



Insurance (Vehicle) Act

INSURANCE (VEHICLE) REGULATION

B.C. Reg. 447/83

Deposited December 1, 1983 and effective January 1, 1984

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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 447/83 (O.C. 1897/83), deposited December 1, 1983 and effective January 1, 1984, is made under the *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231, ss. 34, 45, 45.1, 72, 94 and 105.

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This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

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B.C. Reg. 447/83

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Point in time from December 18, 2018 to March 28, 2019

Insurance (Vehicle) Act

INSURANCE (VEHICLE) REGULATION

B.C. Reg. 447/83

PART 1 – INTERPRETATION

Interpretation

1 (1) In this regulation:

“**Act**” means the *Insurance (Vehicle) Act*;

“**actual cash value**” means the average market price a purchaser would have paid for an insured vehicle or other insured property immediately before loss or damage occurs to the vehicle or other property;

“**additional product certificate**” means a certificate issued under section 149;

“**amphibious vehicle**” means a vehicle that is designed or adapted for operation on both land and water;

“**application**”, when used in respect of an application to the corporation relating to the plan, means an application in a form established by the corporation and signed by the applicant;

“**bus**” means

(a) a motor vehicle used

(i) at any time on a highway to carry passengers for compensation from an airport to limited predetermined points or from those points to an airport,

(ii) at any time on a highway exclusively for the conveyance of a person or group of persons to whom or for whose use the vehicle is chartered at a fixed price for the use of the whole vehicle,

(iii) to transport, without direct compensation, passengers who have a connection with the business activities of the owner or renter of the motor vehicle,

(iv) at any time on a highway over a regular route or between fixed terminating points and on a regular time schedule by, for or on behalf of any person who charges or collects compensation for the transportation of passengers in or on the motor vehicle, and available for use by the public, or

(v) as a school bus or special activity bus as defined in section 1 of the Motor Vehicle Act Regulations, B.C. Reg. 26/58, or

(b) a commercial motor vehicle owned or rented by a religious organization and used exclusively for the transportation of passengers for purposes related to the religious activities of the organization;

“**camper**” means a removable structure designed to be mounted on a motor vehicle to provide facilities for human habitation or camping;

- “**combination of vehicles**” means every combination of a motor vehicle with another vehicle;
- “**commercial motor vehicle**” means a motor vehicle that is registered and licensed as a commercial vehicle under the *Commercial Transport Act* or *Motor Vehicle Act*;
- “**commercial use**” means use of a vehicle for the delivery or carriage of goods;
- “**commission**” means the British Columbia Utilities Commission continued under section 2 of the *Utilities Commission Act*;
- “**courtesy car**” means a licensed vehicle rented or lent to a customer by a garage service operator as a temporary substitute for a licensed vehicle
- (a) the customer has entrusted to the care, custody or control of a garage service operator for repair or servicing, or
 - (b) the garage service operator has taken from the customer as payment or part payment for the purchase of another motor vehicle that is to be delivered to the customer;
- “**cycle**” means a cycle as defined in Part 3 of the *Motor Vehicle Act*;
- “**dealer**” means a dealer as defined in the *Motor Vehicle Act*;
- “**declared value**” means the value declared by the owner of a vehicle to the corporation in a declaration of value;
- “**dependant**” means
- (a) a dependent child, or
 - (b) dependent parent;
- “**dependent child**” means a person
- (a) under 19 years old for whose support the head of household is legally liable and who is dependent on the head of household for financial support, or
 - (b) 19 years old or over who resides with the head of household and, because of mental or physical infirmity, receives most of his financial support from the head of household;
- “**dependent parent**” means a surviving parent, including a surviving spouse of a parent, of an insured who, at the date of an accident for which a claim is made, resides with the insured and receives most of his financial support from the insured;
- “**garage service operator**” means the operator of a motor vehicle service facility and includes a dealer, service station operator, motor vehicle repairer, auto body shop repairer, wrecker operator and the operator of a vehicle parking or storage facility;
- “**gross vehicle weight**” means gross vehicle weight as defined in the *Commercial Transport Act*;

- “**head of household**” means an insured or the spouse of an insured, whichever had the greater reported income during the 12 months immediately preceding the date of an accident for which a claim is made;
- “**household**” means every person ordinarily residing in the same dwelling unit;
- “**implement of husbandry**” means an implement of husbandry as defined in the *Motor Vehicle Act* but does not include a farm tractor;
- “**leased vehicle**” means a vehicle rented under a written agreement for a period of not less than one month;
- “**lienholder**” means a secured party under the *Personal Property Security Act*, a garage keeper under the *Repairers Lien Act* or any other person claiming an interest in a vehicle if the person has registered a financing statement in the personal property registry;
- “**limousine use**” means use of a motor vehicle for rental or hire with driver on an hourly basis but does not include a rental or hiring with driver of less than one hour;
- “**motorcycle**” means a motorcycle as defined in the *Motor Vehicle Act*;
- “**number plates**” means number plates as defined in the *Motor Vehicle Act*;
- “**occupant**” means a person operating or riding in a vehicle or camper and includes
- (a) a person entering or alighting from a vehicle or camper, and
 - (b) a person, other than a garage service operator or an employee of a garage service operator, who is working, or whose dependant is working, in or on a vehicle or camper owned by that person;
- “**occurrence**” means a single happening or a series of happenings arising from a single event;
- “**operate**”, in the case of a vehicle, includes to have care, custody or control of the vehicle;
- “**premium-related debt**” means one or more of the following:
- (a) the interest that has accrued on an unpaid premium under section 15.71;
 - (b) a service charge imposed by the corporation
 - (i) under section 15.8, or
 - (ii) for a declaration of entitlement for a new certificate;
 - (c) a default paid by the corporation in accordance with section 58.1 (3);
 - (d) interest, charges or fees imposed by the corporation for financial assistance given by it in respect of all or part of the premium, or licensing or registration fees;
- “**principal operator**” means the person who will operate the vehicle described in an application for a certificate for the majority of the time the vehicle is operated during the term of the certificate;

“**snow vehicle**” means a snow vehicle as defined in the Motor Vehicle Act Regulations, B.C. Reg. 26/58;

“**snowmobile**” means a snowmobile as defined in the Motor Vehicle Act Regulations, B.C. Reg. 26/58;

“**spouse**” means a person who is married to another person or who is living in a marriage-like relationship with that other person for at least 2 years immediately preceding the date on which the right to claim benefits or insurance money arose;

“**taxi**” means a vehicle, other than a bus, that is operated at any time on a highway by, for or on behalf of any person who charges or collects compensation for the transportation of passengers in or on the vehicle, and that is available for hire, with driver, by the trip;

“**territory**” means, in relation to the plan, a region of British Columbia established by the corporation under section 34 (1.1) of the Act;

“**U-drive**” means a vehicle available for hire or rental, without driver, by the hour or otherwise, for a period of less than one month, but does not include a courtesy car;

“**vehicle rate class**” means, in relation to the plan, a class or subclass of vehicles established by the corporation under section 34 (1) of the Act;

“**vessel**” means a ship, barge, boat or other description of vessel used or designed to be used in navigation but does not include a rowboat or a raft, logboom or other similar floating facility.

- (2) In the Act and this regulation, “**motor vehicle**” includes
- (a) a farm tractor, and
 - (b) an implement of husbandry that is operated on a highway and is deemed under section 2 (6) of the *Motor Vehicle Act* to be registered and licensed under that Act.
- (3) In this regulation a reference to a certificate, policy, endorsement, permit or licence is a reference to a valid and subsisting certificate, policy, endorsement, permit or licence.

[am. B.C. Regs. 335/84, s. 1; 379/85, s. 1; 257/86, s. 1; 294/87, s. 1; 408/87, s. 1; 449/88, s. 1; 383/89, s. 1; 448/90, s. 1; 323/91, s. (a); 324/91, s. 1; 319/92, s. 1; 438/92, s. 1; 490/95, s. 1; 491/95, s. 1; 328/97, s. 1; 246/98, s. 1; 441/98, s. 1; 404/99, s. 1; 292/2000, Sch. A, s. 1; 292/2000, Sch. B, s. 1; 263/2001, s. 1; 308/2002, s. 1; 309/2002, s. 1; 33/2005, s. 1; 166/2006, Sch. s. 2; 341/2007, ss. 1 and 2; 385/2012, s. 1; 126/2014, App. 2, s. 1.]

Universal compulsory vehicle insurance

1.1 The plan provides insurance coverage as follows:

- (a) coverage under Parts 6, 7 and 10;
- (b) in the case of a garage vehicle certificate, coverage to a garage service operator for loss or damage to customers’ vehicles that are in the care, custody or control of the garage service operator.

[en. B.C. Reg. 166/2006, Sch. s. 3, as am. by 46/2007, Sch. 1, s. 1.]

INSURANCE (VEHICLE) REGULATIONPart 2 – Owner's Certificate

Application

- 2 (1) Unless otherwise provided in an additional product certificate, the Act and this regulation do not apply in respect of
- (a) a vehicle licensed under section 9 of the *Motor Vehicle Act* while the vehicle is being operated off a highway,
 - (b) a vehicle exempted under section 43 or 44 of the Act whether or not the vehicle is
 - (i) in combination with an insured vehicle, or
 - (ii) operated by a person named in a driver's certificate,
 - (c) a trailer while being drawn otherwise than by vehicle power or human power,
 - (d) a vehicle being operated by remote control without a driver,
 - (e) an aircraft except when the aircraft is being drawn as a trailer on a highway,
 - (f) a vehicle being used in a contest, show or race, or in advanced or performance driver training, if
 - (i) the activity is held or conducted on a track or other location temporarily or permanently closed to all other vehicle traffic, and
 - (ii) there exists an element of race or speed test,
 - (g) an amphibious vehicle when being used in or upon water, when docked or floating in water, or when being launched into or landed from water, or
 - (h) a vehicle that is fitted with wheels of the crawler type while the vehicle is being operated off a highway, except if that vehicle is
 - (i) licensed under section 10 of the *Motor Vehicle Act*, or
 - (ii) a snowmobile or a snow vehicle.
- (2) In subsection (1) (f), “**element of race or speed test**” means driving at high speed, and includes passing maneuvers, driving in close proximity to another vehicle or assessing vehicle limitations in speed, acceleration, turning or braking.

[am. B.C. Regs. 335/84, s. 2; 379/85, s. 2; 408/87, s. 2; 324/91, s. 2; 438/92, s. 2; 380/2000, s. 1; 263/2001, s. 2; 298/2002, s. 1; 166/2006, Sch. s. 4; 126/2014, App. 2, s. 2.]

2.1 Repealed. [B.C. Reg. 166/2006, Sch. s. 5.]

PART 2 – OWNER'S CERTIFICATE**Application for owner's certificate**

- 3 Application for an owner's certificate issued in conjunction with any type or category of licence or number plate may be made to a person appointed as an agent of the corporation for that purpose or authorized in writing by the corporation for the purposes of section 3 of the *Motor Vehicle Act*.

[am. B.C. Reg. 312/96, s. 1.]

Interim owner's certificate

- 4** (1) Pending approval by the corporation of an application for an owner's certificate, the person receiving the application shall, subject to section 15.7 and on payment of the applicable premium and any premium related debt, issue to the applicant an interim owner's certificate.
- (2) An interim owner's certificate issued under this section or section 6 is valid until the owner of the vehicle described in the interim owner's certificate receives an owner's certificate.

[am. B.C. Regs. 408/87, s. 3; 383/89, s. 2; 166/2006, Sch. s. 6.]

Term of certificate

- 5** (1) Subject to section 40 (1) of the Act and sections 154 and 162 of this regulation, an owner's certificate
- (a) expires at the end of the day on the date specified in the certificate as the expiry date.
- (b) Repealed. [B.C. Reg. 166/2006, Sch. s. 7 (a).]
- (2) Repealed. [B.C. Reg. 166/2006, Sch. s. 7 (b).]

[en. B.C. Reg. 438/92, s. 3; am. B.C. Regs. 379/93, s. 1; 166/2006, Sch. s. 7.]

Renewal of certificate

- 6** (1) An owner who has received from the corporation an APV-1, APV-1A or APV-2 form or a notice to renew may make application for renewal of an owner's certificate to a person mentioned in section 3.
- (2) On approval of the application mentioned in subsection (1) and payment to the corporation of the premium set out in the APV-1, APV-1A or APV-2 form or the notice to renew and any premium related debt, the person to whom the application is made shall issue and validate the owner's certificate.
- (3) Where an owner does not receive an APV-1, APV-1A or APV-2 form or a notice to renew, or the form is lost or destroyed, the owner may make application to a person mentioned in section 3 for an owner's certificate.
- (4) On approval of the application mentioned in subsection (3) and payment to the corporation of the applicable premium and any premium related debt, the person to whom the application is made shall issue to the applicant an owner's certificate.

[am. B.C. Regs. 408/87, s. 5; 449/88, s. 2; 324/91, s. 3; 404/94, s. 1; 166/2006, Sch. s. 8.]

Interpretation Act

- 7** Section 25 (2) and (3) of the *Interpretation Act* do not apply in respect of renewal of an owner's certificate, and an owner's certificate is not in force in the interval between its expiry and renewal.

INSURANCE (VEHICLE) REGULATIONPart 2 – Owner's Certificate

Leased vehicles

- 8** An applicant for an owner's certificate for a leased vehicle shall set out in the application form
- (a) the name of the owner, followed by the word "lessor",
 - (b) the name of the renter of the vehicle, followed by the word "renter", and
 - (c) the address in the Province of either the owner or the renter of the vehicle.
- [am. B.C. Regs. 335/84, s. 3; 341/2007, s. 3.]

Mid-term changes

- 9** (1) In this section, "**the territory in which the vehicle is primarily located when not in use**" means the territory in which the place where the vehicle is kept when not being driven is located.
- (2) The insured named on an owner's certificate must,
- (a) within 10 days after
 - (i) the insured's address is changed from the address set out in the certificate, or
 - (ii) the insured acquires a substitute vehicle for the vehicle described in the certificate, or
 - (b) before
 - (i) the use of the vehicle described in the certificate is changed to a use to which a different vehicle rate class applies than the vehicle rate class applicable to the use set out in the certificate, or
 - (ii) a vehicle in respect of which the premium is established on the basis of the territory in which a vehicle of that vehicle rate class is used or principally used, as the case may be, is used or principally used in a different territory than that set out in the certificate,
- report the change of address, vehicle, use or territory to a person referred to in section 3, and pay or be refunded the resulting difference in premium.
- (3) If the premium for a vehicle is established on the basis of the territory in which the vehicle is primarily located when not in use and that territory as set out in the certificate is changed, the insured named on the owner's certificate must, unless the vehicle is being used by the insured for vacation purposes, report the change to a person referred to in section 3 within 30 days of the change, and pay or be refunded the resulting difference in premium.

[en. B.C. Reg. 166/2006, Sch. s. 9, as am. by 46/2007, Sch. 1, s. 2.]

Effect of owner's certificate

- 10** (1) An owner's certificate validated by the corporation evidences that an insured, as defined in sections 63, 78, 147, 148 and 148.1, has coverage under Part 6, Part 7, sections 147 and 148 and Division 2 of Part 10 respectively.

- (2) Repealed. [B.C. Reg. 166/2006, Sch. s. 10 (b).]
[am. B.C. Regs. 324/91, s. 4; 424/97, s. 1; 166/2006, Sch. s. 10.]

PART 3 – PREMIUMS FOR UNIVERSAL COMPULSORY VEHICLE INSURANCE

Division 1 – Interpretation

Interpretation

- 11** (1) In this Part:
- “**applicant**” means a person who applies for a new or renewal certificate;
- “**base rate premium**” means the basic premium fixed under section 34 (4) of the Act;
- “**certificate**” means an owner’s certificate.
- (1.1) This Part applies in respect of universal compulsory vehicle insurance.
- (2) Repealed. [B.C. Reg. 166/2006, Sch. s. 12 (d).]
- (3) The effective date of an owner’s certificate issued in conjunction with a quarterly licence shall be deemed to be the first day of January, notwithstanding the actual first quarter date of issue of that licence or the date of issue of quarterly licences for the other quarters of the year.
- [en. B.C. Reg. 383/89, s. 4; am. B.C. Regs. 323/91, s. (b); 324/91, s. 5; 438/92, s. 4; 404/94, s. 2; 491/95, s. 2; 263/2001, s. 3; 308/2002, s. 2 (a); 166/2006, Sch. s. 12.]

Division 2 – Premiums, Interest and Prior Debt

- 12 to 15.1** Repealed. [B.C. Reg. 166/2006, Sch. s. 14.]

Interest on refunds

- 15.2** (1) Where the corporation is required to refund a premium and, through no fault of the person entitled to the refund, the corporation fails to pay the refund within 60 days after the day the refund was applied for, the corporation shall add to the amount of the refund interest for the period from the end of the 60 days to the date payment is made.
- (2) Interest under this section shall be paid at the rate established by the corporation in the rate schedule in effect on the date of the refund.
- [en. B.C. Reg. 383/89, s. 4; am. B.C. Reg. 166/2006, Sch. s. 15.]

- 15.3** Repealed. [B.C. Reg. 166/2006, Sch. s. 16.]

Rounding of premiums, refunds and discounts

- 15.4** (1) Any premium payable or refundable in respect of an owner’s certificate or an additional product certificate shall be added to any fees payable or refundable under the *Motor Vehicle Act* or *Commercial Transport Act* in respect of the

INSURANCE (VEHICLE) REGULATIONPart 3 – Premiums for Universal Compulsory Vehicle Insurance

vehicle described in the owner's certificate or additional product certificate, and, subject to subsection (2), the total shall be the amount payable by or refundable to the person named on the owner's certificate or additional product certificate, but no payment shall be required and no refund shall be made if the rounded total is less than \$5.

- (2) The amount of any premium, refund or discount shall be rounded to the nearest dollar and an amount ending in 50¢ shall be raised to the next higher dollar.

[en. B.C. Reg. 383/89, s. 4; am. B.C. Regs. 166/2006, Sch. s. 17; 126/2014, App. 2, s. 3.]

15.5 and **15.6** Repealed. [B.C. Reg. 166/2006, Sch. s. 16.]

Registrant liable for prior debt

- 15.7** (1) In this section, “**registrant**” means a person registered as the owner of a vehicle, or a person renting a vehicle as a leased vehicle, as the consequence of a transfer or rental agreement that

(a) is not transacted at arm's length between the registrant and a prior registered owner, renter or person renting the vehicle to another person, and

(b) is for the purpose of

(i) assisting the prior owner, renter or person renting the vehicle to another person to evade paying a debt due and owing to the corporation, or

(ii) permitting the prior owner, renter or person renting the vehicle to another person to continue to have the benefit or use of the vehicle without paying a debt due and owing to the corporation or without making an arrangement with the corporation for payment of the debt.

- (2) If a registrant obtains an owner's certificate or an additional product certificate in respect of a vehicle referred to in subsection (1) without having paid all of the unpaid premium owing for, or premium related debt owing in respect of,

(a) the coverage afforded the prior registered owner, renter or person renting the vehicle to another person by any certificate, or

(b) an additional product certificate issued to the prior registered owner, renter or person renting the vehicle to another person,

an amount equal to the total of the unpaid premium, plus any premium related debt, is a debt due and owing to the corporation by the registrant.

- (3) If the registrant does not, within 30 days after the corporation has mailed to the registrant at his or her last address, according to the corporation's records, a written demand for payment of the debt referred to in subsection (2) together with a notice of any action the corporation intends to take under this section, pay the debt or make arrangements satisfactory to the corporation for payment of the debt, the corporation may do one or more of the following for so long as any part of the debt remains outstanding:

(a) recover the debt by action in a court of competent jurisdiction;

- (b) refuse any further application for insurance by the registrant until the debt is paid;
- (c) cancel the owner's certificate or additional product certificate and any other owner's certificate or additional product certificate issued in the registrant's name, whether or not
 - (i) the full premium was paid for the registrant's owner's certificate or additional product certificate or other owner's certificate or additional product certificate, and
 - (ii) the debt arises from a certificate or additional product certificate issued for a preceding term;
- (d) cancel a driver's certificate issued in the registrant's name;
- (e) issue an additional product certificate or an owner's certificate to the registrant with a term of more than 90 days but less than one year.

[en. B.C. Reg. 328/97, s. 3; am. B.C. Regs. 166/2006, Sch. s. 18; 341/2007, s. 4; 126/2014, App. 2, s. 4.]

Interest recovery on unpaid premium

15.71 Without limiting section 15.7 (3), the corporation may recover interest on unpaid premium and premium related debt.

[en. B.C. Reg. 328/97, s. 3; am. B.C. Reg. 166/2006, Sch. s. 19.]

Default in arrangement

15.72 For the purpose of section 41 of the Act, an arrangement mentioned in section 15.7 (3) of this regulation or a similar arrangement made under section 166 (1) (b) of this regulation does not constitute a default in payment of premium, but if any person defaults in respect of a term of the arrangement, section 15.7 (3) applies to the debt in relation to which the arrangement was made.

[en. B.C. Reg. 328/97, s. 3.]

Liability for unpaid amounts

15.73 The following are jointly and severally liable to the corporation to pay for premium or premium related debt owing to the corporation in respect of an owner's certificate or an additional product certificate:

- (a) each registered owner of a vehicle for which the owner's certificate or additional product certificate is issued;
- (b) each registered owner and each renter of a leased vehicle for which the owner's certificate or additional product certificate is issued, regardless of whether the registered owner or the renter paid for the insurance.

[en. B.C. Reg. 166/2006, Sch. s. 20; am. B.C. Regs. 341/2007, s. 3; 126/2014, App. 2, s. 5.]

Service charge

15.8 (1) The corporation may recover a service charge from a person who makes a payment to it by a cheque, bill of exchange or order to pay, the payment of which

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is not made by the savings institution on which it is drawn when it is presented for payment, whether in person or through another savings institution.

- (2) For the purposes of subsection (1), the production of a cheque, bill of exchange or order to pay on which is marked “pursuant to clearing rules, this item must not be cleared again unless certified”, or other words importing that payment was not made by the savings institution, is evidence that payment was not made.

[en. B.C. Reg. 383/89, s. 4; am. B.C. Reg. 166/2006, Sch. s. 21.]

High-value vehicle charge

- 15.9** The corporation may set the amount of the charge payable to the corporation for the issue of the types of certificates respecting coverage for the types of high-value vehicles designated by the corporation for this purpose.

[en. B.C. Reg. 289/2016.]

Division 3 – Applications for Certificates**Interpretation**

- 16** In this Division, “**applicant**”, in relation to a leased vehicle, includes the renter of that vehicle.

[en. B.C. Reg. 308/2002, s. 2 (b); am. B.C. Reg. 341/2007, s. 3.]

Application

- 17** This Division does not apply
- (a) in respect of a vehicle that
 - (i) is part of a fleet,
 - (ii) is insured under a garage vehicle certificate, or
 - (iii) Repealed. [B.C. Reg. 166/2006, Sch. s. 25, as am. by 46/2007, Sch. 1, s. 3.]
 - (b) in respect of a trailer,
 - (c) in respect of an additional product certificate, or
 - (d) Repealed. [B.C. Reg. 166/2006, Sch. s. 23 (a).]
 - (e) in respect of a limited speed motorcycle as defined in the Motor Vehicle Act Regulations, B.C. Reg. 26/58, or a motorcycle with an engine displacement of 110 cc or less.

