

2016

CHAPTER 11

An Act to amend *The Automobile Accident Insurance Act* respecting Benefits and Actions and to make a consequential amendment to *The Traffic Safety Act*

(Assented to November 30, 2016)

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

Short title

1 This Act may be cited as *The Automobile Accident Insurance (Benefits) Amendment Act, 2016*.

R.S.S. 1978, c.A-35 amended

2 *The Automobile Accident Insurance Act* is amended in the manner set forth in this Act.

Section 2 amended

3 Subsection 2(1) is amended:

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

“(o.1) ‘**dependant**’, with respect to an insured, means:

(i) a child of the insured who is under 21 years of age at the date of an accident and includes a child of the insured born after the accident or death of the insured; or

(ii) any person who would qualify for a tax credit pursuant to section 118.3 of the *Income Tax Act* (Canada) for a mental or physical impairment and who is dependent on the insured for the necessities of life at the date of an accident”; **and**

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

“(oo.1) ‘**relapse**’ means the recurrence of a medical condition directly related to an accident after an interval of improvement”.

Section 22 amended

4 Subsection 22(3) is repealed and the following substituted:

“(3) Subject to subsection (4), the amount of the weekly benefit payable pursuant to this section is the greater of:

(a) \$396; and

(b) a weekly benefit calculated on the basis of a 40-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 22.1 amended

5 Subsection 22.1(3) is repealed and the following substituted:

“(3) Subject to subsection (4), the amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$198; and
- (b) a weekly benefit calculated on the basis of a 20-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 23 amended

6 Subsection 23(3) is repealed and the following substituted:

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$396; and
- (b) a weekly benefit calculated on the basis of a 40-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 24 amended

7 Subsection 24(3) is repealed and the following substituted:

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$396; and
- (b) a weekly benefit calculated on the basis of a 40-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 24.1 amended

8 Subsection 24.1(3) is repealed and the following substituted:

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$198; and
- (b) a weekly benefit calculated on the basis of a 20-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

New section 24.2

9 The following section is added after section 24.1:**“Relapse of bodily injuries within 104 weeks**

24.2(1) Subject to subsection (3), if an insured receives a weekly benefit pursuant to section 22, 22.1, 24 or 24.1 and that weekly benefit ends within the first 104 weeks following the accident, the insurer shall resume payment of a weekly benefit pursuant to section 22, 22.1, 24 or 24.1 for a maximum of 16 weeks if:

- (a) the insured is once again unable to work or resume household duties, as the case may be, as a result of the accident;

(b) the insured otherwise qualifies for a benefit pursuant to section 22, 22.1, 24 or 24.1; and

(c) the insured is attending a practitioner for medical treatment or suffers a relapse.

(2) An insured who receives a benefit pursuant to subsection (1) is not entitled to a benefit pursuant to section 23.

(3) An insured is not entitled to receive or continue to receive a benefit pursuant to this section after the first 104 weeks following the accident”.

Section 25 amended

10 Subsection 25(3) is repealed and the following substituted:

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

(a) \$198; and

(b) a weekly benefit calculated on the basis of a 20-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 26 amended

11 The following subsection is added after subsection 26(3):

“(4) This section applies, with any necessary modification, to a weekly benefit that is payable pursuant to section 22 or 22.1 because of the application of section 24.2”.

New section 26.1

12 The following section is added after section 26:

“When Division 2 benefits not payable

26.1(1) Notwithstanding any other provision of this Part, no insured is entitled to any benefit pursuant to this Division for any period that the insured is serving a sentence of imprisonment.

(2) If an insured mentioned in subsection (1) is acquitted of the offence for which the imprisonment was served, the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been imprisoned, together with interest in accordance with the regulations, from the day the benefit was suspended until the day of payment.

(3) Notwithstanding any other provision of this Part, an insured is not entitled to any benefit pursuant to this Division if:

(a) the insured is more than 50% responsible for the accident;

(b) the insured, at the time of the accident, was the operator or had the care and control of a motor vehicle involved in the accident and was convicted of:

(i) an offence pursuant to section 220 or 221 of the *Criminal Code* as a result of the operation of a motor vehicle or an offence pursuant to subsection 249.1(3) or section 249.2, 249.3 or 249.4 of the *Criminal Code*; or

- (ii) an offence pursuant to a law of a state of the United States of America substantially similar to an offence mentioned in subclause (i); and
- (c) the insured, on at least one other occasion within the five years before the accident, has been convicted of an offence listed in clause (b) as a result of the operation of a motor vehicle.
- (4) The insurer may withhold the payment of any benefits pursuant to this Division with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in subsection (3) until the disposition of that charge.
- (5) If an amount has been withheld pursuant to subsection (4) and the insured is not convicted of an offence mentioned in subsection (3), the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been charged, together with interest in accordance with the regulations”.

Section 27 amended

13(1) Subsection 27(1) is repealed.

(2) Subsection 27(2) is amended by striking out “If an insured” and substituting “Subject to subsections (3) and (3.1), if an insured”.

(3) Subsection 27(3) is repealed and the following substituted:

“(3) Subject to subsection (3.1), the minimum death benefit a spouse is entitled to receive pursuant to this section is \$59,116.

“(3.1) If, as a result of the application of subsection (3), a spouse receives the minimum death benefit mentioned in that subsection, the spouse is not entitled to any additional amount of death benefits pursuant to this section, other than a death benefit payable pursuant to subsection (5)”.

(4) Subsection 27(8) is repealed and the following substituted:

“(8) Subject to subsection (9), the weekly death benefits mentioned in subsection (5) are payable until whichever of the following occurs first:

- (a) the dependant reaches 21 years of age;
- (b) the dependant dies.

“(9) In the case of a person who is a dependant within the meaning of subclause 2(1)(o.1)(ii), the dependant’s weekly death benefits mentioned in subsection (5) are payable until whichever of the following occurs first:

- (a) the dependant dies;
- (b) the person is no longer considered a dependant”.

Section 27.1 amended

14(1) The following subsections are added after subsection 27.1(4):

“(4.1) Notwithstanding subsections (1) to (4), the minimum death benefit a dependant is entitled to receive pursuant to those subsections is \$59,116.

“(4.2) A dependant who is entitled to a death benefit pursuant to subsections (1) to (4) is not entitled to a death benefit pursuant to subsection 27(5)”.

(2) Subsection 27.1(5) is amended by adding “calculated and” before “paid”.

Section 27.2 amended

15(1) Subsection 27.2(2) is amended by striking out “two” and substituting “five”.**(2) The following subsection is added after subsection 27.2(3):**

“(4) This section does not apply to a minimum death benefit paid or payable pursuant to subsections 27(3) and 27.1(4.1)”.

New section 28.2

16 The following section is added after section 28.1:**“Interest on permanent impairment benefit**

28.2 The insurer shall pay to the insured interest in accordance with the regulations on the amount of the insured’s permanent impairment benefit computed from the day of the accident to the day on which the benefit is paid”.

New section 29.2

17 The following section is added after section 29.1:**“When Division 4 benefits not payable**

29.2(1) Notwithstanding any other provision of this Part, an insured is not entitled to any lump sum benefit for a permanent impairment pursuant to this Division if:

- (a) the insured is more than 50% responsible for the accident; and
- (b) the insured, at the time of the accident, was the operator or had the care and control of a motor vehicle involved in the accident and was convicted of:
 - (i) an offence pursuant to section 220 or 221 of the *Criminal Code* as a result of the operation of a motor vehicle or an offence pursuant to subsection 249.1(3) or section 249.2, 249.3 or 249.4 of the *Criminal Code*; or
 - (ii) an offence pursuant to a law of a state of the United States of America substantially similar to an offence mentioned in subclause (i).

(2) The insurer may withhold the payment of any lump sum benefit for a permanent impairment pursuant to this Division with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in subsection (1) until the disposition of that charge.

(3) If an amount has been withheld pursuant to subsection (2) and the insured is not convicted of an offence mentioned in subsection (1), the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been charged, together with interest in accordance with the regulations”.

New section 30.1

18 Section 30.1 is repealed and the following substituted:

“Timing of required adjustments

30.1(1) Subject to subsections (2) and (3), the insurer shall adjust the benefit amounts set out in this Part on January 1 of each year.

(2) A weekly benefit payable pursuant to clauses 22(3)(b), 22.1(3)(b), 23(3)(b), 24(3)(b), 24.1(3)(b) and 25(3)(b) must not be adjusted pursuant to the other provisions of this Division, but must be adjusted on January 1 of each year in accordance with any increase or decrease in the minimum wage as established pursuant to Part II of *The Saskatchewan Employment Act* that is in force as of the date of the adjustment.

