loss or damage under a contract of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to the loss or damage,

(a) the insurance under the motor vehicle liability policy is excess to the nuclear energy hazard liability insurance, and the insurer under the motor vehicle liability policy is not liable to pay beyond the minimum limits established under section 2.5, and

(b) an unnamed insured under the contract of nuclear energy hazard liability insurance may, in respect of the loss or damage, recover indemnity under that contract of nuclear energy hazard liability insurance in the same manner and to the same extent as if the person were the named insured, and for that purpose the unnamed insured is deemed to be a party to that contract of nuclear energy hazard liability insurance and to have given consideration for that contract of nuclear energy liability insurance.

(3) For the purpose of this section, a contract of nuclear energy hazard liability insurance is deemed to be in force at the time of the event giving rise to the loss or damage even if the limits of liability under that contract of nuclear energy hazard liability insurance have been exhausted.

Determining liable insurer

2.56(1) When a person is insured under more than one contract evidenced by a motor vehicle liability policy, whether the insurance is first loss insurance or excess insurance, and a question arises between an insurer and the insured or between the insurers as to which insurer must undertake the obligation to defend in the name of and on behalf of the insured under section 2.4(1)(b), the insured or any insurer may, whether or not any insurer denies liability under its contract, apply to the Court, and the Court may by order give any directions that appear proper with respect to the performance of the obligation.

(2) The only parties entitled to notice of an application made under subsection (1) and to be heard are the insured and the insured's insurers, and no material or evidence used or taken on the application is admissible on the trial of an action brought against the insured for bodily injury or death or loss of or damage to property arising out of the use or operation of the automobile in respect of which the insurance is provided.

(3) An order made under subsection (1) does not affect the rights and obligations of the insurers in respect of payment of any indemnity under their respective policies.

(4) When indemnity is provided to the insured under 2 or more contracts and one or more of them are excess insurance, the insurers must, as between themselves, contribute to the payment of expenses, costs and reimbursement for which provision is made in section 2.4 in accordance with their respective liabilities for damages awarded against the insured.

Proportioning liability of insurer

2.57(1) In this section, "rateable proportion" means

(a) if there are 2 liable insurers

(i) with the same policy limits, each of the insurers is liable to share equally in any liability, expense, loss or damage, or

(ii) with different policy limits, the insurers are liable to share equally up to the limit of the smaller policy limit,

and

(b) if there are more than 2 liable insurers, clause (a) applies with all necessary modifications.

(2) Subject to sections 2.55 and 5 and the regulations, insurance under a valid owner's policy is, in respect of liability arising from or occurring in connection with the ownership, use or operation of an automobile owned by the named insured and within the description or definition of an automobile in the policy, a first loss insurance, and insurance attaching under any other valid motor vehicle liability policy is excess insurance only.

(3) Subject to subsection (2) and to sections 2.55 and 5 and the regulations, if the named insured has or places any other valid insurance, whether against liability for the ownership, use or operation of or against loss of or damage to an automobile or otherwise, of the named insured's interest in the subject-matter of the contract or any part of the contract, the insurer is liable only for its rateable proportion of any liability, expense, loss or damage.

Rights of creditors

2.6(1) Any person who has a claim against an insured for which indemnity is provided by a contract evidenced by a motor vehicle liability policy, even if that person is not a party to the contract, may, on recovering a judgment in respect of the claim against the insured in any jurisdiction, have the insurance money payable under the contract applied in or toward satisfaction of the judgment and of any other judgments or claims against the insured covered by the contract and may, on the person's own behalf and on behalf of all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

(2) An action must not 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.

(3) A creditor of the insured is not entitled to share in the insurance money payable under any contract unless the creditor's claim is one for which indemnity is provided for by that contract.

(4) The right of a person who is entitled under subsection (1) to have insurance money applied in or toward the person's judgment or claim is not prejudiced by

(a) an assignment, waiver, surrender, cancellation or discharge of the contract, or of any interest in or of the proceeds of the contract, made by the insured after the event giving rise to the person's claim under the contract,

(b) any act or default of the insured before or after that event in contravention of this Part or of the terms of the contract, or

(c) any contravention of the *Criminal Code* (Canada) or a statute of any province or territory or of any state or jurisdiction of the United States of America by the owner or driver of the automobile.

(5) Nothing described in subsection (4)(a), (b) or (c) is available to the insurer as a defence in an action brought under subsection (1).

(6) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer and alleged by a party to the action to be such a policy is not a motor vehicle liability policy, and this section applies, with all necessary modifications, to the instrument.

(7) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection (1) to be made parties to the action and to contribute according to their respective liabilities, whether the contribution is rateable or by way of first loss or excess insurance, as the case may be, and the insured must, on demand, furnish the insurer with particulars of all other insurance covering the subject-matter of the contract.

(8) An insurer may apply to the Court ex parte for an order for payment of money into Court if

(a) a person has recovered a judgment against the insured and is entitled to maintain an action under subsection (1),

(b) the insurer admits liability to pay the insurance money under the contract, and

(c) the insurer considers that

(i) there are or may be other claimants, or

(ii) there is no person capable of giving or authorized to give a valid discharge for payment who is willing to do so.

(9) The Court may make an order accordingly on any notice it thinks necessary.

(10) The receipt of the proper officer of the Court is a sufficient discharge to the insurer for the insurance money paid into Court under this section, and the insurance money must be dealt with as the Court orders on application of any interested person.

(11) Despite anything to the contrary contained in a contract evidenced by a motor vehicle liability policy, every contract evidenced by a motor vehicle liability policy is deemed, for the purposes of this section, to provide all the types of coverage described in section 2.45, but the insurer is not liable to a claimant with respect to the coverage in excess of the limits established by section 2.5(1).

(12) Despite subsection (4), when one or more contracts provide for coverage of a type described in section 2.43 or 2.44, the insurer may, except as provided in subsection (14), avail itself of any defence that it is entitled to set up against the insured

(a) with respect to that type of coverage, and

(b) as against a claimant.

(13) Despite subsection (4), when one or more contracts provide for coverage in excess of the limits established by section 2.5, the insurer may, except as provided in subsection (14), avail itself of any defence that it is entitled to set up against the insured, other than a defence arising out of a breach of Statutory Condition 2 set out in section 2.2,

(a) with respect to the coverage in excess of those limits, and

(b) as against a claimant.

(14) When a contract provides coverage for bodily injury to or the death of an occupant of an automobile that is operated in the business of carrying passengers for compensation or hire and insured for that purpose, the insurer may, despite subsection (4), avail itself of any defence that it is entitled to set up against the

insured, other than a defence arising out of a breach of Statutory Condition 2 set out in section 2.2,

(a) with respect to that type of coverage in excess of the limits established by section 2.5 or the minimum limits required for that type of coverage under any other Act, whichever is the greater amount, and

(b) as against a claimant.

(15) The insured must reimburse the insurer on demand in the amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

(16) When an insurer denies liability under a contract evidenced by a motor vehicle liability policy, it must, on application to the Court, be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action in which it is or might be asserted that indemnity is provided by the contract, whether or not the insured enters an appearance or defence in the action.

(17) On being made a third party, the insurer may

(a) contest the liability of the insured to any party claiming against the insured,

(b) contest the amount of any claim made against the insured,

(c) deliver any pleadings in respect of the claim of any party claiming against the insured,

(d) have disclosure of records and questioning under Part 5 of the *Alberta Rules of Court* in respect of any party adverse in interest, and

(e) question and cross-examine witnesses at the trial, to the same extent as if it were a defendant in the action.

(18) An insurer may avail itself of subsection (17) even if another insurer is defending, in the name of and on behalf of the insured, an action to which its insured is a party.

(19) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Notice of legal representation

2.61(1) If required by the regulations, a lawyer retained by a plaintiff in an action arising out of an accident must give notice of that fact to the defendant's insurer in accordance with the regulations.

(2) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Payment as release of claim

2.62(1) Subject to the regulations, when an insurer makes a payment on behalf of an insured under a contract evidenced by a motor vehicle liability policy to a person who is or alleges to be entitled to recover from the insured covered by the policy, the payment constitutes, to the extent of the payment, a release by the person or the person's personal representative of any claim that the person or the person's personal representative or any person claiming through or under the person may have against the insured and the insurer.

(2) Nothing in this section precludes the insurer making the payment from demanding, as a condition precedent to the payment, release from the person or the person's personal representative or any other person to the extent of the payment.

(3) Subject to the regulations, if the person commences an action, the Court must adjudicate on the matter first without reference to the payment, but in giving judgment the Court must take the payment into account and the person is entitled to judgment only for the net amount, if any.

(4) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Notice of action against insured to insurer

2.63(1) Every insured against whom an action is commenced for damages caused by an automobile must give notice in writing of

each notice or process in the action to the insurer within 5 days after service of each notice or process.

(2) An insured against whom an action is commenced for damages caused by an automobile must, on recovery of a judgment against the insured, disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of the contract within 10 days after written demand for the particulars.

(3) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Disclosure of contract limits

2.64(1) Liability limits under a contract must be disclosed in accordance with the regulations, if any.

(2) This section does not apply in respect of an action or proceeding commenced or maintained against a person to whom section 80(1)(a) applies.

Physical damage cover

2.65(1) Subject to section 2.13(1), the insurer may provide in a contract any exclusions and limitations in respect of loss of or damage to or the loss of use of the automobile that it considers necessary.

(2) A contract or part of a contract providing insurance against loss of or damage to an automobile and the loss of use of an automobile may contain a clause to the effect that, in the event of loss, the insurer is required to pay, to a maximum of the amount of the insurance, only

(a) an agreed portion of any loss that may be sustained, or

(b) the amount of the loss after deduction of a sum specified in the contract.

(3) If a contract includes a clause in accordance with subsection (2), the contract must have the words “This contract contains a partial payment of loss clause” printed or stamped on its face in conspicuous bold type.

Adjustment of claim with insured

2.66(1) When a claim is made under any contract other than a contract evidenced by a motor vehicle liability policy, the insurer must, despite any agreement, adjust the amount of the claim with the named insured as well as with any person with an interest indicated in the contract.

(2) When notice is given or a proof of loss is made by a person other than the insured because the insured cannot be located or neglects, refuses or is unable to give notice and make claim under Statutory Conditions 4 and 7 set out in section 2.2, the insurer may, despite subsection (1) but in any event not earlier than 60 days from delivery of the statutory declaration required under Statutory Condition 4(1)(c) set out in section 2.2, adjust and pay the claim to the other person having an interest indicated in the contract.

Direct compensation for property damage

2.67(1) This section applies if

(a) an automobile or its contents, or both, are damaged directly or indirectly from the use or operation in Alberta of one or more other automobiles,

(b) the automobile that is damaged or in respect of which the contents are damaged is insured under a contract evidenced by a motor vehicle liability policy issued by an insurer who is licensed to undertake automobile insurance in Alberta or who has filed with the Superintendent, in the form provided by the Superintendent, an undertaking to be bound by this section, and

(c) at least one other automobile involved in the accident is insured under a contract evidenced by a motor vehicle liability policy issued by an insurer who is licensed to undertake automobile insurance in Alberta or who has filed with the Superintendent, in the form provided by the Superintendent, an undertaking to be bound by this section.

(2) This section applies with any necessary modifications in respect of the following:

(a) an automobile, the owner, operator or lessee of which is the Crown in right of Canada or in right of a province or territory, including the Crown in right of Alberta, if the

Crown files with the Superintendent an undertaking to be bound by this section;

(b) an automobile, the owner, operator or lessee of which is a corporation to which the Superintendent has issued a financial responsibility card under section 2.83, if the corporation or the Crown in right of Alberta on behalf of the corporation files with the Superintendent an undertaking to be bound by this section.

(3) For the purposes of subsection (2), "Crown in right of Alberta" includes the participants of the Alberta Risk Management Fund as set out in section 76(11)(a)(ii) of the *Financial Administration Act* unless otherwise prescribed in the regulations under that section.

(4) An entity that has filed an undertaking referred to in subsection (2) is an insurer for the purposes of this section.

(5) This section does not apply to automobiles prescribed in the regulations.

(6) Where this section applies, an insured may recover for the damages to the insured's automobile and its contents and for loss of use of the insured's automobile and its contents from the insured's insurer under the coverage described in section 2.3(1) as though the insured were a third party.

(7) Recovery under subsection (6) must be based on the degree of fault of the insurer's insured as determined under the fault determination rules prescribed by the regulations.

(8) If the insured is not satisfied that the degree of fault established under the fault determination rules accurately reflects the actual degree of fault, the insured may bring an action against the insurer and that action must be determined in accordance with the ordinary rules of law.

(9) If a dispute arises because the insured is not satisfied with the amount of a proposed settlement, the dispute must be determined using the dispute resolution process set out in section 519 of the *Insurance Act*.

(10) Where this section applies,

(a) an insured has no right of action against any person involved in the accident other than the insured's insurer for damages to the insured's automobile or its contents or for loss of use of the insured's automobile and its contents,

(b) an insured has no right of action against a person under an agreement, other than a contract, in respect of damages to the insured's automobile or its contents or for loss of use of the insured's automobile and its contents, except to the extent that the person is at fault or negligent in respect of those damages or that loss, and

(c) an insurer, except as permitted by the regulations, has no right of indemnification from or subrogation against any person for payments made to the insurer's insured under this section.

(11) Subject to the regulations, nothing in this Part precludes an insurer from agreeing in a contract with an insured that, in the event that a claim is made by the insured under this section, the insurer shall pay only

(a) an agreed portion of the amount that the insured would otherwise be entitled to recover, or

(b) the amount that the insured would otherwise be entitled to recover, reduced by a sum specified in the agreement.

(12) Subsection (11) does not apply unless, before the insurer enters into the contract referred to in that subsection, the insurer offers to enter into another contract with the prospective insured that does not contain the agreement referred to in that subsection but is identical to the contract referred to in subsection (11) in all other respects except for the amount of the premium.

(13) If a contract contains an agreement referred to in subsection (11), the policy must have the words "This policy contains a partial payment of recovery clause for property damage" printed or stamped on its face in conspicuous bold type.

(14) This section does not affect an insured's right to recover in respect of any physical damage coverage in respect of the insured automobile.

(15) This section does not apply to damage to the contents of an automobile that are being carried for reward.

(16) This section does not apply if both or all of the automobiles are owned by the same person.

(17) This section does not apply to damage to an automobile owned by the insured or to its contents if the damage is caused by the insured while driving another automobile.

Division 3
Limited Accident Insurances

Uninsured motorist

2.7(1) If an insurer provides in a contract insurance against loss resulting from bodily injury to or the death of an insured arising out of an accident, the insurance applies only in respect of a person described in subsection (2) when

(a) there is legal liability of another person for the injury or death, and

(b) the other person has no insurance against the liability for the injury or death or cannot be identified.

(2) The following persons are insured for the purposes of subsection (1):

(a) a person who sustains bodily injury or death while an occupant of the described automobile in respect of which insurance is provided under the contract;

(b) the named insured and the spouse or adult interdependent partner of the named insured and any dependent relative residing in the same dwelling premises as the named insured who sustains bodily injury or death while an occupant or as a result of being struck by any other automobile that is defined in the contract for the purposes of that insurance.

(3) The insurance described in subsection (1) does not apply in respect of a person specified in the contract who has a right of recovery under the *Motor Vehicle Accident Claims Act* or similar legislation of any other province or territory or jurisdiction of the United States of America.

Demand for particulars of insurance

2.71(1) When a person is injured or dies in an accident in Alberta involving an automobile, that person or the person's personal representative may serve a demand by recorded mail on

(a) the owner of the automobile, or

(b) the insurer of the owner of the automobile.

(2) A demand made under subsection (1) may

(a) require the owner or insurer, as the case may be, to state in writing to the person making the demand whether or not the owner has insurance, and

(b) when the demand is made under subsection (1)(a), require the owner, if the owner has that insurance, to state the name of the insurer.

(3) An owner or insurer that does not comply with a demand made under subsection (1) within 10 days after receiving the demand is guilty of an offence.

Recovery by unnamed insured

2.72 Any person insured by but not named in a contract to which section 2.7 applies may recover under the contract in the same manner and to the same extent as if the person were the named insured, and for that purpose the person is deemed to be a party to the contract and to have given consideration for the contract.

Payment of insurance money into Court

2.73(1) When an insurer admits liability for insurance money payable under section 2.7, the insurer may, at any time after 30 days after the date on which the insurance money becomes payable, apply to the Court ex parte for an order for payment of the money into Court if it appears to the insurer that

(a) there are adverse claimants,

(b) the whereabouts of an insured entitled to the insurance money is unknown, or

(c) there is no person capable of giving or authorized to give a valid discharge for the insurance money who is willing to do so.

(2) The Court may make an order accordingly on any notice it thinks necessary.

(3) The receipt of the proper officer of the Court is sufficient discharge to the insurer for the insurance money paid into Court, and the insurance money must be dealt with as the Court orders.

Division 4
Financial Responsibility Cards

Owner's policy

2.8(1) In this section, "insured" means a person named as the insured in an owner's policy.

(2) Every insurer that issues an owner's policy must at the time of issue of the policy also issue and deliver to the insured a financial responsibility card and, on request by that insured, any additional copies of the card required to be provided under the regulations.

(3) Every insurer that issues an owner's policy must provide to the insured the information required by the regulations relating to financial responsibility cards when the policy is being cancelled or the insured is given a notice of renewal.

(4) When an insured to whom a financial responsibility card has been issued under this section ceases to be insured by the owner's policy in respect of which the card was issued, that person must as soon as practicable destroy the card and every copy of the card issued to that person.

(5) Any insurer that has issued a financial responsibility card or an insurance agent who represents the insurer must provide to a peace officer any information requested concerning the cancellation or lapse of the owner's policy with respect to which the financial responsibility card was issued.

(6) A financial responsibility card issued under this section must be in a form approved by the Superintendent.

Non-Alberta policy — insurer

2.81 A financial responsibility card that is issued by an insurer in respect of a non-Alberta policy and that is in a form approved by the Superintendent is deemed to have been issued under this Part and may be used to indicate financial responsibility in Alberta.

Non-Alberta policy — unlicensed insurer

2.82(1) A financial responsibility card issued by an unlicensed insurer in respect of a non-Alberta policy is deemed to have been issued under this Part and may be used to indicate financial responsibility in Alberta if

(a) the card is in a form approved by the Superintendent or is otherwise acceptable to the Superintendent, and

(b) the unlicensed insurer provides the Superintendent with a power of attorney and undertaking that meets the requirements of the regulations.

(2) If an unlicensed insurer has provided the Superintendent with a power of attorney and undertaking that meets the requirements of the regulations, notice or process in any action or proceeding in Alberta against the unlicensed insurer or its insured arising out of an automobile accident in Alberta may be effectually served on the insurer or the insured, or on both of them,

(a) by leaving 3 copies of the notice or process with the Superintendent, and

(b) if the unlicensed insurer is not a party to the action or proceeding, by leaving with the Superintendent a written statement signed by the person who issued or caused to be issued the notice or process that sets out the full name and address of the unlicensed insurer against whose insured the action or proceeding is taken.

(3) On receipt of notice or process under subsection (2), the Superintendent must as soon as practicable mail 2 copies of it by recorded mail to the unlicensed insurer at the insurer's address last known to the Superintendent.

(4) The plaintiff in any action or proceeding against an unlicensed insurer that has provided the Superintendent with an undertaking that meets the requirements of the regulations may give evidence of the undertaking, and the undertaking is, for all purposes of the action or proceeding, deemed to be a covenant for valuable consideration made by the unlicensed insurer with the plaintiff.

(5) If an unlicensed insurer that has provided the Superintendent with a power of attorney and undertaking that meets the requirements of the regulations defaults under them, a financial

responsibility card issued by the unlicensed insurer must not be accepted as proof of financial responsibility in Alberta so long as that default continues, and the Superintendent must as soon as practicable notify the proper officers in charge of the registration of automobiles and the licensing of drivers in all jurisdictions in Canada, and in the United States of America where the financial responsibility cards are accepted as proof of financial responsibility, of the default.

Fund maintained by corporation

2.83(1) In this section, "motor vehicle" means a motor vehicle as defined in the *Traffic Safety Act*.

(2) A corporation is entitled to a financial responsibility card issued by the Superintendent if

(a) the corporation is a prescribed corporation,

(b) the corporation maintains a separate fund for the purpose of satisfying from that fund liabilities that the corporation may incur resulting from bodily injury to or the death of any person, or from damage to property, caused by or arising out of the ownership, maintenance, operation or use of a motor vehicle, and

(c) in the opinion of the Superintendent, the fund is adequate to satisfy all liabilities that the corporation is likely to incur, subject, in the case of each motor vehicle registered in the name of the corporation, to the limits as to amount and the accident insurance benefits specified in this Part.

(3) If the Superintendent is satisfied that the requirements of subsection (2) are met, the Superintendent must issue and deliver to the corporation a financial responsibility card and, on the request of the corporation, any additional copies of the card required by the regulations to be provided.

(4) When the fund of a corporation that has been issued a financial responsibility card under subsection (2) ceases to meet the requirements of subsection (2)(b) or (c), the corporation must as soon as practicable deliver to the Superintendent for cancellation its financial responsibility card and all copies of the card issued to the corporation.

Part 2
Care-first Compensation

Division 1
General

NOTE: (5) Part 1.1 Automobile Insurance Contracts; Part 2 Care-first Compensation.

(6) Section 3 is amended by striking out "Act" **and substituting** "Part".

NOTE: (6) Section 3 presently reads in part:

3 Notwithstanding section 2, this Act does not apply to the following:

(7) The headings following section 3 are repealed.

NOTE: (7) The headings following section 3 presently read:

Part 2
Benefits and Expenses

Division 1
General

(8) The following is added before section 4:

Definitions
3.1 In this Part,

(a) "care recipient", in relation to an insured, means a person

(i) who is

(A) under 16 years of age, or

(B) regularly unable to hold employment,

and

(ii) to whom the insured provides care;

(b) "catastrophic injury" means a bodily injury prescribed as a catastrophic injury in the regulations;

(c) "compensation" means a benefit or an expense;

(d) "deceased" means an insured who dies as a result of an accident;

(e) "full-time earner" means an insured who, at the time of an accident, holds regular employment on a full-time basis, but does not include a minor or student;

(f) "medical assessment" means an assessment of an insured's bodily injury required by an insurer under section 57;

(g) "minor" means an insured who is under 18 years of age at the time of an accident;

(h) "non-earner" means an insured who, at the time of an accident, is not employed but is able to work, but does not include

(i) a minor,

(ii) a student, or

(iii) an insured

(A) who has not held employment in the 2 years immediately preceding the date of the accident, and

(B) who, in an insurer's opinion, would not have held employment in the future had the accident not occurred;

(i) "part-time earner" means an insured who, at the time of an accident, holds regular employment on a part-time basis, but does not include a minor or a student;

(j) "permanent impairment" means a bodily injury prescribed as a permanent impairment in the regulations;

(k) "student" means an insured who, at the time of an accident, is

(i) 18 years of age or older and attending a secondary school or post-secondary institution on a full-time basis, or

(ii) a minor who has completed the requirements for graduation from secondary school and is attending a post-secondary institution on a full-time basis;

(l) "temporary earner" means an insured who, at the time of an accident, holds regular employment on a temporary basis, but does not include a minor or student.

NOTE: (8) Definitions.

(9) Section 4(2) is amended by striking out "or" **at the end of clause (c) and by adding the following after clause (d):**

(e) a claim under the *Victims of Crime and Public Safety Act*,

(f) a claim made under the *Crown's Right of Recovery Act* against a third party described in section 80(2), or

(g) a prescribed action.

NOTE: (9) Adds exception to the barring of action or proceeding following an accident.

(10) Section 5 is amended

(a) in subsection (2)

(i) in clause (a)

(A) by striking out "as a result of an accident";

(B) by repealing subclause (i)(C) and substituting the following:

(C) a dependant of the named insured or of the named insured's spouse or adult interdependent partner, or

(C) in subclause (iii) by striking out "subclause (i) or (ii)" **and substituting** "subclauses (i) and (ii)";

(D) in subclause (iv) by striking out "subclause (i), (ii) or (iii)" **and substituting** "subclauses (i), (ii) and (iii)";

(ii) in clause (b)

(A) by striking out "as a result of an accident";

(B) by repealing subclause (i)(C) and substituting the following:

(C) a dependant of the named insured or of the named insured's spouse or adult interdependent partner, or

(C) in subclause (iii) by striking out "subclause (i) or (ii)" **and substituting** "subclauses (i) and (ii)";

(D) in subclause (iv) by striking out "subclause (i), (ii) or (iii)" **and substituting** "subclauses (i), (ii) and (iii)";

(b) in subsections (4) and (6) by adding "or of the named insured's spouse or adult interdependent partner" **after** "dependant of the named insured";

(c) by repealing subsection (8).

NOTE: (10) Section 5 presently reads in part:

(2) Subject to subsections (9) and (10) and the regulations, a person entitled to compensation under this Act must be compensated in accordance with the following:

(a) if the person sustained bodily injury or death as a result of an accident while they were an occupant of an automobile, the person must be compensated

(i) by the insurer who issued a motor vehicle liability policy under which the person is

(C) a dependant of the named insured, or

(iii) by the insurer of any other automobile involved in the accident, if compensation is unavailable under subclause (i) or (ii), or

(iv) under the Motor Vehicle Accident Claims Act, if compensation is unavailable under subclause (i), (ii) or (iii);

(b) if the person sustained bodily injury or death as a result of an accident while they were not an occupant of an automobile, the person must be compensated

(i) by the insurer who issued a motor vehicle liability policy under which the person is

(C) a dependant of the named insured, or

(iii) by the insurer of any other automobile involved in the accident, if compensation is unavailable under subclause (i) or (ii), or

(iv) under the Motor Vehicle Accident Claims Act, if compensation is unavailable under subclause (i), (ii) or (iii).

(4) Notwithstanding subsection (3), if a person is the named insured under a motor vehicle liability policy, the spouse or adult interdependent partner of the named insured or a dependant of the named insured, the person must be compensated by the insurer who issued that policy.

(6) If a person is entitled to compensation from more than one insurer under subsection (4) and the person was, at the

time of the accident, an occupant of an automobile in respect of which the person is the named insured under a motor vehicle liability policy, the spouse or adult interdependent partner of the named insured or a dependant of the named insured, the person must be compensated by the insurer of the automobile in which the person was an occupant.

(8) This section applies if the accident occurs in Canada or a jurisdiction of the United States of America or on a vessel travelling between ports of those countries.

(11) Section 6 is amended

(a) in subsection (1)

(i) in clause (a)

(A) by striking out "an insured" **and substituting** "a claimant";

(B) by striking out "the insured" **and substituting** "the claimant";

(ii) in clause (b) by striking out "an insured" **and substituting** "a claimant";

(b) in subsection (2) by striking out "an insured" **and substituting** "a claimant";

(c) in subsection (4)

(i) by striking out "If an insured" **and substituting** "Unless otherwise provided for in the regulations, if a person";

(ii) in clause (c) by adding "or of the named insured's spouse or adult interdependent partner" **after** "insured";

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

(5) In respect of a commercial automobile, excess compensation coverage may be limited to the persons specified in the contract.

NOTE: (11) Section 6 presently reads in part:

6(1) In this section, "excess compensation" means compensation in amounts in excess of either or both of the following:

(a) the maximum amounts established under this Act that an insurer is liable to pay or reimburse an insured under sections 10 to 16 or section 43 or 44 for an expense the insured incurs;

(b) the amounts established or determined under this Act that an insurer is liable to pay an insured as a benefit.

(2) Subject to the regulations, an insurer may offer a motor vehicle liability policy that provides an insured with excess compensation.

(4) If an insured obtains a motor vehicle liability policy that provides excess compensation, only the following persons are entitled to excess compensation under the policy:

(c) a dependant of the named insured under the motor vehicle liability policy.

(12) Section 7 is amended

(a) by striking out "An insured" **and substituting** "A claimant";

(b) by striking out "the insured" **and substituting** "the claimant".

NOTE: (12) Section 7 presently reads:

7 An insured entitled to compensation under this Part in respect of an accident that occurred outside Alberta may, subject to an insurer's right of subrogation, exercise any right or remedy that the insured has under the law of the place where the accident occurred for compensation in excess of the compensation received under this Part.

(13) Section 8 is amended

(a) by striking out "an insured" **and substituting** "a claimant";

(b) by striking out "the insured's" **and substituting** "the claimant's";

(c) by striking out "the insured" **and substituting** "the claimant";

(d) in clause (b) by striking out "the bodily injury" **and substituting** "bodily injury".

NOTE: (13) Section 8 presently reads in part:

8 If an insured is entitled to compensation under this Part in respect of an accident that occurred outside Alberta, an insurer is subrogated to the insured's rights and is entitled to recover the amount of compensation paid by the insurer to or on behalf of the insured from any of the following:

(b) a person who is liable to pay compensation in respect of the bodily injury or death sustained as a result of the accident for which the non-resident referred to in clause (a) was at fault.

(14) Section 9 is amended

(a) in subsection (1) by striking out "an insured" **and substituting** "a claimant";

(b) in subsection (2)

(i) by striking out "an insured" **and substituting** "a claimant";

(ii) by striking out "the insured" **and substituting** "the claimant";

(c) in subsection (3) by striking out "unless the insured is" **and substituting** "unless the claimant who is entitled to compensation under this Division is also".

NOTE: (14) Section 9 presently reads:

9(1) Subject to the regulations, an insurer shall pay or reimburse reasonable and necessary expenses to which an insured is entitled under this Division.

(2) When an insured is entitled to the payment or reimbursement of an expense provided for under this Division, a person who pays the expense on behalf of the insured is entitled to reimbursement of the expense.

(3) Subject to section 78, an insurer is, in the first instance, liable for the payment or reimbursement of an expense under this Division, unless the insured is entitled to payment or reimbursement of the expense under the Alberta Health Care Insurance Act or another Act, in which case the insurer is liable only for the portion of the expense not paid or reimbursed under that Act or the other Act.

(15) Section 10.1(1) is repealed and the following is substituted:

Diagnosis and treatment

10.1(1) For the purpose of section 10(a), the Minister may establish a code, guideline, method, practice, standard or body of rules governing

(a) health care practitioners who may diagnose and treat particular bodily injuries,

(b) the diagnosis and treatment of particular bodily injuries, and

(c) the health care services to which an insured who sustains a particular bodily injury is entitled to have paid or reimbursed.

NOTE: (15) Section 10.1(1) presently reads:

10.1(1) For the purpose of section 10(a), the Minister may establish a code, guideline, method, practice, standard or body of rules governing

(a) the diagnosis and treatment of particular bodily injuries, and

(b) the health care services to which an insured who sustains a particular bodily injury is entitled to have paid or reimbursed.

(16) The following is added after section 13:

Daily living assistance assessment

13.1(1) For the purpose of section 13, the Minister may establish a code, guideline, method, practice, standard, body of rules or tool relating to activities of daily living that may include

(a) who may conduct a daily living assistance assessment,

(b) a description of the components of each activity of daily living, and

(c) how to conduct a daily living assistance assessment and complete any forms established under section 96.

(2) The *Regulations Act* does not apply to a body of rules established under subsection (1) and, for greater certainty, does not apply to a code, guideline, method, practice, standard or tool established under that subsection.

(3) As soon as practicable after establishing a code, guideline, method, practice, standard, body of rules or tool under subsection (1), the Minister must make the code, guideline, method, practice, standard, body of rules or tool publicly available on the website of the Minister's department.

(4) A regulation made under section 101 supersedes a code, guideline, method, practice, standard, body of rules or tool established under this section to the extent of any conflict.

(5) An insurer must comply with a code, guideline, method, practice, standard, body of rules or tool established under subsection (1).

NOTE: (16) Daily living assistance assessment.

(17) Section 20 is amended

(a) by striking out "as a result of an accident" **and substituting** "because of their bodily injury";

(b) in clause (a) by striking out "if the accident had not occurred" **and substituting** "if the temporary earner or part-time earner had not sustained bodily injury".

NOTE: (17) Section 20 presently reads in part:

20 Subject to the regulations, a temporary earner or part-time earner is entitled to an income replacement benefit where either of the following occurs as a result of an accident:

(a) the temporary earner or part-time earner is unable to continue employment or hold employment that the temporary earner or part-time earner would have held during a prescribed period if the accident had not occurred;

(18) Section 21(1) is amended

(a) by striking out "as a result of an accident" **and substituting** "because of their bodily injury";

(b) in clause (a) by striking out "if the accident had not occurred" **and substituting** "if the non-earner had not sustained bodily injury".

NOTE: (18) Section 21(1) presently reads in part:

21(1) Subject to the regulations, a non-earner is entitled to an income replacement benefit where either of the following occurs as a result of an accident:

(a) the non-earner is unable to hold employment that the non-earner would have held during a prescribed period if the accident had not occurred;

(19) Section 23 is amended

(a) by striking out "as a result of an accident" **and substituting** "because of their bodily injury";

(b) in clause (a) by striking out "if the accident had not occurred" **and substituting** "if the student had not sustained bodily injury".

NOTE: (19) Section 23 presently reads in part:

23 Subject to the regulations, a student is entitled to an income replacement benefit where either of the following occurs as a result of an accident:

(a) the student is unable to hold employment that the student would have held if the accident had not occurred;

(20) Sections 24 and 25 are repealed and the following is substituted:

Student unable to begin or continue studies and hold employment

24 Subject to the regulations, a student is entitled to an income replacement benefit where, because of their bodily injury, the student is, after the prescribed date, unable to

(a) begin or continue studies, and

(b) hold employment.

Student unable to hold employment after studies

25 Subject to the regulations, a student who begins or continues their studies after sustaining bodily injury but is unable to hold employment after completing or ending their studies because of their bodily injury is entitled to an income replacement benefit.

NOTE: (20) Sections 24 and 25 presently read:

24(1) Subject to the regulations, a student is entitled to an income replacement benefit where, as a result of an accident, the student is, after the prescribed date, unable to

(a) begin or continue studies, and

(b) hold employment.

(2) A student is entitled to an income replacement benefit under subsection (1) for the time that the student remains unable to hold employment because of their bodily injury.

25(1) Subject to the regulations, a student who begins or continues their studies after an accident but, as a result of the accident, is unable to hold employment after completing or ending their studies is entitled to an income replacement benefit.

(2) A student is entitled to an income replacement benefit under subsection (1) for the time that the student remains unable to hold employment because of their bodily injury.

(21) Section 28 is amended

(a) by striking out "as a result of an accident" **and substituting** "because of their bodily injury";

(b) in clause (a) by striking out "if the accident had not occurred" **and substituting** "if the minor had not sustained bodily injury".

NOTE: (21) Section 28 presently reads in part:

28 Subject to the regulations, a minor is entitled to an income replacement benefit where either of the following occurs as a result of an accident:

(a) the minor is unable to hold employment that the minor would have held if the accident had not occurred;

(22) Sections 29 and 30 are repealed and the following is substituted:

Minor unable to begin or continue studies and hold employment

29 Subject to the regulations, a minor is entitled to an income replacement benefit where, because of their bodily injury, the minor is, following the end of the school year in which the minor reaches 18 years of age, unable to

(a) begin or continue their studies, and

(b) hold employment.

Minor unable to hold employment after studies

30 Subject to the regulations, a minor who begins or continues their studies after sustaining bodily injury but is unable to hold employment after completing or ending their studies because of their bodily injury is entitled to an income replacement benefit.

NOTE: (22) Sections 29 and 30 presently read:

29(1) Subject to the regulations, a minor is entitled to an income replacement benefit where, as a result of an accident, the minor is, following the end of the school year in which the minor reaches 18 years of age, unable to

(a) begin or continue their studies, and

(b) hold employment.

(2) A minor is entitled to an income replacement benefit under subsection (1) for the time that the minor remains unable to hold employment because of their bodily injury.

30(1) Subject to the regulations, a minor who begins or continues their studies after an accident but, as a result of the accident, is unable to hold employment after completing or ending their studies is entitled to an income replacement benefit.

(2) A minor is entitled to an income replacement benefit under subsection (1) for the time that the minor remains unable to hold employment because of their bodily injury.