[en. B.C. Reg. 308/2002, s. 2 (b); am. B.C. Regs. 166/2006, Sch. ss. 23 to 25, as am. by 46/2007, Sch. 1, s. 3; 126/2014, App. 1, s. 1 and App. 2, s. 6.]

Declaration of entitlement

- 18** An applicant for a certificate must
- (a) complete and sign a declaration of entitlement in the applicable form provided by the corporation, and
 - (b) submit the declaration of entitlement to the corporation.

[en. B.C. Reg. 308/2002, s. 2 (b).]

Premium for certificate

- 19** (1) Repealed. [B.C. Reg. 166/2006, Sch. s. 26.]
- (2) An applicant for a certificate for
- (a) a vehicle, other than a U-drive, courtesy car or other vehicle that has no principal operator, must provide to the person receiving the application the name and driver’s licence number of the applicant and of the principal operator of the vehicle, or
 - (b) a U-drive, courtesy car or other vehicle that has no principal operator, must provide to the person receiving the application the name and driver’s licence number of the applicant.
- (3) Repealed. [B.C. Reg. 166/2006, Sch. s. 26.]
[en. B.C. Reg. 308/2002, s. 2 (b); am. B.C. Reg. 166/2006, Sch. s. 26.]
- 20 to 24** Repealed. [B.C. Reg. 166/2006, Sch. s. 26.]

Forfeiture

- 25** For the purpose of section 75 of the Act, a declaration of entitlement is deemed to be an application for an owner’s certificate.
[en. B.C. Reg. 308/2002, s. 2 (b); am. B.C. Reg. 166/2006, Sch. s. 27.]
- 26** Repealed. [B.C. Reg. 166/2006, Sch. s. 26.]
- 27 to 29** Repealed. [B.C. Reg. 166/2006, Sch. s. 28.]

Division 4

- 30 to 37.1** Repealed. [B.C. Reg. 308/2002, s. 2 (b).]

Division 5

- 38 to 41** Repealed. [B.C. Reg. 166/2006, Sch. s. 28.]

Division 6

- 41.1 to 41.4** Repealed. [B.C. Reg. 292/2000, Sch. B, s. 13.]

PART 4 – DRIVER’S CERTIFICATES

Interpretation

- 42** (1) In this Part:
“insured” means
- (a) a resident named on a driver’s certificate other than a person driving a vehicle that is exempted under section 43 or 44 of the Act, or

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- (b) for the purpose of payment of insurance money, if the person referred to in paragraph (a) is deceased, the personal representative of that person;

“resident” means a person who is ordinarily resident in the Province, and includes

- (a) a student who is temporarily outside the Province for the purpose of studying at a school, college, university, institute or other similar educational, artistic or professional training facility, or
- (b) a member of the Canadian Armed Forces or the Royal Canadian Mounted Police who is regularly stationed in the Province but is temporarily posted outside the Province.

[en. B.C. Reg. 166/2006, Sch. s. 29.]

Certificate incorporated in licence

- 43** (1) For the purpose of the Act and this regulation,
- (a) a driver's certificate is deemed to be incorporated into every valid and subsisting driver's licence
- (i) when the driver's licence is issued, and
- (ii) subject to paragraph (a.1), at the beginning of the day following each subsequent anniversary date of the driver's birth,
- (a.1) unless suspended, cancelled or revoked under the Act or this regulation, a driver's certificate is valid and of effect until the earlier of
- (i) the date on which the driver's licence expires, and
- (ii) the end of the day on the next anniversary date of the driver's birth,
- (b) the person named on a driver's licence shall be deemed to be the person named on the driver's certificate,
- (c) the signature of the president of the corporation on a driver's licence shall be deemed to be the signature of the president of the corporation on the driver's certificate deemed to be incorporated in the driver's licence, and
- (d) an application for the issue, renewal, replacement or reinstatement of a driver's licence shall be deemed to be an application to the corporation for the issue, renewal, replacement or reinstatement of a driver's certificate.

- (2) Repealed. [B.C. Reg. 257/86, s. 10.]

[am. B.C. Regs. 257/86, s. 10; 312/96, s. 3; 441/98, s. 5.]

44 to 44.2 Repealed. [B.C. Reg. 166/2006, Sch. s. 30.]

Notice of assessment

- 45** (1) If a premium is payable for a driver's certificate, the corporation must mail to the person named in the certificate a notice of assessment of premium for the period specified in the notice.
- (2) Repealed. [B.C. Reg. 257/86, s. 12.]

- (3) The total amount set out in the notice of assessment of premium under subsection (1) is payable to the corporation by the person named on the driver's certificate in accordance with that notice.
- (4) Repealed. [B.C. Reg. 166/2006, Sch. s. 31 (b).]
[am. B.C. Regs. 257/86, s. 12; 408/87, s. 15; 491/95, s. 9; 292/2000, Sch. A, s. 5; 166/2006, Sch. s. 31.]

45.1 and 46 Repealed. [B.C. Reg. 166/2006, Sch. s. 30.]

Rounding and prorating of premiums and refunds

- 47** (1) Any premium payable to or refundable by the corporation under this Part shall be rounded to the nearest dollar and an amount ending in 50¢ shall be raised to the next higher dollar, but no premium is payable or refundable if the rounded premium is less than \$2.
- (2) Where the term remaining unexpired in a driver's certificate on the day it is issued is less than one year, the amount of premium payable by the applicant for the certificate is the amount established by the corporation prorated for the number of days remaining unexpired on the day the certificate is issued.
[am. B.C. Reg. 166/2006, Sch. s. 32.]

Application of other sections

- 48** Sections 7 and 15.7 apply in respect of a driver's certificate.
[am. B.C. Reg. 383/89, s. 7.]

Indemnity

- 49** (1) Subject to section 49.1, the corporation shall indemnify an insured who is not in default of premium payable under section 45 for liability imposed on the insured by law for injury or death of another or loss or damage to property of another that
 - (a) arises out of the use or operation by the insured of a vehicle
 - (i) not owned by the insured or a member of the insured's household, or
 - (ii) not rented to the insured as a leased vehicle or rented to a member of the insured's household as a leased vehicle, and
 - (b) occurs in Canada or the United States of America or on a vessel travelling between Canada and the United States of Americaunless
 - (c) the insured is operating the vehicle without the consent of the owner and does not have reasonable grounds to believe that he has the consent of the owner,
 - (d) the insured is operating the vehicle in connection with the business of a garage service operator,
 - (e) the vehicle is owned or regularly operated by the insured,

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- (f) the vehicle is used for carrying passengers for compensation or hire or for commercial use,
 - (g) the vehicle is in fact not licensed under the *Motor Vehicle Act*, the *Commercial Transport Act* or similar legislation of another jurisdiction and the insured does not have reasonable grounds to believe the vehicle is licensed, or
 - (h) the insured is operating an all terrain vehicle licensed under section 24.04 of B.C. Reg. 26/58, the Motor Vehicle Act Regulations.
- (2) Sections 70 to 76 apply in respect of indemnity under this section.

[en. B.C. Reg. 257/86, s. 13; am. B.C. Regs. 408/87, s. 16; 383/89, s. 8; 324/91, s. 13; 166/2006, Sch. s. 33, as am. by 46/2007, Sch. 1, s. 4; 341/2007, s. 5.]

Limit of liability

- 49.1** (1) Subject to sections 18 (4) and 77 (1) of the Act, where an insured is liable for injury or death of another or loss or damage to property of another, the liability of the corporation to the insured for payment of indemnity under section 49 in respect of all claims against the insured arising out of the same occurrence is limited to the applicable amount set out in section 1 (1.1) of Schedule 3.
- (2) Repealed. [B.C. Reg. 166/2006, Sch. 34 (b).]
- (3) In addition to the amount by which liability is limited under subsection (1), the corporation shall reimburse the insured for the payments and pay the costs referred to in section 69 that are within the limit set out in section 1 (1.1) of Schedule 3.

[en. B.C. Reg. 257/86, s. 1; am. B.C. Reg. 166/2006, Sch. s. 34.]

Priority of claims

- 49.2** For the purpose of payment of indemnity under section 49, claims arising out of injury or death have priority over claims arising from loss or damage to property to the extent of 90% of the amount by which liability is limited under section 49.1 and, subject to section 77 (1) of the Act, claims arising out of loss or damage to property have priority over claims arising out of injury or death to the extent of 10% of the amount by which liability is limited under section 49.1.

[en. B.C. Reg. 257/86, s. 13; am. B.C. Reg. 166/2006, Sch. s. 35.]

Other coverage

- 49.3** (1) In addition to indemnity under section 49, a driver's certificate evidences that an insured who is not in default of premium payable under section 45 has
- (a) coverage under Part 7,
 - (b) coverage under section 148, and
 - (c) coverage under Division 2 of Part 10.

- (2) Repealed. [B.C. Reg. 379/93, s. 3.]

[am. B.C. Regs. 379/93, s. 3; 166/2006, Sch. s. 36.]

Other insurance

- 50** (1) If a driver's certificate and an owner's certificate or vehicle liability policy evidence third party liability insurance coverage for the same occurrence, the third party liability insurance coverage evidenced by the owner's certificate or vehicle liability policy is primary insurance.
- (2) Third party liability insurance coverage evidenced by a driver's certificate is available only to the extent of the amount by which the limit of liability specified in respect of the driver's certificate exceeds the total of the amounts specified in an owner's certificate or vehicle liability policy.

[en. B.C. Reg. 166/2006, Sch. s. 37, as am. by 46/2007, Sch. 1, s. 5.]

- 51** Repealed. [B.C. Reg. 166/2006, Sch. s. 38.]

PART 5 – CONDITIONS OF CERTIFICATE**Substitute vehicles**

- 52** Where an owner of a vehicle described in an owner's certificate
- (a) acquires, during the term of the owner's certificate, another vehicle in substitution for the described vehicle,
 - (b) transfers title to or interest in the described vehicle, and
 - (c) removes the number plates from the described vehicle, in accordance with section 3.05 of the Motor Vehicle Act Regulations, B.C. Reg. 26/58, and displays them on the substitute vehicle,

the coverage evidenced by the owner's certificate applies in respect of the substitute vehicle for a period of 10 days from the day the owner acquires the substitute vehicle.

[am. B.C. Regs. 335/84, s. 14; 166/2006, Sch. s. 40.]

Leased vehicle coverage

- 53** (1) An owner's certificate issued to an applicant who has complied with section 8 evidences coverage under Parts 6 and 7 and Division 1 of Part 10 for
- (a) the renter, and the renter's household,
 - (b) the driver assigned by the renter to operate the leased vehicle and that driver's household, and
 - (c) every person operating the vehicle with the renter's consent.
- (2) A reference in subsection (1) to a renter includes a subrenter of the renter.

[am. B.C. Regs. 438/92, s. 6; 452/2003, s. 2; 166/2006, Sch. s. 41; 341/2007, ss. 3 and 6.]

Extension of coverage on seizure

- 54** Where a person acting under the authority of a lienholder takes possession of a vehicle under the lienholder's right of repossession, the coverage in force in respect of the vehicle at the time it was repossessed is extended to and continues in force for the

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Part 5 – Conditions of Certificate

benefit of that person, the lienholder and the owner, if the person acting under the authority of the lienholder

- (a) moves the vehicle immediately and as directly as reasonably possible to the nearest safe place of storage, and
- (b) at the place of storage immediately removes the number plates from the vehicle and delivers them to the owner or corporation.

[am. B.C. Reg. 312/96, s. 1.]

54.1 Repealed. [B.C. Reg. 166/2006, Sch. s. 42.]

Breach of conditions

55 (1) In this section, “**insured**” means an insured as defined in section 42, 63, 65, 78 or 148.1 (1) and includes an insured under an additional product certificate or a fleet reporting certificate issued under section 168.

(1.1) The corporation is not liable to an insured who breaches a condition of this section or is deemed under subsection (7.1) or (8) to have breached a condition of section 49 and Part 6.

(2) An insured must not operate a vehicle for which coverage is provided under section 49 or Part 6 contrary to the statements contained in the application for insurance for the vehicle, including, but not limited to

- (a) the use declared in the application for insurance for the vehicle,
- (b) a statement relating to the time during which, and the territories in which, the vehicle may be operated, and
- (c) a statement relating to the kind of goods or number of passengers that may be carried in or on the vehicle.

(2.1) Repealed. [B.C. Reg. 166/2006, Sch. s. 43 (c).]

(3) An insured shall not operate a vehicle for which coverage is provided under section 49 or 49.3 (1) (a) and (c), Part 6 or 7, or Division 2 of Part 10

- (a) if the insured is not authorized and qualified by law to operate the vehicle,
- (b) for an illicit or prohibited trade or transportation,
- (c) to escape or avoid arrest or other similar police action, or
- (d) in a race or speed test.

(3.1) An insured does not breach a condition of subsection (3) merely because the insured operates a vehicle in contravention of a restriction or condition imposed on his or her driver’s licence by section 30.06 (2), 30.07 (1) or (3), 30.071 (1), 30.072 (1) (a) or (b), 30.08 (1), 30.10 (2) or (4) or 30.11 (1) of B.C. Reg. 26/58.

(4) An insured shall not operate a motor vehicle for which coverage is provided under section 49 or Part 6 if there is attached to the motor vehicle a trailer that is required to be registered and licensed under the *Motor Vehicle Act* or *Commercial Transport Act* and is not so registered and licensed.

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Part 5 – Conditions of Certificate

- (5) An insured named in a certificate or additional product certificate must not permit the vehicle described in the certificate or additional product certificate to be operated by a person or for a purpose that breaches a condition of this section or Part 6.
- (6) Repealed. [B.C. Reg. 166/2006, Sch. s. 43 (c).]
- (7) Use of a vehicle does not contravene subsection (2) if the premium paid for the vehicle rate class applicable to the use set out in the application for insurance is greater than or equal to the premium established by the corporation for the vehicle rate class applicable to the use to which the vehicle is put.
- (7.1) An insured shall be deemed to have breached a condition of section 49 and Part 6 where the injury, death, loss or damage in respect of which his claim is made is caused by or results from an intentional act of violence committed by the insured, while sane, by means of a vehicle.
- (8) An insured shall be deemed to have breached a condition of section 49 and Part 6 where
- (a) the insured is operating a vehicle while the insured is under the influence of intoxicating liquor or a drug or other intoxicating substance to such an extent that he is incapable of proper control of the vehicle,
 - (b) the insured is convicted of
 - (i) a motor vehicle related *Criminal Code* offence,
 - (ii) an offence under section 95 or 102 of the *Motor Vehicle Act*, or
 - (iii) an offence under a provision of the law of another jurisdiction in Canada or the United States of America that is similar to a provision referred to in subparagraph (i) or (ii),
 - (c) the insured is convicted of an offence committed
 - (i) before December 18, 2018 under section 253 (1) (b) of the *Criminal Code*,
 - (ii) under section 224 of the *Motor Vehicle Act*, or
 - (iii) under a provision of the law of another jurisdiction in Canada or the United States of America that is similar to a provision referred to in subparagraph (i) or (ii),and the accident in respect of which the insured's claim is made occurred during the insured's commission of the offence and while the insured was operating a vehicle, or
 - (d) the insured is convicted of an offence committed
 - (i) before December 18, 2018 under section 254 (5) of the *Criminal Code*,
 - (ii) on or after December 18, 2018 under any of the following provisions of the *Criminal Code*:
 - (A) section 320.14 (1) (b);

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- (B) section 320.14 (2), as that section relates to an offence committed under section 320.14 (1) (b);
- (C) section 320.14 (3), as that section relates to an offence committed under section 320.14 (1) (b);
- (D) section 320.15 (1);
- (E) section 320.15 (2), as that section relates to an offence committed under section 320.15 (1);
- (F) section 320.15 (3), as that section relates to an offence committed under section 320.15 (1),

(iii) under section 226 of the *Motor Vehicle Act*, or

(iv) under a provision of the law of another jurisdiction in Canada or the United States of America that is similar to a provision referred to in subparagraph (i), (ii) or (iii),

and the accident in respect of which the insured's claim is made occurred within the 2 hours preceding the insured's commission of the offence and while the insured was operating a vehicle.

(9) In subsection (8):

“convicted” includes being

- (a) convicted under the *Youth Criminal Justice Act* (Canada) for contravening
 - (i) a provision referred to in the definition of “motor vehicle related *Criminal Code* offence”,
 - (ii) in the case of a contravention occurring before December 18, 2018, under a provision referred to in subsection (8) (c) (i) or (d) (i), or
 - (iii) in the case of a contravention occurring on or after December 18, 2018, under a provision referred to in subsection (8) (d) (ii), and
- (b) convicted or the subject of a similar result in a jurisdiction of the United States of America under a law similar to the *Youth Criminal Justice Act* (Canada) for contravening a provision of a law of that jurisdiction referred to in subsection (8) (b) (iii), (c) (iii) or (d) (iv);

“motor vehicle related *Criminal Code* offence” means any of the following offences that an insured commits while operating or having care or control of a vehicle or by means of a vehicle:

- (a) an offence under section 220 or 221 of the *Criminal Code*;
- (b) an offence committed before December 18, 2018 under any of the following provisions of the *Criminal Code*:
 - (i) section 249;
 - (ii) section 252;
 - (iii) section 253 (1) (a);
 - (iv) section 255 (2);

- (v) section 255 (3);
- (vi) section 259 (4);
- (c) an offence committed on or after December 18, 2018 under any of the following provisions of the *Criminal Code*:
 - (i) section 320.13 (1);
 - (ii) section 320.13 (2);
 - (iii) section 320.13 (3);
 - (iv) section 320.14 (1) (a);
 - (v) section 320.14 (2), as that section relates to an offence committed under section 320.14 (1) (a);
 - (vi) section 320.14 (3), as that section relates to an offence committed under section 320.14 (1) (a);
 - (vii) section 320.16 (1);
 - (viii) section 320.16 (2);
 - (ix) section 320.16 (3);
 - (x) section 320.18.

[am. B.C. Regs. 335/84, s. 15; 379/85, ss. 26 and 27; 257/86, s. 16; 408/87, s. 17; 449/88, s. 8; 383/89, s. 9; 70/90; 448/90, s. 10; 324/91, s. 16; 491/95, s. 10; 347/96, s. 1; 257/98; 441/98, s. 6; 380/2000, s. 2; 263/2001, s. 5; 309/2002, ss. 3 and 4; 354/2003, s. (a); 166/2006, Sch. s. 43; 3/2010, s. (a); 126/2014, App. 2, s. 7; 253/2018, s. 1.]

Exclusion

- 56** (1) The corporation is not liable
- (a) under Part 4, 6, 7 or 10 in respect of injury, death, loss or damage arising, directly or indirectly, out of radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act* (Canada),
 - (b) under section 20 or 24 of the Act or section 49.3, Part 7 or Part 10 in respect of injury, death, loss or damage arising, directly or indirectly out of a declared or undeclared war or insurrection, rebellion or revolution, or
 - (c) under section 20 or 24 of the Act or section 49, 49.3 (1) (b), Part 6 or Part 10 in respect of punitive or exemplary damages or other similar non-compensatory damages.
- (2) Subsection (1) (a) does not apply to the carriage of radio-isotopes that are
- (a) packaged and labelled in accordance with the *Transportation of Dangerous Goods Act* (Canada), and
 - (b) to be used for medical treatment, research, photography, x-ray or other similar purposes utilizing radio-isotopes.

[am. B.C. Regs. 335/84, s. 16; 257/86, s. 17; 449/88, s. 9; 383/89, s. 10; 324/91, s. 17; 491/95, s. 10; 347/96, s. 2; 263/2001, s. 6; 298/2002, s. 2; 166/2006, Sch. s. 44.]

INSURANCE (VEHICLE) REGULATIONPart 5 – Conditions of Certificate

Additional product certificate

56.1 A reference in this Part to Part 6, 7 or 10 includes coverage under Part 6, 7 or 10 that is evidenced by an additional product certificate or by a fleet reporting certificate issued under section 168.

[en. B.C. Reg. 166/2006, Sch. s. 45; am. B.C. Reg. 126/2014, App. 2, s. 8.]

Garage exclusion

57 (1) Where a vehicle owned by a customer of a garage service operator is in the care, custody or control of the garage service operator or his employee for a purpose relating to the business of a garage service, no coverage is provided under Part 6 or 7 to the garage service operator or an employee of the garage service operator under the owner's certificate issued in respect of the customer's vehicle.

(2) This section does not operate to exclude

(a) a garage service operator or his employee from coverage under an owner's certificate issued in respect of a vehicle that

(i) the garage service operator or his employee owns, and

(ii) is in the care, custody or control of the garage service operator or his employee for a purpose relating to the business of the garage service operator, or

(b) a customer of a garage service operator from coverage under an owner's certificate issued to him, if the garage service operator

(i) is not insured, or is insufficiently insured, under a garage vehicle certificate, and

(ii) is liable for an accident for which the owner's certificate would, except for subsection (1), provide coverage.

[am. B.C. Regs. 449/88, s. 1; 441/98, s. 7; 166/2006, Sch. s. 24; 46/2007, Sch. 2, s. 1.]

58 Repealed. [B.C. Reg. 166/2006, Sch. s. 46.]

Financial assistance

58.1 (1) In this section:

“financial institution” means a savings institution that, under a contractual arrangement with the corporation, agrees to provide financial assistance to an owner for the purchase from the corporation of a certificate;

“owner” includes

(a) a person registered as the owner of a vehicle, and

(b) a renter of a vehicle that is rented by that person as a leased vehicle.

(2) An owner may make application to the financial institution for financial assistance, in respect of all or part of the premium, licensing and registration fees, administrative fees and other charges agreed to by the corporation, to purchase from the corporation a certificate.

- (3) If an owner defaults on the repayment of financial assistance provided to the owner by the financial institution and the corporation pays the amount of the default by way of assignment of the debt from the financial institution, the total amount of the default, including interest and other charges, is a debt of the owner due and owing to the corporation.
- (4) Repealed. [B.C. Reg. 328/97, s. 4.]
[en. B.C. Reg. 347/94; am. B.C. Regs. 328/97, s. 4; 166/2006, Sch. s. 47; 341/2007, s. 7.]

Waiver of term or condition

- 59** (1) Where the corporation waives a condition of section 55 that is related to rating a vehicle to determine premium, it may as a condition of insurance require the insured in whose favour the waiver is exercised to pay an amount equal to the difference between the premium paid and the premium that would have been payable if the vehicle had been correctly rated.
- (2) Repealed. [B.C. Reg. 166/2006, Sch. s. 48.]
[am. B.C. Reg. 166/2006, Sch. s. 48.]

Ex gratia payments

- 60** Where the corporation considers that payment of a doubtful or disputed claim is in the interest of the corporation and of the better administration of the Act, the regulations or the plan, the corporation may authorize an ex gratia payment to be made.

