

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 021

, Approved and Ordered January 22, 2021


Lieutenant Governor

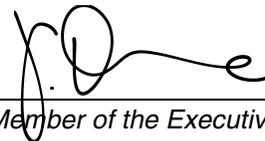
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that

- (a) sections 38 and 40 of the *Attorney General Statutes (Vehicle Insurance) Amendment Act, 2020*, S.B.C. 2020, c. 10, are brought into force,
- (b) effective May 1, 2021, sections 4 to 8, 10 to 12, 16, 19 to 21, 24, 25, 28, 29, 33, 35, 37, 39, 41 and 42 of the *Attorney General Statutes (Vehicle Insurance) Amendment Act, 2020*, S.B.C. 2020, c. 10, are brought into force, and
- (c) effective May 1, 2021, the attached Basic Vehicle Damage Coverage Regulation is made.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section: *Attorney General Statutes (Vehicle Insurance) Amendment Act, 2020*, S.B.C. 2020, c. 10, s. 43
Insurance (Vehicle) Act, R.S.B.C. 1996, c. 231, ss. 180 and 181

Other:

R10469433

BASIC VEHICLE DAMAGE COVERAGE REGULATION

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PART 1 – DEFINITIONS

Definitions for regulation

1 In this regulation:

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

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

“**amphibious vehicle**” has the same meaning as in section 1 (1) of the *Insurance (Vehicle) Regulation*;

“**authorized trailer**” means any of the following:

- (a) a motor vehicle that is registered and licensed as a trailer under the *Motor Vehicle Act* or the *Commercial Transport Act*;
- (b) a motor vehicle with respect to which a permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act* to be operated as a trailer;
- (c) a motor vehicle that is registered as a trailer in a jurisdiction outside British Columbia for which licensing requirements of the jurisdiction in which the vehicle is registered are fulfilled;

“**combination of vehicles**” means every combination of a vehicle with another vehicle;

“**element of race or speed test**” has the same meaning as in section 2 (2) of the *Insurance (Vehicle) Regulation*;

“**garage service operator**” has the same meaning as in section 1 (1) of the *Insurance (Vehicle) Regulation*;

“**household**” has the same meaning as in section 1 (1) of the *Insurance (Vehicle) Regulation*;

“**lien holder**” 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 an eligible vehicle if the person has registered a financing statement in the personal property registry;

“**net actual cash value**” means the amount determined by subtracting the price received, or the estimated price that would have been received, from the sale of a damaged vehicle from the actual cash value of the vehicle;

“**non-motive trailer**” means a trailer that is not a motor vehicle;

“**out-of-province lessee**” means a person who leases or rents a vehicle, that is owned by a person in a jurisdiction outside British Columbia in accordance with the law of that jurisdiction, from an out-of-province lessor for a period of not less than one month;

“**out-of-province lessor**” means the following:

- (a) subject to paragraph (b), a person who, under an agreement in writing and in the ordinary course of the person’s business, leases or rents a vehicle, that is owned by a person in a jurisdiction outside British Columbia in

accordance with the law of that jurisdiction, to another person for a period of not less than one month;

(b) if the lessor referred to in paragraph (a) has assigned the agreement, the assignee;

“**out-of-province owner**” has the same meaning as in section 178 (1) of the Act;

“**personal property registry**” means the personal property registry established under the *Personal Property Security Act*;

“**road building machine**” has the same meaning as in section 1 of the *Commercial Transport Act*;

“**short-term rental agency**” means a person that, under an agreement in writing and in the ordinary course of the person’s business, leases or rents a vehicle to another person for a period of less than one month;

“**short-term renter**” means a person who rents or leases a vehicle from a short-term rental agency for a period of less than one month;

“**total loss**” means the condition of a vehicle that exists

(a) when it is damaged to an extent that it cannot be repaired, or

(b) when it could be repaired but the cost of repairs exceeds the net actual cash value of the vehicle.

Definitions for Part 11 of Act and regulation

2 In Part 11 of the Act and this regulation:

“**insured**” means

(a) a 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 provide written proof that the person 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,

(d) the renter named in an owner’s certificate, or

(e) a person who owns a vehicle if a certificate is issued to another person and the certificate provides coverage under Part 11 of the Act in relation to the vehicle;

“**loss of use**” means the cost of the use of transportation required because a person is not able to use a vehicle due to damage to or loss of the vehicle.

Prescribed class of vehicles for definition of “included vehicle”

3 For the purposes of the definition of “included vehicle” in section 170 (1) [*definitions*] of the Act, the following classes of vehicles are prescribed:

(a) trailers while being drawn otherwise than by vehicle power or human power;

(b) vehicles being operated by remote control without a driver in the vehicle;

- (c) aircraft except when the aircraft are being drawn as a trailer on a highway;
- (d) vehicles 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;
- (e) amphibious vehicles when being used in or upon water, when docked or floating in water, or when being launched into or landed from water;
- (f) vehicles that are being carried in or on another vehicle and are
 - (i) excluded vehicles, or
 - (ii) vehicles that are not any of the following:
 - (A) vehicles registered and licensed under the *Motor Vehicle Act* or the *Commercial Transport Act*;
 - (B) vehicles with respect to which a permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*;
 - (C) vehicles registered in a jurisdiction outside British Columbia for which licensing requirements of the jurisdiction in which the vehicle is registered are fulfilled;
- (g) vehicles described in section 2 (2) of the *Motor Vehicle Act*.

