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**INSURANCE (MOTOR VEHICLE) ACT****CHAPTER 231***Contents**Section*

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**Definitions and interpretation****1** (1) In this Act:

**“additional premium”** means an additional premium charged against an insured under section 35 and the regulations;

**“applicant”** means a person who applies for insurance;

**“automobile”** means a motor vehicle;

**“automobile insurance”** means insurance

(a) against liability arising out of

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

(ii) loss of or damage to property

caused by an automobile or the use or operation of an automobile, or

(b) against loss of or damage to an automobile and the loss of use of an automobile,

and includes insurance otherwise coming within the class of accident insurance where the accident is caused by an automobile or the use or operation of an automobile, whether liability exists or not, if the contract also includes insurance described in paragraph (a) but does not include

(c) insurance relating to

(i) an automobile for which, or for the use or operation of which, a permit or licence is not required under the *Motor Vehicle Act*, or

(ii) any operation, use or loss of use of an automobile excluded by order of the Lieutenant Governor in Council, or

(d) reinsurance undertaken by one insurer for liability for loss or damage assumed by another insurer;

**“basic premium”** means that portion of the premium that is based on criteria or classifications established under the regulations, but does not include an additional premium;

**“benefits”** means the prescribed benefits;

**“certificate”** means a certificate of automobile insurance issued under this Act or the regulations;

**“contract of insurance”** means insurance provided by the corporation and evidenced by a certificate;

**“corporation”** means the Insurance Corporation of British Columbia continued by the *Insurance Corporation Act*;

**“coverage”** means the right conferred on a person by this Act or the regulations to be indemnified against liability for, or compensated for, death, injury, loss or damages;

**“driver’s certificate”** means a certificate issued under this Act or the regulations to a person who, under the *Motor Vehicle Act*, may obtain a driver’s licence, and the certificate may be part of the driver’s licence or a separate document;

**“extension insurance”** means automobile insurance that may be made available by the corporation under the regulations that is in excess of the limits, or reduces the deductible amount or otherwise supplements one or more of the coverages, in a prescribed universal compulsory automobile insurance plan;

**“highway”** means a highway as defined in the *Motor Vehicle Act*;

**“insurance money”** means insurance money as defined in the regulations;

**“insured”** means an insured as defined in the regulations;

**“licence”**

(a) in relation to a driver or operator of a motor vehicle, means a licence or permit issued under the *Motor Vehicle Act* authorizing the holder of a licence of a designated class to drive or operate a motor vehicle of the category designated for that class, and includes a learner’s licence, and

(b) in relation to a motor vehicle or trailer, means a licence or permit issued in respect of a motor vehicle or trailer under the *Motor Vehicle Act* or the *Commercial Transport Act* or a licence or permit for a motor vehicle issued under any other Act;

**“motor vehicle”** means a motor vehicle as defined in the regulations;

**“motor vehicle liability policy”** means a certificate issued under this Act evidencing a contract of automobile insurance in the form, and providing insurance against perils and for amounts, that are prescribed;

**“owner”** means the person in whose name a motor vehicle or trailer is registered and licensed under the *Motor Vehicle Act* or the *Commercial Transport Act*;

**“owner’s certificate”** means a certificate issued under this Act or the regulations to an owner;

**“plan”** means a plan of universal compulsory automobile insurance established by the corporation under this Act and the regulations, and includes extension insurance;

**“point penalties”** means point penalties that may be recorded against the driving record of a driver under the *Motor Vehicle Act* and regulations, or under this Act and the regulations;

**“premium”** means money paid or to be paid by an insured or by an applicant for insurance to the corporation for the issue to him or her of a certificate of insurance under a plan or for extension insurance;

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**“registration and licence”** means a registration, licence or permit issued under the *Motor Vehicle Act* or regulations in respect of a motor vehicle or trailer registered and licensed under and in accordance with that Act, and includes

- (a) a registration and licence issued under the *Motor Carrier Act* or regulations, or the *Commercial Transport Act* or regulations for the operation of a commercial vehicle or trailer or a permit issued under them,
- (b) a dealer’s report of sale under section 5 of the *Motor Vehicle Act* for the operation of the motor vehicle described in the report, and
- (c) a special licence issued by the corporation under section 8, 9, 10, 38, 41 or 42 of the *Motor Vehicle Act* for the operation of the motor vehicle described in the licence;

**“superintendent”** means the Superintendent of Motor Vehicles under the *Motor Vehicle Act*;

**“trailer”** means a trailer as defined in the regulations;

**“universal compulsory automobile insurance”** means universal compulsory automobile insurance as defined by the regulations.

- (2) The Lieutenant Governor in Council may by regulation include any kind or class of vehicle, as defined in the *Motor Vehicle Act*, within the definition of motor vehicle, and subject to this Act.

**Corporation to engage in automobile insurance**

- 2 If, under the *Insurance Corporation Act* and regulations, the Lieutenant Governor in Council authorizes the corporation to engage in the activity of automobile insurance and to operate a plan of universal compulsory automobile insurance, the corporation must

- (a) engage in automobile insurance in all its classes and operate a plan of universal compulsory automobile insurance set out in this Act and the regulations, and
- (b) provide any prescribed plan of extension insurance.

**Corporation to maintain accounts**

- 3 The corporation must keep and maintain separate and distinct accounts in which it must record
  - (a) all money paid to the corporation for premiums and all other money, including investment income, paid to the corporation for the purposes of this Act, and
  - (b) all payments by the corporation of benefits, insurance money, damages, compensation, costs and capital expenditures and operating expenses for the purposes of this Act.

**Acquiring property**

- 4 The corporation may acquire land required for the purpose of this Act and may spend money received under section 3 for that purpose.

**Directors to account for income and expenditures**

- 5 If income, including investment income, is received by the corporation or an expenditure is made by the corporation partly for the purpose of this Act and partly for another business or purpose of the corporation, the directors must apportion and account for that income and expenditure accordingly.

**Reserve**

- 6 Subject to the regulations, the corporation must maintain for the purposes of this Act reserves in amounts the corporation considers advisable in the interest of owners of motor vehicles and trailers and drivers of motor vehicles, and in the interest of good management of the business of automobile insurance, so that the corporation has at all times sufficient funds to meet the payments under this Act as they become payable.

**Plan**

- 7 (1) Subject to section 2 and compliance with this Act and the regulations, the corporation must administer a plan of universal compulsory automobile insurance providing coverage under a motor vehicle liability policy required by the *Motor Vehicle Act*, of at least the amount prescribed, to all persons
- (a) whether named in a certificate or not, to whom, or in respect of whom, or to whose dependants, benefits are payable if bodily injury is sustained or death results,
  - (b) whether named in a certificate or not, to whom or on whose behalf insurance money is payable, if bodily injury to, or the death of another or others, or damage to property, for which he or she is legally liable, results, or
  - (c) to whom insurance money is payable, if loss or damage to a motor vehicle results
- from one of the perils mentioned in the regulations caused by a motor vehicle or trailer or its use or operation, or any other risk arising out of its use or operation.
- (2) The corporation must not make a contract for extension insurance as provided in section 2 unless the insured
- (a) is, or is entitled to be, insured under a certificate of universal compulsory automobile insurance,
  - (b) if a corporation, is incorporated or registered under the *Company Act*, and
  - (c) pays the prescribed premium.
- (3) A contract providing for extension insurance must provide insurance excess to the limits of a plan of universal compulsory automobile insurance, or otherwise supplement the coverage in the plan.
- (4) The provisions of this Act and the regulations respecting universal compulsory automobile insurance apply to extension insurance.