Extraprovincial undertakings

- 61** (1) An owner or operator of an extraprovincial undertaking who elects to give proof of financial responsibility in respect of a vehicle under section 106 (2) (b) of the *Motor Vehicle Act* shall be deemed to have so elected in respect of every vehicle owned by the extraprovincial undertaking or rented to the extraprovincial undertaking as a leased vehicle.
- (2) If the owner or operator of an extraprovincial undertaking obtains duplicate coverage by insuring a vehicle under an owner's certificate and under vehicle insurance issued by an insurer authorized for that purpose under the *Financial Institutions Act* or under a similar law of another jurisdiction, the coverage provided by that vehicle insurance is primary insurance and the owner's certificate continues to provide insurance
- (a) in respect of third party liability insurance coverage only to the extent that the amount by which liability is limited under the owner's certificate exceeds the amount by which liability is limited under the vehicle insurance, and
- (b) in respect of accident benefits coverage only to the extent that the benefits payable under the owner's certificate exceed the benefits payable under the vehicle insurance,
- but any coverage under the owner's certificate except the coverages described in paragraphs (a) and (b) is void.

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(3) Repealed. [B.C. Reg. 452/2003, s. 3.]

[am. B.C. Regs. 324/91, s. 19; 452/2003, s. 3; 166/2006, Sch. s. 49; 341/2007, s. 8.]

62 Repealed. [B.C. Reg. 470/99, s. 1.]

PART 6 – THIRD PARTY LIABILITY INSURANCE COVERAGE**Interpretation**

63 In this Part, “**insured**” means

- (a) a person named as an owner in an owner’s certificate,
- (b) an individual who, with the consent of the owner or while a member of the owner’s household, uses or operates the vehicle described in the owner’s certificate,
- (c) where the owner is deceased, the personal representative of the owner or a person having, with the consent of the personal representative, custody of the vehicle until the grant of letters probate or of administration to the personal representative, and
- (d) where the owner is not an individual,
 - (i) an officer, employee or partner of the owner for whose regular use the vehicle described in the owner’s certificate is provided, or
 - (ii) a member of the household of an officer, employee or partner of the owner, who, with the consent of the owner, uses or operates the vehicle described in the owner’s certificate.

[am. B.C. Regs. 380/2000, s. 3; 166/2006, Sch. s. 51.]

Indemnity

64 Subject to section 67, the corporation shall indemnify an insured for liability imposed on the insured by law for injury or death of another or loss or damage to property of another that

- (a) arises out of the use or operation by the insured of a vehicle described in an owner’s certificate, and
- (b) occurs in Canada or the United States of America or on a vessel travelling between Canada and the United States of America.

[am. B.C. Reg. 328/97, s. 5.]

64.1 Repealed. [B.C. Reg. 292/2000, Sch. A, s. 7.]

Extension of indemnity

65 (1) In this section, “**insured**” means

- (a) a person named as an owner in an owner’s certificate,
- (b) a member of the owner’s household,

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- (c) an employee or partner of the owner for whose regular use the vehicle described in the owner's certificate is provided, and
 - (d) the spouse of an employee or partner described in paragraph (c) where the spouse resides with the employee or partner.
- (2) Subject to section 77, indemnity under this Part is extended to an insured operating a motor vehicle not described in an owner's certificate issued to the insured, unless
- (a) the insured is operating the motor vehicle in connection with the business of a garage service operator,
 - (b) the motor vehicle is owned or regularly operated by an insured,
 - (c) the motor vehicle is used for carrying passengers for compensation or hire or for commercial use,
 - (d) the motor vehicle is in fact not licensed under the *Motor Vehicle Act*, the *Commercial Transport Act* or similar legislation of another jurisdiction and the insured does not have reasonable grounds to believe the motor vehicle is licensed,
 - (e) the motor vehicle is exempted under section 43 or 44 of the Act, or
 - (f) the insured is operating the vehicle without the consent of the owner and does not have reasonable grounds to believe that he has the consent of the owner.
- (3) Where more than one owner's certificate evidences third party liability insurance coverage of an insured under this section, the insured shall be compensated only under the certificate that provides the higher or highest limit of third party liability insurance coverage, and, if the limits are equal, the corporation may determine the certificate that applies.

[am. B.C. Regs. 379/85, s. 28; 408/87, s. 20; 449/88, s. 11; 383/89, s. 11; 166/2006, Sch. s. 52.]

Extension of indemnity to passenger

- 66** Indemnity under this Part is extended to a passenger in a vehicle described in an owner's certificate who, by operating any part of the vehicle while the vehicle is being operated by an insured, causes
- (a) injury or death to a person who is not an occupant of the vehicle, or
 - (b) loss or damage to property that is not carried in or on the vehicle or in the care, custody or control of the insured.

Limit of liability

- 67** (1) Subject to sections 18 (4) and 77 (1) of the Act, where an insured is liable for injury or death of another or loss or damage to property of another, the liability of the corporation to the insured for payment of indemnity under this Part in respect of all claims against the insured arising out of the same occurrence is limited to the applicable amount set out in section 1 of Schedule 3.

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(2) Repealed. [B.C. Reg. 166/2006, Sch. s. 53.]

[am. B.C. Regs. 257/86, s. 19; 166/2006, Sch. s. 53.]

Limit of liability – loans and advance payments

67.1 For the purposes of section 83 (1) (c) of the Act, the prescribed circumstance is that

- (a) a person has a claim for damages respecting a loss or expense similar to a loss or expense covered by benefits within the meaning of section 1.1 of the Act,
- (b) the person receives a loan or an advance payment in relation to the loss or expense, and
- (c) the person must repay the loan or advance payment, in full or in part, if the person receives or is entitled to receive an award of damages, or enters into a settlement, in relation to the claim.

[en. B.C. Reg. 234/2018, App. 1.]

Priority of claims

- 68** (1) For the purpose of payment of indemnity under this Part, claims arising out of injury or death have priority over claims arising from loss or damage to property to the extent of 90% of the amount by which liability is limited under section 67 and, subject to section 77 (1) of the Act, claims arising out of loss or damage to property have priority over claims arising out of injury or death to the extent of 10% of the amount by which liability is limited under section 67.
- (2) For the purpose of the payment of claims under section 20 or section 24 of the Act, claims arising out of injury or death have proportionately the same priority over claims arising from loss or damage to property as is provided in subsection (1).

[am. B.C. Reg. 166/2006, Sch. s. 54.]

Additional payments

69 In addition to the amount by which liability is limited under section 67, the corporation shall

- (a) reimburse an insured for reasonable payments for emergency medical aid necessary to a person injured as the result of an accident for which indemnity is payable under this Part, if reimbursement is not provided to the insured under another Part or by another insurer,
- (b) pay costs incurred for fire extinguishers, jacks or other necessary emergency equipment or supplies provided to the insured,
- (c) pay that proportion of the costs taxed against an insured in an action respecting a claim under this Part that
 - (i) the amount offered by the corporation as its total liability for indemnity to the insured under this Part in an offer to settle served in accordance with the Supreme Court Civil Rules

bears to

- (ii) the aggregate of all special and general damages awarded in respect of the occurrence for which the claim is made,
- (d) pay
 - (i) prejudgment interest under the *Court Order Interest Act* or similar legislation of another jurisdiction, and
 - (ii) post-judgment interest under the *Interest Act (Canada)* or similar legislation of another jurisdiction

on that part of the judgment that is within the applicable limit set out in section 1 of Schedule 3, and

- (e) if indemnity is provided to the insured under this Part and by one or more optional insurance contracts provided by an insurer other than the corporation, contribute to the payment of expenses, costs and reimbursements for which provision is made under section 172 in accordance with that other insurer's and the corporation's respective liabilities for
 - (i) damages awarded against the insured, or
 - (ii) the amount payable under a settlement made on behalf of the insured.

[am. B.C. Regs. 404/94, s. 11; 347/96, s. 3; 380/2000, s. 4; 166/2006, Sch. s. 55, as am. by 46/2007, Sch. 1, s. 6; 156/2010, s. (a).]

Combination of vehicles

- 70** (1) Where an accident involves a combination of vehicles,
- (a) the corporation is not liable for more than the amount set out in the owner's certificate issued in respect of the motor vehicle providing the motive power when the accident occurs.
 - (b) Repealed. [B.C. Reg. 166/2006, Sch. s. 56 (b).]
- (1.1) Notwithstanding subsection (1) (a), where
- (a) the accident involving a combination of vehicles arises directly out of the use or operation of a trailer, and
 - (b) the amount by which the liability of the corporation is limited in the owner's certificate for the trailer exceeds the amount by which its liability is limited in the owner's certificate for the vehicle providing the motive power when the accident occurs,
- the third party liability insurance coverage evidenced by the owner's certificate for the trailer is available to the person named in that certificate, but only
- (c) to the extent of the amount by which the limit of liability under the owner's certificate for the trailer exceeds the limit of liability under the owner's certificate for the vehicle providing the motive power, and
 - (d) so long as the trailer is not
 - (i) owned or rented as a leased vehicle by the person who also owns or rents as a leased vehicle the vehicle providing the motive power,

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- (ii) owned or rented as a leased vehicle by a member of the same household as the person who owns or rents as a leased vehicle the vehicle providing the motive power, or
 - (iii) part of the same fleet, or deemed to be part of the same fleet, as the vehicle providing the motive power.
- (2) The corporation shall not indemnify the owner of a vehicle that is operated as part of a combination of vehicles for liability to the owner or driver of another vehicle in the combination of vehicles.

[am. B.C. Regs. 379/85, s. 29; 257/86, s. 20; 166/2006, Sch. s. 56; 341/2007, s. 9.]

Trailers

- 71** Where an owner's certificate is issued in conjunction with a trailer licence for a motor vehicle that is capable of being operated under its own power, the corporation is not liable to indemnify the owner under that certificate if the vehicle is operated otherwise than as a trailer.

Restrictions on indemnity – attached equipment

- 72** (1) In this section, “**attached equipment**” means machinery, apparatus or equipment that is
- (a) mounted on or attached to a vehicle, and
 - (b) not required for the safe operation of the vehicle on a highway.
- (2) The corporation shall not indemnify an insured for liability imposed by law for injury, death, loss or damage arising, directly or indirectly, out of the operation of attached equipment at a site where the attached equipment is being operated, unless the attached equipment
- (a) is used for snow or ice removal from a highway or for sweeping, cleaning, sanding or grading streets,
 - (b) is a side or rear mounted power-operated platform,
 - (c) is attached to a vehicle used for pleasure purposes,
 - (d) is attached to a vehicle used as a wrecker, dump truck or fork-lift,
 - (d.1) is attached to a vehicle used as a garbage truck, but only if the injury, death, loss or damage did not arise, directly or indirectly, out of the operation of a crane attached to the vehicle,
 - (e) is attached to a vehicle used as a front-end loader or backhoe, or
 - (f) is attached to a vehicle used as a mower.
- (3) Notwithstanding subsection (2) (e), the corporation shall not indemnify an insured for liability imposed by law for loss or damage to an underground installation or resulting from loss or damage to an underground installation if the loss or damage occurs during excavation.

[en. B.C. Reg. 438/92, s. 8; am. B.C. Regs. 379/93, s. 4; 298/2002, s. 3.]

Restrictions on indemnity

- 72.1** (1) The corporation shall not indemnify an insured under this Part in respect of
- (a) a general or special assessment, penalty or premium payable under the *Workers Compensation Act* or a similar law of another jurisdiction, or
 - (b) loss or damage to property
 - (i) carried in or on a vehicle described in an owner's certificate,
 - (ii) owned or rented by an insured, or
 - (iii) in the care, custody or control of an insured.
- (2) Where a claim is payable or has been paid, forfeited or denied under Part 7, the corporation shall deduct the amount of the claim from any amount payable under this Part in respect of the same occurrence.
- (3) and (4) Repealed. [B.C. Reg. 166/2006, Sch. s. 57.]
[en. B.C. Reg. 438/92, s. 8; am. B.C. Reg. 166/2006, Sch. s. 57.]

Duties of insured

- 73** (1) An insured shall
- (a) promptly give the corporation written notice, with all available particulars, of
 - (i) any accident involving death, injury, damage or loss in which he or a vehicle owned or operated by him has been involved,
 - (ii) any claim made in respect of the accident, and
 - (iii) any other insurance held by him providing coverage for the accident,
 - (b) on receipt of a claim, legal document or correspondence relating to a claim, immediately send the corporation a copy of the claim, document or correspondence,
 - (c) cooperate with the corporation in the investigation, settlement or defence of a claim or action,
 - (d) except at his own cost, assume no liability and settle no claim, and
 - (e) allow the corporation to inspect an insured vehicle or its equipment or both at any reasonable time.
- (2) The corporation is not liable to an insured who, to the prejudice of the corporation, fails to comply with this section.

Duties of corporation

- 74** On receipt of notice of a claim for damages brought against an insured for which indemnity is provided under this Part and subject to an act or omission by the insured entitling the corporation to raise any question as to whether or not the insured is entitled to indemnity, the corporation, at its expense, shall
- (a) assist the insured by investigating and negotiating a settlement, where in the corporation's opinion its assistance is necessary, and

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- (b) subject to an application and directions given by the court under section 79 of the Act, defend in the name of the insured any action for damages brought against the insured.

[am. B.C. Regs. 438/92, s. 9; 166/2006, Sch. s. 58.]

Rights of corporation

74.1 Subject to section 79 of the Act, on assuming the defence of an action for damages brought against an insured, the corporation shall have exclusive conduct and control of the defence of the action and, without limiting the generality of the foregoing, the corporation shall be entitled to

- (a) appoint and instruct counsel to defend the action,
- (b) admit liability, in whole or in part, on behalf of the insured,
- (c) participate in any non-judicial process which has as its goal the resolution of a claim, and
- (d) compromise or settle the action.

[en. B.C. Reg. 438/92, s. 10; am. B.C. Reg. 166/2006, Sch. s. 59.]

Appointment of attorney

75 Subject to section 79 of the Act, the corporation may act as and shall be deemed to be the duly appointed attorney of an insured to appear and defend the insured in an action brought against him in another province of Canada or in the United States of America in respect of injury, death, loss or damage arising out of the ownership, use or operation of a vehicle.

[am. B.C. Reg. 166/2006, Sch. s. 60.]

Limitation

76 No person shall commence an action to enforce a right under this Part, except within the limitation period fixed by the *Limitation Act*.

Other insurance

- 77** (1) Subject to section 150.1, if
- (a) insurance coverage is provided under this Part or Division 1 of Part 10 and evidenced by an owner's certificate in respect of a vehicle involved in an accident, and
 - (b) insurance coverage is also provided under this Part or Division 1 of Part 10 and evidenced by a certificate in respect of a vehicle not involved in the accident,

the insurance coverage in respect of the vehicle involved in the accident is primary insurance and subject to subsection (2), the insurance coverage in respect of the vehicle not involved in the accident applies only to the extent that the amount by which liability is limited under that certificate exceeds the amount by which liability is limited under the owner's certificate in respect of the vehicle involved in the accident.

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- (2) Insurance coverage provided by a certificate issued in respect of a vehicle other than the vehicle involved in an accident does not apply if, when the accident occurs, the other vehicle
- (a) is owned or rented as a leased vehicle by the person who also owns or rents as a leased vehicle the vehicle involved in the accident,
 - (a.1) is owned or rented as a leased vehicle by a member of the same household as the person who owns or rents as a leased vehicle the vehicle involved in the accident, or
 - (b) is part of the same fleet, or deemed to be part of the same fleet, as the vehicle involved in the accident.
- (3) If an insured is also insured under vehicle insurance providing insurance of the kind referred to in the definition of “owner’s policy” or “non-owner’s policy” in section 57.1 of the Act, or providing similar insurance under similar legislation of another jurisdiction, the liability of the corporation to provide indemnity under this Part must be determined,
- (a) if a claim is made in respect of an accident that occurs in the Province, as if section 179 applied in respect of coverage provided under this Part, and
 - (b) if a claim is made in respect of an accident that occurs in another jurisdiction, as if the provisions of the legislation of that jurisdiction respecting terms, conditions and priorities of vehicle insurance applied in respect of coverage provided under this Part.

[am. B.C. Regs. 383/89, s. 12; 324/91, s. 20; 166/2006, Sch. s. 61; 341/2007, s. 10.]

PART 7 – ACCIDENT BENEFITS

Interpretation

78 In this Part:

“**chiropractor**” means a person entitled to practise chiropractic under the *Health Professions Act* or a similar law of another jurisdiction;

“**dentist**” means a person entitled to practise dentistry under the *Health Professions Act* or a similar law of another jurisdiction;

“**employed person**” means a person

- (a) who, on the date of an accident for which a claim is made, is employed or actively engaged in an occupation for wages or profit, or
- (b) who
 - (i) Repealed. [B.C. Reg. 257/86, s. 21.]
 - (ii) for any 6 months during the period of 12 months immediately preceding the date of an accident for which a claim is made is employed or actively engaged in an occupation for wages or profit;

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“**head of household**” includes an insured whose only dependants at the date of an accident resulting in the death of the insured are his parents if, at the date of the accident, the dependent parents resided with the insured;

“**homemaker**” means the male or female member of a household who, without payment, does the majority of the housekeeping for the household;

“**insured**” means

- (a) a person named as an owner in an owner’s certificate,
- (b) Repealed. [B.C. Reg. 257/86, s. 21.]
- (c) a member of the household of a person named in an owner’s certificate,
- (c.1) an insured as defined in section 42 who is not in default of premium payable under section 45,
- (c.2) a member of the household of an insured described in paragraph (c.1),
- (d) an occupant of a vehicle that
 - (i) is licensed in the Province and is not exempted under section 43 or 44 of the Act, or
 - (ii) is not required to be licensed in the Province, but is operated by a person named in a driver’s certificate,
- (e) a cyclist or pedestrian who collides with a vehicle described in an owner’s certificate, or
- (f) a resident of the Province who is entitled to bring an action for injury or death under section 20 or 24 of the Act,

and includes the personal representative of a deceased insured;

“**medical practitioner**” means a person entitled to practise medicine under the *Health Professions Act* or a similar law of another jurisdiction;

“**parent**” means the person entitled to claim a child as a dependant under the *Income Tax Act* of the Province;

“**physiotherapist**” means a person entitled to practise physical therapy under the *Health Professions Act* or a similar law of another jurisdiction;

“**rehabilitation**” means the restoration, in the shortest practical time, of an injured person to the highest level of gainful employment or self sufficiency that, allowing for the permanent effects of his injuries, is, with medical and vocational assistance, reasonably achievable by him;

“**rehabilitation team**” means a team of individuals, including representation from the rehabilitation staff of the corporation, established

- (a) to determine the appropriate group residence for an insured,
- (b) to determine the care needs of an insured under section 88 (2) (c), and

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- (c) to evaluate any aspect of the funding, development of treatment, or rehabilitation plan for an insured.

[am. B.C. Regs. 335/84, s. 18; 257/86, s. 21; 408/87, s. 21; 383/89, s. 13; 379/93, s. 5; 491/95, s. 12; 246/98, s. 3; 166/2006, Sch. s. 62; 420/2008, App. s. 7; 421/2008, App. s. 8; 423/2008, App. s. 8.]

Coverage and benefits

- 79** (1) Subject to subsection (2) and sections 80 to 88, 90, 92, 100, 101 and 104, the corporation shall pay benefits to an insured in respect of death or injury caused by an accident that arises out of the use or operation of a vehicle and that occurs in Canada or the United States of America or on a vessel travelling between Canada and the United States of America.
- (2) Where an accident occurs in the United States or on a vessel travelling between Canada and the United States, no benefits are payable under this Part to
- (a) a cyclist, or
 - (b) a pedestrian

unless he is named in an owner's certificate or a driver's certificate or is a member of the household of a person named in a certificate.

[am. B.C. Regs. 335/84, s. 19; 379/85, s. 31; 257/86, s. 22; 328/97, s. 6.]

Disability benefits for employed persons

- 80** (1) Where, within 20 days after an accident for which benefits are provided under this Part, an injury sustained in the accident totally disables an insured who is an employed person from engaging in employment or an occupation for which the insured is reasonably suited by education, training or experience, the corporation shall, subject to section 85, pay to the insured for the duration of the total disability or 104 weeks, whichever is shorter, the lesser of the amounts determined under paragraphs (a) and (b):
- (a) the applicable amount of disability benefits set out in section 2 of Schedule 3;
 - (b) in respect of an accident that occurred
 - (i) before January 1, 1987, an amount per week calculated by taking 75% of the insured's gross earnings for the 12 month period immediately preceding the accident, dividing by 52 and multiplying that amount by the weekly benefit multiplier in Column B of Table 1 of Schedule 3 opposite the year of the accident in Column A,
 - (ii) on or after January 1, 1987 but before January 1, 1991, an amount per week calculated by taking 75% of the insured's gross earnings for the 12 month period immediately preceding the accident, dividing by the number of weeks and fractions of weeks actually worked during that period and multiplying that amount by the weekly benefit multiplier in Column B of Table 1 of Schedule 3 opposite the year of the accident in Column A, or

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- (iii) on or after January 1, 1991 an amount per week calculated by taking 75% of the insured's gross earnings for the 12 month period immediately preceding the accident and dividing by the number of weeks and fractions of weeks actually worked during that period.
- (2) Where disability benefits are payable to an insured for a period of less than one week, the amount payable for each day shall be determined by dividing the amount payable weekly by the number of days the insured regularly works in a week.

[en. B.C. Reg. 438/92, s. 12.]

Deduction of other benefits

- 81** (1) In this section:

“other disability compensation” means compensation similar to benefits

- (a) paid or payable under vehicle insurance, wherever issued and in effect,
- (b) paid or payable under a policy of accident, sickness or life insurance purchased by a group or individual, or
- (c) paid by an employer;

“weekly net lost earnings” means the amount by which the disability benefits payable to an insured as calculated under section 80 (1) (b) exceed the weekly gross total of payments to the insured of all other disability compensation.

- (2) Where an employed person is injured in an accident for which disability benefits are payable under section 80 and some or all of the insured's lost earnings arising from the accident are payable as other disability compensation, the corporation shall not pay any disability benefits to the insured under that section unless the weekly gross total of other disability compensation payable to the insured is less than 75% of the weekly gross lost earnings of the insured, in which case the corporation shall pay to the insured the lesser of
- (a) the amount of disability benefits payable under section 80, or
 - (b) the weekly net lost earnings of the insured.

[am. B.C. Regs. 448/90, s. 13; 491/95, s. 13; 166/2006, Sch. s. 63.]

Employment during total disability

- 81.1** (1) If an insured who is entitled to disability benefits under section 80 becomes capable of engaging in employment or an occupation but, because of injuries suffered in the accident is incapable of earning an amount that exceeds 125% of the disability benefits determined under sections 80 and 81, the insured may keep earnings from that employment or occupation, without deduction from disability benefits, in an amount that does not exceed 25% of those disability benefits, but any amounts earned in excess of 25% of the disability benefits will be deducted from the disability benefits payable by the corporation.

- (2) No disability benefit is payable under section 80 if the application of subsection (1) would result in a payment of less than \$5 a week.

[en. B.C. Reg. 491/95, s. 14.]

Payments under *Workers Compensation Act*

- 82** Where an insured who is a worker to whom the *Workers Compensation Act* or a similar law of another jurisdiction applies is injured or killed in the course of his employment, the corporation is not liable to pay benefits under this Part for the injury or death, notwithstanding that the insured, his spouse or personal representative, has elected not to claim or has forfeited the insured's claim under the *Workers Compensation Act* or other similar law for the injury or death, except to the extent that the amount of any benefit payable under this Part exceeds the amount that would be payable to the insured, his spouse or personal representative under the *Workers Compensation Act* or other similar law for the same injury or death.