(23) Section 32(2) is amended by striking out "benefit dies as a result of an accident" **and substituting** "caregiver benefit dies as a result of the accident".

NOTE: (23) Section 32(2) presently reads:

(2) If an insured entitled to a benefit dies as a result of an accident, the amount of the caregiver benefit that would have been payable to the insured had the insured survived is payable in accordance with the regulations.

(24) Section 33 is amended

(a) in subsection (1) by striking out "bodily injury sustained as a result of the accident" **and substituting** "their bodily injury";

(b) in subsection (2)(b) by striking out "if the accident had not occurred" **and substituting** "if the insured had not sustained bodily injury".

NOTE: (24) Section 33 presently reads in part:

33(1) Notwithstanding any other section of this Division, an insured who, on the date of an accident, is 65 years of age or older and does not hold employment is not entitled to an income replacement benefit in respect of bodily injury sustained as a result of the accident, unless the insured has a reasonable expectation of employment.

(2) For the purposes of subsection (1), an insured is considered to have a reasonable expectation of employment if, at the time of the accident, the insured

(b) had a history of seasonal, casual or temporary employment that would have continued if the accident had not occurred, or

(25) Section 36 is amended by striking out "as a result of an accident".

NOTE: (25) Section 36 presently reads:

36 Subject to section 37 and the regulations, if an insured sustains a permanent impairment as a result of an accident, the insured is entitled to a permanent impairment benefit.

(26) Section 37(3) is amended by striking out "as a result of the accident".

NOTE: (26) Section 37(3) presently reads in part:

(3) If an insured dies of a cause unrelated to the accident and the insured has a permanent impairment as a result of the accident on the date of the insured's death, an insurer must

(27) Section 40 is repealed and the following is substituted:

Death benefit for other dependant

40 Subject to the regulations, a dependant of a deceased, other than a spouse or adult interdependent partner, is entitled to a death benefit.

NOTE: (27) Section 40 presently reads:

40 Subject to the regulations, a dependant of a deceased is entitled to a death benefit.

(28) Section 41(1) is amended by striking out "the deceased has no spouse or adult interdependent partner but has a child" **and substituting** "the deceased has no spouse or adult interdependent partner, or the deceased's spouse or adult interdependent partner does not survive the deceased by at least 60 days, but the deceased has a child".

NOTE: (28) Section 41(1) presently reads in part:

41(1) Subject to subsection (2) and the regulations, if, on the date that a deceased dies, the deceased has no spouse or

adult interdependent partner but has a child who is a dependant, the child is entitled to

(29) Sections 43 and 44 are repealed and the following is substituted:

Funeral and interment expenses

43 Subject to the regulations, a person who incurs reasonable and necessary expenses related to the funeral and interment of a deceased is entitled to the payment or reimbursement of those expenses.

Grief counselling expenses

44 Subject to the regulations, a person who

(a) is in a prescribed class of relationship with a deceased, and

(b) incurs reasonable and necessary expenses related to grief counselling in respect of the deceased's death,

is entitled to the payment or reimbursement of those expenses.

NOTE: (29) Sections 43 and 44 presently read:

43 Subject to the regulations, an insurer must pay or reimburse a person who incurs reasonable and necessary expenses for and related to the funeral and interment of a deceased.

44 Subject to the regulations, an insurer must pay or reimburse a person who

(a) is in a prescribed class of relationship with the deceased, and

(b) incurs reasonable and necessary expenses for and related to grief counselling respecting the death of the deceased.

(30) The heading preceding section 46 is amended by striking out "Benefits" and substituting "Compensation".

NOTE: (30) The heading preceding section 46 presently reads:

Division 6
Ineligibility, Suspension,
Reduction or End of Benefits

(31) Section 46 is amended by striking out "or a retirement income benefit".

NOTE: (31) Section 46 presently reads:

46 Notwithstanding Division 3, if an insurer reasonably determines that an insured was regularly unable, before an accident, to hold employment for any reason except age, the insured is not entitled to an income replacement benefit or a retirement income benefit.

(32) Section 47 is amended

(a) by renumbering it as section 47(1);

(b) in subsection (1)

(i) by striking out "sustained as a result of an accident";

(ii) in clauses (g), (h) and (i) by striking out "or other claimant";

(iii) by repealing clause (j) and substituting the following:

(j) the insured meets the prescribed circumstances.

(c) by adding the following after subsection (1):

(2) An insurer may, in accordance with the regulations, reduce, suspend, terminate or deny compensation payable to a claimant

other than the insured in respect of an insured's bodily injury or death if the claimant

(a) wilfully caused the accident,

(b) wilfully caused the insured's bodily injury or death,

(c) is charged with, found guilty of or issued a notice of administrative penalty or other penalty in the same manner and in respect of an offence or provision prescribed for the purposes of subsection (1)(c), (d), (e) or (f), as if the references to "insured" in that subsection were read as "claimant",

(d) knowingly provides false or inaccurate information to an insurer that is material to the compensation being claimed,

(e) commits a prescribed act or omission,

(f) fails to comply with a prescribed requirement, or

(g) meets the prescribed circumstances.

NOTE: (32) Section 47 presently reads in part:

47 An insurer may, in accordance with the regulations, reduce, suspend, terminate or deny compensation payable to or on behalf of an insured or other claimant in respect of the insured's bodily injury or death sustained as a result of an accident, if

(g) the insured or other claimant knowingly provides false or inaccurate information to an insurer that is material to the compensation being claimed,

(h) the insured or other claimant commits a prescribed act or omission,

(i) the insured or other claimant fails to comply with a prescribed requirement, or

(j) the prescribed circumstances exist.

(33) Section 53 is repealed and the following is substituted:

End of caregiver benefit

53 Subject to the regulations, an insured ceases to be entitled to a caregiver benefit in respect of a care recipient

(a) when any of the following occurs:

(i) the care recipient

(A) reaches 16 years of age, in the case of a care recipient described in section 3.1(a)(i)(A), or

(B) becomes able to hold employment, in the case of a care recipient described in section 3.1(a)(i)(B);

(ii) the insured is able to resume caring for the care recipient;

(iii) the period prescribed for the purpose of section 32(3) has elapsed and the insured

(A) has elected to receive an income replacement benefit under section 32(4), or

(B) is deemed to have elected to receive an income replacement benefit under section 32(6),

or

(b) on the date that, if the accident had not occurred, the insured would have ceased providing care similar to the care the insured provided to the care recipient before the accident.

NOTE: (33) Section 53 presently reads:

53 Subject to the regulations, an insured ceases to be entitled to a caregiver benefit in respect of a care recipient when any of the following occurs:

(a) the care recipient

(i) reaches 16 years of age, in the case of a care recipient described in section 1(e.1)(i)(A), or

(ii) becomes able to hold employment, in the case of a care recipient described in section 1(e.1)(i)(B);

(b) the insured is able to resume caring for the care recipient;

(c) the period prescribed for the purpose of section 32(3) has elapsed and the insured

(i) has elected to receive an income replacement benefit under section 32(4), or

(ii) is deemed to have elected to receive an income replacement benefit under section 32(6).

(34) Section 57 is repealed and the following is substituted:

Medical assessments

57(1) In this section,

(a) "medical assessment service provider" means an entity with whom the Minister has entered into an agreement to exercise the powers and perform the duties and functions of a medical assessment service provider under this section;

(b) "medical assessor" means a health care practitioner who conducts a medical assessment;

(c) "vendor agreement" means a written agreement between the Minister and a medical assessment service provider that is entered into for the purpose of this section.

(2) An insurer may, in accordance with the regulations, require an insured to undergo a medical assessment

(a) when and as often as the insurer reasonably requires, or

(b) following a request for a medical assessment made by or on behalf of an insured, if the insurer agrees that a medical assessment is warranted.

(3) An insurer who requires an insured to undergo a medical assessment must apply, in writing, to the Superintendent for the assignment of a medical assessor.

(4) On receipt of an application, the Superintendent must, in accordance with the regulations, if any,

(a) assign one or more medical assessors to conduct a medical assessment, or

(b) refer the application to a medical assessment service provider to assign one or more medical assessors to conduct a medical assessment.

(5) The Superintendent or a medical assessment service provider, as the case may be, may assign a medical assessor to conduct a medical assessment only if the medical assessor meets the eligibility criteria set out in the regulations.

(6) When the Superintendent refers an application to a medical assessment service provider, the medical assessment service provider must assign one or more medical assessors in accordance with

(a) the regulations, if any,

(b) the vendor agreement, and

(c) any guidance or direction issued by the Superintendent.

(7) If the Superintendent refers an application to a medical assessment service provider in accordance with subsection (4)(b), the medical assessment service provider must schedule a medical assessment in accordance with the regulations, if any.

(8) After completing a medical assessment, a medical assessor must prepare a report on the insured's bodily injury in accordance with the regulations, if any, and provide a copy of the report to

(a) the insurer, and

(b) any other person set out in the regulations.

(9) An insurer must, on receiving a copy of the medical assessor's report, provide a copy to

(a) the insured on request, and

(b) the health care practitioner primarily responsible for treating the insured's bodily injury.

(10) An insurer must only use a medical assessor's report for a purpose specified in the regulations.

(11) Subject to the regulations, a medical assessment must be conducted at an insurer's expense.

(12) Subject to the regulations, an insurer shall not, apart from a medical assessment under this section, require an insured to undergo any form of assessment or examination related to the insured's bodily injury other than for the purposes set out in the regulations.

NOTE: (34) Section 57 presently reads:

57(1) In this section, "medical assessor" means a health care practitioner who, under the regulations, is authorized to conduct a medical assessment.

(2) Subject to the regulations, an insurer may require a claimant to undergo a medical assessment by a medical assessor

(a) when and as often as the insurer reasonably requires, or

(b) following a request for a medical assessment made by or on behalf of a claimant, if the insurer agrees that a medical assessment is warranted.

(3) An insurer who requires a claimant to undergo a medical assessment shall, in accordance with the regulations, apply to the Superintendent to select a medical assessor.

(4) On receipt of an application, the Superintendent shall, in accordance with the regulations, select a medical assessor to assess the claimant.

(5) A medical assessor shall schedule and conduct a medical assessment of a claimant in accordance with the regulations.

(6) A medical assessor shall, after conducting a medical assessment, prepare a report on a claimant's bodily injury in accordance with the regulations and provide a copy of the report to

(a) the insurer, and

(b) any other person set out in the regulations.

(7) An insurer must, on request by a claimant, provide a copy of a medical assessor's report to the claimant.

(8) On receipt of a medical assessor's report, the insurer shall use the report for a purpose specified in the regulations.

(9) Subject to the regulations, a medical assessment of a claimant must be at an insurer's expense.

(10) Subject to the regulations, an insurer may not require a claimant to undergo any form of assessment or examination related to the claimant's bodily injury other than as provided for in this section.

(35) Section 58 is amended

(a) in subsection (1)

(i) by striking out "a claimant" **and substituting** "an insured";

(ii) by striking out "the claimant's" **and substituting** "the insured's";

(b) in subsection (2)

(i) by striking out "the claimant's" **wherever it occurs and substituting** "the insured's";

(ii) by striking out "the claimant" **and substituting** "the insured";

(c) by repealing subsection (3) and substituting the following:

(3) The information referred to in subsection (2)

(a) must be provided to an insurer as soon as reasonably practicable after a request by the insurer, and

(b) may be used by the insurer for the purposes of this Part.

NOTE: (35) Section 58 presently reads:

58(1) Subject to the regulations, a health care practitioner who attends to, diagnoses, treats or is consulted by a claimant in respect of the claimant's bodily injury, or the hospital or other health care facility at which the health care practitioner is practising, must provide an insurer, on request, with the information referred to in subsection (2).

(2) For the purposes of subsection (1), the following information must be provided to an insurer:

(a) a report that includes the following information, to the extent that the information is known or available:

(i) the nature and extent of the claimant's injuries;

(ii) the claimant's diagnosis;

(iii) the claimant's condition at the time the claimant was attended to, diagnosed, treated or seen for a consultation, as the case may be;

(iv) the treatment provided or recommended;

(v) the claimant's prognosis;

(b) other information the insurer reasonably requests related to the claimant's bodily injury.

(3) The information referred to in subsection (2) must be provided to an insurer as soon as reasonably practicable after a request by the insurer.

(36) Section 59 is amended by striking out "paid" **and substituting** "payable".

NOTE: (36) Section 59 presently reads:

59 Subject to the regulations, an insurer may have an autopsy performed on a deceased in respect of whose death compensation may be paid under this Part.

(37) Section 64(1)(a) is amended by adding "on the prescribed day or" **before** "within the prescribed period".

NOTE: (37) Section 64(1)(a) presently reads:

64(1) Subject to the regulations, an insurer shall pay interest if

(a) the insurer fails to pay compensation to which an insured or other claimant is entitled within the prescribed period,

(38) Section 65 is amended

(a) by striking out "an insured" **wherever it occurs and substituting** "a claimant";

(b) by striking out "the insured" **wherever it occurs and substituting** "the claimant".

NOTE: (38) Section 65 presently reads in part:

65(1) Subject to subsections (2) and (3) and the regulations, an insurer shall not make a lump sum payment or enter into an alternative financial arrangement with an insured in lieu of paying compensation to an insured in accordance with the amounts, manner and frequency of payment required under this Act.

(2) Subsection (1) does not apply to the following:

(b) the payment or reimbursement of an expense in full as the expense is incurred by or on behalf of an insured;

(3) If an insurer and an insured agree, the insurer may, in accordance with the regulations, enter into a prescribed alternative financial arrangement with the insured in lieu of paying the insured an income replacement benefit or retirement income benefit in accordance with the amounts, manner and frequency of payment required under this Act.

(5) A financial arrangement does not release an insurer from the obligation to pay compensation under this Part that

(a) is not subject to the financial arrangement entered into between the insurer and the insured, and

(b) the insured remains entitled to receive.

(39) Section 68(1) is repealed and the following is substituted:

Payment to person under 18

68(1) Subject to the regulations, if compensation under this Part is payable to a person under 18 years of age, the payment must be made in accordance with the *Minors' Property Act*.

NOTE: (39) Section 68(1) presently reads:

68(1) Subject to the regulations, if compensation under this Part is payable to a minor, the payment must be made in accordance with the Minor's Property Act.

(40) Section 70(2) is amended by striking out "may not assign the benefit" **and substituting** "shall not assign the compensation".

NOTE: (40) Section 70(2) presently reads:

(2) Subject to the regulations, a person entitled to compensation under this Part, other than an income replacement benefit or a retirement income benefit, may not assign the benefit to another person, and any such assignment is void.

(41) Section 75(1) is amended by striking out "to which the claimant was not entitled, or in an amount in excess of that to which the claimant was entitled" **and substituting** "in respect of which the claimant was ineligible, or in an amount in excess of that in respect of which the claimant was eligible".

NOTE: (41) Section 75(1) presently reads:

75(1) Subject to subsection (2) and the regulations, when compensation has been paid by an insurer to or on behalf of a claimant to which the claimant was not entitled, or in an amount in excess of that to which the claimant was entitled, the amount of the overpayment may be recovered by the insurer as a debt due to the insurer.

(42) Section 76(1) is amended

(a) by striking out "sustained as a result of an accident";

(b) by adding the following after clause (a):

(a.1) a claimant other than an insured to whom compensation was paid if the claimant was found guilty of or issued a notice of administrative penalty or other penalty in the same manner and in respect of an offence or provision prescribed for the purposes of clause (a), as if the reference to "insured" in that clause were read as "claimant";

NOTE: (42) Section 76(1) presently reads in part:

76(1) Subject to subsection (3) and the regulations, where an insurer pays compensation under this Part to or on behalf of an insured or other claimant in respect of the insured's bodily injury or death sustained as a result of an accident, the insurer may recover the amount of compensation it paid from the following as a debt due to the insurer:

(43) Section 76.1 is amended

(a) by renumbering it as section 76.1(1);

(b) by adding the following after subsection (1):

(2) A claimant must, on request, provide any authorization reasonably necessary to permit an insurer to disclose to another insurer personal information about the claimant that is reasonably relevant to determining whether subsection (1) applies in respect of the accident.

NOTE: (43) Section 76.1 presently reads:

76.1 An insurer who, under section 5(2), must compensate a person within a class of persons specified in the regulations is entitled, subject to the terms, conditions, restrictions, requirements and exclusions as may be prescribed, to indemnification in relation to the compensation it paid from an insurer of an automobile within a class of automobiles specified in the regulations if an automobile within that specified class was involved in the accident from which the liability to pay the compensation arose.

(44) Section 78(1) is amended by striking out "sustained as a result of an accident".

NOTE: (44) Section 78(1) presently reads in part:

78(1) Subject to the regulations, if an insured or other claimant is entitled to compensation under the Workers' Compensation Act or a similar law of another jurisdiction in respect of the insured's bodily injury or death sustained as a result of an accident, the insured or other claimant

(45) Section 80 is amended

(a) in subsection (1) by striking out "as a result of an accident";

(b) in subsection (2) by adding "and only in circumstances where the accident did not involve the third party's use or operation of an automobile" **after** "may be commenced or maintained against only the following third parties";

(c) in subsection (4)(a) by striking out "as a result of the accident".

NOTE: (45) Section 80 presently reads in part:

80(1) Subject to this section and the regulations, a person who sustained bodily injury as a result of an accident has a right of action and may commence or maintain proceedings in respect of their bodily injury against the following:

(2) An action or proceeding under subsection (1)(b) may be commenced or maintained against only the following third parties:

(4) Notwithstanding the Contributory Negligence Act, if 2 or more persons caused an accident, each person against whom an action exists and a proceeding may be commenced or maintained under subsection (1) is

(a) liable for damages to the person who sustained bodily injury as a result of the accident only in proportion to the degree to which the person is respectively at fault, and

(46) Section 81(1) is amended by striking out "as a result of an accident".

NOTE: (46) Section 81(1) presently reads in part:

81(1) Subject to this section and the regulations, a person who sustained bodily injury or death as a result of an accident has a right of action and proceedings respecting their bodily injury or death may be commenced or maintained to recover damages for only the following pecuniary losses:

(47) The following is added after Part 3:

Part 3.1
Automobile Insurance Rate Board

Division 1
Automobile Insurance Rate Board

Definition

82.1 In this Part, "rating program" means

(a) the rules, criteria, policies, guidelines, algorithms and rating variables an insurer uses to determine premiums for basic coverage or additional coverage, and

(b) the underwriting rules that govern an insurer's decision to accept or decline a risk, coverage or endorsement.

Automobile Insurance Rate Board continuation and composition

82.2(1) The Automobile Insurance Rate Board is continued.

(2) The Board consists of

(a) at least 4 but not more than 8 members appointed by the Lieutenant Governor in Council, and

(b) the Superintendent.

(3) The Superintendent is a non-voting member of the Board.

(4) The Lieutenant Governor in Council may

(a) designate one member of the Board, other than the Superintendent, as chair and another as vice-chair, and

(b) fix the remuneration and provide for the payment of expenses to the members who are not employees of the Government.

(5) A member of the Board referred to in subsection (2)(a) may hold office for a term not exceeding 3 years.

(6) A member of the Board may be reappointed for additional terms not exceeding 3 years so long as the reappointment would not result in the member holding office for more than 12 consecutive years.

(7) A person who serves 12 consecutive years as a member of the Board is not eligible to be appointed again as a member of the Board until at least 3 years have elapsed from the date the person ceases to hold office.

(8) A break in service of less than 2 years must be disregarded in determining the number of consecutive years for the purposes of subsections (6) and (7).

(9) A person appointed as a member of the Board continues to hold office after the expiry of the member's term until the member is reappointed, the member's successor is appointed or 12 months from the expiration has elapsed, whichever occurs first.

(10) At least half of the members of the Board constitutes a quorum for the purpose of exercising its powers and performing its duties and functions.

Employees and other persons

82.3(1) In accordance with the *Public Service Act*, employees and other persons required by the Board may be appointed.

(2) The Board may from time to time appoint one or more persons having special technical or other knowledge to inquire into and report to the Board in respect of any matter before the Board or in respect of which the Board considers it necessary to have information for the proper performance of its duties and functions.

Powers and duties of Board

82.4(1) The Board may make rules governing

(a) the approval of rating programs and changes to rating programs, and

(b) the Board's procedures.

(2) The Board may issue guidelines on any matter related to

(a) a power conferred or duty imposed on it under this Act or the regulations, or

(b) a power or duty assigned to it by the Minister.

(3) The *Regulations Act* does not apply to rules made under subsection (1) or guidelines issued under subsection (2).

(4) An order, direction, approval or other instrument that the Board is permitted or required to make may be made on its behalf by the chair, the vice-chair or any other member of the Board.

(5) Subject to the regulations, the Board may charge and collect from licensed insurers of automobiles fees, levies or other assessments for the Board's capital costs and operations and for matters under its administration.

(6) In addition to the powers conferred and duties imposed on the Board under this Act or the regulations, the Board must exercise and perform any other powers and duties assigned to it by the Minister or prescribed by the regulations.

(7) Despite anything in this Part, the Minister may, if the Minister considers it appropriate to do so, exercise any of the powers and perform any of the duties or functions of the Board under this Act.

(8) If there is an inconsistency or conflict between an action taken by the Board and an action taken by the Minister under subsection (7), the action taken by the Minister prevails.

Evidence

82.5(1) Every member of the Board has the power of a commissioner under the *Public Inquiries Act*.

(2) An order, direction, approval or other instrument purporting to be signed by the chair, the vice-chair or a member of the Board on behalf of the Board is admissible in evidence in any proceedings as proof, in the absence of evidence to the contrary, that

(a) the order, direction, approval or instrument is the act of the Board, and

(b) the person signing it was authorized to do so.

(3) Subsection (2) applies without proof of the appointment of the individual signing as a member of the Board, or the individual's appointment as chair or vice-chair, as the case may be, or of the individual's signature.

Publication

82.6 The Board must make the following information available to the public, including by making it available on the Board's website:

(a) rules made under section 82.4(1);

(b) guidelines issued under section 82.4(2);

(c) written interpretations established under section 82.8(5);

(d) written procedures established under section 82.9.

Annual report

82.7 The Board must make and submit to the Minister an annual report on the operations of the Board.

Division 2
Premiums for Basic Coverage and Additional Coverage

Premiums

82.8(1) An insurer must not charge or collect from an insured or applicant for a contract an amount for basic coverage or additional coverage unless the amount

(a) is based on a premium calculated under the insurer's rating program filed with and approved by the Board or an amount determined by the Lieutenant Governor in Council under subsection (4), and

(b) is equal to or less than the maximum premium determined under the regulations.

(2) The Board may, subject to the regulations, approve rating programs for basic coverage and additional coverage.

(3) A rating program filed with the Board is deemed to be approved by the Board in the circumstances, if any, set out in the rules the Board made under section 82.4(1)(a).

(4) Notwithstanding subsection (2), the Lieutenant Governor in Council may determine the amount for basic coverage or additional coverage for any period the Lieutenant Governor in Council considers appropriate.

(5) The Board may establish written interpretations of words and expressions used in provisions of the regulations made in respect of this section and, where the Board does so, those provisions of the regulations are to be construed in accordance with those interpretations.

(6) The *Regulations Act* does not apply to written interpretations established under subsection (5).

(7) Nothing in this section precludes an insurer from charging a premium that is less than the premium for basic coverage determined in accordance with the rating program approved by the Board or determined by the Lieutenant Governor in Council under subsection (4), as the case may be.

Procedures

82.9(1) The Board may establish written procedures to be followed by insurers in determining the amount payable for basic coverage or additional coverage by an insured or applicant for a contract based on

(a) the relevant amount of the premium for basic coverage or additional coverage determined under section 82.8, and

(b) the amount of any discount or surcharge on that premium.

(2) The *Regulations Act* does not apply to written procedures established under subsection (1).

NOTE: (47) Part 3.1 Automobile Insurance Rate Board.

(48) Section 85 is amended

(a) by repealing subsection (2)(k) and substituting the following:

(k) require an insured to undergo a medical assessment under Part 2,

(k.1) apply to the Superintendent to have a medical assessor assigned under section 57 in the same manner as if the Tribunal were an insurer,

(b) in subsection (4) by adding "but may require an insurer to reimburse a claimant for the amount of the filing fee if the claimant's appeal is successful in whole or in part" **after** "an appeal";

(c) by adding the following after subsection (4):

(4.1) Subject to the regulations, the Tribunal may charge and collect from licensed insurers of automobiles fees, levies or other assessments for the Tribunal's capital costs and operations and for matters under its administration.

(d) by adding the following after subsection (5):

(6) The *Regulations Act* does not apply to rules made under subsection (2)(a).

NOTE: (48) Section 85 presently reads in part:

(2) The Tribunal may

(k) order a claimant to undergo further medical assessments,

(4) The Tribunal shall not award costs in respect of an appeal.

(49) The following is added after section 85:

Medical assessor's report

85.1(1) If the Tribunal requires a claimant to undergo a medical assessment under Part 2, a copy of the medical assessor's report must be provided to the Tribunal, the insurer and the claimant.

(2) An insurer must only use a medical assessor's report for a purpose specified in the regulations.

NOTE: (49) Medical assessor's report.

(50) Section 86(6)(a) is amended by adding "under Part 2" **after** "claim for compensation".

NOTE: (50) Section 86(6)(a) presently reads:

(6) For greater certainty, a claimant may appeal

(a) more than one decision made by an insurer in respect of a claim for compensation, and

(51) Section 90(3) is amended by striking out "or health information".

NOTE: (51) Section 90(3) presently reads:

(3) The Tribunal may redact the information made public in accordance with the regulations to protect an individual's personal information or health information.

(52) The following is added before the heading preceding section 91:

Annual report

90.1 The Tribunal must make and submit to the Minister an annual report on the operations of the Tribunal.

NOTE: (52) Annual report.

(53) The following is added after Part 4:

Part 4.1
Insurance Act and General Matters for Insurers

Insurance Act applies

90.2(1) An insurer providing automobile insurance under this Act must comply with the applicable requirements of the *Insurance Act*.

(2) Sections 515, 530, 547, 755, 756, 764, 765, 767, 768, 797, 798, 800 to 802, 804, 805, 812, 813, 814, 816 and 816.1 of the

Insurance Act apply to the persons and for the matters set out in the applicable section for the purposes of this Act.

(3) Subject to the regulations, in the application to this Act of a provision set out in subsection (2),

(a) a reference in the *Insurance Act* to "this Act" is to be read as a reference to the *Automobile Insurance Act*,

(b) a reference in the *Insurance Act* to the regulations is to be read as a reference to the regulations under the *Automobile Insurance Act*, and

(c) the provision is to be read with all necessary modifications.

Application of Government-approved industry plan

90.21(1) An insurer licensed under the *Insurance Act* to carry on automobile insurance must participate in and is subject to the terms and conditions of any Government-approved industry plan to ensure a market for automobile insurance for all owners of automobiles in Alberta and for operators of automobiles in Alberta who hold operator's licences issued under the *Traffic Safety Act* or under any similar legislation of another province or territory.

(2) A copy of the constitution, bylaws, rules and regulations of a proposed Government-approved industry plan must be filed with the Board for approval.

(3) On the Board's acceptance and approval of the filing under subsection (2), the plan is deemed to be a Government-approved industry plan to ensure a market for automobile insurance for all owners of automobiles in Alberta and for operators of automobiles in Alberta who hold operator's licences issued under the *Traffic Safety Act* or under any similar legislation of another province or territory.

(4) A copy of a proposed change to be made to the constitution, bylaws, rules or regulations of a Government-approved industry plan or a notice of termination of a plan must be filed with the Board at least 15 days before the change or termination is proposed to take effect, and that change or termination must not take place unless approved by the Board.

(5) When an insurance agent receives an application and effects coverage under a Government-approved industry plan by binding a

risk, the agent is bound by the applicable terms and conditions of the plan in existence at that time for the duration of the coverage so effected.

Withdrawal from business

90.22(1) For the purposes of this section, an insurer is withdrawing from the business of automobile insurance if the insurer does anything that results in or is likely to result in a significant reduction in the amount of premiums written by the insurer for automobile insurance in any part of Alberta, including any of the following actions that have or are likely to have that result:

(a) refusing to process applications for automobile insurance;

(b) refusing to issue a contract;

(c) refusing to renew a contract;

(d) terminating a contract;

(e) cancelling a contract;

(f) refusing to provide any coverage or endorsement in respect of a contract;

(g) refusing to continue any coverage or endorsement in respect of a contract;

(h) taking actions that directly or indirectly result in the termination of contracts between the insurer and the insurance agents and insurance brokers who solicit or negotiate contracts on behalf of the insurer;

(i) reducing the ability of insurance agents or insurance brokers to solicit or negotiate contracts on behalf of the insurer;

(j) reducing the insurer's ability to act as a servicing carrier or ceasing to act as a servicing carrier under a Government-approved industry plan referred to in section 90.21;

(k) engaging in, or failing to engage in, any activity prescribed in the regulations.

(2) An insurer must not withdraw from the business of automobile insurance except in accordance with this section.

(3) An insurer that intends to withdraw from the business of automobile insurance must file with the Superintendent a notice in the form approved by the Superintendent.

(4) The notice must specify the date that the insurer intends to withdraw from the business of automobile insurance and must be filed at least 180 days before that date.

(5) The Superintendent may require the insurer to provide the information, material and evidence that the Superintendent considers necessary in addition to the information, material and evidence required to be provided in the notice.

(6) Except as otherwise directed by the Superintendent, an insurer who files a notice under subsection (3) must not, after the date of withdrawal specified in the notice or any other date of withdrawal provided for in subsection (7), issue any contracts or renew any existing contracts.

(7) The Superintendent may determine whether to

(a) authorize the insurer to withdraw from the business of automobile insurance before the date specified in the notice under subsection (4), or

(b) prohibit the insurer from withdrawing from the business of automobile insurance until a date specified by the Superintendent that is not later than 90 days after the date specified in the notice under subsection (4).

(8) In making a decision under subsection (7), the Superintendent must consider any ongoing obligations under this Act that an insurer has to an insured or other claimant arising from an accident to enable those obligations to be fulfilled.

(9) Except as otherwise directed by the Superintendent, an insurer that withdraws from the business of automobile insurance in accordance with this section must not, for a period prescribed in the regulations, issue contracts or otherwise carry on the business of automobile insurance.

Part 4.2
Enforcement, Offences and Administrative Penalties

Offences

90.3(1) A person who contravenes any of the following provisions is guilty of an offence:

(a) in Part 1.1, sections 2.13(1) and (8), 2.17(3), 2.5(5), 2.8(2), (3), (4) and (5) and 2.83(4);

(b) in Part 2, sections 5(1), 10.1(5), 13.1(5), 55, 57(10) and (12), 71(1) and (2) and 73(2) and (4);

(c) in Part 3.1, section 82.8(1);

(d) in Part 4, section 85.1(2);

(e) in this Part, section 90.7;

(f) in Part 5, sections 93.1(5), 94(7), 96(3), 96.1(5), 96.2 and 97.

(2) A person who contravenes a written procedure established by the Board under section 82.9 is guilty of an offence.

(3) A person who fails to comply with a requirement of section 90.22 is guilty of an offence.

(4) A person who contravenes a written undertaking given under this Act is guilty of an offence.

(5) A person who contravenes a provision of the *Insurance Act* made applicable in section 90.2(2) for the purposes of this Act where the contravention of that provision is an offence under the *Insurance Act* is guilty of an offence.

(6) A person who contravenes an order made under section 764 of the *Insurance Act* as made applicable for the purposes of this Act is guilty of an offence.

Liability of directors and officers

90.4 If a body corporate commits an offence under this Act, then, whether or not the body corporate has been prosecuted or convicted in respect of the offence, a director or officer of the body corporate

who knowingly authorizes, permits or acquiesces in the commission of the offence is guilty of the offence.

General penalty

90.5(1) A person convicted of an offence is liable to a fine of not more than $200 000.

(2) If an act or omission is an offence under this Act or the regulations and the act or omission is of a continuing nature, each day or part of a day that it continues constitutes a separate offence.

Limitation on prosecution

90.6 A prosecution in respect of an offence under this Act must not be commenced after 3 years from the date that the facts that constitute the alleged offence become known to the Minister.

Order to comply and make restitution

90.7 A justice who convicts a defendant of an offence under this Act or the regulations may, in addition to any other penalty the justice may impose, order the defendant

(a) to comply with, within a specified time, the provision of this Act or the regulations on which the conviction is based, and

(b) on the application of an aggrieved person, to make restitution to a maximum of $100 000 for loss of or damage to property suffered by the applicant as a result of the commission of the offence.

Administrative penalties

90.8(1) Subject to the regulations, if the Minister is of the opinion that a person has contravened a prescribed provision of this Act or the regulations or has contravened a written procedure the Board established under section 82.9, the Minister may, by notice in writing given to that person, require that person to pay to the Government an administrative penalty by a date specified in the notice in the amount set out in the notice for each day or part of a day the contravention occurs or continues.

(2) A person who pays an administrative penalty by the date specified in the notice in respect of a contravention must not be charged under this Act with an offence in respect of that contravention.

(3) A notice of an administrative penalty must not be issued after 2 years from the later of

(a) the date on which the contravention to which the notice relates occurred, and

(b) the date on which evidence of the contravention first came to the attention of the Minister.

NOTE: (53) Part 4.1 Insurance Act and General Matters for Insurers; Part 4.2 Enforcement, Offences and Administrative Penalties.

(54) Section 92.1 is amended

(a) by renumbering it as section 92.1(1);

(b) by adding the following after subsection (1):

(2) An application to the Court made under this Act or the regulations must be made in accordance with the *Alberta Rules of Court*.

NOTE: (54) Section 92.1 presently reads:

92.1 The Superintendent may apply to seek the advice and direction of the Court respecting the application of this Act, the interpretation of this Act or the rights or obligations of a person to whom this Act applies.

(55) Section 94(1)(f) and (7) are amended by adding "under Part 2" **after** "is entitled".

NOTE: (55) Section 94(1)(f) and (7) presently read:

94(1) The Minister may by order establish the following:

(f) amounts to be used by an insurer, as directed by the regulations, in calculating and determining the amount of compensation to which an insured or other claimant is entitled.

(7) An insurer shall follow an order made under subsection (1), or a guideline, table, formula or rule under subsection (3), when calculating and determining the amount of compensation to which an insured or other claimant is entitled.

(56) Section 96.1 is repealed and the following is substituted:

Electronic insurance claims information system

96.1(1) Subject to the regulations, the Minister may establish an electronic insurance claims information system for the exchange of information among health care practitioners and insurers related to a claimant's claim for compensation under Part 2.

(2) Subject to subsections (3) and (6), if the Minister establishes an electronic insurance claims information system and declares the system to be operational, an insurer or health care practitioner must use the system to exchange information related to a claim for compensation under Part 2.

(3) The Minister may make rules respecting the use of the electronic insurance claims information system, including rules respecting when information may be exchanged outside of the system.

(4) The Minister may establish technical, security, data quality, educational and operational requirements relating to a health care practitioner's or insurer's use of the electronic insurance claims information system.

(5) The Minister may audit, monitor and verify a health care practitioner's or insurer's use of the electronic insurance claims information system, and a health care practitioner or insurer, as the case may be, must not obstruct the Minister in carrying out such actions.

(6) The Minister may suspend, restrict, terminate or impose conditions on a health care practitioner's or insurer's use of the electronic insurance claims information system for non-compliance with the Act or the regulations.

(7) If the Minister terminates a health care practitioner's or insurer's use of the electronic insurance claims information

system under subsection (6), the Minister must reinstate the health care practitioner's or insurer's use of the system once the health care practitioner or insurer has remedied the non-compliance to the Minister's satisfaction.

(8) When making a reinstatement under subsection (7), the Minister may impose conditions on a health care practitioner's or insurer's use of the electronic insurance claims information system that the Minister believes are necessary to ensure compliance with the Act or the regulations.

(9) The Minister may require a health care practitioner or insurer to correct or resubmit any inaccurate, incomplete, or non-compliant information submitted into the electronic insurance claims information system.

