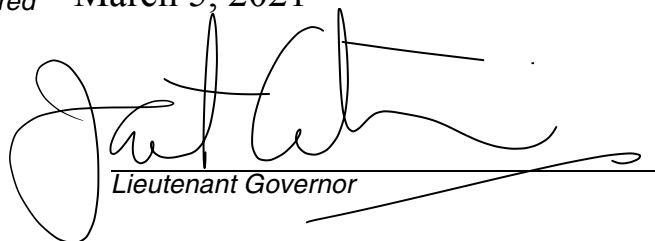


PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 110

, Approved and Ordered March 5, 2021



Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that, effective May 1, 2021, the attached Enhanced Accident Benefits Regulation is made.



Minister of Public Safety and Solicitor General



Presiding Member of the Executive Council

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

Authority under which Order is made:

Act and section: *Insurance (Vehicle) Act*, R.S.B.C. 1996, c. 231, ss. 169 and 181

Other:

R10478133

ENHANCED ACCIDENT BENEFITS REGULATION

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PART 1 – DEFINITIONS AND CPI

Division 1 – Definitions and Interpretation

Definitions for regulation and Act

- 1** (1) In this regulation:
- “**Act**” means the *Insurance (Vehicle) Act*;
 - “**amphibious vehicle**” means amphibious vehicle as defined in section 1 (1) of the *Insurance (Vehicle) Regulation*;
 - “**attached equipment**” means attached equipment as defined in section 72 (1) of the *Insurance (Vehicle) Regulation*;
 - “**authorized health care provider**” means the following:
 - (a) a health care practitioner;
 - (b) a person, other than a person in a class of persons prescribed with respect to paragraph (c) of the definition of “health care practitioner” in section 1 (1) of the Act,
 - (i) entitled to practise a health profession as defined in the *Health Professions Act*, or
 - (ii) entitled to practise a health profession under a similar law to the *Health Professions Act* in another jurisdiction;
 - “**catastrophic injury**” has the same meaning as in the *Permanent Impairment Regulation*;
 - “**community outing**” includes the following:
 - (a) accessing public services and community facilities;
 - (b) attending medical appointments and other appointments associated with personal care;
 - “**counsellor**” means counsellor as defined in section 1 (1) of the *Insurance (Vehicle) Regulation*;
 - “**date of death**” means the date of death of a deceased;
 - “**element of race or speed test**” means element of race or speed test as defined in section 2 (2) of the *Insurance (Vehicle) Regulation*;
 - “**physician**” means physician as defined in section 1 (1) of the *Insurance (Vehicle) Regulation*;
 - “**road building machine**” means road building machine as defined in section 1 of the *Commercial Transport Act*;
 - “**voluntary occupant**” means voluntary occupant as defined in section 116 (1) of the Act.
- (2) In the Act and this regulation:
- “**highway**” means any of the following:
 - (a) a highway as defined in the *Motor Vehicle Act*;
 - (b) a highway outside British Columbia, but otherwise within the area described in section 118 [*enhanced accident benefits for residents*] of the

Act, defined in accordance with the law of the jurisdiction in which the highway is located;

“occupant” means a person operating or riding in a vehicle, including

- (a) a person entering or alighting from a vehicle, and
- (b) a person or an individual supported by the person, other than a garage service operator or an employee of a garage service operator, who is working in or on a vehicle owned by that person;

“operate”, in relation to a vehicle, includes to have care, custody or control of the vehicle;

“resident” means a resident within the meaning of section 5 of this regulation;

“spouse”, in relation to an insured and other than for purposes of Division 13 [*Death Benefits*] of Part 10 [*Enhanced Accident Benefits*] of the Act, means a person

- (a) who is married to and residing with the insured on the date that a benefit under Part 10 of the Act becomes payable, or
- (b) who is living in a marriage-like relationship with the insured for at least 2 years immediately preceding the date that a benefit under Part 10 of the Act becomes payable.

- (3) In section 116 (1) of the Act and this regulation, **“garage service operator”** means garage service operator as defined in section 1 (1) of the Insurance (Vehicle) Regulation.

Prescribed activities of daily living

- 2 For the purposes of paragraph (h) of the definition of “activities of daily living” in section 1 (1) of the Act, the following are prescribed:

- (a) performing yard work;
- (b) using stairs;
- (c) undertaking community outings;
- (d) transfers requiring 2 or more persons or a patient lift;
- (e) transferring to and from bed;
- (f) adjusting or maintaining position in bed;
- (g) accessing an insured’s place of residence.

Prescribed classes of dependants

- 3 (1) In this section, **“former spouse”**, in relation to an insured, means a person
 - (a) who was married to the insured and a court
 - (i) made absolute a decree of divorce,
 - (ii) rendered judgment granting a divorce and a certificate has been or could be issued under the *Divorce Act* (Canada) stating that the marriage was dissolved,
 - (iii) made an order for judicial separation, or
 - (iv) declared the marriage a nullity, or

- (b) who, on the date a benefit under Part 10 of the Act becomes payable, meets the following circumstances:
 - (i) the person is not living in a marriage-like relationship with the insured;
 - (ii) the person lived in a marriage-like relationship with the insured for at least 2 years.
- (2) For the purposes of paragraph (c) of the definition of “dependant” in section 1 (1) of the Act, the following classes of persons are prescribed:
 - (a) spouses who are not residing with an insured on the date that a benefit under Part 10 of the Act becomes payable;
 - (b) former spouses who are legally entitled to receive spousal support from the insured on the date that a benefit under Part 10 of the Act becomes payable;
 - (c) parents, including spouses of parents, of the insured who reside in a facility where the type of care provided is Long Term Care within the meaning of section 2 of the Residential Care Regulation and who receive the majority of their financial support from the insured on the date that a benefit under Part 10 of the Act becomes payable.

Prescribed classes of dependent children

- 4** (1) For the purposes of paragraph (c) of the definition of “dependent child” in section 1 (1) of the Act, the following classes of persons are prescribed:
 - (a) a child of an insured who is born after the death of the insured and survives for at least 60 days after birth;
 - (b) a person 19 years of age or older who
 - (i) receives the majority of the person’s financial support from an insured because of the person’s mental or physical disability,
 - (ii) resided with an insured immediately before the person started residing in a facility described in subsection (2), and
 - (iii) resides, on the date that a benefit under Part 10 of the Act becomes payable, in a facility described in subsection (2).
- (2) The following facilities are facilities for the purposes of subsection (1) (b) (ii) and (iii):
 - (a) a facility where any of the following types of care, within the meaning of section 2 of the Residential Care Regulation, are provided:
 - (i) Hospice;
 - (ii) Mental Health;
 - (iii) Substance Use;
 - (iv) Community Living;
 - (v) Acquired Injury;
 - (b) a facility that provides programs that promote or support behavioural, intellectual, physical or social development in a therapeutic residential setting.

Resident

- 5 (1) In this section:
- “**educational institution**” means educational institution as defined in section 59 of the Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation;
 - “**post-secondary educational institution**” means post-secondary educational institution as defined in section 51 of the Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation;
 - “**temporary purpose**” means any of the following:
 - (a) being registered in, and attending, outside British Columbia,
 - (i) an educational institution, or
 - (ii) full-time, a post-secondary educational institution;
 - (b) being a trainee, full-time and on an unpaid basis, outside British Columbia, at
 - (i) a university,
 - (ii) an institution affiliated with a university,
 - (iii) a research institute,
 - (iv) a United Nations’ agency, or similar international agency, or
 - (v) an international organization, within the meaning of section 2 (1) of the *Foreign Missions and International Organizations Act* (Canada);
 - (c) being engaged, outside British Columbia, in the service of
 - (i) the government of British Columbia,
 - (ii) the government of Canada, or
 - (iii) an agency of the government of British Columbia or Canada;
 - (d) being outside British Columbia as the spouse or minor child of an individual referred to in paragraph (a), (b) or (c).
- (2) An individual is a resident if the individual
- (a) is ordinarily resident in British Columbia, and
 - (b) is one of the following:
 - (i) a citizen of Canada;
 - (ii) a permanent resident as defined in the *Immigration and Refugee Protection Act* (Canada);
 - (iii) lawfully admitted to Canada, other than an individual from a jurisdiction outside Canada who attends, is admitted to or is registered in an educational institution or a post-secondary educational institution in British Columbia.
- (3) An individual does not cease to be a resident by leaving British Columbia for a temporary purpose.
- (4) An individual ceases to be a resident in the following circumstances:
- (a) the individual is absent from British Columbia for longer than 12 consecutive months unless

- (i) the spouse of the individual, or a minor child of the individual, continues to be ordinarily resident in British Columbia, and
 - (ii) the purpose of the stay in the jurisdiction outside British Columbia is temporary employment or the fulfillment of a contract;
 - (b) the individual maintains a residence in a jurisdiction outside of British Columbia, unless
 - (i) the spouse of the individual, or a minor child of the individual, continues to be ordinarily resident in British Columbia, and
 - (ii) the purpose of the stay in the jurisdiction outside British Columbia is temporary employment or the fulfillment of a contract;
 - (c) the individual maintains a residence in a jurisdiction outside of British Columbia unless the individual is ordinarily resident in British Columbia for at least 183 days in a year;
 - (d) the individual leaves British Columbia with the intention to cease residing in British Columbia.
- (5) An individual who is a minor is a resident if the individual with whom the minor usually resides is a resident.
- (6) A corporation is a resident if the corporation has its head office in British Columbia.

**Prescribed classes of motor vehicles
excluded from non-standard motor vehicles**

- 6 The classes of motor vehicles prescribed in section 5 of the Basic Vehicle Damage Regulation are prescribed for the purposes of the definition of “non-standard motor vehicle” in section 113 of the Act as being excluded from being a non-standard motor vehicle.

Division 2 – Consumer Price Index Adjustments

CPI adjustment – 2021

- 7 (1) In this section and section 8, “**British Columbia consumer price index**” means the annual average All-items Consumer Price Index for British Columbia, as published by Statistics Canada under the authority of the *Statistics Act* (Canada).
- (2) In this section, “**health care service amount**” means the amount for a health care service set out
- (a) in section 19 (4) (c),
 - (b) in column B and C of Tables 1 and 2 in section 19, and
 - (c) in column B of Table 3 in section 19.
- (3) For the fiscal year beginning on April 1, 2021 and ending on March 31, 2022, health care service amounts must be determined by multiplying
- (a) the health care service amounts on the date this section comes into force, and
 - (b) the sum of

- (i) 1, and
 - (ii) the annual percentage change in the British Columbia consumer price index, as determined under subsection (5) and rounded to the nearest 1/10 of a percentage point.
- (4) Despite subsection (3) (b) (ii), if the annual percentage change as determined under subsection (5)
- (a) is a negative number, the annual percentage change is zero, or
 - (b) is greater than 6%, the annual percentage change is 6%.
- (5) The annual percentage change referred to in subsection (3) (b) (ii) must be determined using the following formula:

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

where

- APC = the annual percentage change in the British Columbia consumer price index;
 - CPI1 = the sum of the 12 individual monthly British Columbia consumer price indexes for the 12-month period starting on January 1, 2020 and ending on December 31, 2020;
 - CPI2 = the sum of the 12 individual monthly British Columbia consumer price indexes for the 12-month period starting on January 1, 2019 and ending on December 31, 2019.
- (6) An amount determined under subsection (3) must be rounded to the nearest dollar and an amount ending in .50 must be rounded up to the next dollar.