Unemployment benefits

- 83** Where an insured who is also an insured person under the *Employment Insurance Act* (Canada) is injured, the corporation is not liable to pay benefits under this Part for the injury, notwithstanding that the insured, his spouse or personal representative has elected not to claim or has forfeited the insured's claim under the *Employment Insurance Act* (Canada) for the injury, except to the extent that the amount of any benefit payable under this Part exceeds the amount that would be payable to the insured, his spouse or personal representative under the *Employment Insurance Act* (Canada) for the same injury.

[am. B.C. Reg. 246/98, s. 4.]

Disability benefits for homemakers

- 84** (1) Subject to section 85 and subsection (2) of this section, where, within 20 days after an accident for which benefits are provided under this Part, an injury sustained in the accident substantially and continuously disables an insured who is a homemaker from regularly performing most of the insured's household tasks, the corporation shall compensate the insured for the period of the disability or 104 consecutive weeks, whichever is shorter, for reasonable expenses incurred by the insured to hire a person to perform the household tasks on the insured's behalf, subject to a maximum amount per week as set out in section 2 of Schedule 3.
- (2) No compensation is payable under this section in respect of household tasks performed by a member of the insured's family.

[en. B.C. Reg. 449/88, s. 13; am. B.C. Reg. 438/92, s. 13.]

Waiting period

- 85** (1) No disability benefits are payable under section 80 or 84 unless the insured is disabled for a period of more than 7 days.

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- (2) If the insured is disabled for more than 7 days, no disability benefit is payable by the corporation for the first 7 days after the disability commenced.

[am. B.C. Reg. 438/92, s. 14.]

Disability beyond 104 weeks

- 86** (1) Where an injury for which disability benefits are being paid to an insured under section 80 or 84 continues, at the end of the 104 week period, to disable the insured as described in the applicable section, the corporation shall, subject to subsections (1.1) and (2) and sections 87 to 90, continue to pay the applicable amount of disability benefits to an insured described in section 80 or 84

(a) for the duration of the disability, or

(b) until the insured reaches 65 years of age,

whichever is the shorter period.

- (1.1) Subsection (1) does not apply to an insured who, at the end of the 104 week period, has reached 65 years of age.

- (2) Where benefits are payable under the Canada Pension Plan or the Quebec Pension Plan to an insured during the period and in respect of a disability for which benefits are payable to the insured under this section, the amount payable each month under this section shall be reduced by an amount not exceeding the amount of the first regular monthly benefit cheque received by the insured under the Canada Pension Plan or the Quebec Pension Plan after the insured becomes eligible for benefits under this section, and that amount shall continue to be deducted notwithstanding that the amount payable to the insured under the Canada Pension Plan or the Quebec Pension Plan may be increased during the time the insured remains eligible for benefits under this section, but if the amount payable to the insured under the Canada Pension Plan or the Quebec Pension Plan decreases, the benefits payable under this section shall be increased accordingly.

- (3) Repealed. [B.C. Reg. 324/91, s. 21.]

- (4) Where an insured is receiving other disability payments as defined in section 81 and under the terms of the contract for payment of those other disability payments the payments are reduced by any amount received under the Canada Pension Plan or the Quebec Pension Plan, the reduction of disability payments under subsection (2) shall be prorated.

- (5) Where an insured who is an employed person returns to work but, because of injuries suffered in the accident, is incapable of earning the amount of his present disability benefits, the corporation will pay the difference between his disability benefits and the amount the insured is presently earning through his employment.

[am. B.C. Regs. 335/84, s. 20; 448/90, s. 14; 324/91, s. 21; 404/94, s. 12.]

Review of benefits

- 87** Any benefits payable under section 80, 84 or 86 may be reviewed every 12 months and terminated by the corporation on the advice of the corporation's medical adviser.

Medical or rehabilitation benefits

88 (1) Where an insured is injured in an accident for which benefits are provided under this Part, the corporation shall, subject to subsections (5) and (6), pay as benefits all reasonable expenses incurred by the insured as a result of the injury for necessary medical, surgical, dental, hospital, ambulance or professional nursing services, or for necessary physical therapy, chiropractic treatment, occupational therapy or speech therapy or for prosthesis or orthosis.

(1.1) Repealed. [B.C. Reg. 383/89, s. 14.]

(2) Where, in the opinion of the corporation's medical adviser, provision of any one or more of the following is likely to promote the rehabilitation of an insured who is injured in an accident for which benefits are provided under this Part, the corporation may provide any one or more of the following:

(a) funds to the insured once during the lifetime of the insured for the acquisition by the insured of one motor vehicle equipped as necessary and appropriate to its use or operation by the insured, the choice of make or model of vehicle to be in the sole discretion of the corporation;

(b) funds to the insured once during the lifetime of the insured for alterations to the insured's residence that are necessary to make the residence accessible to and usable by the insured, the style and cost of the alterations to be in the sole discretion of the corporation and the alterations to be limited to necessary ramps, a necessary lift, necessary bathroom alterations and, where the insured is a homemaker or a person who lives alone, necessary kitchen alterations;

(c) reimbursement to the insured for the costs of attendant care, other than care provided by a member of the insured's family, where the insured has returned to and is residing in the community but is not capable of performing some or all of the tasks necessary to sustain an independent lifestyle, the amount of the reimbursement to be limited to the lesser of

(i) the monthly cost of a group residence, including a long term care facility, that would be appropriate to the care needs of the insured as determined by the rehabilitation team, and

(ii) the monthly cost of attendant care required by the insured as a result of injuries from the motor vehicle accident, the level and type of which will be determined by the rehabilitation team using the same standards and criteria applied under the Long Term Care Program of the Continuing Care Division of the ministry of the minister responsible for the administration of the *Continuing Care Act*;

(d) reimbursement to the insured for costs incurred from time to time by the insured for the purchase and reasonable repair, adjustment or replacement of one or more of the following items:

(i) a wheelchair;

(ii) a medically prescribed bed for other than hospital use;

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- (iii) bowel and bladder equipment;
 - (iv) aids for communication, dressing, eating, grooming and hygiene;
 - (v) transfer equipment;
 - (vi) a ventilator;
 - (e) funds to the insured for vocational or other training that
 - (i) is consistent with the insured's pre-injury occupation and his post-injury skills and abilities, and
 - (ii) may return the insured as nearly as practicable to his pre-injury status or improve the post-injury earning capacity and level of independence of the insured;
 - (f) funds for any other costs the corporation in its sole discretion agrees to pay.
- (3) Before incurring an expense or obligation under subsection (2) for which the insured intends to request payment by the corporation, the insured shall obtain written approval from the corporation and the corporation may, before giving its approval, require the insured to submit such information as it considers necessary to assist it in making a decision.
- (4) The corporation is not liable to insure, repair, replace or maintain a motor vehicle acquired by an insured under subsection (2) (a) except in the course of an approved repair resulting from a subsequent claim for insured loss or damage to the vehicle.
- (5) The amount by which the liability of the corporation under this section is limited is the amount set out in section 3 of Schedule 3.
- (6) The corporation is not liable for any expenses paid or payable to or recoverable by the insured under a medical, surgical, dental or hospital plan or law, or paid or payable by another insurer.
- (7) The maximum amount payable by the corporation under this section for medical, surgical, dental, nursing or physical therapy services or for chiropractic treatment, occupational therapy or speech therapy listed in the payment schedules established by the Medical Services Commission under the *Medicare Protection Act* is the amount listed in the payment schedules for that service, treatment or therapy.
- (8) The corporation is not liable to pay for more than 12 physical therapy treatments for an insured for each accident unless, before any additional treatment is given, the corporation's medical advisor or the insured's medical practitioner certifies to the corporation in writing that, in his opinion, the treatment is necessary for the insured.

[am. B.C. Regs. 335/84, s. 21; 379/85, s. 33; 449/88, s. 14; 383/89, s. 14; 438/92, s. 15; 491/95, s. 15; 166/2006, Sch. s. 64; 4/2010, s. 3.]

Arbitration

- 89** For the purpose of section 88 (1), any dispute between the corporation and an insured as to whether or not an expense is reasonable, shall be submitted to arbitration under the *Commercial Arbitration Act*.

[am. B.C. Reg. 449/88, s. 15.]

Power to terminate benefits for refusal to undergo treatment or training

- 90** (1) Where, in the opinion of the corporation's medical adviser or vocational adviser and in the opinion of the medical practitioner attending an insured who is receiving benefits under section 80, 84, 86 or 88,

- (a) any medical, surgical or other similar treatment is likely to relieve in whole or part the disability of the insured, or
- (b) a retraining or educational program is likely to assist in the rehabilitation of the insured,

the corporation may require the insured, at the expense of the corporation, to undergo treatment or complete the program.

- (2) Subject to subsection (3), where an insured refuses to comply with a requirement under this section, the corporation may, after giving the insured at least 60 days' notice in writing, by registered mail, postage prepaid, addressed to the insured at his last address according to the corporation's records, terminate payment of benefits under section 80, 84, 86 or 88.

- (3) The insured may, within the period of 60 days mentioned in subsection (2), apply to a judge of the Supreme Court for an injunction against terminating the benefits on grounds that

- (a) the treatment the insured is required to undergo
 - (i) is unlikely to relieve the insured's disability, or
 - (ii) may injuriously affect the balance of the health of the insured, or
- (b) the program the insured is required to complete is not likely to assist in the rehabilitation of the insured.

[am. B.C. Reg. 335/84, s. 22.]

Funeral expenses

- 91** Where the death of an insured is caused by an accident described in section 79, the corporation shall, subject to section 88 (6), promptly reimburse for burial and funeral expenses not exceeding the amount set out in section 4 of Schedule 3.

Death benefits

- 92** (1) In this section and section 5 of Schedule 3:
"dependent child" includes

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- (a) a child of a parent who is not the head of household of which the child is a member but who is legally liable to support or contribute to the support of the child, and
- (b) for the purpose of payment of death benefits in respect of the death of an insured, a child of the insured who is born after the death of the insured and survives for 60 days after birth;

“head of household” includes an insured who was not, at the date of an accident resulting in the death of the insured, residing in the household of which the spouse of the insured was a member, but

- (a) was legally liable to contribute to the support of the household, and
- (b) during the 12 months immediately preceding the accident provided the major portion of the household’s income;

“spouse in household” includes an insured who was not, at the date of an accident resulting in the death of the insured, residing in the household of which the spouse of the insured was a member, but

- (a) was contributing or legally liable to contribute to the support of the household, or
- (b) would have been responsible for supporting and rearing the dependent children in the household if the spouse of the insured had died.

(2) Subject to section 94, the corporation shall pay a death benefit in an amount that is based on the age and status of a deceased insured as set out in section 5 of Schedule 3, where

- (a) the death of an insured is caused by an accident for which benefits are provided under this Part, and
- (b) the deceased insured is survived by
 - (i) a spouse, dependent child or dependent parent, or
 - (ii) a parent, where the deceased insured is a dependent child.

[am. B.C. Regs. 379/85, s. 34; 246/98, s. 5.]

Supplemental, additional and survivor’s death benefits

- 93**
- (1) Where the deceased insured is survived by a spouse and one or more dependants, or by more than one dependant, the corporation shall pay, in addition to the benefit payable under section 92, a supplemental death benefit in the amount set out in section 6 of Schedule 3 for each survivor, other than the first.
 - (2) Where the deceased insured is survived by a spouse or one or more dependants or by a spouse and one or more dependants, the corporation shall, in addition to the benefits payable under section 92, pay, for the period of 104 weeks after the death of the deceased insured,
 - (a) additional death benefits in the applicable amount set out in section 7 of Schedule 3 for the first survivor, and

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- (b) survivor's death benefits in the applicable amount set out in section 8 of Schedule 3 for each survivor, other than the first,
but the total amount payable under this subsection shall be reduced by the amount of any payment under sections 80 and 84.
- (3) Payments under this section terminate on the death of all survivors of the deceased insured.
- (4) No benefit is payable under this section unless a benefit is also payable under section 92.

Rules for payment of death benefits

- 94** (1) Any benefits payable under section 92 or 93 in respect of a spouse of a deceased insured shall be paid to that spouse.
- (2) Where a deceased insured is survived by more than one spouse, the total amount of benefits payable under sections 92 and 93 in respect of all spouses shall not exceed the amount that would have been payable
- (a) to the spouse having the greatest claim, or
 - (b) where the claims are equal, to one spouse
- if that spouse had been the only spouse and that amount shall be
- (c) divided equally among and paid to the spouses, if the deceased insured had the same status in relation to each spouse, or
 - (d) paid to the spouse in relation to whom the insured had the status of head of household, in any other case.
- (3) For the purpose of subsection (2), “**claim**” does not include any amount payable in respect of a dependant other than a spouse.
- (4) Any benefits payable under section 92 or 93 for or on behalf of a dependent child of a deceased insured where that child is
- (a) under the age of 19 shall be paid in accordance with section 32 of the Act, or
 - (b) 19 years of age or older shall be paid
 - (i) to the surviving spouse of the deceased insured if the surviving spouse has guardianship or custody of the dependent child,
 - (ii) where the deceased insured is survived by more than one spouse, to the spouse having guardianship or custody of the child, or
 - (iii) where there is no surviving spouse who has guardianship or custody of the dependent child, to the dependent child.
- (4.1) A benefit payable under section 92 in respect of the death of a dependent child must be divided equally among and paid to the surviving parents who at the time of the child's death had care and control of the child or were contributing regularly to the support of the child.

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- (5) Where a deceased insured is survived by dependants, the total amount of benefits payable under sections 92 and 93 shall be divided equally among and paid to the surviving dependants.
- (6) An entitlement to benefits payable under section 92 or 93 shall be determined as of the date of death of the insured.

[am. B.C. Regs. 379/85, s. 35; 449/88, s. 16; 383/89, s. 15; 324/91, s. 22; 385/2012, s. 2.]

Sixty day rule and common disaster

- 95** (1) Any benefits payable under section 92 or 93 shall be paid only to a person who survives the deceased insured by at least 60 days.
- (2) Where the death of the head of household and of a spouse or dependant of the head of the household is caused by a common disaster, any benefits payable under section 93 shall be paid only in respect of the death of the head of household.
- (3) The corporation may, in its sole discretion, waive the 60 day survival requirement under subsection (1).

[am. B.C. Reg. 448/90, s. 15.]

Restriction on benefits

- 96** The corporation is not liable to pay benefits under this Part in respect of the injury or death of a person
- (a) who is resident outside the Province and, at the time of the accident, is the occupant of a vehicle not described in an owner's certificate,
- (b) who, at the time of the accident, is
- (i) an occupant of or is struck by a vehicle that could not be licensed under the *Motor Vehicle Act* or *Commercial Transport Act* or that is of such design that if owned or operated in the Province could not be licensed under one of those Acts,
- (ii) the occupant of a vehicle exempted under section 43 or 44 of the Act, whether or not the vehicle is operated by a person named in a driver's certificate, or
- (iii) the occupant of a vehicle that is of such design that it could be licensed under the *Motor Vehicle Act*, the *Commercial Transport Act* or similar legislation of another jurisdiction, but that is in fact not licensed under the applicable legislation unless the occupant had reasonable grounds to believe that the vehicle was licensed,
- (c) who commits suicide or attempts to commit suicide, whether he is sane or insane,
- (d) Repealed. [B.C. Reg. 449/88, s. 17.]
- (e) who is the occupant of a vehicle that, at the time of the accident, is being used for an illicit or prohibited trade or transport, or

- (f) whose injury or death is caused, directly or indirectly, by sickness or disease, unless the sickness or disease was contracted as a direct result of an accident for which benefits are provided under this Part.

[am. B.C. Regs. 379/85, ss. 36 and 37; 449/88, s. 17.]

Notice of claim

- 97** (1) Where an accident occurs for which benefits are provided under this Part, the insured shall
- (a) promptly give the corporation notice of the accident,
 - (b) not later than 30 days from the date of the accident, mail to the corporation by registered mail, or deliver to the nearest claims centre of the corporation, a written report on the accident with particulars of the circumstances in which the accident occurred and the consequences of the accident, and
 - (c) within 90 days from the date of the accident furnish the corporation with a proof of claim in a form authorized by the corporation.
- (2) The corporation is not liable to an insured who, to the prejudice of the corporation, fails to comply with this section.

97.1 Repealed. [B.C. Reg. 166/2006, Sch. s. 65.]

Medical certificates

- 98** (1) An insured shall, on request of the corporation, promptly furnish a certificate or report of an attending medical practitioner, dentist, physiotherapist or chiropractor as to the nature and extent of the insured's injury, and the treatment, current condition and prognosis of the injury.
- (1.1) The certificate or report required by subsection (1) must be provided to the corporation
- (a) in any form specified by the corporation including, without limitation, narrative form, and
 - (b) in any format specified by the corporation including, without limitation, verbal, written and electronic formats.
- (2) The corporation is not liable to an insured who, to the prejudice of the corporation, fails to comply with this section.

[am. B.C. Regs. 408/87, s. 23; 491/95, s. 16.]

Medical examination

- 99** (1) An insured who makes a claim under this Part shall allow a medical practitioner, dentist, physiotherapist or chiropractor selected by the corporation, at the expense of the corporation, to examine the insured as often as it requires.
- (2) The corporation is not liable to an insured who, to the prejudice of the corporation, fails to comply with this section.

[am. B.C. Regs. 408/87, s. 24; 491/95, s. 17.]

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Autopsy

- 100** (1) Where death occurs as a result of an accident for which benefits are provided under this Part, the corporation may withhold benefits payable under section 92 or 93 until the insured claiming the benefits allows the corporation to order an autopsy or post mortem examination of the body of the deceased insured to be performed at the expense of the corporation.
- (2) Where death occurs a considerable time after the date of the accident and in circumstances that, in the opinion of the corporation, raise doubt as to whether the deceased insured died from natural causes or as a result of the accident, the corporation shall not pay any benefits under section 92 or 93 unless, before burial or cremation of the deceased insured, the insured claiming the benefits informs the corporation of the death and allows the corporation to order an autopsy or post mortem examination.
- (3) The corporation shall refer any dispute respecting an autopsy or post mortem examination to the chief coroner or another coroner appointed under the *Coroners Act*.

Time of payment

- 101** Benefits payable under this Part shall be paid by the corporation
- (a) in the case of weekly benefits, within 4 weeks after it receives proof of claim, and thereafter at 4 week intervals if the insured complies with sections 98 and 99 when required by the corporation, and
- (b) in any other case, within 60 days after it receives proof of claim.

Alteration of form of payment

- 102** The corporation may, at any time, make a lump sum payment of benefits or otherwise alter the form of payment to benefit the insured.

Limitation

- 103** (1) No person shall commence an action in respect of benefits under this Part unless
- (a) he has substantially complied with the provisions of sections 97 to 100 that are applicable to him, and
- (b) the action is commenced within 2 years after
- (i) the date of the accident for which the benefits are claimed,
- (ii) where benefits have been paid, the date he received the last benefit payment under this Part, or
- (iii) the date on which the corporation receives a notice under subsection (2).
- (2) If an insured makes a claim for benefits under this Part and the corporation has not made a payment in accordance with section 101, the insured may issue written notice to the corporation within 2 years of the date of the accident for

which the benefits are claimed of the insured's intention to commence an action in respect of benefits under this Part.

- (3) A notice referred to in subsection (2) must be
- (a) in the form established by the corporation, and
 - (b) sent by registered mail addressed to the claim office dealing with the insured's claim.

[am. B.C. Reg. 166/2006, Sch. s. 66.]

Other insurance

- 104** (1) If benefits
- (a) are provided under this Part and evidenced by an owner's certificate in respect of a vehicle involved in an accident, and
 - (b) are also provided under this Part and evidenced by an owner's certificate in respect of a vehicle not involved in the accident, or by a driver's certificate, the benefits described in paragraph (a) are primary and the benefits described in paragraph (b) are available only to the extent that the amount of those benefits exceeds the amount of benefits described in paragraph (a).
- (2) If an insured is also insured under vehicle insurance that provides compensation similar to benefits provided under this Part or similar benefits or insurance under similar legislation of another jurisdiction, the liability of the corporation for payment of benefits under this Part must be determined,
- (a) if a claim is made in respect of an accident that occurs in the Province, as if section 179 applied in respect of benefits provided under this Part, and
 - (b) if a claim is made in respect of an accident that occurs in another jurisdiction, as if the provisions of the legislation of that jurisdiction respecting terms, conditions and priorities of vehicle insurance applied in respect of benefits provided under this Part.

- (3) Subsection (2) does not apply in respect of benefits payable under section 80.

[am. B.C. Regs. 379/85, s. 38; 166/2006, Sch. s. 67.]

PART 8 – THIRD PARTY RIGHTS OCCASIONED BY UNINSURED OR UNIDENTIFIED MOTORISTS

Limit of liability

- 105** (1) The liability of the corporation for payment of all claims under section 20 or 24 of the Act arising out of the same accident, including in either case a claim for
- (a) prejudgment interest under the *Court Order Interest Act*,
 - (b) post-judgment interest under the *Interest Act* (Canada), and
 - (c) costs awarded by a court,

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shall, notwithstanding the number of claims or the number of people making claims, not exceed the amount set out in section 9 (1) of Schedule 3.

- (2) The liability of the corporation under section 24 (1) of the Act for recovery for property damage shall be limited to the amount by which the damage exceeds the amount set out in section 9 (2) of Schedule 3.

[am. B.C. Regs. 254/93, s. 2 (a); 166/2006, Sch. s. 68.]

Exclusion of other insured loss

- 106** (1) In this section, “**insured claim**” means any benefit, compensation similar to benefits, right to indemnity or claim to indemnity accruing to a person entitled to benefits, compensation or indemnity or to the personal representative or guardian of the person, and includes a benefit, compensation, right or claim

(a) under the *Workers Compensation Act* or a similar law or plan of another jurisdiction, unless

(i) the insured elects not to claim compensation under section 10 (2) of the *Workers Compensation Act* and the insured is not entitled to compensation under section 10 (5) of that Act, or

(ii) the Workers Compensation Board pursues its right of subrogation under section 10 (6) of the *Workers Compensation Act*,

(b) under the *Employment Insurance Act* (Canada), or

(c) of the government of Canada, the government of another province or territory of Canada, or the government of a foreign jurisdiction.

- (2) No amount shall be paid by the corporation under section 20 or 24 of the Act in respect of that part of a claim that is paid or payable as an insured claim.

- (3) Repealed. [B.C. Reg. 380/2000, s. 5.]

[am. B.C. Regs. 335/84, s. 23; 379/85, s. 39; 408/87, s. 25; 246/98, s. 4; 380/2000, s. 5; 166/2006, Sch. s. 69.]

Conditions of liability

- 107** (1) The corporation is not liable to an owner of a vehicle who makes a claim under section 24 of the Act for damage to the vehicle if the owner, without reasonable cause, has not

(a) within 48 hours after the discovery of the damage, made a report to the police of the circumstances in which the damage occurred,

(b) obtained the police case file number for the report, and

(c) on request of the corporation, advised the corporation of the police case file number.

- (2) The corporation is not liable in respect of

(a) a claim under section 20 or 24 of the Act for damage to a vehicle, or to a vehicle’s equipment or to property carried in or on a vehicle, arising while

the vehicle is, without the consent of the owner, in the possession of another, or

- (b) a claim under section 24 of the Act by the Province or Canada or by a municipality, public or private utility or other similar person in respect of damage to a highway or a structure or thing placed or maintained in, on, under or over a highway.

[am. B.C. Regs. 491/95, s. 18; 347/96, s. 4.]

