

# *The Automobile Accident Insurance Act*

*being*

Chapter A-35 of *The Revised Statutes of Saskatchewan, 1978*  
(effective February 26, 1979).

**NOTE:**

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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## CHAPTER A-35

### An Act respecting Insurance against Certain Losses resulting from Certain Motor Vehicle Accidents

#### SHORT TITLE

##### Short title

1 This Act may be cited as *The Automobile Accident Insurance Act*.

R.S.S. 1978, c.A-35, s.1.

#### INTERPRETATION

##### Interpretation

2 In this Act:

##### “accident insurance”

(a) “**accident insurance**” means the obligation of the insurer under this Act to pay benefits if loss from bodily injuries is sustained by an insured as the result of one of the perils mentioned in section 22;

##### “benefits”

(b) “**benefits**” means any payment for loss from bodily injuries that the insurer is required or authorized to make under Part II;

##### “bodily injury liability insurance”

(c) “**bodily injury liability insurance**” means the obligation of the insurer under this Act to pay insurance money in the event of the death of or bodily injury to any person as the result of one of the perils mentioned in section 42;

##### “certificate”

(d) “**certificate**” means a certificate of insurance issued in accordance with this Act;

##### “child”

(e) “**child**” includes son, daughter, step-son, step-daughter, adopted child, a person to whom an insured stands in *loco parentis*, and a person for whose support an insured was, at the time of his death, liable pursuant to any Act respecting the welfare of children;

##### “comprehensive insurance”

(f) “**comprehensive insurance**” means the obligation of the insurer under this Act to pay insurance money to an insured in the event of loss of or damage to a vehicle resulting from one of the perils mentioned in section 35;

##### “dealer”

(g) “**dealer**” means a dealer as defined from time to time in *The Vehicles Act* or *The Snowmobile Act*;

##### “dependent child”

(h) “**dependent child**” means a child under the age of eighteen years who is dependent upon an insured or a person of the age of eighteen years or more who by reason of physical or mental infirmity is unable to provide himself with the necessities of life without the assistance of an insured;

##### “dependent husband”

(i) “**dependent husband**” means a husband who by reason of physical or mental infirmity is unable to provide himself with the necessities of life without the assistance of an insured;

**“dependent parent”**

(j) **“dependent parent”** means a parent of an insured who by reason of physical or mental infirmity is unable to provide himself with the necessaries of life without the assistance of the insured, and the mother of an insured shall be deemed to be dependent upon him if she is unable to provide herself with the necessaries of life without his assistance and if she is:

- (i) a widow;
- (ii) married to a man who is an inmate of a jail or penitentiary and has been committed thereto for a period of not less than six months;
- (iii) married to a man who has been committed to an institution for incurables or for the feebleminded or insane; or
- (iv) married to a man who is permanently incapacitated by incurable disease or disabling injury from contributing adequately to her support or that of her family;

**“garage”**

(k) **“garage”** means a building or part of a building within or in connection with which service is rendered upon a motor vehicle in the ordinary course of business;

**“housewife”**

(l) **“housewife”** means a woman managing, maintaining and controlling an independent domestic establishment, who does not either:

- (i) engage in a definite regular occupation for wages or for profit; or
- (ii) report regularly to a place of employment apart from her residence;

**“husband” or “wife”**

(m) **“husband” or “wife”** means the legal spouse of an insured or, if the insured did not have a legal spouse at the time of his death who had an enforceable claim for benefits under this Act, the person who, at the time of the death of an insured and during the two years immediately preceding the accident out of which the claim arose, lived and manifested an intention of continuing to live together permanently with the insured as husband and wife even though they were not married;

**“insurance”**

(n) **“insurance”** means insurance provided under this Act;

**“insurance money”**

(o) **“insurance money”** means any payment that the insurer is authorized or required to make under Part III or Part IV;

**“insured”**

(p) **“insured”** includes:

- (i) a person to or in respect of whom or to whose dependants benefits are payable if bodily injuries are sustained by him as a result of one of the perils mentioned in section 22 whether he is named in a certificate or not;
- (ii) a person to whom insurance money is payable if loss of or damage to a vehicle results from one of the perils mentioned in section 38; and
- (iii) a person to whom or on whose behalf insurance money is payable if bodily injury to or the death of others, or loss of or damage to the property of others, for which he is legally liable results from one of the perils mentioned in section 42 whether he is named in an owner’s certificate or not;

**“insurer”**

(q) **“insurer”** means The Saskatchewan Government Insurance Office;

**“licence period”**

(r) **“licence period”** means:

(i) the period of twelve months commencing on the first day of May in any year and ending on the thirtieth day of April in the next succeeding year; or

(ii) such other period for which a certificate of registration for a motor vehicle, trailer or semi-trailer or a licence to drive is issued under *The Vehicles Act* or *The Snowmobile Act*, commencing with the day of the issue of that certificate of registration or licence and ending on the day upon which that certificate of registration or licence, as the case may be, purports to expire;

as the occasion and the context require;

**“medical consultant”**

(s) **“medical consultant”** means a duly qualified medical practitioner appointed by the insurer to perform the duties prescribed by this Act and such other duties as the insurer may prescribe;

**“motor vehicle”**

(t) **“motor vehicle”** includes motor cars, locomobiles, power units, motor cycles, pedal bicycles with motor attachment, snowmobiles, snowplanes, tractors, units formed by attaching power units to semi-trailers and all other self-propelled vehicles, but does not include:

(i) trolley buses;

(ii) cars of electric and steam railways and other motor vehicles running only upon rails or tracks or solely upon railway company property;

(iii) fire engines and fire department apparatus;

(iv) road rollers and street sprinklers;

(v) snowploughs and machinery used for the removal of snow;

(vi) road building and road maintenance machinery;

(vii) machinery used for construction of drainage works or water conservation projects;

(viii) machinery used for excavation purposes;

(ix) farm machinery other than:

(A) tractors when used otherwise than by farmers in connection with their farming operations;

(B) motor cars; and

(C) farm trucks;

(x) tractors when used by implement vendors, licensed under *The Agricultural Implements Act*, in connection with their implement agency businesses;

**“necessaries of life”**

(u) **“necessaries of life”** means food, clothing, lodging and other means that at the time of death of an insured are available to the person claiming to be dependent upon the insured and reasonably necessary to the maintenance of life and to the continuation of the degree of health then enjoyed by the person so claiming;

**“nuclear energy hazard”**

(v) **“nuclear energy hazard”** means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act* (Canada);

**“operator’s certificate”**

(w) **“operator’s certificate”** means a certificate of insurance issued to a person holding a licence or other permit to drive a motor vehicle under *The Vehicles Act*, or *The Snowmobile Act*;

**“owner’s certificate”**

(x) **“owner’s certificate”** means a certificate of insurance issued to a person in respect of the ownership of a vehicle for which a certificate of registration, a dealer’s certificate or a trailer certificate of registration has been issued under *The Vehicles Act* or *The Snowmobile Act*;

**“parent”**

(y) **“parent”** includes father, mother, step-father, step-mother, a person who has adopted an insured, and a person who stands in *loco parentis* to an insured;

**“power unit”**

(z) **“power unit”** means a motor vehicle used solely for the purpose of drawing a semi-trailer;

**“primary dependant”**

(aa) **“primary dependant”** means:

(i) the wife of an insured unless, at the time of the death of the insured, she was living apart from him under circumstances disentitling her to alimony;

(ii) the dependent husband of an insured unless, at the time of the death of the insured, he was living in adultery apart from her;

(iii) the dependent child or children of an insured, if the wife or dependent husband predeceases the insured or is otherwise prevented from qualifying as a primary dependent by reason of subclause (i) or (ii);

(iv) the dependent parent or dependent parents of an insured if the insured is not survived by any of the persons qualifying as primary dependants under subclause (i), (ii) or (iii);

(bb) **“property damage liability insurance”** means the obligation of the insurer under this Act to pay insurance money in the event of loss of or damage to property as the result of one of the perils mentioned in section 42;

**“public highway”**

(cc) **“public highway”** means a road allowance or a road, street or lane, and includes any bridge, culvert, drain or other public improvement erected upon or in connection with a public highway, and any parkway, driveway, square or place designed and intended for or used by the general public for the passage of vehicles;

**“public service vehicle”**

(dd) **“public service vehicle”** means a motor vehicle, trailer or semi-trailer classified by and registered as a public service vehicle with The Highway Traffic Board;

**“secondary dependant”**

(ee) **“secondary dependant”** includes any dependent child or parent of an insured who is not a primary dependant;



**“semi-trailer”**

(ff) **“semi-trailer”** means a vehicle that is at any time drawn upon a public highway by a motor vehicle and is designed for the conveyance of goods or persons or as living quarters for persons and is so designed that its weight and the weight of its load is carried partly upon its own axle or axles and partly upon another vehicle;

**“trailer”**

(gg) **“trailer”** means a trailer as defined from time to time in *The Vehicles Act*.

**“violation record”**

(hh) **“violation record”** includes a report, made by any authority acting in an official capacity, that a person has:

- (i) been found at fault in respect of an automobile accident; or
- (ii) been convicted of an offence;

relating to the use or operation of a motor vehicle.

R.S.S. 1965, c.409, s.2; 1967, c.89, s.2; 1972, c.10, s.2; 1973, c.8, s.2; 1976-77, c.7, s.2; R.S.S. 1978, c.A-35, s.2.

## PART I

**Application for Insurance and Certificates****Issue of licences, certificates, etc., under *Vehicles Act* conditional**

3(1) Notwithstanding anything in *The Vehicles Act* or *The Snowmobile Act*, no certificate of registration, licence or permit for a vehicle and no licence or other driving permit required or authorized for the operation or use of a vehicle thereunder shall be issued or renewed unless the applicant therefor furnishes evidence that his application for a certificate of insurance under this Act has been approved in respect of the particular certificate, licence or permit sought to be issued.

(2) Subsection (1) does not apply to vehicles owned or operated by the Government of Canada or the government of any other province or state but applies to motor vehicles owned and operated by the Government of Saskatchewan and the drivers of such vehicles.

(3) Notwithstanding subsection (2), the insurer may negotiate and conclude an agreement with any government therein excluded to bring any and all motor vehicles belonging to or operated by such government on the public highways of Saskatchewan within the operation of this Act.

R.S.S. 1965, c.409, s.3; 1973, c.8, s.3; R.S.S. 1978, c.A-35, s.3.

**Application for insurance**

4(1) With each application for a certificate of registration, licence or permit for a vehicle, or for a licence or other permit to drive under *The Vehicles Act* or *The Snowmobile Act*, or for a renewal thereof, the applicant shall file with a person designated by the regulations an application to the insurer for a certificate of insurance in accordance with this Act accompanied by the basic premium and any additional premium that, having been assessed, is due and owing at the date of application.

(2) The insurer may approve the application for a certificate of insurance immediately or, if the insurer decides that the premium should be varied in accordance with section 8, it may withhold approval until such time as the premium has been varied and has been paid by the applicant.

(3) The application for a certificate of insurance shall be in the form prescribed by the insurer and may be incorporated in the appropriate application form prescribed for use under *The Vehicles Act* or *The Snowmobile Act*.

R.S.S. 1965, c.409, s.4; 1973, c.8, s.4; R.S.S.  
1978, c.A-35, s.4.

#### Basic rates

5(1) The Lieutenant Governor in Council may, by regulation, classify motor vehicles, trailers and semi-trailers and the drivers of motor vehicles for the purposes of this Act and the classification may be according to the type, use and age of a motor vehicle, trailer or semi-trailer and according to the accident or violation record, or the absence thereof, of the driver of a motor vehicle, and in each case according to such other criteria as are or may be relevant to the maintenance of equitable standards in the differentiation of one class from another.

(2) A basic premium for each class of motor vehicle, trailer and semi-trailer and each class of driver established under subsection (1) may, from time to time, be prescribed by the regulations and shall be published in *The Saskatchewan Gazette* prior to the time appointed for those premiums to take effect.

(3) The basic premium payable in relation to any licence period by the owner of a motor vehicle, trailer or semi-trailer and by the driver of a motor vehicle shall be that fixed by the regulations for the class to which that owner or driver, as the case may be, belongs.

1976-77, c.7, s.3; R.S.S. 1978, c.A-35, s.5.

#### Driver at fault pays surcharge

6(1) In this section and in section 7:

(a) **“chargeable accident”** means an incident out of which there arises loss or damage on account of which the insurer makes a payment under this Act in excess of the amount from time to time prescribed by the regulations and was caused or contributed to by fault on the part of the driver of a motor vehicle;

(b) **“driver in fault”** means the driver of a motor vehicle whose fault causes a chargeable accident if the degree to which he is at fault is fifty per cent or more;

(c) **“surcharge”** means the additional premium set forth in subsection (4).

(2) The insurer shall record each chargeable accident that occurred in the year 1966 and occurring in each year thereafter.

(3) For the purposes of this section a chargeable accident occurs in the year when payment is made by the insurer under this Act on account of loss or damage and not the year of the happening of the incident out of which the loss or damage arises.

(4) In addition to the basic premium rate fixed by the regulations for the class to which the driver belongs, a person who was a driver in fault in respect of a chargeable accident occurring in the year 1966 is liable to pay a surcharge of \$25 for any operator's certificate or renewal thereof issued to him in respect of the licence period commencing on the first day of May, 1967 and, in like manner, a person who is a driver in fault in respect of a chargeable accident occurring in any year subsequent to 1966 is liable to pay, for any operator's certificate or renewal thereof issued to him in respect of the licence period commencing on the first day of May next following the year in which the chargeable accident occurred, a surcharge in the amount prescribed in respect of that licence period by the regulations; but no driver in fault shall be liable to pay a surcharge on more than one occasion in respect of a licence period.

(5) Where the liability of the driver of a motor vehicle for loss or damage has been in issue before a court of competent jurisdiction, the order, decision or judgment of the court that finally concludes and determines the issue shall, for the purposes of this section, be conclusive:

- (a) of the amount of loss or damage;
- (b) as to whether the loss or damage was caused by fault on the part of the driver of the motor vehicle;
- (c) of the degree to which the driver of the motor vehicle was at fault; and
- (d) of the extent of the liability for the loss or damage of the driver of the motor vehicle.

(6) Any dispute as to the liability of a person to pay the surcharge for an operator's certificate shall be raised by him by notice in writing in the form prescribed by the regulations and filed by him with the insurer with his application for the operator's certificate and accompanied by the payment of:

- (a) the basic premium rate for the operator's certificate under section 5;
- (b) any additional premium under section 8; and
- (c) an additional fee of \$3.

(7) Where a person who has complied with subsection (6) is permitted to drive a motor vehicle under *The Vehicles Act* or *The Snowmobile Act*, he may, without prejudice to any right under section 7, in addition to the amounts mentioned in subsection (6), pay the surcharge to the insurer and the insurer shall thereupon issue to him an operator's certificate.

(8) Where a person who has complied with subsection (6) does not pay the surcharge to the insurer as provided in subsection (7) and if he is permitted to drive a motor vehicle under *The Vehicles Act* or *The Snowmobile Act*, the insurer may issue to him a special operator's certificate which shall, subject to subsection (5) of section 7, be valid for a period of sixty days from the date of its issue unless the insurer in writing extends the duration thereof.

1967, c.89, s.3; 1968, c.7, s.2, 1973, c.8, s.5; 1976-77, c.7, s.4; R.S.S. 1978, c.A-35, s.6.

#### **Proceedings in event of dispute of surcharge**

7(1) Upon receipt of the notice disputing liability to pay the surcharge for an operator's certificate filed in accordance with subsection (6) of section 6, the insurer shall, as soon as is reasonably practicable, deliver the same to a magistrate having jurisdiction under *The Small Claims Enforcement Act*, whereupon the magistrate shall, notwithstanding anything in *The Small Claims Enforcement Act*, have jurisdiction to adjudicate upon the claim for the surcharge without the formality of issuing a summons or requiring a statement of claim; but upon the delivery to him of the notice disputing liability he shall appoint a time and place of hearing and the insurer shall inform the alleged driver in fault of the time and place of hearing so appointed by the magistrate by notice sent to him by registered mail addressed to him at the address shown on the notice disputing liability to pay the surcharge.

(2) The fee payable under *The Small Claims Enforcement Act* for an appointment under subsection (1) is \$3 to be paid by the insurer in the manner in which a fee is payable for the issue of a summons under that Act.