Prescribed class of vehicles for definition of “licensed vehicle”

- 4** For the purposes of paragraph (a) (iii) of the definition of “licensed vehicle” in section 170 (1) of the Act, the following classes of vehicles are prescribed:
- (a) vehicles licensed under section 9 of the *Motor Vehicle Act* while the vehicles are being operated off-highway;
 - (b) trailers while being drawn otherwise than by vehicle power or human power;
 - (c) vehicles being operated by remote control without a driver in the vehicle;
 - (d) aircraft except when the aircraft are being drawn as a trailer on a highway;
 - (e) vehicles 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;
 - (f) amphibious vehicles when being used in or upon water, when docked or floating in water, or when being launched into or landed from water;
 - (g) vehicles that are fitted with wheels of the crawler type, including track conversion kits, rubber track conversion systems and rubber tracked crawlers, while the vehicles are being operated off-highway, except if those vehicles are licensed under section 10 of the *Motor Vehicle Act*;
 - (h) authorized trailers when being used or operated otherwise than as a trailer.

**Prescribed class of vehicles for
definition of “non-standard motor vehicle”**

- 5** For the purposes of the definition of “non-standard motor vehicle” in section 170 (1) of the Act, the following classes of motor vehicles are prescribed as excluded from being a non-standard motor vehicle:
- (a) motor vehicles that
 - (i) at the time the motor vehicles were built or manufactured, did not conform to the standards set out in the *Motor Vehicle Safety Act* (Canada) for motor vehicles designed for use on a highway, and
 - (ii) with modifications could be, or have been, licensed under the *Motor Vehicle Act* or the *Commercial Transport Act* for unrestricted use on a highway;
 - (b) motor vehicles that
 - (i) at the time the motor vehicles were built or manufactured, did not conform to the standards set out in the *Motor Vehicle Safety Act* (Canada) for motor vehicles designed for use on a highway, and
 - (ii) have been rebuilt or modified to be licensed under the *Motor Vehicle Act* or the *Commercial Transport Act* for unrestricted use on a highway;
 - (c) motor vehicles that
 - (i) are exempt from the standards set out in the *Motor Vehicle Safety Act* (Canada) because they were manufactured 15 years or more before the date the motor vehicles were imported into Canada, and
 - (ii) are of a design that the motor vehicles could be, or have been, licensed under the *Motor Vehicle Act* or the *Commercial Transport Act* for unrestricted use on a highway.

PART 2 – LIMITS ON ACTIONS

**Prescribed class of persons against whom proceeding
may be commenced or maintained – accident on highway**

- 6** (1) In this section, “owner” includes an out-of-province owner.
- (2) For the purposes of section 172 (2) (b) [*no actions or proceedings for vehicle damage – accident on highway*] of the Act, section 172 (1) of the Act does not apply respecting actions to be brought or proceedings to be commenced or maintained against the following:
- (a) an owner, other than an owner in the circumstances described in paragraph (g), if the action or proceeding is brought, commenced or maintained by a renter named in the owner’s certificate or by an out-of-province lessee of the owner’s vehicle;
 - (b) a renter named in the owner’s certificate or an out-of-province lessee of the owner’s vehicle, other than a renter or lessee in the circumstances described in paragraph (g), if the action or proceeding is brought, commenced or maintained by the owner;

- (c) a short-term renter, other than a short-term renter in the circumstances described in paragraph (h), if the action or proceeding is brought, commenced or maintained by a short-term rental agency in relation to a vehicle rented or leased by the short-term renter from the short-term rental agency;
- (d) a short-term rental agency, if the action or proceeding is brought, commenced or maintained by a short-term renter in relation to a vehicle rented or leased by the short-term renter from the short-term rental agency;
- (e) any of the following respecting a vehicle that is in a combination of vehicles:
 - (i) an owner;
 - (ii) an operator;
 - (iii) an occupant;
 - (iv) a renter named in the owner's certificate;
 - (v) an out-of-province lessee;
 - (vi) a short-term renter,
 if the action or proceeding is brought, commenced or maintained by any of the following respecting an authorized trailer or a non-motive trailer in the combination of vehicles:
 - (vii) an owner;
 - (viii) a renter named in the owner's certificate;
 - (ix) an out-of-province lessee;
 - (x) a short-term renter;
- (f) any of the following respecting an authorized trailer or a non-motive trailer that is in a combination of vehicles:
 - (i) an owner;
 - (ii) an operator;
 - (iii) an occupant;
 - (iv) a renter named in the owner's certificate;
 - (v) an out-of-province lessee;
 - (vi) a short-term renter,
 if the action or proceeding is brought, commenced or maintained by any of the following respecting a vehicle that is in the combination of vehicles:
 - (vii) an owner;
 - (viii) a renter named in the owner's certificate;
 - (ix) an out-of-province lessee;
 - (x) a short-term renter;
- (g) a person who uses or operates a vehicle without the consent of the owner, renter named in the owner's certificate or out-of-province lessee, if the action or proceeding is brought, commenced or maintained by the owner, renter or lessee, except if the person is any of the following:
 - (i) a member of the owner's, renter's or lessee's household;

- (ii) if the owner, renter or lessee is not an individual,
 - (A) an officer, employee or partner of the owner, renter or lessee for whose regular use the vehicle is provided, or
 - (B) a member of the household of a person described in clause (A);
- (h) a person who uses or operates a rented vehicle without the consent of the short-term renter, if the action or proceeding is brought, commenced or maintained by the short-term rental agency, except if the person is one of the following:
 - (i) a member of the short-term renter's household;
 - (ii) if the short-term renter is not an individual,
 - (A) an officer, employee or partner of the short-term renter for whose use the rented vehicle is provided, or
 - (B) a member of the household of a person described in clause (A);
- (i) an owner of a vehicle described in section 3.1 [*exemptions – registration, licence and insurance*] of the *Motor Vehicle Act* if the vehicle is used or operated in accordance with the conditions in that section and the regulations under that Act, if the action or proceeding is brought, commenced or maintained by an owner of another vehicle described in that section that is used or operated in accordance with the conditions in that section and the regulations under that Act;
- (j) a person
 - (i) who uses or operates a vehicle on a highway, and
 - (ii) one or both of the following apply:
 - (A) the person knows or ought to have known that the vehicle is not a licensed vehicle;
 - (B) the accident occurs on the portion of the highway on which the vehicle is not authorized to be operated,