Forms

- 108** The forms set out in Schedule 4 are prescribed for the purpose of section 20 of the Act.

PART 9

- 109** Repealed. [B.C. Reg. 166/2006, Sch. s. 70.]

- 110 to 112** Repealed. [B.C. Reg. 324/91, s. 25.]

- 113 to 125** Repealed. [B.C. Reg. 166/2006, Sch. s. 70.]

- 126** Repealed. [B.C. Reg. 324/91, s. 32.]

- 127 to 146.18** Repealed. [B.C. Reg. 166/2006, Sch. s. 70.]

PART 10 – FIRST PARTY COVERAGE

Division 1 – Inverse Liability and Uninsured or Hit and Run Accidents Outside British Columbia

Inverse liability

- 147** (1) In this section:

“**collision coverage**” means coverage for loss or damage caused by the upset of a vehicle or collision of a vehicle with another object, including a person or animal;

“**insured**” means

- (a) the person named as an owner in an owner’s certificate,
- (b) if the person referred to in paragraph (a) is deceased, the personal representative of that person,
- (c) a person who can supply written proof that he is the beneficial owner of a commercial vehicle described in an owner’s certificate, but who, because of the licensing requirements of interprovincial or interstate trade, is not named as the owner on the certificate, or
- (d) the renter of a vehicle described in an owner’s certificate;

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“**loss or damage**” means loss or damage to which collision coverage applies.

- (2) Where loss or damage occurs in Canada or the United States of America to a vehicle described in an owner’s certificate and the insured does not have a right of action under the law of the place where the loss or damage occurs or where the person responsible for the loss or damage resides, the corporation shall, subject to subsections (3) and (4), compensate the insured for the loss or damage in an amount equal to the amount of damages the insured would have recovered if the insured had had a right of action.
- (3) The limit of compensation under this section is, after allowance for salvage, the least of the following:
 - (a) the cost of repairing the vehicle;
 - (b) the declared value of the vehicle;
 - (c) the actual cash value of the vehicle.
- (4) Where a vehicle for which compensation is provided under this section is insured for own damage collision coverage under an optional insurance contract,
 - (a) compensation provided under this section proportionately reduces the collision deductible paid or payable by the insured under an optional insurance contract issued by the corporation, and
 - (b) no compensation is payable for loss or damage for which coverage is provided under an optional insurance contract by an insurer other than the corporation.
- (5) Any dispute between the insured and the corporation as to the degree of liability, if any, of the insured for loss or damage to a vehicle for which compensation is provided under this section shall be submitted to arbitration under the *Commercial Arbitration Act*.
- (6) Except as provided in this section, Part 13 applies in respect of a claim under this section.

[am. B.C. Regs. 449/88, s. 27; 166/2006, Sch. s. 71; 341/2007, s. 3.]

**Uninsured or hit and run accident in Nunavut, the Yukon,
Northwest Territories or United States of America**

148 (1) In this section:

“**insured**” means

- (a) a person named as an owner in an owner’s certificate,
- (b) a member of the household of a person mentioned in paragraph (a),
- (c) Repealed. [B.C. Reg. 257/86, s. 33.]
- (c.1) an insured as defined in section 42 who is not in default of premium payable under section 45, or
- (c.2) a member of the household of an insured described in paragraph (c.1),
and includes the personal representative of a deceased insured;

“unidentified vehicle” means a vehicle

- (a) that causes injury or death to an insured arising out of physical contact of the vehicle with the insured or the vehicle of which the insured is an occupant, and
- (b) in respect of which
 - (i) the names of both the owner and the driver are not ascertainable,
 - (ii) the name of the owner is not ascertainable and the vehicle has no driver, or
 - (iii) the name of the driver is not ascertainable and the owner is not liable for the actions of the driver;

“uninsured vehicle” means a vehicle the owner or driver of which is not insured under a vehicle liability policy, but does not include a vehicle owned by or registered in the name of

- (a) Repealed. [B.C. Reg. 379/85, s. 49.]
 - (b) the government of Canada, the United States of America, another state or country or political subdivision of a state or any corporation or agency owned or controlled by a government,
 - (c) a person who has given proof of financial responsibility in another jurisdiction in a manner similar to the manner prescribed by section 106 of the *Motor Vehicle Act*, or
 - (d) a person who is an authorized self-insurer within the meaning of a financial or safety responsibility law respecting motor vehicles.
- (2) Where death or injury of an insured arises out of the operation on a highway in Nunavut, the Yukon Territory, the Northwest Territories or the United States of America of an unidentified or uninsured vehicle, other than an uninsured vehicle owned by or registered in the name of the insured or a member of the same household as the insured, the corporation shall, subject to subsections (3), (4) and (7.1), compensate the insured, or a person who has a claim in respect of the death of the insured, for any amount he is entitled to recover as damages for the injury or death from the owner or driver of the unidentified or uninsured vehicle.
- (3) The liability of the corporation for payment of all claims under this section arising out of the same occurrence, including a claim for
- (a) prejudgment interest under the *Court Order Interest Act* or similar legislation of another jurisdiction,
 - (b) post-judgment interest under the *Interest Act* (Canada) or similar legislation of another jurisdiction, and
 - (c) costs awarded by a court,
- must not exceed the least of
- (d) the total amount of damages awarded in respect of the occurrence to all insured by the coverage,

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- (e) the amount by which liability is limited in section 11 of Schedule 3, and
 - (f) the minimum limits applicable to third party liability insurance coverage for injury or death in the jurisdiction in which the occurrence took place.
- (4) The corporation is not liable under this section
- (a) to an insured who has a right of recovery under an unsatisfied judgment fund or similar fund in any jurisdiction,
 - (b) to an insured who, to the prejudice of the corporation,
 - (i) before a payment is made under this section, commences in the Province or elsewhere an action for damages in respect of the injury or death and fails to file a copy of the originating process with the corporation within 60 days after the day the action is commenced, or
 - (ii) without the written consent of the corporation settles or prosecutes to judgment a claim against a person or organization that may be liable to the insured for the injury or death, or
 - (c) to an insured who is an operator of, or a passenger in or on, a vehicle that the insured knew or ought to have known was being operated without the consent of the owner.
- (5) The corporation is not liable under this section unless the insured or a representative of the insured,
- (a) with respect to an accident with an unidentified vehicle, reports the accident within 24 hours after its occurrence to a policeman, peace officer, judicial officer or the administrator of any law respecting motor vehicles,
 - (b) within 28 days after the occurrence, files with the corporation a statement under oath that the insured has a cause of action arising out of the accident against the owner or driver of an unidentified or uninsured vehicle and setting out the facts in support of that statement, and
 - (c) on the request of the corporation, allows the corporation to inspect the motor vehicle the insured occupied at the time of the occurrence.
- (6) Where an insured makes a claim under this section and against a person who is insured under Part 6, any payment made under this section shall be deducted from any amount the insured is entitled to recover from that person under Part 6.
- (7) Any benefits paid to an insured under Part 7 or under legislation of another jurisdiction providing similar benefits shall be deducted from any amount payable to the insured under this section.
- (7.1) No compensation shall be paid under this section in respect of that part of claim that is paid or payable as an insured claim as defined in section 106 (1).
- (8) The determination as to whether an insured is legally entitled to recover damages and, if so entitled, the amount of the damages, shall be made by agreement between the insured and the corporation, but any dispute as to whether the

insured is legally entitled to recover damages or as to the amount of damages shall be submitted to arbitration under the *Commercial Arbitration Act*.

(9) Section 148.2 (6) applies in respect of compensation provided under this section.

[am. B.C. Regs. 335/84, s. 34; 379/85, s. 49; 449/88, s. 28; 438/92, s. 17; 379/93, s. 9; 441/98, s. 12; 470/99, s. 3; 166/2006, Sch. s. 72.]

Division 2 – Underinsured Motorist Protection

Underinsured motorist protection

148.1 (1) In this section:

“**assigned corporate driver**” means a person assigned by the owner or renter named in an owner’s certificate to be the principal driver of a vehicle described in the owner’s certificate if

- (a) the owner or renter is not an individual, and
- (b) the assigned vehicle is a taxable benefit to the assigned person under the *Income Tax Act* (Canada);

“**deductible amount**” means an amount

- (a) paid or payable by the corporation under section 20 or 24 of the Act, or recoverable by the insured from a similar fund in the jurisdiction in which the accident occurs,
- (b) paid or payable under section 148,
- (c) paid or payable under Part 7 or under legislation of another jurisdiction that provides compensation similar to benefits,
- (d) paid directly by the underinsured motorist as damages,
- (e) paid or payable from a cash deposit or bond given in place of proof of financial responsibility,
- (f) to which the insured is entitled under the *Workers Compensation Act* or a similar law of the jurisdiction in which the accident occurs, unless
 - (i) the insured elects not to claim compensation under section 10 (2) of the *Workers Compensation Act* and the insured is not entitled to compensation under section 10 (5) of that Act, or
 - (ii) the Workers’ Compensation Board pursues its right of subrogation under section 10 (6) of the *Workers Compensation Act*,
- (f.1) to which the insured is entitled under the *Employment Insurance Act* (Canada),
- (f.2) to which the insured is entitled under the Canada Pension Plan,
- (g) paid or payable to the insured under a certificate, policy or plan of insurance providing third party legal liability indemnity to the underinsured motorist,
- (h) paid or payable under vehicle insurance, wherever issued and in effect, providing underinsured motorist protection for the same occurrence for which underinsured motorist protection is provided under this section,

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- (i) paid or payable to the insured under any benefit or right or claim to indemnity, or
- (j) paid or able to be paid by any other person who is legally liable for the insured's damages;

“insured” means

- (a) an occupant of a motor vehicle described in the owner's certificate,
 - (b) a person who is
 - (i) named as the owner or renter in the owner's certificate where that person is an individual,
 - (i.1) an assigned corporate driver, or
 - (ii) a member of the household of a person described in subparagraph (i) or (i.1),
 - (b.1) a person who is
 - (i) an insured as defined in section 42 and who is not in default of premium payable under section 45, or
 - (ii) a member of the household of an insured described in subparagraph (i), or
 - (c) a person who, in the jurisdiction in which the accident occurred, is entitled to maintain an action against the underinsured motorist for damages because of the death of a person described in paragraph (a), (b) or (b.1),
- and, for the purpose of the payment of compensation under this Division, includes the personal representative of a deceased insured;

“underinsured motorist” means an owner or operator of a vehicle who is legally liable for the injury or death of an insured but is unable, when the injury or death occurs, to pay the full amount of damages recoverable by the insured or his personal representative in respect of the injury or death.

- (2) Where death or injury of an insured is caused by an accident that
 - (a) arises out of the use or operation of a vehicle by an underinsured motorist, and
 - (b) occurs in Canada or the United States of America or on a vessel travelling between Canada and the United States of America,
 the corporation shall, subject to subsections (1), (5) and (6) and section 148.4, compensate the insured, or a person who has a claim in respect of the death of the insured, for any amount he is entitled to recover from the underinsured motorist as damages for the injury or death.
- (3) No coverage is provided under underinsured motorist protection to an insured who is
 - (a) the occupant of a vehicle that is in fact not licensed under the *Motor Vehicle Act*, the *Commercial Transport Act* or similar legislation of another juris-

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- diction, unless the insured has reasonable grounds to believe the vehicle is licensed,
- (b) an operator of, or a passenger in or on, a vehicle that the operator or passenger knew or ought to have known was being operated without the consent of the owner, or
 - (c) the occupant of a vehicle which is exempt under section 43 or 44 of the Act, whether or not the vehicle is operated by a person named in a driver's certificate.
- (4) Underinsured motorist protection does not apply to a hit and run accident unless
- (a) the hit and run accident occurs on a highway, and
 - (b) where the hit and run accident occurs in the Yukon, Northwest Territories or United States of America, there is actual physical contact between the insured or the vehicle occupied by the insured and the unidentified vehicle.
- (5) The liability of the corporation under this Division for payment under an owner's certificate or driver's certificate of all claims arising out of the same occurrence, including a claim for
- (a) prejudgment interest under the *Court Order Interest Act* or similar legislation of another jurisdiction,
 - (b) post-judgment interest under the *Interest Act* (Canada) or similar legislation of another jurisdiction, and
 - (c) costs awarded by a court or an arbitrator,
- shall not exceed
- (d) the total amount of damages awarded in respect of the accident to all persons insured under that owner's certificate or driver's certificate,
 - (e) the amount determined under section 148.2 (1), or
 - (f) the applicable amount set out in section 13 of Schedule 3,
- whichever is least, minus the sum of the applicable deductible amounts.
- (6) Sections 73 to 76 apply in respect of underinsured motorist protection.
- (7) Where more than one certificate provides underinsured motorist protection to an insured, the insured shall be compensated only under one such certificate.
- (8) Where, in the event of a claim, an insured has access to underinsured motorist protection coverage under both an owner's certificate and a driver's certificate, the insured shall be compensated under the owner's certificate.
- (9) Where, in the event of a claim, an insured has access to underinsured motorist protection coverage or similar insurance protection under vehicle insurance in another jurisdiction, the benefits of that coverage are primary and any benefits provided under this Division are available only to the extent that the amount of benefits provided by the certificate exceeds the amount of benefits provided by the primary insurance.

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- (10) An insured, or the personal representative of an insured, who, before the corporation settles a claim for injury or death of the insured arising out of the operation of a vehicle by an underinsured motorist, commences an action against the underinsured motorist, shall immediately serve the corporation with a copy of the notice of civil claim in the action.
 - (11) If an insured commences an action in British Columbia against a person who may be an underinsured motorist, the corporation may apply to the court to be added as a party to that action.
 - (12) If the laws of British Columbia applied to an action referred to in subsection (11), a judgment in the action by a court in British Columbia is binding on the corporation and on an arbitrator under section 148.2, whether or not the corporation makes an application under subsection (11).

[en. B.C. Reg. 324/91, s. 35; am. B.C. Regs. 379/93, s. 10; 271/97; 424/97, s. 4; 470/99, s. 4; 452/2003, s. 5; 166/2006, Sch. s. 73; 341/2007, s. 3; 156/2010, s. (b).]

Restrictions on liability

- 148.2** (1) Subject to subsection (1.1), the determination as to whether an insured provided underinsured motorist protection under section 148.1 is entitled to compensation and, if so entitled, the amount of compensation, shall be made by agreement between the insured and the corporation, but any dispute as to whether the insured is entitled to compensation or as to the amount of compensation shall be submitted to arbitration under the *Commercial Arbitration Act*.
- (1.1) A dispute about whether a person is an insured under this Division may be submitted to arbitration under the *Commercial Arbitration Act* regardless of whether there has been a determination that the injury or death of the person was caused by the use or operation of a vehicle by an underinsured motorist.
 - (2) Notwithstanding subsection (1), section 11 (1) (c) of the *Commercial Arbitration Act* does not apply in respect of an order for costs of an arbitration.
 - (2.1) An arbitrator who adjudicates a dispute under this section must publish the reasons for the decision by forwarding a copy of the reasons, with personal information that would identify the parties deleted, to the corporation for publication on its website.
 - (3) An arbitrator may make an order as to costs of an arbitration only on a party and party basis.
 - (4) The corporation is not liable under section 148.1
 - (a) in respect of an accident occurring in a jurisdiction of Canada or the United States of America in which the right to sue and recover damages for injury or death caused by a vehicle accident is barred by law, or
 - (b) to an insured who, without the written consent of the corporation and to its prejudice, settles or prosecutes to judgment an action against a person or organization that may be liable to the insured for injury or death.

- (4.1) The corporation is deemed to have provided consent under subsection (4) (b) if it does not respond within 90 days to a written request for consent that is sent by registered mail addressed to the claim office dealing with the insured's claim.
- (5) Where an insured has breached a condition under section 55 or has done or omitted to do anything and, as a result of the breach, action or omission, the insured disqualifies himself from receiving one or more of the amounts referred to in the definition of "deductible amount" in section 148.1 (1), the insured's claim under his underinsured motorist protection shall be reduced by the amount that the insured would, but for the breach, action or omission, have been entitled to.
- (6) Subject to subsection (1), where an accident for which a claim is made under section 148.1 occurs in another jurisdiction,
- (a) the law of the place where the insured suffered the injury for which the claim is made shall, whether or not death results from that injury, be applied
 - (i) to determine if the insured is legally entitled to recover damages and, if he is, the degree to which he is so entitled, and
 - (ii) in any arbitration proceedings arising out of a difference between the insured and the corporation as to whether the insured is legally entitled to recover damages or the degree to which he is so entitled, and
 - (b) the law of the Province shall be applied
 - (i) to determine the measure of any damages recoverable by the insured and to assess the amount of compensation payable to the insured, and
 - (ii) in any arbitration proceedings arising out of a difference between the insured and the corporation respecting the measure of any damages or the amount of compensation.

[en. B.C. Reg. 324/91, s. 35; am. B.C. Regs. 166/2006, Sch. s. 74; 212/2007.]

Underinsured motorist protection for other certificate holders

148.3 Where the underinsured motorist protection relates to a garage vehicle certificate, protection is extended to an officer or employee of the garage service operator who, in the course of his duties or employment, is an occupant of a customer's vehicle while the vehicle is being operated by its owner or is in the care, custody or control of the garage service operator.

[en. B.C. Reg. 324/91, s. 35; am. B.C. Regs. 441/98, s. 13; 166/2006, Sch. s. 24; 46/2007, Sch. 2, s. 1.]

Excluded vehicles

148.4 Coverage under this Division shall not apply to an owner's certificate issued to a vehicle while such vehicle is being used as a bus, taxi or limousine use vehicle.

[en. B.C. Reg. 324/91, s. 35.]

148.5 and **148.6** Repealed. [B.C. Reg. 452/2003, s. 6.]

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148.7 Repealed. [B.C. Reg. 166/2006, Sch. s. 75.]

PART 11 – ADDITIONAL PRODUCT CERTIFICATES**Compulsory additional products**

- 149** (1) Subject to section 15.7 and subsection (1.1) of this section, the corporation shall, on application and payment of the applicable premium, provide the following additional product certificates, each in the form established by the corporation:
- (a) unlicensed farm tractor certificate (APV-49);
 - (b) special agreement vehicle licence and certificate (APV-116A);
 - (c) manufacturer's licence and certificate (APV-31);
 - (d) trailer floater licence and certificate (APV-33);
 - (e) and (f) Repealed. [B.C. Reg. 324/91, s. 36.]
 - (g) owner's certificate for highway crossing permit (APV-37);
 - (h) combined non-resident commercial vehicle permit and certificate (APV-96);
 - (i) Repealed. [B.C. Reg. 33/2005, s. 5.]
 - (j) vintage motor vehicle certificate (APV-44);
 - (k) garage vehicle certificate (APV-4);
 - (l) combined certificate of registration of a non-resident motor vehicle and certificate (APV-97);
 - (m) binder for owner's interim certificate (APV-38);
 - (n) temporary operation permit and owner's certificate (APV-16);
 - (o) collector multi-vehicle certificate (APV-317);
 - (p) transporter's licence and certificate (APV-32);
 - (q) demonstration licence and certificate (APV-50);
 - (r) repairer's licence and certificate (APV-53);
 - (s) Repealed. [B.C. Reg. 126/2014, App. 1, s. 2 (d).]
 - (t) manuscript certificate (APV-284).
- (1.1) An additional product certificate referred to in subsection (1) (p), (q) or (r) may be issued only to
- (a) a garage service operator who holds a garage vehicle certificate (APV-4), or
 - (b) a person referred to in section 106 (2) of the *Motor Vehicle Act* who gives the corporation proof of financial responsibility in accordance with section 106 (2) (b) of that Act.
- (2) Subject to subsections (3) to (8), an additional product certificate issued under subsection (1) evidences coverage under Parts 6, 7 and 10 while a vehicle

covered by the certificate is being operated in accordance with the terms set out in the additional product certificate.

- (3) An implement of husbandry that is operated on a highway as a motor vehicle shall be insured under an unlicensed farm tractor certificate providing coverage under Parts 6 and 7 and Division 2 of Part 10.
- (4) An additional product certificate issued under subsection (1) (b) does not include coverage under Division 1 of Part 10.
- (5) An additional product certificate issued under subsection (1) (g) or (h) does not include coverage under Part 10.
- (6) An additional product certificate issued under subsection (1) (p), (q) or (r) to a person described in subsection (1.1) (a) evidences coverage under Part 6 that is limited to the amount specified in section 1 (2) (c) of Schedule 3 and does not include coverage under Part 7 or 10.
- (7) An additional product certificate issued under subsection (1) (p), (q) or (r) to a person described in subsection (1.1) (b) does not evidence coverage under Part 6, 7 or 10.
- (8) An additional product certificate issued under subsection (1) (t) evidences coverage under Parts 6, 7 and 10 only to the extent provided under the terms of the certificate.

[am. B.C. Regs. 408/87, s. 33; 449/88, s. 29; 383/89, s. 27; 324/91, s. 36; 33/2005, s. 5; 166/2006, Sch. s. 77, as am. by 46/2007, Sch. 1, s. 7; 126/2014, App. 1, s. 2 and App. 2, s. 10.]

Compulsory additional products for garage certificate

150 (1) In this section:

“**collision coverage**” means coverage for loss or damage caused by upset of a vehicle or collision of a vehicle with another object, including, but not limited to,

- (a) the surface of the ground, the roadway being travelled on or an object on, in, under, over or adjacent to the roadway, including a road sign, guard rail, pier, bridge or culvert or any body of water or waterway under or adjacent to the pier, bridge, culvert or roadway,
- (b) a pedestrian as defined in Part 3 of the *Motor Vehicle Act*,
- (c) a vehicle attached to the vehicle, and
- (d) cargo, including animals, carried in or on
 - (i) a commercial motor vehicle the gross vehicle weight of which exceeds 5 000 kg, or
 - (ii) a commercial trailer,

and includes coverage for loss or damage caused by collision with another object if the collision results from the presence on or adjacent to the roadway of a domestic or wild animal, either living or dead, but there is no impact with the animal;

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Part 11 – Additional Product Certificates

“comprehensive coverage” means coverage for loss or damage other than loss or damage to which collision coverage applies and includes coverage for loss or damage caused by missiles, falling or flying objects, lightning, fire, theft or attempted theft, earthquake, windstorm, hail, rising water, malicious mischief, riot or civil commotion or the stranding, sinking, burning, derailment, upset or collision of a conveyance in or on which a vehicle is being transported on land or water, vandalism and impact with a domestic or wild animal, either living or dead;

“specified perils coverage” means coverage for loss or damage caused by falling or forced landing of an aircraft or part of an aircraft, fire, lightning, theft or attempted theft, explosion, earthquake, windstorm, hail, rising water, riot or civil commotion or the stranding, sinking, burning, derailment, upset or collision of a conveyance in or on which a vehicle is being transported on land or water.

- (2) Subject to subsections (3), (4), (5) and (6), in addition to coverage specified in section 149 (2), a garage vehicle certificate provides to a garage service operator
- (a) collision coverage, and
 - (b) comprehensive or specified perils coverage

that provide indemnity for liability of the garage service operator for loss or damage to customers’ vehicles that are in his or her care, custody or control in accordance with the terms of the certificate.