(3) Notice of an appointment under subsection (1) shall be sufficiently served upon the alleged driver in fault by the deposit at a post office, within the meaning of the *Post Office Act* (Canada), and the registration of an envelope addressed to him as mentioned in subsection (1) containing the notice; but the notice shall be so served at least fifteen days before the day appointed for the hearing.

(4) Service of the notice of an appointment may be proved either by an affidavit of service or by the oral testimony of the person effecting the service, together with the production in either case of a receipt or a photocopy of a receipt from the postmaster for the envelope containing the notice.

(5) Notwithstanding anything in *The Small Claims Enforcement Act*, a magistrate under that Act has full jurisdiction and authority to adjudicate upon a claim for the payment of a surcharge that is disputed as provided under subsection (6) of section 6 and that is submitted to the magistrate under subsection (1) and, except as otherwise provided in this Act, the provisions of that Act apply, mutatis mutandis, to such claim.

(6) Any magistrate, justice of the peace or other peace officer who disputes his liability to pay a surcharge for an operator's certificate thereby submits to the jurisdiction of a magistrate under *The Small Claims Enforcement Act* to adjudicate upon the claim notwithstanding clause (f) of section 3 of that act.

(7) In a proceeding under this section the insurer, by one of its officers or clerks, may furnish a written statement of the documents, in its possession, custody or control touching upon the matters in issue, except a report furnished pursuant to the duty imposed under section 68 or 69 and the insurer may file the statement and the documents therein mentioned by registered mail addressed to or by leaving the same with the magistrate hearing the matter, before the date set for the hearing or at such other time as the magistrate may direct; and the statement and the documents therein referred to shall be received by the magistrate as *prima facie* evidence of the matters and facts therein stated or contained without proof of signature, office or authority of the person purporting to sign the statement or any document therein mentioned.

(8) A decision of the magistrate under this section as to whether or not a person is liable to pay the surcharge is final and not subject to appeal.

(9) Where a decision of the magistrate is that a person is liable to pay the surcharge and that person has not therefore paid the surcharge as provided in subsection (7) of section 6:

- (a) the special operator's certificate of that person issued in accordance with subsection (6) of section 6; and
- (b) the receipt issued under section 75 of *The Vehicles Act* permitting that person to drive;

shall expire on the fifteenth day after the date of the decision unless they have sooner expired by the effluxion of time.

(10) Where a decision of the magistrate under this section is that a person is not liable to pay the surcharge and that person has not therefore paid the surcharge as provided in subsection (7) of section 6:

- (a) the insurer shall refund to that person the sum of \$3 and shall act in accordance with section 4; and
- (b) the person may be issued a driver's licence in accordance with the provisions of *The Vehicles Act*.

(11) Where a decision of the magistrate under this section is that a person is not liable to pay the surcharge and that person has theretofore paid the surcharge as provided in subsection (6) of section 6 the insurer shall refund to that person:

- (a) the sum of \$3; and
- (b) the surcharge.

1967, c.89, s.3; 1968, c.7, s.3; 1976-77, c.7, s.5;  
R.S.S. 1978, c.A-35, s.7.

**Power of issuer to vary rates**

8(1) Before approving the application the insurer may require any applicant for a certificate of insurance under this Act to pay a premium additional to the basic rate if it considers that the applicant, as the owner or operator of a motor vehicle, is disproportionately hazardous to himself or the public.

(2) The insurer may, at any time after the issue of a certificate, increase the premium rate payable by any person if it considers that the person, as the owner or operator of a motor vehicle, is disproportionately hazardous to himself or the public.

R.S.S. 1965, c.409, s.6; R.S.S. 1978, c.A-35, s.8.

**Additional premium rates in discretion of insurer**

9 All questions of fact and the sum payable by way of additional premium under section 8 shall be determined by the insurer, but any person aggrieved by the decision of the insurer may appeal to the Rates Appeal Board.

R.S.S. 1965, c.409, s.7; R.S.S. 1978, c.A-35, s.9.

**Rates Appeal Board**

10(1) There shall be a Rates Appeal Board consisting of one or more members to be appointed by the Lieutenant Governor in Council, one of whom may be named by the Lieutenant Governor in Council as chairman.

(2) The Rates Appeal Board shall have exclusive jurisdiction to hear and determine all appeals respecting the fixation of additional premium rates and the decision of the board shall be final and no appeal shall lie therefrom.

(3) Within fifteen days after notice of the fixation of an additional premium has been posted by registered mail by the insurer to a person, that person may file a notice of appeal accompanied by written reasons therefor at the office of the insurer at Regina, but no such appeal may be taken after the said period of fifteen days has expired except by special leave of the board.

(4) At the time notice of appeal is filed pursuant to subsection (3) there shall be deposited with the insurer at Regina the sum of \$10, which sum shall be refunded by the insurer if the appeal is successful.

(5) The appeal to the Rates Appeal Board shall be considered an administrative review and the board on review shall render a decision, and may either confirm the additional premium assessment or reduce, increase or vary the same.

(6) No certificate of registration, licence or permit for a vehicle, licence or other permit to drive shall be issued or renewed under the authority of *The Vehicles Act* or *The Snowmobile Act* while an appeal is pending before the Rates Appeal Board unless the amount of the additional premium has been paid subject to refund if the appeal is successful.

(7) All orders, notices and other documents of the Rates Appeal Board shall be signed by the chairman or in the event of his absence or inability to act, or if there is no chairman at the time, by any other member of the board and when so signed shall have like effect as if signed by the chairman.

(8) In the event of the absence or inability to act of any member or in the case of a vacancy in the Rates Appeal Board the remaining member or members may exercise the powers of the board.

R.S.S. 1965, c.409, s.8; 1973, c.8, s.6; R.S.S.  
1978, c.A-35, s.10.

**Suspension of privileges for default in payment of additional premium**

11(1) An additional premium assessed against a person under section 8 shall be paid, subject to refund if a successful appeal is taken to the Rates Appeal Board against the assessment, within fifteen days after notice of the assessment is posted by registered mail to that person by the insurer and, in case of default, an officer or clerk of the insurer shall certify to the default and upon receipt of the certificate The Highway Traffic Board shall forthwith suspend:

(a) the certificate of registration, licence or permit for any vehicle issued to the person in default if he makes such default in respect of an owner's certificate; or

(b) the licence or other permit to drive issued to the person in default if he makes such default in respect of an operator's certificate;

and upon the suspension the certificate, licence or permit shall remain suspended until the insurer delivers written notice to The Highway Traffic Board that the default has been remedied.

**Unpaid premiums deductible from benefits**

(2) In any case where benefits and insurance money, or either, become payable to an owner or operator of a vehicle between the date upon which the insurer gives him notice of an additional premium and the date of the suspension by The Highway Traffic Board, the additional premium shall be deducted from the benefits and insurance money, or either, payable to the owner or operator.

**Certificate conclusive proof of default**

(3) A certificate provided for under subsection (1) purporting to be signed by an officer or clerk of the insurer shall be conclusive evidence of the facts therein contained without proof of the signature or office of the person purporting to sign the same.

**No licence, permit, etc., issued to persons owing premiums**

(4) After the suspension under subsection (1) of a certificate of registration, licence or permit for a vehicle issued in the name of the person in default no certificate of registration, licence or permit for any vehicle shall be issued in the name of that person and after the suspension under subsection (1) of a licence or any other permit to drive whatever issued in the name of the person in default no licence or any other permit to drive shall be issued to that person, unless and until the amount of any additional premium duly assessed by the insurer prior to the suspension has been paid.

R.S.S. 1965, c.409, s.9; R.S.S. 1978, c.A-35, s.11.



**Issue of certificate**

12(1) Upon payment of the required premium by an applicant for a certificate under this Act, the insurer shall, upon approval of the application, issue a certificate of insurance to the applicant.

**Form of certificate**

(2) The certificate shall be in the form prescribed by the insurer and may be incorporated in the certificate of registration, licence or permit for a motor vehicle, trailer or semi-trailer, or in the licence or other permit to drive issued under authority of *The Vehicles Act* or *The Snowmobile Act*.

**Issue of motor vehicle liability insurance cards**

(3) The insurer shall make provision for the issue and delivery of such motor vehicle liability insurance cards as may be required for the purpose of *The Vehicle Act* or *The Snowmobile Act* by persons insured by owners' certificates, but there may be printed on an owner's certificate under the heading "Motor Vehicle Liability Insurance Card" such particulars in such form as may be satisfactory to The Highway Traffic Board and the particulars so printed shall constitute a motor vehicle liability insurance card within the meaning and for the purpose of *The Vehicles Act* or *The Snowmobile Act*.

**Proof of certificate**

(4) A document purporting to be a certificate of registration, licence or permit issued to any person by The Highway Traffic Board in accordance with *The Vehicles Act* or *The Snowmobile Act* and to be an automobile accident insurance certificate that bears upon its face a signature or the facsimile of a signature purporting to be that of the manager, for the time being, of the insurer shall, unless the contrary is shown, be deemed to be a certificate duly issued to the person named therein under this Act.

R.S.S. 1965, c.409, s.10; 1973, c.8, s.7; R.S.S. 1978, c.A-35, s.12.

**Non-issue of certificate in certain case**

13 No owner's certificate shall be issued or renewed in respect of a vehicle that is not required to be registered with The Highway Traffic Board under *The Vehicles Act* or *The Snowmobile Act* and a certificate that is issued contrary to this section is null and void.

R.S.S. 1965, c.409, s.11; 1973, c.8, s.8; R.S.S. 1978, c.A-35, s.13.

**Cancellation of certificate where vehicle operated contrary to certain laws**

14 Where a vehicle designated in an owner's certificate is operated in another province, state or country when the vehicle is required by the law of that province, state or country to be registered or licensed in that province, state or country but is not so registered or licensed, that owner's certificate shall be deemed to have been revoked at the time of the commencement of such operation.

R.S.S. 1965, c.409, s.12; R.S.S. 1978, c.A-35, s.14.

**Effect of cancellation of registration, etc.**

15(1) The suspension, revocation or cancellation under any law of a certificate of registration, licence or permit for a vehicle shall automatically suspend, revoke or cancel the owner's certificate in which the vehicle is designated.

(2) The suspension, revocation or cancellation under any law of a licence or other permit to drive of any person shall automatically suspend, revoke or cancel the operator's certificate in which the person is named.

(3) The surrender of a licence or other permit to drive of any person to a judge, provincial magistrate or justice of the peace under any law shall automatically cancel the operator's certificate in which the person is named, provided that if the judge, provincial magistrate or justice of the peace, pursuant to the provisions of *The Vehicles Act* or *The Snowmobile Act* in that behalf, furnishes that person with a letter authorizing him to drive a motor vehicle, the cancellation shall not take effect until midnight on the last day of the period specified in the letter of authority.

R.S.S. 1965, c.409, s.13; 1973, c.8, s.9; R.S.S. 1978, c.A-35, s.15.

**Expiration of certificate**

**16** Irrespective of the date of its issue, a certificate shall, unless earlier suspended, revoked or cancelled, expire at midnight on the thirtieth day of April of the licence period in respect of which it is issued; provided that if the certificate is incorporated in a certificate of registration or a licence, issued by The Highway Traffic Board under *The Vehicles Act* or *The Snowmobile Act*, that purports to expire on a day other than the thirtieth day of April, the certificate shall, unless earlier suspended, revoked or cancelled, expire at midnight on the day on which the licence expires.

R.S.S. 1965, c.409, s.14; 1972, c.10, s.3; 1973, c.8, s.10; 1976-77, c.7, s.6; R.S.S. 1978, c.A-35, s.16.

**Applicants for motor vehicle permit to comply**

**17** An applicant for a permit for a vehicle under *The Vehicles Act* or *The Snowmobile Act* shall, before the permit is issued, make application for a certificate under this Act and shall pay the basic premium rate fixed by the regulations therefor, and this Act except section 16 and Part III applies to the same extent as if the permit were a certificate of registration; provided that a certificate issued in respect of any such permit shall bind the insurer only during the period in which the vehicle designated therein is being operated in Saskatchewan and the certificate shall expire with the permit in respect of which it is issued.

R.S.S. 1965, c.409, s.15; 1973, c.8, s.11; R.S.S. 1978, c.A-35, s.17.

**Owner insured in another province and operating inter-provincially for compensation**

**18(1)** Where the owner of the vehicle designated in an owner's certificate is a resident of another province, state or country and the vehicle is operated interprovincially or internationally for the transportation of passengers, freight or express for compensation, Parts III and IV shall not apply, if The Highway Traffic Board is satisfied that the owner is insured against his legal liability for loss or damage to the person or property of others arising out of the use, operation or ownership of the vehicle, and the liability of the owner for loss or damage resulting from the use or operation of the vehicle shall not be reduced under section 79 except to the extent that the loss or damage is caused by one of the perils mentioned in section 22.



(2) Where a vehicle belongs, for the purposes of this Act, to a class in which the serial numbers of owners' certificates are prefixed by the letter C or the letter D and where the vehicle is owned by a resident of another province, state or country and the vehicle is used in Saskatchewan solely for the purpose of transporting or operating mineral exploration machinery and equipment and for a period of less than one year, Parts III and IV shall not apply, if The Highway Traffic Board is satisfied that the owner is insured against his legal liability for loss or damage to the person or property of others arising out of the use, operation or ownership of the vehicle; and the liability of the owner for loss or damage resulting from the use or operation of the vehicle shall not be reduced under section 79 except to the extent that the loss or damage is caused by one of the perils mentioned in section 22.

(3) The Lieutenant Governor in Council may order that none of the provisions of subsections (1) and (2) shall operate with respect to vehicles owned by residents of any province, state or country specified in the order and where it is so ordered none of the said provisions shall operate thereafter with respect to such vehicles unless the order is rescinded.

R.S.S. 1965, c.409, s.16; R.S.S. 1978, c.A-35,  
s.18.

**Power to except certain non-residents from application of Act**

**19** The Lieutenant Governor in Council may by regulation except, subject to the conditions if any set out in the regulation, from the application, wholly or partly, of the provisions of this Act or any Part or section thereof, the owners of any class or classes of motor vehicles who are ordinarily resident in any province, state or country, other than Saskatchewan, specified in the regulation.

R.S.S. 1965, c.409, s.17; R.S.S. 1978, c.A-35,  
s.19.

## PART II

### Accident Insurance and Benefits

**Application of part**

**20** This Part applies to accident insurance and to no other unless expressly provided.

R.S.S. 1965, c.409, s.18; R.S.S. 1978, c.A-35,  
s.20.

**Interpretation "insured"**

**21** In this Part "**insured**" means a person to or in respect of whom or to whose dependants benefits are payable if bodily injuries are sustained by him as a result of one of the perils included in section 22, whether he is named in a certificate or not.

R.S.S. 1965, c.409, s.19; R.S.S. 1978, c.A-35,  
s.21.

**Accident insurance**

**22(1)** Subject to this Act, every person is hereby insured in the amounts hereinafter specified against loss resulting from bodily injuries sustained by him directly, and independently of all other causes, through accidental means, excluding suicide while sane or insane or any attempt thereat while sane or insane, provided that the bodily injuries are suffered as a result of:

- (a) driving, riding in or on, or operating a moving motor vehicle, trailer or semi-trailer in Saskatchewan; or
  - (b) collision with or being struck, run down or run over by a moving motor vehicle, trailer or semi-trailer in Saskatchewan.
- (2) Subject to this Act, an owner's certificate shall further insure:
- (a) a person who is ordinarily resident in Saskatchewan and who is named in the owner's certificate but only while he is riding in or on the vehicle designated in the owner's certificate and while the vehicle is being operated by a person qualified and authorized by law to drive a motor vehicle;
  - (b) any other person who is ordinarily resident in Saskatchewan but only while he is riding in or on the vehicle designated in the owner's certificate and while the vehicle is being operated by a person qualified and authorized by law to drive a motor vehicle;

in the amounts hereinafter specified, against loss from bodily injuries sustained directly, and independently of all other causes, through accidental means, excluding suicide while sane or insane or any attempt thereat while sane or insane, provided that the bodily injuries are suffered by the person as a result of riding in or on the vehicle while it is moving on a public highway beyond the boundaries of Saskatchewan but within Canada or the continental United States of America.

(3) In the event that bodily injuries are suffered by a person mentioned in clause (a) or (b) of subsection (2) as a result of riding in or on a snowmobile as defined in *The Snowmobile Act*, while it is moving beyond the boundaries of Saskatchewan but within Canada or the continental United States of America, subsection (2) shall apply *mutatis mutandis*.