(10) The Minister may collect, use, and disclose information, including personal information, contained within the electronic insurance claims information system for the purposes of market conduct oversight and enforcement, program administration, analysis, policy-making, reporting, compliance monitoring, evaluation, fraud prevention or for the purposes of a register of health care practitioners under section 96.3.

NOTE: (56) Section 96.1 presently reads:

96.1(1) The Minister may establish an electronic insurance claims information system to be used for the purposes set out in the regulations.

(2) A person specified in the regulations shall use the electronic insurance claims information system in the administration of a claim in accordance with the regulations.

(57) The following is added after section 96.1:

Use of electronic insurance claims information system

96.2(1) A health care practitioner or insurer who is required to use the electronic insurance claims information system must submit complete, accurate and timely information into the system in accordance with the form, manner and timelines established by the Minister.

(2) A health care practitioner or an insurer who is required to use the electronic insurance claims information system may, where reasonably necessary for the administration of the claim or the performance of an activity, duty or function under this Act or the regulations, submit, disclose, collect, access, retrieve and use personal information through the electronic insurance claims information system.

Register of health care practitioners

96.3(1) Subject to the regulations, the Minister may establish a register of health care practitioners for the purposes of Part 2.

(2) A health care practitioner may, in accordance with the regulations, if any, and any procedures, including educational requirements, established by the Minister, apply to be included on the register.

> **NOTE:** (57) Use of electronic insurance claims information system; register of health care practitioners.

(58) The following is added after section 97:

Collection, use and disclosure of information — insurers and health care practitioners

97.1(1) In this section, "claim administration" includes all acts, processes and procedures relating to a claim for compensation under Part 2, including

(a) opening, receiving, processing, reviewing, arranging, approving, coordinating, managing and closing a claim,

(b) determining eligibility or entitlement to compensation,

(c) determining priority of payment,

(d) determining fault or degree of fault,

(e) determining loss transfer,

(f) determining the nature, amount or duration of compensation,

(g) arranging for or paying compensation or services,

(h) reviewing, verifying or auditing a claim or payment,

(i) determining recovery or reimbursement between insurers, and

(j) any other prescribed claims-related activity.

(2) An insurer may disclose personal information about a claimant to another insurer if the information is reasonably relevant to

(a) determining whether the receiving insurer is liable to provide compensation to or in respect of the claimant under section 5,

(b) determining fault or the degree of fault for an accident in which the claimant was involved,

(c) the receiving insurer's claim administration in respect of that claimant, or

(d) determining whether section 76.1(1) applies in respect of an accident.

(3) An insurer or health care practitioner may disclose personal information about a claimant to a prescribed person or class of persons without the consent of the claimant if the information is reasonably required for the purpose of detecting, investigating, suppressing or preventing fraud or attempted fraud relating to a claim or compensation under this Act.

(4) An insurer may disclose personal information about a claimant to a health care practitioner where the information is reasonably necessary for the provision, coordination, authorization, administration or evaluation of health care services or other compensation to which the claimant is or may be entitled under this Act.

(5) Subject to the regulations, a person authorized under this Act to collect, use or disclose information, including personal information, may cause the information to be collected, used or disclosed by an agent or service provider acting on that person's behalf.

(6) An insurer, health care practitioner or other person to whom information, including personal information, may be disclosed under this section may collect and use the information for a purpose set out in this section.

Collection, use and disclosure of information — Minister and prescribed public bodies

97.2(1) In this section, "platform participant" means an insurer, health care practitioner including a custodian, prescribed public body, claims administrator, service provider or other prescribed person or class of persons authorized to access, submit or exchange information through the electronic insurance claims information system.

(2) The Minister may collect, directly or indirectly, from a claimant, platform participant or prescribed person, including through the electronic insurance claims information system, personal information and other information that the Minister considers reasonably necessary for the administration, monitoring or evaluation of this Act and the performance, effectiveness, sustainability and integrity of the electronic insurance claims information system, research, statistical or actuarial analysis, policy development or evaluation, and the detection, investigation, suppression or prevention of fraud or other improper activity relating to claims or compensation under this Act.

(3) The Minister or a public body designated by the Minister may, in accordance with the *Protection of Privacy Act*, create, use and disclose non-personal data derived from information collected under this Act for the purposes of planning, administering, delivering, managing, monitoring or evaluating the activities and functions required under this Act, including for research, statistical and actuarial analysis, policy development and evaluation, and fraud and system-integrity purposes.

(4) A prescribed public body may disclose personal information about a claimant to a prescribed person or class of persons without the consent of the claimant if the information is reasonably required for the purpose of detecting, investigating, suppressing or preventing fraud or attempted fraud relating to a claim or compensation under this Act.

NOTE: (58) Collection, use and disclosure of information — insurers and health care practitioners; collection, use and disclosure of information — Minister and prescribed public bodies.

(59) Section 99 is amended

(a) by striking out "bodily injury sustained" **and substituting** "bodily injury or death sustained";

(b) by striking out "who are involved in accidents in Alberta" **and substituting** "who sustain bodily injury or death in Alberta".

NOTE: (59) Section 99 presently reads:

99 The Minister may enter into agreements with any government or agency of government respecting the compensation payable for bodily injury sustained by residents of Alberta who are involved in accidents outside Alberta but within Canada or the United States of America and by persons who are not residents of Alberta and who are involved in accidents in Alberta.

(60) Section 100 is amended by adding the following after subsection (3):

(4) No action lies and no proceeding may be brought against the Crown with respect to the assignment of a health care practitioner, the referral of an application to a medical assessment service provider or the conduct of a medical assessment under section 57.

NOTE: (60) Adds Crown immunity with respect to medical assessment.

(61) Section 101(1) is amended

(a) by repealing clauses (b.1) to (c);

(b) by adding the following before clause (d):

(c.1) excluding vehicles from the application of the Act for the purposes of section 2.01;

(c.2) respecting adverse contractual actions for the purposes of section 2.17, including regulations

(i) prescribing any action not referred to in section 2.17(1)(a) to (h) as an adverse contractual action,

(ii) permitting adverse contractual action to be taken for reasons other than those referred to in section 2.17(3)(a) to (f) and prescribing those reasons not referred to in section 2.17(3)(a) to (f) for which adverse contractual action may be taken,

(iii) respecting the taking of adverse contractual action, and

(iv) respecting the issuing or renewing of contracts;

(c.3) respecting exceptions to the application of section 2.23(2);

(c.4) respecting proportioning liability of an insurer for the purposes of section 2.57, including regulations

(i) respecting the priority of payment of insurance held by a lessor as defined in section 187 of the *Traffic Safety Act* or by a rental car company in respect of liability arising from or occurring in connection with the ownership, use or operation of an automobile owned by the lessor or rental car company, and

(ii) modifying any provision of this Act to the extent that the Lieutenant Governor in Council considers necessary in order to carry out the purpose and intent of that section;

(c.5) requiring, for the purposes of section 2.61, a lawyer retained by a plaintiff in an action arising out of an accident to give notice of that fact to the defendant's insurer, including regulations respecting the time at

which and the manner in which that notice must be given;

(c.6) respecting payments as release of claim for the purposes of section 2.62, including regulations

(i) authorizing the Court to make an order requiring an insurer to make a payment to a claimant in advance of any judgment, and

(ii) respecting the circumstances under which an order referred to in subclause (i) may be made;

(c.7) respecting the disclosure of liability limits under a contract for the purposes of section 2.64, including, without limitation, regulations respecting

(i) the circumstances under which the disclosure must be made,

(ii) to whom and by whom the disclosure must be made, and

(iii) the form and manner in which and the time at which the disclosure must be made;

(c.8) respecting direct compensation for property damage for the purposes of section 2.67, including regulations

(i) prescribing automobiles for the purposes of section 2.67(5),

(ii) prescribing rules for determining the degree of fault in various situations for loss or damage arising directly or indirectly from the use or operation of an automobile,

(iii) respecting indemnification and subrogation, and

(iv) prescribing the amount, or the minimum or maximum amount, of a reduction required by a provision described in section 2.67(11)(b);

(c.9) respecting financial responsibility cards, including regulations

(i) respecting any matter with respect to the issuance of and the cancellation of financial responsibility cards,

(ii) respecting the provision of copies of financial responsibility cards to an insured for the purposes of section 2.8 and to a prescribed corporation for the purposes of section 2.83,

(iii) respecting the information that a licensed insurer must provide to an insured when the contract is being cancelled or the insured is given a notice of renewal,

(iv) respecting the power of attorney and undertaking that unlicensed insurers are to provide for the purposes of section 2.82, and

(v) prescribing corporations for the purposes of section 2.83;

(c) by adding the following after clause (f.1):

(f.2) prescribing catastrophic injuries for the purposes of section 3.1(b);

(f.3) prescribing permanent impairments for the purpose of section 3.1(j);

(d) by adding the following after clause (g):

(g.1) prescribing actions for the purposes of section 4(2)(g);

(e) in clause (h)

(i) by striking out "and" **at the end of subclause (i);**

(ii) in subclause (ii) by adding "regarding which insurer is responsible to pay compensation in respect of a claim" **after** "insurers";

(iii) by adding "and" **at the end of subclause (ii) and by adding the following after subclause (ii):**

(iii) the rights and obligations of an insurer and a claimant in the event that an insurer's responsibility to pay compensation is disputed;

(f) by adding the following after clause (h):

(h.1) respecting the determination of fault or degree of fault for an accident;

(g) in clause (i) by adding "and the persons who may be entitled to excess compensation" **after** "motor vehicle liability policy";

(h) in clause (dd)

(i) in subclause (v) by striking out "section 47(c) to (f)" **and substituting** "section 47(1)(c) to (f) and (2)(c)";

(ii) in subclause (vi) by striking out "section 47(h)" **and substituting** "section 47(1)(h) and (2)(e)";

(iii) in subclause (vii) by striking out "section 47(i)" **and substituting** "section 47(1)(i) and (2)(f)";

(iv) in subclause (viii) by striking out "section 47(j)" **and substituting** "section 47(1)(j) and (2)(g)";

(i) in clause (hh) in the portion preceding subclause (i) by adding "under Part 2" **after** "claim for compensation";

(j) by repealing clause (jj) and substituting the following:

(jj) respecting medical assessments, including regulations respecting

(i) when and how often medical assessments may be required,

(ii) the application for and assignment of medical assessors,

(iii) the eligibility requirements for medical assessors,

(iv) the scheduling and conduct of medical assessments,

(v) the preparation and content of reports following a medical assessment,

(vi) the persons who may receive a copy of reports,

(vii) the use and purpose of medical assessments and reports,

(viii) the payment of the cost of medical assessments and reports, and

(ix) exclusions from the requirements of section 57;

(k) in clause (ll) by adding "under Part 2" **after** "by an insurer";

(l) in clause (qq) by striking out "minors" **and substituting** "persons under 18 years of age";

(m) in clause (yy)(ii) by striking out "76(1)(a)(i) and (ii)" **and substituting** "76(1)(a) and (a.1)";

(n) in clause (aaa) by striking out "under the Act" **and substituting** "under Part 2";

(o) by adding the following after clause (ccc):

(ccc.1) respecting the Automobile Insurance Rate Board, including regulations

(i) conferring additional powers and imposing additional duties on the Board;

(ii) respecting fees, levies or other assessments the Board may charge and collect under section 82.4(5), including respecting the amount of the fees, levies and other assessments and the manner in which and the times at which they must be paid,

(iii) respecting the approval or deemed approval by the Board of rating programs for basic coverage and additional coverage,

(iv) respecting the maximum premium or the method of determining the maximum premium that may be charged for basic coverage,

(v) requiring insurers to provide rating programs, reports and information to the Board, including regulations respecting the nature and contents of rating

programs, reports or information to be provided, the form in which the rating programs, reports or information is to be provided and the times at which the rating programs, reports or information is to be provided,

(vi) respecting the use and confidentiality of the rating programs, reports and information referred to in subclause (v),

(vii) requiring an insurer to give notice to the Registrar of Motor Vehicle Services whenever a contract is terminated, cancelled or not renewed, including regulations respecting the form and manner in which the notice must be given,

(viii) respecting administrative expense targets and profitability targets for insurers,

(ix) respecting the treatment of premiums collected in excess of profitability targets, and

(x) governing or otherwise respecting any matter related to premiums, charges, surcharges, discounts or other incentives related to automobile insurance;

(p) by adding the following after clause (ggg):

(ggg.1) respecting fees, levies or other assessments the Tribunal may charge and collect under section 85(4.1), including regulations respecting the amount of the fees, levies and other assessments and the manner in which and the times at which they must be paid;

(q) by adding the following after clause (hhh):

(hhh.01) respecting the application, with or without modifications, to this Act of the *Insurance Act* provisions set out in section 90.2, including any regulations made in respect of those provisions;

(hhh.02) respecting a Government-approved industry plan for the purposes of section 90.21, including regulations

(i) governing the operation of a Government-approved industry plan, and

(ii) determining the amounts to be paid by each insurer for the operation of a Government-approved industry plan;

(hhh.03) respecting the withdrawal from business for the purposes of section 90.22, including regulations

(i) prescribing any activity or failure to act for the purposes of section 90.22(1)(k), and

(ii) prescribing periods for the purposes of section 90.22(9);

(hhh.04) providing that the contravention of any provision of the regulations under this Act, including provisions of the regulations under the *Insurance Act* that are made applicable for the purposes of this Act, constitutes an offence;

(hhh.05) respecting administrative penalties, including regulations

(i) prescribing the form and contents of notices of administrative penalties for the purpose of section 90.8,

(ii) prescribing contraventions of provisions of this Act or the regulations in respect of which an administrative penalty may be imposed, and

(iii) prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, not to exceed $25 000 for each contravention;

(r) by repealing clause (hhh.3) and substituting the following:

(hhh.3) respecting the establishment and use of an electronic insurance claims information system;

(s) by adding the following after clause (hhh.3):

(hhh.4) respecting a register of health care practitioners for the purposes of section 96.3, including regulations respecting the establishment, inclusion and use of the register;

(t) by repealing clause (jjj) and substituting the following:

(jjj) respecting the collection, use and disclosure of information including personal information, including regulations

(i) prescribing claims-related activity for the purposes of section 97.1(1)(j),

(ii) prescribing persons and classes of persons for the purposes of section 97.1(3),

(iii) respecting the collection, use or disclosure of information by agents and service providers for the purposes of section 97.1(5), and

(iv) prescribing public bodies, persons and classes of persons for the purposes of section 97.2;

(u) in clause (kkk) by adding "dates," **before** "times".

NOTE: (61) Section 101(1) presently reads in part:

101(1) The Lieutenant Governor in Council may make regulations

(b.1) prescribing catastrophic injuries for the purposes of section 1(f);

(b.2) prescribing permanent impairments for the purpose of section 1(t);

(c) prescribing persons who are dependants for the purposes of section 1(k);

(h) respecting a person's entitlement to compensation under section 5, including regulations respecting

(i) the determination of which insurer shall provide compensation, and

(ii) the resolution of disagreements between insurers;

(i) respecting excess compensation that may be offered by an insurer under a motor vehicle liability policy;

(dd) respecting the reduction, suspension, termination or denial of compensation for the purpose of section 47, including regulations

(v) prescribing offences, Acts and provisions for the purposes of section 47(c) to (f),

(vi) prescribing acts or omissions for the purpose of section 47(h),

(vii) prescribing requirements for the purpose of section 47(i), and

(viii) prescribing circumstances for the purpose of section 47(j);

(hh) respecting the process for making a claim for compensation, including regulations

(jj) respecting medical assessments, including regulations respecting

(i) the use and purpose of a medical assessment,

(ii) limitations on when a medical assessment may be required,

(iii) the application for and selection of a medical assessor,

(iv) the eligibility requirements for a health care practitioner to act as a medical assessor,

(v) the scheduling and conduct of a medical assessment,

(vi) the preparation and content of a report made following a medical assessment,

(vii) the persons who may receive a copy of a medical assessor's report,

(viii) the use of a medical assessor's report,

(ix) the payment of the cost of a medical assessment or report, and

(x) the assessments or examinations excluded from the application of section 57(10);

(ll) respecting the payment of compensation by an insurer;

(qq) respecting payments to minors;

(yy) respecting an insurer's ability to recover, under section 76, compensation paid to an insured or other claimant, including regulations

(ii) prescribing offences, Acts and provisions for the purposes of section 76(1)(a)(i) and (ii),

(aaa) respecting the payment of compensation under the Act when the Workers' Compensation Act applies;

(hhh.3) respecting the establishment of an electronic insurance claims information system under section 96.1, including regulations respecting

(i) the purposes of the system,

(ii) the persons who are required to use the system, and

(iii) when and how a person is required to use the system;

(jjj) respecting the collection, use and disclosure of information including personal information and health information;

(kkk) prescribing the times or periods that may be or are to be prescribed for the purposes of the Act;

(62) The following is added after section 103:

Transitional regulations

103.1(1) The Lieutenant Governor in Council may make regulations

(a) respecting the transition to this Act of anything under Part 5, Subpart 2 and Part 7 of the *Insurance Act* as they read immediately before the coming into force of section 2 of this Act, including the interpretation of any transitional provision in this Act;

(b) to remedy any confusion, difficulty, inconsistency or impossibility resulting from the transition to this Act.

(2) A regulation made under subsection (1) may be made retroactive to the extent set out in the regulation.

(3) A regulation made under subsection (1) is repealed on the earlier of

(a) 2 years after the regulation comes into force, or

(b) on the date of the coming into force of a regulation that repeals the regulation made under subsection (1).

(4) A regulation shall not be made under subsection (1) after the expiration of 2 years from the date this section comes into force.

(5) The repeal of a regulation under subsection (3) does not affect anything done under the authority of the regulation before the repeal of the regulation.

NOTE: (62) Transitional regulations.

(63) The following provisions are amended by striking out "as a result of an accident" **and substituting** "because of their bodily injury":

section 18(2);
section 22;
section 27.

NOTE: (63) Updates terminology.

Captive Insurance Companies Act

Amends SA 2021 cC-2.4

4(1) The *Captive Insurance Companies Act* is amended by this section.

NOTE: 4(1) Amends chapter C-2.4 of the Statutes of Alberta, 2021.

(2) Section 1(1) is amended

(a) by repealing clause (a);

(b) in clause (b)

(i) by adding "who are exposed to related or similar risks because of related, similar or common business, trade, occupation, goods, services, premises or operations" **after** "persons";

(ii) in subclauses (i) and (ii) by striking out "own" **and substituting** "own, hold or control";

(c) by adding the following after clause (e):

(e.1) "contracted unaffiliated person" means a person

(i) that is not an affiliated entity of

(A) a pure captive insurance company or its parent,

(B) an association captive insurance company, its association or the member organizations of its association, or

(C) a sophisticated insured captive insurance company or the sophisticated insureds that constitute its sophisticated insured group,

and

(ii) that has an existing contractual relationship with

(A) the pure captive insurance company, its parent or its parent's affiliated entities,

(B) the association captive insurance company, its association, a member organization of its association or the affiliated entities of any of them, or

(C) the sophisticated insured captive insurance company, a sophisticated insured in its sophisticated insured group or a sophisticated insured's affiliated entities;

(d) in clause (l)

(i) in subclause (i) by striking out "owns all" **and substituting** "directly or indirectly owns, holds or controls more than 50% of";

(ii) in subclause (ii)(A) and (B)

(A) by striking out "owns" **and substituting** "directly or indirectly owns, holds or controls";

(B) by striking out "own all the" **and substituting** "directly or indirectly own, hold or control more than 50% of the";

(e) by repealing clause (o)(ii) and substituting the following:

(ii) either

(A) whose aggregate annual premiums for insurance on all risks insured by an insurer total at least the prescribed amount, or

(B) who owns, holds or controls an entity or a group of affiliated entities, or is an entity in a group of affiliated entities, whose aggregate annual premiums for insurance on all risks insured by an insurer total at least the prescribed amount;

(f) in clause (q)(i) and (ii)

(i) **by striking out** "owns" **and substituting** "owns, holds or controls";

(ii) **by striking out** "own all the" **and substituting** "own, hold or control all the".

NOTE: (2) Section 1(1) presently reads in part:

1(1) In this Act,

(a) "affiliated entity" means "affiliate" as defined in the Insurance Act;

(b) "association" means an association of persons, the member organizations of which, or which does itself, whether or not in conjunction with some or all of its member organizations,

(i) own all the issued voting shares of an association captive insurance company formed as a body corporate, or

(ii) own all the partnership interests of an association captive insurance company formed as a limited partnership;

(l) "parent" means

(i) a person that owns all

(ii) a group of affiliated entities,

(A) each of which owns issued voting shares of a pure captive insurance company formed as a body corporate and all of which collectively own all the issued voting shares of the pure captive insurance company, or

(B) each of which owns partnership interests of a pure captive insurance company formed as a limited partnership and all of which collectively own all the partnership interests of the pure captive insurance company;

(o) "sophisticated insured" means an insured

(ii) whose aggregate annual premiums for insurance on all risks insured by an insurer total at least the prescribed amount;

(q) "sophisticated insured group" means a group of sophisticated insureds,

(i) each member of which owns issued voting shares of a sophisticated insured captive insurance company formed as a body corporate, and the members of which collectively own all the issued voting shares of the sophisticated insured captive insurance company, or

(ii) each member of which owns partnership interests of a sophisticated insured captive insurance company formed as a limited partnership, and the members of which collectively own all the partnership interests of the sophisticated insured captive insurance company;

(3) Section 9(2)(c) is amended by striking out "comprise" **and substituting** "constitute".

NOTE: (3) Section 9(2)(c) presently reads:

(2) Every captive insurance company must ensure that its records referred to in subsection (1) are accessible and open to examination by

(c) the sophisticated insureds that comprise its sophisticated insured group, their affiliated entities and their agents, in respect of a sophisticated captive insurance company, and

during the captive insurance company's normal business hours.

(4) Section 13(c) is amended by striking out "actual".

NOTE: (4) Section 13(c) presently reads:

13 A captive insurance company shall not take any of the following actions without first notifying and obtaining the prior approval of the Minister:

(c) wilfully take any action that would facilitate a change in the actual control of the company;

(5) Section 17 is amended

(a) by striking out "the first licence to" **and substituting** "a licence to or renewing a licence of";

(b) by repealing clause (b) and substituting the following:

(b) the plan for the conduct and development of the business of the company is sound and adequately supports the safe and prudent operation of the company having regard to

(i) whether the company is a pure captive insurance company, an association captive insurance company, a sophisticated insured captive insurance company or a captive insurance company of a type authorized by the regulations,

(ii) the nature of the risks insured or proposed to be insured by the captive insurance company, and

(iii) the persons for whose benefit the risks are insured or proposed to be insured by the captive insurance company,

(b.1) the company is in compliance with this Act and the regulations,

NOTE: (5) Section 17 presently reads in part:

17 Before issuing the first licence to a captive insurance company, the Minister must be satisfied that

(b) the plan for the future conduct and development of the business of the company is sound,

(6) Section 20 is repealed.

NOTE: (6) Section 20 presently reads:

20 A captive insurance company that applies for a licence under this Act or to renew such a licence is entitled to the licence if the Minister is satisfied that

(a) the requirements of this Act and the regulations relating to the licence have been met, and

(b) the company is in compliance with this Act and the regulations.

(7) Section 27 is amended

(a) in subsection (1)

(i) by striking out "A" **and substituting** "Subject to subsection (3.1) and section 27.1, a";

(ii) by repealing clauses (a) and (b) and substituting the following:

(a) its parent, its parent's affiliated entities and the contracted unaffiliated persons of any of them,

(b) the officers, directors, employees and agents of itself, its parent, its parent's affiliated entities or the contracted unaffiliated persons of any of them against losses while acting on behalf of itself, its parent, its parent's affiliated entities or the contracted unaffiliated persons of any of them, and

(b) in subsection (2)

(i) by striking out "An" **and substituting** "Subject to subsection (3.1) and section 27.1, an";

(ii) by repealing clauses (a) and (b) and substituting the following:

(a) its association, the member organizations of its association, their affiliated entities and the contracted unaffiliated persons of any of them,

(b) the officers, directors, employees and agents of itself, its association, a member organization of its association, their affiliated entities or the contracted unaffiliated persons of any of them against losses while acting on behalf of itself, the association, the member organization, their affiliated entities or the contracted unaffiliated persons of any of them, and

(c) in subsection (3)

(i) by striking out "A" **and substituting** "Subject to subsection (3.1) and section 27.1, a";

(ii) by repealing clauses (a) and (b) and substituting the following:

(a) the sophisticated insureds that constitute its sophisticated insured group, their affiliated entities and the contracted unaffiliated persons of any of them,

(b) the officers, directors, employees and agents of itself, a sophisticated insured in its sophisticated insured group, the sophisticated insured's affiliated entities or the contracted unaffiliated persons of any of them against losses while acting on behalf of itself, the sophisticated insured, the sophisticated insured's affiliated entities or the contracted unaffiliated persons of any of them, and

(d) by adding the following after subsection (3):

(3.1) Subject to section 27.1, a captive insurance company referred to in subsection (1), (2) or (3) may not insure risks of

(a) a contractor of a contracted unaffiliated person unless the contracted unaffiliated person's risks are insured by the captive insurance company, or

(b) a subcontractor of

(i) a contracted unaffiliated person unless the contracted unaffiliated person's risks are insured by the captive insurance company, or

(ii) the contractor referred to in clause (a) unless the contractor's risks are insured by the captive insurance company.

NOTE: (7) Section 27 presently reads in part:

27(1) A pure captive insurance company may not insure risks other than those of

(a) its parent and its parent's affiliated entities,

(b) the officers, directors, employees, agents and independent contractors of itself, its parent and its parent's affiliated entities against losses while acting on behalf of itself, its parent or its parent's affiliated entities, and

(2) An association captive insurance company may not insure risks other than those of

(a) its association, the member organizations of its association and their affiliated entities,

(b) the officers, directors, employees, agents and independent contractors of itself, its association, a member organization of its association or the member organization's affiliated entities against losses while acting on behalf of itself, the association, the member organization or the member organization's affiliated entities, and

(3) A sophisticated insured captive insurance company may not insure risks other than those of

(a) the sophisticated insureds that comprise its sophisticated insured group and their affiliated entities,

(b) the officers, directors, employees, agents and independent contractors of itself, a sophisticated

insured in its sophisticated insured group or the sophisticated insured's affiliated entities against losses while acting on behalf of itself, the sophisticated insured or the sophisticated insured's affiliated entities, and

(8) The following is added after section 27:

Scope of eligible insured contractor risks

27.1 Subject to section 27.2(3), a captive insurance company may only insure risks of a contracted unaffiliated person or risks of a contractor or subcontractor referred to in section 27(3.1) if one of the following coordinates the management of the risks of the applicable contracted unaffiliated person, contractor or subcontractor in accordance with the rules, if any, made under section 27.2(1):

(a) a pure captive insurance company, its parent or its parent's affiliated entities;

(b) an association captive insurance company, its association, a member organization of its association or the affiliated entities of any of them;

(c) a sophisticated insured captive insurance company, a sophisticated insured in its sophisticated insured group or a sophisticated insured's affiliated entities.

Rules for coordinating management of risks

27.2(1) The Minister may, by order, make rules respecting the coordination by a person referred to in section 27.1(a), (b) or (c) of the management of the risks of a contracted unaffiliated person or a contractor or subcontractor referred to in section 27(3.1) whose risks are to be insured by a captive insurance company.

(2) The Minister shall ensure that any rules made under subsection (1) are available on a publicly accessible website of the Minister's department.

(3) Until the Minister makes an order under subsection (1), section 27.1 does not apply, and the Minister may approve the insurance of risks of a contracted unaffiliated person or a

contractor or subcontractor referred to in section 27(3.1) by a captive insurance company.

(4) The *Regulations Act* does not apply to orders made under subsection (1).

NOTE: (8) Scope of eligible insured contractor risks; rules for coordinating management of risks.

(9) Section 34(1) is amended by striking out "180 days" **and substituting** "120 days".

NOTE: (9) Section 34(1) presently reads:

34(1) Every captive insurance company licensed under this Act must, within 180 days after the end of the company's financial year, provide the Minister with a copy of the company's audited financial statements for the financial year.

(10) Section 35 is amended

(a) in subsection (1)

(i) by striking out "60 days" **and substituting** "120 days";

(ii) by striking out "calendar year" **and substituting** "financial year";

(b) in subsection (2)(c) by striking out "calendar year" **and substituting** "financial year".

NOTE: (10) Section 35 presently reads in part:

35(1) Every licensed captive insurance company must file an annual return that meets the requirements of subsection (2) within 60 days after the end of the calendar year in respect of which the return is prepared.

(2) The annual return must

(c) set out particulars of the business done in Alberta during the calendar year,

(11) Section 36(e) is amended by adding "association," **after** "parent,".

NOTE: (11) Section 36(e) presently reads:

36 A licensed captive insurance company must, within the time specified below, provide to the Minister the following:

(e) a copy of any guarantee or indemnity entered into by or with respect to the company under which a parent, member organization, sophisticated insured or an affiliated entity with respect to any of them may incur liability for the benefit of the company, within 30 days of its execution;

(12) Section 38(1)(g) is amended by striking out "a direction" **and substituting** "an approval, direction or order".

NOTE: (12) Section 38(1)(g) presently reads:

38(1) Where

(g) a licensed captive insurance company contravenes a direction of the Minister or an order of the Court under this Act, or

the Minister may cancel, suspend or refuse to renew the licence of the company or impose terms or conditions on its licence.

(13) Section 48 is amended

(a) in subsection (1)(a) by striking out "approval or direction" **and substituting** "approval, direction or Ministerial order";

(b) in subsection (2)(a) by adding "Ministerial order," **after** "direction,".

NOTE: (13) Section 48 presently reads in part:

48(1) Where it appears to the Minister that a captive insurance company

(a) has contravened an approval or direction given under this Act,

the Minister may apply to the Court for an order under subsection (2).

(2) The Court may grant an order directing the captive insurance company to cease

(a) contravening the approval, direction, term or condition, or

(14) Section 49(a) is amended by striking out "27(1), (2), (3) and (4)," **and substituting** "27(1), (2), (3), (3.1) and (4),".

NOTE: (14) Section 49(a) presently reads:

49 A person who contravenes any of the following provisions is guilty of an offence:

(a) sections 3(1), 4(1) and (2), 5(2), 6(1) and (2), 7(1), (3), (5) and (6), 8(1), (2), (4) and (6), 9(1) and (2), 10(1), 11(1) and (2), 12(2), 13, 14(1), (2) and (3), 18(3), 19(1) and (4), 24(1), 27(1), (2), (3) and (4), 29(1) and (2), 30(1) and (5), 31, 32(1) and (2), 34(1) and (2), 35(1), 36, 40(1), (2) and (3), 44(2) and 45(5);

(15) The following is added after section 81:

Application of Insurance Act

81.1(1) This section does not apply to a captive insurance company in respect of contracts of life insurance, accident and sickness insurance or reinsurance made in Alberta by the captive insurance company.

(2) Sections 514, 520(b), 526 and 534 of the *Insurance Act* apply to a captive insurance company in respect of contracts of insurance made in Alberta by the captive insurance company as if the company were an insurer under that Act for the purposes of those sections.

(3) Section 527 of the *Insurance Act* applies to a captive insurance company in respect of an action or proceeding on a contract of insurance made in Alberta by the captive insurance company as if

(a) the company were an insurer under that Act for the purpose of that section, and

(b) the reference in that section to "this Act" were a reference to the *Captive Insurance Companies Act*.

(4) Section 547(2) to (4) of the *Insurance Act* apply to a captive insurance company in respect of contracts of insurance made in Alberta by the captive insurance company as if

(a) the company were an insurer under that Act for the purpose of those subsections,

(b) the references in those subsections to "this Act" were a reference to the *Captive Insurance Companies Act*, and

(c) "unless regulations referred to in subsection (4) or under section 511(1)(g.3) provide otherwise," were struck out in subsection (2) of that Act.

NOTE: (15) Application of Insurance Act.

(16) Section 82 is amended

(a) in clause (oo) by striking out "costs" **and substituting** "costs, including capital costs,";

(b) by adding the following after clause (rr):

(rr.1) providing that the meanings of words and expressions in the *Insurance Act* that are used in this Act or the

regulations do not apply for the purposes of this Act and the regulations;

NOTE: (16) Section 82 presently reads in part:

82 The Lieutenant Governor in Council may make regulations

(oo) authorizing the Minister to charge and collect from captive insurance companies fees, levies or other assessments to be used to recover the costs incurred in the administration of this Act and the regulations, including, without limitation, regulations respecting

(17) This section comes into force on Proclamation.

NOTE: (17) Coming into force.

Crown's Right of Recovery Act

Amends SA 2009 cC-35

5(1) The *Crown's Right of Recovery Act* is amended by this section.

NOTE: 5(1) Amends chapter C-35 of the Statutes of Alberta, 2009.

(2) Section 1 is amended

(a) in subsection (1)

(i) in clause (a) by adding "*Automobile*" **before** "*Insurance*";

(ii) by adding the following after clause (h):

(h.1) "personal accident insurance" means that portion of an insurance contract evidenced by a motor vehicle liability policy that insures against loss resulting

from bodily injury or death arising from the use or operation of an automobile, under which an insurer undertakes to pay compensation in accordance with Part 2 of the *Automobile Insurance Act*;

(iii) by repealing clause (k);

(b) by repealing subsection (2).

NOTE: (2) Section 1 presently reads in part:

1(1) In this Part,

(a) "automobile" means an automobile as defined in the Insurance Act;

(k) "third party liability insurance" means that portion of an insurance contract evidenced by a motor vehicle liability policy that insures against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property;

(2) Nothing in section 570 of the Insurance Act affects the application of this Part.

(3) Sections 26(1), 27(1), 30(1), 31(1) and 32(2) are amended by striking out "third party liability insurance" **and substituting** "personal accident insurance".

NOTE: (3) Sections 26(1), 27(1), 30(1), 31(1) and 32(2) presently read:

26(1) An automobile insurer that is licensed to provide automobile insurance under the Insurance Act for all or a portion of a calendar year for which an assessment factor has been established shall pay to the Crown an amount that is the product obtained when the assessment factor for the calendar year is multiplied by the total premiums written by the automobile insurer for third party liability insurance in the calendar year.

27(1) An automobile insurer that was licensed to provide automobile insurance under the Insurance Act for all or a portion of a calendar year for which an assessment factor

was established shall, on or before March 15 of the following year, file with the President of Treasury Board and Minister of Finance a report of the premiums for third party liability insurance written in the calendar year for which the assessment factor was established.

30(1) If

(a) an automobile insurer does not provide a report, information or a document under section 27 or 29 in respect of a calendar year or provides the report, information or document late, or

(b) the President of Treasury Board and Minister of Finance has reason to believe that the report, information or document provided under section 27 or 29 in respect of a calendar year is not correct,

the President of Treasury Board and Minister of Finance may, using the President of Treasury Board and Minister of Finance's estimate of premiums for third party liability insurance written by the automobile insurer in that calendar year, establish an amount that the automobile insurer is required to pay in respect of that calendar year.

31(1) An automobile insurer that receives a notice from the President of Treasury Board and Minister of Finance under section 30 may request a review of the estimate of the premiums for third party liability insurance used to calculate the amount payable specified in the notice.

32(2) An auditor may at any reasonable time enter the offices of an automobile insurer who was licensed to provide automobile insurance under the Insurance Act for all or a portion of a calendar year for which an assessment factor was established and examine and make copies of the books and records of the insurer for the purposes of determining the amount of premiums written by the insurer for third party liability insurance in the calendar year.

(4) This section comes into force on Proclamation.

NOTE: (4) Coming into force.

Employment Pension Plans Act

Amends SA 2012 cE-8.1

6(1) The *Employment Pension Plans Act* is amended by this section.

NOTE: 6(1) Amends chapter E-8.1 of the Statutes of Alberta, 2012.