if the action or proceeding is brought, commenced or maintained by an owner of a vehicle described in section 3.1 of the *Motor Vehicle Act* if the vehicle is used or operated on a highway in accordance with the conditions in that section and the regulations under that Act;
- (k) an owner of a road building machine if it is operated on a highway as described in section 3 of the *Commercial Transport Act* and in respect of which no licence or permit has been issued under that Act, if the action or proceeding is brought, commenced or maintained by an owner of another road building machine that is operated on a highway as described in that section and in respect of which no licence or permit has been issued under that Act;
- (l) a person
 - (i) who uses or operates a vehicle on a highway, and
 - (ii) one or both of the following apply:
 - (A) the person knows or ought to have known that the vehicle is not a licensed vehicle;

- (B) the accident occurs on the portion of the highway on which the vehicle is not authorized to be operated,

if the action or proceeding is brought, commenced or maintained by an owner of a road building machine if it is operated on a highway as described in section 3 of the *Commercial Transport Act* and in respect of which no licence or permit has been issued under that Act.

Prescribed classes of persons for definition of “licensed person”

7 For the purposes of paragraph (b) of the definition of “licensed person” in section 173 (1) [*no actions or proceedings for vehicle damage – accident off-highway*] of the Act, the following classes of persons are prescribed:

- (a) out-of-province owners;
- (b) out-of-province lessees;
- (c) short-term renters.

Prescribed class of licensed persons who may commence or maintain proceedings – accident off-highway

- 8 (1) In this section, “owner” includes an out-of-province owner.
- (2) For the purposes of section 173 (2) (a) and (b) of the Act, the following classes of licensed persons are prescribed:
- (a) a renter named in the owner’s certificate or an out-of-province lessee of the owner’s vehicle who brings, commences or maintains an action or proceeding against the owner, other than an owner in the circumstances described in paragraph (g);
 - (b) an owner who brings, commences or maintains an action or proceeding against a renter named in the owner’s certificate or an out-of-province lessee of the owner’s vehicle, other than a renter or lessee in the circumstances described in paragraph (g);
 - (c) a short-term rental agency that brings, commences or maintains an action or proceeding against a short-term renter in relation to a vehicle rented or leased by the short-term renter from the short-term rental agency, other than a short-term renter in the circumstances described in paragraph (h);
 - (d) a short-term renter who brings, commences or maintains an action or proceeding against a short-term rental agency in relation to a vehicle rented or leased by the short-term renter from the short-term rental agency;
 - (e) an owner, a renter named in the owner’s certificate, an out-of-province lessee or a short-term renter of an authorized trailer or a non-motive trailer in a combination of vehicles who brings, commences or maintains an action or proceeding against an owner, an operator, an occupant, a renter named in the owner’s certificate, an out-of-province lessee or a short-term renter in relation to a vehicle that is in the combination of vehicles;
 - (f) an owner, a renter named in the owner’s certificate, an out-of-province lessee or a short-term renter of a vehicle that is in a combination of vehicles who brings, commences or maintains an action or proceeding against an

- owner, an operator, an occupant, a renter named in the owner's certificate, an out-of-province lessee or a short-term renter in relation to an authorized trailer or a non-motive trailer that is in the combination of vehicles;
- (g) an owner, a renter named in the owner's certificate or an out-of-province lessee who brings, commences or maintains an action or proceeding against a person who uses or operates the vehicle without the consent of the owner, renter or lessee, except if the person is any of the following:
 - (i) a member of the owner's, renter's or lessee's household;
 - (ii) if the owner, renter or lessee is not an individual,
 - (A) an officer, employee or partner of the owner, renter or lessee for whose regular use the vehicle is provided, or
 - (B) a member of the household of a person described in clause (A);
 - (h) a short-term rental agency that brings, commences or maintains an action or proceeding against a person who uses or operates the vehicle without the consent of the short-term renter, except if the person is any of the following:
 - (i) a member of the short-term renter's household;
 - (ii) if the short-term renter is not an individual,
 - (A) an officer, employee or partner of the renter for whose use the rented vehicle is provided, or
 - (B) a member of the household of a person described in clause (A).

PART 3 – COVERAGE

Division 1 – Prescribed Classes of Vehicles and Persons

Prescribed classes of vehicles for definition of “eligible vehicle”

- 9** (1) For the purposes of paragraph (d) of the definition of “eligible vehicle” in section 174 (1) [*coverage – accident on highway*] of the Act, the prescribed class of vehicles is non-standard motor vehicles with respect to which a licence or permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act*, and
- (a) that are involved in an accident that occurred on the portion of the highway on which the vehicles are not authorized to be operated and that were being used or operated by a person without the consent of the owner, renter named in the owner's certificate or a short-term renter, except if the person is any of the following:
 - (i) a member of the owner's, renter's or short-term renter's household;
 - (ii) if the owner, renter or short-term renter is not an individual,
 - (A) an officer, employee or partner of the owner, renter or short-term renter for whose regular use the vehicle is provided, or
 - (B) a member of the household of a person described in clause (A), or

- (b) that are involved in an accident that occurred on the portion of the highway on which the vehicles are not authorized to be operated while being carried in or on another vehicle.
- (2) For the purposes of the definition of “eligible vehicle” in section 174 (1) of the Act, the following classes of vehicles are excluded from being an eligible vehicle:
- (a) non-standard motor vehicles being operated by remote control without a driver in the vehicle;
 - (b) excluded vehicles being operated by remote control without a driver in the vehicle;
 - (c) non-standard motor vehicles 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;
 - (d) excluded vehicles 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;
 - (e) non-standard motor vehicles that are amphibious vehicles while being used in or upon water, when docked or floating in water or being launched into or landed from water;
 - (f) excluded vehicles that are amphibious vehicles while being used in or upon water, when docked or floating in water or being launched into or landed from water;
 - (g) excluded vehicles that are aircraft except when the aircraft are being drawn as a trailer on a highway;
 - (h) excluded vehicles that are being carried in or on another vehicle;
 - (i) excluded vehicles that are trailers while being drawn otherwise than by vehicle power or human power;
 - (j) non-standard motor vehicles or excluded vehicles that are authorized trailers when being used or operated otherwise than as a trailer.