(3) The amounts as adjusted pursuant to subsections (1) and (2) must be applied in determining the amount of any benefit”.

Section 30.4 amended

19(1) Subsection 30.4(2) is amended by adding “, 24.2” after “24.1”.

(2) Subsection 30.4(9) is repealed and the following substituted:

“(9) Notwithstanding subsection (1), if an insured suffers a catastrophic injury, the insured is entitled to receive the benefits mentioned in subsection (1) from the first day after the accident.

“(10) Benefits payable pursuant to section 29 must be calculated based on the maximum benefit amount payable for that benefit on the date of the accident.

“(11) Benefits payable pursuant to section 21 must be calculated based on the maximum benefit amount payable for that benefit on the date the expense is incurred.

“(12) Benefits payable pursuant to sections 27, 27.1, 27.3 and 27.4 must be calculated based on the maximum benefit amount payable for that benefit at the date of death.

“(13) Notwithstanding any other provision of this Part, a benefit payable pursuant to Division 3 to a dependant or spouse of an insured is payable only if he or she is a dependant or spouse, as the case may be, of the insured as at the date of the insured’s death”.

New section 30.5

20 The following section is added after section 30.4:

“When payment for catastrophic injury may be made

30.5(1) If the nature of an insured’s bodily injury prevents the insurer from determining if the insured suffered a catastrophic injury at the date of the accident, the insurer is not obligated to pay the insured benefits pursuant to this Part on the basis of a catastrophic injury until the medical information indicates that the insured suffered a catastrophic injury.

(2) When the medical information indicates that an insured suffered a catastrophic injury, the insurer shall, if applicable:

- (a) pay benefits to the insured on the basis of a catastrophic injury; and
- (b) pay to the insured any additional benefit that would have been paid to him or her as if the catastrophic injury assessment had been made at the date of the accident, together with interest in accordance with the regulations”.

New section 32

21 Section 32 is repealed and the following substituted:

“No enforcement

32(1) Subject to section 11.1 and *The Enforcement of Maintenance Orders Act, 1997*, benefits, other than weekly benefits paid pursuant to section 22, 22.1, 23, 24, 24.1, 24.2 or 25, are exempt from garnishment, seizure, attachment, execution and any other process or claim.

(2) A beneficiary who is entitled to any benefits, other than weekly benefits pursuant to section 22, 22.1, 23, 24, 24.1, 24.2 or 25, may not assign the benefits to another person, and any purported assignment is void”.

New section 34

22 Section 34 is repealed and the following substituted:

“Exemptions – when insurer is not to pay benefits pursuant to this Part

34(1) Notwithstanding any other provision of this Part, the insurer is not liable to pay any benefits pursuant to this Part to:

- (a) a person who as a result of an accident is entitled to:
 - (i) compensation pursuant to *The Workers’ Compensation Act, 2013*;
 - (ii) compensation pursuant to the *National Defence Act (Canada)*; or
 - (iii) compensation pursuant to any other Act, or any legislation of any other jurisdiction, that relates to the compensation of persons injured in accidents;
- (b) a member of the Royal Canadian Mounted Police who was on work duty at the time of the accident and is injured in the accident;
- (c) a person who is a resident of another province, state or country; or
- (d) a spouse or dependant of a person mentioned in clause (a), (b) or (c).

(2) If an insured is entitled to weekly benefits pursuant to section 22, 22.1 or 23 and the insured becomes entitled to benefits pursuant to the *Employment Insurance Act (Canada)*, the insurer is liable only for the amount by which the weekly benefits pursuant to section 22, 22.1 or 23 exceed the benefits actually received by the insured pursuant to the *Employment Insurance Act (Canada)*.

(3) Subsection (2) applies, with any necessary modification, to a weekly benefit that is payable pursuant to section 22 or 22.1 because of the application of section 24.2.

(4) In no case is the insurer liable pursuant to subsection (2) to pay more than the amounts set out in the sections mentioned in that subsection”.

Section 35 amended

23 Section 35 is amended:**(a) by repealing statutory condition 2.1 and substituting the following:****“Suicide**

2.1 No benefits are payable to an insured or to any person claiming through or on behalf of an insured, or as a result of bodily injury to or the death of an insured, if the insured commits suicide or attempts to commit suicide with a motor vehicle”; **and**

(b) by repealing subsections (1) and (2) of statutory condition 2.2 and substituting the following:

“(1) Notwithstanding any other provision of this Part, no occupant of a stolen motor vehicle involved in an accident that occurs on or after the coming into force of this subsection, and no person claiming through, on behalf of or as a result of bodily injury to or the death of the occupant of the stolen motor vehicle, is entitled to any benefits pursuant to this Part with respect to the accident.

“(2) Notwithstanding any other provision of this Part, the insurer may withhold the payment of any benefits pursuant to this Part with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in clause 2(1)(cc.1) until the disposition of that charge”.

Section 35.1 amended

24 Clause 35.1(a) is repealed.

Section 35.2 amended

25 Subsection 35.2(3) is repealed and the following substituted:

“(3) Subject to subsection (4), the amount of the weekly benefit payable pursuant to this section is the greater of:

(a) \$396; and

(b) a weekly benefit calculated on the basis of a 40-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 35.21 amended

26 Subsection 35.21(3) is repealed and the following substituted:

“(3) Subject to subsection (4), the amount of the weekly benefit payable pursuant to this section is the greater of:

(a) \$198; and

(b) a weekly benefit calculated on the basis of a 20-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 35.22 amended**27 Subsection 35.22(3) is repealed and the following substituted:**

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$396; and
- (b) a weekly benefit calculated on the basis of a 40-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 35.23 amended**28 Subsection 35.23(3) is repealed and the following substituted:**

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$396; and
- (b) a weekly benefit calculated on the basis of a 40-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 35.24 amended**29 Subsection 35.24(3) is repealed and the following substituted:**

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

- (a) \$198; and
- (b) a weekly benefit calculated on the basis of a 20-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

New section 35.241**30 The following section is added after section 35.24:****“Relapse of bodily injuries after 104 weeks**

35.241(1) Subject to subsection (3), if an insured receives a weekly benefit pursuant to section 35.2, 35.21, 35.23 or 35.24 and that weekly benefit ends within the first 104 weeks following the accident, the insurer shall resume payment of a weekly benefit pursuant to section 35.2, 35.21, 35.23 or 35.24 for a maximum of 16 weeks if:

- (a) the insured is once again unable to work or resume household duties, as the case may be, as a result of the accident;
- (b) the insured otherwise qualifies for a benefit pursuant to section 35.2, 35.21, 35.23 or 35.24; and
- (c) the insured is attending a practitioner for medical treatment or suffers a relapse.

(2) An insured who receives a benefit pursuant to subsection (1) is not entitled to a benefit pursuant to section 35.22.

(3) An insured is not entitled to receive or continue to receive a benefit pursuant to this section after the first 104 weeks following the accident”.

Section 35.25 amended

31 Subsection 35.25(3) is repealed and the following substituted:

“(3) The amount of the weekly benefit payable pursuant to this section is the greater of:

(a) \$198; and

(b) a weekly benefit calculated on the basis of a 20-hour work week and the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 35.26 amended

32 The following subsection is added after subsection 35.26(3):

“(4) This section applies, with any necessary modification, to a weekly benefit that is payable pursuant to section 35.2 or 35.21 because of the application of section 35.241”.

Section 35.3 amended

33(1) Subsection 35.3(1) is amended by striking out “If an insured” and substituting “Subject to subsections (2) and (2.1), if an insured”.

(2) Subsection 35.3(2) is repealed and the following substituted:

“(2) Subject to subsection (2.1), the minimum death benefit a spouse is entitled to receive pursuant to this section is \$59,116.

“(2.1) If, as a result of the application of subsection (2), a spouse receives the minimum death benefit mentioned in that subsection, the spouse is not entitled to any additional amount of death benefits pursuant to this section, other than a death benefit payable pursuant to subsection (4)”.

(3) Subsection 35.3(7) is repealed and the following substituted:

“(7) Subject to subsection (8), the weekly death benefits mentioned in subsection (4) are payable until whichever of the following occurs first:

(a) the dependant reaches 21 years of age;

(b) the dependant dies.

“(8) In the case of a person who is a dependant within the meaning of subclause 2(1)(o.1)(ii), the dependant’s weekly death benefits mentioned in subsection (4) are payable until whichever of the following occurs first:

(a) the dependant dies;

(b) the person is no longer considered a dependant”.