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**Additional powers**

- 8 The corporation has the powers and duties conferred and imposed under this Act and any other Act, and further, may do the following:
- (a) carry out either alone or with a board, commission, corporation, ministry or agency of government, or a person, agency or association, a research, education, training, competition or similar program relating to highway safety;
  - (b) promote or carry out programs of research into causes of accidents and the equitable distribution of losses resulting from highway traffic accidents;
  - (c) establish and maintain repair shops to investigate and apply techniques used in the repair of motor vehicles and trailers and to analyze the cost of repairs;
  - (d) negotiate with persons engaged in motor vehicle and trailer repairs to establish fair and reasonable prices for motor vehicle and trailer repairs for which payments may be made under this Act.

**Application of other Acts**

- 9 (1) The Lieutenant Governor in Council may, by regulation, provide that provisions of the *Insurance Corporation Act* or regulations do not apply to the plan established under this Act and the regulations.
- (2) Subject to subsection (3), and except as otherwise provided in this Act, the *Insurance Act* and the *Financial Institutions Act* do not apply to
- (a) automobile insurance issued by the corporation, or
  - (b) the corporation in respect of automobile insurance.
- (3) The Lieutenant Governor in Council may, by order, direct that any provision of the *Insurance Act* or of the *Financial Institutions Act* applies to
- (a) automobile insurance issued by the corporation, or
  - (b) the corporation in respect of automobile insurance.

**Records and proof**

- 10 (1) A copy of, or extract from, a record kept by the corporation under this Act or the regulations, certified to be a true copy or extract by an officer of the corporation, is proof of the record or of the part of the record extracted.
- (2) The certificate of an officer of the corporation, containing a statement of information from the records kept by the corporation under this Act or the regulations, is proof of the facts contained in the certificate.
- (3) Proof is not required of the signature or official position of a person certifying to the truth of a copy or extract, or giving a certificate under this section, and a facsimile signature purporting to be the signature of a person required to sign or certify a record or a process or proceeding under this Act is evidence of the signature and of the authority for the use of the facsimile signature.

- (4) A document kept by the corporation under this Act or the regulations may be recorded and the document destroyed, and a record of the document certified to be a true copy in accordance with this section is evidence in all cases and for all purposes for which the document would have been admissible in evidence.

#### Combined forms and information

- 11 (1) Certificates and applications for insurance forms prescribed by the corporation may be incorporated in the appropriate application forms, certificates of registration, registration cards, licences, permits or windshield stickers prescribed for use or used under the *Motor Vehicle Act*, *Commercial Transport Act* or *Motor Carrier Act*.
- (2) The corporation may require an applicant for insurance or an insured person to provide the prescribed information, statements and reports relating to, or affecting, the operation of a plan.
- (3) The corporation may require every driver or owner of a motor vehicle that
- (a) is required to be registered and licensed in British Columbia, and
  - (b) is involved in an incident out of which arises injury or death to a person or damage to property,
- to provide to the corporation prescribed information relating to the incident.
- (4) The corporation may require an insured to provide the prescribed notices, proofs of claim, proofs of loss, reports and statements, and to comply with any other prescribed methods of making and proving claims.

#### Waiver

- 12 (1) For the better administration of a plan, the corporation may either generally or for a particular case waive a term or condition of the plan.
- (2) A term or condition of a plan is deemed not to be waived by the corporation unless the waiver is in writing and signed by an officer of the corporation.

#### Proof of intoxication

- 13 (1) In an action, cause or proceeding in which this Act or the regulations and a plan are invoked and it is material to establish that a person using or operating a vehicle was doing so while under the influence of intoxicating liquor or drugs to an extent as to be for the time being incapable of the proper control of the vehicle, there must be received, as admissible evidence on the issue, proof that the person was convicted of an offence committed at the material time under section 253 or 254 (5) of the *Criminal Code*, whether or not that person
- (a) is a party to the action, cause or proceeding,
  - (b) is a witness at the trial, or
  - (c) has first been questioned as to whether he or she has been convicted of that offence.

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- (2) For the purpose of subsection (1), a certificate containing only the substance and effect of the conviction and purporting to be signed by the officer having custody of the records of the court in which the person was convicted or by the officer's deputy is on proof of the identity of the person convicted sufficient evidence of the conviction without proof of the signature or official character of the person by whom the certificate purports to have been signed.

**Salvage**

- 14 The corporation may acquire and hold for the benefit of the plan the salvage to which it becomes entitled
- (a) on settlement of a claim under the plan, and
  - (b) as provided by the regulations.

**Costs incurred for damaged vehicle**

- 15
- (1) If a motor vehicle or trailer has been damaged as a result of an accident and has been delivered into the custody of the corporation with the consent of the owner or person in charge of the motor vehicle or trailer at the time of the accident or pursuant to the direction of a peace officer under the *Motor Vehicle Act*, the corporation has, unless the corporation is responsible for payment of those costs and charges, a lien on the vehicle for the amount of the costs and charges for removal, towing, care or storage of the motor vehicle or trailer and that amount is a debt owing by the registered owner to the corporation.
  - (2) The corporation may give a written notice to the registered owner of the motor vehicle or trailer requiring the registered owner to pay the costs and charges referred to in subsection (1) and to remove the motor vehicle or trailer from the place where it is stored within 7 days from the date of receipt of the notice.
  - (3) A notice under subsection (2) may be given by serving it personally on the registered owner or by mailing it to the registered owner's address as shown in the records of the corporation and, if mailed, it is deemed to have been received on the eighth day after the date of mailing.
  - (4) If the registered owner does not pay the costs and charges owing to the corporation and remove the motor vehicle or trailer within 14 days after receiving a notice given under subsection (2), the corporation may, without further notice, offer the vehicle or trailer for sale by public auction or tender.
  - (5) On the sale of a vehicle or trailer under this section, the corporation may deduct all costs and charges owing to it, including the costs of the sale, and must for 2 years after that hold any balance in trust for the owner of the vehicle or trailer and other persons having a registered interest in the vehicle or trailer and if the balance is unclaimed within the 2 years it becomes the property of the corporation.
  - (6) If a vehicle or trailer offered by the corporation for sale by public auction or by tender is not sold, the corporation is deemed to be the purchaser of it for the amount of the costs and charges owing and the corporation may dispose of it as the corporation considers appropriate.



- (7) When the corporation sells a vehicle or trailer or is deemed to be the purchaser of it by this section, the indebtedness of the owner to the corporation for the costs and charges referred to in subsection (5) in respect of the vehicle or trailer is extinguished.

### **Appointment of agents**

- 16 (1) The corporation may, in writing, appoint agents it considers necessary.
- (2) The corporation must not appoint an agent unless he or she holds or has applied for a licence under the *Financial Institutions Act* as an insurance agent for the place specified in the appointment.
- (3) Despite subsection (2), for the purpose of the plan, the corporation may appoint as an agent
- (a) a government agent,
  - (b) a person authorized in writing by the corporation, or
  - (c) the superintendent.
- (4) The provisions of the *Financial Institutions Act* regarding insurance agents and those regarding insurance salespersons do not apply to persons appointed under subsection (3) of this section.
- (5) An agent must not have his or her appointment terminated without just cause.
- (6) The corporation, after consultation with an agent, may establish annually the commission and other remuneration to be paid to the agent.
- (7) An appointment of an agent made under this Act before September 27, 1977, that has not been suspended, cancelled or revoked, and a subsisting agreement made with respect to it, continue in force to the extent consistent with this section, until terminated by the corporation or the agent.

### **Limitation**

- 17 An action or proceeding by an insured against the corporation in respect of benefits, insurance money or indemnification payable under a plan must be commenced within one year after the happening of the loss or damage or after the cause of action arose, or as the regulations may provide in the case of any coverage, but not afterwards.