Prescribed classes of persons responsible for accident

- 10** (1) In this section, “**owner**” includes an out-of-province owner.
- (2) For the purposes of sections 174 (4) (a) and 175 (4) (a) [*coverage – accident on or off-highway*] of the Act, the following classes of persons are prescribed:
- (a) if the accident occurs on a highway or off-highway, occupants of the eligible vehicle;
 - (b) if all of the following apply:
 - (i) the accident occurs on a highway or off-highway;

- (ii) the accident involves a combination of vehicles and the eligible vehicle is part of the combination of vehicles;
 - (iii) the eligible vehicle is neither an authorized trailer nor a non-motive trailer,
owners, renters named in the owner's certificate, out-of-province lessees, operators or occupants of an authorized trailer or a non-motive trailer in the combination of vehicles;
- (c) if all of the following apply:
- (i) the accident occurs on a highway or off-highway;
 - (ii) the accident involves a combination of vehicles and the eligible vehicle is part of the combination of vehicles;
 - (iii) the eligible vehicle is an authorized trailer or a non-motive trailer,
owners, renters named in the owner's certificate, out-of-province lessees, operators or occupants of a vehicle in the combination of vehicles;
- (d) if all of the following apply:
- (i) the accident occurs on a highway;
 - (ii) the accident involves a combination of vehicles and the eligible vehicle is part of the combination of vehicles;
 - (iii) the accident does not involve an included vehicle that is not part of the combination of vehicles;
 - (iv) the eligible vehicle is an authorized trailer or a non-motive trailer,
persons who are not, at the time of the accident, an owner, renter named in the owner's certificate, out-of-province lessee, operator or occupant of a vehicle involved in the accident;
- (e) if all of the following apply:
- (i) the accident occurs off-highway;
 - (ii) the accident involves a combination of vehicles and the eligible vehicle is part of the combination of vehicles;
 - (iii) the accident does not involve a licensed vehicle that is not part of the combination of vehicles;
 - (iv) the eligible vehicle is an authorized trailer or a non-motive trailer,
persons who are not, at the time of the accident, an owner, renter named in the owner's certificate, out-of-province lessee, operator or occupant of a vehicle involved in the accident;
- (f) if all of the following apply:
- (i) the accident occurs on a highway;
 - (ii) the accident involves a combination of vehicles and the eligible vehicle is part of the combination of vehicles;
 - (iii) the accident does not involve an included vehicle that is not part of the combination of vehicles;
 - (iv) the eligible vehicle is neither an authorized trailer nor a non-motive trailer;

- (v) except for the eligible vehicle, there is no other included vehicle in the combination of vehicles that is not an authorized trailer or a non-motive trailer,

persons who are not, at the time of the accident, an owner, renter named in the owner's certificate, out-of-province lessee, operator or occupant of a vehicle involved in the accident;

- (g) if all of the following apply:
 - (i) the accident occurs off-highway;
 - (ii) the accident involves a combination of vehicles and the eligible vehicle is part of the combination of vehicles;
 - (iii) the accident does not involve a licensed vehicle that is not part of the combination of vehicles;
 - (iv) the eligible vehicle is a licensed vehicle that is neither an authorized trailer nor a non-motive trailer;
 - (v) except for the eligible vehicle, there is no other licensed vehicle in the combination of vehicles that is not an authorized trailer or a non-motive trailer,

persons who are not, at the time of the accident, an owner, renter named in the owner's certificate, out-of-province lessee, operator or occupant of a vehicle involved in the accident.

Division 2 – Damage to or Loss of Eligible Vehicle

Requirements if damage to or loss of eligible vehicle

- 11** (1) An insured
 - (a) subject to section 12, must, as soon as practicable,
 - (i) notify the corporation of damage to or loss of the eligible vehicle, and
 - (ii) file a written statement with the corporation setting out all available information on the manner in which the damage or loss was sustained,
 - (b) must within 90 days after sustaining the damage or loss file a proof of loss,
 - (c) must, at the expense of the corporation, protect the eligible vehicle as far as reasonably possible from further damage or loss, and
 - (d) must not, without the corporation's approval, remove any physical evidence of damage to or loss of the eligible vehicle or make any repairs to the eligible vehicle, other than repairs that are immediately necessary to protect the eligible vehicle from further damage or loss, until the corporation has had a reasonable opportunity to inspect the eligible vehicle.
- (2) The corporation may require that a proof of loss be sworn by the person filing it.
- (3) An insured must not do any of the following:
 - (a) leave an eligible vehicle with, or otherwise abandon an eligible vehicle to, the corporation without the corporation's approval;
 - (b) refuse to take delivery of the eligible vehicle from the corporation.

Who may give notice and proof of claim

- 12** A notice of a claim under section 11 (a) may be made
- (a) by the agent of an insured in case of absence or inability of the insured to give the notice, if the absence or inability is accounted for to the satisfaction of the corporation, or
 - (b) if the insured refuses to give the notice, by a person to whom any part of the indemnification is payable.