Section 35.31 amended**34(1) The following subsections are added after subsection 35.31(4):**

“(4.1) Notwithstanding subsections (1) to (4), the minimum death benefit a dependant is entitled to receive pursuant to those subsections is \$59,116.

“(4.2) A dependant who is entitled to a death benefit pursuant to subsections (1) to (4) is not entitled to a death benefit pursuant to subsection 35.3(5)”.

(2) Subsection 35.31(5) is amended by adding “calculated and” before “paid”.**Section 35.32 amended****35 The following subsection is added after subsection 35.32(3):**

“(4) This section does not apply to a minimum death benefit paid or payable pursuant to subsections 35.3(2) and 35.31(4.1)”.

New section 35.401**36 The following section is added after section 35.4:****“Interest on permanent impairment benefit**

35.401 The insurer shall pay to the insured interest in accordance with the regulations on the amount of the insured’s permanent impairment benefit computed from the day of the accident to the day on which the benefit is paid”.

New section 35.7**37 Section 35.7 is repealed and the following substituted:****“No benefits for suicide**

35.7 No benefits are payable to an insured or to any person claiming through or on behalf of an insured, or as a result of bodily injury to or death of an insured, if the insured commits suicide or attempts to commit suicide with a motor vehicle”.

Section 35.71 amended**38 Subsections 35.71(1) and (2) are repealed and the following substituted:**

“(1) Notwithstanding any other provision of this Part, no occupant of a stolen motor vehicle involved in an accident that occurs on or after the coming into force of this subsection, and no person claiming through, on behalf of or as a result of bodily injury to or the death of the occupant of the stolen motor vehicle, is entitled to any benefits pursuant to this Part with respect to the accident.

“(2) Notwithstanding any other provision of this Part, the insurer may withhold the payment of any benefits pursuant to this Part with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in clause 2(1)(cc.1) until the disposition of that charge”.

Section 35.72 amended

39(1) Clause 35.72(3)(b) is repealed and the following substituted:

“(b) the insured, at the time of the accident, was the operator or had the care and control of a motor vehicle involved in the accident and either:

(i) the insured:

(A) was convicted of:

(I) an offence pursuant to section 220 or 221 of the *Criminal Code* as a result of the operation of a motor vehicle or an offence pursuant to subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*; or

(II) an offence pursuant to a law of a state of the United States of America substantially similar to an offence mentioned in subparagraph (I); and

(B) on at least one other occasion within the five years before the accident, has been convicted of an offence listed in paragraph (A) as a result of the operation of a motor vehicle; or

(ii) the insured intentionally caused or attempted to cause bodily injury to another person and has been convicted:

(A) of an offence set out in section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code* as a result of the operation of a motor vehicle; or

(B) of an offence pursuant to a law of a state of the United States of America substantially similar to an offence mentioned in paragraph (A)”.

(2) The following subsections are added after subsection 35.72(3):

“(4) The insurer may withhold the payment of any benefits pursuant to Division 3 with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in subsection (3) until the disposition of that charge.

“(5) If an amount has been withheld pursuant to subsection (4) and the insured is not convicted of an offence mentioned in subsection (3), the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been charged, together with interest in accordance with the regulations”.

Section 35.73 amended

40 Section 35.73 is amended:

(a) by renumbering it as subsection 35.73(1);

(b) by repealing subclause (1)(b)(i) and substituting the following:

“(i) an offence pursuant to section 220 or 221 of the *Criminal Code* as a result of the operation of a motor vehicle or an offence pursuant to subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*”; and

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

“(2) The insurer may withhold the payment of any permanent impairment benefit pursuant to Division 5 with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in subsection (1) until the disposition of that charge.

“(3) If an amount has been withheld pursuant to subsection (2) and the insured is not convicted of an offence mentioned in subsection (1), the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been charged, together with interest in accordance with the regulations”.

Section 35.76 amended**41 Subsection 35.76(10) is repealed and the following substituted:**

“(10) Benefits payable pursuant to section 35.5 must be calculated based on the maximum benefit amount payable for that benefit at the date of the accident.

“(11) Benefits payable pursuant to section 35.14 must be calculated based on the maximum benefit amount payable for that benefit on the date the expense is incurred.

“(12) Benefits payable pursuant to sections 35.3, 35.31, 35.33 and 35.34 must be calculated based on the maximum benefit amount payable for that benefit at the date of death.

“(13) Notwithstanding any other provision of this Part, a benefit payable pursuant to Division 4 to a dependant or spouse of an insured is payable only if he or she is a dependant or spouse, as the case may be, of the insured as at the date of the insured’s death”.

New section 35.81**42 Section 35.81 is repealed and the following substituted:****“Timing of required adjustments**

35.81(1) Subject to subsections (2) and (3), the insurer shall adjust the benefit amounts set out in this Part on January 1 of each year.

(2) A benefit payable pursuant to clauses 35.2(3)(b), 35.21(3)(b), 35.22(3)(b), 35.23(3)(b), 35.24(3)(b) and 35.25(3)(b) must not be adjusted pursuant to the other provisions of this Division, but must be adjusted on January 1 of each year in accordance with any increase or decrease in the minimum wage as established pursuant to Part II of *The Saskatchewan Employment Act* that is in force as of the date of the adjustment.

(3) The amounts as adjusted pursuant to subsections (1) and (2) must be applied in determining the amount of any benefit”.

New section 35.91

43 Section 35.91 is repealed and the following substituted:**“Exemptions—when insurer not to pay benefits pursuant to this Part**

35.91(1) Notwithstanding any other provision of this Part, the insurer is not liable to pay any benefits pursuant to this Part to:

- (a) a person who as a result of an accident is entitled to:
 - (i) compensation pursuant to *The Workers’ Compensation Act, 2013*;
 - (ii) compensation pursuant to the *National Defence Act* (Canada); or
 - (iii) compensation pursuant to any other Act, or any legislation of any other jurisdiction, that relates to the compensation of persons injured in accidents;
- (b) a member of the Royal Canadian Mounted Police who was on work duty at the time of the accident and is injured in the accident;
- (c) a person who is a resident of another province, state or country; or
- (d) a spouse or dependant of a person mentioned in clause (a), (b) or (c).

(2) If an insured is entitled to weekly benefits pursuant to section 35.2, 35.21 or 35.22 and the insured becomes entitled to benefits pursuant to the *Employment Insurance Act* (Canada), the insurer is liable only for the amount by which the weekly benefits pursuant to section 35.2, 35.21 or 35.22 exceed the benefits actually received by the insured pursuant to the *Employment Insurance Act* (Canada).

(3) Subsection (2) applies, with any necessary modification, to a weekly benefit that is payable pursuant to section 35.2 or 35.21 because of the application of section 35.241.

(4) In no case is the insurer liable pursuant to subsection (2) to pay more than the amounts set out in the sections mentioned in that subsection”.

New section 40

44 Section 40 is repealed and the following substituted:**“Interpretation of Part**

40 In this Part and in section 81:

- (a) **‘commercial entity’** means a sole proprietor, an Indian Band, a corporation or two or more persons associated in a partnership, joint venture or syndicate, whether for profit or not, that:
 - (i) has its head office in Saskatchewan;
 - (ii) is not a Crown corporation or government agency; and
 - (iii) is registered pursuant to *The Traffic Safety Act* as the owner of a motor vehicle that is involved in an accident;
- (b) **‘third party’** means a person, including a commercial entity, that:
 - (i) is a motor vehicle manufacturer;

- (ii) is a maker or supplier of motor vehicle parts;
- (iii) is engaged in the business of selling motor vehicles;
- (iv) is engaged in the business of, or whose business includes, a motor vehicle garage, repair shop or service station;
- (v) is the holder of a restaurant permit or a tavern permit issued pursuant to *The Alcohol and Gaming Regulation Act, 1997* authorizing the permit holder to deal in beverage alcohol; or
- (vi) is any other prescribed person or a member of a prescribed class of persons”.

Section 41 amended

45(1) Clause 41(1)(b) is repealed and the following substituted:

“(b) ‘**non-economic loss**’ means any non-pecuniary loss respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident”.

(2) Subsection 41(2) is amended by adding “or any person claiming through or on behalf of a Part II beneficiary” after “a Part II beneficiary”.

(3) Subsections 41(3) and (4) are repealed and the following substituted:

“(3) Subject to subsection (4) and section 41.01, no action shall be brought by a Part II beneficiary for bodily injury to any person respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident:

- (a) against a Saskatchewan resident who is either a Part II.1 beneficiary or a Part VIII beneficiary and who is the owner, operator or passenger of the motor vehicle involved in the accident; or
- (b) against a commercial entity.