CPI adjustment – 2022 and subsequent years

- 8** (1) This section applies to amounts, expressed in dollars, that are specified in Part 10 of the Act and to amounts, expressed in dollars, that are prescribed in this regulation or the Permanent Impairment Regulation except for the following:
- (a) amounts for transportation expenses prescribed in section 32 [*transportation expenses*] of this regulation;
 - (b) amounts for lodging expenses prescribed in section 33 [*lodging expenses*] of this regulation;
 - (c) amounts for meal expenses prescribed in section 34 [*meal expenses*] of this regulation;
 - (d) amounts for telecommunication expenses prescribed in section 38 [*telecommunication expenses*] of this regulation.
- (2) For the fiscal year beginning on April 1, 2022, and for each fiscal year after that, every amount to which this section applies must be determined annually by multiplying
- (a) the amount for the immediately preceding fiscal year, and
 - (b) the sum of
 - (i) 1, and

- (ii) the annual percentage change in the British Columbia consumer price index, as determined under subsection (4) and rounded to the nearest 1/10 of a percentage point.
- (3) Despite subsection (2) (b) (ii), if the annual percentage change as determined under subsection (4)
 - (a) is a negative number, the annual percentage change is zero, or
 - (b) is greater than 6%, the annual percentage change is 6%.
- (4) The annual percentage change referred to in subsection (2) (b) (ii) must be determined using the following formula:

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

where

- APC = the annual percentage change in the British Columbia consumer price index;
- CPI1 = the sum of the 12 individual monthly British Columbia consumer price indexes for the consecutive 12-month period ending on December 31 of the fiscal year immediately preceding the fiscal year for which the amount is being determined;
- CPI2 = the sum of the 12 individual monthly British Columbia consumer price indexes for the consecutive 12-month period immediately preceding the 12-month period referred to in the description of CPI1.

- (5) An amount determined under subsection (2) must be rounded to the nearest dollar and an amount ending in .50 must be rounded up to the next dollar.

CPI adjustment – meals

- 9 (1) In this section, “**British Columbia food consumer price index**” means the British Columbia Food Purchased from Restaurants Consumer Price Index, as published by Statistics Canada under the authority of the *Statistics Act* (Canada).
- (2) For the fiscal year beginning on April 1, 2022, and for each fiscal year after that, amounts, expressed in dollars, for meal expenses prescribed in section 34 [*meal expenses*] must be determined annually by multiplying
 - (a) the amount for the immediately preceding fiscal year, and
 - (b) the sum of
 - (i) 1, and
 - (ii) the annual percentage change in the British Columbia food consumer price index, as determined under subsection (4) and rounded to the nearest 1/10 of a percentage point.
- (3) Despite subsection (2) (b) (ii), if the annual percentage change as determined under subsection (4)
 - (a) is a negative number, the annual percentage change is zero, and

(b) is greater than 6%, the annual percentage change is 6%.

- (4) The annual percentage change referred to in subsection (2) (b) (ii) must be determined using the following formula:

$$APC = \frac{FCPI1 - FCPI2}{FCPI2}$$

where

APC = the annual percentage change in the British Columbia food consumer price index;

FCPI1 = the sum of the 12 individual monthly British Columbia food consumer price indexes for the consecutive 12-month period ending on December 31 of the fiscal year immediately preceding the fiscal year for which the amount is being determined;

FCPI2 = the sum of the 12 individual monthly British Columbia food consumer price indexes for the consecutive 12-month period immediately preceding the 12-month period referred to in the description of FCPI1.

- (5) An amount determined under subsection (2) must be rounded to the nearest cent and an amount ending in a 1/2 cent must be rounded up to the next cent.

PART 2 – APPLICATION OF PART 10 OF ACT

Accidents excluded from application of Part 10 of Act

10 For the purposes of section 114 (2) (c) [*application of Part 10 of the Act*] of the Act, the following circumstances are prescribed:

- (a) only one vehicle is involved in the accident and the vehicle is one of the following:
- (i) a vehicle licensed under section 9 of the *Motor Vehicle Act* while the vehicle is being operated off-highway;
 - (ii) a trailer while being drawn otherwise than by vehicle power or human power;
 - (iii) a vehicle being operated by remote control without a driver in the vehicle;
 - (iv) an aircraft except when the aircraft is being drawn as a trailer on a highway;
 - (v) a vehicle being used in a contest, show or race, or in advanced or performance driver training, if the activity is held or conducted on a track or other location temporarily or permanently closed to all other vehicle traffic, and there exists an element of race or speed test;
 - (vi) an amphibious vehicle when being used in or upon water, when docked or floating in water, or when being launched into or landed from water;

- (vii) a vehicle that is fitted with wheels of the crawler type, including track conversion kits, rubber track conversion systems and rubber tracked crawlers, while the vehicle is being operated off-highway;
 - (viii) a vehicle described in section 3.1 of the *Motor Vehicle Act* while the vehicle is being operated on a highway;
 - (ix) a road building machine if it is operated on a highway as described in section 3 of the *Commercial Transport Act*;
- (b) only one vehicle is involved in the accident and the vehicle is not in motion, except
- (i) in respect of bodily injury that is caused by the opening or closing of the vehicle's door, trunk or tailgate, or
 - (ii) in respect of bodily injury that is caused by being struck by the vehicle's load while the vehicle is being loaded or unloaded;
- (c) more than one vehicle is involved in the accident and
- (i) each vehicle is a vehicle referred to in section 114 (2) (a) of the Act or paragraph (a) or (b) of this section, and
 - (ii) the accident occurs as described in section 114 (2) (a) of the Act or in paragraph (a) or (b) of this section respecting the vehicle,
- except
- (iii) in respect of bodily injury that is caused by the opening or closing of the doors, trunk or tailgate of the vehicle that is not in motion and not otherwise excluded under section 114 (2) (a) of the Act or in paragraph (a) of this section, or
 - (iv) in respect of bodily injury that is caused by being struck by the load of the vehicle that is not in motion while the vehicle is being loaded or unloaded and the vehicle is not otherwise excluded under section 114 (2) (a) of the Act or in paragraph (a) of this section.

Limits on benefits under Part 10 of Act

- 11** Part 10 of the Act does not apply to the following bodily injury sustained by an individual:
- (a) bodily injury caused by an autonomous act of an animal being transported by a vehicle;
 - (b) bodily injury sustained by the individual caused by an act of that individual carried out in respect of the maintenance, repair or alteration of a vehicle;
 - (c) bodily injury sustained by the individual caused when that individual commits suicide or attempts to commit suicide;
 - (d) bodily injury arising, directly or indirectly, out of radioactive, toxic, explosive or other hazardous properties of nuclear substances within the meaning of the *Nuclear Safety and Control Act* (Canada), other than because of the carriage of radioisotopes that are
 - (i) packaged and labelled in accordance with the *Transportation of Dangerous Goods Act* (Canada), and

- (ii) to be used for medical treatment, research, photography, x-ray or other similar purposes using radioisotopes;
- (e) bodily injury arising, directly or indirectly, out of a declared or undeclared war or insurrection, rebellion or revolution;
- (f) bodily injury sustained by a voluntary occupant of a vehicle that the voluntary occupant knew or ought to have known, at the time of the accident, is being used for an illicit or prohibited trade or transport;
- (g) bodily injury caused by attached equipment on a vehicle not in motion or the use of attached equipment on a vehicle not in motion.

PART 3 – LIMITS ON ACTIONS AND PROCEEDINGS

Prescribed *Criminal Code* offences

- 12** For the purposes of section 116 (2) (f) of the Act, offences under any of the following provisions of the *Criminal Code* are prescribed:
- (a) section 220;
 - (b) section 221;
 - (c) section 235;
 - (d) section 236;
 - (e) section 239 (1);
 - (f) section 320.13 (1);
 - (g) section 320.13 (2);
 - (h) section 320.13 (3);
 - (i) section 320.14 (1) (a);
 - (j) section 320.14 (1) (b);
 - (k) section 320.14 (1) (c);
 - (l) section 320.14 (1) (d);
 - (m) section 320.14 (2);
 - (n) section 320.14 (3);
 - (o) section 320.15 (1);
 - (p) section 320.15 (2);
 - (q) section 320.15 (3);
 - (r) section 320.16 (1);
 - (s) section 320.16 (2);
 - (t) section 320.16 (3);
 - (u) section 320.17;
 - (v) section 322 if the property stolen is a motor vehicle;
 - (w) section 333.1 (1);
 - (x) section 334;
 - (y) section 335 (1).

Prescribed classes of persons

- 13** For the purposes of section 116 (2) (g) of the Act, the following classes of persons are prescribed:
- (a) persons whose use or operation of a vehicle
 - (i) caused bodily injury, and
 - (ii) results in the persons' conviction under the *Youth Criminal Justice Act* (Canada) of one of the offences prescribed in section 12 of this regulation;
 - (b) persons whose use or operation of a vehicle
 - (i) caused bodily injury, and
 - (ii) results in the persons' conviction in the United States of America of an offence that is the same as, or similar to, one of the offences prescribed in section 12 of this regulation;
 - (c) persons whose use or operation of a vehicle
 - (i) caused bodily injury, and
 - (ii) results in the persons' conviction in the United States of America of an offence under a law similar to the *Youth Criminal Justice Act* (Canada) that is the same as, or similar to, one of the offences prescribed in section 12 of this regulation.

PART 4 – ENTITLEMENT AND MATTERS AFFECTING ENTITLEMENT

Prescribed requirements – failure to comply may result in reduction, suspension or cancellation, or refusal to pay, benefits

- 14** For the purposes of section 121 (1) (e) of the Act, the following requirements are prescribed:
- (a) the insured must provide, unless the insured has a reasonable excuse not to do so,
 - (i) notification under sections 56 [*notice of claim*] and 59 [*change in circumstances*] of this regulation, if applicable,
 - (ii) when requested by the corporation, a certificate or report of an authorized health care provider as to the nature and extent of the insured's bodily injury, and the treatment, current condition and prognosis of the injury, or
 - (iii) provide an authorization required to obtain a certificate or report described in subparagraph (ii);
 - (b) the insured must undergo a medical examination, including comprehensive medical assessments, tests and diagnostic imaging, unless the insured has a reasonable excuse not to do so;
 - (c) the insured must not interfere with a medical examination, including comprehensive medical assessments, tests and diagnostic imaging, unless the insured has a reasonable excuse to do so;

- (d) the insured must follow, or be available for, a medical treatment recommended by an authorized health care provider, unless the insured has a reasonable excuse not to do so;
- (e) the insured must not engage in activities that could prevent or delay the insured's recovery, unless the insured has a reasonable excuse for engaging in the activity;
- (f) the insured must follow, or participate in, rehabilitation, unless the insured has a reasonable excuse not to do so;
- (g) the insured must return to a former employment, stay in an employment the insured could continue to hold or take on a new employment, unless the insured has a reasonable excuse not to do so.