Statutory declaration

- 13**
- (1) If required by the corporation, and subject to subsection (3), an insured must file with the corporation, within 90 days after sustaining damage to or the loss of the eligible vehicle, a statutory declaration stating, to the best of the insured's knowledge and belief, the place, time, cause and amount of the damage to or loss of the eligible vehicle, the interest of the insured and of all others in the eligible vehicle, the encumbrances on the eligible vehicle, all other insurance, whether valid or not, covering the eligible vehicle, and that the damage or loss did not occur through any wilful act or neglect, procurement, means or connivance of the insured.
 - (2) The statutory declaration under subsection (1) may be made, and filed with the corporation, by the agent of an insured in case of absence or inability of the insured to make or file the statutory declaration, if the absence or inability is accounted for to the satisfaction of the corporation.
 - (3) An insured, or the agent of the insured, who filed a statutory declaration under subsection (1) must
 - (a) on request of the corporation, submit to examination under oath,
 - (b) produce for examination, at a reasonable time and place designated by the corporation, all documents in the insured's possession or control relating to the damage to or loss of the eligible vehicle, and
 - (c) permit copies of the documents to be made by the corporation.

Inspection of vehicle

- 14** An insured must permit the corporation at all reasonable times to inspect the eligible vehicle with respect to which the insured made a claim.

Indemnification for damage to or loss of eligible vehicle

- 15**
- (1) Subject to subsection (2), the corporation's liability to indemnify an insured for damage to or loss of an eligible vehicle is limited to the lower of the following amounts:
 - (a) the cost of repairing or replacing the eligible vehicle or any part of it with material of a similar kind or quality;
 - (b) the actual cash value of the eligible vehicle.
 - (2) The payment for indemnification under subsection (1) must not exceed \$200 000.

- (3) The corporation is not liable for that part of the cost of repair or replacement that improves an eligible vehicle beyond the condition it was in before the damage or loss was sustained.
- (4) The corporation may determine
 - (a) whether a vehicle 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.
- (5) The liability of the corporation for damage to or loss of an obsolete part of an eligible 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.
- (6) For certainty, this section does not apply to loss of use of an eligible vehicle.

If insured is garage service operator

16 If an insured

- (a) is a garage service operator, and
- (b) repairs or replaces an eligible vehicle for which the insured makes a claim for damage or loss,

any amount payable to the insured in respect of the repair or replacement of the eligible vehicle must not exceed the actual cost to the insured of repairing or replacing the vehicle.

Salvaging vehicle

- 17** (1) In this section, "**specified percentage**" means the percentage determined by dividing \$200 000 by the actual cash value of an eligible vehicle.
- (2) If the corporation replaces an eligible vehicle or pays to an insured the actual cash value of the eligible vehicle because of total loss of the vehicle or because the vehicle is not repairable,
- (a) the corporation is entitled, at its option, to the salvage in the vehicle, and
 - (b) the insured must, on request of the corporation, execute any documents necessary to transfer to the corporation title to the vehicle.
- (3) If the actual cash value of an eligible vehicle exceeds \$200 000 and the corporation pays \$200 000 to the insured,
- (a) the corporation is entitled to the specified percentage of the proceeds of the sale or other disposition of the salvage in the vehicle, and
 - (b) the insured is entitled to the remainder.

Loss of use

- 18** (1) In this section, "**passenger directed vehicle**" has the same meaning as in section 1 of the *Passenger Transportation Act*.
- (2) Subject to subsection (3), the corporation must indemnify the insured for reasonable expenses incurred by the insured for loss of use in relation to the eligible vehicle in respect of the following:
- (a) hiring passenger directed vehicles;

- (b) using public transportation;
 - (c) renting a substitute vehicle that is similar to the eligible vehicle, with the corporation's approval;
 - (d) using other alternative transportation with the corporation's approval.
- (3) Subject to subsection (4), the corporation must not indemnify an insured for expenses described in subsection (2) (a) or (b) if they exceed expenses that would have been indemnified for renting a substitute vehicle that is similar to the eligible vehicle.
- (4) If the corporation is satisfied that expenses are reasonable, the corporation may indemnify an insured for expenses described in subsection (2) (a) or (b) even if they exceed expenses that would have been incurred for renting a substitute vehicle that is similar to the eligible vehicle.
- (5) Subject to subsection (6), indemnification for loss of use ends on the earlier of the following dates:
- (a) the date on which repairs to the eligible vehicle are substantially completed;
 - (b) the date on which the corporation settles or offers to settle the claim by the insured for damage to or loss of the eligible vehicle.
- (6) The corporation may extend the period for which indemnification is paid for loss of use.
- (7) If an insured rents a substitute vehicle, the corporation must not indemnify the insured for
- (a) an amount that is greater than a short-term rental agency would charge, in the ordinary course of business, the insured for renting a similar vehicle for the same period, or
 - (b) the cost of fuel, maintenance or insurance for the substitute vehicle.

Division 3 – General Matters

Time and manner of payment of indemnification

- 19** The corporation must pay indemnification for which it is liable under Part 11 of the Act
- (a) within 60 days after the proof of loss is filed under section 11 (b) [*requirements if damage to or loss of eligible vehicle*] of this regulation or a statutory declaration under section 13 [*statutory declaration*] of this regulation has been received by the corporation, or
 - (b) if an arbitration is conducted under section 30 [*disputes*] of this regulation, within 15 days after the award is rendered.

Priority of coverage

- 20** (1) In this section, “**garage vehicle certificate**” means a garage vehicle certificate within the meaning of section 150 (2) of the Insurance (Vehicle) Regulation.
- (2) If more than one certificate provides indemnity under Part 11 of the Act respecting an eligible vehicle,

- (a) 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, and
- (b) subject to paragraph (a),
 - (i) the corporation must indemnify the insured only under the certificate that provides the higher coverage under Part 11 of the Act, and
 - (ii) if the coverage is equal under the certificates, the corporation may determine under which certificate it indemnifies the insured.