“(4) A Part II beneficiary may bring an action for bodily injury arising out of the use or operation of a motor vehicle:

- (a) against a Saskatchewan resident who is a Part II.1 beneficiary, Part VIII beneficiary or commercial entity, as the case may be, for economic loss in excess of any insurance money paid or payable pursuant to section 51.1; and
- (b) against a Saskatchewan resident who is either a Part II.1 beneficiary or Part VIII beneficiary, as the case may be, for non-economic loss, but only if:
 - (i) the loss is caused by the Part II.1 beneficiary or Part VIII beneficiary operating a motor vehicle and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 220, 221, subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*;

(ii) the loss is caused by the Part II.1 beneficiary or Part VIII beneficiary operating a motor vehicle who intentionally caused or attempted to cause bodily injury to another person and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code*; or

(iii) the loss is caused by the Part II.1 beneficiary or Part VIII beneficiary operating a motor vehicle who dies as a result of the accident that gave rise to the action and the deceased operator drove or operated the motor vehicle while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the vehicle”.

New section 41.01

46 The following section is added after section 41:

“Action pursuant to section 4.1 of *The Fatal Accidents Act*—Part II beneficiary

41.01(1) In this section, ‘**child**’, ‘**parent**’ and ‘**spouse**’ have the same meanings as they have in *The Fatal Accidents Act*.

(2) Notwithstanding subsection 41(3), if, on or after the coming into force of this section, a Part II beneficiary dies as a result of an accident, the spouse, child or parent may bring an action for damages for bereavement pursuant to section 4.1 of *The Fatal Accidents Act* against a Saskatchewan resident who is either a Part II. 1 beneficiary or Part VIII beneficiary if:

(a) the loss is caused by the Part II.1 beneficiary or Part VIII beneficiary operating a motor vehicle and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 220 or 221, subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*;

(b) the loss is caused by the Part II.1 beneficiary or Part VIII beneficiary operating a motor vehicle who intentionally caused or attempted to cause bodily injury to another person and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code*; or

(c) the loss is caused by the Part II.1 beneficiary or Part VIII beneficiary operating a motor vehicle who dies as a result of the accident that gave rise to the action and the deceased operator drove or operated the motor vehicle while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the vehicle.

(3) Notwithstanding *The Pre-judgment Interest Act* or any other Act or law, the court shall not award any interest on that part of the judgment that represents an award of damages for bereavement pursuant to section 4.1 of *The Fatal Accidents Act*”.

Section 41.1 amended**47(1) Subsection 41.1(1) is amended by adding the following clause after clause (c):**

“(c.1) if all Part II benefits for permanent impairment have not been deducted pursuant to subclause (c)(ii), the court shall deduct from an award for non-economic loss all Part II benefits for permanent impairment paid or payable pursuant to this Act”.

(2) Subsection 41.1(3) is repealed and the following substituted:

“(3) Notwithstanding any other Act or law but subject to section 80, no government, agency of government or public insurance scheme that is required or liable to pay an amount mentioned in subclause (1)(c)(i) has any right of subrogation to recover that amount”.

Section 41.12 amended**48(1) Subsection 41.12(1) is amended:****(a) by repealing clause (b) and substituting the following:**

“(b) in the case of an insured who dies as a result of an accident, any past or future loss of shared family income or funeral expenses suffered by the insured’s spouse or dependant in excess of the benefits paid or payable pursuant to Division 4 of Part II.1”;

(b) by repealing subclause (d)(ii) and substituting the following:

“(ii) any past or future loss of shared family income suffered by the insured’s spouse or dependant in excess of the benefits paid or payable pursuant to:

(A) sections 80, 81, 83, 85 and 86 of *The Workers’ Compensation Act, 2013* and section 202 of this Act; or

(B) similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals for the death of an individual in an accident”; **and**

(c) in subclause (d)(iii) by striking out “past and future” and substituting “past or future”.**(2) Subsection 41.12(6) is repealed and the following substituted:**

“(6) Notwithstanding any other Act or law but subject to section 80, no government, agency of government or public or private insurance scheme that is required or liable to pay an amount mentioned in clause (4)(c) has any right of subrogation to recover that amount”.

Section 41.13 amended**49(1) Clause 41.13(1)(b) is repealed and the following substituted:**

“(b) ‘**non-economic loss**’ means any non-pecuniary loss respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident”.

(2) Subsection 41.13(2) is amended:

(a) in the portion preceding clause (a) by striking out “subsections (3) and (4)” and substituting “this section”;

(b) by repealing subclause (a)(i) and substituting the following:

“(i) the loss is caused by a motor vehicle and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 220 or 221, subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*”;

(c) by striking out “or” after clause (a);

(d) by adding “or” after clause (b); and

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

“(c) against the operator of a motor vehicle who dies as a result of the accident that gave rise to the action if:

(i) the loss is caused by a motor vehicle; and

(ii) the deceased operator drove or operated the motor vehicle while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the motor vehicle”.

(3) The following subsection is added after subsection 41.13(6):

“(7) The court shall deduct from an award for non-economic loss all Part II.1 benefits for permanent impairment paid or payable pursuant to this Act”.

New section 41.131**50 The following section is added after section 41.13:**

“Action pursuant to section 4.1 of *The Fatal Accidents Act*—Part II.1 beneficiary

41.131(1) In this section, ‘**child**’, ‘**parent**’ and ‘**spouse**’ have the same meanings as they have in *The Fatal Accidents Act*.

(2) If, on or after the coming into force of this section, a Part II.1 beneficiary dies as a result of an accident, the spouse, child or parent may bring an action for damages for bereavement pursuant to section 4.1 of *The Fatal Accidents Act*:

(a) against a third party;

(b) against the operator of a motor vehicle if:

(i) the loss is caused by a motor vehicle and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 220 or 221, subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*; or

- (ii) the loss is caused by a motor vehicle and:
 - (A) the operator of the motor vehicle intentionally caused or attempted to cause bodily injury to another person; and
 - (B) as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code*; or
 - (c) against the operator of a motor vehicle who dies as a result of the accident that gave rise to the action if:
 - (i) the loss is caused by a motor vehicle; and
 - (ii) the deceased operator drove or operated the motor vehicle while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the motor vehicle.
- (3) Notwithstanding *The Pre-judgment Interest Act* or any other Act or law, the court shall not award any interest on that part of the judgment that represents an award of damages for bereavement pursuant to section 4.1 of *The Fatal Accidents Act*.
- (4) Subsections 41.13(3) and (4) apply for the purposes of an action against a third party pursuant to this section”.

Section 41.14 repealed

51 Section 41.14 is repealed.

New Division 3.2 of Part IV

52 The following Division is added after Division 3.1 of Part IV:

“DIVISION 3.2

Tort Actions Available to Part VIII Beneficiary

“**Tort actions for economic loss**

41.15(1) In this section, ‘**economic loss**’ means the following losses resulting from bodily injury caused by a motor vehicle that arise out of an accident:

- (a) if a Part VIII beneficiary only received or would only receive an income replacement benefit pursuant to Division 4 of Part VIII, any past or future income loss in excess of the yearly employment income attributed or attributable to that Part VIII beneficiary pursuant to Division 4 of Part VIII;
- (b) any past or future income loss in excess of the yearly employment income attributed or attributable to a Part VIII beneficiary for an income replacement benefit pursuant to Division 4 of Part VIII and any past or future expense to hire a substitute worker in excess of the benefit amount paid or payable pursuant to section 117 if the Part VIII beneficiary:
 - (i) receives or would be entitled to receive:
 - (A) an income replacement benefit; and
 - (B) a benefit pursuant to section 117; or

- (ii) receives or would be entitled to receive an income replacement benefit and, but for the fact the Part VIII beneficiary has received the maximum benefit amount available pursuant to Division 4 of Part VIII, would be entitled to receive a benefit pursuant to section 117;
- (c) if a Part VIII beneficiary only receives a substitute worker benefit or would only be entitled to receive a substitute worker benefit pursuant to section 117, any past or future expense to hire a substitute worker in excess of the benefit amount paid or payable pursuant to section 117;
- (d) if a Part VIII beneficiary receives or would be entitled to receive a benefit pursuant to section 118, 119 or 120, any past or future expense in excess of the total benefit amount paid or payable pursuant to section 118, 119 or 120 to hire a substitute worker for a family enterprise or a caregiver, as the case may be;
- (e) in the case of an insured who dies as a result of an accident, any past or future loss of shared family income or funeral expenses in excess of the benefits paid or payable pursuant to Division 5 of Part VIII;
- (f) any past or future loss for a rehabilitation expense that is in excess of the total maximum benefit amount payable pursuant to section 112;
- (g) any past or future loss for living assistance expenses incurred in excess of the maximum benefit amount payable for each living assistance benefit paid or payable pursuant to the regulations;
- (h) any past or future expense in excess of the maximum benefit amount payable pursuant to sections 157 to 160 and 161 and 162 for the relevant benefit;
- (i) any past or future income loss suffered by the insured in excess of the benefits paid or payable pursuant to section 37 of *The Workers' Compensation Act, 2013*, section 202 of this Act, or a similar provision in any other Act, or any legislation of any other jurisdiction, that relates to the compensation for income loss of individuals injured in accidents;
- (j) any past or future loss of shared family income suffered by the Part VIII beneficiary's spouse or dependant in excess of the benefits paid or payable pursuant to:
 - (i) sections 80, 81, 83, 85 and 86 of *The Workers' Compensation Act, 2013* and section 202 of this Act; or
 - (ii) similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals for the death of an individual in an accident; or
- (k) any past or future loss suffered by the insured in excess of the benefits paid or payable pursuant to sections 103, 104, 109 and 111 of *The Workers' Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation for medical aid of individuals injured in accidents.