(4) Subject to this act, an operator's certificate shall further insure the person named therein, if he is ordinarily resident in Saskatchewan, in the amounts hereinafter specified, against loss from bodily injuries sustained directly, and independently of all other causes, through accidental means, excluding suicide while sane or insane or any attempt thereat while sane or insane, provided that the bodily injuries are suffered by the person as a result of operating or driving a motor vehicle designated in an owner's certificate while it is moving on a public highway beyond the boundaries of Saskatchewan but within Canada or the continental United States of America.

(5) The word "moving" in subsections (1), (2), (3) and (4) shall not be construed to include any movement of a vehicle except when being towed or pushed by another vehicle, that is solely caused by a cranking or repair of the vehicle.

**Principal sum for loss of life or loss of member**

23(1) If bodily injuries sustained in an accident occasioned under any of the circumstances set out in section 22 totally and continuously disable an insured within twenty days from the time of the accident and prevent him from performing any and every duty pertaining to any occupation or employment, and during the period of such continuous total disability, and within one hundred and four weeks from the time of the accident, result in loss of life of the insured, the insurer shall pay the sum for which provision is made in section 27 and shall in addition pay for the period between the date of the disability and the date of the loss of life the weekly indemnity payable under section 24.

(2) If bodily injuries sustained in an accident occasioned under any of the circumstances set out in section 22 result in a loss of life of an insured within ninety days from the time of the accident the insurer shall pay, irrespective of continuous disability, the sum for which provision is made in section 27.

(3) If bodily injuries sustained in an accident occasioned under any of the circumstances set out in section 22 do not immediately result in loss of life and within twenty days from the time of the accident totally and continuously disable an insured from performing any and every duty pertaining to any occupation or employment, and during the period of such continuous total disability, but within one hundred and four weeks from the time of the accident, result in any one or more of the disabilities mentioned in the regulations under subsection (5) or in subsection (7) the insurer shall pay the sum or sums in subsection (6) or (7), as the case may be, provided for in respect of the disability or disabilities.

(4) If bodily injuries sustained in an accident occasioned under any of the circumstances set out in section 22 result in any of the disabilities mentioned in the regulations under subsection (5) within ninety days from the time of the accident, the insurer shall pay, irrespective of continuous total disability, the sum in subsection (6) provided for in respect of the disability, and the said period of ninety days may be extended by the insurer for a period not exceeding one year from the time of the accident if at the commencement of each period of thirty days after the expiration of the said ninety days a certificate is furnished from the attending physician that the insured is being treated for an injury that may eventually result in any of the disabilities mentioned in the regulations under subsection (5).

(5) The Lieutenant Governor in Council may make regulations establishing one or more rating schedules that shall be applied in estimating the nature, extent and degree of any permanent disability and may prescribe the maximum degree of disability to be attributed to any injury for the purposes of this section.

(6) The insurer is not liable for any amount under this section with respect to a disability except a permanent disability and then only for that percentage of \$10,000 as is proportionate to the degree of impairment of the whole body that is or under the regulations is deemed to be occasioned by the disability.

## CLASS I—SHOULDER AND FOREARM

Disability	Degree of Impairment of:	
	Upper Extremity	Whole Body
Shoulder:		
1. Amputation:		
(a) disarticulation at shoulder (or loss above deltoid insertion)	100%	85%
(b) between shoulder and elbow	100%	50%
(c) below elbow, or loss of entire hand	80%	40%
2. Limitation of motion:		
(a) total ankylosis (arm at side):		
scapula fixed	80%	40%
scapula free	60%	30%
(b) partial ankylosis:		
(i) scapula free:—active painless motion to:		
(A) 25° abduction and rotation, 50° flexion and extension	35%	16%
(B) 90° abduction and rotation, full flexion and extension	16%	8%
(ii) scapula fixed:—painless motion to:		
(A) 25° abduction and rotation, 50° flexion and extension	60%	30%
(B) 90° abduction and rotation, full flexion and extension	20%	10%
3. Recurrent dislocation (shoulder):		
(a) without operation	36%	18%
(b) disarticulation at shoulder partial ankylosis not exceeding that mentioned in item 2 (b) (i) (B)	18%	9%
4. Flail shoulder	80%	40%
Elbow:		
Limitation of motion:		
1. Total ankylosis:		
(a) full extension	60%	30%
(b) 90° angle	35%	15%

## 2. Partial ankylosis:

(a) 180° to 135° flexion	40%	20%
(b) 160° to 90° flexion	20%	10%
(c) 90° to 45° flexion	30%	15%

## CLASS II—WRIST AND HAND

## Degree of Impairment of:

Disability	Hand	Whole Body
Wrist:		
1. Total ankylosis(exclusive of rotation)		
(a) 70° dorsiflexion	30%	15%
(b) 180° line	20%	10%
(c) 15° palmer flexion	35%	15%
Rotation ankylosis:		
(a) full supination	15%	5%
(b) full pronation	10%	5%
2. Partial ankylosis:		
(a) disarticulation at shoulder		
(i) 180° line	15%	5%
(ii) 15° palmar flexion	8%	3%
(b) 15° adduction to:		
(i) 180° line	5%	2%
(ii) 15° abduction	2%	1%
(c) full supination to:		
(i) 25° pronation	10%	5%
(ii) 50° pronation	3%	1%
(d) full pronation to:		
(i) 25° supination	10%	5%
(ii) 50° supination	2%	1%

## Hand:

1. Loss of entire hand	100%	40%
2. Amputation:		
(a) thumb:		
—knuckle joint	40%	12%
—distal joint	30%	6%
(b) index finger:		
—knuckle joint	25%	7%
—distal joint	11%	3%
(c) middle finger:		
—knuckle joint	20%	6%
—distal joint	9%	3%
(d) ring finger:		
—knuckle joint	10%	4%
—distal joint	5%	2%
(e) little finger:		
—knuckle joint	8%	3%
—distal joint	2%	1%
(f) thumb and index finger at knuckle joint	65%	20%
(g) all fingers at knuckle joint:		
(excluding thumb)	80%	25%
—including thumb	100%	40%
3. Limitation of motion:		
(a) thumb:		
75% ankylosis of:		
(i) carpometacarpal joint	25%	3%
(ii) metacarpal-phalangeal joint		
(in flexion)	35%	5%
(iii) distal joint-flexion	6%	1%
—extension	10%	2%

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(b) fingers:

total ankylosis:

(i) knuckle joint		
—mid-position	10%	3%
—full extension	15%	5%
(ii) middle joint		
—mid-position	5%	1.5%
—full extension	15%	4%
(iii) distal joint		
—mid-position	3%	1%
—full extension	5%	1.5%

loss of motion:

(iv) loss of 50% motion metacarpal-phalangeal joint of any finger	5%	3%
(v) loss of 50% motion in proximal interphalangeal joint of finger	5%	3%

## CLASS III—LEG

Degree of Impairment of:

Disability	Lower Extremity	Whole Body
1. Amputation:		
(a) disarticulation at hip	100%	40%
(b) between hip and kne	90%	35%
(c) between knee and ankle	80%	30%
(d) loss of entire foot	80%	30%
2. Limitation of motion:		
(a) hip:		
(i) total ankylosis: (including shortening or lengthening)		
(A) 25° flexion	40%	15%
(B) 70° flexion	80%	30%
(ii) partial ankylosis:— flexion and extension; motion limited in hip to an arc from		
(A) 180° line to 23° flexion	30%	10%
(B) 180° line to 90° flexion	7%	2%

(b) knee:			
(i) total ankylosis:			
(A) full extension	40%	15%	
(B) 90° flexion	90%	30%	
(ii) partial ankylosis:			
motion limited to an arc from:			
(A) 180° line to 45° flexion	30%	10%	
(B) 135° to 90° flexion	40%	15%	
(iii) miscellaneous:			
(A) loose knee with chronic instability (without surgery)	40%	10%	
(B) shortening of lower limb:			
1 inch	4%	1%	
1 1/2 inches	10%	3%	
2 inches	22%	7%	
3 inches	40%	15%	

## CLASS IV — FOOT

Disability	Degree of Impairment of:	
	Foot	Whole Body
1. Amputation:		
(a) entire foot	100%	30%
(b) through tarsus (Chopart's)	75%	15%
(c) through metatarsals	50%	15%
(d) all toes at metatarsal-phalangeal joint	30%	8%
(e) great toe at metatarsal-phalangeal joint	18%	5%
(f) any other toe at metatarsal-phalangeal joint	6%	1%
2. Limitation of motion:		
(a) ankylosis:		
(i) great toe (proximal joint)		
—180° line	6%	2%
—20° dorsiflexion	5%	1%
—20° plantar flexion	9%	4%



(b) partial ankylosis: (great toe)		
—limited to arc:		
(proximal joint)		
—180° line to 10° flexion	5%	1%
(distal joint)		
—180° line to 15° flexion	1%	0%
limitation of 50% motion in both		
great toe joints	8%	3%

## CLASS V—ANKLE

Disability	Degree of Impairment of:	
	Leg	Whole Body
1. Total ankylosis:		
(a) at 90°	40%	20%
(b) at 125° (plantar flexion)	60%	30%
2. Partial ankylosis:		
(a) at 90° to:		
(i) 105° plantar flexion	30%	10%
(ii) 125° plantar flexion	15%	5%
(b) adduction and abduction:		
(i) 20° inversion and adduction to:		
(A) 180° line	9%	3%
(B) 10° eversion and abduction	5%	2%
(ii) fixed eversion derformity:		
(A) 10°	15%	4%
(B) 20°	20%	7%
(iii) fixed inversion derformity:		
(A) 10°	9%	3%
(B) 20°	15%	5%
(C) 30°	24%	8%

## CLASS VI—SPINE

Disability	Degree of Impairment of: Whole Body
Fracture without cord involvement and where there is recovery to no disabling pain and no muscle spasm:	
1. Up to 75% normal:	
(a) cervical:	
(i) vertebral body	17%
(ii) spinous or lateral process	11.5%
(b) thoracic (above D-10):	
(i) vertebral body	17%
(ii) spinous or lateral process	12%
(b) dorso-lumbar:	
(i) vertebral body	20%
(ii) spinous or lateral process	16%
(b) lumbar:	
(i) vertebral body	20%
(ii) spinous or lateral process	16%
2. Up to 25% normal:	
(a) cervical:	
(i) vertebral body	47%
(ii) spinous or lateral process	24%
(b) thoracic (above D-10):	
(i) vertebral body	45.5%
(ii) spinous or lateral process	25%
(c) dorso-lumbar:	
(i) vertebral body	63.5%
(ii) spinous or lateral process	30.5%
(d) lumbar:	
(i) vertebral body	63.5%
(ii) spinous or lateral process	30.5%

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## CLASS VII — EYE

Disability	Degree of Impairment of:	
	Whole Body	
1. Visual defect in both eyes of not less than 20/200 in the better eye after correction		100%
2. Visual defect in one eye of not less than 20/200 after correction		45%
3. Visual defect in one eye of not less than 20/100 after correction		38%
4. Visual defect in one eye of not less than 20/80 after correction		34%
5. Visual effect in one eye of not less than 20/60 after correction		29%
6. Visual defect in one eye of not less than 20/40 after correction		23%
7. Double vision continuously		6%
8. Loss of power of accommodation to distance		4%
9. Chronic photophobia or lacrimation		2%

## CLASS VIII — EAR

Disability	Degree of Impairment of:	
	Ear	Whole Body
1. Deafness in both ears completely	100%	22.5%
2. Deafness in one ear completely	35%	8%

## CLASS IX—TEETH

Disability	Degree of Impairment of:	
	Teeth	Whole Body
1. Loss of any 28 natural permanent teeth	100%	3.75%
2. Loss of any permanent incisor, cuspid or bicuspid	4%	.15%
3. Loss of any permanent molar or premolar	3%	.1%

## CLASS X—FACE

Disability	Degree of Impairment of:	
	Face	Whole Body
Disfigurement:		
1. Complete loss of nose or ear	100%	20%
2. Irreducible gross malformation of bone structure	100%	20%
3. Irreparable damage to facial muscles occasioning limitation of function	90%	18%
4. Scarring where the aggregate area of all irreducible scars is in excess of 4 square inches	65%	13%
5. Scarring where the aggregate length of all irreducible scars is:		
(a) more than 1/2 inch but not more than 1 1/2 inches	10%	2%
(b) more than 1 1/2 inches but not more than 2 1/2 inches	22%	4.5%
(c) more than 2 1/2 inches	33%	6.5%

(7) If bodily injuries sustained in an accident occasioned under any of the circumstances set out in section 22 do not immediately result in loss of life and within ninety days from the time of the accident result in loss of function of mind or body of an insured sufficiently extensive to render the insured permanently incapable of engaging in any occupation for wages or profit, the insurer shall pay to the insured the sum of \$10,000.

(8) Where an insured suffers one or more of the disabilities mentioned in the regulations under subsection (5) and the disability mentioned in subsection (7) the insurer shall not be liable under subsections (6) and (7) to pay more than \$10,000 in the aggregate in respect of those disabilities but subject to that limitation the payment of any sum under subsection (6) or (7) shall not of itself preclude payment by the insurer of any of the benefits otherwise payable under this Part; provided that where death benefits become payable in respect of the death of an insured after the insured has suffered one of the disabilities mentioned in the regulations under subsection (5) or in subsection (7) the amount of any payments made in respect of that disability shall be deducted from the amount of the death benefits, the sum payable to any one person under section 27 being reduced proportionately.

(9) In the event of disagreement with respect to the existence of, or the nature or extent of, any of the disabilities mentioned in the regulations under subsection (5) or in subsection (7), no sum shall become payable under subsection (6) or (7) unless the insured, in addition to any other examination provided for in condition 7 or 8 of the statutory conditions set forth in section 35, submits to an examination of his person by a duly qualified medical practitioner appointed by the insurer for the purpose, and where such an examination is made the opinion of the medical practitioner with respect to the existence of any of the disabilities mentioned in the regulations under subsection (5) and in subsection (7) and the nature and extent thereof shall be conclusive.

(10) Conditions 7 and 8 of the statutory conditions set out in section 35 apply, *in* *ma* *as* *mulandis*, with respect to an examination made pursuant to subsection (9).

R.S.S. 1965, c.409, s.21; 1970, c.5, s.12; 1972, c.10, s.4; R.S.S. 1978, c.A-35, s.23.

#### Weekly indemnity for bodily injuries

24(1) In this section “**bodily injuries**” means bodily injuries sustained in any accident under any of the circumstances mentioned in section 22.

(2) If bodily injuries do within twenty days from the time of the accident totally and continuously disable an insured, other than a housewife, who:

- (a) at the time of the accident was; or
- (b) for any six months out of the period of the twelve consecutive months immediately preceding the accident was;

actively engaged in an occupation or employment for wages or profit and if the bodily injuries render the insured entirely incapable of engaging for wages or profit in any occupation or employment for which the insured is suited having regard to his skill and ability, the insurer shall pay to the insured an indemnity of \$60 per week for the period of such continuous disability but in no event for more than one hundred and four consecutive weeks.

(3) If bodily injuries do within twenty days from the time of the accident, or immediately following the period for which the insurer has paid or is liable to pay indemnity under subsection (2), partially and continuously disable an insured, other than a housewife, who:

- (a) at the time of the accident was; or
- (b) for any six months out of the period of the twelve consecutive months immediately preceding the accident was;

actively engaged in an occupation or employment for wages or profit and if the bodily injuries render the insured entirely incapable of performing one or more important daily duties pertaining to the occupation or employment in which he was actively engaged at the time of the accident or to any occupation or employment for which the insured is suited having regard to his skill and ability and in which he becomes actively engaged following the accident, the insurer shall pay to the insured an indemnity of \$30 per week for the period of such continuous disability but in no event for more than one hundred and four consecutive weeks less the period, if any, for which the insurer has paid or is liable to pay indemnity under subsection (2).

(4) If bodily injuries do within twenty days from the time of the accident totally and continuously disable a housewife and render her entirely incapable of performing every household duty, the insurer shall pay an indemnity of \$60 per week for the period of such continuous disability but in no event for more than twelve consecutive weeks.

(5) If bodily injuries do within twenty days from the time of the accident, or immediately following the period for which the insurer has paid or is liable to pay indemnity under subsection (4), partially and continuously disable a housewife and render her entirely incapable of performing one or more important daily household duties, the insurer shall pay an indemnity of \$30 per week for the period of such continuous disability but in no event for more than twelve consecutive weeks less the period, if any, for which the insurer has paid or is liable to pay indemnity to the insured under subsection (4).