### **Financial responsibility in other provinces**

- 18 (1) For the purpose of availing to persons insured under a plan or part of a plan financial responsibility of the kind and form required under the laws of another province, state or territory, the corporation may execute and file with the public authorities in that place, as required,
- (a) a power of attorney authorizing acceptance of service of notice or process for itself or its insured in an action or proceeding arising out of the motor vehicle accident in the province, state or territory,
  - (b) an undertaking to appear in the action or proceeding, or

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- (c) an agreement to submit to the jurisdiction of the court in the province, state or territory and not to set up a defence in the action or proceeding that would not be available to an insurer under a motor vehicle liability policy issued there, and the corporation may do all acts necessary and incidental to the execution and filing of the documents referred to in paragraphs (a) to (c).
- (2) If the corporation receives notice of process in an action or proceeding arising out of a motor vehicle accident that occurred outside British Columbia for which the insured may be liable, and it has, within 5 days of receiving the notice, either personally delivered to the insured or forwarded to the insured by registered mail to the last known address of the insured a copy of the notice, the insured is liable to reimburse the corporation on demand the amount the corporation has paid by reason of this section that it would not otherwise be liable to pay, and the corporation may enforce the right by action in court.
- (3) If the insured is liable to reimburse the corporation for an amount that the corporation has paid by reason of this section that it would not otherwise be liable to pay and 30 days have elapsed after demand has been made by the corporation for reimbursement, section 20 (12), (13), (14) and (15) applies.
- (4) In an action in another province of Canada against the corporation, or against a person insured with bodily injury liability insurance and property damage liability insurance, arising out of a motor vehicle accident in that province, the corporation must appear and must not, as to bodily injury liability insurance and property damage liability insurance, set up a defence to a claim under an owner's certificate, including a defence as to the limit or limits of liability, that might not be set up if the claim were under a contract evidenced by a motor vehicle liability policy issued in that province.

**Forfeiture of claims****19 (1) If**

- (a) an applicant for an owner's certificate, to the prejudice of the corporation, has falsely described the motor vehicle or trailer in respect of which the application is made,
- (b) an applicant for an owner's certificate or driver's certificate knowingly misrepresents or fails to disclose in the application a fact required to be stated in it,
- (c) an insured violates a term or condition of a plan,
- (d) an insured commits a fraud in respect of this Act, or
- (e) an insured makes a willfully false statement with respect to a claim under a plan,

all claims by or in respect of the applicant or the insured are rendered invalid, and his or her right and the right of a person claiming through or on behalf of or as a dependant of the applicant or the insured to benefits and insurance money is forfeited.

- (2) If a forfeiture would appear inequitable, the corporation may relieve a person affected by it from the forfeiture of all or any benefits or insurance money.
- (3) The corporation must relieve an insured person from the forfeiture of the benefits it considers equitable if he or she dies or suffers a loss of function of mind or body as a result of an accident that renders the insured person permanently incapable of engaging in any occupation for wages or profit.

### Uninsured vehicles

- 20 (1) In this section:

**“claimant”** means a person who alleges that he or she has a right of action against an uninsured motorist for damages arising from bodily injury to or the death of a person, or loss of or damage to property, caused by or arising out of the ownership, use or operation of a motor vehicle, but does not include a person who is entitled to bring an action against the corporation under section 24;

**“motor vehicle”** includes a trailer, but does not include

- (a) a motor vehicle or trailer in respect of which there exists proof of financial responsibility given in the manner provided for by sections 106 to 113 of the *Motor Vehicle Act*, or
- (b) a motor vehicle or trailer owned by, or by an agent of, the Crown in right of any other province or of Canada;

**“uninsured motorist”** means a person who uses or operates a motor vehicle on a highway in British Columbia when he or she is not insured under

- (a) a certificate, or
- (b) a motor vehicle liability policy as defined in the *Insurance Act*,

that provides indemnity in a prescribed amount, not less than \$100 000, against liability imposed by law arising from bodily injury to or the death of a person, or loss of or damage to property, caused by or arising out of the ownership, use or operation of a motor vehicle and includes the owner of a motor vehicle that is used or operated on a highway in British Columbia when the owner is not so insured;

**“uninsured motor vehicle”** means a motor vehicle used or operated or owned by an uninsured motorist.

- (2) A claimant may apply to the corporation, in the prescribed form, for payment of the damages to which he or she claims to be entitled.
- (3) The corporation must, on receiving an application under subsection (2), send by registered mail a notice of the application, in the prescribed form, to the uninsured motorist and, if he or she is not the same person, to the owner of the uninsured motor vehicle, at the last addresses for them according to the records of the corporation.

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- (4) A notice sent under subsection (3) is deemed to have been received on the eighth day after mailing.
- (5) If a notice is sent under subsection (3), the corporation may
  - (a) settle with or consent to judgment in favour of the claimant on behalf of and in the name of a person to whom the notice was sent, but if that person replies to the corporation within the time limited by the notice, denying liability, the corporation is not entitled to recover from that person an amount paid by it until it has recovered a judgment against that person as provided in subsection (11), or
  - (b) require the claimant to bring or continue an action against all persons who may be liable to the claimant for the damages claimed.
- (6) If an uninsured motorist does not enter an appearance to an action brought by a claimant or, having entered an appearance,
  - (a) fails to file a statement of defence or to appear in person or by counsel at the trial or assessment of damages,
  - (b) consents to the entry of judgment against him or her, or
  - (c) does or fails to do anything that entitles the claimant to take default proceedings,the corporation must not make a payment to the claimant under this section unless notice of the failure, consent or act of default has been given to the corporation in time to enable the corporation to rectify it and the corporation fails to intervene in the action within 30 days of receiving notice of the failure, consent or act of default.
- (7) If the corporation receives notice under subsection (6), it may intervene in the action and, on behalf of and in the name of the uninsured motorist, whether or not he or she is an infant, take any steps that he or she might have taken in the action, and anything done by the corporation is deemed to be done by the uninsured motorist, but the failure of the uninsured motorist to comply with an order of the court or rule of court does not prejudice the corporation in a proceeding it may take in the action.
- (8) A judgment by consent against an uninsured motorist who is an infant must not be entered without the approval of the court.
- (9) If the corporation enters into a settlement with a claimant or a claimant obtains a judgment against an uninsured motorist in accordance with this section and the claimant has otherwise complied with this section and the regulations, the corporation may, subject to the regulations, pay all or part of the settlement or judgment.
- (10) The corporation must not, without the consent of a person to whom a notice was sent under subsection (3), enter into a settlement on behalf of that person or consent to judgment against that person, for an amount in excess of the amount to be paid to the claimant by the corporation under subsection (9).