(2) Subject to section 43 of *The Workers' Compensation Act, 2013*, a Part VIII beneficiary or, if deceased, a Part VIII beneficiary's surviving spouse or dependant may bring an action in the Court of Queen's Bench to recover damages for an economic loss.

(3) The following rules or restrictions apply to an action for economic loss pursuant to this section:

- (a) the rules of negligence and apportionment of liability;
- (b) in determining economic loss, the court:
 - (i) shall calculate any award based on the Part VIII beneficiary's past or future income loss after deducting any applicable taxes pursuant to *The Income Tax Act, 2000* and the *Income Tax Act* (Canada), any premiums pursuant to the *Employment Insurance Act* (Canada) and any contributions pursuant to the *Canada Pension Plan*; and
 - (ii) shall not award any amount for income loss for the first seven days after the accident;
- (c) subject to clause (d), in determining a Part VIII beneficiary's or Part VIII beneficiary's surviving spouse's or dependant's economic loss, the court shall deduct from any award all amounts the Part VIII beneficiary or the surviving spouse or dependant has received or is entitled to receive from any government or agency of government, from any public or private insurance scheme or from any other scheme that lessens the economic loss;
- (d) in determining economic loss pursuant to clause (1)(e) or (j), the court shall not deduct from any award any amounts the Part VIII beneficiary's surviving spouse or dependant has received or is entitled to receive from a contract of life insurance as defined in *The Saskatchewan Insurance Act*;
- (e) the deductions mentioned in subclause (b)(i) are to be calculated using the Part VIII beneficiary's total income at the date of the accident and not the portion of income representing the past or future income loss;
- (f) no award for economic loss shall be provided pursuant to clauses (1)(f) to (h) for any type of past or future loss that is not compensated for or required to be compensated for by the insurer pursuant to Division 3 or Division 7 of Part VIII.

(4) Notwithstanding any other Act or law but subject to section 80, no government, agency of any government, public or private insurer or other person that is required or liable to pay an amount mentioned in clause (3)(c) has any right of subrogation to recover that amount.

(5) In an action pursuant to this section, on the application of any party, the court may, in accordance with the regulations, direct that any compensation payable respecting all or any claimed categories of damages be provided for in the form of a structured compensation order.

(6) The court may make a direction pursuant to subsection (5) at any stage in the proceedings.

“Tort action for non-economic loss

41.16(1) In this section, ‘**non-economic loss**’ means any non-pecuniary loss respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident.

(2) Subject to this section and section 43 of *The Workers’ Compensation Act, 2013*, a Part VIII beneficiary may bring an action for damages in the Court of Queen’s Bench to recover a non-economic loss:

(a) against the operator of a motor vehicle if:

(i) the loss is caused by a motor vehicle and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 220 or 221, subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*; or

(ii) the loss is caused by a motor vehicle and:

(A) the operator of the motor vehicle intentionally caused or attempted to cause bodily injury to another person; and

(B) as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code*;

(b) against the operator of a motor vehicle who dies as a result of the accident that gave rise to the action if:

(i) the loss is caused by a motor vehicle; and

(ii) the deceased operator drove or operated the motor vehicle while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the motor vehicle; or

(c) against a third party if the loss is caused by, contributed to, or exacerbated by the acts or omissions of the third party.

(3) Notwithstanding *The Pre-judgment Interest Act* or any other Act or law, the court shall not award any interest on that part of the judgment that represents a Part VIII beneficiary’s non-economic loss.

(4) The court shall deduct from an award for non-economic loss all Part VIII benefits for permanent impairment paid or payable pursuant to this Act.

(5) For the purposes of clause (2)(c):

(a) a motor vehicle manufacturer is liable only with respect to its business activities and role in manufacturing motor vehicles;

(b) a maker or supplier of motor vehicle parts is liable only with respect to its business activities and role in making or supplying motor vehicle parts;

(c) a person engaged in the business of selling motor vehicles is liable only with respect to its business activities;

(d) a person engaged in the business of, or whose business includes, a motor vehicle garage, repair shop or service station is liable only with respect to its business activities and role in repairing and servicing motor vehicles; and

(e) the holder of a restaurant permit or tavern permit issued pursuant to *The Alcohol and Gaming Regulation Act, 1997* authorizing the permit holder to deal in beverage alcohol is liable only with respect to its business activities and role in supplying beverage alcohol.

(6) A third party is not liable pursuant to this section only by reason of the fact that a motor vehicle owned by the third party caused or contributed to the accident.

(7) Notwithstanding any Act or law, a Part VIII beneficiary is only entitled to bring an action pursuant to subsection (2) to recover that portion of his or her non-economic loss that is caused by or attributable to those operators or third parties identified in clauses (2)(a) to (c).

“Action pursuant to section 4.1 of *The Fatal Accidents Act*—Part VIII beneficiary

41.17(1) In this section, ‘**child**’, ‘**parent**’ and ‘**spouse**’ have the same meanings as they have in *The Fatal Accidents Act*.

(2) If, on or after the coming into force of this section, a Part VIII beneficiary dies as a result of an accident, the spouse, child or parent may bring an action for damages for bereavement pursuant to section 4.1 of *The Fatal Accidents Act*:

(a) against any third party;

(b) against the operator of a motor vehicle if:

(i) the loss is caused by a motor vehicle and, as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 220 or 221, subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*; or

(ii) the loss is caused by a motor vehicle and:

(A) the operator of the motor vehicle intentionally caused or attempted to cause bodily injury to another person; and

(B) as a result of the operation of the motor vehicle, the operator is convicted of an offence pursuant to section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code*; or

(c) against the operator of a motor vehicle who dies as a result of the accident that gave rise to the action if:

- (i) the loss is caused by a motor vehicle; and
- (ii) the deceased operator drove or operated the motor vehicle while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the motor vehicle.

(3) Notwithstanding *The Pre-judgment Interest Act* or any other Act or law, the court shall not award any interest on that part of the judgment that represents an award of damages for bereavement pursuant to section 4.1 of *The Fatal Accidents Act*.

(4) Subsections 41.16(5) and (6) apply for the purposes of an action against a third party pursuant to this section”.

Section 50 amended

53 Subsection 50(5) is repealed and the following substituted:

“(5) This section applies notwithstanding section 40.1 or any other provision of this Act to the contrary that precludes the insurer from recovering against an insured any amount that the insurer has paid by reason of this section that the insurer would not otherwise be liable to pay”.

Section 51.1 amended

54 Subsection 51.1(1) is repealed and the following substituted:

“(1) The following persons may bring an action against the insurer as a nominal defendant either alone or with other defendants alleged to be responsible for the bodily injury:

- (a) a Part II beneficiary, if the Part II beneficiary:
 - (i) has a cause of action against a Part II.1 beneficiary, Part VIII beneficiary or commercial entity respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident; and
 - (ii) is unable to bring an action as a result of sections 40.1, 41 and 41.01; or
- (b) the spouse, child or parent of a deceased Part II beneficiary if:
 - (i) the spouse, child or parent has a cause of action against a Part II.1 beneficiary, Part VIII beneficiary or commercial entity respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident; and
 - (ii) is unable to bring an action as a result of sections 40.1, 41 and 41.01”.