Payment to optional insurer

- 21** (1) In this section, “**optional insurer**” means a person who undertakes, agrees or offers to provide insurance under an optional insurance contract.
- (2) If an optional insurer pays, on behalf of the insured, for repair or replacement of an eligible vehicle or loss of use, for which the insured makes a claim under Part 11 of the Act, the corporation may, subject to subsection (3), pay indemnification under Part 11 of the Act to the optional insurer.
- (3) The corporation may pay indemnification under subsection (1) only to the extent the corporation would have paid indemnification under Part 11 of the Act to the insured.

Leased vehicles

- 22** If the corporation is liable to pay indemnification under Part 11 of the Act respecting an eligible vehicle, the corporation may pay indemnification to the owner and the renter named in the owner's certificate in accordance with their interests set out in the lease agreement.

Payment to lien holder or repairer

- 23** (1) If the corporation is liable to pay indemnification in respect of a claim by an insured for total loss of an eligible vehicle, the corporation may pay indemnification to the following in accordance with their respective interests:
- (a) the insured;
 - (b) one or more of the lien holders;
 - (c) the insured and one or more of the lien holders.
- (2) If the corporation is liable to pay indemnification in respect of a claim by an insured for damage to an eligible vehicle that is repairable, the corporation may, whether or not financing statements in relation to the vehicle are registered in the personal property registry, pay all or part of the indemnification as follows:
- (a) on behalf of the insured to the garage that repairs the vehicle;
 - (b) to the insured;
 - (c) to both the garage that repairs the vehicle and the insured.

Right of lien holder to submit statutory declaration

- 24** (1) If an insured fails to comply with either or both of the following, a lien holder may do the things required of the insured under those provisions:
- (a) section 11 (a) [*requirements if damage to or loss of eligible vehicle*];
 - (b) section 13 [*statutory declaration*].
- (2) The corporation may pay indemnification to a lien holder if the corporation is satisfied that the lien holder
- (a) has an interest in the eligible vehicle, and
 - (b) has complied with sections 11 (a) and 13, as if the lien holder were the insured.
- (3) The amount of indemnification paid under this section
- (a) must not be greater than the amount to which the insured would be entitled, and
 - (b) must be the lowest amount of the following:
 - (i) the cost of the repair of the eligible vehicle;
 - (ii) the actual cash value of the eligible vehicle;
 - (iii) the value of the interest of the lien holder in the eligible vehicle immediately before the accident.

Division 4 – Restriction on and Reduction in Indemnification and Recovery

Restriction on indemnification

- 25** (1) In exercising its duty under section 176 (1) (a) [*restriction on indemnification*] of the Act, the corporation may indemnify under Division 3 of Part 11 of the Act
- (a) an owner if the owner's certificate names a renter, unless the owner has care, custody or control of the vehicle, and
 - (b) a short-term rental agency, unless the short-term rental agency has care, custody or control of the vehicle.
- (2) For the purposes of section 176 (2) of the Act, the following classes of persons are prescribed:
- (a) renters named in an owner's certificate;
 - (b) short-term renters.
- (3) For the purposes of section 176 (2) of the Act, the following circumstances are prescribed:
- (a) a renter named in the owner's certificate owns, rents or leases more than one vehicle involved in the accident;
 - (b) a vehicle rented or leased by the renter named in the owner's certificate is damaged by another vehicle operated by the renter;
 - (c) a short-term renter owns, rents or leases more than one vehicle involved in the accident;

- (d) a vehicle rented or leased by a short-term renter is damaged by another vehicle operated by the short-term renter.

**Prescribed requirements and circumstances
in respect of indemnification not paid or reduced**

- 26** (1) For the purposes of section 177 (1) (e) [*circumstances in which indemnification not paid or in which indemnification reduced*] of the Act, the following requirements are prescribed:
- (a) the requirements in section 11 (1), (2) and (3) [*requirements if damage to or loss of eligible vehicle*] of this regulation;
 - (b) the requirements in section 13 (1) and (3) [*statutory declaration*] of this regulation;
 - (c) the requirements in section 14 [*inspection of vehicle*] of this regulation.
- (2) For the purposes of section 177 (1) (f) of the Act, the following circumstances are prescribed:
- (a) the insured directed or authorized another individual to wilfully cause the accident or the insured assented to or acquiesced in another individual wilfully causing the accident;
 - (b) the insured directed or authorized another individual to wilfully cause vehicle damage or the insured assented to or acquiesced in another individual wilfully causing vehicle damage;
 - (c) the insured directed or authorized another individual to knowingly provide false or inaccurate information to the corporation or the insured assented to or acquiesced in another individual knowingly providing false or inaccurate information to the corporation;
 - (d) the insured is not authorized and not qualified by law to operate the eligible vehicle, except if the prohibition or non-qualification results from the insured operating a vehicle in contravention of a restriction or condition imposed on the insured's licence under 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) [*restrictions on learners' licences*] of the Motor Vehicle Act Regulations;
 - (e) the insured operates the eligible vehicle for an illicit or prohibited trade or transportation;
 - (f) the insured operates the eligible vehicle to escape or avoid arrest or other similar police action;
 - (g) the insured operates the eligible vehicle in a race or speed test;
 - (h) all of the following apply:
 - (i) the insured operates the eligible vehicle;
 - (ii) the eligible vehicle is a motor vehicle;
 - (iii) there is a trailer attached to the eligible vehicle;
 - (iv) the trailer is required to be registered and licensed under the *Motor Vehicle Act* or the *Commercial Transport Act*;
 - (v) the trailer is not registered and licensed under one of those Acts;