(6) If an insured who has received indemnity under subsection (4) for the full period mentioned in that subsection is, at the end of that period, pursuant to the instructions of a duly qualified medical practitioner in confinement in a hospital, bed or wheelchair, the insurer shall pay an indemnity of \$30 per week during the period of the confinement but in no event for more than fifty-two consecutive weeks less the period for which the insurer has paid or is liable to pay indemnity to the insured under subsection (4).

(7) If bodily injuries do within twenty days from the time of the accident continuously disable an insured and the insured is pursuant to the instructions of a duly qualified medical practitioner confined to a hospital, bed or wheelchair, the insurer shall, if the insured is not entitled to indemnity under subsection (2), (3), (4), (5) or (6), pay an indemnity of \$30 per week during the period of the confinement but in no event for more than fifty-two consecutive weeks.

(8) There shall be a period of seven days immediately following the commencement of the disability during which and in respect of which no indemnity shall be payable by the insurer under subsection (2), (3), (4), (5) or (7).

(9) By agreement the insurer may, in any case where it deems proper and at any time or times, make or direct commutation or lump sum payments of indemnity payable under this section, or otherwise alter the form of payment as in the circumstances seems most likely to benefit an insured.

R.S.S. 1965, c.409, s.22; 1972, c.10, s.5; 1973-74, c.4, s.2; R.S.S. 1978, c-A-35, s.24.

#### **Continuous indemnity for certain injuries**

**25(1)** Where an insured has received indemnity under subsection (2) of section 24 for the full period mentioned in that subsection and at the end of that period it is established that the bodily injuries sustained by the insured have rendered him permanently and entirely incapable of engaging for wages or profit in any occupation or employment for which the insured is suited having regard to his skill and ability, the insurer shall, subject to subsection (2), pay to the insured an indemnity of \$60 per week for the duration of the incapacity.

(2) Where, in respect of any period, an insured who is entitled to an indemnity under subsection (1) is receiving a benefit pursuant to the *Canada Pension Plan* or the *Old Age Security Act* (Canada) or pursuant to both those Acts, the indemnity provided for by subsection (1) shall be reduced by the insurer by the amount of the benefit being received by the insured in respect of that period.

1972, c.10, s.6; R.S.S. 1978, c. A-35, s.25.

**Additional benefits**

**26(1)** Where an insured sustains bodily injuries as the result of one of the perils included in section 22, the insurer shall pay in addition to all other benefits:

(a) a supplementary allowance to the insured, the amount and determination of which shall be in the absolute discretion of the insurer, according to the circumstance, provided that the total sum payable under this clause in respect of all injuries sustained by one person in any one accident shall not exceed in the aggregate \$4,000;

(b) if the bodily injuries result in the loss of the life of an insured, \$300 in lieu of funeral expenses, to a person who has paid such expenses or has become liable therefor.

(2) Where under any contract, bylaw or other arrangement a person would have been liable to pay hospital or medical benefits or payments in lieu thereof had this Act not been passed, the liability shall continue and any agreement to the contrary shall be null and void.

(3) Notwithstanding the violation by an insured of any term or condition in this Part, the insurer may pay directly to any person who carries on the business of an ambulance service and who had provided ambulance service to any person who he reasonably believes to be insured under this Part, such amount in respect of the service as the insurer considers reasonable and proper and upon such evidence as it deems sufficient.

R.S.S. 1965, c.409, s.23; 1968, c.7, s.5; 1972, c.10, s.7; R.S.S. 1978, c.A-35, s.26.

**Death benefits**

**27(1)** Subject to subsection (2) and section 23, where an insured dies as the result of one of the perils mentioned in section 22, the insurer shall pay the sum of \$7,500 to the primary dependant and \$1,500 to each of the secondary dependants.

(2) Where the aggregate claims of the secondary dependants exceed the sum of \$7,500 the sum of \$7,500 shall be equally divided among the secondary dependants.

(3) Notwithstanding subsection (1), where more than one person is classed as a primary dependant, the total sum payable to such persons shall be calculated as though only one of them were a primary dependant and the remainder of that class were secondary dependants, but the total sum payable to all such persons shall be divided equally among them.

(4) In the event that a man and his wife die from bodily injuries sustained in the same accident but the wife dies before her husband, the benefits payable to their dependent children shall be calculated and paid as if the man died before his wife.

(5) Subject to section 23, where an insured dies as the result of one of the perils mentioned in section 22, and where no person is entitled to claim benefits under subsection (1), the insurer shall pay:

(a) the sum of \$2,000 equally divided among those persons being son or daughter over the age of eighteen years, parent, brother or sister of the insured, for whom the necessaries of life were, at the time of the accident from which the death results, wholly or partly provided by the insured by means of definite regular contributions;

(b) if the insured is a wife and no benefits are payable in respect of her death under any of the preceding provisions of this section, the sum of \$3,000 to the husband of the insured;

(c) if the insured is a child and no benefits are otherwise payable under this section in respect of the death of the insured, to the parent or parents with whom the insured usually lived, the sum hereinafter specified, that is to say, if the insured is of the full age of:

1 year or is under the age of one year.....	\$ 100.
7 years .....	\$ 200.
8 years .....	\$ 300.
9 years .....	\$ 400.
10 years .....	\$ 500.
11 years .....	\$ 600.
12 years .....	\$ 700.
13 years .....	\$ 800.
14 years .....	\$ 900.
15 years .....	\$1,000.

provided that no sum shall be payable under this clause in respect of the death of a person who is over the age of eighteen years;

(d) if the insured is over the age of eighteen years and leaves surviving no wife or husband and no benefits are otherwise payable under this section in respect of the death, the sum of \$1,000 to be divided equally between his surviving parents.

R.S.S. 1965, c.409, s.24; 1972, c.10, s.8; R.S.S. 1978, c.A-35, s.27.

**Presumption in case of death in same disaster**

28(1) Where a man and his wife perish in the same disaster it shall be *prima facie* presumed that the man died first.

(2) Subject to subsection (1), where two or more persons perish in the same disaster and it is material for the purpose of this Part to determine the order of their respective deaths, it shall be *prima facie* presumed that the deaths occurred in the order of seniority and that accordingly the younger survived the older.

R.S.S. 1965, c.409, s.25; R.S.S. 1978, c.A-35, s.28.



**Payment to guardian, etc.**

**29(1)** Where a primary dependant is an infant child of an insured, the insurer shall pay all sums payable to the dependant to the Official Guardian to be administered by him on behalf of the dependant.

(2) Where under this Part the insurer is liable to pay the whole or a part of any sum to a person who is mentally defective, the sum or part thereof shall be paid to the guardian or committee of that person or to the Administrator of Estates, as the case may be, to be held for the use and benefit of the mentally defective person according to law.

(3) In any other case where the insurer in its absolute discretion determines that it is desirable for the welfare of a person entitled to benefits under this Part the insurer may appoint any official administrator to receive any sums payable thereunder to that person and to hold the sums for his use and benefit.

(4) Where under this section a person is appointed for any of the purposes therein prescribed, a receipt in writing signed by the person entitled under this Part to receive any payment shall be a sufficient discharge therefor and shall exonerate the insurer from all further liability.

R.S.S. 1965, c.409, s.26; R.S.S. 1978, c.A-35, s.29.

**Sums paid to personal representative**

**30** The insurer shall pay all benefits accruing and payable to an insured at the time of his death to his personal representative.

R.S.S. 1965, c.409, s.27; R.S.S. 1978, c.A-35, s.30.

**No representation**

**31** The insurer shall make all payments of benefits in the manner and to the persons specified in this Part and if a person who is entitled thereto dies before receiving payment, his personal representative shall not be entitled to take by representation except where expressly provided herein.

R.S.S. 1965, c.409, s.28; R.S.S. 1978, c.A-35, s.31.

**No waiver**

**32** No insured or any of his dependants shall agree with any person to waive or forego any of the benefits to which any of them are or may become entitled under this Part and every agreement purporting to do so shall be null and void.

R.S.S. 1965, c.409, s.29; R.S.S. 1978, c.A-35, s.32.

**No attachment**

**33** Except with the approval in writing of the insurer, no benefits payable under this Part shall be assigned, charged or attached, nor shall they pass by operation of law except to a personal representative nor shall any claim be set off against them except as provided by subsection (2) of section 11.

R.S.S. 1965, c.409, s.30; R.S.S. 1978, c.A-35, s.33.

**Exceptions from benefits**

34(1) The insurer shall not be liable to pay benefits under this Part to any of the following persons or their dependants:

- (a) a resident of another province or country riding in or upon a motor vehicle not registered with The Highway Traffic Board under *The Vehicles Act* or *The Snowmobile Act*;
- (b) a person riding in or on one of the following: a vehicle or mechanical device used for aerial navigation; a vehicle of an electric or steam railway running upon rails or tracks or solely upon railway company property, a trolley bus, a fire engine, fire department apparatus, a road roller, street sprinkler, road building or road maintenance machinery, machinery used for construction of drainage works or water conservation projects, machinery used for excavation purposes, or a tractor, except a tractor when used by a farmer in connection with his farming operations or by an implement vendor, licensed under *The Agricultural Implements Act* in connection with his implement agency business;
- (c) a person who:
  - (i) is driving, riding in or on or operating a vehicle that, at the material time, is engaged in a race or speed test or game; or
  - (ii) while within the area that, for the time being, has been set aside for the use of spectators at or vehicles engaged in a race or speed test or game, is in collision with, struck, run down or run over by any such vehicle;
- (d) a person who, at the material time, is in the service or employ of the Government of Canada and is driving or operating a vehicle owned by that Government.

(2) The insurer shall not be liable to pay any benefits under this Part, save and except the sum specified in section 27 as the principal sum for loss of life, in any case where, by reason of the loss for which benefits are claimed, the person sustaining the loss or his dependants are entitled to claim compensation under *The Workers' Compensation Act*.

(3) Where at the time when an insured is involved, in an accident giving rise to a claim under section 24 or 25, or during the period of disability resulting from such accident, the insured is or becomes entitled to benefits under the *Unemployment Insurance Act* (Canada), the insurer shall be liable under section 24 or 25, as the case may be, only for the amount by which:

- (a) the income lost by the insured in respect of the period of disability calculated at a rate equal to his weekly earnings during the most recent period in which he was employed prior to the accident;

exceeds:

- (b) the benefits actually received by him under the *Unemployment Insurance Act* (Canada) in respect of the period of disability;

but the insurer is not liable under this subsection to pay more than the amounts mentioned in section 24 or 25, as the case requires.

**Statutory conditions**

**35** Accident insurance provided by this Part is subject to the following statutory conditions:

**Prohibitions**

1. An insured shall not:
  - (a) operate a motor vehicle unless he is named in an unexpired operator's certificate or he is a person over the age of twelve years but under the age of sixteen years operating a snowmobile under supervision as required by subsection (4) of section 15 of *The Snowmobile Act*;
  - (b) Operate a motor vehicle of which he is the owner unless the vehicle, being a vehicle required to be registered with The Highway Traffic Board under *The Vehicles Act* or *The Snowmobile Act*, is designated in an unexpired owner's certificate;
  - (c) operate a motor vehicle of which he is not the owner and which is required to be registered with The Highway Traffic Board under *The Vehicles Act* or *The Snowmobile Act*, unless he believes on reasonable grounds that the vehicle is designated in an unexpired owner's certificate;
  - (e) use or operate a 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;
  - (g) being the owner or other person in charge of a vehicle, permit, allow, suffer or connive at the use or operation of the vehicle by any person contrary to this condition; provided that it shall not of itself be a violation of this clause if the insured permits, allows, suffers or connives at the use or operation of the vehicle by a person who while not being named in an unexpired operator's certificate is nevertheless qualified and authorised by law to drive the vehicle.

**Proof to show interest of claimant**

2. Any claim made under this Part by a claimant shall be subject to proof of the interest of the claimant.

**Who to make proof**

3. Proof of claim shall be made by:
  - (a) an insured or, in the absence of the insured or his inability to make the proof, by his agent or any of the persons authorized to receive payment on behalf of an insured under section 29, the absence or inability being satisfactorily accounted for;
  - (b) the primary dependant, in the case of the death of an insured, although other persons may be entitled to receive benefits, except that:
    - (i) in the case of the absence of the primary dependant or his inability to make proof of claim, proof may be made by his agent or any other person authorized to receive payment of the benefits to which the primary dependant is entitled, the absence or inability being satisfactorily accounted for, or, if the said persons neglect or refuse to do so, by a person to whom any benefits are payable;
    - (ii) where there is no primary dependant or where the primary dependant is a child of an insured personal representative of the insured shall make the proof of claim, or, if the personal representative neglects or refuses to do so within a reasonable time, the Official Guardian or any person entitled to receive benefits under this Part shall make the proof of claim.

**Notice of claim**

4. A person entitled to make a claim under this Part shall:
- (a) give notice of claim to the insurer not later than fifteen days from the date of the accident, provided that failure to give notice shall not be invalidate the claim if it shown that it was not reasonably practicable to give notice within that time and that notice was given as soon as was reasonably practicable;
  - (b) furnish to the insurer such proof of claim as is reasonably possible and of the circumstances of the happening of the accident and the loss occasioned thereby within sixty days after the happening of the accident;
  - (c) furnish to the insurer a certificate:
    - (i) from a duly medical practitioner; or
    - (ii) from a member in good standing of the Canadian Chiropractic Association, where the injury is a local complaint of the muscular or of the skeletal system as in the case of a strain, sprain or disarticulation of the spine;

showing the cause and nature of the accident for which the claim is made and indicating the duration of the disability caused thereby.

**Onus on claimant where reports required**

5. Where a claimant is one of the persons required by section 68, 70 or 72 to furnish the reports therein specified, he shall comply in every particular and the onus of proving compliance with the said sections shall be upon the claimant.

**Limited liability where aggregate benefits exceed money value of the income of an insured**

6(1) Except where the insured is a housewife, if the benefits for loss of income provided by this Part together with the accident benefits payable under other contracts of insurance upon the person of the insured make upon aggregate indemnity in excess of the average income of the insured prior to the accident, the insurer shall be liable only for such proportion of the benefits specified in section 24 as the loss of income bears to the aggregate of the benefits specified in section 24 and the benefits payable under the other contracts upon the person of the insured.

(2) If, on the application of subsection (1), the total of the sums receivable by the insured under section 24 or 25 and under such other contracts for loss of time is less than the amount that under the circumstances would be payable as indemnity under section 24 or 25 except for such other contracts, the insurer shall pay to the insured the amount of the deficiency.

**Proof of claim**

7. The insurer shall, upon receiving notice of a claim, furnish to a claimant, forms for proof of claim and if such forms are not so furnished by the insurer within fifteen days after receipt of the notice, the claimant shall be deemed to have complied with the requirements of this Part as to proof of claim if he submits, within the time fixed by clause (b) statutory condition 4 for filing such proofs, a written statement of the happening and character of the accident and of the extent of the loss which the claim is made.

**Examination by insurer**

8. The insurer shall have the right, and a claimant shall afford to the insurer an opportunity, to examine the person of the insured in respect of whom a claim is made when and as often as it may reasonably require while a claim under this Part is pending and also, in the case of death of an insured to make an autopsy subject to any law of the province relating to autopsies and any medical examination made under this statutory condition shall be made by a duly qualified medical practitioner or medical consultant at the expense of the insurer.

**Time for payment**

9. The insurer shall pay all benefits payable under this Part within sixty days after receipt of proof of claim except the indemnity for loss of income in amount, of disability which shall be paid within thirty days after receipt of proof of claim and as long thereafter as the insurer remains liable for the disability, provided that the insurer may, if the disability continues beyond a period of sixty days, require proof thereof for that period, which proof shall be furnished within thirty days after the termination of every such period in respect of which claim is made.

**Waiver**

10. The insurer shall not be deemed to have waived any condition under this Part either in whole or in part unless the waiver is clearly expressed in writing signed by the insurer.

**Limitation of action**

11. Any action or proceeding against the insurer for the recovery of a claim under this Part shall be commenced within one year after the cause of action arose.

**Benefits for hernia**

12(1) No benefits shall be payable in respect of hernia, except clinical hernia or a disabling character that directly results from an accident that imposes liability for resulting damage or injury upon the insurer, provided that, where the hernia is the sole injury in respect of which benefits are claimed, the insured reports his condition to the insurer within seven days immediately following the occurrence of the accident.