(2) Section 1 is amended

(a) in subsection (1)

(i) in clause (c) by striking out "and includes interest on those contributions,";

(ii) by adding the following after clause (c):

(c.1) "additional voluntary contributions account", in relation to a member of a pension plan, means an actual or notional account maintained to record

(i) additional voluntary contributions made to the plan by the member,

(ii) interest allocated to the account, and

(iii) administration expenses and other amounts deducted from the amounts referred to in subclauses (i) and (ii);

(iii) by repealing clause (k) and substituting the following:

(k) "commuted value",

(i) in relation to benefits that a person is or may become entitled to receive under a benefit formula provision of a pension plan, means the actuarial present value of those benefits determined in accordance with subsection (2),

(ii) in relation to benefits that a person is entitled to receive from a variable life benefits fund of a pension plan, means the value of those benefits determined in accordance with subsection (2.1), or

(iii) in relation to other benefits that a person is or may become entitled to receive under a pension plan, means the balance in the person's accounts associated with those benefits;

(iv) in clause (o) by adding ", a provision that authorizes the payment of variable life benefits" **after** "target benefit provision";

(v) by adding the following after clause (o):

(o.1) "defined contribution account", in relation to a member of a pension plan who is or will be entitled to receive benefits under a defined contribution provision of the plan, means an actual or notional account maintained to record

(i) contributions, other than additional voluntary contributions, made to the plan by or on behalf of the member for application to the defined contribution component of the plan,

(ii) interest allocated to the account, and

(iii) administration expenses and other amounts deducted from the amounts referred to in subclauses (i) and (ii);

(o.2) "defined contribution component", in relation to a pension plan of which the plan text document contains a defined contribution provision, means the portion of the plan that relates to the defined contribution provision, including, without limitation, the assets and liabilities of the plan that relate to that defined contribution provision;

(vi) by repealing clause (p) and substituting the following:

(p) "defined contribution provision" means a provision of the plan text document of a pension plan that

(i) contemplates that a defined contribution account will be maintained in relation to a member of a pension plan,

(ii) provides that the benefits to which the member is entitled under the provision are determined solely by reference to the amount in the defined contribution account, and

(iii) may provide that the amount in the defined contribution account may be used in whole or in part to fund variable life benefits or life income type benefits, or both;

(vii) by adding the following after clause (ee):

(ee.1) "life income type benefits", in relation to a member of a pension plan, means benefits payable from a member's life income type benefits account;

(ee.2) "life income type benefits account", in relation to a member of a pension plan, means an actual or notional account maintained to record

(i) if the member has a defined contribution account, the amount transferred from that account to be used to provide life income type benefits,

(ii) any other amounts transferred to the account by the member, in accordance with the regulations, to be used to provide life income type benefits,

(iii) interest allocated to the account, and

(iv) administration expenses and other amounts deducted from the amounts referred to in subclauses (i) to (iii);

(ee.3) "locked-in money" means

(i) money in a pension plan the withdrawal, surrender or receipt of which is restricted under section 70,

(ii) money transferred under section 99(1),

(iii) money to which subclause (i) applies that has been transferred out of a pension plan, and any interest on that money, whether or not that money had been transferred to one or more locked-in retirement accounts or retirement income arrangements after it was transferred from the plan,

(iv) in the case of money in a locked-in retirement account, money that was deposited into the locked-in retirement account or paid to the locked-in retirement account issuer as prescribed, and

(v) in the case of money in a life income fund, money that was deposited into the life income fund or paid to the life income fund as prescribed;

(viii) in clause (oo) by striking out "and includes interest on those contributions";

(ix) by adding the following after clause (oo):

(oo.1) "optional ancillary contributions account", in relation to a member of a pension plan, means an actual or notional account maintained to record

(i) optional ancillary contributions made to the plan by the member,

(ii) interest allocated to the account, and

(iii) administration expenses and other amounts deducted from the amounts referred to in subclauses (i) and (ii);

(x) by repealing clause (rr) and substituting the following:

(rr) "pension" means a series of periodic payments that, under the terms of the plan text document of a pension plan, is payable,

(i) in the case of payments under a benefit formula provision, for the life of a retired member, whether or not the pension is continued to another person, and

(ii) in the case of payments under a defined contribution provision, or arising from additional voluntary contributions or transferred contributions, either

(A) for the life of a retired member, whether or not the pension is continued to another person, or

(B) until the earlier of

(I) the date on which a retired member dies, and

(II) the date on which the balance in a retired member's account from which the benefits are being paid is zero;

(xi) by repealing clause (nnn) and substituting the following:

(nnn) "target benefit provision" means a provision of the plan text document of a pension plan that establishes a formula by which the amount of the pension that is intended to be payable to a member is to be determined and provides that the actual benefit under the plan may be reduced below the intended benefit under section 20(2)(b), but does not include a provision that authorizes the payment of variable life benefits;

(xii) by adding the following after clause (sss):

(sss.1) "transferred contributions", in relation to a pension plan, means contributions that

(i) have been transferred to the plan from another plan or a locked-in retirement account,

(ii) have not been used to secure improvements in, or to purchase benefits under, a benefit formula provision, and

(iii) consist of locked-in money;

(sss.2) "transferred contributions account", in relation to a member of a pension plan, means an actual or notional account maintained to record

(i) transferred contributions transferred to the plan by or on behalf of the member,

(ii) interest allocated to the account, and

(iii) administration expenses and other amounts deducted from the amounts referred to in subclauses (i) and (ii);

(xiii) by adding the following after clause (ttt):

(ttt.1) "variable life benefits", in relation to a pension plan, means benefits payable from a variable life benefits fund of the plan;

(ttt.2) "variable life benefits fund", in relation to a pension plan, means a fund established within the plan's pension fund that meets the requirements of a variable payment life annuity fund under subsection 8506(13) of the *Income Tax Regulations* (Canada), (CRC, c. 945);

(b) by adding the following after subsection (2):

(2.1) For the purposes of this Act, the value of benefits that a person is or may become entitled to receive from a variable life benefits fund of a pension plan must be determined

(a) on the basis of actuarial assumptions and methods that are appropriate and in accordance with accepted actuarial practice,

(b) in the prescribed manner, and

(c) in a manner acceptable to the Superintendent.

NOTE: (2) Section 1 presently reads in part:

1(1) In this Act,

(c) "additional voluntary contributions" means contributions made by a member to a pension plan that are additional to the contributions the member is or was required to make under the plan text document of the plan, and includes interest on those contributions, but does not include

(k) "commuted value",

(i) in relation to benefits that a person is or may become entitled to receive under a benefit formula provision of a pension plan, means the actuarial present value of those benefits determined in accordance with subsection (2), or

(ii) in relation to benefits that a person is entitled to receive under a defined contribution provision of a pension plan, means the total amount of the contributions that are or were required to be made in relation to those benefits, and includes interest on those contributions;

(o) "defined benefit provision" means a provision of the plan text document of a pension plan that establishes a formula by which the amount of the pension that is to be paid to a member is determined, but does not include a target benefit provision or a provision that is prescribed to be a benefit formula provision;

(p) "defined contribution provision" means a provision of the plan text document of a pension plan that

(i) contemplates that an actual or notional account will be maintained to record what is provided by

(A) contributions, other than additional voluntary contributions, made by or on behalf of a member, and

(B) interest and any other amounts allocated to the account,

and

(ii) provides that the benefits to which the member is entitled under the provision are determined solely by reference to the amount of that account;

(oo) "optional ancillary contributions" means contributions

(i) that are made voluntarily by a member under a benefit formula provision of the plan text document of a pension plan,

(ii) that are additional to the contributions the member is required to make under the plan, and

(iii) that result or may result in optional ancillary benefits being payable,

and includes interest on those contributions;

(rr) "pension" means a series of periodic payments that, under the terms of the plan text document of a pension plan, is payable,

(i) in the case of payments under a benefit formula provision, for the life of a retired member, whether or not the pension is continued to another person, and

(ii) in the case of payments under a defined contribution provision, until the earlier of

(A) the date on which the member dies, and

(B) the date on which the balance in the member's account referred to in clause (p)(i) is zero;

(nnn) "target benefit provision" means a provision of the plan text document of a pension plan that

(i) establishes a formula by which the amount of the pension that is intended to be payable to a member is to be determined, and

(ii) provides that the actual benefit under the plan may be reduced below the intended benefit under section 20(2)(b);

(3) Section 52 is amended by adding the following after subsection (4):

(5) If a pension plan is not meeting the funding requirements prescribed for the purposes of this section, the administrator of the pension plan must follow the process and comply with the requirements prescribed in the regulations.

NOTE: (3) Administrator must follow process and comply with requirements in regulations.

(4) Section 57(2.1) is amended by striking out "on and after January 1, 1992" **wherever it occurs.**

NOTE: (4) Section 57(2.1) presently reads in part:

(2.1) In the case of a jointly sponsored plan, subject to subsections (3), (5), (6) and (7), if the total of

(a) the contributions made by a member of the plan on and after January 1, 1992, and

exceeds the commuted value of the member's benefit that relates to the member's membership in the plan during the period in which the member was required to make contributions on and after January 1, 1992, the excess must

be allocated or distributed in the manner required under subsection (4).

(5) Section 71 is amended

(a) in subsection (3)(a) by adding "or from a variable life benefits fund" **after** "benefit formula provision";

(b) by repealing subsection (5) and substituting the following:

(5) For the purpose of transferring locked-in money to a retirement income arrangement, subject to prescribed conditions,

(a) a member of a pension plan may elect to unlock up to 50% of the commuted value of the benefit in a pension plan, or

(b) the owner of a locked-in retirement account may elect to unlock up to 50% of the account balance in the locked-in retirement account.

(5.1) For the purpose of transferring an amount from a defined contribution account of a member of a pension plan to a life income type benefits account or a variable life benefits fund, subject to prescribed conditions, the member may elect to unlock up to 50% of the amount withdrawn from the defined contribution account for the purpose of making the transfer.

(c) in subsection (6) by striking out "or (5)" **and substituting** ", (5) or (5.1)".

NOTE: (5) Section 71 presently reads in part:

(3) The plan text document of a pension plan must provide the following:

(a) if a member of the plan, other than a retired member in receipt of benefits under a benefit formula provision, who has a current entitlement to receive a benefit under the plan, has an illness or a disability that is certified by a medical practitioner

to be terminal or to likely shorten the member's life considerably, that member may, subject to and in accordance with the regulations,

(5) For the purpose of transferring locked-in funds to a retirement income arrangement or for the purposes of providing life income type benefits from a pension plan pursuant to section 77, and subject to prescribed conditions,

(a) a member of a pension plan may elect to unlock up to 50% of the commuted value of the benefit in a pension plan, or

(b) the owner of a locked-in retirement account may elect to unlock up to 50% of the account balance in the locked-in retirement account.

(6) If a person who is eligible to make an election under subsection (3), (4) or (5) has a pension partner, the person must not make that election unless the administrator or, in the case of a locked-in retirement account or retirement income arrangement, the person who maintains the account or arrangement, has received a statement from the pension partner in the prescribed form that

(6) Section 74(1)(a) is repealed and the following is substituted:

(a) the transfer is made under section 57(4), 77.1(3) or 89(1) or (3), Division 8 or Part 9,

NOTE: (6) Section 74(1)(a) presently reads:

74(1) Assets of a pension plan must not be transferred from the plan to another plan unless

(a) the transfer is made under section 57(4) or 89(1) or (3), under Division 8 or under Part 9,

(7) Section 77 is repealed and the following is substituted:

Flexibility for life income type benefits

77(1) Subject to the regulations, the plan text document of a pension plan may authorize the payment of life income type benefits.

(2) The establishment, composition and characteristics of a life income type benefits account, and the payment of benefits from a life income type benefits account, must

(a) comply with the *Income Tax Act* (Canada), and

(b) be in accordance with the regulations.

NOTE: (7) Section 77 presently reads:

77 Subject to the regulations, the plan text document of a pension plan may authorize payment of life income type benefits to be made in any manner that

(a) is authorized by the Income Tax Act (Canada), and

(b) is in accordance with the regulations.

(8) The following is added after section 77:

Flexibility for variable life benefits

77.1(1) Subject to the regulations, the plan text document of a pension plan may
authorize the establishment of a variable life benefits fund from which variable life benefits may be paid.

(2) The establishment, composition and characteristics of a variable life benefits fund and the determination, payment and variation of benefits from a variable life benefits fund, including any related amendments to the plan text document of the pension plan, must

(a) comply with the *Income Tax Act* (Canada), and

(b) be in accordance with the regulations.

(3) An administrator of a pension plan may transfer or permit the transfer of any part of the assets of a variable life benefits fund to

another variable life benefits fund that is either under the same pension plan or a different pension plan, including a pension plan to which this Act does not apply, in accordance with the prescribed rules and with the written consent of the Superintendent.

(4) A variable life benefits fund may be transferred, or terminated and wound up, in accordance with the regulations.

(5) Section 20(1) does not apply to the amendment of a plan text document in respect of variable life benefits.

NOTE: (8) Flexibility for variable life benefits.

(9) Section 78 is amended

(a) in clause (a) by striking out "meets the requirements of section 37 of the *Family Property Act*, and that is enforceable under section 38 of that Act" **and substituting** "is recognized and enforceable under the *Family Property Act*";

(b) in clause (b) by striking out "a family property order within the meaning of" **and substituting** "an order of the Court of King's Bench contemplated under".

NOTE: (9) Section 78 presently reads in part:

78 In this Division,

(a) "agreement" means a written agreement that provides for the division and distribution of a benefit and that meets the requirements of section 37 of the Family Property Act, and that is enforceable under section 38 of that Act;

(b) "family property order" means a family property order within the meaning of the Family Property Act, or a similar order enforceable in Alberta of a court outside Alberta, that affects the division and distribution of a benefit;

(10) Section 82 is amended

(a) in subsection (2) by striking out "actuarial present value" **and substituting** "commuted value";

(b) in subsection (6)

(i) by striking out "actuarial present values" **and substituting** "commuted values";

(ii) by striking out "actuarial present value" **and substituting** "commuted value".

NOTE: (10) Section 82 presently reads in part:

(2) Where a benefit is to be paid from a pension plan, the division of a benefit between the pension partners must not reduce the member pension partner's share of the total pre-division benefit by more than 50% of the actuarial present value of the benefit earned during the joint accrual period.

(6) The aggregate of the actuarial present values of the shares of both pension partners must equal the actuarial present value of the total pre-division benefit.

(11) Section 84(3) is amended by striking out "or a retirement income arrangement" **and substituting** ", retirement income arrangement or insurance company to purchase an annuity".

NOTE: (11) Section 84(3) presently reads:

(3) In this section, "benefit" includes a benefit that has been transferred to a locked-in retirement account or a retirement income arrangement.

(12) Section 89 is amended

(a) in subsection (1)(a)(ii) by striking out "any additional voluntary contributions and optional ancillary contributions made by the member" **and substituting** "any amount in an

additional voluntary contributions account of the member or optional ancillary contributions account of the member or both";

(b) by repealing subsection (2) and substituting the following:

(2) If the member had an optional ancillary contributions account and the member dies before reaching the member's pension commencement date and leaves a surviving pension partner, the amount in the optional ancillary contributions account may, at the option of the pension partner, be applied, in the manner specified by the plan text document of the pension plan, to the optional ancillary benefits selected by the pension partner to increase the benefits to which the pension partner is entitled under the plan up to the maximum amount allowed by the *Income Tax Act* (Canada) or the regulations under that Act.

NOTE: (12) Section 89 presently reads in part:

89(1) If a member dies before reaching his or her pension commencement date,

(a) subject to clause (b), if there is a surviving pension partner, the following amounts must be provided as follows:

(ii) any additional voluntary contributions and optional ancillary contributions made by the member, and any excess contributions to which the member was entitled, must be provided to the surviving pension partner, and the surviving pension partner has, in relation to those benefits, the same transfer rights and obligations, if any, that would have applied to the member had the member survived,

(2) If optional ancillary contributions were made by a member and the member dies before reaching his or her pension commencement date and leaves a surviving pension partner, the amount of those contributions may, at the option of the pension partner, be applied, in the manner specified by the plan text document of the pension plan, to the optional ancillary benefits selected by the pension partner to increase the benefits to which the pension partner is entitled

under the plan up to the maximum amount allowed by the Income Tax Act (Canada) or the regulations under that Act.

(13) Section 90 is amended

(a) by adding the following after subsection (1):

(1.1) A plan text document that authorizes the payment of variable life benefits must provide that the variable life benefit payable to a retired member who had a pension partner at the member's pension commencement date is a joint and survivor pension.

(b) by adding the following after subsection (2):

(2.1) A joint and survivor pension may, by reason of the death of the member or pension partner referred to in subsection (1.1), be reduced to an amount that is determined in accordance with the regulations.

(c) in subsection (3)

(i) by striking out "actuarial present value" **wherever it occurs and substituting** "commuted value";

(ii) by striking out "he or she" **and substituting** "the member";

(d) in subsection (4)(a)(i)

(i) by striking out "his or her" **and substituting** "their";

(ii) by adding "or (1.1)" **after** "(1)";

(e) in subsections (6)(a)(i) and (8) by striking out "his or her" **and substituting** "their".

NOTE: (13) Section 90 presently reads in part:

(3) The actuarial present value of a joint and survivor pension must not be less than the actuarial present value of the pension that would have been payable to the member if he or she had no pension partner.

(4) A member may elect to receive a pension that does not comply with this section by providing to the administrator, not more than 90 days before the member's pension commencement date,

(a) a statement in the prescribed form by the member's pension partner that

(i) states that the pension partner is aware of his or her entitlement to a joint and survivor pension under subsection (1),

(6) Subsection (5) does not apply if the administrator, before the member reached the member's pension commencement date and before the member's death, received

(a) a statement in the prescribed form by the pension partner that

(i) states that the pension partner is aware of his or her entitlement under subsection (5),

(8) A waiver under subsection (4) or (6) of an entitlement to a benefit is void if the member dies before reaching his or her pension commencement date.

(14) Section 91(2) is amended by adding ", (2.1)" **after** "90(2)".

NOTE: (14) Section 91(2) presently reads:

(2) If a member's pension partner has validly signed a waiver statement referred to in section 90(4) to allow the member to elect a joint and survivor pension other than the joint and survivor pension referred to in section 90(2) and (3), the pension partner's entitlement to the payment of the joint and survivor pension does not, despite any provision to the contrary in the plan documents, cease merely because that person ceases to be the pension partner of the member at any subsequent date.

(15) Section 95 is amended

(a) by repealing subsection (1) and substituting the following:

Payment out of additional voluntary contributions accounts and optional ancillary contributions accounts

95(1) The plan text document of a pension plan may provide that some or all of one or both of the following may be refunded to an active member as a lump sum:

(a) the amount in the member's additional voluntary contributions account;

(b) the amount in the member's optional ancillary contributions account.

(b) in subsection (2)

(i) by striking out "his or her" **and substituting** "their";

(ii) by repealing clauses (a) and (b) and substituting the following:

(a) the amount in the member's additional voluntary contributions account;

(b) the amount in the member's optional ancillary contributions account.

(c) in subsection (3)

(i) in clause (a) by striking out "member's optional ancillary contributions are" **and substituting** "amount in the member's optional ancillary contributions account is";

(ii) by repealing clause (b) and substituting the following:

(b) the member may elect

(i) that some or all of the amount in the member's additional voluntary contributions account be refunded to the member as a lump sum,

(ii) if the plan text document authorizes the payment of variable life benefits, that some or all of the

amount in the member's additional voluntary contributions account be used to provide variable life benefits, by being transferred in whole or in part to a variable life benefits fund,

(iii) if the plan text document authorizes the payment of life income type benefits, that some or all of the amount in the member's additional voluntary contributions account be used to provide life income type benefits, by being transferred in whole or in part to a life income type benefits account, and

(iv) that some or all of the amount in the member's additional voluntary contributions account be used to provide any other benefits selected by the member in relation to their additional voluntary contributions.

NOTE: (15) Section 95 presently reads:

95(1) The plan text document may provide that some or all of one or both of the following may be refunded to an active member as a lump sum:

(a) additional voluntary contributions;

(b) optional ancillary contributions.

(2) The plan text document must provide that one or both of the following are refundable to a member as a lump sum on his or her termination of active membership:

(a) additional voluntary contributions;

(b) optional ancillary contributions.

(3) The plan text document must provide that on a member's pension commencement date,

(a) the member's optional ancillary contributions are converted to optional ancillary benefits, and

(b) the member may elect that additional voluntary contributions

(i) be used to provide the additional benefits selected by the member in relation to those additional voluntary contributions, or

(ii) be refunded to the member as a lump sum.

(16) The following is added after section 95:

Rules respecting transfers

95.1 Any transfer referred to in section 95(3)(b)(ii) or (iii) shall be made in accordance with the rules prescribed for the purposes of this section.

NOTE: (16) Rules respecting transfers.

(17) Section 96(3) is amended by adding "or from a variable life benefits fund" **after** "benefit formula provision".

NOTE: (17) Section 96(3) presently reads:

(3) A member of a pension plan who is entitled to a pension under a benefit formula provision is not eligible to elect a transfer under this Division if the member has reached the member's pension commencement date.

(18) Section 159(1) is amended

(a) by renumbering clause (a) as clause (a.1) and adding the following before clause (a.1):

(a) prescribing the manner in which

(i) the actuarial present value of benefits must be determined for the purpose of section 1(2), and

(ii) the value of benefits must be determined for the purpose of section 1(2.1);

(b) by adding the following after clause (h):

(h.1) respecting, in relation to funding requirements,

(i) matters that must be determined in the preparation of an actuarial valuation report, and

(ii) the process that must be followed and requirements that must be complied with if the funding requirements are not being met;

(c) by adding the following before clause (m):

(l.2) for the purpose of section 71(5.1), respecting the conditions for unlocking an amount withdrawn from a defined contribution account for the purpose of making a transfer;

(l.3) respecting

(i) the authorization of the payment of life income type benefits, and

(ii) the establishment, composition and characteristics of a life income type benefits account and the payment of benefits from a life income type benefits account, including regulations respecting permitted transfers to a life income type benefits account;

(l.4) respecting the establishment, composition and characteristics of a variable life benefits fund and the determination, payment and variation of benefits from a variable life benefits fund, including regulations respecting

(i) permitted transfers to a variable life benefits fund,

(ii) the determination and variation of the amount of a variable life benefit, and

(iii) any related amendments to the plan text document of a pension plan;

(l.5) prescribing rules for the transfer of assets of a variable life benefits fund under section 77.1(3);

(l.6) respecting the transfer, or the termination and winding-up, of a variable life benefits fund;

(l.7) respecting the reduction of a joint and survivor pension for the purpose of section 90(2.1);

(l.8) prescribing rules for the purpose of section 95.1;

NOTE: (18) Adds regulation-making authorities.

(19) This section, except for subsections (4) and (9) to (11), comes into force on Proclamation.

NOTE: (19) Coming into force.

Income and Employment Supports Act

Amends SA 2003 cI-0.5

7(1) The *Income and Employment Supports Act* is amended by this section.

NOTE: **7**(1) Amends chapter I-0.5 of the Statutes of Alberta, 2003.

(2) Section 1 is amended

(a) in clause (e) by striking out "Director" **and substituting** "director";

(b) in clause (k) by striking out "the Director" **and substituting** "a director".

NOTE: (2) Section 1 presently reads in part:

1 In this Act,

(e) "Director" means a person appointed under section 3;

(k) "training provider" means a person with whom the Director has entered into an agreement or arrangement under section 20.

(3) Section 3 is amended

(a) in subsection (1) by striking out "Directors" **and substituting** "directors";

(b) in subsection (2) by striking out "Director" **wherever it occurs and substituting** "director".

NOTE: (3) Section 3 presently reads:

3(1) In accordance with the Public Service Act, there may be appointed one or more Directors who shall administer this Act under the direction of the Minister.

(2) Where more than one Director is appointed, the Minister shall determine the responsibilities of each Director with respect to the administration of this Act.

(4) Section 14 is amended

(a) in subsection (1)

(i) by striking out "the Director" **and substituting** "a director";

(ii) in clauses (a) to (c) by striking out "Director" **wherever it occurs and substituting** "director";

(b) in subsection (2) by striking out "notify the Director, in the manner determined by the Director" **and substituting** "notify a director, in the manner determined by the director".

NOTE: (4) Section 14 presently reads:

14(1) For the purpose of determining or auditing eligibility or continuing eligibility for assistance under Part 2, or compliance with any terms or conditions of receiving

assistance under Part 2, the Director may do one or more of the following:

(a) direct an applicant or recipient to provide the Director with information within the time and in the manner specified by the Director;

(b) seek verification of any information provided to the Director by an applicant or recipient;

(c) direct an applicant or recipient to provide verification of any information provided to the Director by the applicant or recipient.

(2) A recipient must notify the Director, in the manner determined by the Director, of any changes in the recipient's circumstances or the circumstances of any other member of the recipient's household unit that would have the effect of reducing the assistance under Part 2 being provided or would affect eligibility to receive assistance under Part 2.

(5) Section 15 is amended

(a) in subsection (1)

(i) by striking out "The Director" **and substituting** "A director";

(ii) by striking out "the Director" **and substituting** "the director";

(iii) in clause (c) by striking out "his or her" **wherever it occurs and substituting** "the applicant's or recipient's";

(iv) by repealing clause (d) and substituting the following:

(d) refuses or neglects to make use of advantages that the applicant, recipient or a member of the applicant's or recipient's household unit may receive or be entitled to under any other law,

(b) in subsection (2) by striking out "The Director" **and substituting** "A director";

(c) in subsection (3) by striking out "the Director" **and substituting** "a director".

NOTE: (5) Section 15 presently reads in part:

15(1) The Director may, subject to the regulations, refuse to provide assistance under Part 2 or discontinue, suspend or reduce the assistance provided when, in the opinion of the Director, an applicant or recipient, where applicable,

(c) refuses to make reasonable efforts

(i) to obtain compensation or collect income that the applicant, recipient or a member of his or her household unit is entitled to or eligible for, or

(ii) to realize on an asset or other financial resource that the applicant, recipient or a member of his or her household unit owns or may be entitled to,

(d) refuses or neglects to avail himself or herself or a member of his or her household unit of advantages the applicant or recipient or member of the household unit may receive or be entitled to under any other law,

(2) The Director may refuse to provide benefits to a person in the category referred to in section 6(1)(a)(iii) or to a person eligible under section 9 if that person had previously received benefits under either of those sections but,

(3) If there is a change in a recipient's circumstances or the circumstances of another member of the recipient's household unit, the Director may reduce, increase, suspend or discontinue any assistance under Part 2 being provided to the recipient or other member of the recipient's household unit.

(6) Section 17 is amended

(a) in subsection (1)

(i) by striking out "his or her" **and substituting** "the recipient's";

(ii) by striking out "the Director" **and substituting** "a director";

(b) in subsection (2)

(i) by striking out "if the Director considers that a recipient is unable to manage his or her own financial affairs" **and substituting** "if a director considers that a recipient is unable to manage the recipient's own financial affairs";

(ii) by striking out "the Director may apply" **and substituting** "the director may apply";

(iii) by striking out "of managing his or her own" **and substituting** "of managing the recipient's own";

(c) in subsection (3)

(i) by striking out "required by the Director" **and substituting** "required by a director";

(ii) by striking out "to the Director" **and substituting** "to the director";

(d) in subsection (4)

(i) by striking out "The Director" **and substituting** "A director";

(ii) in clause (a) by striking out "Director" **and substituting** "director";

(e) in subsection (6)

(i) by striking out "by the Director" **and substituting** "by a director";

(ii) by striking out "but the Director" **and substituting** "but the director".

NOTE: (6) Section 17 presently reads in part:

17(1) When a recipient is unable to manage his or her own financial affairs, the Director, with the recipient's consent, may

(2) Subject to the regulations, if the Director considers that a recipient is unable to manage his or her own financial affairs and no consent has been obtained under subsection (1), the Director may apply to an appeal panel under Part 7 for a determination as to whether the recipient is capable of managing his or her own financial affairs and, if necessary, for

(3) A financial administrator appointed under subsection (1) or (2) shall, when required by the Director, make returns showing the amount of assistance under Part 2 received, the amount that has been expended for the benefit of the recipient and the balance remaining with the financial administrator and shall, if necessary, remit any balance to the Director.

(4) The Director may revoke the appointment of the financial administrator

(a) where, in the opinion of the Director, the financial administrator is not acting in the best interests of the recipient,

(6) When a financial administrator appointed under subsection (1) or (2) is an officer or employee of an institution in which a recipient is maintained, the financial administrator shall pay to the institution that proportion of any assistance under Part 2 that is considered by the Director to be a reasonable sum for the maintenance of the person, but the Director shall require the financial administrator to make available to the recipient the amount that has been provided for the recipient's personal use.

(7) Section 22 is amended

(a) by striking out "the Director" **and substituting** "a director";

(b) in clause (e) by striking out "Director" **and substituting** "director".

NOTE: (7) Section 22 presently reads in part:

22 Where a training provider fails to comply with this Act or the regulations, with the terms or conditions of an approval of a training program the training provider is authorized to provide or with any term or condition of an agreement or arrangement entered into under section 20, the Director

(e) may terminate or suspend any agreement or arrangement between the Director and the training provider relating to the provision of approved training programs;

(8) Section 23 is amended

(a) in subsection (1)

(i) by striking out "Where the Director" **and substituting** "Where a director";

(ii) by striking out "to the Director" **and substituting** "to the director";

(b) in subsection (2) by striking out "the Director" **and substituting** "a director".

NOTE: (8) Section 23 presently reads in part:

23(1) Where the Director appoints an auditor under section 22(f), the auditor must submit the auditor's report to the Director and to the training provider.

(2) An auditor appointed by the Director is, at all reasonable times and for any purpose related to an audit, entitled to access

(9) Section 24 is amended

(a) in subsection (1)

(i) by striking out "Where the Director" **and substituting** "Where a director";

(ii) by striking out "the Director may" **and substituting** "the director may";

(b) in subsection (3)(b) by striking out "the Director" **and substituting** "a director".

NOTE: (9) Section 24 presently reads in part:

24(1) Where the Director is of the opinion that a training provider has failed to comply

(a) with any prescribed provision of this Act or the regulations,

(b) with a term or condition of an approval of a training program the training provider is authorized to provide, or

(c) with a term or condition of an agreement or arrangement entered into under section 20,

the Director may give a notice of administrative penalty to the training provider requiring that training provider to pay to the Government an administrative penalty, by a date specified in the notice, in the amount set out in the notice, for each day or part of a day the failure to comply occurs or continues.

(3) A notice of administrative penalty shall not be issued after 3 years from the later of

(b) the date on which evidence of the failure to comply first came to the attention of the Director.

(10) Section 29 is amended

(a) in subsection (1) by striking out "the Director" **and substituting** "a director";

(b) in subsection (2) by striking out "The Director" **and substituting** "A director";

(c) in subsection (3) by striking out "the Director" **and substituting** "a director";

(d) in subsection (4) by striking out "the Director may act in his or her" **and substituting** "a director may act in the director's";

(e) in subsection (5)

(i) by striking out "When the Director" **and substituting** "When a director";

(ii) by striking out "Director must" **and substituting** "director must";

(f) in subsection (6)

(i) by striking out "While the Director" **and substituting** "While a director";

(ii) in clause (b)(iii) by striking out "of the Director" **and substituting** "of the director";

(g) in subsection (8)

(i) by striking out "the Director has" **and substituting** "a director has";

(ii) by striking out "Director may" **and substituting** "director may";

(h) in subsection (9) by striking out "the Director" **and substituting** "a director".

NOTE: (10) Section 29 presently reads in part:

29(1) Where a person has a right to apply for or receive support under an Act, order or agreement for that person or that person's dependent child, and

(a) the person is in receipt of assistance, or

(b) the person has qualified for assistance but is not yet in receipt of the assistance,

the Director has the authority set out in subsections (2) and (3).

(2) The Director may assist a person referred to in subsection (1)

(3) For the purposes of subsection (1), the Director has all the rights of a person referred to in subsection (1) and may take any steps to obtain, enforce or vary a support order or support agreement, including

(4) For the purposes of subsection (3), the Director may act in his or her name or in the name of the person referred to in subsection (1).

(5) When the Director exercises authority under subsection (3), the Director must, subject to the regulations, notify the person who is or may be entitled to support.

(6) While the Director is exercising authority under subsection (3), the person who is entitled to the support or to apply for or receive support under an Act, order or agreement

(b) must, when required,

(iii) comply with any requests of the Director,

(8) Where a person ceases to receive assistance and the Director has commenced to act under subsection (3), the Director may continue to act unless, subject to subsection (9), the person requests otherwise.

(9) Where a person ceases to receive assistance but the assistance provided during the period of entitlement to the support has not been recovered by the Government, the Director may act or continue to act under subsection (3) to recover money owing to the Government.

(11) Section 30(1) is amended

(a) by striking out "the Director" **and substituting** "a director";

(b) in clauses (c) and (d) by striking out "Director's" **and substituting** "director's".

NOTE: (11) Section 30(1) presently reads in part:

30(1) Where a person is not receiving assistance but meets the eligibility requirements provided for in the regulations, the Director may, subject to the regulations,

(c) bring an application for a determination of parentage in the Director's name or in the name of the person,

(d) bring an application for support to which the person is entitled in the Director's name or in the name of the person, and

(12) Section 33(1) is amended

(a) in clause (c) by striking out "his or her" **and substituting** "the person's";

(b) in clause (d) by striking out "the Director" **and substituting** "a director".

NOTE: (12) Section 33(1) presently reads in part:

33(1) The Lieutenant Governor in Council may make regulations

(c) respecting circumstances under which a person may exercise his or her rights under section 29(6)(a);

(d) respecting the eligibility of a person for the purpose of section 30(1) and the circumstances under which the Director can act under section 30(1);

(13) Section 35 is amended

(a) in subsection (1) by striking out "the Director's" **and substituting** "a director's";

(b) in subsection (2)

(i) by striking out "the Director" **and substituting** "a director";

(ii) by striking out "Director's" **and substituting** "director's";

(c) in subsection (3)

(i) by striking out "the Director shall" **and substituting** "a director shall";

(ii) by striking out "the Director considers" **and substituting** "the director considers";

(d) in subsection (4)

(i) by striking out "The Director" **and substituting** "A director";

(ii) in clause (b) by striking out "Director" **and substituting** "director";

(e) in subsection (5)

(i) by striking out "If the Director" **and substituting** "If a director";

(ii) by striking out "Director may" **and substituting** "director may";

(iii) in clause (b) by striking out "Director's" **and substituting** "director's".

NOTE: (13) Section 35 presently reads in part:

35(1) Subject to subsection (5) and the regulations, a recipient must repay the amount or value of assistance received if, in the Director's opinion,

(2) A financial administrator or third party may be required by the Director to repay the amount or value of assistance received on behalf of a recipient if, in the Director's opinion,

(3) Where an amount or value is repayable under subsection (1) in respect of a household unit and the recipient and the recipient's cohabiting partner at the time the debt was incurred are no longer in the same household unit, the Director shall, for the purposes of enforcing the payment of the debt, attribute the amount of the debt between the recipient and the recipient's former cohabiting partner as the Director considers appropriate.

(4) The Director must, in accordance with the regulations, provide notice of the following to a person who is required to repay an amount or value under this section:

(b) any amount or value the Director is exempting the person from repaying under subsection (5);

(5) If the Director determines there are appropriate circumstances, the Director may exempt a person from the requirement to repay an amount or value unless

(b) in the Director's opinion, the person received the benefit by wilful misrepresentation or fraud.

(14) Section 37(2) is repealed and the following is substituted:

(2) Where an amount is payable under subsection (1), a director shall provide a notice to the person indicating the amount owing.

NOTE: (14) Section 37(2) presently reads:

(2) Where an amount is payable under subsection (1), the Director shall provide a notice to the person, in the form and manner provided by the regulations, indicating the amount owing and the right to appeal under the regulations made under section 42(1).

(15) Section 38 is amended

(a) **in subsection (2) by striking out** "The Director shall take any action the Director" **and substituting** "A director shall take any action the director";

(b) **in subsection (5) by striking out** "pursuant to" **and substituting** "under".