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- (11) The corporation, on making a payment to a claimant, is subrogated to the claimant's rights against any other person liable to the claimant for the damages claimed and may bring an action to recover the damages against the other person in its name or in the name of the claimant, but neither a settlement under subsection (5) (a) nor a consent to judgment under that subsection limits the defences that an uninsured motorist may raise against the corporation.
- (12) Subject to subsection (5), the corporation may, in addition to any other remedy it may have, send a notice demanding reimbursement for damages or costs or both together with any interest that it has paid to a claimant to
- (a) the uninsured motorist,
  - (b) the owner of the uninsured motor vehicle, if he or she is also liable for the damages caused, or
  - (c) both of the persons referred to in paragraphs (a) and (b),
- at the last addresses for them according to the records of the corporation.
- (13) The corporation may agree to accept payment in installments from a person indebted to it under this section.
- (14) If installments to be paid by a person under an agreement referred to in subsection (13) are in arrears, the corporation may
- (a) suspend the licence, permit or corresponding number plates of a motor vehicle or trailer owned by the person, or
  - (b) refuse to issue to the person a driver's licence or a licence, permit or corresponding number plates of a motor vehicle or trailer owned by the person.
- (15) A person who is indebted to the corporation under this section may, on notice to the corporation, apply to the Supreme Court for an order that he or she be permitted to pay the indebtedness in installments in amounts and at times determined by the court, and on an order being made, subsections (13) and (14) apply to
- (a) the corporation refusing to issue the person's driver's licence or a motor vehicle licence, a permit or corresponding number plates for a motor vehicle or trailer owned by the person, and
  - (b) the suspension of the person's motor vehicle licence, permit or corresponding number plates for a motor vehicle or trailer owned by the person.
- (16) The corporation, on application by a person who would otherwise be a claimant but whose right of action has been extinguished because he or she has, without the consent of the corporation, entered into a settlement with the uninsured motorist or the owner of the uninsured motor vehicle or both, may pay to the person that part, if any, of the amount owing and unpaid under the settlement that the corporation considers appropriate in the circumstances.
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- (17) The corporation must not consider an application by a claimant under this section if any other motorist who is liable for all or part of the claimant's damages is insured against liability in respect of those damages, but the corporation, if it considers it appropriate in the circumstances, may waive the requirements of this subsection in respect of any one or more of the persons against whom the claimant has a cause of action.
- (18) The corporation must not pay a claimant who ordinarily resides outside British Columbia an amount in excess of the amount that a resident of British Columbia would recover under the same circumstances from a similar fund in the jurisdiction in which the claimant ordinarily resides.

**Third party rights**

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- (1) Even though he or she does not have a contractual relationship with the corporation, a person having a claim against an insured for which indemnity is provided by an owner's certificate under a plan or part of a plan is entitled, on recovering judgment against the insured or settlement with the corporation, to have the insurance money payable under a plan or part of a plan applied toward his or her judgment or the settlement and toward any other judgments or claims against the insured covered by the indemnity; and he or she may, if a settlement is not made, on behalf of himself or herself and all persons having judgments or claims, maintain an action against the corporation to have the insurance money so applied.
  - (2) For the purpose of this section, the corporation may at any stage compromise or settle the claim.
  - (3) A creditor of the insured is not entitled to share in the insurance money payable under a certificate unless the creditor's claim is one for which indemnity is provided by that certificate.
  - (4) No
    - (a) assignment, transfer, surrender, cancellation, suspension, waiver or discharge of a certificate, or of a provision of a plan or part of a plan, or of an interest in it or of insurance money payable under it, made by the insured after the event giving rise to a claim under the certificate occurs,
    - (b) act or default of the insured before or after that event in contravention of this Act, the regulations or a plan, or
    - (c) contravention of the *Criminal Code* or of a law or statute of any province, state or country by the owner or driver of the motor vehicle designated in the certificate
- prejudices the right of a person entitled under subsection (1) to have the insurance money applied on his or her judgment or claim, or is available to the corporation as a defence to his or her action.

- (5) Despite subsection (4), if the limits of a contract of insurance that provides extension insurance in respect of the motor vehicle or trailer are in excess of the limits that apply to that motor vehicle or trailer under a plan or part of a plan of universal compulsory automobile insurance, the corporation may avail itself, against a person claiming under this section in respect of property damage, of any defence that the corporation is entitled to set up against the insured to the extent to which the limits of the insurance exceed the limits prescribed for the universal compulsory automobile insurance.
- (6) If the corporation has paid an amount to a person under this section, by way of settlement or otherwise, that it would not otherwise be liable to pay, and has personally delivered or forwarded by registered mail to the last known address of the insured a demand for reimbursement of that amount, the insured is liable to reimburse the corporation that amount, and the corporation may enforce the right by action in court.
- (7) If the corporation denies liability to an insured under a plan or part of a plan, it may issue and serve a third party notice and 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 a party with respect to which it is or might be asserted that indemnity is provided under a plan or part of a plan, whether or not the insured has filed a defence in the action.
- (8) On being made a party under subsection (7), the corporation has the right to contest the insured's liability to any party claiming against the insured, and to contest the amount of any claim made against the insured, as if it were a defendant in the action, including, for that purpose, the right to
- (a) deliver a statement of defence to the claim of any party claiming against the insured,
  - (b) deliver other pleadings,
  - (c) have production and discovery from any party adverse in interest, and
  - (d) examine and cross examine witnesses at trial.
- (9) If an insured agrees that the corporation would not, except for this section, be or become liable to make a payment in respect of a claim against the insured, he or she may at any time undertake to reimburse the corporation, by
- (a) giving a written undertaking to repay the corporation the amount paid by it, and
  - (b) executing a consent to the payment by the corporation of that amount.
- (10) Subject to subsections (8) and (9), the corporation may, on payment of an amount under this section it would not otherwise be liable to pay, require an assignment of the judgment from the judgment creditor in a form registrable under the land title legislation, to the extent of that payment.
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- (11) If the insured fails to dispute his or her liability to reimburse the corporation within 30 days after demand for reimbursement under subsection (6), in writing delivered to the head office of the corporation, the corporation is entitled to register the assignment under the land title legislation.
- (12) If the corporation has paid money in satisfaction of a claim, settlement or judgment under this section or by agreement under subsection (9), and the insured has not reimbursed the amount required under subsection (6) or (9), section 20 (12), (13) and (15) applies.
- (13) If
  - (a) a person obtains a judgment against an insured and is entitled to bring an action under subsection (1), and
  - (b) the corporation admits liability to the insured under the plan but considers that
    - (i) there are or may be other claimants, or
    - (ii) there is no willing person capable of giving and authorized to give a valid discharge for payment,the corporation may apply to the court without notice to any person for an order for payment of the insurance money into court, and the court may so order, on the notice, if any, it considers necessary.
- (14) The receipt of the registrar or other proper officer of the court is a sufficient discharge to the corporation for money paid into court under subsection (13) and the money must be dealt with as the court orders on the application of any interested person.

**Corporation to be notified of action**

- 22 (1) Every person commencing an action for damages caused by a motor vehicle or trailer in British Columbia must
  - (a) serve the corporation with a copy of the originating process in the action in the manner provided for serving a defendant in the action, and
  - (b) file proof of the service in the court in which the action is pending.
- (2) A further step in the action must not be taken until the expiration of 8 days after the filing.

**Unnamed insured**

- 23 (1) A person insured by, but not named in, an owner's certificate may recover in the same manner and to the same extent as the insured as if the person were named in the owner's certificate.
- (2) For the purposes of subsection (1), the person referred to in that subsection, in his or her own name and on his or her own behalf, may exercise the same rights and is subject to the same obligations as the insured as if the person were named in the certificate.



**Remedy for damage in hit and run accident**

- 24 (1) If bodily injury to or the death of a person or damage to property arises out of the use or operation of a motor vehicle on a highway in British Columbia and
- (a) the names of both the owner and the driver of the motor vehicle are not ascertainable, or
  - (b) the name of the driver is not ascertainable and the owner is not liable to an action for damages for the injury, death or property damage,
- any person who has a cause of action
- (c) as mentioned in paragraph (a), against the owner or the driver, or
  - (d) as mentioned in paragraph (b), against the driver,
- in respect of the bodily injury, death or property damage may bring an action against the corporation as nominal defendant, either alone or as a defendant with others alleged to be responsible for the injury, death or property damage, but in an action in which the names of both the owner and the driver of the motor vehicle are not known or ascertainable, recovery for property damage is limited to the amount by which the damages exceed the prescribed amount.
- (2) Proceedings must not be brought against the corporation as nominal defendant under this section unless the person bringing them gives written notice to the corporation as soon as reasonably practicable and in any event within 6 months after the accident that caused the bodily injury, death or property damage.
- (3) If, after an action referred to in subsection (1) has been commenced, it is alleged that the injury, death or property damage was caused or contributed to by another motor vehicle, but
- (a) the names of both the owner and the driver of the motor vehicle are not ascertainable, or
  - (b) the name of the driver is not ascertainable and the owner is not liable to an action for damages for the injury, death or property damage,
- the corporation may be added as a nominal defendant on the application of any party and must be added as a nominal defendant on its own application.
- (4) In an action against the corporation as nominal defendant, the corporation may deny generally the allegations in respect of the unidentified motor vehicle and its owner and driver, and need not set out the facts on which it relies.
- (5) In an action against the corporation as nominal defendant, a judgment against the corporation must not be given unless the court is satisfied that
- (a) all reasonable efforts have been made by the parties to ascertain the identity of the unknown owner and driver or unknown driver, as the case may be, and
  - (b) the identity of those persons or that person, as the case may be, is not ascertainable.