(2) If an insured does not submit to treatment prescribed by a duly qualified physician or surgeon within two weeks of the accident benefits shall cease to be payable upon the expiry of such two weeks, provided that the insurer may in its absolute discretion extend the period for the submission.

(3) If an insured submits to an operation for hernia, the period of his disability shall cease upon the expiry of forty-two days following the day of the operation, provided that the said period may be extended by the insurer if it is satisfied that complications warranting an extension have resulted directly from the operation.

**Inspection of vehicle**

13. The insurer shall be permitted at all reasonable times to inspect any motor vehicle designated in an owner's certificate and its equipment.

R.S.S. 1965, c.409, s.32; 1969, c.5, s.1; 1972, c.10, s.9; 1973, c.8, s.14; 1973-74, c.4, s.4; R.S.S. 1978, c.A-35, s.35.

## PART III

**Comprehensive Insurance and Insurance Money****Application of Part**

**36** This Part applies to comprehensive insurance and to no other unless expressly provided.

R.S.S. 1965, c.409, s.33; R.S.S. 1978, c.A-35,  
s.36.

**Interpretation “insured”**

**37** In this Part “**insured**” means a person to whom insurance money is payable in the event of loss of or damage to a vehicle of the perils mentioned in section 35.

R.S.S. 1965, c.409, s.34; R.S.S. 1978, c.A-35,  
s.37.

**Comprehensive insurance**

**38(1)** Subject to this Act, an owner’s certificate shall further insure the person named therein in the amounts hereinafter specified against direct and accidental loss of or damage to the vehicle designated therein, including its equipment, occurring in Canada, or the continental United States of America, or upon a vessel plying between ports thereof, from any peril.

(2) Where loss or damage arises from a peril against which insurance is provided for by subsection (1) the insurer shall, in addition to any other amount payable under this Part, pay to or on behalf of the insured any general average, salvage and fire department charges, and customs duties of the Government of the United States of America, for which the insured is legally liable.

(3) Each occurrence causing loss or damage for which insurance is provided by subsection (1) gives rise to a separate claim in respect of which the liability of the insurer is limited to the amount of loss or damage in excess of the deductible amount fixed by the regulations for a vehicle of the class to which the vehicle that is lost or damaged belongs, but the insurer is not liable under this section for loss or damage:

(a) to tires or consisting of or caused by mechanical fracture or breakdown of any part of the vehicle or rusting, corrosion, wear and tear, freezing or explosion within the combustion chamber, unless the loss or damage is coincident with other loss or damage that is insured against under this section;

(b) caused by the conversion, embezzlement, theft or secretion by a person in lawful possession of the vehicle under a mortgage, conditional sale, lease or other similar written or verbal agreement;

(c) caused by the voluntary parting with title or ownership, whether or not the parting is induced by a fraudulent scheme, trick, device or false pretence;

(d) caused directly or indirectly by contamination by radioactive material;

(e) to radios designed for both transmitting and receiving or their equipment;

(f) to contents of trailers or to rugs or robes;

(g) caused by theft by a person residing in the same dwelling premises as the insured, or by an employee of the insured engaged in the operation, maintenance or repair of the vehicle whether or not the theft occurs during the hours of the employment or service.

(4) The insurer is not liable under this section for loss or damage in respect of a vehicle that is used or operated by a dealer under a dealer's certificate issued under section 55 of *The Vehicles Act* or section 5 of *The Snowmobile Act*, or that is used or operated under a T trailer certificate of registration issued under section 59 of *The Vehicles Act* unless:

(a) at the time when the loss or damage occurs the vehicle actually carries, in accordance with *The Vehicles Act* or *The Snowmobile Act*, as the case requires, a number plate issued under the appropriate Act;

(b) the loss or damage is caused directly by accidental collision of the vehicle with another object either moving or stationary or by accidental upset;

and the insurer is not in any event liable for loss or damage in respect of such a vehicle occurring after the theft thereof and before its recovery.

R.S.S. 1965, c.409, s.35; 1973, c.8, s.15; R.S.S.  
1978, c.A-35, s.38.

**Statutory conditions**

**39** Comprehensive insurance in respect of any vehicle shall be subject to the following statutory conditions:

**Insured to notify insurer of other insurance**

1. Upon the happening of any loss or damage for which insurance is provided under this Part the insured shall promptly notify the insurer of any other insurance of the same interest, whether valid or not, insuring against all or any part of the loss or damage.

**Prohibited use of vehicle**

2(1) The insured named in an owner's certificate shall not drive or operate the vehicle designated therein:

(a) while under the influence of intoxicating liquor or drugs to such extent as to be for the time being incapable of the proper control of the vehicle;

(b) while he is not for the time being qualified and authorized by law to drive or operate the motor vehicle or, if the law does not prescribe any qualification or authority, subject to subsection (4) of section 15 of *The Snowmobile Act* while under the age of sixteen years; or

(c) in any race or speed test.

(2) The insured named in an owner's certificate shall not permit, suffer, allow or connive at the use of the vehicle designated therein:

(a) by a person 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;

(b) by a person who is not for the time being qualified and authorized by law to drive or operate the motor vehicle or, if the law does not prescribe any qualification or authority, subject to subsection (4) of section 15 of *The Snowmobile Act* by a person under the age of sixteen years; or

(c) in a race or speed test.



**Certain other uses prohibited**

3. The vehicle designated in an owner's certificate shall not be operated for any purpose that is contrary to *The Vehicles Act* or *The Snowmobile Act*, the regulations thereunder or the certificate of the registration of the vehicle issued thereunder and, without restricting the generality of the foregoing, the vehicle shall not be operated in violation of the conditions, limitations, restrictions and prohibitions set forth in *The Vehicles Act* or *The Snowmobile Act* as the case requires, regulations or certificate relating to the combined weight of the vehicle and its load, the time during which and the territory within which the vehicle may be operated and the number, kind or quantity of passengers or goods that may be carried on the vehicle, nor shall the vehicle be rented or leased, under the arrangement commonly referred to as "U-Drive" or "Auto-lease", unless the intention to so rent or lease the vehicle has been disclosed in the application for the owner's certificate.

**War risks excluded**

4. The insurer shall not be liable for loss or damage that is caused directly or indirectly by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities, whether or not war has been declared, or by civil commotion arising from any of the foregoing.

**Necessity of reporting**

5. Where the insured is a person required to furnish a report under section 68, 70 or 72, he shall comply in every particular and the onus of proving such compliance shall be upon him.

**Loss of or damage to a vehicle**

6. Upon the occurrence of any loss of or damage to the vehicle designated in an owner's certificate, the insured shall, if the loss or damage is insured against under section 38:

(a) forthwith give notice thereof in writing to the insurer, in addition to any report that may be required by statutory condition 5, with fullest information obtainable at the time, and shall, at the expense of the insurer, and as far as reasonably possible, protect the vehicle from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable under this Part, and no repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the vehicle from further loss or damage, until the insurer has had a reasonable time to make the inspection provided for in statutory condition 11;

(b) deliver to the insurer within ninety days of the loss or damage a statutory declaration stating so far as the insured knows or believes, the place, time, cause and amount of the loss or damage, the interest of the insured and all others therein, the encumbrances thereon, all other insurance whether valid or invalid covering the vehicle, and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

**Examination of insured**

7. The insured shall submit to examination, under oath, and shall produce for examination at such reasonable place as is designated by the insurer or its representative all documents in his possession or control that relate to the matters in question and permit copies thereof and extracts therefrom to be made.



**Insurer liable for cash value of vehicle**

8(1) The insurer shall not be liable beyond the actual cash value of the vehicle at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to such actual cash value with proper deduction for depreciation, however caused, and shall in no event exceed what it would cost to repair or replace the vehicle or any part thereof with material of like kind and quality; provided that in the event or any part of the vehicle being obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of such part at the time of loss or damage not exceeding the maker's last list price.

**Repair, etc., in lieu of payment**

(2) Except where an appraisal has been had, the insurer, instead of making payment, may within a reasonable time repair, rebuild or replace the property damaged or lost with other of like kind and quality, giving written notice of its intention to do so within seven days after receipt of the proofs of loss; but there can be no abandonment of the vehicle to the insurer without its consent, and in the event of the insurer exercising such option, the salvage, if any, shall revert to it.

**In case of disagreement**

9(1) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, the question shall be determined by appraisers before recovery can be had under this Part whether the right to recover under this Part is disputed or not, and independently of all other questions.

(2) The insured and the insurer shall each select one appraiser, and the two so chosen shall then select a disinterested umpire, and thereafter the two appraisers together shall estimate or appraise the loss or damage, stating separately sound value and damage, or determine the adequacy of the repairs or replacements, and, failing to agree, shall submit their differences to the umpire.

(3) If either party fails to name an appraiser within seven days after being served with written notice to do so, or if the appraisers fail to agree upon an umpire within fifteen days after their appointment, or if appraiser or umpire refuses to act or is incapable of acting, or dies, a judge of the Court of Queen's Bench or a judge of the district court acting at the judicial centre nearest to which the appraisal is to be made may appoint an appraiser or umpire on the application of the insured or the insurer.

(4) An award in writing of the two appraisers, or of one appraiser and the umpire, shall determine the nature and extent or adequacy of the repairs and replacements made or required, or the amount of the loss or damage.

(5) Each party shall pay the appraiser selected by him, and shall bear equally the other expenses of the appraisal and of the umpire.

**Waiver**

10. Neither the insurer nor the insured shall be deemed to have waived any term or condition of this Part by any act relating to the appraisal or to the delivery and completion of proofs of loss, or to the investigation or adjustment of the claim.

**Inspection of vehicle**

11. The insurer shall be permitted at all reasonable times to inspect the vehicle designated in an owner's certificate and its equipment.

**Other insurance**

12(1) If the insured named in an owner's certificate has or places any additional or other valid insurance extending to indemnify him against loss or damage that but for this condition would be within the limits of the insurer's liability under this Part, the insurer shall not be liable to pay any insurance moneys in respect of such loss or damage.

(2) Where the Superintendent of Insurance in the exercise of any general or special power conferred upon him by *The Saskatchewan Insurance Act* approves a form of policy of automobile insurance that purports to limit the liability of the insurer thereunder to an amount in excess of the amount payable under this Part by the insurer under this Act nothing in subsection (1) of this condition affects the validity of that policy and where such a policy is in effect the insurer's liability under this Part shall be ascertained as if no other insurance were in effect.

**Time and manner of payment of insurance money**

13. The insurer shall pay any insurance money for which it is liable within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 9, within fifteen days after the award is rendered.

**Limitation of action**

14. Every action or proceeding against the insurer under this Part in respect of loss of or damage to a vehicle shall be commenced within one year next after the happening of the loss or damage and not afterwards.

**Who may give notice and proof of claim**

15. Notice of claim may be given and proof of claim may be made by the agent of the insured named in a certificate in case of absence or inability of the insured to give the notice or make the proof, the absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

R.S.S. 1965, c.409, s.36; 1968, c.9, s.6; 1973, c.8, s.16 1973-74, c.4 s.5; R.S.S. 1978, c.A-35, s.39.

## PART IV

**Bodily Injury Liability and Property Damage Liability Insurance****Application**

**40** This Part applies to bodily injury liability insurance and to property damage liability insurance and to no other unless expressly provided.

R.S.S. 1965, c.409, s.37; R.S.S. 1978, c.A-35, s.40.

**Interpretation "insured"**

**41** In this Part, "**insured**" means a person to whom or on whose behalf insurance money is payable in the event of bodily injury to or the death of others or loss of or damage to the property of others for which the person is legally liable and resulting from one of the perils mentioned in section 42, whether the person is named in an owner's certificate or not.

R.S.S. 1965, c.409, s.38; R.S.S. 1978, c.A-35, s.41.

**Bodily injury liability and property damage liability insurance**

42(1) An owner's certificate shall further insure the person named therein and every other person who with his consent personally drives the vehicle designated therein, against the liability imposed by law upon the person named therein and the other person for loss or damage arising from the ownership, use or operation of the vehicle within Canada or the continental United States of America, or upon a vessel plying between ports thereof and resulting from bodily injury to or the death of any person or damage to property, provided that the insurer shall not be liable under an owner's certificate:

- (a) for any liability imposed by any workers' compensation law upon any person insured by the certificate;
  - (b) for loss or damage resulting from bodily injury to or the death of any person insured by the certificate;
  - (c) to any person, not the owner of the vehicle covered by the certificate, engaged in the business of an automobile garage, repair shop or service station or engaged in business as an automobile dealer, for loss or damage sustained while engaged in the operation or repair of the vehicle in the course of that business;
  - (d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting onto or alighting from the vehicle;
  - (e) for loss or damage resulting from bodily injury to or the death of any employee of any person insured by the certificate while engaged in the operation or repair of the vehicle;
  - (f) for loss of or damage to property carried in or upon the vehicle or to any property owned or rented by, or in the care, custody or control of, any person insured by the certificate;
  - (g) for any amount in excess of the limits mentioned in subsection (2) and the expenditures provided for in section 44; or
  - (h) for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard except to the extent specifically provided in such case by section 43.
- (2) Whether the loss or damage results:
- (a) from bodily injury to or the death of one or more persons or from damage to property; or
  - (b) from bodily injury to or the death of one or more persons and also from damage to property;

the liability of the insurer under subsection (1) for all loss or damage so resulting in any one accident, irrespective of the number of claims arising out of the accident, is limited to the amount by which \$35,000 exceeds the amount by which the liability of the insured for the loss or damage is reduced under section 79.

(3) Where in any one accident loss or damage results from bodily injury or death and loss or damage to property:

(a) any claims arising out of bodily injury or death shall have priority over claims arising out of loss of or damage to property to the extent that \$30,000 exceeds the amount by which the liability of the insured for loss or damage resulting from bodily injury or death in that accident is reduced under section 79; and

(b) any claims arising out of loss or damage to property shall have priority over claims arising out of bodily injury or death to the extent that \$5,000 exceeds the amount by which the liability of the insured for loss or damage resulting from loss of or damage to property in that accident is reduced under section 79.

(4) For the purpose of determining the liability of the insurer under this Part, a motor vehicle and a trailer or semi-trailer attached thereto shall be deemed to be one vehicle.

R.S.S. 1965, c.409, s.39; R.S.S. 1978, c.A-35, s.42.

**Insurance against loss resulting through nuclear energy hazard**

43(1) Where a person insured by an owner's certificate, whether named therein or not, is covered under this Part for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard and is also covered, whether named therein or not, against such loss or damage under a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to the loss or damage, the insurance provided under this Part is excess to the nuclear energy hazard liability insurance.

(2) For the purpose of this section a policy of nuclear energy hazard liability insurance is deemed to be in force at the time of the event giving rise to the loss or damage notwithstanding that the limits of liability thereunder have been exhausted.

R.S.S. 1965, c.409, s.40; R.S.S. 1978, c.A-35, s.43.S

**Additional expenditures**

44(1) Where any part of the loss or damage from which a claim under an owner's certificate arises is otherwise within the limits for which indemnity is provided under section 42, the insurer shall:

(a) upon receipt of notice of loss or damage caused to persons or property, serve any person insured by virtue of the certificate by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the insurer;

(b) defend in the name and on behalf of any person insured by the certificate and at the cost of the insurer any civil action that may at any time be brought against such person on account of the loss or damage to persons or property;

(c) pay all costs taxed against any person insured by the certificate in any civil action defended by the insurer, except the costs of any appeal taken by such person without the insurer's consent, and any interest accruing after entry of judgement upon that part of the judgement that is within the limits of the insurer's liability; and

(d) in case of injury to a person, reimburse any person insured by the certificate for outlay for such medical aid as may be immediately necessary at the time of the accident causing the injury.

(2) Where a person insured under a contract of insurance, whether named therein or not, is covered under the contract against his liability for loss or damage arising out of the ownership, use or operation of a vehicle covered under this Part and resulting from bodily injury to or the death of any person or damage to property, the insurer is liable under this section for the additional expenditures provided for by clauses (b) and (c) of subsection (1) only in an amount that bears the same ratio to the total amount of those additional expenditures as the amount of the portion of the loss or damage borne by the insurer under section 42 bears to the total amount of the loss or damage.

R.S.S. 1965, c.409, s.41; R.S.S. 1978, c.A-35, s.44.

