

BILL 12 – 2021

INSURANCE (VEHICLE) AMENDMENT ACT, 2021

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

Insurance (Vehicle) Act

- 1 Section 1 (1) of the Insurance (Vehicle) Act, R.S.B.C. 1996, c. 231, is amended by repealing the definitions of “dependant”, “dependent child” and “dependent parent”.*
- 2 Section 14.1 is repealed and the following substituted:*

Agreements

- 14.1** (1) The corporation may enter into agreements that it considers necessary or advisable with a person or entity to advance the purposes of this Act.
- (2) Without limiting subsection (1), the corporation may enter into an agreement with the government for the purposes of section 14.2.

Costs of health-related services

- 14.2** (1) In this section and section 14.3, “**costs of health-related services**” means costs of health-related services arising from bodily injury or death arising out of an accident.
- (2) The corporation must reimburse the government for costs of health-related services.
- (3) The amount to be reimbursed under subsection (2) is the amount set out in an agreement between the government and the corporation, which amount may be some or all costs of health-related services incurred by the government over the period or periods subject to the agreement.

Validation

14.3 (1) In this section:

“agreement” means an agreement, whether in written form or not, entered into between the corporation and the government in or after 1973 under which payments were made, including, but not limited to, the following:

- (a) the agreement dated January 21, 1988, entered into by the corporation and British Columbia, as represented by the Minister of Health;
- (b) the agreement dated April 1, 1994, entered into by the corporation and British Columbia, as represented by the Minister of Health;

“payments” means payments made under an agreement in relation to the costs of health-related services.

- (2) Despite any decision of a court to the contrary made before or after this section comes into force, all payments made by the corporation before this section comes into force that would have been validly made had they been made under an agreement made under section 14.1 for the purposes of section 14.2, as those sections read on the date this section comes into force, are conclusively deemed to have been validly made, and all payments received by the government under that agreement are conclusively deemed to have been validly received.
- (3) For certainty, payments referred to in subsection (2) are conclusively deemed to have been legitimate costs incurred by the corporation used to establish premiums for certificates.
- (4) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter because it makes no specific reference to that matter.

3 *Section 113 is amended*

(a) by adding the following definitions:

“dependant” means

- (a) a dependent child,
- (b) a dependent parent, and
- (c) a person in a prescribed class of persons;

“dependent child” means any of the following:

- (a) a person under 19 years of age for whose support an insured is legally liable and who is dependent on the insured for financial support;
- (b) a person who, on the date that a benefit under this Part becomes payable, is 19 years of age or older and who resides with an insured and receives the majority of the person’s financial support from the insured because of the person’s mental or physical disability;
- (c) a person in a prescribed class of persons;

“dependent parent” means a parent, including a spouse of a parent, of an insured, who, on the date that a benefit under this Part becomes payable, resides with the insured and the majority of whose financial support is from the insured; , *and*

(b) in the definition of “insured” by striking out “under section 118 or 119” and substituting “under section 118, 119 or 119.1”.

4 Section 114 (2) is amended by adding “a prescribed bodily injury or bodily injury sustained in a prescribed circumstance or to” after “does not apply to”.

5 Section 116 is amended

(a) in subsection (1) in the definition of “voluntary occupant” by striking out “in the case of a leased motor vehicle, the lessee” and substituting “in the case of a leased vehicle, the renter named in the owner’s certificate”, and

(b) in subsection (4) by striking out “(2) (f)” in both places and substituting “(2) (f) or (g)”.

6 Section 119 is amended

(a) in subsection (1) by striking out “In this section” and substituting “In this section and section 119.1”,

(b) in subsection (1) (a) by striking out “registered and”,

(c) in subsection (2) (a) (ii) and (v) and (b) (i) by striking out “lessee” and substituting “renter”, and

(d) by repealing subsection (2) (b) (ii) (A) and substituting the following:

- (A) an operator or occupant of a specified vehicle or a prescribed vehicle, or .

7 *The following section is added:*

Benefits provided by a certificate

119.1 Despite any other provision of this Act and subject to the regulations, in the following circumstances, an individual is not entitled under section 118 or 119, or any other section of this Part, to benefits under this Part, but the following individuals are conclusively deemed to be provided those benefits by a certificate if, as determined in accordance with the regulations, the certificate evidences Part 10 coverage:

- (a) for an accident occurring within the area described in section 118, benefits are provided by a certificate to an individual who is a resident at the time of the accident, sustains bodily injury caused by a vehicle and
 - (i) is an owner or a renter named in an owner's certificate,
 - (ii) is a member of the household of an individual referred to in subparagraph (i),
 - (iii) is an operator or occupant of a specified vehicle, or
 - (iv) is not an operator or occupant of a vehicle and is struck by
 - (A) a specified vehicle, or
 - (B) something other than a vehicle because of a specified vehicle;
- (b) for an accident occurring in British Columbia, benefits are provided by a certificate to an individual who is not a resident at the time of the accident, sustains bodily injury caused by a vehicle and is
 - (i) an owner or a renter named in an owner's certificate,
 - (ii) an operator or occupant of a specified vehicle, or
 - (iii) an individual who is not an operator or occupant of a vehicle and is struck by
 - (A) a specified vehicle, or
 - (B) something other than a vehicle because of a specified vehicle;
- (c) for an accident occurring outside British Columbia but otherwise within the area described in section 118, benefits are provided by a certificate to an individual who is not a resident at the time of the accident, sustains bodily injury caused by a vehicle and is both of the following:
 - (i) an owner or a renter named in an owner's certificate;
 - (ii) either
 - (A) an operator or occupant of a specified vehicle or a prescribed vehicle, or
 - (B) an individual who is neither an operator nor an occupant of a vehicle and is struck by a vehicle described in clause (A) or is struck by something other than a vehicle because of a vehicle described in clause (A).

8 Section 122 is amended

(a) by repealing subsection (1) and substituting the following:

- (1) In this section but subject to subsection (1.1), “**other compensation**”, in relation to bodily injury caused by a vehicle arising out of an accident, means amounts paid or payable, or things or services provided or to be provided in kind, directly or indirectly, whether or not as a result of a right of indemnity, for a loss or expense similar to a loss or expense covered under this Part, where the amounts, things or services are paid or provided
- (a) under the *Workers Compensation Act* or a similar law of another jurisdiction,
 - (b) under a prescribed compensation plan or scheme,
 - (c) from a prescribed insurance coverage,
 - (d) from a prescribed source,
 - (e) under a prescribed enactment, or
 - (f) under a prescribed law of a jurisdiction outside British Columbia.

- (1.1) Other compensation, as defined in subsection (1), does not include a prescribed plan, scheme, coverage, source, enactment or law or a prescribed portion of a plan, scheme, coverage, source, enactment or law. ,

(b) in subsection (2) by striking out “exceeds the value of the other compensation” and substituting “exceeds the value of the other compensation, if the other compensation is similar to the benefit payable under this Part, the similarity determined in accordance with the regulations, if any”,

(c) by repealing subsection (4), and

(d) by adding the following subsections:

- (5) If there is a dispute respecting an individual’s entitlement to other compensation or the priority of other compensation and benefits under this Part, the corporation, despite subsection (2), may pay or reimburse, without prejudice to the corporation’s rights under subsection (6), some or all of the amount in dispute as if the amount were benefits.
- (6) On paying or reimbursing an amount under subsection (5), to the extent the amount was paid or reimbursed, the corporation
- (a) is subrogated to and is deemed to be the assignee of all rights of the individual to the other compensation from the provider of the other compensation, and
 - (b) may bring an action in the name of the individual or in its own name to enforce those rights.
- (7) For certainty, subsection (6) does not prejudice any other claims of an individual against the corporation or the provider of the other compensation.

9 Section 123 (2) is repealed and the following substituted:

(2) The Lieutenant Governor in Council may make regulations respecting how the corporation must calculate and determine an amount to which an insured is entitled under subsection (1).

10 Section 125 is amended

(a) in subsections (2), (3) and (5) by striking out “, up to a maximum of the prescribed amount,” and

(b) by adding the following subsection:

(7) The Lieutenant Governor in Council may make regulations respecting how the corporation must calculate and determine an amount to which an insured is entitled under subsection (1), (2), (3) or (5).

11 Section 127 is amended

(a) by renumbering the section as section 127 (1),

(b) in subsection (1) by striking out “, up to a maximum of the prescribed amount”, and

(c) by adding the following subsection:

(2) The Lieutenant Governor in Council may make regulations respecting how the corporation must calculate and determine an amount to which an insured is entitled under subsection (1).

12 Section 137 is amended

(a) by repealing subsection (1),

(b) in subsection (2) by adding “after the accident” after “income replacement benefit”, and

(c) in subsection (2) (a) by striking out “during the applicable period”.

13 Section 138 is amended

(a) in subsection (1) by adding “after the specified date,” after “a student who,” and

(b) in subsection (1) (b) by striking out “after the specified date”.

14 Section 140 is amended in the definition of “applicable period” by adding “school” after “June 30 of the” and by striking out “19 years” and substituting “18 years”.