Section 54 amended

55 Subsection 54(1.1) is repealed and the following substituted:

“(1.1) Notwithstanding subsection (1), an action respecting, arising out of or stemming from bodily injury caused by a motor vehicle arising out of an accident must be brought pursuant to section 51.1 if the owner or operator of the uninsured motor vehicle is a Part VIII beneficiary, Part II.1 beneficiary, commercial entity or third party unless a cause of action against the Part VIII beneficiary, Part II.1 beneficiary, commercial entity or third party is provided for in this Part”.

Section 66 amended

56 Clause 66(1)(a) is repealed and the following substituted:

“(a) paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*”.

Section 72 amended

57 Section 72 is amended by striking out “physician and every surgeon, chiropractor, physiotherapist, psychologist, massage therapist or dentist” and substituting “practitioner”.

Section 81 amended

58 Subsection 81(1) is amended:

(a) by repealing clause (m);

(b) by repealing clause (ii.3) and substituting the following:

“(ii.3) prescribing any matter necessary for the purposes of sections 34 and 35.91”;

(c) in clause (jj.5) by striking out “section 35.79” and substituting “sections 32 and 35.79”;

(d) in clause (ll) by striking out “section 41.1 or 41.2” and substituting “section 41.1, 41.12 or 41.15”; and

(e) by repealing clauses (ll.1) and (ll.2) and substituting the following:

“(ll.1) respecting the manner in which an insured’s debt to the insurer may be deducted from compensation payable to the insured by the insurer;

“(ll.2) prescribing persons or classes of persons as insured for the purposes of clause 41.13(1)(a);

“(ll.3) prescribing persons or classes of persons as third parties for the purposes of Divisions 3, 3.1 and 3.2 of Part IV;

“(ll.4) prescribing any matter or thing that is required or authorized by this Part to be prescribed in the regulations”.

Section 91 amended

59 The following clause is added after clause 91(2)(c):

“(c.1) all costs and expenses incurred with respect to appeal advisors pursuant to Part VIII”.

Section 100 amended

60 Section 100 is amended:

- (a) by repealing clause (b);
- (b) by repealing clause (k);
- (c) by repealing clause (m) and substituting the following:

“(m) ‘seasonal employment’ means a seasonal employment as defined in the regulations”; and

- (d) by repealing clause (p) and substituting the following:

“(p) ‘student’ means a prescribed person”.

Sections 103 to 105 repealed

61 Sections 103 to 105 are repealed.

New section 107

62 Section 107 is repealed and the following substituted:**“No benefits for suicide**

107(1) No benefits are payable to an insured or to any person claiming through or on behalf of an insured, or as a result of bodily injury to or the death of an insured, if the insured commits suicide or attempts to commit suicide with a motor vehicle.

(2) A claimant who disagrees with a decision of the insurer pursuant to subsection (1) may appeal that decision to the Court of Queen’s Bench or the appeal commission, in the prescribed manner, within 180 days after receiving the insurer’s written decision”.

New section 107.1

63 Section 107.1 is repealed and the following substituted:**“No Part VIII benefits to occupants of stolen motor vehicles**

107.1(1) Notwithstanding any other provision of this Part, no occupant of a stolen motor vehicle involved in an accident that occurs on or after the coming into force of this section, and no person claiming through, on behalf of or as a result of the bodily injury to or the death of the occupant of the stolen motor vehicle, is entitled to any benefits pursuant to this Part with respect to the accident.

(2) Notwithstanding any other provision of this Part, the insurer may withhold the payment of any benefits pursuant to this Part with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in clause 2(1)(cc.1) until the disposition of that charge”.

(3) If an amount has been withheld pursuant to subsection (2) and the insured is not convicted of the offence mentioned in clause 2(1)(cc.1), the insurer shall pay to the insured or to a person claiming through, on behalf of or as a result of the bodily injury to or the death of the insured:

- (a) the withheld benefits to which that insured is entitled; and
- (b) interest on the withheld benefits at the pre-judgment interest rate established pursuant to *The Pre-Judgment Interest Act*.

(4) An insured or a person claiming through, on behalf of or as a result of the bodily injury to or the death of the insured who disagrees with a decision of the insurer pursuant to subsection (1) may appeal that decision to the Court of Queen's Bench or the appeal commission, in the prescribed manner, within 180 days after receiving the insurer's written decision".

Section 111 amended

64 Subsection 111(1) is amended by striking out "Subject to section 105, if an insured" **and substituting** "If an insured".

Section 113 amended

65 Subsections 113(6) and (7) are repealed and the following substituted:

"(6) Notwithstanding subsection (5), if the insured held or would have held seasonal employment at the date of the accident, the income replacement benefit pursuant to subsection (4) is the greatest of:

(a) an income replacement benefit calculated on the basis of the yearly employment income the insured earned in the year before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers' Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents;

(b) an income replacement benefit calculated on the basis of the average yearly employment income the insured earned in the two years before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers' Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents; and

(c) an income replacement benefit calculated on the basis of a yearly employment income determined on the basis of a 40-hour work week paid on the basis of the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*.

"(7) Notwithstanding subsections (5) and (6), if the insured held or would have held seasonal employment at the date of the accident, the income replacement benefit pursuant to subsection (4) must be calculated pursuant to subsection (7.1) if:

(a) the insured did not hold the seasonal employment until on or after July 1 of the year before the date of the accident; and

(b) the insured did not otherwise hold the seasonal employment in the two years before the date of the accident.

“(7.1) For the purposes of subsection (7), the income replacement benefit must be calculated on the greatest of:

(a) an income replacement benefit calculated on the basis of the yearly employment income the insured earned in the year before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers’ Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents;

(b) an income replacement benefit calculated on the basis of the average yearly employment income the insured earned in the two years before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers’ Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents;

(c) the yearly employment income as determined in accordance with the regulations for an employment of the same class as the seasonal employment that the insured held or would have held but for the accident; and

(d) an income replacement benefit calculated on the basis of a yearly employment income determined on the basis of a 40-hour work week paid on the basis of the minimum wage established pursuant to Part II of *The Saskatchewan Employment Act*”.

Section 116 is amended

66(1) Subsection 116(4) is amended by striking out “subsection (5) and”.

(2) Subsection 116(5) is repealed.

(3) Subsection 116(6) is amended by striking out “Notwithstanding subsection (5), on” and substituting “On”.

Section 117 amended

67(1) Subsection 117(2) is repealed and the following substituted:

“(2) The maximum aggregate amount of the substitute worker benefit for all employments that the insured held at the date of the accident is \$847 per week”.

(2) The following subsection is added after subsection 117(7):

“(8) Notwithstanding any other provision of this Part, if an insured receives an income replacement benefit and a benefit pursuant to this section, the maximum aggregate benefit amount payable to an insured respecting those benefits must not exceed the maximum yearly insurable earnings calculated pursuant to section 136”.

Section 120 amended

68(1) Subsection 120(1) is amended by striking out “Subject to subsection (3), an insured” and substituting “An insured”.

(2) Subsection 120(2) is repealed and the following substituted:

“(2) The insurer shall pay a benefit pursuant to this section to reimburse the insured for any actual and reasonable expenses incurred by the insured to provide for the care of persons described in subsection (1) to a maximum prescribed amount”.

(3) Subsection 120(3) is repealed.

Section 121 amended

69 Subsection 121(4) is repealed.

Section 144 amended

70(1) Subsections 144(2) and (3) are repealed and the following substituted:

“(2) If the insured was a seasonal worker at the date of the accident, the surviving spouse of the insured is entitled to a weekly death benefit in an amount DB calculated in accordance with the following formula:

$$DB = (50\% \times IRB)$$

where IRB is the weekly income replacement benefit that the insured would have been entitled to calculated on the basis of the greater of:

(a) the yearly employment income the insured earned in the year before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers’ Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents; and

(b) the average yearly employment income the insured earned in the two years before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers’ Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents.

“(3) Notwithstanding subsection (2), if the insured held or would have held seasonal employment at the date of the accident, the weekly death benefit payable to the surviving spouse must be calculated pursuant to subsection (3.1) if:

(a) the insured did not hold the seasonal employment until on or after July 1 of the year before the date of the accident; and

(b) the insured did not otherwise hold the seasonal employment in the two years before the date of the accident.

“(3.1) For the purposes of subsection (3), the weekly death benefit is the amount DB calculated in accordance with the following formula:

$$DB = (50\% \times IRB)$$

where IRB is the weekly income replacement benefit that the insured would have been entitled to calculated on the basis of the greatest of:

(a) the yearly employment income the insured earned in the year before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers' Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents;

(b) the average yearly employment income the insured earned in the two years before the accident as set out in the regulations, including any benefits received pursuant to the *Employment Insurance Act* (Canada), any benefits received pursuant to an employment disability plan, and any benefits received pursuant to *The Workers' Compensation Act, 2013* or similar provisions in any other Act, or any legislation of any other jurisdiction, that relate to the compensation of individuals injured in accidents; and

(c) the yearly employment income as determined in accordance with the regulations for an employment of the same class as the seasonal employment that the insured held or would have held but for the accident.