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- (6) If the identity of the unknown owner or driver is ascertained before judgment is granted in an action against the insurer as nominal defendant, then, despite the limitation period in the *Motor Vehicle Act*, that owner or driver must be added as a defendant in the action in substitution for the corporation, subject to the conditions the court may specify.
- (7) The corporation may, at any stage, compromise and settle the claim of a person entitled to commence an action under this section.
- (8) On judgment against the corporation as nominal defendant under this section and expiration of the time limited for appeal, or on the compromise and settlement of a claim under this section, the corporation must pay toward satisfaction of the judgment or claim an amount that the corporation is authorized to pay under this Act, the regulations and the terms, conditions and limits of the plan.
- (9) If, under this section, a judgment has been obtained against the corporation as nominal defendant or the corporation has settled a claim, the corporation may apply
  - (a) to the court where the judgment has been obtained, or
  - (b) if a claim has been settled, to the court that would have had jurisdiction to entertain an action for the recovery of damages to the amount of the settlementfor an order certifying that a person was, at the time of the accident, the owner or driver of the motor vehicle that caused the bodily injury, death or property damage in respect of which the judgment was obtained or settlement made.
- (10) If the court hearing an application under subsection (9) is satisfied on the evidence that the person named in the application was at the time of the accident the owner, driver or both of the motor vehicle involved in that accident, it may make the order applied for, unless it is satisfied that the person would not have been liable for damages if he or she had appeared and defended the action or, in the case of a claim settled before action, in an action that might have been brought to enforce the claim, or it may direct the trial of an issue.
- (11) On the making of an order under subsection (10) or on judgment of the trial of an issue directed under that subsection, the person certified, whether or not the driver of the motor vehicle is named in an unexpired driver's certificate and whether or not the motor vehicle is designated in an unexpired owner's certificate, is liable to pay the corporation as a debt due and owing all amounts paid by it pursuant to any judgment or settlement under this section, and section 20 (12), (13) and (15) applies.
- (12) The amount paid by the corporation to a claimant who ordinarily resides outside British Columbia is limited to the lesser of
  - (a) the amount limited by this Act, and
  - (b) the amount that a resident of British Columbia could recover under the same circumstances from a similar fund in the jurisdiction in which the claimant ordinarily resides.

**Liability reduced**

- 25 (1) In this section and in section 26, “**benefits**” means a payment that is or may be made in respect of bodily injury or death under a plan established under this Act, other than a payment pursuant to a contract of third party liability insurance or an obligation under a plan of third party liability insurance, and includes accident insurance benefits similar to those described in Part 6 of the *Insurance Act* that are provided under a contract or plan of automobile insurance wherever issued or in effect.
- (2) A person who has a claim for damages and who receives or is entitled to receive benefits respecting the claim, is deemed to have released the claim to the extent of the benefits.
- (3) Nothing in this section precludes the corporation from demanding from the claimant, as a condition precedent to payment, a release to the extent of the payment.
- (4) In an action in respect of bodily injury or death caused by a motor vehicle or trailer or its ownership, use or operation, the amount of benefits paid, or to which the claimant is or would have been entitled, must not be referred to or disclosed to the court or jury until the court has assessed the award of damages and costs.
- (5) After assessing the award of damages and costs under subsection (4), the amount of benefits referred to in that subsection must be disclosed to the court, and taken into account, or, if the amount of benefits has not been ascertained, the court must estimate it and take the estimate into account, and the person is entitled to enter judgment for the balance only.
- (6) If, for the purpose of this section or section 26, it is necessary to estimate the value of future payments that the corporation or other insurer is authorized or required to make under a plan or contract, the value must be estimated according to the value on the date of the estimate of a deferred benefit, calculated for the period for which the future payments are authorized or required to be made.

**Subrogation**

- 26 (1) On making or assuming liability for payment of benefits or insurance money, the corporation
- (a) is subrogated to and is deemed to be the assignee of all rights of recovery against any other person liable in respect of the loss, damage, injury or death of a person to whom, on whose behalf or in respect of whom the benefits or insurance money are paid or to be paid, and
  - (b) may bring action in the name of the insured or in its own name to enforce the rights referred to in paragraph (a).
- (2) If money is recovered under subsection (1) and the burden of the loss is shared by the insurer and insured, the net amount, after deduction of the costs of recovery, must be divided between them in the same proportions as they bear the loss.

Section 27

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- (3) If the interest of the insured referred to in subsection (1) is limited to loss of or damage to a motor vehicle or loss of its use, the corporation has conduct of the action.
- (4) If the insured's interest is not one described in subsection (3), and the insured and the corporation cannot agree as to
- (a) the solicitors to be instructed to bring the action in the name of the insured,
  - (b) the conduct of the action or matters pertaining to it,
  - (c) an offer of settlement or its apportionment, whether action has been commenced or not,
  - (d) acceptance of money paid into court or its apportionment,
  - (e) apportionment of costs, or
  - (f) commencement or continuance of an appeal,
- either party may apply to the court for determination of the matters in question, and the court must make the order it considers reasonable having regard to the interest of both parties in a recovery in the action or proposed action or in an offer of settlement.
- (5) On an application under subsection (4), only the insured and the corporation are entitled to notice and to be heard, and material or evidence used or taken on the application is not admissible on the trial of an action brought by or against the insured or the corporation.
- (6) A settlement or release does not restrict the rights of the insured or the corporation, as the case may be, unless the insured or the corporation, as the case may be, concurred in it.

**Accident report**

- 27 A person receiving an accident report under section 67 of the *Motor Vehicle Act* must, within 24 hours after a request for it by the corporation, mail or deliver a copy to the corporation.

**Medical reports**

- 28 If any of the following persons attends to, diagnoses, treats or is consulted by a person injured in a motor vehicle accident in British Columbia, he or she must, whenever the corporation requests, immediately provide the corporation with a report of the injuries and their diagnosis and treatment and a prognosis, in the form the corporation prescribes:
- (a) a medical practitioner;
  - (b) a chiropractor as defined in the *Chiropractors Act*;
  - (c) a person authorized to practise dentistry under the *Dentists Act*;
  - (d) a person entitled to practise physiotherapy under the *Health Professions Act*;
  - (e) an employee of a hospital as defined in the *Hospital Act*.

**Employers' reports**

- 29 An employer of a person by or for whom benefits are claimed from the corporation must, whenever the corporation requests, provide to the corporation without delay a statement of that person's earnings in the form the corporation prescribes.

**Superintendent's records**

- 30 Despite any Act or law to the contrary, the corporation has access to all books, documents, records, reports and other things, and to all facilities of, belonging to or available to the superintendent, the Ministry of Transportation and Highways or the Motor Carrier Commission, as the corporation may consider necessary to better carry out this Act and regulations.

**Excess payments and deduction of premiums**

- 31 (1) If the corporation has paid out money in excess of the amount authorized by the regulations, it may recover that excess by action as a debt due to the corporation.
- (2) The corporation may deduct from the payment of benefits or insurance money the amount of any premium.