- (i) the insured's use or operation of the eligible vehicle results in a conviction for an offence under any of the following *Criminal Code* provisions:
 - (i) section 220;
 - (ii) section 221;
 - (iii) section 235;
 - (iv) section 236;
 - (v) section 320.13 (1);
 - (vi) section 320.13 (2);
 - (vii) section 320.13 (3);
 - (viii) section 320.14 (1) (a);
 - (ix) section 320.14 (1) (b);
 - (x) section 320.14 (1) (c);
 - (xi) section 320.14 (1) (d);
 - (xii) section 320.14 (2);
 - (xiii) section 320.14 (3);
 - (xiv) section 320.15 (1);
 - (xv) section 320.15 (2);
 - (xvi) section 320.15 (3);
 - (xvii) section 320.16 (1);
 - (xviii) section 320.16 (2);
 - (xix) section 320.16 (3);
 - (xx) section 320.18 (1);
- (j) the insured's use or operation of the eligible vehicle results in a conviction under the *Youth Criminal Justice Act* (Canada) for one of the offences listed in paragraph (i);
- (k) the insured's use or operation of the eligible vehicle results in a conviction for an offence under any of the following *Motor Vehicle Act* provisions:
 - (i) section 95 [*driving while prohibited*];
 - (ii) section 102 [*driving while prohibited by court order or operation of law*];
- (l) the insured operates an eligible vehicle in respect of which coverage is provided by a blanket certificate and the insured does, omits to do, participates in, assents to or acquiesces in anything that results in a breach of a condition of the blanket certificate;
- (m) the insured commits an act of violence by means of the eligible vehicle;
- (n) the insured is operating the eligible vehicle while the insured is 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 eligible vehicle;
- (o) the insured fails to obtain, without reasonable excuse, and to the prejudice of the corporation, the corporation's approval for temporary repairs to

enable the eligible vehicle to move, under its own power, to a place where repairs to the vehicle are to be made;

- (p) subject to subsection (4), the insured operates the eligible vehicle contrary to the statements contained in the application for a certificate for the eligible vehicle, or any changes reported during the term of the certificate, including, but not limited to, the following:
 - (i) the use declared in the application for insurance for the eligible vehicle;
 - (ii) a statement relating to the time during which, and the territories in which, the eligible vehicle may be operated;
 - (iii) a statement relating to the kind of goods or number of passengers that may be carried in or on the eligible vehicle;
 - (iv) a statement about the principal driver;
 - (v) a statement that the eligible vehicle has advanced safety technology;
 - (vi) a statement about the eligible vehicle's odometer or the distance that the vehicle has been operated;
 - (q) the insured permits the eligible vehicle to be used or operated by a person in a circumstance described in paragraphs (d) to (k), (m) or (n) with the references to "insured" in those paragraphs to be read as references to "person";
 - (r) the insured permits the eligible vehicle to be used or operated by a person in a circumstance that is contrary to statements contained in the application for a certificate for the eligible vehicle or to changes reported during the term of the certificate;
 - (s) subject to subsection (3), the vehicle damage sustained in the accident arises, directly or indirectly, out of radioactive, toxic, explosive or other hazardous properties of nuclear substances within the meaning of the *Nuclear Safety and Control Act* (Canada);
 - (t) the vehicle damage sustained in the accident arises, directly or indirectly, out of a declared or undeclared war or insurrection, rebellion or revolution.
- (3) Subsection (2) (s) does not apply to the carriage of radioisotopes that are
- (a) packaged and labelled in accordance with the *Transportation of Dangerous Goods Act, 1992* (Canada), and
 - (b) to be used for medical treatment, research, photography, x-ray or other similar purposes using radioisotopes.
- (4) The circumstances described in subsection (2) (p) do not apply if the premium the insured paid for the certificate is greater than or equal to the premium established by the corporation had the insured made accurate statements in the application and in any changes reported during the term of the certificate.

Recovery – prescribed classes of circumstances, persons and vehicles

- 27 (1) For the purposes of section 178 (2) (a) [*recovery*] of the Act in relation to recovery from an owner, the circumstance that a person used or operated the

owner's vehicle without the consent of the owner is prescribed, except if the person is

- (a) a member of the owner's household, or
- (b) if 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 a person described in subparagraph (i).

(2) For the purposes of section 178 (2) (c) of the Act, the following classes of persons are prescribed:

- (a) subject to subsection (3) of this section, operators who
 - (i) wilfully cause the accident,
 - (ii) wilfully cause the vehicle damage,
 - (iii) knowingly provide false or inaccurate information to the corporation,
 - (iv) fail to comply with a requirement of the corporation under section 11 *[combined forms and information]* of the Act,
 - (v) take an action that results in one of the circumstances prescribed in section 26 (2) (a) to (n) and (q) of this regulation, with the references to "insured" in those provisions to be read as references to "operator", to occur, or
 - (vi) operate a vehicle without the consent of the owner, renter named in the owner's certificate, out-of-province lessee or short-term renter;
- (b) subject to subsection (4) of this section, occupants who
 - (i) wilfully cause the accident,
 - (ii) wilfully cause the vehicle damage,
 - (iii) knowingly provide false or inaccurate information to the corporation;
 - (iv) fail to comply with a requirement of the corporation under section 11 of the Act,
 - (v) take an action that results in one of the circumstances prescribed in section 26 (2) (a) to (c), (m) and (q) of this regulation, as that paragraph relates to section 26 (2) (i), (j) or (m) of this regulation, with the references to "insured" in that section to be read as references to "occupant", to occur, or
 - (vi) are voluntary occupants, within the meaning of section 116 of the Act, if the vehicle is being operated without the consent of the owner, renter named in the owner's certificate, out-of-province lessee or short-term renter;
- (c) renters named in the owner's certificate unless a person uses or operates the leased vehicle without the consent of the renter, except if the person is one of the following:
 - (i) a member of the renter's household;
 - (ii) if the renter is not an individual,
 - (A) an officer, employee or partner of the renter for whose regular use the leased vehicle is provided, or