“(3.2) Subject to subsection (3.3), for the purposes of subsections (1), (2) and (3), if an insured dies as a result of the accident and was at the time of his or her death receiving a weekly income replacement benefit pursuant to Division 4, IRB in subsections (1), (2) and (3) is equal to the greater of:

(a) the weekly income replacement benefit the insured was entitled to at the date of his or her death; and

(b) the amount IRB as defined in subsection (1), (2) or (3).

“(3.3) If an insured dies within the first seven days after the accident, he or she is deemed to have died on the date of the accident”.

(2) Subsection 144(4) is repealed and the following substituted:

“(4) Notwithstanding subsections (1) to (3) but subject to subsection (4.1), the minimum death benefit a surviving spouse is entitled to receive pursuant to this section is \$69,322.

“(4.1) If, as a result of the application of subsection (4), a surviving spouse receives the minimum death benefit mentioned in that subsection, the spouse is not entitled to any additional amount of death benefits pursuant to this section, other than a death benefit payable pursuant to subsection (6)”.

(3) Subsection 144(6) is amended by striking out “IRB is the income replacement benefit of the insured as calculated pursuant to subsection (1) or (2)” and substituting “IRB is the income replacement benefit of the insured as calculated pursuant to subsection (1), (2), (3), (3.1) or (3.2)”.

Section 145 amended**71 Subsections 145(5) and (6) are repealed and the following substituted:**

“(5) Notwithstanding subsections (1) to (4), the minimum death benefit a dependant is entitled to receive pursuant to those subsections is \$69,322.

“(5.1) A dependant who is entitled to a death benefit pursuant to subsections (1) to (4) is not entitled to a death benefit pursuant to subsection 144(6).

“(6) If there is more than one dependant, the death benefits mentioned in this section are to be calculated and paid in the prescribed manner”.

Section 146 amended

72(1) Subsection 146(1) is amended by adding “weekly” before “death benefit”.

(2) The following subsection is added after subsection 146(5):

“(6) Subsection (1) does not apply to a minimum death benefit paid or payable pursuant to subsections 144(4) and 145(5)”.

Section 151 repealed

73 Section 151 is repealed.

New section 155.1

74 The following section is added after section 155:

“Interest on permanent impairment benefit

155.1 The insurer shall pay to the insured interest in accordance with the regulations on the amount of the insured’s permanent impairment benefit computed from the day of the accident to the day on which the benefit is paid”.

Section 156 amended

75(1) Subsection 156(1) is amended by striking out “for expenses related to obtaining assistance”.

(2) Subsections 156(2) and (3) are repealed and the following substituted:

“(2) The insurer shall calculate and pay to the insured a living assistance benefit in accordance with the regulations.

“(3) The maximum aggregate amount payable for living assistance benefits is the prescribed amount”.

New section 160.1

76 The following section is added after section 160:

“Benefits for attending on insured requiring critical care

160.1(1) Subject to the regulations, if the insured is receiving critical care, the insurer may reimburse up to two people for lost earnings, transportation and lodging costs and other prescribed expenses if that person attends or those persons attend on an insured receiving critical care.

(2) The maximum aggregate benefit payable pursuant to this section for all persons who attend on an insured is \$30,000”.

New section 161

77 Section 161 is repealed and the following substituted:**“Additional expenses**

161 Subject to the regulations, the insurer shall pay all actual and reasonable non-refundable expenses incurred by an insured to a maximum aggregate amount of \$2,500”.

New sections 162.1 and 162.2

78 The following sections are added after section 162:**“Counselling**

162.1(1) In this section, **‘immediate family member’**, with respect to an insured, means:

- (a) a dependant;
- (b) a parent;
- (c) a brother or sister;
- (d) a spouse; or
- (e) a surviving spouse.

(2) Subject to the regulations, the insurer may reimburse the insured’s immediate family members for the actual and reasonable expenses incurred to attend counselling.

(3) The maximum aggregate benefit amount pursuant to subsection (2) is \$5,000.

“Leisure and recreation

162.2(1) Subject to the regulations, if an insured suffers a catastrophic injury, the insurer may reimburse the insured for an expense incurred to facilitate the insured’s participation in recreation or leisure activities.

(2) The maximum aggregate benefit amount pursuant to subsection (1) is \$2,500 per year”.

Section 172 amended

79(1) Subsection 172(3) is repealed and the following substituted:

“(3) Benefits payable pursuant to Division 6 must be calculated based on the maximum benefit amount payable for that benefit on the date of the accident.

“(3.1) Benefits payable pursuant to Divisions 3 and 7 must be calculated based on the maximum benefit amount payable for that benefit on the date the expense is incurred.

“(3.2) Benefits payable pursuant to Division 5 must be calculated based on the maximum benefit amount payable for that benefit on the date of death”.

(2) The following subsection is added after subsection 172(6):

“(7) Notwithstanding any other provision of this Part, a benefit payable pursuant to Division 5 to a dependant or surviving spouse of an insured is payable only if he or she is a dependant or surviving spouse, as the case may be, of the insured as at the date of the insured’s death”.

Section 174 amended**80(1) Subsection 174(2) is amended by striking out “pursuant to section 210” and substituting “in accordance with the regulations”.****(2) Clause 174(3)(b) is repealed and the following substituted:**

“(b) the insured, at the time of the accident, was the operator or had the care and control of a motor vehicle involved in the accident and either:

(i) was convicted of:

(A) an offence pursuant to section 220 or 221 of the *Criminal Code* as a result of the operation of a motor vehicle or an offence pursuant to subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*; or

(B) an offence pursuant to a law of a state of the United States of America substantially similar to an offence mentioned in paragraph (A);

and, on at least one other occasion within the five years before the accident, has been convicted of an offence mentioned in paragraph (A) as a result of the operation of a motor vehicle; or

(ii) intentionally caused or attempted to cause bodily injury to another person and has been convicted of:

(A) an offence set out in section 235, 236, 239, 249, 266, 267, 268 or 269 of the *Criminal Code* as a result of the operation of a motor vehicle; or

(B) an offence pursuant to a law of a state of the United States of America substantially similar to an offence mentioned in paragraph (A)”.

(3) The following subsections are added after subsection 174(3):

“(4) The insurer may withhold the payment of any benefits pursuant to subsection (3) with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in that subsection until the disposition of that charge.

“(5) If an amount has been withheld pursuant to subsection (4) and the insured is not convicted of an offence mentioned in subsection (3), the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been charged, together with interest in accordance with the regulations”.

Section 175 amended

81 Section 175 is amended:

- (a) **by renumbering it as subsection 175(1);**
- (b) **by repealing paragraph (1)(b)(ii)(A) and substituting the following:**

“(A) an offence pursuant to section 220 or 221 of the *Criminal Code* as a result of the operation of a motor vehicle or an offence pursuant to subsection 249.1(3), section 249.2, 249.3 or 249.4, paragraph 253(1)(a) or (b), subsection 254(5) or subsection 255(2), (2.1), (2.2), (3), (3.1) or (3.2) of the *Criminal Code*”; **and**
- (c) **by adding the following subsections after subsection (1):**

“(2) The insurer may withhold the payment of any benefit pursuant to Division 6 with respect to an accident if, in connection with the accident, the insured has been charged with an offence mentioned in subsection (1) until the disposition of that charge.

“(3) If an amount has been withheld pursuant to subsection (2) and the insured is not convicted of an offence mentioned in subsection (1), the insurer shall pay to the insured the amount of the benefit that would have been paid to him or her if he or she had not been charged, together with interest in accordance with the regulations”.

New section 176

82 Section 176 is repealed and the following substituted:**“Proof of conviction**

176 For the purposes of sections 107.1, 174 and 175, a certificate purporting to be signed by a judge of the convicting court or other officer having custody of the records of the convicting court certifying that the insured has been convicted of an offence mentioned in section 107.1, 174 or 175 is admissible in evidence as proof, in the absence of evidence to the contrary, of the conviction of the insured without proof of the signature or official character of the person purporting to have signed the certificate”.

New section 182

83 Section 182 is repealed and the following substituted:**“Benefits, other than income replacement benefits, not subject to seizure or assignment**

182(1) Subject to section 11.1 and *The Enforcement of Maintenance Orders Act, 1997*, benefits, other than income replacement benefits, are exempt from garnishment, seizure, attachment, execution and any other process or claim.