- (3) A garage service operator must purchase collision coverage with a deductible amount of not more than \$1 000.
- (4) The minimum amount of comprehensive or specified perils coverage that must be purchased by a garage service operator is an amount equal to the total maximum value of all customers’ vehicles that may, at any one time, be in the care, custody or control of the garage service operator at all locations described in the garage vehicle certificate.
- (5) If, at the time of a claim, the amount of comprehensive or specified perils coverage purchased by a garage service operator is less than 90% of the amount of comprehensive or specified perils coverage that is required to be purchased under subsection (4), the garage service operator is a co-insurer with the corporation for any loss or damage to customers’ vehicles that are in the care, custody or control of the garage service operator.
- (6) If a garage service operator is a co-insurer under subsection (4), the amount of the co-insured portion of the loss or damage for which indemnity is provided by the corporation must be determined by the following formula:

$$\left(\frac{\text{A.C.}}{\text{T.V.C.V.}} \right) \times \text{loss} - \text{deductible} = \text{claim}$$

where

“**A.C.**” means the amount of comprehensive or specified perils coverage purchased by the garage service operator;

“**T.V.C.V.**” means the total value of all customers’ vehicles that are in the care, custody or control of the garage service operator when the loss or damage occurs;

“**loss**” means the cost of repairing those customers’ vehicles to which loss or damage has occurred, or, if the vehicles are not repairable, the actual cash value of the vehicles and their attached equipment;

“**deductible**” means the deductible amount applicable to the comprehensive or specified perils coverage;

“**claim**” means the amount of indemnity payable by the corporation to the garage service operator for the corporation’s portion of the loss or damage.

(7) A garage service operator who holds a garage vehicle certificate must, on application for transporter, demonstration or repairer’s number plates or for renewal, replacement, change or substitution of those number plates and the corresponding insurance,

- (a) produce for inspection by the corporation the garage vehicle certificate issued to the garage service operator, and
- (b) pay to the corporation the applicable premium.

[en. B.C. Reg. 166/2006, Sch. s. 78, as am. by 46/2007, Sch. 1, s. 8.]

Garage certificates are primary insurance

150.1 Indemnity provided by a garage vehicle certificate is primary insurance and any indemnity provided by an owner’s certificate issued in respect of a vehicle in the care, custody or control of a garage service operator is available to the owner of the vehicle only to the extent that the amount by which liability is limited under the owner’s certificate exceeds the amount by which liability is limited under the garage vehicle certificate.

[en. B.C. Reg. 166/2006, Sch. s. 78, as am. by 46/2007, Sch. 1, s. 9.]

Coverage for unnamed owner

151 Insurance coverage evidenced by any of the following additional product certificates includes as an insured the owner of a vehicle insured under the additional product certificate:

- (a) temporary operation permit and owner’s certificate (APV-16);
- (b) transporter’s licence and certificate (APV-32);
- (c) trailer floater licence and certificate (APV-33);
- (d) demonstration licence and certificate (APV-50);
- (e) repairer’s licence and certificate (APV-53).

[en. B.C. Reg. 166/2006, Sch. s. 79; am. B.C. Reg. 126/2014, App. 2, s. 11.]

152 and 153 Repealed. [B.C. Reg. 166/2006, Sch. s. 80.]

Expiry date of additional product certificate

- 154** An additional product certificate in a form listed in column A of Schedule 7 expires on the date indicated opposite the additional product certificate in columns B to E, as applicable.

[en. B.C. Reg. 126/2014, App. 1, s. 3; am. B.C. Reg. 126/2014, App. 2, s. 12.]

PART 12 – FLEETPLAN

Interpretation

- 155** (1) In this Part:

“**fleet**” means not less than the minimum number of vehicles established by the corporation that

- (a) are registered in the name of or are rented as leased vehicles from a person whose business is the renting of vehicles as leased vehicles to

(i) one person,

(ii) more than one corporation, if the corporations are parent and subsidiary, or

(iii) more than one person, if the persons jointly operate a taxi business and the vehicles are controlled by radio dispatch from one dispatching unit, and

- (b) are rated in a vehicle rate class designated by the corporation;

“**fleet operator**” means a person designated under section 157 as the operator of a fleet and includes every owner of a vehicle in the fleet;

“**owner**” includes an unregistered beneficial owner, lienholder, person who rents a vehicle as a leased vehicle or a person who rents a vehicle as a leased vehicle to another person.

[en. B.C. Reg. 166/2006, Sch. s. 82; am. B.C. Reg. 341/2007, s. 11.]

Fleetplan application

- 156** (1) In addition to applying under Part 2, a person may apply and, if a fleet comprises more vehicles than the number established by the corporation, must apply in the form established by the corporation to insure the vehicles as a fleet.
- (2) An application under subsection (1) must include all eligible vehicles.
- (3) A leased vehicle is not eligible to be insured as part of the fleet of the person renting the vehicle to another person but may, if the vehicle is otherwise eligible, be insured as part of the renter’s fleet.
- (4) The corporation shall not accept an application from a garage service operator unless the garage service operator also applies for or is insured by a garage vehicle certificate.

- (5) The requirement of subsection (1) applies in the insurance year in which the fleet identity number is issued and in any subsequent insurance year in which there are more vehicles in the fleet than the number established by the corporation.

[am. B.C. Regs. 449/88, s. 1; 404/94, s. 18; 441/98, s. 16; 166/2006, Sch. s. 83, as am. by 46/2007, Sch. 1, s. 10; 341/2007, s. 12.]

Designation of fleet operator and fleet identity number

- 157** On approval of an application made under section 156,
- (a) the applicant is designated as the fleet operator of the fleet for which the application was made,
 - (b) this Part and any other applicable provisions of this regulation apply to the fleet operator, and
 - (c) the corporation shall issue a fleet identity number.

Disclosure of fleet identity number

- 158** A fleet operator must set out the fleet identity number on every application for a new or renewed certificate or endorsement in respect of a vehicle in the fleet.

[en. B.C. Reg. 452/2003, s. 7.]

Continuation

- 159** (1) Every fleet identity number shall continue to apply in an insurance year subsequent to the insurance year in which it was issued unless it is cancelled under section 160 before the beginning of the next insurance year.
- (2) Where the number of vehicles in a fleet falls below the minimum number established by the corporation during an insurance year, the remaining vehicles shall be deemed to continue as a fleet under the same fleet identity number for the unexpired portion of the insurance year.

[am. B.C. Reg. 166/2006, Sch. s. 84.]

Cancellation

- 160** The corporation may, on the written request of the fleet operator, cancel a fleet identity number.

Responsibility of fleet operator

- 161** A fleet operator who is not the owner of a vehicle in the fleet for which he is designated fleet operator shall
- (a) be deemed to be duly authorized by an owner of the vehicle to act as the sole agent of the owner of the vehicle for the purposes of the Act and this regulation, and
 - (b) be as responsible to the corporation in respect of any matter relating to the vehicle as is the owner of the vehicle.

Designated expiry month

- 162** (1) The designated expiry month for a fleet is
- (a) March, June, September or December, where any vehicle in the fleet is licensed under section 5.02 of B.C. Reg. 30/78, or
 - (b) the designated expiry month selected by the fleet operator in an application under section 156, in any other case.
- (1.1) Notwithstanding subsection (1), the corporation may issue an owner's certificate for a vehicle in a fleet, other than a vehicle referred to in subsection (1) (a),
- (a) for a term of not less than 5 months plus one day and not more than 6 months, having an expiry date for that owner's certificate of the last day of the sixth month prior to the designated expiry month for the fleet, and
 - (b) for any renewal of an owner's certificate referred to in paragraph (a) having an expiry date of the last day of the designated expiry month for the fleet.
- (2) The corporation may, on written request by the fleet operator made not less than 3 months before the end of the designated expiry month, change the designated expiry month for the fleet unless
- (a) the designated expiry month was changed under this section during the 3 years preceding the date of the request.
 - (b) Repealed. [B.C. Reg. 404/94, s. 19.]
- (3) Where the period between the end of the old designated expiry month and the end of the new designated expiry month requested under subsection (2) is less than 3 months, the corporation may issue an owner's certificate for renewal of insurance for each vehicle in the fleet with an expiry date that changes the old designated expiry month to the new designated expiry month by means of 2 transitional renewal terms that together total not more than 14 months duration, one term being not less than 6 months and one term not less than 7 or more than 8, as the corporation may decide.
- (4) Where an owner's certificate is renewed under subsection (3), each transitional term shall, for the purpose of determining the loss experience of the fleet, be deemed to be one year.
- [am. B.C. Regs. 408/87, s. 38; 448/90, s. 26; 404/94, s. 19.]

163 and 164 Repealed. [B.C. Reg. 166/2006, Sch. s. 85.]

Power of attorney

- 165** The corporation may act as and shall be deemed to be the duly appointed attorney of the fleet operator for all purposes relating to the insuring of each vehicle in the fleet, including cancellation of insurance.

Cancellation of insurance on bankruptcy or winding up

- 166** (1) Where

- (a) a proposal is made or proceedings are brought to
 - (i) appoint a trustee or receiver for the property of a fleet operator,
 - (ii) change the effective control or name of a fleet, or
 - (iii) otherwise adversely change, wind up or terminate a fleet, and
- (b) no arrangement satisfactory to the corporation is made by the trustee, receiver, fleet operator or other responsible person to pay any earned but unpaid premium,

the corporation may immediately treat the premium as balance due.

- (2) Where the trustee, receiver, fleet operator or other responsible person fails, on demand of the corporation, to pay any balance due under subsection (1), the corporation may, notwithstanding section 15.7, immediately treat the balance due as being in default and cancel all insurance under this Part for the fleet.

[am. B.C. Reg. 383/89, s. 31.]

Fleet premium adjustment

- 167** (1) If an application to insure vehicles as a fleet has been approved under section 156, the corporation may, at the beginning of an insurance year, agree with the fleet operator to adjust at the end of that year the amount of premium payable for that year based on the total amount paid or payable by the corporation as a result of accidents that occurred during that year in respect of all vehicles in the fleet.

- (2) Repealed. [B.C. Reg. 166/2006, Sch. s. 85.]

[en. B.C. Reg. 441/98, s. 17; am. B.C. Reg. 166/2006, Sch. ss. 85 and 86.]

Fleet reporting policy

- 168** (1) Repealed. [B.C. Reg. 166/2006, Sch. s. 85.]
- (2) On receipt of the application and payment of the required premium, the corporation may, at its sole option, provide a fleet reporting certificate (APV-90) in the form established by it, with riders and endorsements.
 - (3) A fleet reporting certificate issued under this section provides, during the term of the fleet reporting certificate, coverage under Parts 6, 7 and 10, so long as the vehicles described in the fleet reporting certificate are operated in accordance with the terms and conditions set out in the fleet reporting certificate.
 - (4) Repealed. [B.C. Reg. 166/2006, Sch. s. 85.]
 - (5) A fleet operator who holds a fleet reporting policy shall, on application for number plates for the vehicles that comprise the fleet to which the fleet reporting policy is issued or for any renewal, replacement, change or substitution of those number plates and corresponding insurance, produce for inspection by the corporation the fleet reporting certificate issued to the fleet operator.

[en. B.C. Reg. 448/90, s. 28; am. B.C. Regs. 324/91, s. 39; 438/92, s. 21; 312/96, s. 1; 166/2006, Sch. ss. 85 and 87.]

INSURANCE (VEHICLE) REGULATION

Part 13 – Optional Insurance Contracts

PART 13 – OPTIONAL INSURANCE CONTRACTS**Application of terms and conditions**

- 169** (1) Subject to subsections (2) to (4), the terms and conditions in Schedule 10
- (a) are prescribed for optional insurance contracts that provide coverage that is not described in subsection (4),
 - (b) form part of those optional insurance contracts,
 - (c) apply only in respect of the coverage referred to in paragraph (a) that is provided by those optional insurance contracts, and
 - (d) must be printed on every policy evidencing those optional insurance contracts, other than an interim receipt, a renewal receipt or a binder, with the heading “Prescribed Conditions”.
- (2) Prescribed condition 4 does not form part of an optional insurance contract that does not provide third party liability insurance coverage.
- (3) Prescribed conditions 5, 6, 7 and 9 do not form part of an optional insurance contract that does not provide coverage for loss of or damage to the vehicle specified in the contract.
- (4) Prescribed conditions 10 and 11 of Schedule 10
- (a) are prescribed for optional insurance contracts that provide coverage that is the extension of the limit of coverage specified in a certificate or in a policy that extends the limit of coverage specified in a certificate, with or without prohibitions, exclusions or different limits of coverage that are permitted under 61 (1.1) of the Act, to a limit that is in excess of that provided by a certificate,
 - (b) form part of those optional insurance contracts, and
 - (c) must be printed on every policy evidencing those optional insurance contracts, other than an interim receipt, a renewal receipt or a binder, with the heading “Prescribed Conditions”.
- (5) If any of subsections (2) to (4) apply to a contract, the terms and conditions printed on a policy as required by subsection (1) or (4) may be renumbered consecutively.

[en. B.C. Reg. 166/2006, Sch. s. 88, as am. by 46/2007, Sch. 1, s. 11.]

What must be printed on an extension policy

- 170** (1) The following must be printed on every policy, other than an interim receipt, a renewal receipt or a binder, that evidences coverage that extends the limit of coverage specified in a certificate or another policy:
- Coverage provided by this contract that extends the limit of coverage that is specified in a certificate or a policy is provided on the same terms and conditions of the coverage that is extended, except in respect of a prohi-

bition, exclusion or different limit of coverage that is permitted by the *Insurance (Vehicle) Act*.

- (2) If the prescribed conditions are required to be printed on a policy under section 169, the words in subsection (1) must be printed on the policy immediately above the prescribed conditions.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Rounding of premiums and refunds

170.1 An optional insurance contract may include, as a term of the contract, either or both of the following with respect to any premium payable or refundable under prescribed condition 2 or 10:

- (a) that any premium or refund shall be rounded to the nearest dollar and an amount ending in 50¢ shall be raised to the next higher dollar;
- (b) that no payment shall be required and no refund shall be made if the rounded total is less than \$5.

[en. B.C. Reg. 46/2007, Sch. 2, s. 2.]

Extended underinsured motorist protection

- 171** (1) If an insured covered by extended underinsured motorist protection commences an action in British Columbia against a person who may be an underinsured motorist, the insurer may apply to the court to be added as a party to that action.
- (2) If the laws of British Columbia applied to an action referred to in subsection (1), a judgment in the action by a court in British Columbia is binding on the insurer and on an arbitrator under section 148.2 whether or not the insurer makes an application under subsection (1).

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Payment of costs and interest

172 If an optional insurance contract is evidenced by a vehicle liability policy, the insurer must, in addition to the amount by which liability is limited under the contract,

- (a) reimburse an insured for reasonable payments for emergency medical aid necessary to a person injured as the result of an accident for which indemnity is payable under the contract, if reimbursement is not provided to the insured under other vehicle insurance or by another insurer,
- (b) pay costs incurred for fire extinguishers, jacks or other necessary emergency equipment or supplies provided to the insured,
- (c) pay that proportion of the costs taxed against an insured in an action respecting a claim under the contract that
 - (i) the amount offered by the insurer as its total liability for indemnity to the insured under the contract in an offer to settle served in accordance with the Supreme Court Civil Rules

bears to

INSURANCE (VEHICLE) REGULATION

Part 13 – Optional Insurance Contracts

- (ii) the aggregate of all special and general damages awarded in respect of the occurrence for which the claim is made,
- (d) pay
 - (i) prejudgment interest under the *Court Order Interest Act* or similar legislation of another jurisdiction, and
 - (ii) post-judgment interest under the *Interest Act (Canada)* or similar legislation of another jurisdiction
 on that part of the judgment that is within the limit under the contract, and
- (e) if indemnity is provided to the insured under 2 or more optional insurance contracts and one or more of them is for excess insurance provided by an insurer other than the insurer named in the contract, contribute to the payment of expenses, costs and reimbursements for which provision is made in this section in accordance with the respective liabilities of that other insurer and the insurer named in the contract for
 - (i) damages awarded against the insured, or
 - (ii) the amount payable under a settlement made on behalf of the insured.

[en. B.C. Reg. 166/2006, Sch. s. 88; am. B.C. Reg. 156/2010, s. (a).]

Rights of insurer

173 Subject to section 79 of the Act, on assuming the defence of an action for damages brought against an insured, the insurer has exclusive conduct and control of the defence of the action and, without limiting the generality of the foregoing, the insurer is entitled to

- (a) appoint and instruct counsel to defend the action,
- (b) admit liability, in whole or in part, on behalf of the insured,
- (c) participate in any non-judicial process which has as its goal the resolution of a claim, and
- (d) compromise or settle the action.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Exceptions from liability

174 An insurer is not liable under an optional insurance contract evidenced by a vehicle liability policy for any liability for a general or special assessment, penalty or premium payable under the *Workers Compensation Act* or a similar law of another jurisdiction.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Nuclear energy hazards

175 (1) In this section, “**nuclear energy hazard**” means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act (Canada)*.

- (2) If an insured is covered under an optional insurance contract evidenced by a vehicle liability policy for loss or damage resulting from a nuclear energy hazard and is also covered against such 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 vehicle insurance is excess to the nuclear energy hazard liability insurance, and
 - (b) an unnamed insured under the contract of nuclear energy liability insurance may, in respect of such loss or damage, recover indemnity under that contract in the same manner and to the same extent as if named in it 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 it.
- (3) For the purposes 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 though the limits of liability under it have been exhausted.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Disputes about vehicle loss or damage

- 176** (1) In this section and in section 177, “**coverage dispute**” means, in relation to insurance against loss of or damage to a vehicle or the loss of use of a vehicle, a dispute between the owner and the insurer as to
- (a) the nature and extent of required repairs or replacement, or
 - (b) the amount payable in respect of direct loss of or damage to the vehicle.
- (2) Subject to subsection (3), a coverage dispute, unless resolved voluntarily by the parties to it, must be resolved by arbitration under section 177.
- (3) A coverage dispute must not be submitted for arbitration more than 2 years after the occurrence of the loss or damage.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Arbitration process

- 177** (1) If a coverage dispute is, under section 176 (2), required to be submitted to arbitration, the owner or the insurer may refer the matters in dispute to arbitration in accordance with the *Commercial Arbitration Act*.
- (2) If the owner and the insurer are unable to agree on the appointment of an arbitrator, the owner or the insurer may apply to the British Columbia Arbitration and Mediation Institute to appoint an arbitrator.
- (3) An arbitrator appointed under subsection (1) or (2) must,
- (a) within 7 calendar days after his or her appointment, serve notice of the appointment on the owner and the insurer, and
 - (b) promptly after his or her appointment,
 - (i) meet or communicate with the owner and the insurer,

INSURANCE (VEHICLE) REGULATIONPart 14 – Vehicle Actions

- (ii) gather relevant information,
 - (iii) set a schedule for submission of documents,
 - (iv) set a date on which an award will be made, and
 - (v) deliver the written award with full reasons and documentation by registered mail to the owner and the insurer.
- (4) The owner and the insurer must share equally any costs incidental to the arbitration, including the costs of the arbitrator.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Priority of claims

- 178** For the purpose of payment of claims under third party liability insurance coverage, claims arising out of injury or death have priority over claims arising from loss or damage to property to the extent of 90% of the amount by which liability is limited under the plan or optional insurance contract and, subject to section 77 (1) of the Act, claims arising out of loss or damage to property have priority over claims arising out of injury or death to the extent of 10% of the amount by which liability is limited under the plan or optional insurance contract.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

Other priorities

- 179** Subject to section 175, insurance coverage under an optional insurance contract evidenced by an owner's policy of the kind referred to in section 57.1 of the Act, is, in respect of liability arising from or occurring in connection with the ownership, use or operation of a vehicle owned by the insured named in the optional insurance contract and within the description or definition of the vehicle in the policy, primary insurance, and insurance under any other vehicle liability policy is excess insurance only.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

PART 14 – VEHICLE ACTIONS**Net income loss**

- 180** The deductions, tax credits and premiums prescribed for the purposes of the definition of “net income loss” in section 95 of the Act are
- (a) the deductions and tax credits under the *Income Tax Act* and the *Income Tax Act* (Canada) and the premiums under the *Employment Insurance Act* (Canada) that apply, in the period in respect of which the net income loss is to be calculated, to the person in respect of whom the calculation of net income loss is being made, or
 - (b) for a person referred to in paragraph (b) of the definition of “net income loss”, any deductions, tax credits and premiums that apply to the person in respect of whom the calculation of net income loss is being made

- (i) in the jurisdiction in which the person is liable to pay tax on income, and
- (ii) in the period in respect of which the net income loss is to be calculated.

[en. B.C. Reg. 166/2006, Sch. s. 88.]

PART 15 – LESSOR LIABILITY

When section 82.1 (1) of the Act does not apply

181 Section 82.1 (1) of the Act does not apply to the following:

- (a) a lessor of a taxi, bus or limousine use vehicle who is the owner of the taxi, bus or limousine use vehicle;
- (b) a lessor of a taxi, bus or limousine use vehicle who subleases or rents the taxi, bus or limousine use vehicle to another person.

[en. B.C. Reg. 341/2007, s. 13.]

SCHEDULES 1 AND 2

Repealed. [B.C. Reg. 166/2006, Sch. s. 89.]

SCHEDULE 3

LIMITS OF COVERAGE

(section 49.1 (1), 67 (1), 69, 80 (1), 84 (1), 88 (5), 91, 92 (1) and (2), 93 (1) and (2), 105 (1) and (2), 124 (3), 148 (3) and 148.1 (5))

Coverage under Part 4 or 6

1 (1) In this section:

“**extra-provincial truck undertaking**” means an extra-provincial truck undertaking as defined in the *Motor Vehicle Transport Act, 1987* (Canada);

“**freight**” includes personal property of every description that may be conveyed on a motor vehicle or trailer, but does not include a passenger’s personal baggage.

- (1.1) For the purpose of section 49.1 (1), the amount by which the liability of the corporation is limited is \$200 000.
- (2) For the purpose of section 67, the amount by which the liability of the corporation is limited for payment of indemnity to an insured in respect of claims arising out of an accident occurring on or after January 1, 1985, is,
 - (a) where the claims are made in respect of a bus, \$500 000, including personal baggage of passengers but not including any other freight,
 - (b) where the claims are made in respect of a taxi or a limousine use vehicle, \$300 000, including personal baggage of passengers but not including any other freight, and

- (c) in any other case, \$200 000.
- (3) Repealed. [B.C. Reg. 257/86, s. 41.]
- (4) Notwithstanding subsection (2) (c), for the purpose of section 67, the amount by which the liability of the corporation is limited for payment of indemnity to an insured in respect of claims arising out of an accident occurring on or after January 1, 1994, is,
- (a) where the claims are made in respect of an extra-provincial truck undertaking other than as described in paragraph (b), \$1 million, or
 - (b) where the claims are made in respect of an extra-provincial truck undertaking used for the transport of dangerous goods as described in section 4 (1) (b) of the Extra-Provincial Truck Undertaking Licencing Regulations made under the *Motor Vehicle Transport Act, 1987* (Canada), \$2 million.
- (5) Subject to subsection (6) and notwithstanding subsections (2) and (4), for the purpose of section 67, the amount by which the liability of the corporation is limited for payment of indemnity to an insured in respect of claims arising out of an accident occurring on or after January 1, 1995, is,
- (a) where the claims are made in respect of a bus, \$1 million, including the personal baggage of passengers but not including any other freight,
 - (b) where the claims are made in respect of a taxi or limousine use vehicle, \$1 million, including the personal baggage of passengers but not including any other freight,
 - (c) \$1 million, where the claims are made in respect of a commercial motor vehicle in excess of 5 000 kg gross vehicle weight, or a trailer, other than one described in paragraph (d), used for commercial purposes and required to be registered and licensed under the *Commercial Transport Act*, or
 - (d) \$2 million, where the claims are made in respect of a commercial motor vehicle in excess of 5 000 kg gross vehicle weight, or a trailer that is used for
 - (i) commercial purposes and required to be registered and licensed under the *Commercial Transport Act*, and
 - (ii) the transportation of dangerous goods as described in Schedule XII of the Transportation of Dangerous Goods Regulation under the *Transportation of Dangerous Goods Act* (Canada).
- (6) Subsection (5) does not apply to a certificate, policy or endorsement that was effective in 1994.