#### **Applications of insurance money**

**45(1)** A person having a claim against an insured for which indemnity is provided by virtue of an owner's certificate under this Part shall, notwithstanding that there is no contractual relationship with respect thereto between that person and the insurer, be entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under this Part applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

(2) No creditor of an insured shall be entitled to share in the insurance money payable under this Part in respect of any claim for which indemnity is not provided under this Part.

(3) No:

(a) assignment, transfer, surrender, cancellation, suspension, waiver or discharge of a certificate or of any provision of this Part or of any interest therein or of any insurance money thereunder made by the insured after the happening of the event giving rise to a claim under the certificate;

(b) act or default of the insured before or after such event in violation of this Act; and

(c) violation of the *Criminal Code* or of any law or statute of any province, state or country by the owner or driver of the vehicle designated in the certificate;

shall prejudice the right of a person entitled under subsection (1) to have the insurance money applied upon his judgment or claim, or be available to the insurer as a defence to such action.

(4) Where the liability of the insurer under this Part is affected by subsection (1) of condition 7 of the statutory conditions set forth in section 48 or where there is in effect a policy of automobile insurance of the kind or class mentioned in subsection (2) of the said condition 7 without there having occurred on the part of the insured any violation of any term or condition of the policy sufficient in the particular instance to relieve the insurer issuing the policy from liability to indemnify the insured thereunder, nothing in this section prevents the insurer under this Act from availing itself, against the person making claim pursuant to this section, of any defence that the insurer is entitled to set up against the insured.

(5) An insured shall be liable to pay or reimburse the insurer upon demand, any amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

(6) Where the insurer denies liability to an insured under this Part, it shall have the right, upon application to the court in which the action is taken, or a judge thereof, to be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action for which it is or might be asserted that indemnity is provided under this Part, whether or not the insured enters an appearance or defence in the action and, upon being made a third party, the insurer shall have the right to contest the liability of the insured to any party claiming against the insured, and to contest the amount of any claim made against the insured, to the same extent as if a defendant in the action, including for that purpose the right to deliver a statement of defence to the claim of any party claiming against the insured, to deliver other pleadings, to have production and discovery from any party adverse in interest and the right to examine and cross-examine witnesses at the trial.

(7) Where the insurer is liable, or where it is of the opinion that it would be liable if an action were taken against it, to pay insurance money with respect to a claim under this Part but would not be so liable except for subsection (3) the insurer may, upon denying liability to the insured, notify the insured of the claim in writing sent by registered mail and addressed to him at the address of the insured last known to the insurer and if the insured does not, within thirty days after the date on which the notice is mailed, dispute his liability for the loss, damage or injury in respect of which the claim is made, the insurer may settle the claim and, subject to subsection (8), the insured is liable to pay or reimburse the insurer upon demand the amount of the settlement.

(8) Where an insured agrees that the insurer would not, except for this section, be or become liable to make a payment in respect of a claim against the insured, the insured may, either before or after the making of such payment by the insurer, undertake to pay or reimburse the amount of the payment to the insurer by giving an undertaking as provided in clause (b) of subsection (3) of section 54 in which event the undertaking shall have the same force and effect as an undertaking given under that clause.

(9) Subject to subsection (8), the insurer may, on the payment of a sum under this section that it would not otherwise be liable to pay, require an assignment of the judgment from the judgment creditor to the extent of that payment and, unless within thirty days after demand for payment or reimbursement under subsection (5) has been made by the insurer the insured disputes in writing delivered to the head office of the insurer at the city of Regina his liability to pay or reimburse the insurer, section 57 applies *mutatis mutandis*.

(10) Where the insurer obtains judgment against an insured for the amount that the insured is liable to pay or reimburse the insurer under subsection (5) the judgment shall, for the purposes of Part VI of *The Vehicles Act* or for the purposes of that Part when that Part is applied to *The Snowmobile Act* be treated as if it were in all respects a judgment for damages on account of the death of or injury to a person or on account of damage to property.



**Insured to give notice of action**

**46** Every insured against whom an action is commenced for damages occasioned by a vehicle designated in an owner's certificate shall give notice thereof in writing to the insurer within five days after service of notice or process in the action.

R.S.S. 1965, c.409, s.43; R.S.S. 1978, c.A-35, s.46.

**Unnamed insurer may recover indemnity**

**47** A person insured by but not named in an owner's certificate may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose may, in his own name and on his own behalf, exercise the same rights and shall be subject to the same obligations as if named therein as the insured.

R.S.S. 1965, c.409, s.44; R.S.S. 1978, c.A-35, s.47.

## STATUTORY CONDITIONS

**Statutory conditions**

**48** Bodily injury liability and property damage liability insurance provided by an owner's certificate under this Part shall be subject to the following conditions which shall be statutory conditions:

**Insured to give notice of other insurance**

1. Upon the happening of any event for which insurance is provided by an owner's certificate under this Part, the person insured by virtue of the owner's certificate shall promptly notify the insurer of any other insurance of the same interest, whether valid or not, insuring against all or any part of his liability for which insurance is provided by the owner's certificate.

**Prohibited use of vehicle**

2(1) The person insured by the owner's certificate shall not drive or operate the vehicle designated therein:

- (a) 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;
- (b) while he is not for the time being qualified and authorized by law to drive or operate the vehicle or, if the law does not prescribe any qualification or authority, subject to subsection (4) of section 15 of *The Snowmobile Act* while under the age of sixteen years; or
- (c) in any race or speed test.

(2) The person insured by the owner's certificate shall not permit, suffer, allow or connive at the use of the vehicle designated therein:

- (a) by a person 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; or
- (b) by a person who is not for the time being qualified and authorized by law to drive or operate the vehicle or, if the law does not prescribe any qualification or authority, subject to subsection (4) of section 15 of *The Snowmobile Act* by a person under the age of sixteen years; or
- (c) in a race or speed test.

**Certain other uses prohibited**

3. The vehicle designated in an owner's certificate shall not be operated for any purpose that is contrary to *The Vehicles Act* or *The Snowmobile Act*, the regulations thereunder or the certificate of the registration of the vehicle issued thereunder, and without restricting the generality of the foregoing the vehicle shall not be operated in violation of the conditions, limitations, restrictions and prohibitions set forth in *The Vehicles Act* or *The Snowmobile Act*, as the case may be, regulations or certificate relating to the combined weight of the vehicle and its load, the time during which and the territory within which the vehicle may be operated and the number, kind or quantity of passengers or goods that may be carried on the vehicle, nor shall the vehicle be rented or leased, under the arrangement commonly referred to as "U-Drive" or "Auto-lease", unless the intention to so rent or lease the vehicle has been disclosed in the application for the owner's certificate.

**Loss or damage to persons or property**

4(1) Where indemnity is, or might be asserted to be, provided under this Part, the person insured by the owner's certificate shall:

- (a) promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident;
- (b) verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of a vehicle designated in the owner's certificate and that the person operating or responsible for the operation of the vehicle at the time of the accident is a person insured by the certificate; and
- (c) forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

(2) The person insured by the owner's certificate shall not voluntarily assume any liability or settle any claim except at his own cost, and the person so insured shall not interfere in any negotiations for settlement or in any legal proceedings, but, whenever requested by the insurer, shall aid in securing information and evidence and the attendance of any witness, and shall co-operate with the insurer, except in a pecuniary way, in the defence of any action or proceeding or in the prosecution of any appeal.

**Waiver**

5. Neither the insurer nor the person insured by the owner's certificate shall be deemed to have waived any term or condition of this Part by any act relating to the appraisal or to the delivery and completion of proofs of loss pursuant to any provision of this Act, or to the investigation or adjustment of a claim.

**Inspection of vehicle**

6. The insurer shall be permitted at all reasonable times to inspect the vehicle designated in the owner's certificate and its equipment.



**Other insurance**

7(1) Subject to subsection (2), where a contract of insurance or other instrument purports to insure a person, whether named in the contract or other instrument or not, against his liability for loss or damage resulting from bodily injury to or the death of any person or damage to property, and that person is insured under this Part, whether named in an owner's certificate or not, the insurer under this Act shall be liable with respect to any loss or damage for which indemnity is provided by this Part only as hereinafter provided, that is to say:

1. the liability for the loss or damage of the insurer entering into the contract of insurance or issuing the other instrument, in this statutory condition referred to as the "other insurer", shall be ascertained separately as if this Part had not been enacted;
2. unless the loss or damage exceeds the amount of the liability of the other insurer therefor, as ascertained pursuant to paragraph 1, the insurer under this Act shall not be liable under this Part with respect to the loss or damage;
3. if the loss or damage exceeds the amount of the liability of the other insurer therefor, as ascertained pursuant to paragraph 1, the liability under this Part of the insurer under this Act shall be limited to the amount of the excess not exceeding the limit mentioned in subsection (2) of section 42.

(2) Where the Superintendent of Insurance in the exercise of any general or special power conferred upon him by *The Saskatchewan Insurance Act* approves a form of policy of automobile insurance that purports to limit the liability of the insurer thereunder to an amount in excess of the amount payable under this Part by the insurer under this Act or that contains words to a like effect, nothing in subsection (1) affects the validity of that policy, and where such a policy is in effect the liability of the insurer under this Act shall, subject to subsection (4) of section 45, be ascertained as if no other insurance were in effect.

**Time and manner of payment of insurance money**

8(1) The insurer shall pay the insurance money for which it is liable under this Part within sixty days after the proof of loss has been received by it.

(2) The person insured by the owner's certificate may not bring an action to recover the amount of a claim under the certificate unless the requirements of statutory condition 4 are complied with and the amount of the loss has been ascertained by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

(3) Every action or proceeding against the insurer under this Part in respect of loss or damage to persons or property shall be commenced within one year next after the cause of action arose and not afterwards.

**Who may give notice and proofs of claim**

9. Notice of claim may be given and proofs of claim may be made by the agent of the insured named in the owner's certificate in case of absence or inability of the insured to give the notice or make the proof, the absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

R.S.S. 1965, c.409, s.45; 1973, c.8, s.18; 1973-74, c.4, s.7; R.S.S. 1978, c.A-35, s.48.

**Operator further insured**

**49** An operator's certificate shall further insure the person named therein against the liability imposed by law upon him for loss or damage arising from the personal driving by him, within Canada or the continental United States of America, or upon a vessel plying between ports thereof, of a motor vehicle of which he is not the owner and that is not designated in an unexpired owner's certificate but that he is driving with the owner's consent and that he believes on reasonable grounds is designated in an unexpired owner's certificate, to the same extent as if the motor vehicle were designated in an unexpired owner's certificate, and this Part applies *mutatis mutandis* as if the person named in the operator's certificate were named in an unexpired owner's certificate in which such motor vehicle is designated.

R.S.S. 1965, c.409, s.46; R.S.S. 1978, c.A-35,  
s.49.

**Insurance as proof of financial responsibility**

**50(1)** For the purpose of availing to persons insured under this Part financial responsibility of the kind and in the form required under the applicable laws of any other province, state or territory, the insurer may from time to time execute and file with the appropriate public authorities in that other province, state or territory such of the following as the occasion requires:

- (a) a power of attorney authorizing acceptance of service of notice or process for itself or for its insured in any action or proceeding arising out of a motor vehicle accident in that other province, state or territory;
- (b) an undertaking to appear in any such action or proceeding;
- (c) an agreement to submit to the jurisdiction of the courts in the other province, state or territory and not to set up any defence in any such action or proceeding that would not be available to an insurer under a motor vehicle liability policy issued in that province, state or territory;

and the insurer may generally do all acts and things necessary and incidental thereto.

(2) An insured shall be liable to pay or reimburse the insurer upon demand any amount that the insurer has paid by reason of this section that it would not otherwise be liable to pay.

(3) In an action in another province or territory of Canada against the insurer, or against a person insured under section 42, arising out of a motor vehicle accident in that province or territory, the insurer shall appear and shall not with respect to bodily injury liability insurance and property damage liability insurance set up a defence to a claim under an owner's certificate, including a defence as to the limit or limits of liability, that might not be set up if the claim were under a contract evidenced by a motor vehicle liability policy issued in that province or territory.

R.S.S. 1965, c.409, s.47; R.S.S. 1978, c.A-35,  
s.50.

**Remedy for injuries etc., in hit-and-run accident**

51(1) Where bodily injury to or the death of a person or damage of \$200 or more to property arises out of the use or operation within Saskatchewan of a motor vehicle and:

- (a) the names of both the owner and the operator of the motor vehicle are not known or ascertainable; or
- (b) the name of the operator is not known or ascertainable and the owner is not liable to an action for damages for the injury, death or property damage;

any person who has a cause of action:

- (c) in the case mentioned in clause (a), against the owner or the operator;
- (d) in the case mentioned in clause (b), against the operator;

in respect of the bodily injury, death or property damage may bring an action against the insurer as nominal defendant, either alone or as a defendant with others alleged to be responsible for the injury, death or property damage.

(2) No proceedings shall be brought against the insurer as nominal defendant under this section unless notice of all relevant facts is given in writing to the insurer as soon as is reasonably practicable and in any event within twenty-eight days after the accident that occasioned the bodily injury, death or property damage.

(3) An action under this section against the insurer as nominal defendant may be commenced only within the time limited by section 180 of *The Vehicles Act* or by section 33 of *The Snowmobile Act*, as the case requires, for bringing an action against the owner or operator of the vehicle.

(4) Where, after an action has been commenced in respect of bodily injury to or the death of a person or damage to property in excess of \$200 arising out of the use or operation in Saskatchewan of a motor vehicle, it is alleged that the injury, death or property damage was caused or contributed to by another motor vehicle, but:

- (a) the names of both the owner and the operator of the motor vehicle are not known or ascertainable; or
- (b) the name of the operator is not known or ascertainable and the owner is not liable to an action for damages for the injury, death or property damage;

the insurer may be added as a nominal defendant on the application of any party and shall be added as a nominal defendant on its own application.

(5) In an action against the insurer as nominal defendant, the insurer may deny generally the allegations in respect of the unidentified motor vehicle and the owner and operator thereof and shall not be required to set forth the facts upon which it relies.

(6) In an action against the insurer as nominal defendant, a judgment against the insurer shall not be granted unless the court is satisfied that all reasonable efforts have been made by the parties to ascertain the identity of the unknown owner and operator or unknown operator, as the case may be, and that the identity of those persons or that person is not ascertainable.

(7) Where, before judgment is granted in an action against the insurer as nominal defendant, the identity of the unknown owner or operator is ascertained, then, notwithstanding section 180 of *The Vehicles Act* or section 33 of *The Snowmobile Act*, that owner or operator shall be added as a defendant in the action in substitution for the insurer, subject to such conditions as the court may prescribe.

(8) The insurer may if it thinks fit compromise and settle the claim or claims of any person entitled to commence an action under this section.

(9) Upon the rendering of a judgment against the insurer as nominal defendant under this section and upon the expiration of the time limited for appeal therefrom or upon the compromise and settlement of any claim under this section, the insurer shall pay in or towards satisfaction of the judgment or claim an amount equal to that which in like circumstances the insurer is authorized to pay under section 42 in a case where:

- (a) the names of both the owner and operator of the motor vehicle causing bodily injury, death or property damage are known;
- (b) the operator of the motor vehicle was a person who at the material time was:
  - (i) qualified and authorized by law to use or operate the vehicle; and
  - (ii) personally operating the vehicle with the consent of the owner thereof; and
- (c) the vehicle was at the time of the accident causing the bodily injury, death or property damage designated in an unexpired owner's certificate;

and, subject to section 42, if the damage to property caused by the motor vehicle is \$200 or more the amount payable by the insurer under this section is the full amount of the damage.

(10) Where under this section, a judgment has been obtained against the insurer as nominal defendant or the insurer has settled any claim, the insurer may apply:

- (a) to a judge of the court where the judgment has been obtained; or
- (b) in the case where a claim has been settled, to a judge of the court that would have had jurisdiction to entertain an action for the recovery of damages to the amount of the settlement;

for an order certifying that any person was at the time of the accident the owner or operator of the motor vehicle that caused the bodily injury, death or property damage in respect of which the judgment was obtained or the settlement made.

(11) If the judge hearing an application under subsection (10) is satisfied on the evidence that the person named in the application was, at the time of the accident that caused the bodily injury, death or property damage giving rise to the action in which the judgment was recovered or to the claim that has been settled, the owner or operator, or both, of the motor vehicle involved in that accident, the judge may make the order applied for unless he is satisfied that the person would not have been liable for any damages if he had appeared and defended the action that was brought or, in the case of a claim settled before action, any action that might have been brought to enforce the claim, or he may direct the trial of an issue.