(2) A beneficiary who is entitled to any benefits, other than an income replacement benefit may not assign the benefits to another person, and any purported assignment is void”.

Section 191 amended

84 Clause 191(1)(b) is repealed and the following substituted:

“(b) if a claimant has requested mediation pursuant to section 190, 90 days after the date of the mediator’s written statement pursuant to subsection 190(8) declaring that the mediation is completed”.

Section 196.3 amended

85 Subsection 196.3(3) is repealed and the following substituted:

“(3) Each member of the appeal commission has the powers conferred on a commission by sections 11 and 15 of *The Public Inquiries Act, 2013* before or during a pre-hearing conference, a hearing or review”.

New Division 11.2 of Part VIII

86 The following Division is added after Division 11.1 of Part VIII:

“DIVISION 11.2
Appeal Advisor

“Appeal advisors—appointment and role

196.6(1) Appeal advisors may be appointed in accordance with *The Public Service Act, 1998*.

(2) An appeal advisor may assist a claimant in making a claim for benefits, mediating a claim for benefits or appealing a decision of the insurer to the appeal commission.

(3) An appeal advisor may decline to provide services with respect to any matter if the appeal advisor is of the opinion that the claimant is not eligible for benefits.

“Disclosure of documents to appeal advisor

196.7(1) An appeal advisor, when authorized by a claimant, has the same right as the claimant pursuant to subsection 165(2).

(2) The insurer is not required to comply with section 165 with respect to an appeal advisor if the information the appeal advisor is requesting has been released to the claimant pursuant to section 165”.

Section 202 amended

87 Subsection 202(1) is repealed and the following substituted:

“(1) In this section, ‘**other compensation**’ means:

- (a) compensation pursuant to *The Workers’ Compensation Act, 2013* or any other Act, or any legislation of any other jurisdiction, that provides for compensation of individuals injured in accidents;
- (b) compensation pursuant to the *National Defence Act (Canada)*; or
- (c) compensation pursuant to the *Royal Canadian Mounted Police Act (Canada)* to a member of the Royal Canadian Mounted Police who was on work duty at the time of the accident and is injured in the accident”.

New section 203

88 Section 203 is repealed and the following substituted:**“Disability payments to reduce income replacement benefit**

203 If, as a result of an accident, an insured is entitled to both an income replacement benefit and a prescribed disability benefit, the insurer shall reduce the income replacement benefit by the amount of the disability benefit payable to the insured”.

Section 204 amended

89 Subsection 204(2) is amended by striking out “section 103” and substituting “section 41.15”.

Section 207 amended

90 Section 207 is amended by adding “, any appeal advisor” after “employee or agent of the insurer”.

Section 216 amended

91 Subsection 216(1) is amended:

(a) by repealing clause (k);

(b) by repealing clause (l);

(c) by adding the following clauses after clause (m):

“(m.1) prescribing those measures, programs and treatments that the insured is not required to fund pursuant to Division 3;

“(m.2) prescribing measures, programs and treatments for the purposes of section 112”;

(d) by repealing clause (s) and substituting the following:

“(s) prescribing who is eligible or ineligible for, and the terms and conditions governing, a substitute worker benefit pursuant to sections 116 and 117”;

(e) by adding the following clause after clause (v):

“(v.1) prescribing the benefit amounts payable pursuant to section 120 and the manner of calculating those benefit amounts”;

(f) by repealing clause (dd) and substituting the following:

“(dd) prescribing any other benefit to be provided pursuant to section 150, 160.1, 162, 162.1 or 162.2, the terms and conditions under which the insurer may offer these benefits and the maximum amounts that may be provided”;

(g) by adding the following clauses after clause (gg):

“(gg.1) respecting the calculation and payment of a living assistance benefit pursuant to section 156;

“(gg.2) for the purposes of section 156, prescribing the maximum aggregate amount available for living assistance benefits”;

(h) by adding the following clause after clause (jj):

“(jj.1) prescribing the terms and conditions governing the payment of non-refundable expenses pursuant to section 161”;

(i) by adding the following clause after clause (pp.3):

“(pp.4) respecting any matter necessary for the purposes of sections 196.6 and 196.7, including prescribing the manner in which an appeal advisor may assist a claimant in appealing a decision of the insurer to the appeal commission”; **and**

(j) by adding the following clause after clause (rr):

“(rr.1) prescribing disability benefits for the purposes of section 203”.

Transitional

92(1) Sections 22, 43, 65, 70 and 87 of this Act amending sections 34, 35.91, 113, 144 and 202 of *The Automobile Accident Insurance Act* respectively, apply to those individuals who are injured in a motor vehicle accident on or after the day on which this subsection comes into force.

(2) Notwithstanding any other Act or law, if, on the day on which this subsection comes into force, an insured is entitled to a permanent impairment benefit pursuant to section 28, 35.4 or 152 of *The Automobile Accident Insurance Act*, as that Act existed on the day before this subsection comes into force, and that permanent impairment benefit has not yet been paid to the insured, the insured is entitled to interest on the permanent impairment benefit pursuant to section 28.2, 35.401 or 155.1 of *The Automobile Accident Insurance Act*, as that Act is amended by this Act.

(3) Notwithstanding any other Act or law, if, on the day on which this subsection comes into force, an insured or an insured’s estate is entitled to a death benefit pursuant to section 27, 27.1, 27.3, 35.3, 35.31, 35.33, 144, 145 or 147 or a funeral benefit pursuant to section 27.4, 35.34 or 148 of *The Automobile Accident Insurance Act*, as that Act existed on the day before this subsection comes into force, and that death benefit or funeral benefit has not yet been paid to the insured or the insured’s estate, subsections 30.4(12), 35.76(12) and 172(3.2) of *The Automobile Accident Insurance Act*, as that Act is amended by this Act, apply to the calculation of the death benefit and funeral benefit.

(4) Notwithstanding any other Act or law, if an insured was injured in an accident before the day on which this subsection comes into force and that insured incurs an expense pursuant to section 21, section 35.14 or Division 3 or 7 of Part VIII of *The Automobile Accident Insurance Act* on or after the day on which this subsection comes into force, subsections 30.4(11), 35.76(11) and 172(3.1) of *The Automobile Accident Insurance Act*, as that Act is amended by this Act, apply to the calculation of the benefit.

(5) Notwithstanding any other Act or law, a person who is a beneficiary pursuant to Part II of *The Automobile Accident Insurance Act* is not entitled to a weekly benefit calculated pursuant to clause 22(3)(b), 22.1(3)(b), 23(3)(b), 24(3)(b), 24.1(3)(b) or 25(3)(b) of *The Automobile Accident Insurance Act*, as that Act is amended by this Act, unless that Part II beneficiary was injured in a motor vehicle accident on or after the day on which this subsection comes into force.

(6) Notwithstanding any other Act or law, a person who is a beneficiary pursuant to Part II.1 of *The Automobile Accident Insurance Act* is not entitled to a weekly benefit calculated pursuant to clause 35.2(3)(b), 35.21(3)(b), 35.22(3)(b), 35.23(3)(b), 35.24(3)(b) or 35.25(3)(b) of *The Automobile Accident Insurance Act*, as that Act is amended by this Act, unless that Part II.1 beneficiary was injured in a motor vehicle accident on or after the day on which this subsection comes into force.

(7) Notwithstanding any other Act or law, if an insured had a cause of action for loss or damage arising from the ownership, use or operation of a motor vehicle pursuant to *The Automobile Accident Insurance Act*, before the day on which this subsection comes into force, that cause of action for loss or damage arising from the ownership, use or operation of a motor vehicle must be determined, assessed and calculated in accordance with the provisions of Part IV and sections 103 and 104 of *The Automobile Accident Insurance Act* as those sections existed before the day on which this subsection comes into force.

S.S. 2004, c.T-18.1, section 257 amended

93 Subsection 257(2) of *The Traffic Safety Act* is repealed and the following substituted:

“(2) If an operator of a motor vehicle involved in an accident is convicted of an offence that involves a motor vehicle and that is mentioned in clause 41(4)(b), subsection 41.01(2) or clause 41.13(2)(a), 41.131(2)(b), 41.16(2)(a) or 41.17(2)(b) of *The Automobile Accident Insurance Act* after the expiration of the two-year limitation period set out in subsection (1), an action for non-economic loss, within the meaning of that Act, may be brought against that operator to recover damages occasioned by a motor vehicle within one year after the date the operator is convicted of that offence”.

Coming into force

94 This Act comes into force on proclamation.