Prescribed circumstances that may result in reduction, suspension or cancellation of benefits

- 15** (1) For the purposes of section 121 (1) (f) of the Act, the following circumstances are prescribed:
- (a) the insured directed or authorized another individual to wilfully cause the accident or the insured assented to or acquiesced in another individual wilfully causing the accident;
 - (b) the insured directed or authorized another individual to wilfully cause bodily injury or the insured assented to or acquiesced in another individual wilfully causing bodily injury;
 - (c) the insured directed or authorized another individual to knowingly provide false or inaccurate information to the corporation or the insured assented to or acquiesced in another individual knowingly providing false or inaccurate information to the corporation;
 - (d) the insured prevents or obstructs the corporation from exercising its right of subrogation or recovery under the Act.
- (2) If one or more of the circumstances described in section 121 (1) (a) or (b) of the Act or prescribed in subsection (1) (a) or (b) of this section apply and the insured is entitled to a benefit under Part 10 of the Act, the corporation must cancel or refuse to pay the benefit to or on behalf of the insured.

Prescribed circumstances in which permanent impairment compensation, income replacement benefits and death benefits are reduced

- 16** (1) For the purposes of section 121 (1) (f) of the Act, the following circumstances are prescribed:
- (a) the insured's use or operation of a vehicle caused bodily injury and results in the insured's conviction of one of the *Criminal Code* offences prescribed in section 12 of this regulation;
 - (b) the insured's use or operation of a vehicle caused bodily injury and results in the insured's conviction under the *Youth Criminal Justice Act (Canada)* of one of the offences prescribed in section 12 of this regulation;
 - (c) the insured's use or operation of a vehicle caused bodily injury and results in the insured's conviction in the United States of America of an offence

that is the same as, or similar to, one of the offences prescribed in section 12 of this regulation;

(d) the insured's use or operation of a vehicle caused bodily injury and results in the insured's conviction in the United States of America of an offence under a law similar to the *Youth Criminal Justice Act* (Canada) that is the same as, or similar to, one of the offences prescribed in section 12 of this regulation.

- (2) If one of the circumstances prescribed in subsection (1) applies and an insured is entitled to a lump sum payment under section 129 [*permanent impairment compensation*] of the Act, the lump sum payment must be reduced in accordance with subsection (5) of this section.
- (3) If one of the circumstances prescribed in subsection (1) applies and an insured is entitled to an income replacement benefit under section 131, 132, 133, 134, 137, 138, 139, 142, 143 or 144 of the Act, or a retirement income benefit under section 150 of the Act, the income replacement benefit or retirement income benefit, as applicable, that would otherwise be payable in the first 12 months after the accident must be reduced in accordance with subsection (6) of this section.
- (4) If one of the circumstances prescribed in subsection (1), with references to "insured" to be read as references to "claimant", applies in respect of a claimant, and there is an entitlement to a lump sum death benefit under section 156, 157, 158 or 159 of the Act, the lump sum death benefit must be reduced in accordance with subsection (7) of this section.
- (5) The corporation must determine the amount by which the lump sum payment that would otherwise be payable under section 129 of the Act is reduced by using the following formula:

$$\text{amount of reduction} = \text{LSP} \times \text{R}/50\%$$

where

LSP = amount of lump sum payment that would otherwise be payable under section 129 of the Act;

R = the lesser of the following:

(a) 50%;

(b) the degree to which the insured is responsible for the accident, as determined by the corporation, expressed as a percentage.

- (6) The corporation must determine the amount by which an income replacement benefit that would otherwise be payable under section 131, 132, 133, 134, 137, 138, 139, 142, 143 or 144 of the Act, or the amount by which a retirement income benefit that would otherwise be payable under section 150 of the Act, is reduced by using the following formula:

$$\text{amount of reduction} = \text{IRB} \times \text{D} \times \text{R}/50\%$$

where

IRB = amount of income replacement benefit that would otherwise be payable under section 131, 132, 133, 134, 137, 138, 139, 142, 143 or 144 of the Act, or the amount of retirement income benefit that would otherwise be payable under section 150 of the Act, as applicable;

D = the following, as applicable:

- (a) 100% if the insured has no dependants on the date the income replacement benefit or retirement income benefit becomes payable;
- (b) 80% if the insured has one dependant on the date the income replacement benefit or retirement income benefit becomes payable;
- (c) 60% if the insured has 2 dependants on the date the income replacement benefit or retirement income benefit becomes payable;
- (d) 40% if the insured has 3 dependants on the date the income replacement benefit or retirement income benefit becomes payable;
- (e) 20% if the insured has 4 or more dependants on the date the income replacement benefit or retirement income benefit becomes payable;

R = the lesser of the following:

- (a) 50%;
- (b) the degree to which the insured is responsible for the accident, as determined by the corporation, expressed as a percentage.

(7) The corporation must determine the amount by which the lump sum death benefit that would otherwise be payable under section 156, 157, 158 or 159 of the Act is reduced by using the following formula:

$$\text{amount of reduction} = \text{LSDB} \times D \times R / 50\%$$

where

LSDB = amount of lump sum death benefit that would otherwise be payable under section 156, 157, 158 or 159 of the Act;

D = the following, as applicable:

- (a) 100% if the claimant has no dependants on the date the lump sum death benefit becomes payable;
- (b) 80% if the claimant has one dependant on the date the lump sum death benefit becomes payable;
- (c) 60% if the claimant has 2 dependants on the date the lump sum death benefit becomes payable;
- (d) 40% if the claimant has 3 dependants on the date the lump sum death benefit becomes payable;
- (e) 20% if the claimant has 4 or more dependants on the date the lump sum death benefit becomes payable;

R = the lesser of the following:

- (a) 50%;
- (b) the degree to which the claimant is responsible for the accident, as determined by the corporation, expressed as a percentage.

Prescribed circumstances in which income replacement benefits are suspended

- 17 (1) For the purposes of section 121 (1) (f) of the Act, the following circumstances are prescribed:
- (a) the insured is remanded in custody;
 - (b) the insured is serving a sentence of imprisonment.
- (2) If the circumstance prescribed in
- (a) subsection (1) (a) applies and the insured is entitled to an income replacement benefit under section 131, 132, 133, 134, 137, 138, 139, 142, 143 or 144 of the Act, the corporation must suspend the income replacement benefit starting on the date that is 29 days after the date the insured is remanded in custody and the suspension continues while the insured is in custody, or
 - (b) subsection (1) (b) applies and the insured is entitled to an income replacement benefit under section 131, 132, 133, 134, 137, 138, 139, 142, 143 or 144 of the Act, the corporation must suspend the income replacement benefit and the suspension continues while the insured is in custody.
- (3) If, after all rights of appeal are exhausted or extinguished, an insured is not convicted of any of the charges, the corporation must pay to the insured the amount of the income replacement benefit the insured would have been paid if the insured had not been in custody, plus interest at a rate determined in accordance with subsections (4) and (5), from the date on which the income replacement benefit was suspended under subsection (2).
- (4) For the purposes of subsection (3), the rate of interest, during each successive 3-month period, beginning on April 1, July 1, October 1 and January 1 in each year, is the prime lending rate of the principal banker to the Province on the 15th day of the month immediately preceding that 3-month period.
- (5) Interest is to be compounded monthly and calculated on the number of days since

- (a) the last compounding of interest, or
- (b) if no previous compounding has occurred, the date that interest is payable.

Other sources

18 (1) In this section:

“**excepted vehicle**” means a vehicle owned, leased or operated by Canada or the government of another province, territory or state in relation to which no agreement under section 1.01 (2) of the Act applies;

“**provided**” includes paid or payable, or provided or to be provided in kind, directly or indirectly, whether or not as a result of a right of indemnity.

(2) For the purposes of section 122 (1) (b) of the Act, the following compensation plans are prescribed to the extent that other compensation provided under the plan is similar to benefits provided under Part 10 of the Act:

- (a) the *Canada Pension Plan*, the *Québec Pension Plan* or a similar plan in another jurisdiction;
- (b) a medical, surgical, dental, hospital or similar plan in British Columbia or in a jurisdiction outside British Columbia;
- (c) a compensation plan that is part of the terms and conditions of employment or an agreement for collective bargaining.

(3) For the purposes of section 122 (1) (c) of the Act, insurance wherever issued and in effect is a prescribed insurance coverage to the extent that other compensation provided under the insurance is similar to benefits provided under Part 10 of the Act.

(4) For the purposes of section 122 (1) (d) of the Act, the following sources are prescribed to the extent that other compensation provided by the source is similar to benefits provided under Part 10 of the Act:

- (a) the government of British Columbia;
- (b) the government of a jurisdiction outside British Columbia.

(5) For the purposes of section 122 (1) (e) of the Act, the following enactments are prescribed to the extent that other compensation provided under the enactment is similar to benefits provided under Part 10 of the Act:

- (a) an enactment of British Columbia;
- (b) an enactment of a jurisdiction outside British Columbia.

(6) Despite subsections (2) to (5) of this section, the sources prescribed in those subsections are not prescribed in relation to other compensation similar to the following benefits under Part 10 of the Act, except in the circumstance set out in subsection (7) of this section:

- (a) health care services referred to in section 19 (4) (a), (b) and (c) of this regulation;
- (b) permanent impairment compensation under section 129 of the Act;
- (c) death benefits under sections 156 to 159 of the Act;
- (d) grief counselling under section 161 of the Act.

- (7) The circumstance relevant for the purposes of subsection (6) is that other compensation is provided by Canada or the government of another province, territory or state in relation to an excepted vehicle to, or on behalf of, any of the following:
- (a) an operator or occupant of an excepted vehicle;
 - (b) an individual who
 - (i) is not an operator or occupant of an excepted vehicle, and
 - (ii) is struck by an excepted vehicle or by something other than a vehicle because of the excepted vehicle.

PART 5 – HEALTH CARE, REHABILITATION AND RELATED BENEFITS

Division 1 – Health Care and Related Expenses Benefit

Health care benefit

- 19** (1) In this section, “**evidence-informed practice**” means evidence-informed practice as defined in section 1 (1) of the Minor Injury Regulation.
- (2) An insured is entitled to the payment or reimbursement under section 123 (1) (a) [*health care and related expenses benefit*] of the Act of expenses for health care only if the health care is provided by an authorized health care provider, using evidence-informed practice.
- (3) An insured is not entitled to the payment or reimbursement under section 123 (1) (a) of the Act of expenses for a health care service that are in addition to the number of pre-authorized treatments set out in column D of Table 1 or Table 2, as applicable, corresponding to that health care service or that is provided more than 12 weeks after the date of the accident, unless the expense is incurred
- (a) to facilitate the insured’s recovery from the insured’s bodily injury, or
 - (b) to address a decline in the insured’s physical or mental function because of the insured’s bodily injury.
- (4) The following amounts are payable as benefits to an insured under section 123 (1) (a) of the Act for the provision of the following health care services:
- (a) for health care services set out in column A of Table 1 or Table 2, as applicable, and that are provided by the applicable health care practitioner, up to the amount set out in column B or C, as applicable, of Table 1 or Table 2, as applicable, opposite that health care service;
 - (b) for health care services set out in column A of Table 3 that are provided by a physician, up to the amount set out in column B of Table 3 opposite that service;
 - (c) up to \$115 per hour for occupational therapy provided by an occupational therapist, as defined in section 1 (1) of the Insurance (Vehicle) Regulation;

- (d) up to the amount in a payment schedule for a health care service established by the Medical Services Commission under section 26 [payment schedules and benefit plans] of the Medicare Protection Act, as that schedule is amended from time to time, for the health care service, if that health care service is not set out in this subsection.