**Payment to minor**

- 32 (1) A payment of benefits or insurance money for or on behalf of a minor, or a mentally disordered person under the *Mental Health Act*, who does not have a committee, must be made to the Public Trustee, to be administered as he or she considers advisable, and the Public Trustee may make arrangements with other persons, societies or agencies for this purpose.
- (2) Subsection (1) does not apply to a payment of insurance money made for or on behalf of a minor as indemnity for the loss of, damage to or the loss of use of property.

**Application for insurance**

- 33 (1) At the time of or before applying for
- (a) any class or kind of licence or permit for a motor vehicle or trailer or their use or operation under the *Motor Vehicle Act* or *Commercial Transport Act*, or
  - (b) registration of a notice of transfer under section 17 of the *Motor Vehicle Act*,
- the applicant must apply for the corresponding owner's certificate or driver's certificate, and, at the same time, must pay to the person receiving the application the basic premium for that class of certificate and any additional premium that, having been assessed against the applicant, is due and owing.
- (2) The application for a certificate under subsection (1) may be made
- (a) to a person appointed as agent of the corporation under this Act, or
  - (b) at the head office or a branch office of the corporation,
- unless the Lieutenant Governor in Council, by regulation, otherwise directs.

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**Classification of motor vehicles and basic premium**

- 34
- (1) The Lieutenant Governor in Council may, by regulation, establish classes and subclasses of motor vehicles, trailers and drivers of motor vehicles.
  - (2) The basic premium payable for an owner's certificate is that established for the class or subclass of motor vehicle or trailer to which that owner's certificate is appropriate.
  - (3) The basic premium payable for a driver's certificate is that established for the class or subclass of driver to which that driver's certificate is appropriate.
  - (4) Basic premiums for universal compulsory automobile insurance must be established by regulation of the Lieutenant Governor in Council before the beginning of the period for which they are effective.
  - (5) Basic premiums for extension insurance must be established by the corporation before the beginning of the period for which they are effective and for this purpose the corporation may establish classes and subclasses of motor vehicles, trailers and drivers of motor vehicles.

**Premium discounts and additional premiums**

- 35
- The Lieutenant Governor in Council may make regulations respecting discounts from premiums and respecting additional premiums to be paid by owners or drivers based on any one or more of the following:
- (a) the accident record of the owner or driver;
  - (b) the degree of fault of the owner or driver in respect of an accident;
  - (c) the type or class of vehicle to be operated, the use to which it will be put or any other basis prescribed in the regulations.

**Issue of certificate**

- 36
- (1) On payment of the basic premium and any additional premium assessed under section 35, and approval of the application by the corporation, the corporation must issue to the applicant the appropriate owner's certificate or driver's certificate.
  - (2) An owner's certificate, driver's certificate and the applications for them must be in a form required by the corporation, and must be designed and constituted
    - (a) to meet the interest of convenience and economy, and
    - (b) to adequately identify the permit or licence under the *Motor Vehicle Act* or *Commercial Transport Act*, or a motor vehicle or trailer or driver's licence, permit or other authority to drive a motor vehicle under the *Motor Vehicle Act* to which the owner's certificate or the driver's certificate corresponds.
  - (3) The corporation must provide for the issue and delivery of all motor vehicle liability insurance cards required under the *Motor Vehicle Act* by persons insured under owners' certificates but there may be printed on an owner's certificate under the heading "Motor Vehicle Liability Insurance Card" particulars in a form

to meet generally the standards adhered to by the Superintendent of Financial Institutions for motor vehicle liability insurance cards issued under the *Insurance Act*, and the particulars so printed constitute a motor vehicle liability insurance card under and for the purpose of the *Motor Vehicle Act*.

- (4) A document purporting to be a certificate of insurance under this Act and a motor vehicle liability insurance card, or either of them, either alone or in combination with any permit or licence for a motor vehicle or trailer or their use or operation, or any driver's licence, permit or other authority to drive a motor vehicle that bears a signature purporting to be the signature of the general manager of the corporation, unless the contrary is shown, is deemed to be an owner's certificate, a driver's certificate or a motor vehicle liability insurance card issued under this Act to the person named in it.
- (5) A motor vehicle liability insurance card must not be issued unless the insurance evidenced in it meets the minimum requirements of this Act and regulations for a motor vehicle liability policy under the plan of universal compulsory automobile insurance.
- (6) Nothing in this section prevents the superintendent from requiring owners of a class of motor vehicles or trailers to maintain proof of financial responsibility for those motor vehicles or trailers in excess of the limits prescribed by the plan of universal compulsory automobile insurance, and if the motor vehicle or trailer is licensed in British Columbia, that excess insurance must be obtained from the corporation in the form required by the corporation.

#### **Certificate not issued in certain case**

- 37
- (1) An owner's certificate must not be issued under this Act for a motor vehicle or trailer or its use or operation for which a permit or licence is not required under the *Motor Vehicle Act*.
  - (2) An owner's certificate must not be issued for a motor vehicle or trailer for which the corporation or the superintendent refuses to issue a licence or permit under section 28 of the *Motor Vehicle Act*.
  - (3) A certificate issued contrary to subsection (1) or (2) is void and is deemed to have always been void.
  - (4) An owner's certificate is deemed to have lapsed and be void on the occurrence of the first of the following:
    - (a) registration and licensing in another province or state of the vehicle in respect of which the certificate was issued;
    - (b) the vehicle being located in another province or state the law of which requires that the vehicle be registered and licensed in that province or state;
    - (c) the expiration of 60 days after the day the vehicle is taken out of British Columbia with the intention of the certificate holder that the vehicle subsequently be continuously operated outside British Columbia.

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- (5) Subsection (4) does not apply if a reciprocal or prorated registration or licence is issued by another province or state in respect of a vehicle registered under the *Commercial Transport Act*.

**Insurance condition precedent to licence**

- 38 (1) Except for a motor vehicle or trailer exempted by the regulations, a permit of any kind and a licence, licence plate or decal for a motor vehicle or trailer or for their use or operation must not be granted, issued or renewed under the *Motor Vehicle Act* or *Commercial Transport Act*, unless at or before the time of application the applicant has applied to the corporation or its agent for and is entitled to an owner's certificate under this Act in respect of the motor vehicle or trailer for the term of the permit or licence, or part of that term as may be prescribed, and the applicant has paid
- (a) the premium prescribed for that owner's certificate,
  - (b) any additional premium assessed by the corporation, and
  - (c) any premium for excess insurance required under section 36 (6).
- (2) A driver's licence, permit or other authority to drive or operate a motor vehicle must not be issued or renewed under the *Motor Vehicle Act*, unless
- (a) at or before the time of application the applicant has applied to the corporation or its agent for and is entitled to a driver's certificate under this Act for the term of that licence or permit or part of that term as may be prescribed, and
  - (b) the applicant has paid the premium prescribed for that driver's certificate and any additional premium assessed by the corporation.
- (3) If the corporation receives for registration a notice of transfer of a motor vehicle or trailer under section 17 of the *Motor Vehicle Act*, the corporation must refuse registration unless the transferee has paid the corporation
- (a) the premium or fee prescribed for the transfer, and
  - (b) all money due under this Act or the regulations for every motor vehicle and trailer owned by the transferee and every owner's certificate issued to the transferee under this Act or the regulations.

**Effect of licensing action**

- 39 (1) The suspension, revocation, cancellation or surrender, under any law, of a permit or licence for a motor vehicle or trailer or its use or operation issued under the *Motor Vehicle Act* or *Commercial Transport Act* automatically suspends, revokes or cancels, as the case may be, the owner's certificate in which the motor vehicle or trailer is designated and that corresponds to that permit or licence.
- (2) The suspension, revocation, cancellation or surrender, under any law, of a driver's licence, permit or other authority to drive issued to a person under the *Motor Vehicle Act* automatically suspends, revokes or cancels, as the case may be, the driver's certificate in which that person is named and that corresponds to that licence, permit or other authority to drive.