(12) Upon the making of an order under subsection (11) or upon the judgment of the trial of an issue directed under that subsection, the person certified therein to be the owner or operator or owner and operator of the motor vehicle causing the bodily injury, death or property damage, whether or not the operator of the motor vehicle is named in an unexpired operator's certificate and whether or not the motor vehicle is designated in an unexpired owner's certificate, shall be liable to pay to the insurer as a debt due and owing to the insurer the amount of all sums paid by the insurer pursuant to any judgment or settlement under this section and the order or judgment shall be treated for the purpose of Part VI of *The Vehicles Act* or for the purposes of that Part when that Part is applied to *The Snowmobile Act*, as if it were in all respects a judgment for damages on account of the death of or injury to a person or on account of damage to property.

1972, c.10, s.10; 1973, c.8, s.19; R.S.S. 1978,  
c.A-35, s.51.

**“Uninsured motor vehicle” defined**

**52** Where the death of or bodily injury to any person or the loss of or damage to property of any person is occasioned by the use or operation of a motor vehicle in Saskatchewan and no amount is payable in respect thereof by reason of the existence of an owner's certificate under this Act or a motor vehicle liability policy of insurance within the meaning of *The Saskatchewan Insurance Act*, or any other policy of insurance within the meaning of that Act insuring or purporting to insure to at least the limits mentioned in section 206 of that Act any of the persons that in the circumstances are legally responsible for the death or bodily injury or loss of or damage to property, the motor vehicle is for the purpose of the following sections of this Part an uninsured motor vehicle, but the expression “uninsured motor vehicle” does not include:

- (a) a motor vehicle in respect of which there exists proof of financial responsibility given in the manner provided for by clause (b) or (c) of section 186 of *The Vehicles Act*, or as provided by *The Snowmobile Act*; or
- (b) a motor vehicle owned by the Crown in right of Canada.

R.S.S. 1965, c.409, s.49; 1973, c.8, s.20; R.S.S.  
1978, c.A-35, s.52.

**Insurer agent of owner of uninsured motor vehicle for service process**

**53** The insurer is deemed to be an agent of the owner of every uninsured motor vehicle for service of notice or process in an action in Saskatchewan arising out of the use or operation in Saskatchewan of the uninsured motor vehicle, and, where such an action is commenced:

- (a) a notice or process shall be served on the insurer by leaving a copy thereof with or at the office of the insurer in the city of Regina; and
- (b) a copy of the notice or process shall be sent forthwith by registered mail to the defendant at his latest address as shown in the records of the insurer.

R.S.S. 1965, c.409, s.50; R.S.S. 1978, c.A-35,  
s.53.

**Application for payment by insurer where person has cause of action**

54(1) Where the death of or bodily injury to or loss of or damage to property of a person is occasioned in Saskatchewan by an uninsured motor vehicle, any person who would have a cause of action against the owner or driver of the uninsured motor vehicle in respect of the death, bodily injury, loss of or damage to property, except a person entitled to make an application under subsection (1) of section 55, may make application, in a form prescribed by the insurer, for payment by the insurer under this Act of the damages in respect of the death, bodily injury, loss of or damage to property.

(2) Upon receipt of an application under subsection (1) the insurer shall, by registered mail, forward a notice of the application for payment by the insurer under this Act to the owner and the driver of the uninsured motor vehicle against whom liability for the damages occasioned by the operation of the uninsured motor vehicle is alleged, addressed to them at their latest addresses as shown in the records of the insurer.

(3) The insurer may, in respect of an application made under subsection (1), make payment, subject to section 59, of an amount that it considers proper in all the circumstances if:

(a) the applicant executes a release under seal of all claims arising out of the motor vehicle accident that occasioned the damages to be paid by the insurer; and

(b) subject to clause (c), the owner and driver of the uninsured motor vehicle execute a consent to the payment by the insurer of the sum on account of damages and also execute under seal an undertaking to repay to the insurer the amount to be paid by the insurer; or

(c) the person to whom a notice is sent in accordance with subsection (2) does not reply within thirty days after the date on which the notice was sent either:

(i) by mail; or

(ii) by attending in person at the place named in the notice; and disputes his liability to the person making application under subsection (1).

(4) Where an amount is paid by the insurer under subsection (3), the insurer is subrogated to the rights of the person to whom that amount is paid and the insurer may maintain an action in its name or in the name of that person against any other person or persons responsible for the use or operation of the uninsured motor vehicle.

(5) Where payment is made under subsection (3) The Highway Traffic Board shall forthwith suspend the privilege of the person to whom the notice was sent pursuant to subsection (2) of driving a motor vehicle in Saskatchewan and also his privilege of using or having a motor vehicle on a public highway in Saskatchewan, and no licence to drive a motor vehicle and no permit or certificate of registration in respect of a motor vehicle shall at any time thereafter be granted or issued to or in respect of that person under *The Vehicles Act* or *The Snowmobile Act*, and no such licence, permit or certificate shall be renewed, until proof of financial responsibility in a form and to the amount prescribed by Part VI of *The Vehicles Act* or by that Part when that Part is applied to *The Snowmobile Act*, has been furnished and repayment of the amount paid by the insurer, has commenced on the undertaking mentioned in clause (b) of subsection (3).



(6) Where a person who has commenced repayment of the amount paid by the insurer on the undertaking mentioned in clause (b) of subsection (3) is in default in any payment for a period of ten days, The Highway Traffic Board shall forthwith suspend the privilege of that person of driving a motor vehicle in Saskatchewan and the privilege of having and using a motor vehicle on a public highway in Saskatchewan and also any licence to drive a motor vehicle and any permit or certificate of the registration in respect of a motor vehicle granted or issued to or in respect of that person under *The Vehicles Act* or *The Snowmobile Act*.

R.S.S. 1965, c.409, s.51; 1973, c.8, s.21; R.S.S. 1978, c.A-35, s.54.

**Application for payment of judgment**

**55(1)** Subject to section 56, where a person recovers in a court in Saskatchewan a judgment for damages on account of injury to or the death of any person or loss of or damage to property occasioned in Saskatchewan by a motor vehicle owned or operated by the judgment debtor within Saskatchewan, upon the determination of all proceedings, including appeals, he may make application, in the form prescribed by the insurer, for payment of the amount of the judgment or of the unsatisfied portion thereof, and the insurer shall pay that amount or portion.

(2) Where an application is made to the insurer under subsection (1), the insurer may at any time within thirty days after the receipt of the application, or within such further time as may be allowed upon application to a judge of the Court of Queen's Bench, give written notice to the applicant of any objection to payment of the judgment or part of the judgment, and, where the insurer gives such notice, the applicant may apply by notice of motion to a judge of the Court of Queen's Bench for a finding or determination in respect of any matter in connection with the application for payment by the insurer.

(3) The insurer shall not pay any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal.

R.S.S. 1965, c.409, s.52; R.S.S. 1978, c.A-35, s.55.

**Non-application for section 55**

**56(1)** Section 55 does not apply in the case of a judgment that has been signed in an action in which:

- (a) the defendant did not enter an appearance;
- (b) the defendant did not file a statement of defence;
- (c) the defendant did not appear in person or by counsel at the trial; or
- (d) judgment was signed upon the consent or with the agreement of the defendant;

unless the insurer has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as it may consider advisable under subsection (2).

(2) Where the insurer receives notice under subsection (1), it may, if it considers it advisable, enter an appearance within thirty days, file a defence, make payment into court, appear by counsel at the trial or take such other action as it may consider appropriate on behalf of and in the name of the defendant, and may thereupon, on behalf of and in the name of the defendant, conduct his defence, and may, where it considers it advisable to do so, consent to judgment in such amount as it may consider proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of the defendant.

(3) Where the pleadings have been closed or under the rules of court are deemed to have been closed, the insurer may, upon giving notice to the local registrar or local clerk, as the case may be, acting at the judicial centre at which the action is pending that it intends to defend the action on behalf of and in the name of the defendant, reopen the pleadings.

R.S.S. 1965, c.409, s.53; R.S.S. 1978, c.A-35, s.56.

#### Assignment of judgment

**57(1)** The insurer shall not make any payment under section 55 until the judgment creditor assigns the judgment to the insurer.

(2) Upon lodging the assignment of judgment or a notarial copy thereof with the local registrar or local clerk, as the case may be, at the judicial centre at which the judgment was obtained, the insurer shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor.

(3) Where execution is issued in the name of the judgment creditor and the assignment of judgment or a notarial copy thereof is lodged with the sheriff having the writ of execution, subsection (2) shall apply *mutatis mutandis*.

R.S.S. 1965, c.409, s.54; R.S.S. 1978, c.A-35, s.57.

#### Restriction on payments under section 51, 54 or 55

**58(1)** No payment shall be made under section 51, 54 or 55 to the extent of any amount that is paid or payable, in respect of death, bodily injury, loss of or damage to property or in respect of the liability therefor of the owner or driver of the uninsured motor vehicle or the employer of either of them, by some other insurer by reason of the existence of a policy of insurance within the meaning of *The Saskatchewan Insurance Act*, other than a policy of life insurance.

(2) No amount shall be sought under section 51, 54 or 55, and no amount so sought shall be paid, in lieu of the making of a claim or the receiving of a payment that is payable by reason of the existence of a policy of insurance within the meaning of *The Saskatchewan Insurance Act*, other than a policy of life insurance.

(3) No amount shall be sought under section 51, 54 or 55, and no amount so sought shall be paid, to reimburse or otherwise indemnify an insurer in respect of the amount paid or payable by that insurer by reason of the existence of a policy of insurance within the meaning of *The Saskatchewan Insurance Act*, other than a policy of life insurance.

(4) No amount shall be sought under section 51, 54 or 55, and no amount so sought shall be paid, in lieu of the making of a claim or the receiving of a payment under *The Workers' Compensation Act* or under a similar statute or law with respect to injured workers enacted by the Legislature or other competent law-making authority of any province, state or country.



(5) No amount shall be sought under section 51, 54 or 55, and no amount so sought shall be paid, to reimburse or otherwise indemnify The Workers Compensation Board in respect of payments made by it under *The Workers Compensation Act*, or to reimburse or otherwise indemnify a similar board or compensating body in respect of payments made by it under a similar statute or law with respect to injured workers enacted by the Legislature or other competent law-making authority of any province, state or country.

(6) No amount shall be sought under section 51, 54 or 55, and no amount so sought shall be paid, in respect of hospital services paid for under *The Saskatchewan Hospitalization Act* or under a similar statute or law with respect to hospital services enacted by the legislature or other competent law-making authority of any province, state or country.

R.S.S. 1965, c.409, s.55; 1968, c.7, s.7; R.S.S. 1978, c.A-35, s.58.

**Same**

**59(1)** The insurer shall not make any payment under section 54 or 55 that under clauses (a), (b), (c), (d), (e), (f), and (h) of subsection (1) of section 42 it would not be liable to make if the motor vehicle occasioning the death or bodily injury or the loss of or damage to property were designated in an owner's certificate.

(2) The insurer shall in no event pay under section 54 or 55 more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons or on account of the death of one or more persons or on account of the loss of or damage to property arising out of any one accident, and where, in any one accident, damages result from bodily injury or death and loss of or damage to property, the claims arising out of the loss of or damage to property have priority over claims arising out of the bodily injury or death to the extent of \$5,000.

(3) The amount that the insurer is otherwise authorized to pay under sections 54 and 55 in any case shall be reduced:

(a) by such sum as the applicant has recovered or is likely to recover from the judgment debtor;

(b) by the sum that has been paid or is payable by the insurer under Parts II and III to or on behalf of or in respect of the applicant;

(c) by the sum that has been paid or is payable to or on behalf of or in respect of the applicant under *The Saskatchewan Medical Care Insurance Act* or under a similar statute or law in respect of medical services enacted by the Legislature or other competent law-making authority of any province, state or country;

(d) by the sum that has been paid or is likely to be paid in respect of the bodily injuries under *The Saskatchewan Hospitalization Act* or under a similar statute or law in respect of hospital services enacted by the Legislature or other competent law-making authority of any province, state or country; and

(e) by the sum that has been paid or is likely to be paid to or on behalf of the applicant under *The Workers' Compensation Act* or under a similar statute or law with respect to injured workers enacted by the Legislature or other competent law-making authority of any province, state or country.

(4) Any amount paid by the insurer in excess of the amount authorized by this section may be recovered by action brought by the insurer.

(5) The insurer may pay the costs awarded in an action against the owner or driver of an uninsured motor vehicle but not more than the actual disbursements and fees as awarded in the judgment as between the parties to the action.

R.S.S. 1965, c.409, s.56; R.S.S. 1978, c.A-35, s.59.

**Payments to non-residents**

**60(1)** For the purpose of this section the residence of a person shall be determined as of the date of the motor vehicle accident as a result of which the damages are claimed.

(2) The insurer shall not pay any amount under section 51, 54 or 55 to or on behalf of a person who ordinarily resides outside Saskatchewan unless he resides in a jurisdiction in which recourse of a character substantially similar to that provided by those sections is afforded to residents of Saskatchewan, and in no event shall a payment under any of those sections include an amount that would not be payable by the law of the jurisdiction in which such person resides.

R.S.S. 1965, c.409, s.57; R.S.S 1978, c.A-35, s.60.

**PART V**

**Jurisdiction of Court**

**Interpretation, "court"**

**61** In this Part "**court**" means the Court of Queen's Bench or the district court, as the case may require.

R.S.S. 1965, c.409, s.58; R.S.S. 1978, c.A-35, s.61.

**Actions taken in Court of Queen's Bench or district court**

**62** An action to recover benefits or insurance money shall be taken in the Court of Queen's Bench or in the district court, depending on which court has jurisdiction, to the amount sought to be recovered, in personal actions in contract.

R.S.S. 1965, c.409, s.59; R.S.S 1978, c.A-35, s.62.

**No award of costs**

**63** No costs shall be allowed by the court in any proceedings under section 62.

R.S.S. 1965, c.409, s.60; R.S.S. 1978, c.A-35, s.63.

**Consolidation of actions for benefits or insurance money**

**64(1)** Where several actions are brought for the recovery of benefits or insurance money payable under this Act in respect of a single accident, the court may consolidate the actions or otherwise deal therewith in order that there shall be but one action for and in respect of all the claims made in the actions.

(2) In all actions where several persons are entitled to benefits or insurance money payable under this Act, the court may apportion among the persons entitled thereto any sum directed to be paid, and may give all necessary direction and relief.

R.S.S. 1965, c.409, s.61; R.S.S. 1978, c.A-35, s.64.

**Relief from forfeiture**

**65** Where there has been imperfect compliance with the statutory conditions as to the proof of claim or proof of loss to be given by an insured or other claimant or as to any other matter or thing required to be done or omitted by an insured or other claimant with respect to a loss, and a consequent forfeiture or avoidance of the benefits or insurance money, in whole or in part, and the court considers it inequitable that the benefits or insurance money should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it may consider just.

R.S.S. 1965, c.409, s.62; R.S.S. 1978, c.A-35, s.65.

**Proof of intoxication, etc.**

**66(1)** In any action, cause or proceeding in which any of the provisions of this Act are invoked and in which it is material to establish that a person using or operating a vehicle was so using or operating the 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, there shall be received as admissible evidence on the issue proof that that person has been convicted of an offence committed at the material time under section 234, 235 or 236 of the *Criminal Code*, whether or not that person is a party to the action, cause or proceeding and whether or not he is a witness at the trial and whether or not he has first been questioned as to whether he has been convicted of that offence.

(2) For the purpose of subsection (1), a certificate containing the substance and effect only of the conviction of a person for an offence under section 234, 235 or 236 of the *Criminal Code* and purporting to be signed by the local clerk of the court or other officer having the custody of the records of the court in which the person was convicted, or by the deputy of that local clerk or officer, shall, upon proof of the identity of the person so convicted, be sufficient evidence of the conviction without proof of the signature or official character of the person by whom the certificate purports to have been signed.

(3) Proof of a conviction under section 234, 235 or 236 of the *Criminal Code* shall be conclusive evidence that the person so convicted was, at the time of the commission of the offence, using or operating a 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 within the meaning of this Act.

R.S.S. 1965, c.409, s.63; 1970, c.5, s.3; 1972, c.10, s.11; R.S.S. 1978, c.A-35, c.66.