Table 1 – Amount and Pre-Authorized Treatments for Health Care Services Provided by Health Care Practitioner

Item	Column A Health Care Service	Column B Amount for Assessment Visit	Column C Amount for Standard Treatment	Column D Pre-Authorized Treatments
1	Acupuncture	\$107	\$90	12
2	Chiropractic	\$98	\$54	25
3	Kinesiology	\$100	\$80	12
4	Massage therapy	\$109	\$82	12
5	Physiotherapy	\$128	\$81	25

Table 2 – Amount and Pre-Authorized Treatments for Counselling and Psychology

Item	Column A Health Care Service	Column B Amount for Assessment Visit and Report	Column C Amount for Standard Treatment	Column D Pre-Authorized Treatments
1	Counselling	\$215	\$123	12
2	Psychology	\$348	\$199	12

Table 3 – Amount for Health Care Services Provided by Physician

Item	Column A Health Care Service Provided by Physician	Column B Amount for Health Care Service Provided by Physician
1	Standard assessment and report	\$123
2	Extended assessment and report	\$333
3	Re-assessment and report	\$215

Ambulance services

- 20** For the purposes of section 123 (1) (b) of the Act, ambulance services from the scene of the accident are prescribed.

Prosthesis and orthosis

- 21** (1) For the purposes of section 123 (1) (c) of the Act, the following equipment is prescribed:
- (a) a prosthesis;
 - (b) an orthosis.
- (2) An insured is entitled to the payment or reimbursement under section 123 (1) (c) of the Act of expenses for the purchase, rental, repair, replacement, fitting or adjustment of a prosthesis or an orthosis only in accordance with this section.
- (3) An insured must have a prescription from an authorized health care provider for a prosthesis or an orthosis.

- (4) An insured is entitled to the payment or reimbursement of expenses for the purchase, fitting or adjustment of the following prostheses or orthoses only if the insured did not wear the prosthesis or orthosis before the accident:
 - (a) eyeglasses;
 - (b) contact lenses;
 - (c) an ocular prosthesis;
 - (d) a hairpiece;
 - (e) a denture.
- (5) An insured who did not wear a denture before the accident is entitled to the payment or reimbursement of expenses for the purchase, fitting or adjustment of a fixed prosthesis resting on an implant only if a fixed prosthesis not resting on an implant would not be medically effective.
- (6) An insured is entitled to the payment or reimbursement of expenses for the subsequent repair, replacement, fitting or adjustment of a prosthesis or an orthosis that the insured did not wear before the accident only if the expenses are incurred
 - (a) because of a change in the physical or mental condition of the insured because of the insured's bodily injury,
 - (b) because of the ordinary use of the prosthesis or orthosis, or
 - (c) to enhance the performance of the prosthesis or orthosis.
- (7) An insured who wore a prosthesis or an orthosis before the accident is entitled to the payment or reimbursement of only the following expenses respecting the prosthesis or orthosis that the insured wore before the accident:
 - (a) expenses for the initial repair, replacement, fitting or adjustment of that prosthesis or orthosis;
 - (b) expenses for the subsequent repair, replacement, fitting or adjustment of that prosthesis or orthosis only if the expenses are incurred because of a change in the physical or mental condition of the insured because of the insured's bodily injury.
- (8) An insured is entitled to the payment or reimbursement of expenses for the repair of a prosthesis or an orthosis to the extent that the cost of repair does not exceed 80% of the original purchase price of the prosthesis or orthosis.

Medical equipment

- 22** (1) For the purposes of section 123 (1) (c) of the Act, the following medical equipment is prescribed:
- (a) a wheelchair;
 - (b) a mobility aid;
 - (c) a hospital-style bed;
 - (d) bowel and bladder equipment;
 - (e) an aid for communication;
 - (f) personal hygiene and self-care equipment;

- (g) transfer equipment;
 - (h) a ventilator;
 - (i) clothing.
- (2) An insured is entitled to the payment or reimbursement under section 123 (1) (c) of the Act of expenses for the purchase, rental, repair, replacement, fitting or adjustment of medical equipment prescribed in subsection (1) only in accordance with this section.
- (3) An insured must have a prescription from an authorized health care provider for the medical equipment prescribed in subsection (1).
- (4) An insured is entitled to the payment or reimbursement of expenses for the subsequent repair, replacement, fitting or adjustment of medical equipment prescribed in subsection (1) that the insured did not use before the accident only if the expenses are incurred
- (a) because of a change in the physical or mental condition of the insured because of the insured's bodily injury,
 - (b) because of the ordinary use of the medical equipment, or
 - (c) to enhance the performance of the medical equipment.
- (5) An insured who used medical equipment prescribed in subsection (1) before the accident is entitled to the payment or reimbursement of only the following expenses respecting the medical equipment that the insured used before the accident:
- (a) expenses for the initial repair, replacement, fitting or adjustment of that medical equipment;
 - (b) expenses for the subsequent repair, replacement, fitting or adjustment of that medical equipment only if the expenses are incurred because of a change in the physical or mental condition of the insured because of the insured's bodily injury.
- (6) An insured is entitled to the payment or reimbursement of expenses for the repair of the medical equipment prescribed in subsection (1) to the extent that the cost of repair does not exceed 80% of the original purchase price of the medical equipment.

Medication and medical supplies

- 23** For the purposes of section 123 (1) (c) of the Act, the following are prescribed:
- (a) prescription and non-prescription medication;
 - (b) medical supplies.

Division 2 – Rehabilitation Benefits

Motor vehicle

- 24** (1) The corporation may pay or reimburse under section 124 of the Act expenses respecting a motor vehicle only in accordance with this section.

- (2) The corporation may pay or reimburse under section 124 of the Act expenses respecting any one or more of the following:
 - (a) the acquisition by the insured of a motor vehicle equipped as necessary and appropriate to its use or operation by the insured, the choice of make or model of motor vehicle to be in the discretion of the corporation;
 - (b) the adaptation of a motor vehicle to equip the motor vehicle as necessary and appropriate to its use or operation by the insured;
 - (c) the adaptation of a motor vehicle to equip the motor vehicle as necessary and appropriate to its use or operation by the insured in the course of the insured's employment, if the corporation is satisfied that the payment or reimbursement will reduce the total of any amounts payable under Part 10 [*Enhanced Accident Benefits*] of the Act by an amount that is at least equal to the amount of the expense paid or reimbursed.
- (3) The corporation may pay or reimburse under section 124 of the Act expenses for the acquisition of a replacement motor vehicle referred to in subsection (2) (a) of this section no more than once every 5 years.
- (4) The payment or reimbursement for
 - (a) the adaptation of a motor vehicle referred to in subsection (2) (b) or (c) is limited to the cost attributable to the insured's bodily injury caused by a vehicle, and
 - (b) the acquisition of a replacement motor vehicle under subsection (3) is limited to the difference between the cost of the replacement motor vehicle and the fair market value of the motor vehicle being replaced.
- (5) The corporation may not pay or reimburse under section 124 of the Act for insurance, repair or maintenance, including operating costs, of a motor vehicle.

Residence

- 25**
- (1) The corporation may pay or reimburse under section 124 of the Act expenses respecting a residence only in accordance with this section.
 - (2) Alterations referred to in this section must be necessary to make the residence accessible to and usable by the insured.
 - (3) The corporation may pay or reimburse expenses respecting any one or more of the following:
 - (a) alterations to the insured's principal residence;
 - (b) relocating the insured, if the alterations referred to in paragraph (a) are not practicable;
 - (c) alterations to plans for or construction of a residence to be used as the insured's principal residence;
 - (d) if the insured is a minor, alterations to the principal residence of the insured's parent used regularly by the insured, even if the residence is not the insured's principal residence;
 - (e) alterations to the insured's new principal residence, if the insured

- (i) is relocating in order to engage in an approved retraining or educational program,
 - (ii) is required to relocate because of changes affecting the insured's health or family circumstances, or
 - (iii) is a minor who is moving from the family home.
- (4) In addition to subsection (3), if an insured has sustained a catastrophic injury, the corporation may pay or reimburse expenses respecting any one or more of the following:
- (a) alterations to a secondary residence owned by the insured or the insured's spouse and used regularly by the insured;
 - (b) relocating the insured to another secondary residence owned by the insured or the insured's spouse and used regularly by the insured, if the alterations referred to in paragraph (a) are not practicable;
 - (c) alterations to plans for or construction of a secondary residence to be owned by the insured or the insured's spouse and used regularly by the insured;
 - (d) if the insured is a minor, alterations to a secondary residence owned by the insured's parent and used regularly by the insured;
 - (e) alterations to a temporary residence, if the insured is relocating in order to engage in an approved retraining or educational program.
- (5) The payment of money for relocating or alterations referred to in subsections (3) and (4) is limited to the cost attributable to the insured's bodily injury caused by a vehicle.

Attendant care for employment

- 26** The corporation may pay or reimburse under section 124 of the Act expenses respecting attendant care for employment only if
- (a) the insured is unable because of the insured's bodily injury to hold employment without assistance, and
 - (b) the corporation is satisfied that the payment or reimbursement will reduce the total of any amounts payable under Part 10 of the Act by an amount that is at least equal to the amount of the expense paid or reimbursed.

Division 3 – Related Benefits: Activities of Daily Living

Definitions

- 27** (1) In section 125 (1) [*other related expenses*] of the Act and this Division, “**assistance**” means any of the following:
- (a) verbal or physical assistance of another person;
 - (b) supervision of another person.
- (2) In this Division, “**assessment**” means an assessment under section 30 (2).

**Activities of daily living benefit
for insured 16 years of age or over**

- 28**
- (1) This section applies to an insured who is 16 years of age or older on the date of the accident.
 - (2) The insured is entitled to the payment or reimbursement under section 125 (1) of the Act of expenses incurred to assist with an activity of daily living only in accordance with this Division.
 - (3) The assistance for which an expense is incurred must be provided directly to and solely for the benefit of the insured.
 - (4) Subject to subsection (5), the insured must have been performing the activity of daily living before the accident with or without modifications, assistive devices or assistance.
 - (5) The requirement in subsection (4) does not apply if
 - (a) the insured was able to safely perform the activity of daily living, or the relevant components of the activity of daily living, before the accident with or without modifications, assistive devices or assistance, and
 - (b) there is a change in circumstance that, had the accident not occurred, would otherwise require the insured to perform that activity of daily living.
 - (6) It must be medically necessary that the insured receives overnight supervision.