- (3) Despite this section, for the purposes of this Act an owner's certificate is not suspended or cancelled merely because of the surrender of a vehicle licence in compliance with a regulation made under section 216 (1) (f) of the *Motor Vehicle Act*, until the vehicle licence and corresponding number plates have been returned to the corporation.

#### Expiration of certificate

- 40 (1) Subject to its earlier suspension, revocation, cancellation or surrender, an owner's certificate is valid for the period beginning
- (a) at the time and on the date of validation specified in the certificate, or
  - (b) at the beginning of the day on the effective date specified in the certificate,
- whichever is later, and expiring at the end of the day on the date of expiry of the licence for the motor vehicle or trailer described in the certificate or at the end of the day on the date specified in the certificate.
- (2) Despite the date of issue, a driver's certificate, unless earlier suspended, revoked, cancelled or surrendered, expires at the end of the day on the anniversary date of the driver's birth.
- (3) For the purposes of subsection (2), the anniversary date of a person born on February 29, in other than leap years, is deemed to be March 1.
- (4) On application for renewal or replacement of a certificate, the applicant must pay the corporation or its agent the premium prescribed for the class or subclass of certificate applied for, and any additional premium assessed by the corporation.
- (5) If an owner's certificate in respect of a motor vehicle or trailer is not, before its expiration, renewed or replaced by another owner's certificate for the same motor vehicle or trailer, a permit or licence for that motor vehicle or trailer or its use or operation issued under the *Motor Vehicle Act* or *Commercial Transport Act* that corresponds to the owner's certificate, on the expiry of the owner's certificate and without further act or notice from the corporation or the superintendent, is suspended, invalid and of no effect until it is renewed, replaced, reinstated or validated following application for, payment of premium for and issue of the appropriate owner's certificate.
- (6) If a driver's certificate is not, before its expiration, renewed or replaced by another driver's certificate for the same person, the driver's licence, permit or other authority to drive under the *Motor Vehicle Act* of the driver and that corresponds to the certificate, by virtue of and from the time of the default, without further act or notice from the corporation or the superintendent, is suspended, invalid and of no effect until it is renewed, replaced, reinstated or validated following application for, payment of premium for and issue of the appropriate driver's certificate.

Section 41

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**Notification**

- 41** (1) The superintendent must notify the corporation of every violation report or conviction under any law regulating vehicular traffic, or in respect of the use or operation of a motor vehicle, that comes to the superintendent's attention, of a driver of a motor vehicle who is a resident of British Columbia.
- (2) The superintendent must notify the corporation of every suspension or cancellation of a licence or permit for a motor vehicle or trailer, or of a licence or permit to drive.
- (3) The corporation may notify the superintendent or the Motor Carrier Commission, or both, as the case may be, of
- (a) the default of a person in paying a premium or an additional premium due to the corporation for a certificate of insurance, or
  - (b) the suspension or cancellation of a certificate.

**Offences**

- 42** A person who contravenes section 11 (3), 27, 28, 29 or 30 commits an offence and on conviction is liable to the penalties provided in the *Offence Act*.

**Exemption of government motor vehicles**

- 43** (1) This Act and the regulations do not apply to motor vehicles owned, leased or operated by Canada or the government of another province, territory or state, but apply to motor vehicles owned and operated or leased and operated by the government of British Columbia and their drivers.
- (2) Despite subsection (1), the corporation may negotiate and conclude an agreement with a government excluded under that subsection to bring any or all motor vehicles owned, leased or operated by that government in British Columbia within the operation of this Act.

**Extraprovincial undertaking**

- 44** (1) In this section, "**extraprovincial undertaking**" means a work or undertaking for the transport of passengers or goods by motor vehicle or trailer, connecting British Columbia with another province of Canada, or extending beyond the limits of British Columbia.
- (2) The provisions of this Act and the regulations respecting the requirement for automobile insurance do not apply to an owner or operator of an extraprovincial undertaking who gives proof of financial responsibility under section 106 (2) (b) of the *Motor Vehicle Act*.

**Power to make regulations**

- 45** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

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- (2) Without restricting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) establishing, amending and revoking plans of automobile insurance and plans of universal compulsory automobile insurance for the insurance inside and outside British Columbia of losses, damages, injuries or deaths arising out of the perils and risks attendant on or relating to the use, operation or ownership of motor vehicles and trailers the Lieutenant Governor in Council may designate;
  - (b) establishing the terms, conditions and limits of insurance under any plan;
  - (c) establishing classes and subclasses of drivers, by regions of British Columbia, or otherwise, establishing those regions, establishing classes of motor vehicles and trailers and prescribing the premiums payable by drivers and owners of motor vehicles according to the regions, or otherwise, and according to the classes;
  - (d) designating those persons who are, or may be, insured under any plan, the benefits or insurance money payable to insured persons and the perils or risks for which insurance may be provided;
  - (e) respecting the insuring of motor vehicles and trailers that are part of a fleet, or used for commerce or business, defining the meaning of "fleet" and specifying the circumstances in which vehicles must be insured as part of a fleet or as commercial or business vehicles;
  - (f) prescribing the duration of the period of coverage provided under a certificate, or a certificate that comes within a prescribed class or subclass and permitting the corporation to specify the duration of the period of coverage in particular cases;
  - (g) defining for the purposes of the regulations words not defined in this Act;
  - (h) prescribing rights of salvage in favour of the corporation that may be considered necessary for the purposes of any plan;
  - (i) adopting a system of classifying drivers provided for under another Act, or adopting or establishing a point penalty system classifying drivers according to the number, nature and kind of violations or offences committed by them in contravention of the *Motor Vehicle Act*, a municipal bylaw relating to the regulation of vehicular traffic, the *Criminal Code* or any similar law in another province, state or country relating to the operation of a motor vehicle, and, according to the system of classifying drivers or the point penalty system, assessing and levying basic or additional premiums under any plan against drivers at the times and under the terms and conditions considered appropriate;
  - (j) establishing a plan for payment by the corporation to any person sustaining loss from bodily injury or death, or damage to property, arising out of the use or operation of a motor vehicle where
    - (i) the name of the owner or driver is not ascertainable, or
    - (ii) the name of the driver is not ascertainable and the owner is not liable;
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Section 45

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the terms, conditions and limits of liability of the corporation under the plan and the duties and liabilities of the owners and drivers of motor vehicles respecting reimbursement of the corporation for the payments;

- (k) establishing and determining, with respect to any plan, the right of a person who would have a cause of action in British Columbia against the owner or driver of an uninsured motor vehicle to apply to the corporation for payment of damages and the terms and conditions and limits of liability of the corporation for payment of the claims for damages, and determining whether payment and the amount of payment are within the discretion of the corporation, and providing for the obtaining of consents to payment by those persons liable for the losses, damages, injuries or deaths, and the execution under seal or otherwise of agreements by those persons liable for the repayment to the corporation of amounts paid to claimants;
- (l) providing that the corporation is an agent of the owner of every uninsured motor vehicle for service of notice of process in an action in British Columbia arising out of the use or operation in British Columbia of an uninsured motor vehicle and the manner of giving that notice to the corporation and the defendant;
- (m) providing, with respect to a plan, for settlement and payment of a claim, judgment or unsatisfied portion of a judgment, for damages for injury to, or the death of, any person or loss of, or damage to, property caused in British Columbia by an uninsured motor vehicle owned or operated by a person in British Columbia, the terms and conditions governing payment and the maximum amount of money payable respecting any person, accident or occurrence;
- (n) determining the residence of persons for purposes of this Act, the regulations and any plan, and determining the rights of nonresidents to receive benefits or payments of any kind under a plan, or exempting nonresidents, as described in the regulations, from this Act or the regulations;
- (o) authorizing additional services and expenditures by the corporation on behalf of a person insured under an owner's certificate and providing that the corporation may, in the name and on behalf of any person insured by an owner's certificate, defend at its cost any civil action brought against the person by anyone respecting a loss, damage, injury or death for which the person may be liable and designating the terms and conditions governing the provision of additional services and the making of additional expenditures;
- (p) providing for payment of premiums on terms and conditions as to interest or otherwise the corporation may prescribe;
- (q) respecting the combining of fees payable under the *Motor Vehicle Act* and the premium payable under this Act;