NOTE: (15) Section 38 presently reads in part:

(2) The Director shall take any action the Director considers necessary to collect any debt due to the Government under this Act, a former Act or the Assured Income for the Severely Handicapped Act, including any of the following:

(5) After the filing of a certificate pursuant to subsection (2)(d) the person named in the certificate shall be served with a notice setting out

(16) Section 39 is amended

(a) **in subsection (3) by striking out** "the Director" **and substituting** "a director";

(b) **in subsection (4) by striking out** "If the Director, on application to the Director" **and substituting** "If a director, on application to the director";

(c) **in subsection (5) by striking out** "the Director" **and substituting** "a director".

NOTE: (16) Section 39 presently reads in part:

(3) The Registrar of Land Titles shall cancel the registration of an order, certificate or agreement registered under subsection (2) on the presentation to the Registrar of a notice issued by the Director stating

(4) If the Director, on application to the Director, refuses to issue a notice under subsection (3), the applicant may apply to the Court of King's Bench for an order directing the Registrar of Land Titles to cancel the registration of the order, certificate or agreement.

(5) An order by the Court of King's Bench under subsection (4) may be made only where the court is of the opinion that grounds exist on which the Director could have issued a notice under subsection (3).

(17) Section 40 is amended

(a) in subsection (1) by striking out "the Director may cause a caveat in a form prescribed by the Director" **and substituting** "a director may cause a caveat in a form prescribed by the director";

(b) in subsection (2) by striking out "the Director" **and substituting** "a director";

(c) in subsection (4)

(i) by striking out "pursuant to" **and substituting** "under";

(ii) by striking out "the Director's" **and substituting** "a director's";

(d) in subsection (6)

(i) by striking out "The Director may" **and substituting** "A director may";

(ii) by striking out "Director thinks" **and substituting** "director thinks".

NOTE: (17) Section 40 presently reads in part:

40(1) When assistance is provided under Part 2, Division 1 to meet

(a) the payments on a land mortgage,

(b) the payments under an agreement for sale of land, or

(c) the costs of repairs to buildings or other improvements to land,

the Director may cause a caveat in a form prescribed by the Director to be registered in the land titles office against the certificate of title for the land.

(2) On the registration of the caveat, the Director has a charge on the land equal to

(4) Notwithstanding section 138 of the Land Titles Act, a caveat registered pursuant to this section does not lapse and shall not be cancelled or withdrawn except on the Director's request to withdraw the caveat.

(6) The Director may waive the rights given by this section, in whole or in part, for the purpose of any proceedings or for any other reason the Director thinks is proper.

(18) Section 41 is amended

(a) in subsection (2) by striking out "he or she" **wherever it occurs and substituting** "the person";

(b) in subsection (6)(b) by striking out "the Director" **and substituting** "a director".

NOTE: (18) Section 41 presently reads in part:

(2) A person who, knowing he or she is not entitled to it, obtains or receives assistance to which he or she is not entitled under this Act and the regulations is guilty of an offence and is liable to a fine of not more than $2000.

(6) A prosecution for an offence under this Act may not be commenced more than 2 years after the later of

(b) the date on which evidence of the offence first came to the attention of the Director.

(19) Section 45 is amended

(a) in subsection (1) by striking out "the Director" **and substituting** "a director";

(b) in subsection (3)

(i) by striking out "the Director's" **and substituting** "a director's";

(ii) in clauses (a) to (c) by striking out "Director" **and substituting** "director".

NOTE: (19) Section 45 presently reads in part:

45(1) A person directly affected may appeal a decision of the Director referred to in section 43(1) by filing a notice of appeal, which must include reasons for requesting the appeal, within 30 days from when the person received notice of the decision and of the person's right to appeal.

(3) For the purpose of subsection (1), a person is deemed to have received notice of the Director's decision and of the person's right to appeal,

(a) if it was sent by registered mail or courier, on the day it was delivered to that person's last address known to the Director,

(b) if it was sent by ordinary mail, on the 7th day after it was mailed to that person's last address known to the Director, or

(c) if it was sent by fax or other electronic means, on the day it was transmitted to the person's last electronic address known to the Director,

(20) Section 49 is amended

(a) in subsection (2)

(i) by striking out "The Director" **and substituting** "A director";

(ii) by striking out "Director's" **and substituting** "director's";

(b) in subsections (3) and (4) by striking out "The Director" **and substituting** "A director".

NOTE: (20) Section 49 presently reads in part:

(2) The Director and any person employed or assisting in the administration of this Act shall preserve confidentiality with respect to personal information that comes to the Director's or person's attention under this Act and shall not disclose or communicate that information except as follows:

(3) The Director may enter into agreements for the sharing of personal information with any person or organization for any purpose related to the administration of this Act.

(4) The Director may collect personal information for the purposes of sections 29 and 30.

(21) The Schedule is amended

(a) in section 5

(i) by striking out "the Director" **and substituting** "a director";

(ii) by striking out "is comprised" **and substituting** "consists";

(b) in Tables 2 and 3 by striking out "If the Director is satisfied that a child will become a member of the household unit, the Director" **and substituting** "If a director is satisfied that a child will become a member of the household unit, the director".

NOTE: (21) The Schedule presently reads in part:

5 The core income support that may be provided by the Director under section 5(1)(a) of this Act to a learner household unit is comprised of a core essential payment and a core shelter payment determined as follows:

Table 2
Maximum Monthly Core Shelter Payment Table under Section 5.1(2)(a) of this Act (Private Housing)

Number of persons in household unit	*Amount*
1 adult	*$ 373*
Exception: *1 If the Director is satisfied that a child will become a member of the household unit, the Director may consider that child a member of the household unit.*	

Table 3
Maximum Monthly Core Shelter Payment Table under Section 5.1(2)(a) of this Act (Social Housing)

Number of persons in household unit	*Amount*
1 adult	*$ 137*
Exception: *3 If the Director is satisfied that a child will become a member of the household unit, the Director may consider that child a member of the household unit.*	

(22) The following provisions are amended by striking out "Director" **wherever it occurs and substituting** "director":

section 4;
section 5(1);
section 9.

NOTE: (22) Updates terminology.

(23) The following provisions are amended by striking out "The Director" **wherever it occurs and substituting** "A director":

section 7;
section 11(2);
section 12;
section 16(2);
section 20.

NOTE: (23) Updates terminology.

(24) The following provisions are amended by striking out "the Director" **wherever it occurs and substituting** "a director":

section 13;
section 21(c) and (e);
section 25(2);
section 42(1)(b.1);
section 43;
section 46(1);
section 51(7)(b).

NOTE: (24) Updates terminology.

(25) This section comes into force on Proclamation.

NOTE: (25) Coming into force.

Insurance Act

Amends RSA 2000 cI-3

8(1) The *Insurance Act* is amended by this section.

NOTE: 8(1) Amends chapter I-3 of the Revised Statutes of Alberta 2000.

(2) Section 1 is amended

(a) in clause (c) by striking out "the Government approved industry plan under section 609" **and substituting** "a Government-approved industry plan under section 90.21 of the *Automobile Insurance Act*";

(b) in clause (ee) by adding "expenses," **after** "benefits,";

(c) by repealing clauses (nn) and (pp).

NOTE: (2) Section 1 presently reads in part:

1 In this Act,

(c) "agency contract" means a contract between an insurance agent and an insurer in which the insurance agent agrees to act as an insurance agent in respect of insurance issued by the insurer, but does not include the arrangement that an insurance agent has with an insurer that is the service carrier for the Government approved industry plan under section 609;

(ee) "insurance money" includes all insurance money, benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;

(nn) "non-owner's policy" means a motor vehicle liability policy insuring a person solely in respect of the use or operation by the person or on the person's behalf of an automobile that the person does not own;

(pp) "owner's policy" means a motor vehicle liability policy insuring a person in respect of the ownership, use or operation of an automobile owned by the person and within the description or definition of automobile in the policy and, if the contract so provides, in respect of the use or operation of any other automobile;

(3) Sections 15(1) and 15.1(2) are amended by striking out ", except section 570,".

NOTE: (3) Sections 15(1) and 15.1(2) presently read:

15(1) This Act, except section 570, does not apply to a prescribed entity to the extent of its provision to participants of prescribed benefits relating to medical care, accident and sickness benefits.

15.1(2) Subject to any regulations made under subsection (3), this Act, except section 570, does not apply to an entity to the extent of its provision to its participants of prescribed benefits whose subject-matter is income replacement due to disability, sickness or disease, provided that no death benefit is payable.

(4) Section 54(1)(d) is amended by striking out "or 605".

NOTE: (4) Section 54(1)(d) presently reads:

54(1) Where

(d) a licensed insurer is convicted of an offence under section 511.1(7) or 605,

the Minister may cancel, suspend or refuse to renew the licence of the insurer, or may impose terms or conditions on its licence.

(5) Section 455(4)(c) is amended by striking out "the Government approved industry plan under section 609" **and**

substituting "a Government-approved industry plan under section 90.21 of the *Automobile Insurance Act*".

NOTE: (5) Section 455(4)(c) presently reads:

(4) An individual who is an employee of an insurer and who holds a valid and subsisting insurance agent's certificate of authority may act as an insurance agent only for

(c) in the case of automobile insurance, an insurer that is the service carrier for the Government approved industry plan under section 609.

(6) Section 498(m) is amended by striking out "or to an accreditation committee established by the Minister".

NOTE: (6) Section 498(m) presently reads:

498 The Lieutenant Governor in Council may make regulations

(m) authorizing the Minister to delegate any of the Minister's powers, duties or functions under this Part or the regulations under this Part and sections 794 and 795 to any of the insurance councils or to an accreditation committee established by the Minister, establishing the restrictions on and limitations of any such delegation and otherwise respecting any such delegated powers, duties and functions;

(7) Section 498.1 is amended

(a) in clause (a)

(i) by striking out ", to any of the insurance councils or to an accreditation committee established by the Minister," **and substituting** "or to any of the insurance councils";

(ii) by striking out "or an accreditation committee";

(b) in clause (c) by striking out "Minister, to any of the insurance councils or to an accreditation committee" **and substituting** "Minister or any of the insurance councils".

NOTE: (7) Section 498.1 presently reads in part:

498.1 The Minister may

(a) establish fees, levies, penalties and other charges that are to be paid to the Minister, to any of the insurance councils or to an accreditation committee established by the Minister, by insurers, insurance agents or adjusters for any thing an insurance council or an accreditation committee does under the authority of this Act or the regulations,

(c) specify that all, some or none of the fees, levies, penalties or other charges are to be remitted to the Minister, to any of the insurance councils or to an accreditation committee.

(8) The following is added after section 506.1:

Customer satisfaction survey

506.2(1) The Minister may direct an insurer, insurance industry association or association of insurance professionals

(a) to conduct, coordinate or administer a customer satisfaction survey, and

(b) to make the survey returnable to the insurer, insurance industry association or association of insurance professionals by electronic or other means.

(2) An insurer, insurance industry association or association of insurance professionals directed to conduct, coordinate or administer a survey under subsection (1) must do so in accordance with

(a) the Minister's direction,

(b) the form and manner, if any, specified by the Minister, and

(c) the regulations, if any.

(3) If the Minister directs an insurer, insurance industry association or association of insurance professionals to conduct, coordinate or administer a survey under subsection (1), the insurer, insurance industry association or association of insurance professionals must anonymize the survey results and send them to the Minister within the time and in a form and manner specified by the Minister.

(4) If an insurer, insurance industry association or association of insurance professionals, on its own initiative, conducts, coordinates or administers a customer satisfaction survey, the insurer, insurance industry association or association of insurance professionals must notify the Minister.

(5) The Minister may direct an insurer, insurance industry association or association of insurance professionals that notifies the Minister under subsection (4) to send the survey results to the Minister within the time and in a form and manner specified by the Minister.

NOTE: (8) Customer satisfaction survey.

(9) Section 511(1) is amended by adding the following after clause (g.11):

(g.12) respecting the conduct, coordination or administration of a customer satisfaction survey under section 506.2;

NOTE: (9) Adds regulation-making authority.

(10) Section 546(1) is amended by striking out "Subject to section 570(6), an insurer" **and substituting** "An insurer".

NOTE: (10) Section 546(1) presently reads:

546(1) Subject to section 570(6), an insurer that makes any payment or assumes liability for making any payment under a contract is subrogated to all rights of recovery of the

insured against any person and may bring an action in the name of the insured to enforce those rights.

(11) Sections 549 to 597 and the headings preceding sections 551, 552, 559, 586, 596 and 597 are repealed.

NOTE: (11) Sections 549 to 597 and the headings preceding sections 551, 552, 559, 586, 596 and 597 presently read:

549 In this Subpart,

(a) "accident" means an accident arising from the use or operation of an automobile;

(b) "accident claim" means a claim for loss or damages from bodily injury or death arising from an accident;

(b.1) "additional coverage" means automobile insurance that may be made available by an insurer that supplements basic coverage, including, without limitation, collision and comprehensive coverage;

(c) "basic coverage" means insurance coverage required or provided for under sections 571, 573 and 585.1;

(d) "contract" means a contract of automobile insurance;

(e) "insured" means a person insured by a contract whether named in the contract or not and includes any person who is stated in a contract to be entitled to benefits payable under the insurance mentioned in section 573 whether described in the contract as an insured person or not;

(f) "rating program" means

(i) the rules, criteria, policies, guidelines, algorithms and rating variables used by an insurer to determine premiums for basic coverage or additional coverage, and

(ii) the underwriting rules that govern the decision by an insurer to accept or decline a risk, coverage or endorsement.

550(1) This Subpart applies to contracts providing automobile insurance made or renewed in Alberta on or after January 1, 1969.

(2) This Subpart does not apply to contracts insuring only against

(a) loss of or damage to an automobile while in or on described premises,

(b) loss of or damage to property carried in or on an automobile, or

(c) liability for loss of or damage to property carried in or on an automobile.

(3) This Subpart does not apply to a contract providing insurance in respect of an automobile not required to be registered under the Traffic Safety Act unless it is insured under a contract evidenced by a form of policy approved under this Subpart.

(4) This Subpart does not apply to a contract insuring solely the interest of a person who has a lien on, or has as security legal title to, an automobile and who does not have possession of the automobile.

Approval of Forms

551(1) No insurer may use a form of application, policy, endorsement or renewal or continuation certificate in respect of automobile insurance other than a form approved by the Superintendent.

(2) An insurer may require additional information in an approved application form, but that additional information does not constitute part of the application for the purposes of section 554.

(3) When, in the opinion of the Superintendent, any provision of this Subpart, including any statutory condition, is wholly or partly inappropriate to the requirements of a contract or is inapplicable by reason of the requirements of

any Act, the Superintendent may approve a form of policy, or part of a form of policy, or a form of endorsement, evidencing a contract sufficient or appropriate to insure the risks required or proposed to be insured, and the contract evidenced by the policy or endorsement in the form so approved is effective and binding according to its terms even if those terms are inconsistent with, vary, omit or add to any provision or statutory condition of this Subpart.

(4) Except as to matters mentioned in section 566, the Superintendent may, if the Superintendent considers it to be in the public interest, approve a form of motor vehicle liability policy or endorsement to a motor vehicle liability policy that extends the insurance beyond that required by this Subpart.

(5) The Superintendent, in granting an approval under subsection (4), may require the insurer to charge an additional premium for the extension and to state that fact in the policy or in any endorsement.

(6) The Superintendent may approve a form of owner's policy containing insuring agreements and provisions in conformity with this Subpart for use by insurers in general, which, for the purposes of section 553, is the standard owner's policy.

(7) When the Superintendent approves a form referred to in subsection (6), the Superintendent must cause a copy of the form to be published in The Alberta Gazette, but it is not necessary for the Superintendent to publish endorsement forms approved for use with the standard owner's policy.

(8) The Superintendent may revoke an approval given under this section, and no insurer may, after receiving notification of the revocation in writing, use or deliver a form that contravenes the notification.

(9) The Superintendent must, on request of any interested insurer, specify in writing the Superintendent's reasons for granting, refusing or revoking an approval of a form.

(10) The Superintendent may at any time approve an amendment to any form that was previously approved by the Superintendent under this section, and where the Superintendent does so, the Superintendent must have a copy

of the amendment published in The Alberta Gazette, but it is not necessary for the Superintendent to publish an amendment to endorsement forms approved for use with the standard owner's policy.

(11) Ninety days after the publication of an amendment in The Alberta Gazette or at a later date specified in the Gazette notice, despite anything in this Act and any contract that is then in force,

(a) the amendment is deemed to be incorporated into the previously approved form and into any contract that incorporated that form, and

(b) the amendment becomes otherwise effective.

(12) Despite subsection (11), the amendment also applies to contracts entered into or renewed after the date referred to in that subsection.

Application and Policy

552 No person carrying on the business of financing the sale or purchase of automobiles, no automobile dealer or insurance agent and no officer or employee of such a person, dealer or insurance agent may act as the agent of an applicant for the purpose of signing an application for automobile insurance.

553(1) A copy of the written application, signed by the insured or the insured's agent, or, if no signed application is made, a copy of the purported application, or a copy of the part of the application or purported application that is material to the contract, must be embodied in, endorsed on or attached to the policy when issued by the insurer.

(2) If no signed written application is received by the insurer prior to the issue of the policy, the insurer must deliver or mail to the insured named in the policy, or to the agent for delivery or mailing to the insured, a form of application to be completed and signed by the insured and returned to the insurer.

(3) Subject to subsection (8), the insurer must deliver or mail to the insured named in the policy, or to the agent for delivery or mailing to the insured, the policy or a true copy

of the policy and every endorsement or other amendment to the contract.

(4) When a written application signed by the insured or the insured's agent is made for a contract, the policy evidencing the contract is deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, and in that event the insured is deemed to have accepted the policy unless, within 2 weeks from the receipt of the notification, the insured informs the insurer in writing that the insured rejects the policy.

(5) If the insured rejects the policy under subsection (4), the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified in the contract.

(6) Despite subsection (5), if the insured failed to disclose material information on the application the knowledge of which would have resulted in the insurer charging a higher premium than what was charged, the amount that the insurer is required to refund under subsection (5) is the excess of premium actually paid by the insured over the short rate premium for the expired time calculated as if the higher premium had been charged.

(7) If the insured does not reject the policy under subsection (4), the insured is deemed to have accepted the policy.

(8) When an insurer uses the standard owner's policy, it may, instead of issuing the policy, issue a certificate in a form approved by the Superintendent, which, when issued, is of the same force and effect as if it were the standard owner's policy, subject to the limits and coverages shown on the certificate by the insurer and any endorsements issued concurrently with the certificate or subsequent to the certificate, but at the request of an insured at any time, the insurer must issue the policy and a copy of the written application or purported application as required by subsection (1).

(9) When a certificate is issued pursuant to subsection (8), subsection (11) and section 584(3) apply with all necessary modifications.

(10) When an insurer issues a certificate pursuant to subsection (8), proof of the contents may be given by production of a copy of The Alberta Gazette containing the form of standard owner's policy approved by the Superintendent.

(11) Every application form and policy must have printed or stamped on it in conspicuous bold type a copy of section 554(1).

554(1) If

(a) an applicant for a contract

(i) gives false particulars of the described automobile to be insured to the prejudice of the insurer, or

(ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated in the application,

(b) the insured contravenes a term of the contract or commits a fraud, or

(c) the insured wilfully makes a false statement in respect of a claim under the contract,

a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.

(2) No statement of the applicant may be used in defence of a claim under the contract unless it is contained in the signed written application for the contract or, when no signed written application is made, in the purported application, or part of the application, that is embodied in, endorsed on or attached to the policy.

(3) No statement contained in a copy of the purported application, or part of the application, other than a statement describing the risk and the extent of the insurance, may be used in defence of a claim under the contract unless the insurer proves that the applicant made the statement

attributed to the applicant in the purported application or part of the application.

555(1) In this section, "adverse contractual action" means

(a) refusing to provide a premium quotation within a reasonable time;

(b) refusing to process an application for automobile insurance;

(c) refusing to issue a contract;

(d) refusing to renew a contract;

(e) terminating a contract;

(f) cancelling a contract;

(g) refusing to provide any coverage or endorsement;

(h) refusing to continue any coverage or endorsement;

(i) any action respecting a contract not referred to in clauses (a) to (h) that is prescribed or otherwise described by regulation as adverse contractual action.

(2) This section applies only to adverse contractual action taken in respect of basic coverage on private passenger vehicles.

(3) An insurer, insurance agent or insurance broker shall not, directly or indirectly, take any adverse contractual action with respect to an insured or an applicant for a contract except for one or more of the following reasons:

(a) the non-payment of a premium or any portion of a premium;

(b) the failure of the insured or the applicant for a contract to inform the insurer or to keep the insurer informed, where requested to do so by the insurer, as to who is the principal driver of the automobile for which the insurance coverage is or is to be issued;

(c) in the case of an insurer that is a provincial or extra-provincial company, the insurer is required to cease to undertake or to offer to undertake insurance in Alberta pursuant to section 25(2);

(d) the insurer's licence is suspended or cancelled under section 54, 55, 819 or 819.1;

(e) in the case of an insurer that is a federally authorized company, the federal Superintendent of Financial Institutions has ordered or otherwise directed the insurer to cease carrying on business or insuring risks in Canada;

(f) the insurer has filed notice under section 611(3) that the insurer intends to withdraw from the business of automobile insurance;

(g) where permitted by regulation, any reasons not referred to in clauses (a) to (f) that are prescribed or otherwise described by regulation.

(4) Where

(a) a premium or any portion of a premium that is owing in respect of a contract is in arrears,

(b) the insurer takes adverse contractual action because those arrears have not been paid, and

(c) the person liable for those arrears applies to the insurer to renew or issue a contract or to any other insurer to issue a contract,

the insurer may refuse to renew or issue a contract to that person, as the case may be, until those arrears are paid to the insurer to which the arrears are owing.

(5) The Lieutenant Governor in Council may make regulations

(a) permitting adverse contractual action to be taken other than under subsection (3)(a) to (f) and prescribing or otherwise describing any reasons not referred to in subsection (3)(a) to (f) for which adverse contractual action may be taken;

(b) prescribing or otherwise describing any action not referred to in subsection (1)(a) to (h) as adverse contractual action;

(c) governing the taking of adverse contractual action;

(d) governing the issuing or renewing of contracts;

(e) governing any transitional matter concerning the application of this section in respect of matters dealt with under this section;

(f) providing for any matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this section.

(6) This section applies despite any other Act.

556(1) Subject to sections 551(3), 557 and 584(2),

(a) the conditions set out in this section are statutory conditions and are deemed to be part of every contract and must be printed in every policy under the heading "Statutory Conditions", and

(b) no variation or omission of or addition to any statutory condition is binding on the insured.

(2) In this section, "policy" does not include an interim receipt or a binder.

Statutory Conditions

In these statutory conditions, unless the context otherwise requires, "insured" means a person insured by the contract whether named in the contract or not.

MATERIAL CHANGE IN RISK 1(1) The insured named in the contract must promptly notify the insurer or its agent in writing of any change in the risk material to the contract and within the insured's knowledge.

(2) Without restricting the generality of subparagraph (1) of this condition, "change in the risk material to the contract" includes

(a) any change in the insurable interest of the insured named in the contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the Bankruptcy and Insolvency Act (Canada), and

(b) in respect of insurance against loss of or damage to the automobile,

(i) any mortgage, lien or encumbrance affecting the automobile after the application for the contract, and

(ii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the contract or any portion of the contract.

PROHIBITED USE BY INSURED 2(1) The insured must not drive or operate the automobile

(a) unless the insured is for the time being either authorized by law or qualified to drive or operate the automobile,

(b) while the insured's licence to drive or operate an automobile is suspended or while the insured's right to obtain a licence is suspended or while the insured is prohibited under order of any court from driving or operating an automobile,

(c) while the insured is under the age of 16 years or under any other age prescribed by the law of the province in which the insured resides at the time the contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to the insured,

(d) for any illicit or prohibited trade or transportation, or

(e) in any race or speed test.

PROHIBITED USE BY OTHERS (2) The insured must not permit or allow the use of the automobile

(a) by any person

(i) *unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or*

(ii) *while that person is under the age of 16 years or under any other age prescribed by the law of the province in which the person resides at the time the contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to the person,*

(b) *by any person who is a member of the household of the insured while the person's licence to drive or operate an automobile is suspended or while the person's right to obtain a licence is suspended or while the person is prohibited under order of any court from driving or operating an automobile,*

(c) *for any illicit or prohibited trade or transportation, or*

(d) *in any race or speed test.*

REQUIREMENTS WHERE LOSS OR DAMAGE TO PERSONS OR PROPERTY 3(1) *The insured must*

(a) *promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the accident,*

(b) *verify by statutory declaration, if required by the insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under the contract, and*

(c) *forward immediately to the insurer every letter, document, advice or writ received by the insured from or on behalf of the claimant.*

(2) *The insured must not*

(a) voluntarily assume any liability or settle any claim except at the insured's own cost, or

(b) interfere in any negotiations for settlement or in any legal proceeding.

(3) The insured must, whenever requested by the insurer, aid in securing information and evidence and the attendance of any witness, and must co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

REQUIREMENTS WHERE LOSS OR DAMAGE TO AUTOMOBILE 4(1) When loss of or damage to the automobile occurs, the insured must, if the loss or damage is covered by the contract,

(a) promptly give notice of the loss or damage in writing to the insurer with the fullest information obtainable at the time,

(b) at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and

(c) deliver to the insurer within 90 days after the date of the loss or damage a statutory declaration stating, to the best of the insured's knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others in the automobile, the encumbrances on the automobile, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

(2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subparagraph (1) of this condition is not recoverable under the contract.

(3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, may be undertaken and no physical evidence of the loss or damage may be removed

(a) without the written consent of the insurer, or

(b) until the insurer has had a reasonable opportunity to make the inspection for which provision is made in Statutory Condition 5.

(4) The insured must submit to examination under oath and must produce for examination at any reasonable place and time designated by the insurer or its representative all documents in the insured's possession or control that relate to the matters in question, and the insured must permit extracts and copies of the documents to be made.

(5) The insurer is not liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage must be ascertained or estimated according to that actual cash value with proper deductions for depreciation, however caused, and must not exceed the amount that it would cost to repair or replace the automobile, or any part of the automobile, with material of similar kind and quality, but if any part of the automobile is obsolete and unavailable, the liability of the insurer in respect of the automobile is limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.

(6) Except where a dispute resolution process has been initiated, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of similar kind and quality if, within 7 days after the receipt of the proof of loss, it gives written notice of its intention to do so.

(7) There must be no abandonment of the automobile to the insurer without the insurer's consent.

(8) If the insurer exercises the option to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, vests in the insurer.

(9) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount of the loss or damage, those questions must be determined by a dispute resolution process as provided under the Insurance Act before there can be recovery under the contract, whether the

right to recover under the contract is disputed or not, and independently of all other questions.

(10) There is no right to a dispute resolution process until

(a) a specific demand for it is made in writing, and

(b) the proof of loss has been delivered.

INSPECTION OF AUTOMOBILE 5 The insured must permit the insurer at all reasonable times to inspect the automobile and its equipment.

TIME AND MANNER OF PAYMENT OF INSURANCE MONEY 6(1) The insurer must pay the insurance money for which it is liable under the contract within 60 days after the proof of loss has been received by it or, where a dispute resolution process is conducted under Statutory Condition 4(9), within 15 days after the decision is rendered.

(2) The insured may not bring an action to recover the amount of a claim under the contract unless the requirements of Statutory Conditions 3 and 4 are complied with or until the amount of the loss has been ascertained as provided for under Statutory Conditions 3 and 4 or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

WHO MAY GIVE NOTICE AND PROOFS OF CLAIM 7 Notice of claim may be given and proofs of claim may be made by the agent of the insured named in this contract in the case of absence or inability of the insured to give the notice or make the proof, such absence or inability being satisfactorily accounted for or, in the like case or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

TERMINATION 8(1) The contract may be terminated

(a) by the insurer giving to the insured 15 days' notice of termination by recorded mail or 5 days' written notice of termination personally delivered, or

(b) by the insured at any time on request.

(2) If the contract is terminated by the insurer,

(a) the insurer must refund the excess of premium actually paid by the insured over the prorated premium for the expired time, but in no event may the prorated premium for the expired time be less than any minimum retained premium specified, and

(b) the refund must accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund must be made as soon as practicable.

(3) If the contract is terminated by the insured, the insurer must refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event may the short rate premium for the expired term be deemed to be less than any minimum retained premium specified.

(4) The 15-day period referred to in subparagraph (1)(a) of this condition starts to run on the day the recorded mail or notification of it is delivered to the insured's postal address.

NOTICE 9(1) Any written notice to the insurer may be delivered at, or sent by recorded mail to, the chief agency or head office of the insurer in the province.

(2) Written notice may be given to the insured named in the contract by letter personally delivered to the insured or by recorded mail addressed to the insured at the insured's latest postal address as notified to the insurer.

(3) In this condition, "recorded" means recorded in or outside Canada.

557(1) Except as otherwise provided in the contract, the statutory conditions set out in section 556 do not apply to insurance described in section 586, 587 or 588.

(2) When a contract does not insure against liability for loss or damage to persons and property, Statutory Condition 3 set out in section 556 is not a part of the policy and may be omitted from the printing of the conditions in the policy.

(3) When a contract does not insure against loss of or damage to the automobile, Statutory Condition 4 set out in

section 556 is not a part of the policy and may be omitted from the printing of the conditions in the policy.

558(1) An action or proceeding against an insurer under a contract must be commenced

(a) in the case of loss of or damage to the automobile, not later than 2 years after the occurrence of the loss or damage, and

(b) in the case of loss or damage to persons or property, not later than 2 years after the cause of action against the insurer arose.

(2) A policy to which this Subpart applies must contain the following statement:

Every action or proceeding against an insurer for the recovery of insurance money payable under the contract is absolutely barred unless commenced within the time set out in the Insurance Act.

558.1(1) In this section,

(a) "joint expert" means an expert that is jointly appointed by all parties to a motor vehicle injury proceeding;

(b) "motor vehicle injury damages" means damages for bodily injury or death resulting from the use or operation of a motor vehicle as defined in the Traffic Safety Act;

(c) "motor vehicle injury proceeding" means a civil proceeding in the Court of King's Bench that includes a claim for motor vehicle injury damages.

(2) Subject to the regulations,

(a) a party to a motor vehicle injury proceeding in which value of the claim for motor vehicle injury damages is $100 000 or more shall not tender the following at trial:

(i) expert evidence of more than 3 experts on the issue of motor vehicle injury damages;

(ii) more than one report on the issue of motor vehicle injury damages from each expert referred to in subclause (i),

(b) a party to a motor vehicle injury proceeding in which value of the claim for motor vehicle injury damages is less than $100 000 shall not tender the following at trial:

(i) expert evidence of more than one expert on the issue of motor vehicle injury damages;

(ii) more than one report on the issue of motor vehicle injury damages from the expert referred to in subclause (i),

and the Court of King's Bench shall not allow a party to tender expert evidence at the trial of a motor vehicle injury proceeding if doing so would result in exceeding the limits set out in this subsection.

(3) Notwithstanding the limits set out in subsection (2), if the parties to a motor vehicle injury proceeding appoint a joint expert, a party may tender at trial the expert evidence of the joint expert.

(4) Notwithstanding the limits set out in subsection (2), with the consent of all other parties to a motor vehicle injury proceeding, a party may tender at trial

(a) expert evidence of one or more additional experts, or

(b) one or more additional reports from an expert referred to in subsection (2)(a)(i) or (b)(i) or clause (a).

(5) Notwithstanding the limits set out in subsection (2), on application by a party to a motor vehicle injury proceeding, the Court of King's Bench may, if satisfied that the conditions set out in subsection (6) are met, grant leave to

(a) allow expert evidence of one or more additional experts to be tendered, or

(b) allow the party to tender as evidence one or more additional reports from an expert referred to in subsection (2)(a)(i) or (b)(i) or (4)(a).

(6) The following are the conditions for the purposes of subsection (5):

(a) the subject matter of the additional evidence to be tendered is not already addressed by expert evidence permitted under subsection (2) or (4);

(b) without the additional expert evidence, the party making the application would suffer prejudice disproportionate to the benefit of not increasing the complexity and cost of the proceeding.

(7) In an application under subsection (5), a party must include the following:

(a) the name of each expert whose evidence the party intends to tender at trial;

(b) the scope of expertise of each expert whose evidence the party intends to tender at trial;

(c) records that support the need for the additional evidence.

(8) Nothing in this section limits any authority of the Court of King's Bench to appoint the Court's own experts on the Court's own initiative.

(9) The Lieutenant Governor in Council may make regulations respecting exceptions to the application of subsection (2).

(10) This section applies to every motor vehicle injury proceeding commenced on or after January 1, 2021.

Motor Vehicle Liability Policies

559(1) Every contract evidenced by an owner's policy insures the insured named in the contract (the "named insured") and every other person who with the named insured's consent drives an automobile owned by the named insured that falls within the description or definition of automobile in the contract against liability imposed by law

on the named insured or those other persons for loss or damage

(a) arising from the ownership, use or operation of the automobile, and

(b) resulting from bodily injury to or the death of any person and damage to property.

(2) When the contract evidenced by an owner's policy also provides insurance against liability in respect of an automobile not owned by the named insured, an insurer may stipulate in the contract that the insurance is restricted to those persons who are specified in the contract.

(3) If the insured named in an owner's policy dies, the following persons are deemed to be the insured under the policy:

(a) the spouse or adult interdependent partner of the deceased insured if residing in the same dwelling place as the deceased insured at the time of the deceased insured's death;

(b) in respect of the described automobile, a newly acquired automobile that was acquired by the deceased insured prior to the deceased insured's death and a temporary substitute automobile, all as defined by the policy,

(i) any person having proper temporary custody of the automobile until grant of probate or administration to the personal representative of the deceased insured, and

(ii) the personal representative of the deceased insured.

560 Every contract evidenced by a non-owner's policy insures the person named in the contract and any other person who is specified in the policy against liability imposed by law on the insured named in the contract or that other person for loss or damage

(a) arising from the use or operation of an automobile within the definition of automobile in the policy,

other than an automobile owned by or registered in the name of the insured named in the contract or that other person, and

(b) resulting from bodily injury to or the death of any person and loss of or damage to property.

561 For the purposes of this Subpart, a person is not deemed to be the owner of an automobile by reason only that the person has a lien on the automobile or has legal title to the automobile as security.

562 Insurance under section 559 or 560 applies to the ownership, use or operation of the insured automobile within Canada and the United States of America and on a vessel travelling between ports of those countries.

563 Any person insured by but not named in a contract to which section 559 or 560 applies may recover indemnity in the same manner and to the same extent as if named in the contract as the insured and for that purpose is deemed to be a party to the contract and to have given consideration for the contract.

564 Every contract evidenced by a motor vehicle liability policy must provide that when a person insured by the contract is involved in an accident resulting from the ownership, use or operation of an automobile in respect of which insurance is provided under the contract and resulting in loss or damage to persons or property, the insurer must

(a) on receipt of notice of loss or damage caused to persons or property, make any investigations, conduct any negotiations with the claimant and effect any settlement of any resulting claims that are considered expedient by the insurer,

(b) defend in the name of and on behalf of the insured and at the cost of the insurer any civil action that is brought against the insured at any time on account of loss or damage to persons or property,

(c) pay all costs assessed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment on that part of the

judgment that is within the limits of the insurer's liability, and

(d) if the injury is to a person, reimburse the insured for outlay for any medical aid that is immediately necessary at the time.

565 Liability arising from contamination of property carried in an automobile is deemed not to be liability arising from the ownership, use or operation of that automobile.

566 The insurer is not liable under a contract evidenced by a motor vehicle liability policy for any liability

(a) imposed by any workers' compensation law on any person insured by the contract, or

(b) resulting from bodily injury to or the death of any employee of any person insured by the contract while engaged in the operation or repair of the automobile.