**Activities of daily living benefit
for insured under 16 years of age**

- 29**
- (1) This section applies to an insured who is under 16 years of age on the date of the accident.
 - (2) The insured is entitled to the payment or reimbursement under section 125 (1) of the Act of expenses incurred to assist with an activity of daily living only in accordance with this Division.
 - (3) The insured is not entitled to the payment or reimbursement of expenses incurred to assist with an activity of daily living if the age of the insured is not set out in column B or C of Table 2 in this Division opposite the activity of daily living set out in column A of Table 2 in this Division.
 - (4) The assistance for which the expense is incurred must be provided directly to and solely for the benefit of the insured.
 - (5) On the first assessment, the insured must have been safely performing the activity of daily living, or the relevant components of the activity, before the accident with or without modifications, assistive devices or assistance.
 - (6) In relation to a subsequent assessment, the insured is not entitled to the payment or reimbursement of expenses incurred to assist with an activity of daily living if the corporation is satisfied that the insured would not have been performing the activity of daily living set out in column A of Table 2 in this Division, either partially or completely, at the age set out opposite the activity of daily living in column B or in column C, even if the accident had not occurred.
 - (7) The insured must require extra supervision beyond what is normal for

- (a) the insured's age, and
 - (b) the physical and mental condition of the insured immediately before the accident.
- (8) It must be medically necessary that the insured receives overnight supervision.

Amount of assistance required

30 (1) In this section:

“Class 1 dependent” means an insured

- (a) is able to safely complete parts of an activity of daily living or of the relevant components of the activity of daily living, with modifications or assistive devices if necessary, but
- (b) requires assistance with up to 25% of the activity of daily living to complete that activity of daily living;

“Class 2 dependent” means an insured

- (a) is able to safely complete parts of an activity of daily living or of the relevant components of the activity of daily living, with modifications or assistive devices if necessary, but
- (b) requires assistance with up to 50% of the activity of daily living to complete that activity of daily living;

“Class 3 dependent” means an insured

- (a) is able to safely complete parts of an activity of daily living or of the relevant components of the activity of daily living, with modifications or assistive devices if necessary, but
- (b) requires assistance with up to 75% of the activity of daily living to complete that activity of daily living;

“Class 4 dependent” means

- (a) an insured
 - (i) is able to safely complete parts of an activity of daily living or of the relevant components of the activity of daily living, with modifications or assistive devices if necessary, but
 - (ii) requires assistance with more than 75% of the activity of daily living to complete that activity of daily living, or
- (b) an insured is unable to safely complete any part of an activity of daily living without assistance, with or without modifications or assistive devices.

(2) The amount of assistance an insured, who is unable because of the insured's bodily injury to perform activities of daily living without assistance, requires with an activity of daily living must be determined in an assessment by the corporation using an assessment tool.

(3) For the purposes of a determination under subsection (2),

- (a) the corporation must create and maintain an assessment tool, and
- (b) the assessment tool must contain
 - (i) a description of the components of each activity of daily living,

- (ii) guidelines for using the assessment tool, including for using the assessment tool for scoring, and
 - (iii) instructions for completing the assessment.
- (4) Subject to any adjustments required under subsection (5), the corporation must use Table 1 in this Division, when using the assessment tool described in subsection (3) of this section to make a determination under subsection (2) of this section, to determine the insured's score for each activity of daily living as follows:
- (a) if the insured is class 1 dependent in respect of an activity of daily living set out in column A of Table 1 in this Division, the insured's score for that activity of daily living is set out opposite in column B;
 - (b) if the insured is class 2 dependent in respect of an activity of daily living set out in column A of Table 1 in this Division, the insured's score for that activity of daily living is set out opposite in column C;
 - (c) if the insured is class 3 dependent in respect of an activity of daily living set out in column A of Table 1 in this Division, the insured's score for that activity of daily living is set out opposite in column D;
 - (d) if the insured is class 4 dependent in respect of an activity of daily living set out in column A of Table 1 in this Division, the insured's score for that activity of daily living is set out opposite in column E;
- (5) With respect to an insured who is under 16 years of age at the time of the assessment, if the age of the insured is set out in column B of Table 2 in this Division opposite an activity of daily living set out in column A,
- (a) the insured's score in respect of the activity of daily living must be adjusted based on the following factors:
 - (i) the amount of assistance that would normally be expected, based on the age of the insured;
 - (ii) a physical or mental condition unrelated to the accident that affects the insured's ability to perform the activity of daily living;
 - (iii) the amount of assistance the insured required before the accident;
 - (iv) when the insured would likely have been able to perform an activity of daily living had the accident not occurred;
 - (v) any guidelines for scoring contained in the assessment tool described in subsection (3), and
 - (b) the insured's score for that activity of daily living must not exceed the score set out in column D of Table 1 in this Division opposite that activity of daily living set out in column A.
- (6) An insured who makes a claim under section 125 (1) of the Act must undergo an assessment, at the expense of the corporation, as often as the corporation requires.

Amount for activities of daily living benefit

- 31** (1) In this section:
 “**level 1 activity of daily living**” means items 1 to 11 of Table 1 in this Division;

“**level 2 activity of daily living**” means items 12 to 23 of Table 1 in this Division;
 “**level 3 activity of daily living**” means item 24 of Table 1 in this Division;
 “**total score for level 1 activities of daily living**” means the sum of the scores determined under section 29 (4) for items 1 to 11 of Table 1 in this Division;
 “**total score for level 2 activities of daily living**” means the sum of the scores determined under section 29 (4) for items 12 to 23 of Table 1 in this Division;
 “**total score for level 3 activities of daily living**” means the score determined under section 29 (4) for item 24 of Table 1 in this Division;
 “**total weighted score**” means the number calculated under subsection (2) of this section.

- (2) The total weighted score is the sum of
- (a) the total score for level 1 activities of daily living,
 - (b) the total score for level 2 activities of daily living multiplied by 1.05,
 - (c) the total score for level 3 activities of daily living multiplied by 2.54, and
 - (d) the average number of hours of supervision per day multiplied by 12.
- (3) For the purposes of section 125 (1) of the Act, the prescribed amount is \$10 000 per month.

- (4) For the purposes of section 125 (1) of the Act, the amount of the payment or reimbursement of expenses incurred is determined as follows:
- (a) if the total weighted score is 9 or more, but less than 89, the amount of payment or reimbursement per month is
 - (i) up to the amount determined in accordance with the following formula:

$$\left(\frac{\text{total weighted score}}{89} \right) \times \$5\,033$$

, or

- (ii) in the case of an insured who has sustained a catastrophic injury, up to the amount determined in accordance with the following formula:

$$\left(\frac{\text{total weighted score}}{89} \right) \times \$6\,018$$

- (b) if the total weighted score is 89 or more, the amount of payment or reimbursement per month is up to the following:
 - (i) \$5 033;
 - (ii) \$6 018 in the case of an insured who has sustained a catastrophic injury;
 - (iii) \$10 000 in the case of an insured who has sustained a catastrophic injury and requires continuous supervision.

- (5) An amount determined under subsection (4) (a) must be rounded to the nearest dollar and an amount ending in .50 must be rounded up to the next dollar.

Table 1– Scoring of Assessment Tool

Item	Column A Activity of Daily Living	Column B Class 1 Dependent	Column C Class 2 Dependent	Column D Class 3 Dependent	Column E Class 4 Dependent
Level 1 Activity of Daily Living					
1	preparing personal meals: breakfast	1	2	3	4
2	preparing personal meals: lunch	1.5	3	4.5	6
3	preparing personal meals: dinner	2	4	6	8
4	performing housework to maintain a place of residence in acceptable sanitary condition: light housekeeping	3	3	3	6
5	performing housework to maintain a place of residence in acceptable sanitary condition: heavy housekeeping	0	0	0	3
6	performing housework to maintain a place of residence in acceptable sanitary condition: laundry	1	1	1	2
7	performing yard work	0	0	0	3
8	shopping for personal needs	0	0	0	1
9	using private or public transportation other than transfer vehicles	0	0	0	1
10	undertaking community outings	0	0	0	1
11	managing personal finances or personal medication or both	0	0	0	1
Level 2 Activity of Daily Living					
12	transferring to and from bed	1.5	1.5	1.5	3
13	adjusting or maintaining position in bed	1.5	1.5	1.5	3
14	using private or public transportation: vehicle transfers	2	2	2	4
15	transfers requiring 2 or more persons or a patient lift	0	0	0	6
16	accessing an insured's place of residence	4	4	4	7
17	using stairs	1.5	1.5	1.5	3

Item	Column A Activity of Daily Living	Column B Class 1 Dependent	Column C Class 2 Dependent	Column D Class 3 Dependent	Column E Class 4 Dependent
18	performing personal hygiene and self-care that relates to eating or drinking	4	4	4	16
19	performing personal hygiene and self-care that relates to grooming or hygiene	2	2	2	3
20	performing personal hygiene and self-care that relates to dressing or undressing	1.5	3	4.5	6
21	performing personal hygiene and self-care that relates to orthosis or prosthesis	2	2	2	3
22	performing personal hygiene and self-care that relates to bathing or showering	2	4	6	8
23	performing personal hygiene and self-care that relates to toileting	6	6	6	12
Level 3 Activity of Daily Living					
24	performing personal hygiene and self-care that relates to bowel and bladder care requiring catheters, disimpaction or diapers	8	8	8	16

Table 2 – Developmental Scale

Item	Column A Activity of Daily Living	Column B Age of Insured in Years	Column C Age of Insured in Years
1	preparing personal meals	12 to 15	16 or more
2	transferring to and from bed	2.5 to 5	6 or more
3	adjusting or maintaining position in bed	2.5 to 5	6 or more
4	using public or personal transportation: vehicle transfers	2.5 to 5	6 or more
5	transfers requiring 2 or more persons or a patient lift	N/A	0 or more
6	using stairs	1.5 to 3.5	more than 3.5
7	accessing place of residence other than outdoor access	9 to 12	13 or more
8	accessing place of residence: outdoor access	2.5 to 4	5 or more

Item	Column A Activity of Daily Living	Column B Age of Insured in Years	Column C Age of Insured in Years
9	performing personal hygiene and self-care that relates to eating or drinking	2.5 to 4	5 or more
10	performing personal hygiene and self-care that relates to grooming or hygiene	4 to 6	7 or more
11	performing personal hygiene and self-care that relates to dressing or undressing	5 to 8	9 or more
12	performing personal hygiene and self-care that relates to orthosis or prosthesis	5 to 8	9 or more
13	performing personal hygiene and self-care that relates to bathing or showering	4 to 6	7 or more
14	performing personal hygiene and self-care that relates to toileting	2.5 to 6	7 or more
15	performing personal hygiene and self-care that relates to bowel and bladder care requiring catheters, disimpaction or diapers	N/A	0 or more

Division 4 – Related Benefits: Transportation, Lodging, Meals and Critical Care

Transportation expenses

- 32** (1) An insured is entitled to the payment or reimbursement under section 125 (2) of the Act of expenses for transportation by ambulance only if
- (a) that transportation is required by a physician, nurse practitioner or person entitled to practise nursing in a capacity that is at least equivalent to that of a nurse practitioner in British Columbia under a similar law to the *Health Professions Act* in another jurisdiction, or
 - (b) that transportation is required to provide first aid or other health care without delay in order to
 - (i) preserve the insured’s life,
 - (ii) prevent or alleviate serious physical or mental harm, or
 - (iii) alleviate severe pain.
- (2) An individual is entitled to the payment or reimbursement under section 125 (2), (3) or (5) of the Act of expenses for transportation by aircraft only if other means of transportation

- (a) are inadequate or dangerous because of travel time or road or weather conditions, or
 - (b) are more expensive.
- (3) For the purposes of section 125 (2), (3) and (5) of the Act, the amount of \$0.55 per km is prescribed for transportation by private motor vehicle.