- (B) a member of the household of a person described in clause (A);
 - (d) out-of-province lessees unless a person uses or operates the leased vehicle without the consent of the out-of-province lessee, except if the person is one of the following:
 - (i) a member of the lessee’s household;
 - (ii) if the lessee is not an individual,
 - (A) an officer, employee or partner of the lessee for whose regular use the leased vehicle is provided, or
 - (B) a member of the household of a person described in clause (A);
 - (e) owners who take an action that results in one of the circumstances prescribed in section 26 (2) of this regulation, with the references to “insured” in that section to be read as references to “owners”, to occur;
 - (f) renters named in an owner’s certificate who take an action that results in one of the circumstances prescribed in section 26 (2) of this regulation, with the references to “insured” in that section to be read as references to “renters named in an owner’s certificate”, to occur;
 - (g) out-of-province owners who take an action that results in one of the circumstances prescribed in section 26 (2), other than in section 26 (2) (d) or (o), of this regulation, with the references to “insured” in that section to be read as references to “out-of-province owners”, to occur;
 - (h) out-of-province lessees who take an action that results in one of the circumstances prescribed in section 26 (2), other than in section 26 (2) (d) or (o), of this regulation, with the references to “insured” in that section to be read as references to “out-of-province lessees”, to occur;
 - (i) short-term renters, in relation to the vehicle the short-term renter rented or leased from a short-term rental agency, who use or operate the rented or leased vehicle who
 - (i) knowingly provide false or inaccurate information to the corporation, or
 - (ii) take an action that results in one of the circumstances prescribed in section 26 (2) (a) to (c), (m) and (q) of this regulation, as that paragraph relates to section 26 (2) (d), (e), (f), (h), (i), (j), (m) or (n) of this regulation, with the references to “insured” in that section to be read as references to “short-term renter”, to occur;
 - (j) operators who operate a vehicle, with respect to which coverage is provided by a certificate, with a driver’s licence issued in a jurisdiction other than British Columbia, if the operators are not authorized and not qualified by law to operate the vehicle, except if the prohibition or non-qualification results from the operators operating the vehicle in contravention of a restriction or condition imposed on the driver’s licence that is similar to 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) [*restrictions on learners’ licences*] of the Motor Vehicle Act Regulations.
- (3) The circumstances prescribed in section 26 (2) (d) and (q), as that paragraph relates to section 26 (2) (d), apply only if

- (a) the owner, renter named in the owner's certificate, operator or occupant of the vehicle is responsible for the accident, and
 - (b) a certificate provides coverage in relation to the vehicle.
- (4) For the purposes of section 178 (4) (d) of the Act, the following classes of vehicles are prescribed:
- (a) vehicles described in section 3.1 of the *Motor Vehicle Act* that are used or operated in breach of the conditions of that section and the regulations under that Act;
 - (b) excluded vehicles with respect to which no licence or permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act* that are involved in an accident that occurs on a highway;
 - (c) non-standard motor vehicles with respect to which no licence or permit has been issued under the *Motor Vehicle Act* or the *Commercial Transport Act* that are involved in an accident that occurs on a highway;
 - (d) vehicles used or operated in a circumstance described in section 177 (1) of the Act, with references to "eligible vehicle" in that section to be read as references to "vehicle";
 - (e) vehicles used or operated without the consent of the owner, renter named in the owner's certificate, out-of-province lessee or short-term renter;
 - (f) road building machines
 - (i) while not operated
 - (A) within the boundaries of a highway construction project, or
 - (B) by or on behalf of the minister responsible for the administration of the *Commercial Transport Act* or, within its jurisdiction by or on behalf of a municipality, while engaged in the maintenance or repair of a highway or snow ploughing on a highway, and
 - (ii) if no licence or permit has been issued under the *Commercial Transport Act* for the road building machine to be on the portion of the highway where the accident occurs.

Division 5 – Disputes and Arbitration

Definition

- 28** In this Division, "**coverage dispute**" means, in relation to indemnification for damage to or loss of an eligible vehicle sustained in an accident, a dispute between the insured and the corporation about
- (a) the nature and extent of required repairs or replacement, or
 - (b) the value of the damage to or loss of the eligible vehicle.

Disputes

- 29** (1) Subject to subsection (2), a coverage dispute, unless resolved by the insured and the corporation, must be resolved by arbitration under section 30.

- (2) A coverage dispute must not be submitted for arbitration more than 2 years after the date of the accident.

Arbitration process

- 30** (1) An insured or the corporation may submit a coverage dispute by referring the matters in dispute to arbitration in accordance with the *Arbitration Act*.
- (2) If an insured and the corporation are unable to agree on the appointment of an arbitrator, the insured or the corporation may apply to the Vancouver International Arbitration Centre to appoint an arbitrator.
- (3) An arbitrator appointed under subsection (2) must, within 7 days after the arbitrator's appointment, serve notice of the appointment on the insured and the corporation.
- (4) An arbitrator appointed by the insured and the corporation or under subsection (2) must, as soon as practicable after being appointed,
 - (a) meet or communicate with the insured and the corporation,
 - (b) collect relevant information,
 - (c) set a schedule for submission of documents,
 - (d) set a date on which an award will be made, and
 - (e) deliver a written award with full reasons and documentation by registered mail to the insured and the corporation.
- (5) The insured and the corporation must share equally any costs incidental to the arbitration, including the costs of the arbitrator.

Dispute after arbitration

- 31** An insured must not bring an action respecting matters other than coverage disputes under Part 11 of the Act unless
 - (a) the insured has complied with the following sections of this regulation:
 - (i) section 11 [*requirements if damage to or loss of eligible vehicle*];
 - (ii) section 12 [*who may give notice and proof of claim*], and
 - (b) the value of the damage to or loss of an eligible vehicle has been ascertained by an arbitrator or agreed to by a written agreement between the insured and the corporation.

Limitation on claim

- 32** A claim against the corporation
 - (a) for damage to or loss of an eligible vehicle must be commenced within 2 years after the arbitration award is rendered or a written agreement is made, and
 - (b) for loss of use of an eligible vehicle must be commenced within 2 years of the date of the accident.