567 The insurer may provide under a contract evidenced by a motor vehicle liability policy that it is not liable for either of the following:

(a) to indemnify any person engaged in the business of selling, repairing, maintaining, servicing, storing or parking automobiles for any loss or damage sustained while engaged in the use or operation of or while working on the automobile in the course of that business unless the person is the owner of the automobile or is the owner's employee;

(b) for loss of or damage to

(i) property carried in or on the automobile, or

(ii) any property owned or rented by or in the care, custody or control of the insured.

568 Subject to the limitations and exclusions of the endorsement, the insurer may provide by endorsement to a contract evidenced by a motor vehicle liability policy that it is not liable for loss or damage resulting from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the

automobile while that automobile is at the site of the use or operation of that machinery or apparatus.

569(1) The insurer may provide under a contract evidenced by a motor vehicle liability policy that it is not liable in any one or more of the following cases:

(a) while the automobile is rented or leased to another person;

(b) while the automobile is used to carry explosives or to carry radioactive material for research, education, development or industrial purposes or for purposes incidental to those purposes;

(c) while the automobile is used as a taxi-cab, public omnibus, livery, jitney or sightseeing conveyance or for carrying passengers for compensation or hire.

(2) Subsection (1)(a) does not include the use by an employee of the employee's automobile in the business of the employee's employer for which the employee is paid.

(3) In subsection (1)(b), "radioactive material" means

(a) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor,

(b) radioactive waste material,

(c) unused enriched nuclear fuel rods, or

(d) any other radioactive material of such quantity and quality as to be harmful to persons or property if its container were destroyed or damaged.

(4) Subsection (1)(c) does not include

(a) the use by an insured of the automobile for the carriage of another person in return for the insured's carriage in the automobile of the other person,

(b) the occasional and infrequent use by an insured of the automobile for the carriage of another person who shares the cost of the trip,

(c) the use by an insured of the automobile for the carriage of a temporary or permanent domestic servant of the insured or the insured's spouse or adult interdependent partner,

(d) the occasional and infrequent use by an insured of the automobile for the transportation of children to or from activities conducted as part of an educational program, or

(e) the use by an insured of the automobile for the carriage of a client or customer or a prospective client or customer.

570(1) In this section,

(a) "award" means a judgment or settlement in respect of an accident claim;

(b) "prescribed" means provided for in regulations made under subsection (8).

(2) To the extent that an award is for or is determined with reference to loss of earnings, the amount of the award must 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) 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 subsection (4) relates must 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, 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 (h), 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, accident and sickness benefits comprising medical care or goods or services that are not provided under Part 1 of 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 that equivalent legislation,

(c) proceeds of a contract that falls within Subpart 6 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) benefits under an income replacement plan or scheme referred to in section 15.1,

(f) disability pensions under the Canada Pension Plan (Canada) or under any equivalent legislation of a jurisdiction outside Canada,

(g) 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

(h) any other prescribed payments, benefits or compensation under the laws of any jurisdiction,

other than laws referred to in clauses (e), (f) and (g).

(5) 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.

(6) A person who makes or assumes liability for a payment referred to in subsection (3) is not subrogated to a right of recovery of the insured against another person in respect of that payment.

(7) Nothing in this section is to be construed as limiting a court's ability to take into account any premiums or other amounts paid by a claimant in respect of any benefits, policies, plans or compensation in any form specified in subsection (4).

(8) 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 this Subpart.

(9) This section does not apply to any accident claim that arose in respect of an accident that occurred before the coming into force of this section.

571(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to a limit of not less than $200 000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property.

(2) A contract must be interpreted to mean that when, by reason of any one accident, liability results from bodily injury or death and from loss of or damage to property,

(a) claims against the insured arising out of bodily injury or death have priority to the extent of $190 000 over claims arising out of loss of or damage to property, and

(b) claims against the insured arising out of loss of or damage to property have priority to the extent of $10 000 over claims arising out of bodily injury or death.

(3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least $200 000, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least $200 000, exclusive of interest and costs, against liability for loss of or damage to property.

(4) Nothing in this Subpart precludes an insurer, with respect to a limit or limits in excess of those specified in subsection (1) or (3), from increasing or reducing the limit or limits specified in the contract with respect to the use or operation of the automobile by a named person, but no reduction is effective for a limit less than that required under subsection (1) or (3).

(5) The premium for the insurance required under this section must be shown separately on the motor vehicle liability policy from the premium for any additional or other benefits under the policy.

(6) Despite subsection (4) but subject to section 555, no insurer may refuse a request by an insured or an applicant for a contract to increase the limit to one of the following amounts, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property:

(a) $500 000;

(b) $1 000 000;

(c) $2 000 000.

572(1) No amount that is required to be paid to the Crown under Part 1, Division 2 of the Crown's Right of Recovery Act may be shown as a separate amount on

(a) an application for automobile insurance,

(b) a motor vehicle liability policy, or

(c) a certificate referred to in section 553(8).

(2) This section is repealed on Proclamation.

573(1) In this section,

(a) "benefits" means accident insurance benefits provided for in this section or in regulations made under subsection (7)(c);

(b) "prescribed" means provided for by regulations made under this section.

(2) A contract evidenced by a motor vehicle liability policy insures in respect of an accident, for accident insurance benefits payable to the prescribed person, in or to at least the prescribed amounts and in accordance with or subject to this section and the prescribed terms, conditions, restrictions and exclusions.

(3) The insurer, on the death of an insured, must pay

(a) death benefits, and

(b) actual funeral costs up to the prescribed maximum amount.

(4) If an insured is totally disabled, the insurer must pay a weekly disability benefit.

(5) The insurer must pay the prescribed medical payments.

(6) Section 588 applies to the benefits.

(7) 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;

(b) defining for the purposes of this section any expression used in it;

(c) increasing the amount of any of the benefits;

(d) establishing or governing a system or process for the examination, assessment and treatment or rehabilitation of bodily injuries suffered by an insured as a result of an accident in respect of which benefits are payable under this section;

(e) governing the payment of any fees, levies or other assessments in respect of a system or process established under clause (d), including, without limitation, regulations respecting

(i) the amount of the fees, levies or other assessments or the manner in which and by whom any of those amounts are to be determined, and

(ii) to whom and by whom the fees, levies or other assessments are to be paid;

(f) providing for any matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this section.

574(1) Every motor vehicle liability policy issued in Alberta must provide that, in the case of liability arising out of the ownership, use or operation of the automobile in any province or territory,

(a) the insurer is liable up to the minimum limits established for that province or territory if those limits are higher than the limits established in the policy,

(b) the insurer must not set up any defence to a claim that might not be set up if the policy were a motor vehicle liability policy issued in that province or territory, and

(c) the insured, by acceptance of the policy, constitutes and appoints the insurer as the insured's irrevocable attorney to appear and defend in any

province or territory in which an action is brought against the insured arising out of the ownership, use or operation of the automobile.

(2) A provision in a motor vehicle liability policy in accordance with subsection (1)(c) is binding on the insured.

575(1) Nothing in this Subpart precludes an insurer from providing under a contract evidenced by a motor vehicle liability policy insurance restricted to a limit in excess of that provided by another designated contract evidenced by a motor vehicle liability policy, whether the designated contract is first loss insurance or excess insurance.

(2) When the contract designated in the excess contract terminates or is terminated, the excess contract is also automatically terminated.

576 Nothing in this Subpart precludes an insurer from entering into an agreement with its insured under a contract evidenced by a motor vehicle liability policy providing that the insured will reimburse the insurer in an agreed amount in respect of any claim by or judgment in favour of a third party against the insured, and the agreement may be enforced against the insured according to its tenor.

577(1) In this section, "nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the Nuclear Safety and Control Act (Canada).

(2) When an insured, whether named in the contract or not, is covered under a contract evidenced by a motor vehicle liability policy for loss or damage resulting from bodily injury to or the death of any person or loss of or damage to property arising directly or indirectly out of a nuclear energy hazard and is, whether named in the contract or not, also covered against that loss or damage under a contract evidenced by a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to the loss or damage,

(a) the motor vehicle liability insurance is excess to the nuclear energy hazard liability insurance, and the insurer under the contract of motor vehicle liability

insurance is not liable to pay beyond the minimum limits established by section 571, and

(b) an unnamed insured under the contract of nuclear energy hazard liability insurance may, in respect of the loss or damage, recover indemnity under that contract in the same manner and to the same extent as if named in the contract as the insured, and for that purpose the unnamed insured is deemed to be a party to the contract and to have given consideration for the contract.

(3) For the purpose of this section, a contract of nuclear energy hazard liability insurance is deemed to be in force at the time of the event giving rise to the loss or damage even if the limits of liability under the contract have been exhausted.

578(1) When a person is insured under more than one contract evidenced by a motor vehicle liability policy, whether the insurance is first loss insurance or excess insurance, and a question arises under section 564(b) between an insurer and the insured or between the insurers as to which insurer must undertake the obligation to defend in the name of and on behalf of the insured, the insured or any insurer may, whether or not any insurer denies liability under its contract, apply to the Court, and the Court may by order give any directions that appear proper with respect to the performance of the obligation.

(2) The only parties entitled to notice of an application under subsection (1) and to be heard are the insured and the insured's insurers, and no material or evidence used or taken on the application is admissible on the trial of an action brought against the insured for loss or damage to persons or property arising out of the use or operation of the automobile in respect of which the insurance is provided.

(3) An order under subsection (1) does not affect the rights and obligations of the insurers in respect of payment of any indemnity under their respective policies.

(4) When indemnity is provided to the insured under 2 or more contracts and one or more of them are excess insurance, the insurers must, as between themselves, contribute to the payment of expenses, costs and

reimbursement for which provision is made in section 564 in accordance with their respective liabilities for damages awarded against the insured.

579(1) Any person who has a claim against an insured for which indemnity is provided by a contract evidenced by a motor vehicle liability policy, even if that person is not a party to the contract, may, on recovering a judgment in respect of the claim against the insured in any province or territory, have the insurance money payable under the contract applied in or toward satisfaction of the judgment and of any other judgments or claims against the insured covered by the contract and may, on the person's own behalf and on behalf of all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

(2) No action may 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.

(3) A creditor of the insured is not entitled to share in the insurance money payable under any contract unless the creditor's claim is one for which indemnity is provided for by that contract.

(4) The right of a person who is entitled under subsection (1) to have insurance money applied in or toward the person's judgment or claim is not prejudiced by

- *(a) an assignment, waiver, surrender, cancellation or discharge of the contract, or of any interest in or of the proceeds of the contract, made by the insured after the event giving rise to the person's claim under the contract,*

- *(b) any act or default of the insured before or after that event in contravention of this Subpart or of the terms of the contract, or*

- *(c) any contravention of the Criminal Code (Canada) or a statute of any province or territory or jurisdiction of the United States of America by the owner or driver of the automobile,*

and nothing mentioned in clause (a), (b) or (c) is available to the insurer as a defence in an action brought under subsection (1).

(5) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer and alleged by a party to the action to be such a policy is not a motor vehicle liability policy, and this section applies, with all necessary modifications, to the instrument.

(6) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection (1) to be made parties to the action and to contribute according to their respective liabilities, whether the contribution is rateable or by way of first loss or excess insurance, as the case may be, and the insured must on demand furnish the insurer with particulars of all other insurance covering the subject-matter of the contract.

(7) When a person has recovered a judgment against the insured and is entitled to maintain an action under subsection (1) and the insurer admits liability to pay the insurance money under the contract, and the insurer considers that

(a) there are or may be other claimants, or

(b) there is no person capable of giving and authorized to give a valid discharge for payment who is willing to do so,

the insurer may apply to the Court ex parte for an order for payment of the money into Court, and the Court may make an order accordingly on any notice it thinks necessary.

(8) The receipt of the proper officer of the Court is a sufficient discharge to the insurer for the insurance money paid into Court under subsection (7), and the insurance money must be dealt with as the Court orders on application of any interested person.

(9) Despite anything to the contrary contained in a contract evidenced by a motor vehicle liability policy, every contract evidenced by a motor vehicle liability policy is deemed, for

the purposes of this section, to provide all the types of coverage mentioned in section 569, but the insurer is not liable to a claimant with respect to the coverage in excess of the limits established by section 571(1).

(10) Despite subsection (4), when one or more contracts provide for coverage of a type mentioned in section 567 or 568, the insurer may, except as provided in subsection (12),

(a) with respect to that type of coverage, and

(b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured.

(11) Despite subsection (4), when one or more contracts provide for coverage in excess of the limits established by section 571, the insurer may, except as provided in subsection (12),

(a) with respect to the coverage in excess of those limits, and

(b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured other than a defence arising out of a breach of Statutory Condition 2 set out in section 556.

(12) When a contract provides coverage for loss or damage resulting from bodily injury to or the death of any person being carried in or on, entering, getting on or alighting from an automobile that is operated in the business of carrying passengers for compensation or hire and insured for that purpose, the insurer may, despite subsection (4),

(a) with respect to that type of coverage in excess of the limits established by section 571 or the minimum limits required for that type of coverage under any other Act, whichever is the greater amount, and

(b) as against a claimant,

avail itself of any defence that it is entitled to set up against the insured other than a defence arising out of a breach of Statutory Condition 2 set out in section 556.

(13) The insured must reimburse the insurer on demand in the amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

(14) When an insurer denies liability under a contract evidenced by a motor vehicle liability policy, it must, on application to the Court, be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action in which it is or might be asserted that indemnity is provided by the contract, whether or not the insured enters an appearance or defence in the action.

(15) On being made a third party, the insurer may

- *(a) contest the liability of the insured to any party claiming against the insured,*
- *(b) contest the amount of any claim made against the insured,*
- *(c) deliver any pleadings in respect of the claim of any party claiming against the insured,*
- *(d) have disclosure of records and questioning under Part 5 of the Alberta Rules of Court in respect of any party adverse in interest, and*
- *(e) question and cross-examine witnesses at the trial,*

to the same extent as if it were a defendant in the action.

(16) An insurer may avail itself of subsection (15) even if another insurer is defending, in the name of and on behalf of the insured, an action to which its insured is a party.

580 The Lieutenant Governor in Council may make regulations requiring a lawyer retained by a plaintiff in an action arising out of an accident to give notice of that fact to the defendant's insurer, including regulations respecting the time at which and the manner in which that notice must be given.

581(1) When an insurer makes a payment on behalf of an insured under a contract evidenced by a motor vehicle liability policy to a person who is or alleges to be entitled to recover from the insured covered by the policy, the payment

constitutes, to the extent of the payment, a release by the person or the person's personal representative of any claim that the person or the person's personal representative or any person claiming through or under the person or by virtue of the Fatal Accidents Act may have against the insured and the insurer.

(2) Nothing in this section precludes the insurer making the payment from demanding, as a condition precedent to the payment, release from the person or the person's personal representative or any other person to the extent of the payment.

(3) If the person commences an action, the Court must adjudicate on the matter first without reference to the payment, but in giving judgment the Court must take the payment into account and the person is entitled to judgment only for the net amount, if any.

(4) The intention of this section is to permit payments to a claimant without prejudice to the defendant or the defendant's insurer, either as an admission of liability or otherwise, and the fact of any payment must not be disclosed to the judge or jury until after judgment but may be disclosed before formal entry of the judgment.

(5) The Lieutenant Governor in Council may make regulations

- *(a) authorizing the Court to make an order requiring an insurer to make a payment under this section to a claimant in advance of any judgment;*

- *(b) prescribing or otherwise describing the circumstances under which an order referred to in clause (a) may be made.*

582(1) Every insured against whom an action is commenced for damages occasioned by an automobile must give notice in writing of each notice or process in the action to the insurer within 5 days after service of each notice or process.

(2) An insured against whom an action is commenced for damages occasioned by an automobile must, on recovery of a judgment against the insured, disclose to a judgment creditor entitled to the benefit of any motor vehicle liability

policy particulars of the contract within 10 days after written demand for the particulars.

583 The Lieutenant Governor in Council may make regulations respecting the disclosure of liability limits under a motor vehicle liability policy, including, without limitation, regulations respecting

- *(a) the circumstances under which the disclosure must be made;*
- *(b) to whom and by whom the disclosure must be made;*
- *(c) the form and manner in which and the time at which the disclosure must be made.*

584(1) Subject to section 551(1), the insurer may provide in a contract any exclusions and limitations in respect of loss of or damage to or the loss of use of the automobile that it considers necessary.

(2) A contract or part of a contract providing insurance against loss of or damage to an automobile and the loss of use of an automobile may contain a clause to the effect that, in the event of loss, the insurer is required to pay only

- *(a) an agreed portion of any loss that may be sustained, or*
- *(b) the amount of the loss after deduction of a sum specified in the policy,*

in either case not exceeding the amount of the insurance.

(3) When a clause is included in accordance with subsection (2), there must be printed or stamped on the face of the policy in conspicuous bold type the words: "This policy contains a partial payment of loss clause."

585(1) When a claim is made under any contract other than a contract evidenced by a motor vehicle liability policy, the insurer must, despite any agreement, adjust the amount of the claim with the insured named in the contract as well as with any person having an interest indicated in the contract.

(2) When notice is given or a proof of loss is made by a person other than the insured because the insured cannot be

located or neglects or refuses or is unable to give notice and make claim under Statutory Conditions 4 and 7 set out in section 556, the insurer may, despite subsection (1) but in any event not earlier than 60 days from delivery of the statutory declaration required under Statutory Condition 4(1)(c), adjust and pay the claim to the other person having an interest indicated in the contract.

585.1(1) This section applies if

- *(a) an automobile or its contents, or both, suffers damage arising directly or indirectly from the use or operation in Alberta of one or more other automobiles,*

- *(b) the automobile that suffers the damage or in respect of which the contents suffer damage is insured under a contract evidenced by a motor vehicle liability policy issued by an insurer who is licensed to undertake automobile insurance in Alberta or who has filed with the Superintendent, in the form provided by the Superintendent, an undertaking to be bound by this section, and*

- *(c) at least one other automobile involved in the accident is insured under a contract evidenced by a motor vehicle liability policy issued by an insurer who is licensed to undertake automobile insurance in Alberta or who has filed with the Superintendent, in the form provided by the Superintendent, an undertaking to be bound by this section.*

(2) This section applies with any necessary modifications in respect of the following:

- *(a) an automobile, the owner, operator or lessee of which is the Crown in right of Canada or in right of a province or territory, including the Crown in right of Alberta, if the Crown files with the Superintendent an undertaking to be bound by this section;*

- *(b) an automobile, the owner, operator or lessee of which is a corporation to which the Superintendent has issued a financial responsibility card under section 825, if the corporation or the Crown in right*

of Alberta on behalf of the corporation files with the Superintendent an undertaking to be bound by this section.

(2.1) For the purposes of subsection (2), "Crown in right of Alberta" includes the participants of the Alberta Risk Management Fund as set out in section 76(11)(a)(ii) of the Financial Administration Act unless otherwise prescribed in the regulations under that section.

(2.2) An entity that has filed an undertaking referred to in subsection (2) is an insurer for the purposes of this section.

(3) Where this section applies, an insured may recover for the damages to the insured's automobile and its contents and for loss of use of the insured's automobile and its contents from the insured's insurer under the coverage described in section 559(1) as though the insured were a third party.

(4) Recovery under subsection (3) must be based on the degree of fault of the insurer's insured as determined under the fault determination rules prescribed by the regulations.

(5) If the insured is not satisfied that the degree of fault established under the fault determination rules accurately reflects the actual degree of fault, the insured may bring an action against the insurer and that action must be determined in accordance with the ordinary rules of law.

(6) If a dispute arises because the insured is not satisfied with the amount of a proposed settlement, the dispute must be determined using the dispute resolution process set out in section 519.

(7) Where this section applies,

- *(a) an insured has no right of action against any person involved in the accident other than the insured's insurer for damages to the insured's automobile or its contents or for loss of use of the insured's automobile and its contents,*

- *(b) an insured has no right of action against a person under an agreement, other than a contract of automobile insurance, in respect of damages to the*

insured's automobile or its contents or for loss of use of the insured's automobile and its contents, except to the extent that the person is at fault or negligent in respect of those damages or that loss, and

(c) an insurer, except as permitted by the regulations, has no right of indemnification from or subrogation against any person for payments made to the insurer's insured under this section.

(8) Nothing in this Part precludes an insurer, in a contract belonging to a class prescribed by the regulations, from agreeing with an insured that, in the event that a claim is made by the insured under this section, the insurer shall pay only

(a) an agreed portion of the amount that the insured would otherwise be entitled to recover, or

(b) the amount that the insured would otherwise be entitled to recover, reduced by a sum specified in the agreement.

(9) Subsection (8) does not apply unless, before the insurer enters into the contract referred to in that subsection, the insurer offers to enter into another contract with the prospective insured that does not contain the agreement referred to in that subsection but is identical to the contract referred to in subsection (8) in all other respects except for the amount of the premium.

(10) In the circumstances prescribed by the regulations, a contract belonging to a class prescribed by the regulations for the purpose of subsection (8) must provide that, in the event that a claim is made by the insured under this section, the insurer shall pay only the amount that the insured would otherwise be entitled to recover, reduced by a sum specified in the contract.

(11) Subsection (9) does not apply to a contract that contains a provision required by subsection (10).

(12) Where a contract contains an agreement referred to in subsection (8) or a provision required by subsection (10), the policy must have the words "This policy contains a

partial payment of recovery clause for property damage" printed or stamped on its face in conspicuous type.

(13) This section does not affect an insured's right to recover in respect of any physical damage coverage in respect of the insured automobile.

(14) This section does not apply to damage to those contents of an automobile that are being carried for reward.

(15) This section does not apply if both or all of the automobiles are owned by the same person.

(16) This section does not apply to damage to an automobile owned by the insured or to its contents if the damage is caused by the insured while driving another automobile.

(17) This section applies only in relation to loss or damage sustained on or after the date on which this section comes into force.

(18) The Lieutenant Governor in Council may make regulations

- *(a) prescribing rules for determining the degree of fault in various situations for loss or damage arising directly or indirectly from the use or operation of an automobile;*

- *(b) respecting indemnification and subrogation when this section applies;*

- *(c) prescribing classes of contracts for the purpose of subsection (8);*

- *(d) prescribing the circumstances in which a contract belonging to a class prescribed under clause (c) must contain a provision described in subsection (10);*

- *(e) prescribing the amount, or the minimum or maximum amount, of a reduction required by a provision described in subsection (8)(b) or (10).*

585.2(1) Notwithstanding section 2(1) of the Judgment Interest Act, in an action for loss or damage from bodily

injury or death arising directly or indirectly from the use or operation of an automobile, a court shall not award interest under that section for any period before the earlier of

(a) the day on which the statement of claim commencing the action is served on the defendant, and

(b) the day on which the plaintiff provides written notice to the insurer of the defendant of the plaintiff's intention to make a claim in respect of the loss or damage from bodily injury or death.

(2) Notwithstanding section 4(1) of the Judgment Interest Act, interest in respect of damages for non-pecuniary loss in an action for loss or damage from bodily injury or death arising directly or indirectly from the use or operation of an automobile must be calculated in accordance with section 4(2) of that Act in the same manner as interest awarded on pecuniary damages.

Limited Accident Insurances

586(1) If an insurer provides in a contract insurance against loss resulting from bodily injury to or the death of a person insured arising out of an accident when

(a) there is legal liability of another person for the injury or death, and

(b) the other person has no insurance against the liability for the injury or death or cannot be identified,

that insurance applies only in respect of

(c) a person who sustains bodily injury or death while driving, being carried in or on, entering, getting on or alighting from the described automobile in respect of which insurance against liability arising out of bodily injury to or the death of a person caused by an automobile or the use or operation of an automobile is provided under the contract, and

(d) the insured named in the contract and the spouse or adult interdependent partner of the insured named

in the contract and any dependent relative residing in the same dwelling place as the insured named in the contract who sustains bodily injury or death while driving, being carried in or on, entering, getting on or alighting from, or as a result of being struck by, any other automobile that is defined in the contract for the purposes of that insurance.

(2) The insurance mentioned in subsection (1) does not apply in respect of a person specified in the contract who has a right of recovery under the Motor Vehicle Accident Claims Act or similar legislation of any other province or territory or jurisdiction of the United States of America.

587(1) When in a contract an insurer provides insurance against expenses for medical, surgical, dental, ambulance, hospital, professional nursing or funeral services, the insurance applies only in respect of reasonable expenses

(a) of or incurred for any person who sustains bodily injury or death while driving, being carried in or on, entering, getting on or alighting from, or, if not the occupant of another automobile, as a result of being struck by, an automobile owned by the insured named in the contract in respect of which insurance against liability arising out of bodily injury to or the death of a person caused by an automobile or the use or operation of an automobile is provided under the contract, and

(b) of the insured named in the contract and the spouse or adult interdependent partner of the insured named in the contract and any dependent relative residing in the same dwelling place as the insured named in the contract who sustains bodily injury or death while driving, being carried in or on, entering, getting on or alighting from, or as a result of being struck by, any other automobile that is defined in the contract for the purposes of that insurance.

(2) When an insurer makes a payment under a contract referred to in subsection (1), the payment constitutes, to the extent of the payment, a release by the insured or the insured's personal representatives of any claim that

(a) the insured or the insured's personal representatives, or

(b) any person claiming through or under the insured or by virtue of the Fatal Accidents Act

may have against

(c) the insurer, and

(d) any other person who may be liable to the insured or the insured's personal representatives if that other person is insured under a contract of the same type as that referred to in subsection (1).

(3) Nothing in subsection (2) precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the insured or the insured's personal representatives or any other person.

(4) The insurance referred to in subsection (1)(a) is a first loss insurance, and any other automobile insurance of the same type available to the injured person or in respect of a deceased person is excess insurance only.

(5) The insurance referred to in subsection (1)(a) is excess insurance to any other insurance, other than automobile insurance, of the same type indemnifying the injured person or in respect of a deceased person for the expenses.

(6) The insurance referred to in subsection (1)(b) is excess insurance to any other insurance indemnifying the injured person or in respect of a deceased person for the expenses.

588(1) When in a contract an insurer provides accident insurance benefits in respect of the death of or injury to an insured arising out of an accident, the insurance applies only in respect of

(a) a person who sustains bodily injury or death while driving, being carried in or on, entering, getting on or alighting from, or, if not the occupant of another automobile, as a result of being struck by, an automobile owned by the insured named in the contract in respect of which insurance against liability arising out of bodily injury to or the death

of a person caused by an automobile or the use or operation of an automobile is provided under the contract, and

(b) the insured named in the contract and the spouse or adult interdependent partner of the insured named in the contract and any dependent relative residing in the same dwelling place as the insured named in the contract who sustains bodily injury or death while driving, being carried in or on, entering, getting on or alighting from, or as a result of being struck by, any other automobile that is defined in the policy for the purposes of that insurance.

(2) When an insurer makes a payment under a contract referred to in subsection (1), the payment constitutes, to the extent of the payment, a release by the insured or the insured's personal representatives of any claim that

(a) the insured or the insured's personal representatives, or

(b) any person claiming through or under the insured or by virtue of the Fatal Accidents Act

may have against

(c) the insurer, and

(d) any other person who may be liable to the insured or the insured's personal representatives if that other person is insured under a contract of the same type as that referred to in subsection (1).

(3) Nothing in subsection (2) precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the insured or the insured's personal representatives or any other person.

(4) Subject to subsection (6), the insurance referred to in subsection (1)(a) is a first loss insurance, and any other automobile insurance of the same type available to the injured person or in respect of a deceased person is excess insurance only.

(5) Subject to subsection (6), the insurance referred to in subsection (1)(b) is excess insurance over any other automobile insurance of the same type available to the injured person or in respect of a deceased person.

(6) When a person is entitled to benefits under more than one contract providing insurance of the type referred to in this section, the personal representative of the person entitled to benefits or any person claiming through or under the person entitled to benefits or by virtue of the Fatal Accidents Act may recover only an amount equal to

(a) one benefit, if the benefits under the contracts have the same limit, or

(b) the highest benefit, if the benefits under the contracts do not have the same limit.

589(1) When a person is injured or killed in an accident in Alberta involving an automobile, that person or the person's personal representative may serve a demand by recorded mail

(a) on the owner of the automobile, or

(b) on the insurer of the owner of the automobile,

requiring the owner or insurer, as the case may be, to state in writing to the person making the demand whether or not that owner has insurance of the type referred to in section 587 or 588 and, when the demand is made under clause (a), requiring the owner, if the owner has that insurance, to state the name of the insurer.

(2) An owner or insurer that does not comply with a demand made under subsection (1) within 10 days after receiving the demand is guilty of an offence.

590 Any person insured by but not named in a contract to which section 586, 587 or 588 applies may recover under the contract in the same manner and to the same extent as if named in the contract as the insured, and for that purpose is deemed to be a party to the contract and to have given consideration for the contract.

591(1) When a person entitled to benefits provided by insurance under a contract referred to in section 587 or 588

(a) is an occupant of an automobile involved in an accident, the insurer is, in the first instance, liable for payment of the benefits provided by the insurance, or

(b) is a pedestrian and is involved in an automobile accident, the insurer of the owner of that automobile is, in the first instance, liable for payment of the benefits provided by the insurance.

(2) Nothing in this section affects the operation of section 587(2) to (6) or 588.

592(1) When an insurer admits liability for insurance money payable under section 586, 587 or 588 and it appears to the insurer that

(a) there are adverse claimants,

(b) the whereabouts of an insured entitled to the insurance money is unknown, or

(c) there is no person capable of giving and authorized to give a valid discharge for the insurance money who is willing to do so,

the insurer may, at any time after 30 days after the date on which the insurance money becomes payable, apply to the Court ex parte for an order for payment of the money into Court, and the Court may make an order accordingly on any notice it thinks necessary.

(2) The receipt of the proper officer of the Court is sufficient discharge to the insurer for the insurance money paid into Court, and the insurance money must be dealt with as the Court orders.

593 An action or proceeding against an insurer in respect of insurance under a contract referred to in section 586, 587 or 588 must be commenced within the limitation period specified in the contract, but in no event may the limitation period be less than 2 years from the occurrence of the accident.

594 When a person makes a claim for damages in respect of bodily injury or death sustained by the person or any other person while driving, being carried in or on, entering, getting on or alighting from, or as a result of being struck by, an automobile, the claimant must, if required by the person against whom the claim is made or by someone acting on the person's behalf, furnish to or for that person full particulars of all insurance available to the claimant under contracts to which section 587 or 588 applies, and of any payments of insurance money made or to be made under those contracts.

595 Subject to section 551(1), an insurer may in a policy

(a) provide insurance that is less extensive in scope than the insurance referred to in section 586, 587 or 588, and

(b) provide the terms of the contract that relate to the insurance referred to in section 586, 587 or 588.

Other Insurance

596(1) Subject to section 577, insurance under a contract evidenced by a valid owner's policy is, in respect of liability arising from or occurring in connection with the ownership, use or operation of an automobile owned by the insured named in the contract and within the description or definition of an automobile in the policy, a first loss insurance, and insurance attaching under any other valid motor vehicle liability policy is excess insurance only.

(2) Subject to subsection (1) and to sections 577, 587 and 588, if the insured named in a contract has or places any other valid insurance, whether against liability for the ownership, use or operation of or against loss of or damage to an automobile or otherwise, of the named insured's interest in the subject-matter of the contract or any part of the contract, the insurer is liable only for its rateable proportion of any liability, expense, loss or damage.

(3) In subsection (2), "rateable proportion" means

(a) if there are 2 insurers liable and each has the same policy limits, each of the insurers is liable to share equally in any liability, expense, loss or damage, or

(b) if there are 2 insurers liable with different policy limits, the insurers are liable to share equally up to the limit of the smaller policy limit,

and if there are more than 2 insurers liable, clauses (a) and (b) apply with all necessary modifications.

(4) Despite subsection (1), the Lieutenant Governor in Council may make regulations

(a) respecting the priority of payment of insurance held by a lessor as defined in section 187 of the Traffic Safety Act or a rental car company in respect of liability arising from or occurring in connection with the ownership, use or operation of an automobile owned by the lessor or rental car company;

(b) defining terms for the purposes of this section;

(c) where regulations are made under clause (a) or (b), modifying any provision of this Act to the extent that the Lieutenant Governor in Council considers necessary in order to carry out the purpose and intent of this section.

Minor Injuries

597(1) In this section, "minor injury" means an injury as defined or otherwise described by regulation as a minor injury.

(2) In an accident claim, the amount recoverable as damages for non-pecuniary loss of the plaintiff for a minor injury must be calculated or otherwise determined in accordance with the regulations.

(3) The Lieutenant Governor in Council may make regulations

(a) defining minor injury or otherwise describing what constitutes a minor injury;

(b) providing for the classification of or categories of minor injuries;

(c) providing for the assessment of injuries, including, without limitation, regulations establishing or adopting guidelines, best practices or other methods for assessing whether an injury is or is not a minor injury;

(d) governing damages, including the amounts of or limits on damages, for non-pecuniary loss for minor injuries;

(e) governing deductible amounts or limits and the application of those amounts or limits in respect of damages for non-pecuniary loss for minor injuries;

(f) providing for or otherwise setting out circumstances under which a minor injury to which this section would otherwise apply is exempt from the operation of this section;

(g) governing the application of this section in respect of injuries arising out of an accident where

(i) it is unclear whether or not this section applies to those injuries, or

(ii) the injuries consist of a combination of minor injuries to which this section applies and injuries to which this section does not apply;

(h) establishing and governing a system or process under which a person or a committee, panel or other body may review any injury to a person and give an opinion as to whether or not the injury is a minor injury;

(i) providing for the appointment or designation of persons or of members of committees, panels or other bodies for the purposes of a system or process established under clause (h);

(j) governing the payment of any fees, levies and other assessments in respect of a system or process established under clause (h), including, without limitation, regulations respecting

(i) the amount of the fees, levies or other assessments or the manner in which and by whom any of those amounts are to be determined, and

(ii) by whom and to whom the fees, levies or other assessments are to be paid;

(k) governing any transitional matter concerning the application of this section in respect of matters dealt with under this section;

(l) providing for any matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this section.

(4) This section does not apply to any accident claim that arose in respect of an accident that occurred before the coming into force of this section.

(12) The following is added before the heading preceding section 598:

Transitional

597.1 Despite the repeal of sections 549 to 597, those sections and any regulations made under those sections as they read immediately before this section comes into force continue to apply to accidents that occur before the coming into force of section 2 of the *Automobile Insurance Act*.

NOTE: (12) Transitional.

(13) The headings preceding sections 598 and 602 and sections 598 to 611 are repealed.

NOTE: (13) The headings preceding sections 598 and 602 and sections 598 to 611 presently read:

Automobile Insurance
Rate Board

598 In this section and sections 599 to 609, "Board" means the Automobile Insurance Rate Board.

599(1) The Automobile Insurance Rate Board is established consisting of

(a) at least 4 but not more than 8 members appointed by the Lieutenant Governor in Council, and

(c) the Superintendent.

(3) The Superintendent is a non-voting member of the Board.

(4) The Lieutenant Governor in Council may

(a) appoint one of the members of the Board, other than the Superintendent, as chair and another as vice-chair, and

(b) fix the remuneration and provide for the payment of expenses to the members who are not employees of the Government.

(5) The term of office of a member of the Board referred to in subsection (1)(a) must not exceed 3 years.

(6) A member of the Board may be reappointed for further terms not exceeding 3 years so long as the reappointment would not result in the member holding office for more than 12 consecutive years.

(7) A person who serves 12 consecutive years as a member of the Board is not eligible to be appointed again as a member of the Board until at least 3 years has elapsed from the date the person ceases to hold office.

(7.1) A break in service of less than 2 years shall be disregarded in determining the number of consecutive years for the purposes of subsections (6) and (7).

(8) A person appointed as a member of the Board continues to hold office after the expiry of the member's term until the

member is reappointed, the member's successor is appointed or 12 months has elapsed, whichever occurs first.

(9) The Board may from time to time appoint one or more persons having special technical or other knowledge to inquire into and report to the Board in respect of any matter before the Board or in respect of which the Board considers it necessary to have information for the proper carrying out of its duties and functions.

(11) At least half of the members of the Board constitutes a quorum for the purpose of exercising its powers and performing its duties and functions.

(12) An order, direction, approval or other instrument that the Board is permitted or required to make may be made on its behalf by the chair, the vice-chair or any other member of the Board.