Lodging expenses

- 33** (1) An individual is entitled to the payment or reimbursement under section 125 (2), (3) or (5) of the Act of lodging expenses only if the expenses are warranted by
- (a) the distance between the individual's residence and the place where the insured received the care, service, thing or rehabilitation, or
 - (b) the individual's state of health.
- (2) For the purposes of section 125 (2), (3) and (5) of the Act, the amount of \$25 per day is prescribed for lodging that is not available to the public for a fee.

Meal expenses

- 34** For the purposes of section 125 (2), (3) and (5) of the Act, the prescribed amount for meal expenses is
- (a) \$10.20 per day for breakfast,
 - (b) \$15.30 per day for lunch, and
 - (c) \$22.44 per day for dinner.

Critical care

- 35** (1) In this section, "**major health care**" means major health care as defined in section 1 of the *Health Care (Consent) and Care Facility (Admission) Act*.
- (2) An individual is entitled to reimbursement under section 125 (5) of the Act of expenses only if
- (a) the insured is under 16 years of age, or
 - (b) as a result of the accident,
 - (i) the insured is in intensive care,
 - (ii) the insured needs major health care,
 - (iii) the insured's bodily injury is life threatening, or
 - (iv) the insured's life is in imminent danger.
- (3) An individual is entitled to reimbursement of expenses under section 125 (5) of the Act only if the corporation considers that the individual attending an insured is necessary or advisable
- (a) to authorize treatment for the insured,
 - (b) to assist the insured to make a decision respecting major health care,
 - (c) to assist in the treatment of the insured's bodily injury, or
 - (d) to assist the insured on other medical or compassionate grounds.
- (4) For the purposes of section 125 (5) of the Act, the prescribed amount is
- (a) \$4 974, if one individual is reimbursed, or

- (b) \$2 487 per individual, if 2 individuals are reimbursed.

Division 5 – Recreation Benefit

Recreation benefit

- 36** (1) In this section, “**permanent impairment rating**” means permanent impairment rating within the meaning of the Permanent Impairment Regulation.
- (2) For the purposes of the definition of “eligible insured” in section 126 (1) [*recreation benefit*] of the Act, the following classes of eligible insureds are prescribed:
- (a) insureds with a catastrophic injury;
 - (b) subject to subsection (3), insureds with a permanent impairment rating of 20% or more as determined in accordance with the Permanent Impairment Regulation.
- (3) The permanent impairment rating in subsection (2) (b) must exclude impairments related to scarring, musculotendinous disruptions, ligaments and cartilage.
- (4) For the purposes of section 126 (2) of the Act, the payment of money for recreation benefits is limited to the cost attributable to the eligible insured’s bodily injury caused by a vehicle.
- (5) Before the corporation pays or reimburses an eligible insured under section 126 (2) of the Act, the corporation may require the eligible insured to provide the corporation with a written confirmation from the eligible insured’s authorized health care provider that the recreation activity is appropriate for the eligible insured.
- (6) If an eligible insured requires an individual to accompany the eligible insured to participate in recreation activities, the corporation may pay or reimburse an eligible insured for expenses incurred by the eligible insured on behalf of the individual.
- (7) For the purposes of section 126 (2) of the Act, the following amount is prescribed:
- (a) in the case of an eligible insured who has sustained a catastrophic injury, \$4 000 every 2 years;
 - (b) in the case of any other eligible insured with a permanent impairment rating
 - (i) of 70% or more, \$2 000 every 2 years,
 - (ii) of 50% or more but less than 70%, \$1 000 every 2 years, and
 - (iii) of 20% or more but less than 50%, \$500 every 2 years.

Division 6 – Expenses Generally

Clothing expenses

- 37** (1) For the purposes of section 127 [*expenses generally*] of the Act, the following categories of expenses are prescribed:

- (a) clothing expenses for cleaning, repairing or replacing clothing damaged as a result of the accident;
 - (b) clothing expenses for purchasing, renting, repairing, replacing, fitting or adjusting clothing incurred by an insured who, because of the insured's bodily injury, is permanently dependent on a wheelchair;
 - (c) clothing expenses for purchasing, renting, repairing, replacing, fitting or adjusting clothing incurred by an insured who, because of the insured's bodily injury, is required to use a prosthesis or an orthosis.
- (2) Clothing expenses for replacing clothing damaged as a result of the accident are payable only if one of the following applies:
- (a) the clothing cannot be adequately repaired or cleaned;
 - (b) the cost of replacement is less than the cost of repair and cleaning.
- (3) The corporation may pay or reimburse an insured who, because of the insured's bodily injury, is permanently dependent on a wheelchair, or is required to use a prosthesis or an orthosis, under section 127 of the Act for clothing expenses for the purchase, rental, repair, replacement, fitting or adjustment of clothing
- (a) that the insured did not wear before the accident only if the expenses are incurred
 - (i) because of a change in the physical or mental condition of the insured because of the insured's bodily injury,
 - (ii) because of the ordinary use of the clothing, or
 - (iii) to enhance the performance of the clothing, and
 - (b) that the insured wore before the accident only if the expenses are incurred because of a change in the physical or mental condition of the insured because of the insured's bodily injury.
- (4) The corporation may pay or reimburse an insured for clothing expenses for the repair of clothing to the extent that the cost of repair does not exceed 80% of the original purchase price of the clothing.
- (5) For the purposes of section 127 of the Act, the prescribed amount for the category of expenses described in
- (a) subsection (1) (a) of this section is \$1 719,
 - (b) subsection (1) (b) and (c) of this section in total is \$1 344 per year.
- (6) The amount referred to in subsection (5) (b) consists of the following amounts:
- (a) up to \$1 344 per year for the category of expenses described in subsection (1) (b) of this section;
 - (b) for the category of expenses described in subsection (1) (c) of this section
 - (i) up to \$149 in the case of expenses incurred by an insured who is required to use a prosthesis or an orthosis for less than 6 months, and
 - (ii) in the case of expenses incurred by an insured who is required to use a prosthesis or an orthosis for 6 months or more up to
 - (A) \$448 per year for clothing worn on the upper body, and
 - (B) \$896 per year for clothing worn on the lower body.

Telecommunication expenses

- 38** (1) For the purposes of section 127 of the Act, telecommunication expenses are a prescribed category of expenses.
- (2) The corporation may pay or reimburse an insured under section 127 of the Act for only the following telecommunication expenses incurred during an insured's stay in hospital:
- (a) hospital telephone expenses, including long distance telephone expenses;
 - (b) hospital television expenses;
 - (c) hospital internet expenses.
- (3) If the corporation pays or reimburses an insured under section 123 of the Act or contributes to rehabilitation respecting an insured under section 124 of the Act, the corporation may pay or reimburse an insured under section 127 of the Act for long distance telephone expenses incurred to arrange to receive the care, service, thing or rehabilitation.

Appointment expenses

- 39** (1) For the purposes of section 127 of the Act, expenses incurred by an insured, who is incapable of managing the insured or managing the insured's affairs because of the insured's bodily injury, to appoint a person to manage the insured or the insured's affairs are a prescribed category of expenses.
- (2) Expenses referred to in subsection (1) are limited to
- (a) fees or disbursements for preparing documents in relation to that appointment, and
 - (b) fees to file documents with a court in relation to that appointment.

Transportation from hospital

- 40** (1) For the purposes of section 127 of the Act, expenses incurred for transportation when an insured is discharged from the hospital is a prescribed category of expenses.
- (2) The corporation may pay, or reimburse, an insured under section 127 of the Act for transportation expenses incurred when an insured is discharged from the hospital in accordance with section 32 [*transportation expenses*] of this regulation.

PART 6 – FAMILY AND CAREGIVER BENEFITS

Definition for this Part

- 41** In this Part, “**specified person**” means the following:
- (a) a person under 16 years of age;
 - (b) a person who is regularly unable, for any reason, to hold any employment.

Expenses respecting family enterprise

- 42** For the purposes of section 151 (1) [*reimbursement of expenses respecting family enterprise*] of the Act, the prescribed amount is \$837 per week.

Caregiver benefit

- 43** (1) For the purposes of section 152 (1) [*caregiver benefit*] of the Act, the prescribed amount is \$719 per week.
- (2) An insured is entitled to the caregiver benefit only in accordance with this section.
- (3) Subject to subsections (4) to (6), the caregiver benefit is determined as follows:
- (a) if the insured provides care to one specified person, the caregiver benefit is \$584 per week;
 - (b) if the insured provides care to 2 specified persons, the caregiver benefit is \$634 per week;
 - (c) if the insured provides care to 3 specified persons, the caregiver benefit is \$684 per week;
 - (d) if the insured provides care to 4 or more specified persons, the caregiver benefit is \$719 per week;
- (4) If 2 or more insureds provide care to the same specified person, only one of the insureds is entitled to the caregiver benefit.
- (5) An insured is not entitled to a caregiver benefit in respect of a specified person if the specified person does not reside with the insured for a period of more than 28 days for a reason that is not related to the accident.
- (6) If a specified person returns to reside with an insured, the insured is entitled to a caregiver benefit once the specified person resides with the insured for at least 14 days.
- (7) An insured ceases to be entitled to a caregiver benefit in respect of a specified person on the earlier of the following dates:
- (a) the date the specified person
 - (i) reaches the age of 16 years, or
 - (ii) in the case of a specified person who was regularly unable to hold employment, is able to hold employment;
 - (b) the date on which the insured would reasonably have, had the accident not occurred, ceased to provide care similar to the care the insured provided before the accident.
- (8) If the number of specified persons to whom an insured provides care changes, or a circumstance described in subsection (5) or (6) occurs, the new amount of the caregiver benefit is determined, or the caregiver benefit is terminated, as applicable, at the end of the week in which the number or circumstance changes.
- (9) For the purposes of section 152 (3) of the Act and subject to subsections (10) and (11) of this section,
- (a) the amount of the caregiver benefit payable is determined in the same manner as under subsection (3) of this section as if the insured had not died as a result of the accident,
 - (b) the caregiver benefit is payable in respect of a specified person who is a person under 16 years of age,

- (i) in the case of an insured who had a spouse, to the spouse, and
 - (ii) in the case of an insured who had no spouse, to the Public Guardian and Trustee, and
 - (c) the caregiver benefit is payable in respect of a specified person who is 16 years of age or older to the specified person.
- (10) If 2 or more deceased provided care to the same specified person, only one caregiver benefit is payable under section 152 (3) of the Act.
 - (11) If the deceased provided care to more than one specified person, the caregiver benefit that would otherwise be payable under subsection (9) (b) and (c) of this section is divided by the number of persons to whom the deceased provided care.
 - (12) The amounts payable under section 152 (3) of the Act to the individuals described in subsection (9) (b) and (c) of this section cease to be payable in respect of a specified person on the earlier of the following dates:
 - (a) the date the specified person
 - (i) reaches the age of 16 years, or
 - (ii) in the case of a specified person who was regularly unable to hold employment, is able to hold employment;
 - (b) the date on which an insured would reasonably have, had the accident not occurred, ceased to provide care similar to the care the insured provided before the accident.
 - (13) For the purposes of section 152 (4) of the Act, the prescribed date is the date that is 180 days after the date of the accident.
 - (14) An insured who elects under section 152 (4) to receive an income replacement benefit under section 133 [*temporary earners and part-time earners*] or 134 [*non-earners*] of the Act is not entitled to a caregiver benefit.
 - (15) A caregiver benefit payable under section 152 of the Act must be paid every 14 days.