- 15 Section 142 (1) is amended**
(a) by adding “after the accident” after “income replacement benefit”, and
(b) in paragraph (a) by striking out “during the applicable period”.
- 16 Section 143 (1) is amended by striking out “19 years” and substituting “18 years”.**
- 17 Section 146 (1) is amended**
(a) in paragraph (a) by striking out “accident,” and substituting “accident, or”, and
(b) by repealing paragraph (b).
- 18 Section 147 is amended by striking out “If an insured” and substituting “Subject to the regulations, if an insured”.**
- 19 Section 151 (1) is amended by striking out “of expenses incurred” and substituting “of reasonable expenses incurred”.**
- 20 Section 153 (1) is repealed and the following substituted:**
(1) Subject to the regulations, an insured who, because of the insured’s bodily injury, becomes unable to care for a child under 16 years of age or for a person who is regularly unable, for any reason, to hold any employment is entitled to the reimbursement, up to a maximum of the prescribed amount, of reasonable expenses incurred to pay the cost of care if the insured
(a) is, on the date of the accident, a full-time earner or temporary earner,
(b) is, on the date of the accident, a minor or student,
(c) was, on the date of the accident, a part-time earner or non-earner who, under section 152, elects to receive an income replacement benefit, or
(d) is a person in a prescribed class of persons.
- 21 Section 154 is amended by striking out “If an insured” and substituting “Subject to the regulations, if an insured”.**
- 22 Section 163 (3) is amended by adding the following paragraph:**
(d) the prescribed circumstances.
- 23 Section 167 is amended by adding “if any,” after “the regulations,”.**
- 24 Section 168 (1) is amended by adding “and despite section 93.1 (5)” after “Subject to the regulations” and by adding “, or take other prescribed actions respecting,” after “may recover”.**

25 Section 170 (1) is amended

(a) in paragraph (b) (i) of the definition of “licensed vehicle” by striking out “registered and”,

(b) in paragraph (b) (iii) of the definition of “licensed vehicle” by striking out “in the area described in section 118 of this Act” and substituting “outside British Columbia”, and

(c) by repealing paragraph (e) of the definition of “vehicle damage” and substituting the following:

**(e) any other prescribed types of damage or loss,
but does not include types of damage or loss in a prescribed class of damage or loss.**

26 Section 172 (2) (a) is amended by striking out “lessees” and substituting “renters”.

27 Section 173 (1) (a) is amended by striking out “lessee” and substituting “renter”.

28 Section 178 is amended

(a) in subsection (2) by adding “, or take other prescribed actions respecting,” after “may recover”,

(b) in subsection (4) (a) (i) by striking out “, other than a vehicle described in paragraph (c) of this subsection”,

(c) in subsection (4) (a) (iii) by striking out “, other than a vehicle described in paragraph (b) of this subsection”,

(d) in subsection (5) (b) by striking out “the jurisdiction” and substituting “a jurisdiction outside British Columbia”,

(e) in subsection (5) by adding “with respect to the vehicle described in paragraph (b)” after “money paid under a contract of insurance”, and

(f) in subsection (6) by adding “in relation to which no agreement under section 1.01 (2) applies” after “described in section 1.01”.

29 Section 180 (3) is amended by adding “or another person subject to the regulations” after “on the corporation subject to the regulations”.

30 Section 181 is amended

(a) *in subsection (5) by adding “as it stands at the time of adoption or as amended from time to time,” after “considers necessary,” and*

(b) *by adding the following subsection:*

- (8) A regulation made under section 45, 94, 169, 180 or this section before May 1, 2022 may be made retroactive to May 1, 2021 and, if made retroactive, is deemed to have come into force on the specified date.

Motor Vehicle Act

31 Sections 20 (5) and 40 (3) of the Motor Vehicle Act, R.S.B.C. 1996, c. 318, are amended by striking out “\$5” and substituting “\$1”.

Transitional and Validation Provisions

Insurance (Vehicle) Act transition – application of Part 10 of Insurance (Vehicle) Act

- 32** (1) In this section, “**certificate**” has the same meaning as in the *Insurance (Vehicle) Act* but does not include a driver’s certificate within the meaning of the *Insurance (Vehicle) Act*.
- (2) Subject to subsection (3), section 119.1 of the *Insurance (Vehicle) Act*, as enacted by this Act, applies with respect to a certificate valid on May 1, 2021, despite anything in the certificate suggesting otherwise.
- (3) The application of section 119.1 of the *Insurance (Vehicle) Act*, as set out in subsection (2) of this section, continues until the earlier of the following:
- (a) the term of the certificate ends;
 - (b) the certificate otherwise ceases to be valid.

Insurance (Vehicle) Act validation – retroactive validation

- 33** (1) In this section, “**certificate**” has the same meaning as in the *Insurance (Vehicle) Act* but does not include a driver’s certificate within the meaning of the *Insurance (Vehicle) Act*.
- (2) All premiums for certificates based on the region, as established by the corporation, in which a vehicle in respect of which insurance is provided by the certificate is used or kept, which were established by the corporation under section 34 of the *Insurance (Vehicle) Act* on or after August 12, 2003 but before May 18, 2018, are conclusively deemed to have been validly established as if section 34 authorized establishing premiums on that basis during that period.

- (3) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter because it makes no specific reference to that matter.

Commencement

- 34** The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

Item	Column 1 Provisions of Act	Column 2 Commencement
1	Anything not elsewhere covered by this table	The date of Royal Assent
2	Section 1	May 1, 2021
3	Sections 3 to 30	May 1, 2021
4	Section 31	By regulation of the Lieutenant Governor in Council
5	Section 32	May 1, 2021