[am. B.C. Regs. 335/84, ss. (a) and (b); 257/86, s. 41; 324/91, s. 49; 379/93, s. 15; 404/94, s. 22; 491/95, s. 33 (a); 404/99, s. 3; 166/2006, Sch. s. 90.]

Disability benefits

- 2 The amount of any disability benefits

- (a) payable under section 80 in respect of an accident is \$300 a week, or
- (b) payable under section 84 in respect of an accident occurring on or after January 1, 1987 is \$145 a week.

[en. B.C. Reg. 383/89, s. 43; am. B.C. Reg. 448/90, s. 38.]

Medical or rehabilitation benefits

- 3** (1) For the purpose of section 88, the amount by which the liability of the corporation is limited is the amount set out in
- (a) the certificate providing coverage for the accident, or
- (b) if more than one certificate provides coverage, in the certificate providing the higher or highest limit or coverage.
- (2) Despite subsection (1), the amount by which the liability of the corporation is limited in respect of each insured injured
- (a) in the same occurrence on or after January 1, 1990 and before January 1, 2018 must not exceed \$150 000, and
- (b) in the same occurrence on or after January 1, 2018 must not exceed \$300 000.

[am. B.C. Regs. 379/85, s. 59; 383/89, s. 43; 105/2018.]

Funeral expenses

- 4** The maximum amount of funeral expenses that may be reimbursed under section 91 in respect of an accident occurring on or after January 1, 1996 is \$2 500.

[am. B.C. Regs. 383/89, s. 43; 491/95, s. 33 (b).]

Death benefits

- 5** Where an insured at the date of death resulting from a motor vehicle accident comes within an age group set out in column A of the following Table and the insured has the status set out in column B, C or D, the amount of death benefit payable under section 92 is the amount set out below that status and opposite that age group.

Column A	Column B	Column C	Column D
Age of Deceased	Head of Household	Spouse in Household	Dependent Child
	\$	\$	\$
Less than 5 years	–	–	500
5 to 9 years	–	–	1 000
10 to 18 years	5 000	2 500	1 500
19 and over	5 000	2 500	1 000

[am. B.C. Reg. 383/89, s. 43.]

Supplemental death benefits

- 6** The amount of a supplemental death benefit payable under section 93 is \$1 000.

Additional death benefits

- 7** The amount of an additional death benefit payable under section 93 (2) (a) in respect of an accident occurring on or after January 1, 1987 is \$145 a week.
[am. B.C. Regs. 335/84, s. 42; 379/85, s. 59; 257/86, s. 42.]

Survivor's benefits

- 8** The amount of a survivor's death benefit payable under section 93 (2) (b) in respect of an accident occurring on or after January 1, 1987 is \$35 a week.
[am. B.C. Regs. 335/84, s. 42; 257/86, s. 43.]

Claims under section 20 or 24 of the Act

- 9** (1) With respect to an accident occurring on or after January 1, 1985, for the purpose of section 105 (1), the amount by which the liability of the corporation is limited is \$200 000.
(2) With respect to an accident occurring on or after January 1, 2002, for the purpose of section 105 (2), the amount is limited to the amount by which the damage exceeds \$750.
[am. B.C. Regs. 335/84, s. 42; 254/93, s. 2; 259/2001, s. 7.]

Loss of use

- 10** The maximum amount of expenses that may be reimbursed under section 124 in respect of a theft occurring on or after January 1, 1995 is \$40 per day up to a total limit of \$800.
[am. B.C. Regs. 383/89, s. 43; 448/90, s. 38; 404/94, s. 23.]

Claims under section 148

- 11** With respect to an accident occurring on or after January 1, 1985, for the purpose of section 148 (3) (e), the amount by which the liability of the corporation is limited is \$200 000.
[am. B.C. Reg. 335/84, s. 42.]

Weekly benefit multiplier

- 12** For the purpose of section 80 (1) (b) (i) and (ii), the weekly benefit multiplier is as set out in Table 1.

Table 1 – Weekly Benefit Multiplier

(section 80 (1))

Column A Year of Accident	Column B Weekly Benefit Multiplier
1974	3.119
1975	2.906
1976	2.399
1977	2.134
1978	1.958

Column A Year of Accident	Column B Weekly Benefit Multiplier
1979	1.850
1980	1.727
1981	1.555
1982	1.369
1983	1.260
1984	1.199
1985	1.187
1986	1.161
1987	1.158
1988	1.131
1989	1.106
1990	1.034

[en. B.C. Reg. 448/90, s. 38; am. B.C. Reg. 438/92, s. 29.]

UMP coverage

- 13** For the purpose of Division 2 of Part 10, the limit of coverage for underinsured motorist protection is \$1 million per insured person.

[en. B.C. Reg. 324/91, s. 49; am. B.C. Regs. 113/92; 438/92, s. 30.]

SCHEDULE 3.1

Repealed. [B.C. Reg. 166/2006, Sch. s. 89.]

SCHEDULE 4

PRESCRIBED FORMS

(section 108)

Statutory Declaration (Application Under Section 20 of the *Insurance (Vehicle) Act*)
 Claims Division

CLAIM NUMBER	LOC.	RESOURCE NUMBER	

I, [name], of
 [address] (hereinafter called the “Applicant”), born the
 day of[month],[year], apply to the Insurance
 Corporation of British Columbia under section 20 of the *Insurance (Vehicle) Act*, and solemnly
 declare:

- 1 THAT the death of/bodily injury to, or loss of/damage to property of the Applicant was accidentally caused by or arose out of use or operation on a highway on the[day] day of[month],[year] at or near in the Province of British Columbia, of a motor vehicle (hereinafter called the “uninsured motor vehicle”) displaying

..... [prov. or state] plate [number] owned
by[name] of
.....[address] and driven by[name]
of [address].

- 2 THAT I am informed and believe that on the date and at the time of the death/bodily injury/loss of or damage to property described in paragraph one, the uninsured motor vehicle was not insured by a valid and subsisting Owner’s Certificate/Policy of Insurance.
- 3 THAT the Applicant is/was a resident of
.....[prov. or state] and as a result of the death/bodily injury, is not entitled to or protected by:
 - (a) BC Medical Insurance/BC Hospital Insurance/BC Workers’ Compensation benefits;
 - (b) Medical Insurance/Hospital Insurance/BC Workers’ Compensation under a public/private plan or law of this or any other jurisdiction.
- 4 THAT as a result of the death/bodily injury/loss of/damage to property, the Applicant is/is not entitled to indemnity from any public/private Insurance Company/Insurance Plan for the death/bodily injury/loss of/damage to property.

I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

DECLARED before me at)
In the Province of British Columbia, this)
.....day of A.D.) Applicant

.....
Signature

A Notary Public in and for the Province of British Columbia
A Commissioner for Taking Affidavits for British Columbia

CL-42 (111999) **Statutory Declaration**

[en. B.C. Reg. 132/2007.]

Statutory Notice – Section 20 Uninsured Motorist

			CERTIFIED MAIL NUMBER	
CLAIM NUMBER	LOC CODE	RESOURCE NAME	RESOURCE NUMBER	TELEPHONE NUMBER

Statutory Notice

Under Section 20 ‘Uninsured Vehicles’ of the *Insurance (Vehicle) Act*

Date Mailed

To

.....

and

.....

Take notice that on the day of,, the Insurance Corporation of British Columbia received a Statutory Declaration executed by applying for payment of damages arising from bodily injury to or death of a person or loss of or damage to property caused by or arising out of your ownership or your operation of an uninsured motor vehicle displaying a [province or state] number plate [licence number] owned by of [address] and driven by of [address] on a highway on the day of, at or near in the Province of British Columbia.

And further take notice that if within 14 days after receipt by you of this notice, which notice you are deemed to have received on the eighth day after mailing of the notice by the Corporation, you do not reply to the Corporation, either denying liability for the incident described above or making arrangements satisfactory to the Corporation for the disposition or settlement of the demand contained in or presented by the Application, the Corporation may settle with or consent to judgment in favour of any applicant or the Corporation may take such other action as is authorized by section 20 of the *Insurance (Vehicle) Act*, including paying all or part of a settlement or judgment, and upon further notice to you, the Corporation may demand reimbursement from you of the payments with interest thereon or the Corporation may take such other action as may be necessary to recover the amounts of the payments.

Insurance Corporation of British Columbia

Per

Return Address

.....

c.c Applicant

CL-263 (042007) Statutory Notice – Section 20 Uninsured Motorist

[en. B.C. Reg. 470/99, s. 6; am. B.C. Reg. 166/2006, Sch. s. 91.]

SCHEDULES 5 AND 6

Repealed. [B.C. Reg. 166/2006, Sch. s. 89.]

SCHEDULE 7

EXPIRY DATES OF ADDITIONAL PRODUCT CERTIFICATES

(sections 1 (1) and 154)

Column A	Column B	Column C	Column D	Column E
Additional Product Certificate	If Fleet, Last Day of Designated Expiry Month of Fleet	If Not Fleet, Expiry Date of Garage Vehicle Certificate	If Not Fleet, Expiry Date of Plate	Miscellaneous
APV-4	X			If not fleet, date specified on additional product certificate
APV-16				Date specified on additional product certificate
APV-31	X		X	
APV-32	X	X		
APV-33	X		X	
APV-37				Date specified on additional product certificate
APV-38				Date specified on additional product certificate
APV-44				Date specified on additional product certificate
APV-49	X			If not fleet, date specified on additional product certificate
APV-50	X	X		
APV-53	X	X		
APV-96				Date specified on additional product certificate
APV-97				Date specified on additional product certificate
APV-116A	X		X	
APV-284				Date specified on additional product certificate

Column A	Column B	Column C	Column D	Column E
Additional Product Certificate	If Fleet, Last Day of Designated Expiry Month of Fleet	If Not Fleet, Expiry Date of Garage Vehicle Certificate	If Not Fleet, Expiry Date of Plate	Miscellaneous
APV-317			X	

[en. B.C. Reg. 126/2014, App. 2, s. 13.]

SCHEDULES 8 AND 9

Repealed. [B.C. Reg. 166/2006, Sch. s. 89.]

SCHEDULE 10**PRESCRIBED CONDITIONS***(section 169)***Application and interpretation**

- 1** (1) In these conditions:
- “**insured**” means a person who, whether named or not, is insured by this optional insurance contract;
- “**territory**” means a territory established by the insurer;
- “**vehicle rate class**” means a vehicle rate class established by the insurer.
- (2) These conditions apply only in respect of coverage provided by this contract that does not extend the limit of coverage that is specified in a certificate or a policy to a limit that is in excess of that provided by the certificate or policy.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Changes during term of contract

- 2** (1) In this section, “**the territory in which the vehicle is primarily located when not in use**” means the territory in which the place where the vehicle is kept when not being driven is located.
- (2) The insured named in this contract must,
- (a) within 10 days after
- (i) the named insured’s address is changed from the address set out in this contract, or
- (ii) the named insured acquires a substitute vehicle for the vehicle described in this contract, or
- (b) before

- (i) the use of the vehicle described in this contract is changed to a use to which a different vehicle rate class applies than the vehicle rate class applicable to the use set out in this contract, or
 - (ii) a vehicle in respect of which the premium is established on the basis of the territory in which a vehicle of that vehicle rate class is used or principally used, as the case may be, is used or principally used in a different territory than that set out in this contract,
- report the change of address, vehicle, use or territory to the insurer, and pay or be refunded the resulting difference in premium.
- (3) If the premium for a vehicle is established on the basis of the territory in which the vehicle is primarily located when not in use and that territory as set out in this contract is changed, the insured named in this contract must, unless the vehicle is being used by the insured for vacation purposes, report the change to the insurer within 30 days of the change, and pay or be refunded the resulting difference in premium.

[en. B.C. Reg. 166/2006, Sch. s. 93; am. B.C. Reg. 46/2007, Sch. 1, s. 13.]

Prohibited use

- 3**
- (1) The insurer is not liable to an insured who breaches this condition or a subcondition of this condition.
 - (2) An insured must not operate a vehicle for which coverage is provided under this contract
 - (a) if the insured is not authorized and qualified by law to operate the vehicle,
 - (b) for an illicit or prohibited trade or transportation,
 - (c) to escape or avoid arrest or other similar police action, or
 - (d) in a race or speed test.
 - (3) An insured does not contravene subcondition (2) merely because the insured operates a vehicle in contravention of a restriction or condition imposed on his or her driver's licence by section 30.06 (2), 30.07 (1) or (3), 30.071 (1), 30.072 (1) (a) or (b), 30.08 (1), 30.10 (2) or (4) or 30.11 (1) of the Motor Vehicle Act Regulations, B.C. Reg. 26/58.
 - (4) An insured must not operate a vehicle for which coverage is provided under this contract contrary to the statements contained in the application for insurance for the vehicle, including, but not limited to,
 - (a) the use declared in the application for insurance for the vehicle,
 - (b) a statement relating to the time during which, and the territories in which, the vehicle may be operated, or
 - (c) a statement relating to the kind of goods, or number of passengers, that may be carried in or on the vehicle.

- (5) Use of a vehicle does not contravene subcondition (4) if the premium paid for the vehicle rate class applicable to the use set out in the application for insurance is greater than or equal to the premium established by the insurer for the vehicle rate class that is applicable to the use to which the vehicle is put.
- (6) An insured must not operate a motor vehicle for which coverage is provided under this contract if there is attached to the motor vehicle a trailer that is required to be registered and licensed under the *Motor Vehicle Act* or *Commercial Transport Act* and that is not registered and licensed under the *Motor Vehicle Act* or *Commercial Transport Act*.
- (7) An insured named in this contract must not permit the vehicle described in this contract to be operated by a person or for a purpose that breaches this condition or a subcondition of this condition or would breach this condition or subcondition of this condition if the person were an insured.
- (8) It is a breach of this condition if the injury, death, loss or damage in respect of which a claim is made by an insured is caused by or results from an intentional act of violence committed by the insured, while sane, by means of a vehicle.
- (9) It is a breach of this condition if
- (a) an insured is operating a vehicle while under the influence of intoxicating liquor or a drug or other intoxicating substance to such an extent that the insured is incapable of proper control of the vehicle,
 - (b) an insured is convicted of
 - (i) a motor vehicle related *Criminal Code* offence,
 - (ii) an offence under section 95 or 102 of the *Motor Vehicle Act*, or
 - (iii) an offence under a provision of the law of another jurisdiction in Canada or the United States of America that is similar to a provision referred to in subparagraph (i) or (ii),
 - (c) an insured is convicted of an offence committed
 - (i) before December 18, 2018 under section 253 (1) (b) of the *Criminal Code*,
 - (ii) under section 224 of the *Motor Vehicle Act*, or
 - (iii) under a provision of the law of another jurisdiction in Canada or the United States of America that is similar to a provision referred to in subparagraph (i) or (ii),and the accident in respect of which the insured's claim is made occurred during the insured's commission of the offence and while the insured was operating a vehicle, or
 - (d) an insured is convicted of an offence committed
 - (i) before December 18, 2018 under section 254 (5) of the *Criminal Code*,

- (ii) on or after December 18, 2018 under any of the following provisions of the *Criminal Code*:
 - (A) section 320.14 (1) (b);
 - (B) section 320.14 (2), as that section relates to an offence committed under section 320.14 (1) (b);
 - (C) section 320.14 (3), as that section relates to an offence committed under section 320.14 (1) (b);
 - (D) section 320.15 (1);
 - (E) section 320.15 (2), as that section relates to an offence committed under section 320.15 (1);
 - (F) section 320.15 (3), as that section relates to an offence committed under section 320.15 (1),
- (iii) under section 226 of the *Motor Vehicle Act*, or
- (iv) under a provision of the law of another jurisdiction in Canada or the United States of America that is similar to a provision referred to in subparagraph (i), (ii) or (iii),

and the accident in respect of which the insured's claim is made occurred within the 2 hours preceding the insured's commission of the offence and while the insured was operating a vehicle.

(10) In subcondition (9):

“convicted” includes being

- (a) convicted under the *Youth Criminal Justice Act* (Canada) for contravening
 - (i) a provision referred to in the definition of “motor vehicle related *Criminal Code* offence”,
 - (ii) in the case of a contravention occurring before December 18, 2018, under a provision referred to in subcondition (9) (c) (i) or (d) (i), or
 - (iii) in the case of a contravention occurring on or after December 18, 2018, under a provision referred to in subcondition (9) (d) (ii), and
- (b) convicted or the subject of a similar result in a jurisdiction of the United States of America under a law similar to the *Youth Criminal Justice Act* (Canada) for contravening a provision of a law of that jurisdiction referred to in subcondition (9) (b) (iii), (c) (iii) or (d) (iv);

“motor vehicle related *Criminal Code* offence” means any of the following offences that an insured commits while operating or having care or control of a vehicle or by means of a vehicle:

- (a) an offence under section 220 or 221 of the *Criminal Code*;
- (b) an offence committed before December 18, 2018 under any of the following provisions of the *Criminal Code*:
 - (i) section 249;

- (ii) section 252;
 - (iii) section 253 (1) (a);
 - (iv) section 255 (2);
 - (v) section 255 (3);
 - (vi) section 259 (4);
- (c) an offence committed on or after December 18, 2018 under any of the following provisions of the *Criminal Code*:
- (i) section 320.13 (1);
 - (ii) section 320.13 (2);
 - (iii) section 320.13 (3);
 - (iv) section 320.14 (1) (a);
 - (v) section 320.14 (2), as that section relates to an offence committed under section 320.14 (1) (a);
 - (vi) section 320.14 (3), as that section relates to an offence committed under section 320.14 (1) (a);
 - (vii) section 320.16 (1);
 - (viii) section 320.16 (2);
 - (ix) section 320.16 (3);
 - (x) section 320.18.

[en. B.C. Reg. 166/2006, Sch. s. 93; am. B.C. Regs. 3/2010, s. (b); 253/2018, s. 2.]

Requirements if loss or damage to persons or property

- 4** If this contract provides third party liability insurance coverage, the insured must
- (a) promptly give the insurer written notice, with all available particulars, of
 - (i) any accident involving death, injury, damage or loss in which the insured or a vehicle owned or operated by the insured has been involved,
 - (ii) any claim made in respect of the accident, and
 - (iii) any other insurance held by the insured providing coverage for the accident,
 - (b) on receipt of a claim, legal document or correspondence relating to a claim, immediately send the insurer a copy of the claim, document or correspondence,
 - (c) cooperate with the insurer in the investigation, settlement or defence of a claim or action,
 - (d) except at the insured's own cost, assume no liability and settle no claim, and
 - (e) allow the insurer to inspect an insured vehicle or its equipment or both at any reasonable time.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Requirements if loss of or damage to vehicle

- 5** (1) If loss of or damage to the vehicle insured under this contract occurs, the insured must, if the loss or damage is covered by this contract,
- (a) on the occurrence of loss or damage
 - (i) promptly notify the insurer of the loss or damage, and
 - (ii) file a written statement with the insurer setting out all available information on the manner in which the loss or damage occurred, and
 - (b) within 90 days after the occurrence of the loss or damage file a proof of loss.
- (2) The insurer may require that a proof of loss be sworn by the person filing it.
- (3) If loss of or damage to a vehicle that is covered by this contract occurs, the owner or operator of the vehicle
- (a) must, at the expense of the insurer, protect the vehicle as far as reasonably possible from further loss or damage, and
 - (b) until the insurer has had a reasonable opportunity to inspect the vehicle, must not, without the consent of the insurer, remove any physical evidence of the loss or damage to the vehicle or make any repairs to the vehicle, other than repairs that are immediately necessary to protect the vehicle from further loss or damage.
- (4) The insurer is not liable under this contract
- (a) for loss or damage resulting from the failure of an owner or operator to comply with subcondition (3) (a), or
 - (b) to an owner if the owner or an operator, to the prejudice of the insurer, contravenes subcondition (3) (b).
- (5) The liability of the insurer for payment of indemnity for loss or damage to the vehicle is limited to the amount by which
- (a) the cost of repairing or replacing the vehicle and its equipment or any part of it with material of a similar kind or quality,
 - (b) the declared value of the vehicle and its equipment, if appropriate, or
 - (c) the actual cash value of the vehicle and its equipment,
- whichever is least, exceeds the deductible amount set out in this contract.
- (6) The insurer is not liable for that part of the cost of repair or replacement that improves a vehicle beyond the condition in which it was before the loss or damage occurred.
- (7) The insurer may determine
- (a) whether a vehicle and its equipment or any part of it will be repaired or replaced, and
 - (b) whether to pay a garage service operator in respect of a repair or replacement instead of making a payment to the insured.

- (8) The liability of the insurer for loss or damage to an obsolete part of an insured vehicle, or a part the manufacturer does not have in stock, is limited to the price at which the part was last listed on the manufacturer's price list.
- (9) If the insurer replaces a vehicle or pays to an insured the declared value or actual cash value of a vehicle or its equipment or both, less any applicable deductible amount in accordance with subcondition (5),
- (a) the insurer is entitled, at its option, to the salvage in the vehicle or its equipment or both, and
 - (b) the insured must, on request of the insurer, execute any documents necessary to transfer to the insurer title to the vehicle or its equipment or both.
- (10) If an insured is a co-insurer under this contract of any loss or damage to a vehicle or its equipment or both,
- (a) the insurer has conduct of the sale or other disposition of the salvage in the vehicle or its equipment or both, and
 - (b) the insured is entitled to share in the proceeds of the sale or other disposition of the salvage in the vehicle or its equipment or both in the same proportion as the insured is a co-insurer of the loss or damage.
- (11) The insured must not leave a vehicle or its equipment or both with the insurer without its consent, refuse to take delivery of the insured's vehicle or its equipment or both from the insurer or otherwise abandon a vehicle or its equipment or both to the insurer without its consent.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Statutory declaration

- 6** (1) If required by the insurer, the insured must, on the occurrence of loss or damage for which coverage is provided by this contract, deliver to the insurer within 90 days after the occurrence 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 vehicle, the encumbrances on the vehicle, all other insurance, whether valid or not, covering the vehicle and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.
- (2) An insured who has filed a statutory declaration must
- (a) on request of the insurer, submit to examination under oath,
 - (b) produce for examination, at a reasonable time and place designated by the insurer, all documents in the insured's possession or control relating to the loss or damage, and
 - (c) permit copies of the documents to be made by the insurer.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Inspection of vehicle

- 7** The insured must permit the insurer at all reasonable times to inspect the vehicle and its equipment.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Time and manner of payment of insurance money

- 8** (1) The insurer must pay the insurance money for which it is liable under this contract within 60 days after the proof of loss or statutory declaration has been received by it or, if an arbitration is conducted under section 177 of the Insurance (Vehicle) Regulation, within 15 days after the award is rendered.
- (2) The insured must not bring an action to recover the amount of a claim under this contract unless the requirements of conditions 4, 5 and 6 are complied with and until the amount of the loss has been ascertained by an arbitrator under section 177, by a judgment after trial of the issue or by written agreement between the insurer and the insured.
- (3) Every action or proceeding against the insurer in respect of loss or damage for which coverage is provided under this contract must be commenced within 2 years from the occurrence of the loss or damage.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Who may give notice and proof of claim

- 9** Notice of a claim related to loss or damage of the vehicle may be given and proof of claim and a statutory declaration may be made
- (a) by the agent of the insured named in this contract in case of absence or inability of the insured to give the notice or make the proof or statutory declaration, if the absence or inability is satisfactorily accounted for, or
- (b) if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Termination

- 10** (1) This contract may be terminated
- (a) by the insured named on this contract at any time on request, and
- (b) by the insurer not less than
- (i) 5 days after the insurer gives written notice of termination to the insured in person, or
- (ii) 15 days after the insurer sends, by registered mail, written notice of termination to the last address of the insured according to the insurer's records.
- (2) On termination the insurer must refund the excess of premium actually paid by the insured over the proportionate premium for the expired time less any debt owed by the insured to the insurer, but in no event must the proportionate

premium for the expired time less any debt owed by the insured to the insurer be less than any minimum retained premium specified in this contract.