Persons caring for others

- 44** (1) For the purposes of section 153 (1) [*reimbursement of expenses for care of other person*] of the Act the prescribed amount is \$266 per week.
- (2) An insured is entitled to reimbursement of expenses incurred 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 only in accordance with this section.
- (3) For the purposes of subsection (2), the amount of the reimbursement of expenses incurred is determined as follows:
 - (a) if the insured provides care to one specified person, the amount of reimbursement is up to \$146 per week;
 - (b) if the insured provides care to 2 specified persons, the amount of reimbursement is up to \$186 per week;
 - (c) if the insured provides care to 3 specified persons, the amount of reimbursement is up to \$226 per week;

- (d) if the insured provides care to 4 or more specified persons, the amount of reimbursement is up to \$266 per week.
- (4) For the purposes of section 153 (1) (b) of the Act, 28 hours, not including overtime hours, is the prescribed number of hours.
- (5) For the purposes of section 153 (1) (e) of the Act, persons who receive income replacement benefits under section 2 (7) [*entitlement to income replacement of injured who sustained catastrophic injury*] of the Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation, whether or not they are part-time earners or non-earners within the meaning of section 113 of the Act, are a prescribed class of persons.
- (6) An insured is not entitled to reimbursement under section 153 (1) of the Act if a specified person does not reside with the insured for a period of more than 28 days for a reason that is not related to the accident.
- (7) If a specified person returns to reside with an insured, the insured is entitled to reimbursement under section 153 (1) of the Act once the specified person resides with the insured for at least 14 days.
- (8) If the number of specified persons to whom an insured provides care changes, or a circumstance described in subsection (6) or (7) occurs, the new amount of reimbursement is determined at the end of the week in which the number or circumstance changes.

PART 7 – DEATH BENEFITS

Definition of spouse

- 45** In Division 13 [*Death Benefits*] of Part 10 [*Enhanced Accident Benefits*] of the Act and this Part of this regulation, “**spouse**”, in relation to a deceased, means a person
- (a) who was married to and residing with the deceased on the date of death, or
 - (b) who lived in a marriage-like relationship with the deceased for at least 2 years immediately preceding the date of death.

Sixty-day rule

- 46** (1) A death benefit payable under Division 13 of Part 10 of the Act is payable only to a person who survives the deceased by at least 60 days.
- (2) The corporation may waive the 60-day survival requirement under subsection (1).

Death benefit for spouse

- 47** (1) In this section:
- “**gross income**”, in relation to a deceased, means the gross yearly employment income that would have been used as the basis for calculating and determining the income replacement benefit to which the deceased would have been entitled under Division 6 [*Earners and Non-Earners*], 7 [*Students*] or 8 [*Minors*] of Part 10 of the Act, if, on the date of death, the deceased had survived but had

been unable to hold employment because of bodily injury sustained in the accident;

“gross yearly employment income” means gross yearly employment income as defined in section 1 (1) of the Income Replacement and Retirement Benefits and Benefits for Students and Minors Regulation;

“spouse with disabilities” means a spouse who is a person deemed disabled within the meaning of section 42 (2) of the *Canada Pension Plan*.

- (2) For the purposes of section 156 (1) [*death benefit for spouse*] of the Act, the prescribed amount is \$500 000.
- (3) Subject to subsection (4), the death benefit under section 156 of the Act
 - (a) to which a spouse, who is not a spouse with disabilities, is entitled is determined by multiplying the gross income of the deceased on the date of death by the factor set out in column 2 of Table 1 opposite the age of the deceased on the date of death set out in column 1 of Table 1, and
 - (b) to which a spouse with disabilities is entitled is determined by multiplying the gross income of the deceased on the date of death by the factor set out in column 2 of Table 2 opposite the age of the deceased on the date of death set out in column 1.
- (4) If a deceased resided with more than one spouse on the date of death, the death benefit under section 156 of the Act to which each spouse is entitled is determined by dividing the death benefit determined under subsection (3) for each spouse by the number of spouses.
- (5) Despite subsections (3) and (4), the minimum death benefit under section 156 of the Act is \$66 987.

Table 1– Death Benefit Factors for Spouse Without Disabilities

Item	Column 1 Age on date of death in years	Column 2 Factor
1	25 or under	1.0
2	26	1.2
3	27	1.4
4	28	1.6
5	29	1.8
6	30	2.0
7	31	2.2
8	32	2.4
9	33	2.6
10	34	2.8
11	35	3.0
12	36	3.2
13	37	3.4
14	38	3.6
15	39	3.8

Item	Column 1 Age on date of death in years	Column 2 Factor
16	40	4.0
17	41	4.2
18	42	4.4
19	43	4.6
20	44	4.8
21	45	5.0
22	46	4.8
23	47	4.6
24	48	4.4
25	49	4.2
26	50	4.0
27	51	3.8
28	52	3.6
29	53	3.4
30	54	3.2
31	55	3.0
32	56	2.8
33	57	2.6
34	58	2.4
35	59	2.2
36	60	2.0
37	61	1.8
38	62	1.6
39	63	1.4
40	64	1.2
41	65	1.0

Table 2– Death Benefit Factors for Spouse with Disabilities

Item	Column 1 Age on date of death in years	Column 2 Factor
1	45 or under	5.0
2	46	4.8
3	47	4.6
4	48	4.4
5	49	4.2
6	50	4.0
7	51	3.8
8	52	3.6
9	53	3.4
10	54	3.2
11	55	3.0
12	56	2.8
13	57	2.6
14	58	2.4
15	59	2.2
16	60	2.0
17	61	1.8
18	62	1.6
19	63	1.4
20	64	1.2
21	65 or over	1.0

Death benefit for dependant

- 48** (1) In this section, “**dependant with disabilities**” means a dependant who is a person who is deemed disabled within the meaning of section 42 (2) of the *Canada Pension Plan*.
- (2) For the purposes of section 157 (1) [*death benefit for dependant*] of the Act, the prescribed amount is \$89 306.
- (3) The death benefit under section 157 of the Act to which a dependant, who is not a dependant with disabilities, is entitled is the amount set out in column 2 of Table 1 opposite the age of the dependant on the date of death set out in column 1.
- (4) For the purposes of subsection (3), a dependant who is a child of a deceased who is born after the date of death is to be considered to be less than 1 year on the date of death.
- (5) The death benefit to which a dependant with disabilities is entitled under section 157 of the Act is the sum of
- (a) the amount set out in column 2 of Table 1 opposite the age of the dependant on the date of death set out in column 1, and
 - (b) \$29 306.

Table 1– Benefit Amounts for Dependant Without Disabilities

Item	Column 1 Age of dependant on date of death in years	Column 2 Amount of Benefit
1	Less than 1	\$60 000
2	1	\$58 239
3	2	\$56 477
4	3	\$54 716
5	4	\$52 954
6	5	\$51 193
7	6	\$49 431
8	7	\$47 670
9	8	\$45 909
10	9	\$44 147
11	10	\$42 386
12	11	\$40 624
13	12	\$38 863
14	13	\$37 101
15	14	\$35 340
16	15	\$33 578
17	16 or over	\$31 817

Entitlement of child and parent of deceased

- 49** For the purposes of section 159 [*entitlement of child and parent of deceased*] of the Act, the prescribed amount is \$14 918.

Reimbursement of funeral expenses

- 50** For the purposes of section 160 [*reimbursement of funeral expenses*] of the Act, the prescribed amount is \$9 130.

Grief counselling

- 51** (1) In this section, a familial-like relationship is the relationship between the deceased and a person who, on the date of death,
- (a) resided with the deceased as a member of the deceased’s family, or
 - (b) can demonstrate having had a similarly familial relationship with the deceased.
- (2) For the purposes of section 161 (1) [*grief counselling*] of the Act, the following classes of relationships are prescribed:
- (a) spousal;
 - (b) marriage-like;
 - (c) parent-child;
 - (d) grandparent-grandchild;
 - (e) great-grandparent-great-grandchild;

- (f) sibling;
 - (g) familial-like.
- (3) For the purposes of section 161 (2) of the Act, the prescribed amount is \$3 818 per eligible person per deceased.
- (4) The corporation must reimburse an eligible person expenses under section 161 (2) of the Act only if the grief counselling is provided by one of the following:
- (a) a counsellor;
 - (b) a member of the clergy or of a religious order who is not a related person, within the meaning of section 251 (2) (a) of the *Income Tax Act* (Canada), with respect to the person receiving the grief counselling;
 - (c) a psychiatrist;
 - (d) a person who
 - (i) is recognized by the person's Indigenous nation to provide counselling services or religious or spiritual instruction or guidance to members of the Indigenous nation, and
 - (ii) is not a related person, within the meaning of section 251 (2) (a) of the *Income Tax Act* (Canada), with respect to the person receiving the grief counselling.
- (5) The corporation must reimburse an eligible person for the following expenses to attend grief counselling if the person must travel more than 50 km to receive grief counselling:
- (a) transportation expenses in an amount determined in accordance with section 32 [*transportation expenses*];
 - (b) lodging expenses in an amount determined in accordance with section 33 [*lodging expenses*];
 - (c) meal expenses in an amount determined in accordance with section 34 [*meal expenses*].

PART 8 – CATASTROPHIC INJURIES

Prescribed governments, agencies, public bodies and entities

- 52** (1) In this section, “**local government**” means
- (a) a municipality, including the City of Vancouver,
 - (b) a regional district, or
 - (c) the trust council, the Islands Trust Conservancy, a local trust committee or an executive committee under the *Islands Trust Act*.
- (2) For the purposes of section 162 (a) [*facilitation of claims by catastrophically injured*] of the Act, the following governments, agencies, public bodies and entities are prescribed:
- (a) the government of Canada;
 - (b) an agent of the government of Canada;

- (c) the government of a province;
- (d) an agent of the government of a province;
- (e) the government of a jurisdiction outside Canada;
- (f) an Indigenous nation;
- (g) a local government.