(13) An order, direction, approval or other instrument purporting to be signed by the chair, the vice-chair or a member of the Board on behalf of the Board is admissible in evidence in any proceedings as proof, in the absence of evidence to the contrary,

(a) that the order, direction, approval or instrument is the act of the Board, and

(b) that the person signing it was authorized to do so

without proof of the appointment of the individual signing as a member of the Board, or the individual's appointment as chair or vice-chair, as the case may be, or of the individual's signature.

(14) The Board may make rules governing

(a) the approval of rating programs and changes to ratings programs;

(b) the Board's procedures.

(15) The Regulations Act does not apply to rules made under subsection (14).

(16) Every member of the Board has the power of a commissioner under the Public Inquiries Act.

(17) In accordance with the Public Service Act, there may be appointed the staff and other persons required by the Board.

(18) The Lieutenant Governor in Council may make regulations authorizing the Board to charge and collect from licensed insurers of automobiles fees, levies or other assessments for the Board's capital costs and operations, and for matters under its administration, including, without limitation, regulations respecting the amount of the fees, levies and other assessments and the manner in which and the times at which they must be paid.

600(1) In addition to the powers conferred and duties imposed on the Board under this Act or the regulations, the Board must exercise and perform any other powers and duties assigned to it by the Minister or prescribed by the regulations.

(2) Despite anything in this Subpart, the Minister may, if the Minister considers it appropriate to do so, exercise any of the powers and perform any of the duties or functions of the Board under this Act.

(3) If there is an inconsistency or conflict between an action taken by the Board and an action taken by the Minister under subsection (2), the action taken by the Minister prevails.

601(1) The Board must make and submit to the Minister an annual report on the operations of the Board.

Premiums for Basic and Additional Coverage

602(1) No insurer may charge or collect from an insured or an applicant for a contract an amount for basic coverage or additional coverage unless

- *(a) the amount is based on a premium calculated under a rating program of the insurer filed with and approved by the Board or an amount determined by the Lieutenant Governor in Council under subsection (3), and*

(b) the amount is equal to or less than the maximum premium determined under the regulations.

(2) The Board may, subject to the regulations, approve rating programs for basic coverage and additional coverage.

(2.1) A rating program filed with the Board is deemed to be approved by the Board in the circumstances, if any, set out in the rules established by the Board under section 599(14)(a).

(3) Notwithstanding subsection (2), the Lieutenant Governor in Council may determine the amount for basic coverage or additional coverage for any period the Lieutenant Governor in Council considers appropriate.

(4) The Lieutenant Governor in Council may make regulations

(a) respecting the approval or deemed approval by the Board of rating programs for basic coverage and additional coverage;

(b) respecting the maximum premium or the method of determining the maximum premium that may be charged for basic coverage;

(c) requiring insurers to provide rating programs, reports and information to the Board, including, without limitation, regulations respecting the nature and contents of rating programs, reports or information to be provided, the form in which the rating programs, reports or information is to be provided and the times at which the rating programs, reports or information is to be provided;

(d) respecting the use and confidentiality of the rating programs, reports and information referred to in clause (c);

(e) providing for any other matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this section.

(4.1) The Board may establish written interpretations of words and expressions used in provisions of the regulations made under subsection (4)(b) and, where the Board does so, those provisions of the regulations are to be construed in accordance with those interpretations.

(4.2) The Regulations Act does not apply to written interpretations established under subsection (4.1).

(5) Nothing in this section precludes an insurer from charging a premium that is less than the premium for basic coverage determined in accordance with the rating program approved by the Board or determined by the Lieutenant Governor in Council under subsection (3), as the case may be.

604(1) The Board may establish written procedures to be followed by insurers in determining the amount payable for basic coverage or additional coverage by an insured or an applicant for a contract based on

- *(a) the relevant amount of the premium for basic coverage or additional coverage determined pursuant to section 602, and*

- *(b) the amount of any discount or surcharge on that premium.*

(2) The Regulations Act does not apply to written procedures established under subsection (1).

604.1(1) The Board may issue guidelines on any matter related to

- *(a) a power conferred or duty imposed on it under this Act or the regulations, or*

- *(b) a power or duty assigned to it by the Minister.*

(2) The Board shall publish a guideline issued under subsection (1) on the Board's website.

(3) The Regulations Act does not apply to a guideline issued under subsection (1).

608 The Lieutenant Governor in Council may make regulations

(a) respecting annual reports under section 601;

(b) requiring an insurer to give notice to the Registrar of Motor Vehicle Services whenever a contract is terminated, cancelled or not renewed, including regulations respecting the form and manner in which the notice must be given;

(b.1) respecting administrative expense targets and profitability targets for insurers;

(b.2) respecting the treatment of premiums collected in excess of profitability targets;

(c) governing or otherwise respecting any matter related to premiums, charges, surcharges, discounts or other incentives related to automobile insurance;

(d) respecting any matter that is to be prescribed under this Subpart;

(e) defining for the purposes of this Subpart any term or expression used in this Subpart that is not defined in this Act.

609(1) An insurer licensed under this Act to carry on automobile insurance must participate in and is subject to the terms and conditions of any Government approved industry plan to ensure a market for automobile insurance for all owners of automobiles in Alberta and for operators of automobiles in Alberta who hold operator's licences issued under the Traffic Safety Act or under any similar legislation of another province or territory.

(2) A copy of the constitution, bylaws, rules and regulations of a proposed Government approved industry plan must be filed with the Board for approval.

(3) On acceptance of the filing and approval by the Board under subsection (2), the plan is deemed to be a Government approved industry plan to ensure a market for automobile insurance for all owners of automobiles in Alberta and for operators of automobiles in Alberta who hold operator's licences issued under the Traffic Safety Act or under any similar legislation of another province or territory.

(4) A copy of a proposed change to be made in the constitution, bylaws, rules or regulations of a Government approved industry plan or a notice of termination of a plan must be filed with the Board at least 15 days before the change or termination is proposed to be effective, and that change or termination must not take place unless approved by the Board.

(5) When an insurance agent receives an application and effects coverage under a Government approved industry plan by binding a risk, the agent is bound by the applicable terms and conditions of the plan in existence at that time for the duration of the coverage so placed.

(6) The Lieutenant Governor in Council may make regulations

- *(a) governing the operation of a Government approved industry plan;*
- *(b) determining the amounts to be paid by each insurer for the operation of a Government approved industry plan;*
- *(c) providing for any other matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this section.*

611(1) For the purposes of this section, an insurer is withdrawing from the business of automobile insurance if the insurer does anything that results or is likely to result in a significant reduction in the amount of premiums written by the insurer for automobile insurance in any part of Alberta, including any of the following actions that have or are likely to have that result:

- *(a) refusing to process applications for automobile insurance;*
- *(b) refusing to issue a contract;*
- *(c) refusing to renew a contract;*
- *(d) terminating a contract;*
- *(e) cancelling a contract;*

(f) refusing to provide any coverage or endorsement in respect of a contract;

(g) refusing to continue any coverage or endorsement in respect of a contract;

(h) taking actions that directly or indirectly result in termination of contracts between the insurer and the insurance agents and insurance brokers who solicit or negotiate contracts on behalf of the insurer;

(i) reducing the ability of insurance agents or insurance brokers to solicit or negotiate contracts on behalf of the insurer;

(j) reducing the insurer's ability to act as a servicing carrier or ceasing to act as a servicing carrier under a Government approved industry plan referred to in section 609;

(k) engaging in any activity, or failing to act, as prescribed or otherwise described in the regulations.

(2) An insurer must not withdraw from the business of automobile insurance except in accordance with this section.

(3) An insurer that intends to withdraw from the business of automobile insurance must file with the Superintendent a notice in the form prescribed by the Superintendent.

(4) The notice must specify the date that the insurer intends to withdraw from the business of automobile insurance and must be filed at least 180 days before that date.

(5) The Superintendent may require the insurer to provide the information, material and evidence that the Superintendent considers necessary in addition to the information, material and evidence required to be provided in the notice.

(6) Except as otherwise directed by the Superintendent, an insurer who files a notice under subsection (3) must not, after the date of withdrawal specified in the notice or any other date of withdrawal provided for in subsection (7), issue any contracts or renew any existing contracts.

(7) The Superintendent may

(a) authorize the insurer to withdraw from the business of automobile insurance before the date specified in the notice under subsection (4), or

(b) prohibit the insurer from withdrawing from the business of automobile insurance until a date specified by the Superintendent that is not later than 90 days after the date specified in the notice under subsection (4).

(8) Except as otherwise directed by the Superintendent, an insurer that withdraws from the business of automobile insurance pursuant to this section may not, for a period prescribed in the regulations, issue contracts or otherwise carry on the business of automobile insurance.

(9) The Lieutenant Governor in Council may make regulations prescribing or otherwise describing any activity or failure to act for the purposes of subsection (1)(k).

(10) An insurer who fails to comply with a requirement of this section is guilty of an offence and liable to a fine of not more than $100 000.

(14) Section 697(3) is amended by adding "or" **at the end of clause (a), by striking out** "or" **at the end of clause (b) and by repealing clause (c).**

NOTE: (14) Section 697(3) presently reads:

(3) This Subpart does not apply

(a) except as otherwise provided by regulations, to insurance that is part of a contract of life insurance under which the insurer undertakes to pay insurance money, or to provide other benefits, in the event the person whose life is insured becomes disabled as a result of bodily injury or disease,

(b) to insurance that is part of a contract of life insurance under which the insurer undertakes to pay an additional amount of insurance money in the

event of death by accident of the person whose life is insured, or

(c) to insurance provided under section 586, 587 or 588.

(15) Section 780(e)(ii) and (g) are repealed.

NOTE: (15) Section 780(e)(ii) and (g) presently read:

780 A person who contravenes any of the following provisions is guilty of an offence:

(e) in Part 5,

(ii) in Subpart 2, sections 551(1) and (8), 555(3), 571(6) and 602(1);

(g) in Part 7, sections 822(2), (3), (4) and (5) and 825(4).

(16) Section 781 is amended

(a) in clause (a) by adding "506.1, 506.2," **after** "480.1,";

(b) by repealing clause (c.1).

NOTE: (16) Section 781 presently reads in part:

781 A person who

(a) contravenes an order or direction made under section 21(4), 327(2), 423, 480.1, 507, 764, 766 or 788,

(c.1) contravenes a written procedure established by the Superintendent under section 604,

is guilty of an offence.

(17) Section 789(1) is amended by striking out "or has contravened a written procedure established by the Board under section 604".

NOTE: (17) Section 789(1) presently reads:

789(1) Where the Minister is of the opinion that a person has contravened a prescribed provision of this Act or the regulations or has contravened a written procedure established by the Board under section 604, the Minister may by notice in writing given to that person require that person to pay to the Government an administrative penalty by a date specified in the notice in the amount set out in the notice for each day or part of a day the contravention occurs or continues.

(18) Part 7 is repealed.

NOTE: (18) Part 7 presently reads:

Part 7
Financial Responsibility Cards

821 In this Part,

(a) "licensed insurer" means an insurer that holds a licence authorizing the insurer to undertake automobile insurance;

(b) "non-Alberta policy" means an owner's policy evidencing a contract of insurance that is not made in Alberta;

(c) "unlicensed insurer" means an insurer that does not hold a licence that authorizes the insurer to undertake automobile insurance.

822(1) In this section, "insured" means a person named as the insured in an owner's policy.

(2) Every licensed insurer that issues an owner's policy must at the time of issue of the policy also issue and deliver to the insured a financial responsibility card and, on request

by that insured, any additional copies of the card required to be provided under the regulations.

(3) Every licensed insurer that issues an owner's policy must provide to the insured the information required by the regulations relating to financial responsibility cards when the policy is being cancelled or the insured is given a notice of renewal.

(4) When an insured to whom a financial responsibility card has been issued pursuant to this section ceases to be insured by the owner's policy in respect of which the card was issued, that person must forthwith destroy the card and every copy of the card issued to that person.

(5) Any insurer that has issued a financial responsibility card or an insurance agent who represents the insurer must provide to a peace officer any information requested concerning the cancellation or lapse of the owner's policy with respect to which the financial responsibility card was issued.

(6) A financial responsibility card issued pursuant to this section must be in a form approved by the Superintendent.

823 A financial responsibility card that is issued by a licensed insurer in respect of a non-Alberta policy and that is in a form approved by the Superintendent is deemed to have been issued pursuant to this Part and may be used to indicate financial responsibility in Alberta.

824(1) A financial responsibility card that is issued by an unlicensed insurer in respect of a non-Alberta policy is deemed to have been issued pursuant to this Part and may be used to indicate financial responsibility in Alberta if

- *(a) the card is in a form approved by the Superintendent or is otherwise acceptable to the Superintendent, and*
- *(b) the unlicensed insurer provides the Superintendent with a power of attorney and undertaking that meets the requirements of the regulations.*

(2) If an unlicensed insurer has provided the Superintendent with a power of attorney and undertaking that meets the

requirements of the regulations, notice or process in any action or proceeding in Alberta against the unlicensed insurer or its insured arising out of an automobile accident in Alberta may be effectually served on the insurer or the insured, or on both of them,

(a) by leaving 3 copies of the notice or process with the Superintendent, and

(b) if the unlicensed insurer is not a party to the action or proceeding, by leaving with the Superintendent a written statement signed by the person who issued or caused to be issued the notice or process that sets out the full name and address of the unlicensed insurer against whose insured the action or proceeding is taken.

(3) On receipt of notice or process under subsection (2), the Superintendent must forthwith mail 2 copies of it by recorded mail to the unlicensed insurer at the insurer's address last known to the Superintendent.

(4) The plaintiff in any action or proceeding against an unlicensed insurer that has provided the Superintendent with an undertaking that meets the requirements of the regulations may give evidence of the undertaking, and the undertaking is, for all purposes of the action or proceeding, deemed to be a covenant for valuable consideration made by the unlicensed insurer with the plaintiff.

(5) If an unlicensed insurer that has provided the Superintendent with a power of attorney and undertaking that meets the requirements of the regulations defaults under them, no financial responsibility card issued by the unlicensed insurer may be accepted as proof of financial responsibility in Alberta so long as that default continues, and the Superintendent must forthwith notify the proper officers in charge of the registration of automobiles and the licensing of drivers in all jurisdictions in Canada, and in the United States of America where the financial responsibility cards are accepted as proof of financial responsibility, of the default.

825(1) In this section, "motor vehicle" means a motor vehicle as defined in the Traffic Safety Act.

(2) A corporation is entitled to a financial responsibility card that is issued by the Superintendent if

(a) the corporation is a prescribed corporation,

(b) the corporation maintains a separate fund for the purpose of satisfying from that fund liabilities that the corporation may incur resulting from bodily injury to or the death of any person, or damage to property, occasioned by or arising out of the ownership, maintenance, operation or use of a motor vehicle, and

(c) in the opinion of the Superintendent, the fund is adequate to satisfy all liabilities that the corporation is likely to incur, subject, in the case of each motor vehicle registered in the name of the corporation, to the limits as to amount and the accident insurance benefits specified in Part 5, Subpart 2.

(3) If the Superintendent is satisfied that the requirements of subsection (2) are met, the Superintendent must issue and deliver to the corporation a financial responsibility card and, on the request of the corporation, any additional copies of the card required by the regulations to be provided.

(4) When the fund of a corporation that has been issued a financial responsibility card under subsection (2) ceases to meet the requirements of subsection (2)(b) or (c), the corporation must forthwith deliver to the Superintendent for cancellation its financial responsibility card and all copies of the card issued to the corporation.

826 The Lieutenant Governor in Council may make regulations

(a) governing any matter with respect to the issuance of and the cancellation of financial responsibility cards;

(b) respecting the provision of copies of financial responsibility cards to an insured for the purposes of section 822 and to a prescribed corporation for the purposes of section 825;

(c) respecting the information that a licensed insurer must provide to an insured when the policy is being cancelled or the insured is given a notice of renewal;

(d) respecting the power of attorney and undertaking that unlicensed insurers are to provide for the purposes of section 824;

(e) prescribing corporations for the purposes of section 825.

(19) This section comes into force on Proclamation.

NOTE: (19) Coming into force.

Maternal Tort Liability Act

Amends SA 2005 cM-7.5

9(1) The *Maternal Tort Liability Act* is amended by this section.

NOTE: 9(1) Amends chapter M-7.5 of the Statutes of Alberta, 2005.

(2) Section 1(b) is repealed.

NOTE: (2) Section 1(b) presently reads:

1 In this Act,

(b) "insured" means insured as defined in section 549 of the Insurance Act;

(3) Section 5 is amended

(a) in subsection (1) by striking out "as a creditor under section 579 of the *Insurance Act*" **and substituting** "under section 81 of the *Automobile Insurance Act*";

(b) in subsection (2) by striking out "under section 635 of the *Insurance Act*" **and substituting** "under section 2.6 of the *Automobile Insurance Act*".

NOTE: (3) Section 5 presently reads:

> *5(1) A mother's liability under section 4 is limited to the amount of insurance money payable under contracts of automobile insurance indemnifying the mother that the child can recover as a creditor under section 579 of the Insurance Act.*
>
> *(2) Notwithstanding any other Act, a judgment against a mother resulting from the exception to tort immunity established by this Act may be enforced only under section 635 of the Insurance Act.*

(4) This section comes into force on Proclamation.

NOTE: (4) Coming into force.

Motor Vehicle Accident Claims Act

Amends RSA 2000 cM-22

10(1) The *Motor Vehicle Accident Claims Act* is amended by this section.

NOTE: 10(1) Amends chapter M-22 of the Revised Statutes of Alberta 2000.

(2) The following is added before section 1:

Part 1
Interpretation and Administration

NOTE: (2) Adds heading.

(3) Section 1 is amended by adding the following after clause (a):

(a.01) "automobile" means an automobile as defined in the *Automobile Insurance Act*;

(a.02) "Basic Care-first Compensation" means compensation, as defined in the *Automobile Insurance Act*, payable under Part 2 of that Act in accordance with the priority rules set out in section 5(2)(a)(iv) or (b)(iv) of that Act and Part 3 of this Act, excluding

(i) excess compensation as defined in section 6(1) of the *Automobile Insurance Act*, and

(ii) a requirement to indemnify or compensate any person respecting a cause of action or proceeding under Part 3 of the *Automobile Insurance Act*;

(a.03) "Care-first Accident" means an event that occurs in Alberta and results in bodily injury or death arising from the use or operation of an automobile on or after the coming into force of section 5 of the *Automobile Insurance Act*, including from the load of an automobile or a trailer used in connection with an automobile;

NOTE: (3) Adds definitions.

(4) The following is added after section 3.2:

Part 2
Legacy Accidents

Application

3.3 This Part does not apply to a Care-first Accident.

NOTE: (4) Part 2 Legacy Accidents.

(5) The following is added after section 20:

Part 3
Care-first Accident

Interpretation

20.1(1) In this Part, "claimant" means a person who

(a) sustains bodily injury or death as a result of a Care-first Accident, or

(b) is entitled to Basic Care-first Compensation under this Part in respect of a person who sustains bodily injury or death as a result of a Care-first Accident.

(2) Except as otherwise provided in this Act or the regulations, words and phrases used in this Part have the meanings given to them in the *Automobile Insurance Act*.

Application

20.2(1) This Part applies to a Care-first Accident.

(2) The following provisions of the *Automobile Insurance Act* apply in respect of a claim for Basic Care-first Compensation made under this Part:

(a) Part 1;

(b) Part 2, except sections 6 to 8, 64 and 76.1;

(c) Part 4, except section 85(4.1);

(d) sections 93.1 to 96, 97.1, 97.2 and 98.

(3) For the purposes of subsection (2), a reference in the *Automobile Insurance Act* or the regulations under that Act to

(a) an insurer includes the Administrator,

(b) an insured means a claimant who has sustained bodily injury or death as the result of a Care-first Accident, and

(c) the Minister means the Minister responsible for this Act.

(4) Notwithstanding subsection (2), a provision of the *Automobile Insurance Act* or the regulations under that Act that prevents the Administrator from recovering an overpayment under section 75 of

that Act does not apply in respect of a claim for Basic Care-first Compensation.

Basic Care-first Compensation claims

20.3(1) A claimant may make a claim for Basic Care-first Compensation under this Part only if the claimant is entitled to compensation under section 5(2)(a)(iv) or (b)(iv) of the *Automobile Insurance Act*.

(2) A claimant may make a claim under this Part in accordance with section 54 of the *Automobile Insurance Act*.

(3) A claimant may not make a claim under this Part if any insurer is liable to pay compensation to the claimant under section 5(2) of the *Automobile Insurance Act*.

(4) For the purpose of determining if an insurer is liable to pay compensation under section 5(2) of the *Automobile Insurance Act*, the claimant or the Administrator may serve a demand by recorded mail on

(a) the owner of the automobile, or

(b) the insurer of the automobile.

(5) A demand made under subsection (4) may

(a) require the owner or insurer to state in writing to the claimant or the Administrator, as the case may be, whether or not the owner has insurance, and

(b) when the demand is made under subsection (4)(a), require the owner, if the owner has that insurance, to state the name of the insurer.

(6) Subject to the regulations, if an owner or insurer fails to comply with a demand made under subsection (4) within 10 days after receiving the demand, the Administrator may, by notice in writing given to that owner or insurer, require that owner or insurer to pay to the Government an administrative penalty by the date specified in the notice in the amount set out in the notice for each day or part of a day that the failure to comply occurs or continues.

(7) A notice of an administrative penalty under subsection (6) must not be issued after 2 years from the later of

(a) the last date on which the failure to comply occurred, and

(b) the date on which the failure to comply first came to the attention of the Minister.

(8) Notwithstanding a provision of the *Automobile Insurance Act* or the regulations under that Act that is applicable to this Act, the Administrator may establish procedures for making a claim for Basic Care-first Compensation under this Part.

Investigation

20.4 On receipt of a claim, the Administrator shall investigate to determine the claimant's eligibility for Basic Care-first Compensation.

Ineligible claims

20.5(1) The Administrator shall not accept a claim for Basic Care-first Compensation under this Part if the claimant

(a) was a voluntary occupant of the automobile involved in the Care-first Accident at the time of the Care-first Accident, and

(b) knew or ought reasonably to have known that the automobile

(i) was not an insured motor vehicle as defined in the *Traffic Safety Act* and the automobile was being used or operated in such a manner or place that it was required under the *Traffic Safety Act* to be an insured motor vehicle, or

(ii) was being used or operated for an illicit or prohibited trade or transport.

(2) A minor is presumed, in the absence of evidence to the contrary, to not meet the criteria described in subsection (1).

(3) If a claimant is not entitled to compensation under subsection (1), no other person is entitled to compensation in respect of that claimant.

Determination and payment of Basic Care-first Compensation

20.6(1) Subject to the regulations, Basic Care-first Compensation payable to a claimant under this Part shall be determined,

calculated and paid in accordance with the *Automobile Insurance Act*.

(2) Unless otherwise provided in this Act or the regulations, the Administrator shall pay Basic Care-first Compensation to or in respect of a person who was in a Care-first Accident regardless of whether the person was at fault for the Care-first Accident.

(3) If a claimant sustains bodily injury or death arising from a Care-first Accident, the Administrator may authorize payment of Basic Care-first Compensation out of the General Revenue Fund to the claimant, provided the Administrator is satisfied that

(a) the claimant is eligible for Basic Care-first Compensation, and

(b) the claimant was involved in a Care-first Accident.

(4) If the Administrator authorizes the payment of Basic Care-first Compensation under subsection (3), the Administrator may issue a certificate to the Minister stating the amount to be paid and the recipient of the payment.

(5) On receipt of a certificate issued under subsection (4), the Minister shall pay

(a) the amount stated in the certificate out of the General Revenue Fund,

(b) interest on the amount stated in the certificate, if the Minister fails to pay on the day or within the period prescribed by the regulations the Basic Care-first Compensation that a claimant or other person is entitled to, and

(c) any Basic Care-first Compensation that the Administrator reduced, suspended, terminated or denied when the circumstances in which the Administrator was authorized to reduce, suspend, terminate or deny the compensation cease to apply.

(6) Interest payable under subsection (5)(b) must be calculated in accordance with the regulations.

Immunity

20.7(1) In this section, "Crown" means the Crown in right of Alberta, the Minister, the Administrator or an employee or agent of the Crown.

(2) No action lies and no proceeding may be brought against the Crown for any act done in good faith in the exercise or intended exercise of a power or in the performance or intended performance of a duty under this Act, or for any neglect or default in the exercise or performance in good faith of the power or duty.

(3) No liability attaches to the Crown for any loss or damages that have arisen or may arise in respect of the enactment of this Act, including consequential amendments to other Acts and any regulations, orders in council or ministerial orders made under or by virtue of those amendments.

Court advice and directions

20.8 The Administrator may apply to seek the advice and direction of the court respecting the application of this Act, the interpretation of this Act or the rights or obligations of a person to whom this Act applies.

Appeals

20.9 For the purposes of participating in negotiations, mediations or appeals, the Administrator has the powers, duties and functions of an insurer under Part 4 of the *Automobile Insurance Act*.

NOTE: (5) Part 3 Care-first Accident.

(6) The following is added before section 21:

Part 4
Common Administration

NOTE: (6) Adds heading.

(7) Section 25 is amended

(a) by repealing subsection (1) and substituting the following:

Forms, procedures and regulations

25(1) The Administrator may establish forms and procedures, or approve forms and procedures made by another person with or without modification, to be used under this Act.

(1.1) Forms or procedures established under subsection (1)

(a) may include electronic means for the provision or submission of claims, documents or information to or by the Administrator, and

(b) must be used unless the Administrator specifies otherwise.

(1.2) In the event of a conflict between a form or procedure established by the Administrator and a form or procedure established under section 96 of the *Automobile Insurance Act*, the form or procedure established by the Administrator prevails.

(b) in subsection (2)

(i) in clause (k) by adding "and before the coming into force of section 5 of the *Automobile Insurance Act*" **after** "April 1, 1972";

(ii) by adding the following after clause (k):

(l) defining any word or expression used but not defined in this Act;

(m) further defining any word or expression defined in this Act;

(n) respecting the procedures for making a claim for Basic Care-first Compensation, including regulations respecting

(i) the duties and obligations of a claimant,

(ii) the information and documentation to be provided in a claim for Basic Care-first Compensation, and

(iii) the period within which a claim for Basic Care-first Compensation must be made;

(o) respecting the determination, calculation and payment of Basic Care-first Compensation for the purposes of section 20.6(1);

(p) respecting interest payable by the Minister for the purposes of section 20.6(6), including the rate of interest and the manner of calculation;

(q) respecting administrative penalties, including regulations prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed, not to exceed $25 000 for each contravention;

(r) respecting any matter or thing that may be or is to be prescribed for the purposes of this Act;

(s) providing for any matter that the Lieutenant Governor in Council considers advisable for carrying out the purpose and intent of this Act.

(c) by adding the following after subsection (2):

(3) If a provision of the *Automobile Insurance Act* or the regulations under that Act that is applicable to Part 3 requires the Administrator to do something within a certain period, the Minister may make regulations varying the period within which the thing must be done.

NOTE: (7) Section 25 presently reads in part:

25(1) The Administrator may prescribe forms to be used under this Act.

(2) The Lieutenant Governor in Council may make regulations for the purpose of carrying out this Act according to its intent and of supplying any deficiency in this Act, and without limiting the generality of the foregoing may make regulations

(k) prescribing, in addition to the amounts payable under the other provisions of this Act, the accident

insurance benefits payable in the same manner and to the same limit and extent that they are payable under Part 5, Subpart 2 of the Insurance Act, for a motor vehicle accident occurring on or after April 1, 1972.

(8) The following is added after section 25:

Deficiency regulations

25.1(1) The Lieutenant Governor in Council may make regulations

(a) remedying any confusion in the application or any difficulty or impossibility in applying any provisions of this Act;

(b) respecting matters coming under this Act that the Lieutenant Governor in Council considers

(i) are not provided for or are insufficiently provided for in this Act, or

(ii) are necessary or advisable in connection with the implementation of this Act.

(2) A regulation made under subsection (1) is repealed 5 years after the regulation comes into force or on the date specified in the regulation, whichever is earlier.

(3) The repeal of a regulation under subsection (2) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

(4) A regulation made under subsection (1) that is in force on or after the repeal of this section remains in force until it is repealed in accordance with subsection (2).

(5) A regulation may not be made under subsection (1) extending the 5-year period set out in subsection (2).

(6) This section is repealed 5 years after this section comes into force, but the repeal does not affect anything done, incurred or

acquired under the authority of a regulation made under subsection (1) before the repeal of this section.

NOTE: (8) Deficiency regulations.

(9) Section 26 is repealed.

NOTE: (9) Section 26 presently reads:

26 The Motor Vehicle Accident Claims Act, RSA 1980 cM-21, and the regulations under it as they read immediately before June 1, 1997 continue to apply to claims relating to property damage in respect of motor vehicle accidents that occur before June 1, 1997.

(10) This section comes into force on the coming into force of section 5 of the *Automobile Insurance Act*.

NOTE: (10) Coming into force.

Provincial Health Agencies Act

Amends RSA 2000 cP-32.5

11(1) The *Provincial Health Agencies Act* is amended by this section.

NOTE: 11(1) Amends chapter P-32.5 of the Revised Statutes of Alberta 2000.

(2) Section 1.975 is amended by adding the following after clause (aa):

(aa.1) respecting the consolidation of audit reports and annual reports of provincial health corporations and provincial health corporation subsidiaries under section 14.1;

NOTE: (2) Adds regulation-making authority.

(3) Section 13 is amended

(a) in subsections (3) and (3.1) by adding ", subject to subsection (3.2)," **after** "must";

(b) by adding the following after subsection (3.1):

(3.2) A provincial health corporation or a subsidiary health corporation that is subject to an order made under section 14.1 must appoint the same auditor as the auditor appointed by the provincial health agency specified in that order.

(c) in subsections (4) and (5) by striking out "The auditor" **and substituting** "Subject to section 14.1, the auditor".

NOTE: (3) Section 13 presently reads in part:

(3) Unless the sector Minister appoints the Auditor General as the auditor for a provincial health agency, a regional health authority, a subsidiary health corporation other than a provincial health corporation subsidiary or a community health council, a provincial health agency, a regional health authority, a subsidiary health corporation other than a provincial health corporation subsidiary and a community health council must appoint its auditor.

(3.1) Unless the responsible Minister appoints the Auditor General as the auditor for a provincial health corporation or a provincial health corporation subsidiary, a provincial health corporation and a provincial health corporation subsidiary must appoint its auditor.

(4) The auditor of a provincial health agency, a regional health authority, a subsidiary health corporation other than a provincial health corporation subsidiary or a community health council shall provide to the sector Minister copies of any audit reports and the auditor's observations and recommendations to management relating to the auditor's audit activity.

(5) The auditor of a provincial health corporation or a provincial health corporation subsidiary shall provide to the

responsible Minister copies of any audit reports and the auditor's observations and recommendations to management relating to the auditor's audit activity.

(4) Section 14(2)(b) is amended by adding ", subject to section 14.1," **after** "must".

NOTE: (4) Section 14(2)(b) presently reads:

(2) Within the time prescribed by the regulations,

(b) a provincial health corporation must provide to the responsible Minister an annual report on its activities for the previous fiscal year.

(5) The following is added after section 14:

Consolidated records, reports and returns

14.1(1) The sector Minister or the responsible Minister, as the case may be, may, by order and in accordance with the regulations, if any, authorize a provincial health corporation or a subsidiary health corporation to satisfy the requirements under sections 13 and 14 by consolidating the records, reports and returns of the provincial health corporation or subsidiary health corporation, as applicable, into the audited financial statements and annual report of the provincial health agency specified in the order.

(2) The order must specify that the provincial health corporation or subsidiary health corporation that is subject to the order is required

(a) to have the same auditor as the auditor appointed under section 13(3) by the applicable provincial health agency, and

(b) to include the information required under section 14.

(3) The order may be subject to any terms and conditions specified in the order as the sector Minister or the responsible Minister, as the case may be, considers appropriate.

(4) The sector Minister or the responsible Minister, as the case may be, may amend or revoke an order made under this section at any time if the sector Minister or responsible Minister considers it necessary.

(5) If there is a conflict or inconsistency between an order made under this section and any regulations made under this Act, the order prevails.

Reporting requirement under s10(2) of SFPR Act

14.2 A provincial health corporation providing its annual report by consolidating it, under section 14.1, into the annual report of the applicable provincial health agency is deemed to satisfy the requirement under section 10(2) of the *Sustainable Fiscal Planning and Reporting Act*.

NOTE: (5) Consolidated records, reports and returns; reporting requirement under s10(2) of SFPR Act.

(6) Section 23(1) is amended by adding the following after clause (m.1):

(m.2) respecting the consolidation of audit reports and annual reports of provincial health agencies and subsidiary health corporations other than provincial health corporation subsidiaries under section 14.1;

NOTE: (6) Adds regulation-making authority.

(7) This section comes into force on Proclamation.

NOTE: (7) Coming into force.

Public Trustee Act

Amends SA 2004 cP-44.1

12(1) The *Public Trustee Act* is amended by this section.

NOTE: **12**(1) Amends chapter P-44.1 of the Statutes of Alberta, 2004.

(2) Section 37 is amended

(a) in subsection (3) by striking out "only in accordance with the regulations" **and substituting** "if, in the Public Trustee's opinion, it is in the client's best interest";

(b) by repealing subsection (4) and substituting the following:

(4) The Public Trustee may retain an investment in the form in which it comes into the Public Trustee's hands if, in the Public Trustee's opinion, it is in the client's best interest.

NOTE: (2) Section 37 presently reads in part:

(3) If not required to make separate investments for a client in accordance with subsection (1), the Public Trustee may make separate investments for the client only in accordance with the regulations.

(4) Notwithstanding subsection (3), the Public Trustee may retain an investment in the form in which it comes into the Public Trustee's hands if the Public Trustee considers it reasonable to do so.

(3) Section 46(p) is repealed.

NOTE: (3) Section 46(p) presently reads:

46 The Lieutenant Governor in Council may make regulations

(p) respecting the circumstances under which separate investments may be made for clients for the purpose of section 37(3);

(4) This section comes into force on Proclamation.

NOTE: (4) Coming into force.

Securities Act

Amends RSA 2000 cS-4

13(1) The *Securities Act* is amended by this section.

NOTE: 13(1) Amends chapter S-4 of the Revised Statutes of Alberta 2000.

(2) Section 1 is amended

(a) by adding the following after clause (n.03):

(n.031) "designated independent dispute resolution service" means an independent dispute resolution service that is designated by the Commission under section 67.6(1);

(b) by adding the following after clause (y):

(y.1) "independent dispute resolution service" means a person or company that provides or intends to provide independent and impartial third-party dispute resolution services for the purpose of resolving complaints of clients with respect to registrants;

NOTE: (2) Adds definitions.

(3) Section 19(1) and (5) are amended by adding "33.5 or" **after** "section".

NOTE: (3) Section 19(1) and (5) presently read:

19(1) All fees, costs, administrative penalties under section 199, settlement money and other revenue arising with respect to the administration of Alberta securities laws or any other enactments administered by the Commission are the revenues of the Commission.

(5) Notwithstanding subsections (1) and (2), money that is received by the Commission from administrative penalties under section 199 may be expended only for the purposes of educating investors and promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets.

(4) Section 33.1 is amended by adding the following after subsection (2):

(2.1) An order may be made under subsection (1) in respect of any person or company that authorized, permitted or acquiesced in conduct referred to in subsection (2) whether or not the Commission or the Executive Director has made an order in respect of the issuer, the exchange or the person or company that engaged in that conduct.

NOTE: (4) Expands order-making permission.

(5) The following is added after section 33.2:

Notice of contravention or failure to comply

33.3(1) If the Executive Director considers that a person or company has contravened or failed to comply with Alberta securities laws, the Executive Director may, if the Executive Director considers it to be in the public interest, give written notice to a person or company advising the person or company

(a) of each contravention or failure to comply the Executive Director considers has occurred,

(b) of the date and time by which the person or company may make submissions to the Executive Director in accordance with section 33.4 in respect of the contravention or failure to comply, and

(c) that after the date and time referred to in clause (b), the Executive Director may, without further notice, make and publish an order under section 33.5.