## PART VI

**Miscellaneous****Change in capacity to operate vehicle**

**67** A person named in a certificate shall forthwith notify the insurer of the occurrence of any affliction or injury likely to affect his capacity to operate a motor vehicle.

R.S.S. 1965, c.409, s.64; R.S.S. 1978, c.A-35, s.67.

**Reports of accidents by persons affected**

**68(1)** Every person in charge of a motor vehicle who is directly or indirectly involved in an accident, in which damage to property including that or any other vehicle apparently exceeds \$200 or personal injury results to any person, and every person sustaining personal injury in the accident shall report the accident forthwith to the nearest or most accessible police officer and furnish the police officer with a written statement concerning the accident and the police officer shall transmit the written statement or a copy thereof to the head office of the insurer in such form as the insurer may prescribe.

(2) Where that person is physically incapable of making the report and statement and there is another person who is involved in the same accident, that other person shall make the report and statement.

(3) The insurer may require any other person deemed to have knowledge of an accident or persons involved, the injury or damage sustained, or the purpose for which any vehicle involved was being used, to furnish such information as the insurer may desire.

R.S.S. 1965, c.409, s.65; 1972, c.10, s.12; R.S.S. 1978, c.A-35, s.68.

**Duty of police officer**

**69** A police officer receiving a report of an accident shall secure from the person making the report, or by other inquiries where necessary, full particulars of the accident including the persons involved and the extent of the personal injury or property damage resulting therefrom and the purpose for which any vehicle involved was being used and for that purpose he may require the parties to furnish any such additional information as he may require, and he shall make such supplementary reports of the accident as the insurer may consider necessary to complete its records and to establish as far as possible the cause of the accident, the persons responsible therefor and the extent of the personal injury and property damage, if any, resulting therefrom.

R.S.S. 1965, c.409, s.66; R.S.S. 1978, c.A-35, s.69.

**Additional reports**

**70** The insurer may require any person involved in an accident, or having knowledge of an accident, to furnish such additional information in any way that it considers proper and make such supplementary reports of the accident as the insurer may deem necessary to complete its records and to establish as far as possible the cause of the accident, the persons responsible and the extent of the personal injury and property damage, if any, resulting therefrom.

R.S.S. 1965, c.409, s.67; R.S.S. 1978, c.A-35, s.70.

**Certain reports not available to public, exception**

**71(1)** Subject to subsection (2), reports made to the insurer pursuant to sections 68, 69 and 70 shall be the property of the Crown and shall not be made public.

(2) A report referred to in subsection (1) may be made public under the conditions and to the extent that a report made pursuant to section 173 of *The Vehicles Act* may be made public under that section.

1973-74, c.4, s.8; R.S.S. 1978, c.A-35, s.71.

**Duty of physician**

**72** Every physician and every surgeon attending or consulted upon any case of injury to a person involved in a motor vehicle accident shall furnish a report in respect of the injury forthwith and from time to time to the insurer in such form as the insurer may prescribe.

R.S.S. 1965, c.409, s.70; R.S.S. 1978, c.A-35, s.72.

**Duty of employer**

**73** Every employer shall at the request of the insurer furnish forthwith a sworn statement of the earnings of any person by or in respect of whom benefits are claimed in such form as the insurer may prescribe.

R.S.S. 1965, c.409, s.71; R.S.S. 1978, c.A-35, s.73.

**Offence**

**74(1)** A person who fails to do any act or thing or to perform any duty under sections 68 to 73 is guilty of an offence and liable on summary conviction to a fine not exceeding \$50.

(2) Where such person is charged with an offence, the onus of proving that any report or statement was furnished in accordance with the appropriate provisions of sections 68 to 73 shall be upon him.

R.S.S. 1965, c.409, s.72; R.S.S. 1978, c.A-35, s.74.

**Notices, how given**

**75** A notice to be given by the insurer to an insured for any of the purposes of this Act, when the mode of giving the notice is not otherwise expressly provided, may be given by mailing it by prepaid post addressed to the insured at the post office address given in his original application for insurance or otherwise notified in writing to the insurer.

R.S.S. 1965, c.409, s.73; R.S.S. 1978, c.A-35, s.75.

**Effect of delivery of receipt for premium**

**76** Where a receipt for the premium under this Act has been delivered it shall be as binding on the insurer as if the certificate has been delivered although in fact it has not been delivered, and where a licence plate has been issued pending the issue of a certificate of registration the licence plate shall be deemed a receipt for the premium for the purpose of this section; provided that the receipt or the licence plate shall have no effect under this section from and after the granting of a certificate or from the notification of a refusal of the application for a certificate.

R.S.S. 1965, c.409, s.74; R.S.S. 1978, c.A-35, s.76.

**Waiver to be in writing**

**77** No term or condition of this Act shall be deemed to be waived by the insurer in whole or in part unless the waiver is stated in writing and signed by an officer of the insurer.

R.S.S. 1965, c.409, s.75; R.S.S. 1978, c.A-35, s.77.

**Misrepresentation, fraud, violation of Act, etc., renders claim invalid**

**78(1)** Subject to subsection (2), where:

- (a) an applicant for an owner's certificate has falsely described the vehicle in respect of which the application is made to the prejudice of the insurer;
- (b) an applicant for an owner's certificate or operator's certificate knowingly misrepresents or fails to disclose in the application a fact required to be stated therein; or
- (c) an insured violates a term or condition of this Act or commits a fraud or makes a wilfully false statement with respect to a claim under this Act;

any claim by or in respect of the applicant or the insured shall be rendered invalid and his right and the right of every other person claiming through, on behalf of or as a dependant of the applicant or the insured to benefits and insurance money shall be forfeited.

(2) Where an insured suffers loss of the kind and nature described in subsection (7) of section 23 or where an insured dies as the result of one of the perils mentioned in section 22, no violation of any provision of condition 1 of the statutory conditions set forth in section 35 shall defeat or impair any claim made by or with respect to the insured for the benefits provided for in Part II if all of the other applicable terms and conditions of this Act have been complied with.

R.S.S. 1965, c.409, s.76; R.S.S. 1978, c.A-35, s.78.

**Liability of owner and operator for loss or damage reduced**

**79(1)** Except for the purpose of section 80, wherever loss, damage, injury or death, arising out of or resulting from the use or operation of a vehicle designated in an unexpired owner's certificate, is suffered by a person through any of the means mentioned in section 22 or 38, the liability of:

- (a) the owner of the vehicle, if, at the time when the event resulting in the loss, damage, injury or death occurs, the vehicle is being operated by a person who is qualified and authorized by law to drive the motor vehicle; and
- (b) the operator of the vehicle, if, at the time when the event resulting in the loss, damage, injury or death occurs, he is qualified and authorized by law to drive the motor vehicle;

in respect of the loss, damage, injury or death to the person suffering the same, his dependants and to all others claiming through or on behalf or in respect of any such person and his dependants or any of them, shall be reduced, in direct suit or by way of contribution or otherwise:

- (c) by the total of all payments made and to be made by the insurer under Parts II and III, in respect of the loss, damage, injury or death to such person, his dependants, and to all persons on behalf or in respect of any or all of them; or

where the person suffering the loss, damage, injury or death, his dependants, or anyone claiming through, on behalf or in respect of any of them, or all of them, have forfeited the right to claim any or all payments under Parts II and III, by reason of section 78 or have failed to make claim under this Act with respect to the loss, damage, injury or death or are not entitled to any payment under Part III by reason of condition 12 of the statutory conditions set forth in section 39;

- (d) by the maximum amount that the insurer would have been authorized or required to pay to the person suffering the loss, damage, injury or death, his dependants and to all persons claiming through, on behalf or in respect of any and all of them but for the forfeiture or but for failure to make such claim or but for the operation of the said condition 12.

(2) Where a vehicle is lost or damaged in an occurrence involving another vehicle and where the liability, for the loss or damage, of the owner or operator of that other vehicle is not reduced under subsection (1) by reason only that the vehicle lost or damaged is not designated in an unexpired owner's certificate the liability, for the loss or damage, of the owner or operator in direct suit or by way of contribution or otherwise shall be reduced by the maximum amount that the insurer would have been authorized or required to pay under Part III with respect to the loss or damage if:

- (a) the vehicle lost or damaged had been designated in an unexpired owner's certificate;
- (b) all the terms and conditions of this Act had been complied with; and
- (c) a claim had been duly made under Part III with respect to the loss or damage;

provided that the vehicle lost or damaged is one that is required to be registered under *The Vehicles Act* or *The Snowmobile Act* and is not so registered.



(3) Subsections (1) and (2) apply *mutatis mutandis* with respect to the liability of a person who with the consent of the owner has the care, custody or control of a vehicle, for loss or damage resulting from damage to the vehicle, but this subsection does not apply with respect to the liability of a person who:

(a) has the care, custody or control of the vehicle in the course of the business of selling, repairing, servicing, storing, or parking automobiles; or

(b) while having the care, custody or control of the vehicle, failed to observe and perform as fully as if he were the insured named in the owner's certificate in which the vehicle is designated all the statutory conditions set forth in section 39 and required by that section to be observed and performed by the insured.

(4) In any case where it is material to the application of this section to estimate the value of future payments of indemnity to be made to a claimant under Part II or that the insurer is authorized or required to pay under that Part, such value shall be estimated according to the present day value of a deferred benefit calculated for the period in respect of which those future payments are or are authorized or required, as the case may be, to be made.

R.S.S. 1965, c.409, s.77; 1973, c.8, s.22; 1973-74, c.4, s.9; R.S.S. 1978, c.A-35, s.79.

#### Subrogation

**80(1)** Where loss, damage, injury or death is caused by the fault of the operator of a motor vehicle who at the time of the accident:

(a) was not qualified and authorized by law to drive a motor vehicle;

(b) was 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; or

(c) was operating the vehicle when attached thereto was a trailer or semi-trailer that, being required to be registered with The Highway Traffic Board under *The Vehicles Act*, was not so registered;

the operator and the owner of the vehicle that he was then operating and their masters and principals, whether or not the vehicle is designated in an owner's certificate, shall be liable to the same extent as if this Act had not been enacted and in assessing the damages no account shall be taken of either the benefits or insurance money paid or payable under this Act in respect of the loss, damage, injury or death.

(2) Where loss, damage, injury or death is caused by the fault of a person not the owner of the vehicle causing the loss, damage, injury or death or sustaining the loss or damage who at the material time is engaged in the business of selling, repairing, servicing, storing or parking automobiles or the servant or agent of any such person that person shall be liable to the same extent as if this Act had not been enacted and in assessing the damages no account shall be taken of the benefits or insurance money paid or payable under this Act in respect of the loss, damage, injury or death.



(3) In every case to which subsection (1) or subsection (2) applies and in every case where loss, damage, injury or death is caused:

(a) by the fault of the operator or owner or person in charge of a vehicle that at the time of the accident was not designated in an unexpired owner's certificate; or

(b) by the fault of a person who at the material time did not own or operate any vehicle involved in the accident and who, by reason thereof, or by reason of section 78, is precluded from recovering any sum under Part II or Part III from the insurer;

the insurer shall, upon making or assuming liability for any payment under this Act, be deemed an assignee and to be subrogated to any and all rights of recovery of the person to or in respect of whom or for whose benefit the payment is made or payable to the extent of the payment against any and all persons liable under any law for the loss, damage, injury or death in respect of which the payment is made or is payable and may:

(c) bring a separate action in its own name to recover the amount of the payment but the person to whom or in respect of whom or for whose benefit the payment is made may bring an action in his own name for the amount by which the loss, damage or injury sustained by him exceeds the amount of the payment; or

(d) join with the person to or in respect of whom or for whose benefit the payment is made to bring one action in the name of that person for recovery of the damages resulting from the loss, damage, injury or death, making such arrangements as to the apportionment of the costs of recovery as may be agreed upon;

and where the insurer is entitled to bring or join in an action against any person pursuant to this subsection, in assessing the damages, no account shall be taken for the benefit of that person of the benefits or insurance money paid or payable under this Act in respect of the loss, damage, injury or death caused by the fault of that person whether the right assigned to the insurer and to which it is subrogated arises under *The Fatal Accidents Act* or otherwise.

(4) Upon being notified that the insurer has made or is making a claim or commencing a proceeding under subsection (3) no person shall negotiate settlement of any claim except at his own cost to the prejudice of the insurer, and a person receiving such notice who has received benefits or insurance money shall not interfere in any negotiations for settlement or in any legal proceedings but whenever requested by the insurer shall aid in securing information and evidence and the attendance of any witness, and shall co-operate with the insurer, except in a pecuniary way, in any action or proceeding or in the prosecution of an appeal.

**Regulations**

**81** In addition to the powers conferred by *The Saskatchewan Government Insurance Act*, the Lieutenant Governor in Council may make regulations for the purpose of the better carrying out of the provisions of this Act according to its true intent and supplying any deficiency therein, and without prejudice to the generality of the foregoing the Lieutenant Governor in Council may make regulations:

- (a) providing for and prescribing the conditions governing the refund or rebate of the whole or part of any premium paid to the insurer under this Act;
- (b) defining any expression used in this Act and not herein defined;
- (c) a classifying vehicles for the purposes of Part III and fixing a maximum value for vehicles in each such class and the insurer shall not be liable under Part III for any amount beyond such maximum value notwithstanding anything to the contrary therein contained;
- (d) prescribing the amount of loss or damage constituting a chargeable accident under section 6;
- (e) prescribing the amount of the surcharge a person is liable to pay under section 6.

R.S.S. 1965, c.409, s.79; 1968, c.7, s.8; R.S.S. 1978, c.A-35, s.81.

**Right of access to records, etc.**

**82** Notwithstanding anything to the contrary in any statute or law, the insurer shall have access to all documents, books, reports, records and other things and to all facilities of, belonging to or available to any department, board, commission or corporation of or carried on in behalf of the Government of Saskatchewan, as the insurer may in its discretion consider necessary or desirable for the better carrying out of this Act, the provisions of *The Saskatchewan Government Insurance Act* and the regulations.

R.S.S. 1965, c.409, s.80; R.S.S. 1978, c.A-35, s.82.

**Powers additional to existing powers**

**83(1)** The Saskatchewan Government Insurance Office shall carry out the provisions of this Act and do all acts and things requisite and incidental thereto and, for greater certainty and without prejudice to the generality of the foregoing, the powers of The Saskatchewan Government Insurance Office shall extend to the following matters, namely:

- (a) the introduction, establishment, promotion, supervision and financing of an educational program relating to safety practices on the public highways;
- (b) the recommendation to The Highway Traffic Board of the suspension or cancellation of any licence or other permit to drive or the registration of any motor vehicle of any person.
- (c) The insurer may receive all amounts that, under subsection (5) of section 19 of *The Fuel Petroleum Products Act*, are designated as premium moneys paid by the owners of motor vehicles registered in Saskatchewan under *The Vehicles Act* and shall apply and use such moneys in the same manner as all other moneys received by it for the purposes of this Act.

(2) A person authorized under the regulations to accept applications for insurance and premiums in payment thereof shall be deemed not to be an agent within the meaning of any statute that requires the licensing of insurance agents.

(3) A person appointed to settle or adjust any claim for indemnity arising out of this Act shall be deemed not to be an adjuster within the meaning of any statute that requires the licensing of insurance adjusters.

R.S.S. 1965, c.409, s.81; 1973-74, c.5, s.1;  
1976-77, c.7, s.7; R.S.S. 1978, c.A-35, s.83.

**Insurance Act not to apply**

**84(1)** *The Saskatchewan Insurance Act* does not apply to insurance under this Act.

(2) Insurance provided under this Act shall be deemed not to be “other insurance” or “additional insurance” within the meaning of section 209 of *The Saskatchewan Insurance Act*, or any policy of insurance subject to the said section or containing any term to the same or like effect as subsection (1) or (2) of the said section.

R.S.S. 1965, c.409, s.82; R.S.S. 1978, c.A-35,  
s.84.

**Act to prevail**

**85** Wherever there is any conflict or repugnancy between this Act and any other Act this Act shall prevail.

R.S.S. 1965, c.409, s.83; R.S.S. 1978, c.A-35,  
s.85.

**No action, etc., against persons administering Act**

**86** No action whatever, and no proceeding by way of injunction, *mandamus*, prohibition or other extraordinary remedy shall lie or be instituted against any person in respect of any *bona fide* act or omission in connection with the administration or carrying out of the provisions of this Act or the regulations.

R.S.S. 1965, c.409, s.84; R.S.S. 1978, c.A-35,  
s.86.