Extended benefit for catastrophically injured

- 53** (1) For the purposes of section 163 (2) [*extended benefit for catastrophically injured*] of the Act, the prescribed amount is \$1 229 910.
- (2) Subject to subsection (3), the corporation may pay for expenses under section 163 (2) of the Act for the following:
- (a) expenses for travel incurred by an insured who has sustained a catastrophic injury if the travel for which the expenses are incurred is the same as, or similar to, travel that the insured engaged in before the accident;
 - (b) if the insured described in paragraph (a) requires a personal attendant while travelling, expenses for travel incurred by the personal attendant.
- (3) Expenses under subsection (2) are limited to the cost attributable to the insured's bodily injury caused by a vehicle.
- (4) For certainty, the corporation may pay for expenses other than those described in subsection (2).

PART 9 – EXPENSES FOR VOLUNTEERS

Expenses for volunteers

- 54** (1) For the purposes of section 164 (2) [*expenses for volunteer*] of the Act, the prescribed amount is \$2 000.
- (2) For the purposes of section 164 (2) of the Act, the following categories of expenses are prescribed:
- (a) clothing expenses for cleaning, repairing or replacing clothing incurred as a result of rendering emergency first aid or other assistance to a person injured in an accident in British Columbia involving an insured;
 - (b) other expenses incurred as a result of rendering emergency first aid or other assistance to a person injured in an accident in British Columbia involving an insured.
- (3) Clothing expenses for replacement are payable only if one of the following applies:
- (a) the clothing cannot be adequately repaired or cleaned;
 - (b) the cost of replacement is less than the cost of repair and cleaning.
- (4) The corporation may pay, or reimburse, a volunteer under section 164 (2) of the Act for the category of expenses described in subsection (2) (a) of this section an amount of up to \$1 719.

PART 10 – CLAIMS AND DISPUTES

Prescribed time period for making claim for benefits

- 55 (1) For the purposes of section 165 (2) [*claims*] of the Act, the following time periods are prescribed:
- (a) if an insured is not a minor on the date of the accident, the prescribed time period for making a claim that is based on the date of the accident ends on the later of the following:
 - (i) 2 years from the date of the accident;
 - (ii) if the symptoms of bodily injury are not immediately apparent but are observed by an authorized health care provider within 2 years from the date of the accident, 2 years from the date the symptoms of bodily injury are first observed by the authorized health care provider;
 - (b) if an insured is a minor on the date of the accident, the prescribed time period for making a claim that is based on the date of the accident ends on the later of the following:
 - (i) 2 years from the date of the accident;
 - (ii) if the symptoms of bodily injury are not immediately apparent but are observed by an authorized health care provider within 2 years from the date the insured reaches the age of 19 years, 2 years from the date the symptoms of bodily injury are first observed by the authorized health care provider;
 - (iii) 2 years from the date the insured reaches the age of 19 years;
 - (c) if a claimant is not a minor on the date of death, the prescribed time period for making a claim that is based on the date of death ends 2 years from the date of death;
 - (d) if a claimant is a minor on the date of death, the prescribed time period for making a claim that is based on the date of death ends 2 years from the date the claimant reaches the age of 19 years.
- (2) The time periods prescribed in subsection (1) are suspended if the insured is incapable of managing the insured's affairs, until
- (a) the insured becomes capable of managing the insured's affairs, or
 - (b) a person who is authorized by law to make a claim for benefits under Part 10 of the Act on behalf of the insured becomes aware of the claim.
- (3) For certainty, in this section “**claim**” means the first claim for benefits made by an insured or a claimant in relation to an accident.

Notice of claim

- 56 (1) If an accident occurs for which benefits are provided under Part 10 of the Act, an insured must promptly notify the corporation of the accident.
- (2) The corporation may refuse a claim for benefits under Part 10 of the Act if an insured making a claim, without reasonable excuse and to the prejudice of the corporation, fails to comply with this section.

Requirement for receipts

- 57** (1) If an accident occurs for which benefits are provided under Part 10 of the Act, an insured must provide to the corporation a receipt for the expenses incurred that will be paid or reimbursed as benefits under that Part no later than 180 days from the date that those expenses are incurred.
- (2) The corporation may refuse to pay or reimburse an insured who, without reasonable excuse, fails to comply with this section.

Gap in payment of benefits

- 58** Subject to section 165 (2) of the Act, if an insured makes a claim under section 125 (1), 131 to 144, 152 or 153 of the Act
- (a) more than 2 years after the date of the accident and no benefits under Part 10 of the Act were paid in relation to the accident during the 2-year period, or
 - (b) more than 2 years after the date of the last payment of a benefit under Part 10 of the Act in relation to the accident,
- the corporation must refuse the claim, unless the corporation is satisfied that the accident was the dominant cause of the insured's bodily injury in respect of which the claim is made.

Change in circumstances

- 59** An insured who makes a claim under Part 10 of the Act must notify the corporation promptly of any change in the insured's circumstances that affects, or might affect, the insured's entitlement to benefits under Part 10 of the Act or the amount of the benefits payable.

Medical examinations

- 60** An insured who makes a claim under Part 10 of the Act must
- (a) allow an authorized health care practitioner selected by the corporation, at the expense of the corporation, to examine the insured as often as the corporation requires, and
 - (b) undergo medical examinations, including comprehensive medical assessments, tests and diagnostic imaging, as determined by the corporation, at the expense of the corporation, as often as the corporation requires.

Medical certificates and reports

- 61** (1) An insured must, on request of the corporation, promptly provide a certificate or report of an authorized health care practitioner as to the nature and extent of the insured's bodily injury, and the treatment, current condition and prognosis of the injury.
- (2) The certificate or report required by subsection (1) must be provided to the corporation
- (a) in any form specified by the corporation, including, without limitation, narrative form, and
 - (b) in any format specified by the corporation, including, without limitation, oral and written formats.

Autopsy

- 62**
- (1) If death of an insured occurs for which benefits may be payable under Part 10 of the Act, the corporation may withhold benefits payable under that Part until the person claiming the benefits allows the corporation to order an autopsy or post mortem examination to be performed at the expense of the corporation.
 - (2) If death of an insured occurs a considerable time after the date of the accident and in circumstances that, in the opinion of the corporation, raise doubt as to whether the insured died as a result of the accident, the corporation must not pay any benefits under Part 10 of the Act unless, before burial or cremation of the insured, the person claiming the benefits informs the corporation of the death and allows the corporation to order an autopsy or post mortem examination to be performed at the expense of the corporation.
 - (3) The corporation must refer any dispute respecting an autopsy or post mortem examination to the chief coroner or another coroner appointed under the *Coroners Act*.

PART 11 – RECOVERY OF BENEFITS

No recovery of specified benefits

- 63**
- (1) Unless the corporation paid an amount for benefits under Part 10 of the Act that exceeds the amount to which the person is entitled, the corporation may not recover, under section 168 (1) (b) [*corporation may recover benefits*] of the Act, or under section 168 (1) (d) of the Act in relation to a person in a class of persons prescribed in section 65 (1) (a) of this regulation,
 - (a) benefits paid that have been reduced under section 121 [*circumstances in which benefits reduced, suspended or cancelled or not paid*] of the Act, or
 - (b) benefits paid under the following sections of the Act:
 - (i) section 123 [*health care and related expenses benefit*];
 - (ii) section 124 [*rehabilitation*];
 - (iii) section 125 [*other related expenses*];
 - (iv) section 126 [*recreation benefit*];
 - (v) section 127 [*expenses generally*].
 - (2) The corporation must not recover benefits payable under Part 10 of the Act from the following if the corporation considers it to be inequitable:
 - (a) a person described in section 168 (1) (c) of the Act;
 - (b) a person in the one of classes prescribed in section 65 (1) (a) of this regulation;
 - (c) a person in the class prescribed in section 65 (1) (b) of this regulation.
 - (3) If the corporation paid an amount for benefits under Part 10 of the Act that exceeds the amount to which the person is entitled, the corporation may recover the excess amount in the following circumstances:
 - (a) the claim involved fraud;

- (b) the corporation incorrectly determined the amount of the benefits to which the person is entitled, and the error was not caused by the corporation;
- (c) the corporation considers evidence that was not available when a determination was made, and makes a new determination about entitlement to benefits.

Prescribed *Criminal Code* offences

64 The *Criminal Code* offences prescribed in section 12 [*prescribed Criminal Code offences*] of this regulation are prescribed for the purposes of section 168 (1) (b) (ii) of the Act.

Prescribed classes of persons and circumstances – recovery of benefits by corporation

65 (1) For the purposes of section 168 (1) (d) of the Act, the following classes of persons are prescribed:

- (a) the classes of persons prescribed for the purposes of section 116 (2) (g) of the Act in section 13 [*prescribed classes of persons*] of this regulation;
- (b) persons to whom benefits were not paid for bodily injury arising out of an accident but whose use or operation of a vehicle
 - (i) caused bodily injury to another person to whom, or in respect of whom, benefits are paid under Part 10 of the Act, and
 - (ii) results in the persons' conviction
 - (A) of a *Criminal Code* offence prescribed in section 12 [*prescribed Criminal Code offences*] of this regulation,
 - (B) under the *Youth Criminal Justice Act* (Canada) of one of the offences prescribed in section 12 of this regulation,
 - (C) in the United States of America of an offence that is the same as, or similar to, one of the offences prescribed in section 12 of this regulation, or
 - (D) in the United States of America of an offence under a law similar to the *Youth Criminal Justice Act* (Canada) that is the same as, or similar to, one of the offences prescribed in section 12 of this regulation.

(2) For the purposes of section 168 (1) (d) of the Act, the following circumstances are prescribed:

- (a) the corporation paid an income replacement benefit under section 131, 132, 133, 134, 137, 138, 139, 142, 143 or 144 of the Act, a retirement income benefit under section 150 of the Act or a caregiver benefit under section 152 of the Act to an insured, and the amount paid exceeds the amount to which the insured is entitled;
- (b) the corporation paid an amount for benefits under Part 10 of the Act, other than under the provisions referred to in paragraph (a), to an insured and the amount paid exceeds the amount to which the insured is entitled.

**Exceptions from and conditions of recovery
respecting prescribed circumstances**

- 66** (1) If a circumstance described in section 65 (2) (a) [*prescribed circumstances*] applies, the corporation may, subject to section 63 (3) [*no recovery of specified benefits*], recover the amount that exceeds the amount to which an insured is entitled
- (a) by reducing subsequent amounts payable under the provisions referred to in section 65 by 50%, or
 - (b) by reducing subsequent amounts payable under the provisions referred to in section 65 by more than 50%,
 - (i) if the insured consents, or
 - (ii) if the corporation is satisfied that the reduction described in paragraph (a) will not result in the recovery of the excess amount because of the amount owing and estimated future payments.
- (2) If a circumstance described in section 65 (2) (b) applies, the corporation may, subject to section 63 (3), recover the amount that exceeds the amount to which the insured is entitled by deducting the amount from any benefit payable to the insured under Part 10 of the Act.

Limit on recovery

- 67** The corporation
- (a) must commence an action to recover benefits, if no fraud is involved, within 2 years after the date on which the benefits were paid, and
 - (b) may commence an action to recover benefits, if fraud is involved, at any time.