(2) The Executive Director may, if the Executive Director considers it to be in the public interest, give written notice to any person or company that authorized, permitted or acquiesced in the contravention or failure to comply the Executive Director considers has occurred, whether or not the Executive Director has given notice to the person or company that committed the contravention or failed to comply.

Procedure for submissions

33.4(1) A person or company that receives a notice under section 33.3 may make submissions in response to the notice on or before the date and time specified in the notice.

(2) Unless otherwise directed by the Executive Director,

(a) submissions must be made in writing, and

(b) section 29(a) to (e) and (g) to (m) do not apply to the Executive Director's consideration of the matter.

(3) Notwithstanding section 35, a decision of the Executive Director respecting the format of or procedure for making submissions is final and may not be appealed to the Commission.

Administrative orders

33.5(1) After the date and time specified in the notice under section 33.3(1)(b), the Executive Director may make and publish an order

(a) that a person or company do one or more of the following:

(i) in the case of an individual, pay an administrative penalty of not more than $10 000 for each contravention or failure to comply the Executive Director determines has occurred;

(ii) in the case of a person or company that is not an individual, pay an administrative penalty of not more than $50 000 for each contravention or failure to comply the Executive Director determines has occurred;

(iii) disclose, in any manner described in the order, information, a document, a record or other material

that the Executive Director determines must be disclosed to comply with Alberta securities laws;

(iv) disclose the order made under this section

(A) in a disclosure required under subclause (iii), or

(B) in accordance with the regulations, as if the order were a penalty or sanction of the Commission referred to in the regulations,

or

(b) reprimanding the person or company.

(2) The Executive Director may, if the Executive Director considers it to be in the public interest, make an order under subsection (1) in respect of any person or company that was given notice under section 33.3(2).

(3) Where the Executive Director has made an order under subsection (1), the Executive Director may at any time file a certified copy of the order with the clerk of the Court of King's Bench, and on being filed with the clerk of the Court of King's Bench, the order has the same force and effect as if it were a judgment of the Court of King's Bench.

(4) Where an order filed under subsection (3) includes an administrative penalty levied under this section, the administrative penalty in the amount specified in the order may be collected as a judgment of the Court of King's Bench for the recovery of debt.

NOTE: (5) Notice of contravention or failure to comply; procedure for submissions; administrative orders.

(6) Section 40(1) is amended by adding the following after clause (j.3):

(j.4) a designated independent dispute resolution service,

NOTE: (6) Adds to definition of party.

(7) Section 57.1(f) is amended by striking out the portion preceding subclause (i) and substituting the following:

(f) "whistleblower" means an individual who voluntarily discloses to a Commission staff member information respecting alleged wrongdoing by or in connection with a person or company or an employee of the person or company, but does not include an individual

NOTE: (7) Section 57.1(f) presently reads in part:

57.1 In this Part,

(f) "whistleblower" means an employee of a person or company who voluntarily discloses to a Commission staff member information respecting alleged wrongdoing by or in connection with the person or company, or an employee of the person or company, but does not include an employee

(8) Section 57.2(6) is repealed and the following is substituted:

(6) Subsection (5) does not apply to

(a) an examination in a hearing conducted under section 198(3) respecting a reprisal contrary to section 57.4(1) if the examination is in respect of whether an individual was a whistleblower at the time of the alleged reprisal, or

(b) an examination in a proceeding commenced under section 211.0961 if the examination is in respect of whether the plaintiff was a whistleblower at the time of the alleged reprisal.

NOTE: (8) Section 57.2(6) presently reads:

(6) Subsection (5) does not apply to an examination in a proceeding commenced pursuant to section 211.0961 if the examination is in respect of whether or not the plaintiff was a whistleblower at the time of the alleged reprisal.

(9) Section 57.5 is amended in the portion preceding clause (a) by striking out "an employee of a person or company" **and substituting** "an individual".

NOTE: (9) Section 57.5 presently reads in part:

57.5 No provision or term in any contract, agreement or policy shall be interpreted or shall be enforceable so as to prohibit, restrict or otherwise limit in any way an employee of a person or company from

(10) Section 57.6 is amended in the portion preceding clause (a) by striking out "an employee of a person or company" **and substituting** "an individual".

NOTE: (10) Section 57.6 presently reads in part:

57.6 No person or company shall obstruct, or advise, request or direct the obstruction of, an employee of a person or company from

(11) Section 57.7 is amended

(a) by striking out "No person or company" **and substituting** "No individual";

(b) by striking out "another person or company" **and substituting** "a person or company".

NOTE: (11) Section 57.7 presently reads:

57.7 No person or company purporting to provide information respecting an alleged wrongdoing by another person or company shall make a statement, whether oral or written, in any document, material, information or evidence provided to a Commission staff member that, in a material respect and at the time and in light of the circumstances under which it is made, is misleading or untrue or does not state a fact that is required to be stated or that is necessary to make the statement not misleading.

(12) Section 57.8 is repealed and the following is substituted:

Limited immunity

57.8(1) No individual is liable for having disclosed, sought or provided advice about disclosing, or expressed an intention to disclose to a Commission staff member information respecting alleged wrongdoing by or in connection with a person or company or an employee of a person or company.

(2) Subsection (1) does not apply if the individual did not reasonably believe the information respecting alleged wrongdoing at the time the individual engaged in the conduct described in subsection (1).

(3) Notwithstanding subsection (1), an individual who engages in conduct described in that subsection may be held liable for

(a) any wrongdoing or any conduct contrary to the public interest, and

(b) any contravention of an enactment of Alberta or Canada.

NOTE: (12) Section 57.8 presently reads:

57.8(1) No employee of a person or company is liable for having disclosed, sought or provided advice about disclosing, or expressed an intention to disclose to a Commission staff member information respecting alleged wrongdoing by or in connection with the person or company or an employee of the person or company.

(2) Subsection (1) does not apply if the employee did not reasonably believe the information respecting alleged wrongdoing at the time the employee engaged in the conduct described in subsection (1).

(3) Notwithstanding subsection (1), an employee who engages in conduct described in that subsection may be held liable for

(a) any contravention of Alberta securities laws or any conduct contrary to the public interest, and

(b) any contravention of an enactment of Alberta or Canada.

(4) Despite section 57.1(b), in this section "employee" means, in respect of a person or company, an individual who is or was

(a) a full-time employee, a part-time employee or a director of that person or company,

(b) an independent contractor of that person or company, or a full-time employee, a part-time employee or a director of that independent contractor, or

(c) a full-time employee, a part-time employee or a director of an affiliate of that person or company.

(13) Section 57.9(2)(g) is repealed and the following is substituted:

(g) section 57.8 applies only to

(i) an individual who disclosed, sought or provided advice about disclosing, or expressed an intention to disclose to a Commission staff member the information described in section 57.8 on or after the coming into force of section 13(13) of the *Financial Statutes Amendment Act, 2026 (No. 2)*, and

(ii) notwithstanding subclause (i), an employee in respect of whom section 57.8 applied from the effective date to immediately before the coming into force of section 13(13) of the *Financial Statutes Amendment Act, 2026 (No. 2)*.

NOTE: (13) Section 57.9(2)(g) presently reads:

(2) This Part applies to any wrongdoing whether it occurred before, on or after the effective date, but

(g) section 57.8 applies only to an employee as defined in section 57.8(4) of a person or company who on or after the effective date, disclosed, sought or provided advice about disclosing, or expressed an intention to disclose to a Commission staff member the information described in section 57.8.

(14) Section 58(1) is amended by adding the following after clause (k.3):

(k.4) a designated independent dispute resolution service;

NOTE: (14) Adds a person the Executive Director may appoint to determine if a person or company is complying with Alberta securities laws.

(15) Section 60.1(1) is amended by adding the following after clause (i.1):

(i.2) designated independent dispute resolution service,

NOTE: (15) Expands application of record-keeping provision.

(16) The following is added after section 67.5:

Designation of independent dispute resolution service

67.6(1) The Commission may, on the application of an independent dispute resolution service, designate the independent dispute resolution service as a designated independent dispute resolution service if the Commission considers that it would not be prejudicial to the public interest to do so.

(2) The designation

(a) must be in writing, and

(b) is subject to any

(i) terms and conditions the Commission imposes, and

(ii) terms and conditions, standards, requirements, processes or procedures established by the regulations.

(3) The Commission may, if the Commission considers that it is in the public interest to do so, give any direction to a designated independent dispute resolution service with respect to any bylaw,

rule, regulation, policy, procedure, interpretation or practice of that designated independent dispute resolution service, and the designated independent dispute resolution service must act in accordance with the direction.

(4) The Commission, after giving a designated independent dispute resolution service an opportunity to be heard, may, if the Commission considers that it is in the public interest to do so,

(a) suspend or cancel a person's or company's designation as a designated independent dispute resolution service, or

(b) add to, remove, vary or replace any terms or conditions of its designation.

Powers and duties of designated independent dispute resolution service

67.7(1) A designated independent dispute resolution service must provide independent and impartial third-party dispute resolution services to registrants and their clients in accordance with this section.

(2) Subject to the regulations, the terms and conditions of its designation and any direction of the Commission under section 67.6(3), a designated independent dispute resolution service must

(a) provide for a fair dispute resolution process for the parties based on the circumstances of each complaint referred to it,

(b) facilitate the efficient resolution of the complaint, and

(c) determine a fair outcome to the complaint based on the circumstances of the complaint.

(3) For the purpose of subsection (2), the designated independent dispute resolution service

(a) must, subject to and in accordance with the regulations, if any, the terms and conditions of its designation and any direction of the Commission under section 67.6(3), implement the processes and procedures the designated independent dispute resolution service considers

necessary to fulfil the designated independent dispute resolution service's duties, and

(b) without limiting the generality of clause (a), may determine the parties to a dispute resolution process and the participatory rights of each party.

(4) A designated independent dispute resolution service may make a final decision that is binding on the parties in accordance with the regulations, if any, and the terms and conditions of its designation.

(5) Subject to the regulations and the terms and conditions of its designation, if a designated independent dispute resolution service considers it fair in the circumstances, the designated independent dispute resolution service may, as part of its final decision, order that a registrant do one or more of the following in accordance with the terms of the order:

(a) pay compensation;

(b) review the conduct complained of or its consequences;

(c) provide reasons or an explanation for the conduct complained of;

(d) rectify, mitigate or otherwise change the conduct complained of or its consequences;

(e) change a practice related to the conduct complained of;

(f) correct or apply for the correction of information provided to a federal or provincial tax authority by the registrant;

(g) correct or apply for the correction of a credit rating of another party to the complaint;

(h) forgive or vary a debt;

(i) release assets, including securities, being held for a debt;

(j) repay, waive or vary a fee or other amount paid to or owing to the registrant or its representative or agent, including a variation in the interest rate of a loan;

(k) reinstate, vary or set aside a contract;

(l) satisfy a claim under an insurance policy, including by repairing, reinstating or replacing items of property;

(m) in the case of a complaint involving a privacy concern,

(i) not repeat the conduct complained of, or

(ii) correct, add to or delete information pertaining to the complainant;

(n) in relation to a default judgment, not enforce the default judgment.

(6) A final decision of a designated independent dispute resolution service that is binding on the parties is not subject to review by the Commission.

(7) Where a designated independent dispute resolution service has made a final and binding decision, subject to the regulations and the terms and conditions of its designation, the complainant or the designated independent dispute resolution service may at any time file a certified copy of the decision with the clerk of the Court of King's Bench, and on being filed with the clerk of the Court of King's Bench, that decision has the same force and effect as if it were a judgment of the Court of King's Bench.

(8) The *Arbitration Act* does not apply to proceedings conducted by a designated independent dispute resolution service.

NOTE: (16) Designation of independent dispute resolution service; powers and duties of designated independent dispute resolution service.

(17) Section 141 is repealed and the following is substituted:

Issuer in default

141 The Commission or Executive Director may, without providing an opportunity to be heard, publish the name of an issuer in default of one or more provisions of Alberta securities laws, including the nature of the default.

NOTE: (17) Section 141 presently reads:

141 The Commission may publish a list of defaulting reporting issuers.

(18) The heading preceding section 158 and section 158 are repealed and the following is substituted:

Part 14
Take-over Bids, Issuer Bids, Business Combinations, Related Party Transactions and Proxy Solicitations

Definitions

158 In this Part,

(a) "contested meeting" means a meeting

(i) requisitioned by a shareholder,

(ii) in respect of which a dissident proxy circular has been filed, or

(iii) in respect of which a person or company has announced or communicated to the issuer their intention to contest one or more items of business at the meeting;

(b) "interested person" means

(i) an issuer

(A) that is, or whose securities are, the subject of a take-over bid, issuer bid or other offer to acquire, a business combination or a related party transaction, or

(B) whose securities are the subject of a proxy solicitation in respect of a contested meeting,

(ii) a security holder, director or officer of an issuer described in subclause (i),

(iii) an offeror,

(iv) the Executive Director, and

(v) a person or company who has applied under section 158.1 and who, in the opinion of the Commission or the Court of King's Bench, as the case may be, is an interested person for the purposes of section 179 or 180;

(c) "issuer bid" means a direct or indirect offer to acquire or redeem a security or a direct or indirect acquisition or redemption of a security that is

(i) made by the issuer of the security, and

(ii) within a prescribed class of offers, acquisitions or redemptions;

(d) "take-over bid" means a direct or indirect offer to acquire a security that is

(i) made directly or indirectly by a person or company other than the issuer of the security, and

(ii) within a prescribed class of offers to acquire.

Application to be considered an interested person

158.1(1) A person or company seeking to make an application under section 179 may, before or at the same time as submitting that application, apply to the Commission to be considered an interested person for the purposes of that section.

(2) A person or company seeking to make an application under section 180 may, before or at the same time as submitting that application, apply to the Court of King's Bench to be considered an interested person for the purposes of that section.

NOTE: (18) The heading preceding section 158 and section 158 presently read:

Part 14

Take-over Bids and Issuer Bids

158 For the purposes of this Part,

(a) "interested person" means

(i) an issuer whose securities are the subject of a take-over bid, issuer bid or other offer to acquire,

(ii) a security holder, director or officer of an issuer described in subclause (i),

(iii) an offeror,

(iv) the Executive Director, and

(v) any person or company not referred to in subclauses (i) to (iv) who, in the opinion of the Commission or the Court of King's Bench, as the case may be, is a proper person to make an application under section 179 or 180;

(b) "issuer bid" means a direct or indirect offer to acquire or redeem a security or a direct or indirect acquisition or redemption of a security that is

(i) made by the issuer of the security, and

(ii) within a prescribed class of offers, acquisitions or redemptions;

(c) "take-over bid" means a direct or indirect offer to acquire a security that is

(i) made directly or indirectly by a person or company other than the issuer of the security, and

(ii) within a prescribed class of offers to acquire.

(19) Section 159 is repealed and the following is substituted:

Restrictions on commencing a bid, etc.

159 A person or company shall not, whether alone or acting jointly or in concert with one or more persons, except in accordance with the regulations,

(a) commence a take-over bid, issuer bid or other offer to acquire or a proxy solicitation in respect of a contested meeting, or

(b) enter into a business combination or a related party transaction.

NOTE: (19) Section 159 presently reads:

159 A person or company shall not make a take-over bid or issuer bid, whether alone or acting jointly or in concert with one or more persons, except in accordance with the regulations.

(20) Section 160(1) is amended

(a) by adding "take-over" **after** "subject of the";

(b) in clause (a) by adding "take-over" **after** "rejection of the".

NOTE: (20) Section 160(1) presently reads in part:

160(1) When a take-over bid has been made, the directors of the issuer whose securities are the subject of the bid shall

(a) determine whether to recommend acceptance or rejection of the bid or determine not to make a recommendation, and

(21) Section 179 is repealed and the following is substituted:

Applications to Commission

179(1) On application by an interested person, if the Commission considers that a person or company has not complied or is not complying with Part 13, this Part or any regulation made in respect of those Parts, or that a person or company is acting contrary to the public interest, the Commission may make an order

(a) restraining the distribution of any document, record or materials used or issued in connection with a take-over

bid, issuer bid or other offer to acquire, a business combination, a related party transaction or a proxy solicitation in respect of a contested meeting,

(b) requiring an amendment to or a variation or correction of any document, record or materials used or issued in connection with a take-over bid, issuer bid or other offer to acquire, a business combination, a related party transaction or a proxy solicitation in respect of a contested meeting, and the distribution of any amended, varied or corrected document, record or materials,

(c) requiring the distribution of any document, record or materials used or issued in connection with a take-over bid, issuer bid or other offer to acquire, a business combination, a related party transaction or a proxy solicitation in respect of a contested meeting,

(d) directing any person or company to comply with Part 13, this Part or any regulation made in respect of those Parts,

(e) restraining any person or company from contravening Part 13, this Part or any regulation made in respect of those Parts,

(f) directing the directors and officers of any person or company to cause the person or company to comply with or to cease contravening Part 13, this Part or any regulation made in respect of those Parts,

(g) varying a period prescribed under a rule made by the Commission under section 224 in respect of Part 13 or this Part,

(h) rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security,

(i) requiring any person or company to dispose of a security acquired in connection with a take-over bid, issuer bid or other offer to acquire, a business combination, a related party transaction or a proxy solicitation in respect of a contested meeting,

(j) prohibiting any person or company from exercising any or all voting rights attached to any security,

(k) prohibiting any person or company from exercising any or all rights attached to any derivative,

(l) requiring a person or company to cease trading in or purchasing any security or derivative relating to a take-over bid, issuer bid or other offer to acquire, a business combination, a related party transaction or a proxy solicitation in respect of a contested meeting, or

(m) providing that any or all exemptions contained in Alberta securities laws do not apply to the person or company named in the order.

(2) On application by an interested person, or on the Commission's own motion, the Commission may order that a person or company is exempt from any requirement under Part 13, this Part or any regulation made in respect of those Parts if the Commission considers that it would not be prejudicial to the public interest to do so.

(3) An order made under subsection (1) or (2) is subject to any terms and conditions the Commission may impose.

NOTE: (21) Section 179 presently reads:

179(1) On application by an interested person, if the Commission considers that a person has not complied or is not complying with this Part or the regulations, the Commission may make an order

(a) restraining the distribution of any document, record or materials used or issued in connection with a take-over bid or issuer bid,

(b) requiring an amendment to or variation of any document, record or materials used or issued in connection with a take-over bid or issuer bid and requiring the distribution of amended, varied or corrected information,

(c) directing any person or company to comply with this Part or the regulations,

(d) restraining any person or company from contravening this Part or the regulations, or

(e) directing the directors and officers of any person or company to cause the person or company to comply with or to cease contravening this Part or the regulations.

(2) On application by an interested person, the Commission may order that a person or company is exempt from any requirement under this Part or the regulations if the Commission considers it would not be prejudicial to the public interest to do so.

(22) Section 180(1) is repealed and the following is substituted:

Applications to Court

180(1) On application by an interested person, if the Court of King's Bench is satisfied that a person or company has not complied with Part 13, this Part or any regulation made in respect of those Parts, the Court of King's Bench may make an interim or final order as the Court sees fit, including, without limitation, an order

(a) compensating any interested person who is a party to the application for damages suffered as a result of a contravention of Part 13, this Part or any regulation made in respect of those Parts,

(b) rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security,

(c) requiring any person or company to dispose of a security acquired in connection with a take-over bid, issuer bid or other offer to acquire, a business combination, a related party transaction or a proxy solicitation in respect of a contested meeting,

(d) prohibiting any person or company from exercising any or all voting rights attached to any security,

(e) prohibiting any person or company from exercising any or all rights attached to any derivative, or

(f) requiring the trial of an issue.

NOTE: (22) Section 180(1) presently reads:

180(1) On application by an interested person, if the Court of King's Bench is satisfied that a person or company has not complied with this Part or the regulations, the Court of King's Bench may make an interim or final order as the court sees fit, including, without limitation, an order

(a) compensating any interested person who is a party to the application for damages suffered as a result of a contravention of this Part or the regulations,

(b) rescinding a transaction with any interested person, including the issue of a security or a purchase and sale of a security,

(c) requiring any person or company to dispose of any securities acquired pursuant to or in connection with a take-over bid or issuer bid,

(d) prohibiting any person or company from exercising any or all of the voting rights attached to any securities, or

(e) requiring the trial of an issue.

(23) Section 197(3)(b) is amended by adding "33.5," **after** "section".

NOTE: (23) Section 197(3)(b) presently reads:

(3) If the Court makes a declaration under subsection (1), the Court may, notwithstanding

(b) any order made under section 198 or 199,

make any order under this section that the Court considers appropriate with respect to the person or company.

(24) Section 199 is amended

(a) in subsection (2) by striking out "pursuant to" **and substituting** "under";

(b) by adding the following after subsection (2):

(3) Notwithstanding subsection (2), the Commission shall not make an order in respect of a person or company under this section if an order related to the same matter has been made in respect of the person or company under section 33.5.

NOTE: (24) Prohibits Commission from making an order under this section if an order relating to the same matter has been made under section 33.5.

(25) Section 222 is amended by adding the following after subsection (3):

(3.1) No action or other proceeding for damages may be instituted against a designated independent dispute resolution service or its directors, officers, employees or agents for

(a) any act done in good faith

(i) in the performance or intended performance of any function or duty, or

(ii) in the exercise or intended exercise of any power,

or

(b) any neglect, omission or default in the performance or exercise in good faith of any function, duty or power,

in respect of a function, duty or power that has been authorized under section 67.7.

NOTE: (25) No action or proceeding for damages can be brought against a designated independent dispute resolution service acting in good faith.

(26) Section 223 is amended

(a) by adding the following after clause (j)(vi)(C):

(D) requirements in respect of membership and participation in, and compliance with a decision of, a designated independent dispute resolution service;

(b) by adding the following after clause (w.3):

(w.4) governing designated independent dispute resolution services and, without limiting the generality of the foregoing,

(i) respecting the terms and conditions of the designation of an independent dispute resolution service as a designated independent dispute resolution service,

(ii) respecting standards for, and the processes and procedures of, a designated independent dispute resolution service,

(iii) respecting requirements in respect of the review or approval by the Commission of a bylaw, rule, regulation, policy, procedure, interpretation or practice of a designated independent dispute resolution service,

(iv) prescribing requirements in respect of the books and records to be maintained by a designated independent dispute resolution service,

(v) respecting disclosure to or the filing or furnishing of information with the Commission or Executive Director by a designated independent dispute resolution service, and

(vi) respecting disclosure to the public or any person or company by a designated independent dispute resolution service;

NOTE: (26) Adds regulation-making authorities.

Tobacco Tax Act

Amends RSA 2000 cT-4

14(1) The *Tobacco Tax Act* is amended by this section.

NOTE: 14(1) Amends chapter T-4 of the Revised Statutes of Alberta 2000.

(2) Section 1 is amended

(a) by renumbering it as section 1(1);

(b) in subsection (1)

(i) by adding the following after clause (e.4):

(e.41) "electronic transmission" means transmission using electronic media specified in writing by the Minister;

(ii) in clause (q) by striking out ", and includes snuff";

(c) by adding the following after subsection (1):

(2) For the purposes of this Act, a gram or part of a gram of tobacco includes the weight of

(a) any non-tobacco substance added to the tobacco, and

(b) any packaging used or consumed together with the use or consumption of the tobacco

but does not include the weight of any packaging in which the tobacco is sold that is not used or consumed together with the use or consumption of the tobacco.

NOTE: (2) Section 1 presently reads in part:

1 In this Act,

(q) "tobacco" means tobacco in any form in which it is used or consumed, and includes snuff;

(3) Section 3(2.1) is amended by striking out "subsection (1)(a) or (c)" **and substituting** "subsection (1)(a), (c) or (d)".

NOTE: (3) Section 3(2.1) presently reads:

(2.1) The amount of tax payable computed under subsection (1)(a) or (c) shall be computed by multiplying the applicable tax rate by the total number of cigarettes, tobacco sticks or grams of tobacco, as the case may be, purchased by the consumer at that time, and where the resulting amount of tax payable includes a fraction of a cent, the amount shall be rounded to the next higher cent.

(4) Section 11 is amended

(a) in subsection (4) by striking out "of the Minister's decision by registered letter or personal service" **and substituting** "by sending the objector written notice of the Minister's decision";

(b) in subsection (5) by striking out "by registered letter or personal service".

NOTE: (4) Section 11 presently reads in part:

(4) On receipt of a notice of objection, the Minister shall with all due dispatch reconsider the action or decision taken by the Minister and shall vacate, confirm or vary that action or decision and notify the objector of the Minister's decision by registered letter or personal service.

(5) Notwithstanding subsection (4), if the person indicates in the notice of objection that the person wishes to appeal immediately to the Court and waives reconsideration of the action or decision by the Minister, the Minister may on receipt of the notice of objection consent to an immediate appeal by serving a notice of consent on the person by registered letter or personal service.

(5) Section 11.1(5) is amended by striking out "of the decision in writing" **and substituting** "by sending the person written notice of the Minister's decision".

NOTE: (5) Section 11.1(5) presently reads:

(5) On receipt of an application made under subsection (1), the Minister shall with all due dispatch consider the application and grant or refuse it and notify the person who made the application of the decision in writing.

(6) Section 12 is amended

(a) by repealing subsection (1) and substituting the following:

Notice of appeal

12(1) Subject to subsection (1.1), a person who has served a notice of objection under section 11(1) may appeal to the Court to have the action or decision taken by the Minister vacated or varied

(a) where the Minister has, under section 11(4), confirmed or varied the action or decision taken by the Minister, or

(b) after 90 days has elapsed after service of the notice of objection and the Minister has not acted under section 11(4).

(1.1) No appeal under this section may be instituted after the expiration of 90 days from the day a notification under section 11(4) was sent to the objector.

(b) by repealing subsection (4) and substituting the following:

(4) The notice of appeal must have attached to it a copy of the notice of objection and, for the purpose of section 15, is deemed to be a statement of claim.

NOTE: (6) Section 12 presently reads in part:

12(1) A person who has served a notice of objection under section 11(1) may appeal to the Court to have the action or decision taken by the Minister vacated or varied

(a) where the Minister has, under section 11(4), confirmed or varied the action or decision taken by the Minister, or

(b) after 90 days has elapsed after service of the notice of objection and the Minister has not acted under section 11(4),

but no appeal under this section may be instituted after the expiration of 90 days from the day a notification under section 11(4) was mailed to or personally served on the objector.

(4) The notice of appeal shall be attached to the notice of objection and, for the purposes of section 15, is deemed to be a statement of claim.

(7) Section 14(3)(b) is amended

(a) in subclauses (iv) and (v) by adding "direct" **after** "tax collector,";

(b) in subclause (vi) by adding "direct" **after** "9.2(5),".

NOTE: (7) Section 14(3)(b) presently reads in part:

(3) The Court may, in hearing an appeal,

(b) allow the appeal and

(iv) in the case of a person's appointment as a tax collector, that the person's appointment be revoked,

(v) in the case of a revocation of a person's appointment as a tax collector, that the person's appointment be reinstated, subject to

any terms or conditions as the Court considers appropriate,

(vi) in the case of a refusal to issue a permit under section 4.1(4) or 9.2(4) or the cancellation of a permit under section 4.1(5) or 9.2(5), that, subject to any terms or conditions as the Court considers appropriate,

(8) Section 17 is repealed and the following is substituted:

Security

17(1) The Minister may, if the Minister considers it advisable in a particular case,

(a) require a tax collector to furnish security in an amount not exceeding 3 times the amount of estimated tax that the tax collector would collect each collection period, to ensure the remittance of all taxes payable that the tax collector is required to remit to the Minister, or

(b) accept from any person security in an amount satisfactory to the Minister for payment of debts due to the Crown.

(2) If at any time a person requests in writing that the Minister surrender any security accepted by the Minister under subsection (1)(b), the Minister shall surrender the security to the extent that the value of the security exceeds the aggregate of amounts payable under this Act by the person at that time.

(3) Security furnished under this section must be in a form satisfactory to the Minister.

NOTE: (8) Section 17 presently reads:

17(1) The Minister may require a tax collector to furnish a surety bond, bank guarantee or evidence of other financial arrangements satisfactory to the Minister in an amount satisfactory to the Minister but not exceeding an amount equal to 3 times the amount of the estimated tax that would be collected by the tax collector for each collection period.

(2) In the event of a notice of appeal being filed from a decision to suspend or cancel a licence, the Minister may require accelerated remittance of tax collected, a surety bond in an amount to be fixed by the Minister, bank guarantees and other financial arrangements to ensure full payment of taxes owing by the wholesaler or importer.

(9) Section 20(2.2)(b) is repealed and the following is substituted:

(b) the Minister has notified the director of the director's liability under this section by sending the director written notice of the director's liability.

NOTE: (9) Section 20(2.2)(b) presently reads:

(2.2) The Minister shall not take action to collect an amount owed by a director under this section until

(b) the director has been notified in writing of the director's liability under this section.

(10) Section 21 is amended

(a) by repealing subsection (1) and substituting the following:

Demand for information

21(1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by serving a demand, require any information or additional information or the production of any books, letters, accounts, invoices or statements, financial or otherwise, or other documents within a reasonable time that is stipulated in the demand, from the following:

(a) a wholesaler, importer or retailer or a person related to or associated with, within the meaning of subsection 251(2) or 256(1) of the *Income Tax Act* (Canada), a wholesaler, importer or retailer;

(b) a partner, agent or representative of a wholesaler, importer or retailer that is a partnership;

(c) a director, officer, agent or representative of a wholesaler, importer or retailer that is a corporation.

(b) in subsections (2) and (3) by striking out "by a demand served personally or by registered letter" **and substituting** "by serving a demand".

NOTE: (10) Section 21 presently reads in part:

21(1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by a demand served personally or by registered letter

(a) require from a wholesaler, importer or retailer or a person related to or associated with, within the meaning of subsection 251(2) or 256(1) of the Income Tax Act (Canada), a wholesaler, importer or retailer, or

(b) when a wholesaler, importer or retailer is a partnership or corporation, require from a partner or the president, manager, secretary or any director, officer, agent or representative of the partnership or corporation,

any information or additional information or production of any books, letters, accounts, invoices or statements, financial or otherwise, or other documents within a reasonable time that is stipulated in the demand.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by a demand served personally or by registered letter, require

(3) The Minister may, by a demand served personally or by registered letter, require the production by any person, or by the person's agent, of any books, letters, accounts, invoices or statements, financial or otherwise, or other documents in the possession or in the control of that person or that person's agent, for the purpose of determining what tax, if any, is collectible or payable under this Act by any person, or whether a licence or report is required under this Act,

and production of any required document shall be made within a reasonable time that is stipulated in the demand.

(11) Section 31(7) is amended by striking out "by a demand served personally or by registered letter" **and substituting** "by serving a demand".

NOTE: (11) Section 31(7) presently reads:

(7) Where the Minister is of the opinion that it is necessary for the administration of this Act, the Minister may, by a demand served personally or by registered letter, require any person required by this section to keep records and books of account to retain those records and books of account, together with every account and voucher necessary to verify the information contained in the records and books of account, for any period specified in the demand.

(12) Section 39.1 is amended by striking out "fax or other form of".

NOTE: (12) Section 39.1 presently reads:

39.1 For the purposes of this Act, where a notice or other document is mailed or sent by fax or other form of electronic transmission, it is presumed to be mailed or sent, as the case may be, on the date of that notice or other document.

(13) Section 39.2 is repealed and the following is substituted:

Electronic notice sent

39.2(1) In this section, "account number" means the number used by the Minister to identify a person and of which the Minister has notified the person.

(2) A notice or other communication that is made available in electronic format such that it can be read or perceived by an individual or a computer system or other similar device, and that refers to a person's account number, is presumed to be sent to the

person and received by the person on the date that it is posted by the Minister in the secure electronic account in respect of the person's account number.

NOTE: (13) Section 39.2 presently reads:

39.2(1) For the purposes of this Act, if a notice or other communication in respect of a person is made available in electronic format such that it can be read or perceived by a person or a computer system or other similar device, the notice or other communication is presumed to be sent to the person and received by the person on the date that an electronic message is sent, to the electronic address most recently provided before that date by the person to the Minister for the purposes of this subsection, informing the person that a notice or other communication requiring the person's immediate attention is available in the person's secure electronic account.

(2) For the purposes of subsection (1), a notice or other communication is considered to be made available if it is posted by the Minister in the person's secure electronic account and the person has authorized that notices or other communications may be made available in that manner and has not, before the date that the electronic message is sent, revoked that authorization in a manner specified by the Minister.

(14) Section 48(1)(n) is repealed.

NOTE: (14) Section 48(1)(n) presently reads:

48(1) The Lieutenant Governor in Council may make regulations

(n) requiring surety bonds, bank guarantees or other financial arrangements to be furnished or made by any person who collects or remits tax pursuant to this Act and prescribing the form and amount of the bonds, guarantees or other financial arrangements;

Traffic Safety Act

Amends RSA 2000 cT-6

15(1) The *Traffic Safety Act* is amended by this section.

NOTE: 15(1) Amends chapter T-6 of the Revised Statutes of Alberta 2000.

(2) Section 1(1) is amended

(a) by repealing clause (n) and substituting the following:

(n) "financial responsibility card" means a financial responsibility card issued under Part 1.1, Division 4 of the *Automobile Insurance Act*;

(b) in clause (q) by striking out "*Insurance Act*" **and substituting** "*Automobile Insurance Act*";

(c) by repealing clause (ii) and substituting the following:

(ii) "policy" means an owner's policy or non-owner's policy as defined in Part 1.1 of the *Automobile Insurance Act*;

NOTE: (2) Section 1(1) presently reads in part:

1(1) In this Act,

(n) "financial responsibility card" means a card issued or authorized pursuant to the Insurance Act;

(q) "insured motor vehicle" means a motor vehicle the owner of which

(i) is insured in respect of that motor vehicle by an insurer, or

(ii) is a corporation that has provided for financial responsibility in respect of that motor vehicle,

in accordance with the Insurance Act;

(ii) "policy" means an owner's or non-owner's motor vehicle liability policy that is in conformity with Part 7 of the Insurance Act;

(3) Section 124(6) is amended

(a) in clause (a) by striking out "pursuant to the *Insurance Act*" **and substituting** "under Part 1.1, Division 4 of the *Automobile Insurance Act*";

(b) in clause (b) by striking out "an insurance policy" **and substituting** "a policy".

NOTE: (3) Section 124(6) presently reads:

(6) A person driving an off-highway vehicle commits a contravention if, when requested to produce a financial responsibility card under subsection (1), the person produces

(a) a document that purports to be a financial responsibility card but that was not issued pursuant to the Insurance Act, or

(b) a financial responsibility card relating to an insurance policy that is not in force or is otherwise invalid at the time of production.

(4) Section 167(8) is amended

(a) in clause (a) by striking out "pursuant to Part 7 of the *Insurance Act*" **and substituting** "under Part 1.1, Division 4 of the *Automobile Insurance Act*";

(b) in clause (b) by striking out "an insurance policy" **and substituting** "a policy".

NOTE: (4) Section 167(8) presently reads:

(8) A person driving a motor vehicle commits a contravention and is liable to the penalty and any other sanction provided for under section 54(4) to (7) if, when

requested to produce a financial responsibility card under subsection (1), the person produces

(a) a document that purports to be a financial responsibility card but that was not issued pursuant to Part 7 of the Insurance Act, or

(b) a financial responsibility card relating to an insurance policy that is not in force or is otherwise invalid at the time of production.

(5) This section comes into force on Proclamation.

NOTE: (5) Coming into force.

RECORD OF DEBATE

Stage	Date	Member	From	To

		Interventions	From	To

Stage	Date	Member	From	To

		Interventions	From	To

Stage	Date	Member	From	To

		Interventions	From	To

Stage	Date	Member	From	To

		Interventions	From	To

Stage	Date	Member	From	To

		Interventions	From	To

Stage	Date	Member	From	To

		Interventions	From	To