- (3) If this contract is terminated by the insurer, 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.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

Notice

- 11** (1) A written notice to the insurer may be delivered at, or sent by registered mail to, the head office of the insurer in British Columbia or to a person appointed as an agent by the insurer for the purpose of receiving notices.
- (2) Written notice may be given to the insured named in this contract by letter personally delivered to the insured or by registered mail addressed to the insured at the insured's latest address according to the insurer's records.
- (3) In this condition and condition 10, "**registered**" means registered in or outside Canada.

[en. B.C. Reg. 166/2006, Sch. s. 93.]

AMENDMENTS NOT IN FORCE

Insurance (Vehicle) Act

INSURANCE (VEHICLE) REGULATION, B.C. REG. 447/83

amended by B.C. Reg. 234/2018

effective April 1, 2019

APPENDIX 2

1 Section 1 (1) of the Insurance (Vehicle) Regulation, B.C. Reg. 447/83, is amended

(a) by adding the following definitions:

“acupuncturist” means a person entitled to practise acupuncture under the *Health Professions Act* or a similar law of another jurisdiction;

“chiropractor” means a person entitled to practise chiropractic under the *Health Professions Act* or a similar law of another jurisdiction;

“counsellor” means a person

- (a) who is a member in good standing of an association whose members provide the health care services of clinical or counselling psychology,
- (b) who holds a master’s degree or doctorate in psychology, psychiatry, social work or clinical or counselling psychology, and
- (c) whose health care services of clinical or counselling psychology are overseen by a person who is a member of a health profession as defined in the *Health Professions Act* or a similar law of another jurisdiction;

“dentist” means a person entitled to practise dentistry under the *Health Professions Act* or a similar law of another jurisdiction; ,

(b) by repealing the definition of “dependent child” and substituting the following:

“dependent child” means any of the following:

- (a) a person under 19 years of age for whose support an insured is legally liable and who is dependent on the insured for financial support;
- (b) a person 19 years of age or older who resides with an insured and receives most of the person’s financial support from the insured because of a mental or physical disability;
- (c) a child of an insured who is born after the death of the insured and survives for at least 60 days after birth; ,

(c) by repealing the definition of “head of household”,

(d) by adding the following definitions:

“kinesiologist” means a person

-
- (a) who is a member in good standing of an association whose members provide the health care services of kinesiology, and
 - (b) whose health care services of kinesiology are overseen by a person who is a member of a health profession as defined in the *Health Professions Act* or a similar law of another jurisdiction;

“massage therapist” means a person entitled to practise massage therapy under the *Health Professions Act* or a similar law of another jurisdiction;

“occupational therapist” means a person entitled to practise occupational therapy under the *Health Professions Act* or a similar law of another jurisdiction;

“physician” means the following:

- (a) a medical practitioner;
- (b) a person who is a registrant of a college under a similar law to the *Health Professions Act* in another jurisdiction;

“physiotherapist” means a person entitled to practise physical therapy under the *Health Professions Act* or a similar law of another jurisdiction;

“psychologist” means a person entitled to practise psychology under the *Health Professions Act* or a similar law of another jurisdiction; ,

(e) *in the definition of “rehabilitation” by striking out “of his injuries,” and substituting “of the injured person’s injuries,” and*

(f) *in the definition of “territory” by striking out “section 34 (1.1) of the Act” and substituting “section 34 (2) (a) of the Act”.*

2 Section 1 is amended by adding the following subsection:

(2.1) For the purposes of the definition of “health care practitioner” in section 1 (1) of the Act,

- (a) the following classes of persons are prescribed with respect to paragraph (c) of that definition:
 - (i) acupuncturist;
 - (ii) chiropractor;
 - (iii) dentist;
 - (iv) massage therapist;
 - (v) occupational therapist;
 - (vi) physiotherapist;
 - (vii) psychologist, and
- (b) the following classes of persons are prescribed with respect to paragraph (d) of that definition:
 - (i) counsellor;
 - (ii) kinesiologist.

3 *The heading of Part 2 is repealed and the following substituted:*

PART 2 – CERTIFICATES .

4 *Section 3 is amended by striking out “an owner’s certificate” and substituting “a certificate”.*

5 *Section 5 is repealed.*

6 *Section 7 is amended by striking out “do not” and substituting “does not” and by striking out “an owner’s certificate” in both places and substituting “a certificate”.*

7 *Section 9 (3) is amended by striking out “in the certificate” and substituting “in the owner’s certificate” and by striking out “on the owner’s certificate” and substituting “on the certificate”.*

8 *Section 11 (1) is amended*

(a) in the definition of “applicant” by striking out “a new or renewal certificate;” and substituting “a new owner’s certificate or renewal of an owner’s certificate;”, and

(b) by repealing the definitions of “base rate premium” and “certificate”.

9 *Section 78 is amended*

(a) by repealing the definitions of “chiropractor”, “dentist” and “head of house-hold”,

(b) in the definition of “homemaker” by striking out “the male or female member” and substituting “the member”, and

(c) by repealing the definitions of “medical practitioner” and “physiotherapist”.

10 *Section 79 is amended*

(a) in subsection (1) by striking out “that arises out of the use or operation of a vehicle and”, and

(b) in subsection (2) by striking out “unless he” and substituting “unless the cyclist or pedestrian” and by striking out “in a certificate.” and substituting “in an owner’s certificate or a driver’s certificate.”

11 *Section 87 is amended by striking out “medical adviser.” and substituting “medical advisor.”*

12 *Section 88 is amended*

(a) *by adding the following subsection:*

(0.1) In this section:

“**British Columbia consumer price index**” means the annual average All-items Consumer Price Index for British Columbia, as published by Statistics Canada under the authority of the *Statistics Act* (Canada);

“**fiscal year**” means the period beginning on April 1 in one year and ending on March 31 in the next year. ,

(b) *by repealing subsection (1) and substituting the following:*

(1) If an insured is injured in an accident for which benefits are provided under this Part, the corporation must, subject to this section, pay as benefits all reasonable expenses incurred by the insured as a result of the injury for necessary

- (a) health care services listed in Column A of Table 1 or Table 2, as applicable, of Schedule 3.1 and provided by the applicable health care practitioner,
- (b) occupational therapy provided by an occupational therapist, and
- (c) dental, hospital, ambulance and professional nursing services, speech therapy, prostheses and orthoses.

(c) *by adding the following subsections:*

(1.01) For the purposes of subsection (1) (a), a treatment of a health care service

- (a) that is in addition to the number of treatments listed in Column D of Table 1 of Schedule 3.1 corresponding to that health care service, or
- (b) that is provided more than 12 weeks after the date of the accident

is not a necessary health care service unless the corporation’s medical advisor or the insured’s physician certifies to the corporation in writing that, in the opinion of the medical advisor or physician, the treatment is necessary for the insured.

(1.2) Subject to subsection (1.3), the benefits paid under subsection (1) must not,

- (a) for each health care service referred to in subsection (1) (a), exceed the fee limit set out in Column B or C, as applicable, of Table 1 of Schedule 3.1 corresponding to that health care service,
- (b) for occupational therapy, exceed the fee limit of \$112 per hour, and
- (c) for each health care service referred to in subsection (1) (a) that is provided by a physician, exceed the fee limit set out in Column B of Table 2 of Schedule 3.1.

(1.3) For the fiscal year beginning on April 1, 2020, and for each fiscal year after that, each fee limit referred to in subsection (1.2) must be determined annually by multiplying

- (a) the fee limit amount for the immediately preceding fiscal year, and
- (b) the sum of
 - (i) 1, and

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- (ii) the annual percentage change in the British Columbia consumer price index, as determined under subsection (1.5) and rounded to the nearest 1/10 of a percentage point.
- (1.4) Despite subsection (1.3) (b) (ii), if the annual percentage change as determined under subsection (1.5) is a negative number, the annual percentage change is rounded up to zero.
- (1.5) The annual percentage change referred to in subsection (1.3) (b) (ii) must be calculated using the following formula:

$$APC = \frac{CPI1 - CPI2}{CPI2}$$

where

- APC = the annual percentage change in the British Columbia consumer price index;
- CPI1 = the sum of the 12 individual monthly British Columbia consumer price indexes for the consecutive 12 month period ending on December 31 of the fiscal year immediately preceding the fiscal year for which the fee limit is being determined;
- CPI2 = the sum of the 12 individual monthly British Columbia consumer price indexes for the consecutive 12-month period immediately preceding the 12 month period referred to in the description of CPI1.
- (1.6) The fee limit amount determined under subsection (1.3) must be rounded to the nearest dollar and an amount ending in .50 must be rounded up to the next dollar. ,
- (d) in subsection (2) by striking out “medical adviser,” and substituting “medical advisor,”**
- (e) in subsection (2) (c) (ii) by striking out “motor vehicle”,**
- (f) in subsection (2) by adding the following paragraph:**
- (d.1) reimbursement to the insured for costs incurred from time to time by the insured for the purchase of health care supplies or of health care services not referred to in subsection (1), not exceeding the amount set out in section 3 (3) of Schedule 3; ,
- (g) in subsection (2) (e) (i) by striking out “and his post-injury” and substituting “and post-injury”,**
- (h) in subsection (2) (e) (ii) by striking out “to his pre-injury status” and substituting “to the insured’s pre-injury status”,**

(i) *in subsection (6) by striking out “by another insurer.” and substituting “by another insurer, except expenses referred to in subsection (1) (a) and (b).”, and*

(j) *by repealing subsections (7) and (8) and substituting the following:*

(7) The maximum amount payable by the corporation under this section for health care services, except for the health care services listed in Column A of Table 1 or Table 2 of Schedule 3.1, is the amount set out in a payment schedule for that service established by the Medical Services Commission under section 26 of the *Medicare Protection Act*, as that schedule is amended from time to time, for that service.

13 *Section 90 (1) is amended by striking out “medical adviser or vocational adviser” and substituting “medical advisor or vocational advisor”.*

14 *Sections 92, 93 and 94 are repealed and the following substituted:*

Death benefits

- 92** (1) The corporation must pay, if the death of an insured is caused by an accident for which benefits are provided under this Part, a death benefit as follows:
- (a) if the deceased insured is survived by one spouse and no dependants, a single lump sum amount of \$30 000 payable to the spouse;
 - (b) if the deceased insured is survived by one spouse and one or more dependants,
 - (i) a single lump sum amount of \$30 000 payable to the spouse, and
 - (ii) a single lump sum amount of \$6 000 payable to each dependant;
 - (c) if the deceased insured is survived by more than one spouse and no dependants,
 - (i) a total amount of \$30 000 divided equally among the spouses and payable to each spouse, and
 - (ii) a single lump sum amount of \$6 000 payable to each spouse;
 - (d) if the deceased insured is survived by more than one spouse and one or more dependants,
 - (i) a total amount of \$30 000 divided equally among the spouses and payable to each spouse, and
 - (ii) a single lump sum amount of \$6 000 payable to each spouse and to each dependant;
 - (e) if the deceased insured is survived by no spouse and one dependant, a single lump sum amount of \$30 000 payable to the dependant;
 - (f) if the deceased insured is survived by no spouse and more than one dependant,
 - (i) a total amount of \$30 000 divided equally among the dependants and payable to each dependent, and

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- (ii) a single lump sum amount of \$6 000 payable to each dependant.
- (2) The corporation must pay a death benefit as set out in subsection (3) or (4), as applicable, if
- (a) the death of an insured is caused by an accident for which benefits are provided under this Part, and
 - (b) the deceased insured is a deceased dependent child within the meaning of subsection (8).
- (3) If the deceased insured is survived by one parent
- (a) who was legally liable to financially support the deceased insured and on whom the deceased insured was dependent, or
 - (b) with whom the deceased insured resided at the time of death and from whom the deceased insured received most of the insured's financial support because of a mental or physical disability,
- the corporation must pay a death benefit in a single lump sum amount of \$3 000 to the surviving parent.
- (4) If the deceased insured is survived by more than one parent
- (a) who was legally liable to financially support the deceased insured and on whom the deceased insured was dependent, or
 - (b) with whom the deceased insured resided at the time of death and from whom the deceased insured received most of the insured's financial support because of a mental or physical disability,
- the corporation must pay a death benefit in a total amount of \$3 000 divided equally among the surviving parents and payable to each surviving parent.
- (5) If
- (a) the death of an insured is caused by an accident for which benefits are provided under this Part,
 - (b) the deceased insured is a deceased dependent parent within the meaning of subsection (9), and
 - (c) the deceased insured is survived by a child with whom the deceased insured, at the time of death, resided and who provided most of the deceased insured's financial support,
- the corporation must pay a death benefit in a single lump sum amount of \$3 000 to the surviving child.
- (6) Any benefits payable under this section to a dependent child of a deceased insured must be paid in accordance with section 92 of the Act.
- (7) An entitlement to benefits payable under this section must be determined as of the date of the death of the insured.
- (8) For the purposes of subsection (2), **“deceased dependent child”** means any of the following:

-
- (a) a deceased insured who, at the time of death, was under 19 years of age and for whose support a parent was legally liable and who was dependent on the parent for financial support;
 - (b) a deceased insured who, at the time of death, was 19 years of age or older, resided with a parent and received most of the insured's financial support from the parent because of a mental or physical disability.
- (9) For the purposes of subsection (5), a **“deceased dependent parent”** means a deceased insured who was a parent who, at the time of death, resided with a child and received most of the insured's financial support from the child.

15 Section 95 is amended

- (a) *in subsection (1) by striking out “under section 92 or 93 shall be” and substituting “under section 92 must be”, and*
- (b) *by repealing subsection (2).*

16 Section 98 (1) is amended by striking out “shall” and substituting “must” and by striking out “medical practitioner, dentist, physiotherapist or chiropractor” and substituting “health care practitioner”.

17 Section 99 (1) is amended by striking out “shall” and substituting “must” and by striking out “medical practitioner, dentist, physiotherapist or chiropractor” and substituting “health care practitioner”.

18 Section 100 (1) and (2) is amended by striking out “under section 92 or 93” and substituting “under section 92”.

19 Section 103 is repealed and the following substituted:

Limitation

- 103** (1) An insured must not commence an action in respect of benefits under this Part unless
- (a) the insured has substantially complied with the provisions of sections 97 to 100 that are applicable to the insured, and
 - (b) the action is commenced as follows:
 - (i) if the insured has issued written notice to the corporation under subsection (3) and the corporation has issued a written response, the action must be commenced by the later of the following:
 - (A) within 3 months after the date of the response from the corporation;
 - (B) within 2 years after the date of the accident for which the benefits are claimed;

- (C) if benefits have been paid, within 2 years after the date the last benefit payment under this Part was made;
 - (ii) if the insured has issued written notice to the corporation under subsection (3) and the corporation has not issued a written response, subject to subsection (2), the action may be commenced at any time;
 - (iii) if the insured has not issued written notice to the corporation under subsection (3), the action must be commenced within 2 years after
 - (A) the date of the accident for which the benefits are claimed, or
 - (B) if benefits have been paid, the date the last benefit payment under this Part was made.
- (2) If the corporation issues a written response to a notice issued under subsection (3), the action must be commenced in accordance with subsection (1) (b) (i).
- (3) An insured may issue written notice to the corporation of the insured's intention to commence an action in respect of benefits under this Part if the insured makes a claim for benefits under this Part
- (a) that has been denied, or
 - (b) for which the corporation has not made a payment in accordance with section 101.
- (4) The notice referred to in subsection (3) must be
- (a) in the form established by the corporation,
 - (b) sent by registered mail addressed to the claim office dealing with the insured's claim, and
 - (c) received by the corporation within 2 years after the later of the following:
 - (i) the date of the accident for which benefits are claimed;
 - (ii) if benefits have been paid, the date the last benefit payment under this Part was made.
- (5) The written response by the corporation referred to in subsections (1) (b) (i) and (2) must be either personally delivered to the insured or forwarded to the insured by registered mail to the last known address of the insured.

20 *The following sections are added to Part 7:*

Transitional – disability benefits, funeral expenses and death benefits

- 104.1** (1) For the purposes of section 80 (1), the applicable amount of disability benefits set out in section 2 of Schedule 3
- (a) as it read immediately before April 1, 2019 continues to apply in relation to disability benefits payable by the corporation under section 80 (1) (a) under a certificate issued before April 1, 2019, and

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- (b) as it reads on April 1, 2019 applies in relation to disability benefits payable by the corporation under section 80 (1) (a) under a certificate issued on or after April 1, 2019.
- (2) For the purposes of section 84, the maximum amount per week as set out in section 2 of Schedule 3
 - (a) as it read immediately before April 1, 2019 continues to apply in relation to disability benefits for homemakers payable by the corporation under section 84 (1) under a certificate issued before April 1, 2019, and
 - (b) as it reads on April 1, 2019 applies in relation to disability benefits for homemakers payable by the corporation under section 84 (1) under a certificate issued on or after April 1, 2019.
 - (3) For the purposes of section 91, the amount set out in section 4 of Schedule 3,
 - (a) as it read immediately before April 1, 2019 continues to apply in relation to burial and funeral expenses payable by the corporation under section 91 under a certificate issued before April 1, 2019, and
 - (b) as it reads on April 1, 2019 applies in relation to burial and funeral expenses payable by the corporation under section 91 under a certificate issued on or after April 1, 2019.
 - (4) Sections 92 and 93 and sections 5 and 6 of Schedule 3 as they read immediately before April 1, 2019 continue to apply in relation to death benefits payable by the corporation under those sections under a certificate issued before April 1, 2019, and section 92 as it reads on April 1, 2019 applies in relation to death benefits payable by the corporation under that section under a certificate issued on or after April 1, 2019.

Transitional – medical or rehabilitation benefits

- 104.2** Section 88 as it reads on April 1, 2019 applies in relation to medical or rehabilitation benefits payable under section 88 under a certificate that is valid on April 1, 2019 regardless of the date of issue of the certificate or the date of the accident.

Transitional – limitation

- 104.3** Section 103 as it read immediately before April 1, 2019 continues to apply in relation to an action in respect of benefits under this Part in relation to an accident that occurred before April 1, 2019, and section 103 as it reads on April 1, 2019 applies in relation to an action in respect of benefits under this Part in relation to an accident that occurs on or after April 1, 2019.

21 *Section 148.2 (4) (a) is amended by striking out “a vehicle accident” and substituting “an accident”.*

22 *Section 154 is repealed.*

- 23 *Section 168 (5) is amended by striking out “policy” in both places and substituting “certificate”.*
- 24 *Section 2 of Schedule 3 is amended*
- (a) in paragraph (a) by striking out “\$300” and substituting “\$740”, and*
- (b) in paragraph (b) by striking out “\$145” and substituting “\$280”.*
- 25 *Section 3 of Schedule 3 is amended by adding the following subsections:*
- (3) The maximum amount that may be reimbursed under section 88 (2) (d.1) for health care supplies, health care services or a combination of health care supplies and health care services is \$1 000.
- (4) The amount referred to in subsection (3) is part of the maximum amounts set out in subsection (2).
- 26 *Section 4 of Schedule 3 is amended by striking out “\$2 500.” and substituting “\$7 500.”*
- 27 *Sections 5, 6, 7 and 8 of Schedule 3 are repealed.*
- 28 *The following Schedule is added:*

SCHEDULE 3.1

HEALTH CARE SERVICES, FEE LIMITS AND PRE-AUTHORIZED TREATMENTS

Definition

- 1 In this Schedule, “registered care advisor” has the same meaning as in the Minor Injury Regulation.

Table 1

Item	Column A Health Care Service	Column B Fee Limit for Assessment Visit and Report	Column C Fee Limit for Standard Treatment	Column D Number of Pre- Authorized Treatments
1	Acupuncture	\$105	\$88	12
2	Chiropractic	\$199	\$53	25
3	Counselling	\$210	\$120	12
4	Kinesiology	\$135	\$78	12
5	Massage therapy	\$107	\$80	12

Item	Column A Health Care Service	Column B Fee Limit for Assessment Visit and Report	Column C Fee Limit for Standard Treatment	Column D Number of Pre- Authorized Treatments
6	Physiotherapy	\$250	\$79	25
7	Psychology	\$340	\$195	12

Table 2

Item	Column A Health Care Service Provided by Physician	Column B Fee Limit for Health Care Service Provided by Physician
1	Standard assessment and report	\$120
2	Extended assessment and report	\$325
3	Re-assessment and report	\$210
4	Initial registered care advisor assessment and report	\$380
5	Follow-up registered care advisor assessment	\$120

29 *Schedule 7 is repealed.*

AMENDMENTS NOT IN FORCE

Insurance (Vehicle) Act

INSURANCE (VEHICLE) REGULATION, B.C. REG. 447/83

amended by B.C. Reg. 173/2018
effective September 1, 2019

SCHEDULE

1 *Section 1 (1) of the Insurance (Vehicle) Regulation, B.C. Reg. 447/83, is amended by repealing the definition of “principal operator”.*

2 *Section 11 (1) is repealed.*

3 *The following section is added:*

Premiums triggered by accidents involving unlisted drivers

15.41 (1) The corporation may assess a premium against an applicant to whom an owner’s certificate has been issued, in addition to any premium assessed for the certificate before it was issued, if

- (a) the vehicle specified in the certificate is involved in an accident while the certificate is valid, and
- (b) at the time of the accident, the driver of the vehicle is not named on the certificate as a driver of the vehicle.

(2) A premium may be assessed under subsection (1) whether or not the certificate is valid when the premium is assessed.

(3) A person against whom a premium is assessed under subsection (1) must pay the amount of the premium by the date specified by the corporation and the amount is a debt due and owing to the corporation on that date.

4 *Section 15.7 is amended*

(a) in subsection (2) (a) by striking out “any certificate” and substituting “an owner’s certificate”, and

(b) in subsection (3) (c) (ii) by striking out “a certificate” and substituting “an owner’s certificate”.

5 *Section 15.9 is amended by striking out “types of certificates” and substituting “classes of certificates”.*

6 *Division 3 is repealed.*

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