- (r) providing for and prescribing the conditions governing the refund or rebate of all or part of a premium paid to the corporation under this Act and any plan;
  - (s) authorizing payment of doubtful or disputed claims by the corporation, including voluntary payments, if it is considered by the corporation to be in its interest and for the better administration of this Act, the regulations or the plan to do so;
  - (t) respecting the implementation of any plan and the orderly transition of automobile insurance in British Columbia to universal compulsory automobile insurance;
  - (u) providing for cases and circumstances that may arise in the implementation of universal compulsory automobile insurance for which no provision or no adequate provision is made in any Act;
  - (v) prescribing the terms, conditions and requirements for the implementation and orderly transition of automobile insurance to the plan of motor vehicle year round licence and insurance renewal under the *Motor Vehicle Act* and regulations and, for those purposes, prescribing that the duration of coverage provided under an owner's certificate may be less or more than 12 months;
  - (w) prescribing the deductible amount that applies to property damage claims made under section 24.
- (3) Regulations made under subsection (1) or (2) are deemed to be part of this Act.
- (4) Subject to section 12, the observance of terms or conditions established under subsection (1) or (2) is a condition precedent to a person obtaining benefits, insurance money or indemnification provided under a plan.
- (5) The Lieutenant Governor in Council may, by regulation, exclude or exempt a nonresident or class of nonresidents and a motor vehicle or trailer or class of them from the operation of all or part of this Act or the regulations, or all or part of a plan, on the terms and conditions the Lieutenant Governor in Council prescribes.

**Corporation may prescribe policy if none provided in regulations**

- 46
- (1) Despite any Act, if a person applies for a policy of automobile insurance under this section and the corporation considers that there is not sufficient provision in the regulations for a policy of automobile insurance of the type applied for, the corporation may issue a policy of automobile insurance in a form, at a premium and subject to terms and conditions the corporation considers appropriate.
  - (2) The corporation may issue an owner's certificate in respect of all or part of the coverage provided in a policy issued under subsection (1) if
    - (a) the applicant is the owner of the motor vehicle or trailer for which the application is made, and

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- (b) the coverage provided in the policy is not less than the minimum coverage, if any, prescribed in the regulations for the class of automobile insurance applied for.
- (3) A driver's certificate must not be issued under this section.
- (4) Despite this Act and the regulations, the corporation may prescribe the commissions to be paid to its agents as remuneration for their services to the corporation respecting insurance transactions conducted under this section.

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# INSURANCE (MOTOR VEHICLE) — HISTORICAL TABLE

## Amendments Not in Force

### INSURANCE (MOTOR VEHICLE) ACT

RSBC 1996, chapter 231

Section	Citation
32 .....	RS1996 (Supp) -231-1; 1993-35-79; 1993-64-30(1)(k).
32 .....	RS1996 (Supp) -231-2; 1993-67-56.
47 .....	RS1996 (Supp) -231-3; 1979-3-1; 1989-40-111; 1989-47-358.
48 .....	RS1996 (Supp) -231-3; 1979-3-2; 1980-50-47.
49 .....	RS1996 (Supp) -231-3; 1979-3-3.
50 .....	RS1996 (Supp) -231-3; 1979-3-4.
51 .....	RS1996 (Supp) -231-3; 1979-3-5.

## Legislative History

### INSURANCE (MOTOR VEHICLE) ACT

RSBC 1996, chapter 231

Section	History
1 .....	RS1979-204-1; 1987-43-42; 1987-45-19; 1996-14-62.
2 .....	RS1979-204-2.
3 .....	RS1979-204-3.
4 .....	RS1979-204-4.
5 .....	RS1979-204-5.
6 .....	RS1979-204-6.
7 .....	RS1979-204-7; 1987-43-43.
8 .....	RS1979-204-8.
9 .....	RS1979-204-9; 1987-10-1; 1989-47-355.
10 .....	RS1979-204-9.1; 1980-21-1.
11 .....	RS1979-204-10.
12 .....	RS1979-204-12.
13 .....	RS1979-204-13.
14 .....	RS1979-204-14.
15 .....	RS1979-204-14.1; 1980-21-2; 1996-14-62.
16 .....	RS1979-204-15; 1989-47-356; 1996-14-63.
17 .....	RS1979-204-16.
18 .....	RS1979-204-17; 1980-21-3.
19 .....	RS1979-204-18.
20 .....	RS1979-204-19; 1980-21-4; 1982-36-38; 1996-14-64.
21 .....	RS1979-204-20; 1980-21-5; 1996-14-65.
22 .....	RS1979-204-21.
23 .....	RS1979-204-22.
24 .....	RS1979-204-23; 1980-21-6; 1983-10-21; 1987-43-44; 1993-28-6.
25 .....	RS1979-204-24.
26 .....	RS1979-204-25.
27 .....	RS1979-204-26.
28 .....	RS1979-204-27; 1987-43-45; 1987-5-39; 1995-26-8.
29 .....	RS1979-204-28.
30 .....	RS1979-204-29.
31 .....	RS1979-204-30.
32 .....	RS1979-204-31.
33 .....	RS1979-204-32; 1987-45-20.
34 .....	RS1979-204-33.
35 .....	RS1979-204-34; 1980-21-7; 1987-43-46.
36 .....	RS1979-204-37; 1987-45-21; 1989-47-357; 1996-14-66.
37 .....	RS1979-204-38; 1980-21-8; 1983-21-13; 1987-45-22; 1996-14-67.
38 .....	RS1979-204-39; 1982-36-39; 1987-45-23,24; 1996-14-68.

## INSURANCE (MOTOR VEHICLE) — HISTORICAL TABLE

### Legislative History — *Continued*

#### INSURANCE (MOTOR VEHICLE) ACT

RSBC 1996, chapter 231

Section	History
39 .....	RS1979-204-40; 1983-21-14; 1987-45-23; 1996-14-69.
40 .....	RS1979-204-41; 1987-43-47; 1987-45-25; 1996-14-70.
41 .....	RS1979-204-42; 1980-21-9; 1987-45-26.
42 .....	RS1979-204-43.
43 .....	RS1979-204-44; 1987-43-48.
44 .....	RS1979-204-45.
45 .....	RS1979-204-46; 1980-21-10; 1987-43-49; 1993-28-7.
46 .....	RS1979-204-47.

#### EXPLANATORY NOTE

**Amendments Not in Force:** If there are any legislative changes to the Act that are not in force as of December 31, 1996, these are identified in *italics* at the beginning of the historical table. The “Section” column identifies the affected provisions of the Act. The “Citation” column identifies the amending legislation by its citation in the 1996 Statute Revision Supplement.

**Legislative History:** The second part of the table provides a legislative history of each section of the Act between the 1979 Statute Revision and the 1996 Statute Revision. The “Section” column identifies all sections of the Act in force on December 31, 1996. The “History” column for each section begins with the citation of the section immediately before the 1996 Statute Revision. This is followed by a list of citations for the legislation that enacted or amended the section between the 1979 Statute Revision and the 1996 Statute Revision (if a section was repealed and replaced during that period, these last citations begin at the most recent replacement).

Legislative citations have the format of “year-chapter-section”.

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