

UNEDITED

# *The Saskatchewan Insurance Act*

*being*

Chapter 133 of *The Revised Statutes of Saskatchewan, 1953*  
(effective February 1, 1954).

FOR HISTORICAL REFERENCE ONLY

**NOTE:**

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

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SCHEDULE



## CHAPTER 133

### An Act relating to Insurance

#### SHORT TITLE

##### Short title

1 This Act may be cited as *The Saskatchewan Insurance Act*.

R.S.S. 1953, c.133, s.1.

#### INTERPRETATION

##### Interpretation

2 In this Act:

##### “accident insurance”

1 “**accident insurance**” means insurance by which the insurer undertakes, otherwise than by and incidentally to some other class of insurance defined by or under this Act, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;

##### “adjuster”

2 “**adjuster**” means a person who, for compensation, not being a barrister or solicitor acting in the usual course of his profession or not being a trustee or an agent of the property insured, directly or indirectly solicits the right to negotiate the settlement of a loss under an insurance policy on behalf of the insured or the insurer, or holds himself out as an adjuster, investigator, consultant or otherwise as an adviser with respect to losses under insurance policies, or holds himself out as prepared or able to effect settlement of any such losses;

##### “agent”

3 “**agent**” means a person who, for compensation, solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal, but does not include an officer or salaried employee of an insurer;

##### “aircraft insurance”

4 “**aircraft insurance**” means insurance against loss of or damage to an aircraft and against liability for loss or damage to persons or property caused by an aircraft or by the operation thereof;

##### “assigned risk plan”

5 “**assigned risk plan**” means an agreement or plan made, established and approved pursuant to section 253;

##### “automobile”

6 “**automobile**” includes all self-propelled vehicles, their trailers, accessories and equipment, but not railway rolling stock, watercraft or aircraft of any kind;

##### “automobile insurance”

7 “**automobile insurance**” means insurance against liability for loss or damage to persons or property caused by an automobile or the use or operation thereof, and against loss of or damage to an automobile;

**“beneficiary”**

8 **“beneficiary”** means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;

**“boiler and machinery insurance”**

9 **“boiler and machinery insurance”** means insurance against loss or damage to property and against liability for loss or damage to persons or property through the explosion, collapse, rupture or breakdown of, or accident to, boilers or machinery of any kind;

**“broker”**

10 **“broker”** means a person who, for compensation, not being a licensed agent acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance or in negotiating the continuance or renewal of such contracts for a person other than himself;

**“cash mutual company”**

11 **“cash mutual company”** means a company without share capital or with guarantee capital stock subject to repayment by the company, in respect of which the dividend rate is limited by its Act or instrument of incorporation, which is empowered to undertake insurance on both the cash plan and the mutual plan;

**“certificate of authority”**

12 **“certificate of authority”** means a certificate issued by the superintendent entitling the holder to act as an insurance agent within the province;

**“chief agency”**

13 **“chief agency”** means the principal office or place of business in Saskatchewan of any licensed insurer having its head office out of Saskatchewan;

**“contract”**

14 **“contract”** means a contract of insurance and includes a policy, certificate, interim receipt, renewal receipt or writing evidencing the contract, whether sealed or not, and a binding oral agreement;

**“court”**

15 **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan or a judge thereof;

**“credit insurance”**

16 **“credit insurance”** means insurance against loss to the insured through insolvency or default of a person to whom credit is given in respect of goods, wares or merchandise;

**“crop insurance”**

17 **“crop insurance”** means insurance against loss of or damage to growing crops from risks or perils to which such crops may be exposed;

**“disability insurance”**

18 **“disability insurance”** means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for the payment of insurance money or the granting of benefits in the event that the insured becomes disabled as a result of bodily injury or disease;

**“double indemnity insurance”**

19 **“double indemnity insurance”** means insurance undertaken by an insurer as part of a life insurance contract whereby the terms of the policy provide for the duration of such insurance for more than one year and for payment only in the event of the death of the insured by accident of an additional amount of insurance money not exceeding the amount payable in the event of death from other causes;

**“due application”**

20 **“due application”** includes such information, evidence and material as the superintendent requires to be furnished; and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Act;

**“employers’ liability insurance”**

21 **“employers’ liability insurance”** means insurance, not being insurance incidental to some other class of insurance defined by or under this Act, against loss to an employer through liability for accidental injury to or death of an employee arising out of or in the course of his employment, but does not include workmen’s compensation insurance;

**“endowment insurance”**

22 **“endowment insurance”** as applied to a fraternal society means an undertaking to pay an ascertained or ascertainable sum at a fixed future date, if the person whose life is insured is then alive, or at his death, if he dies before such date;

**“exchange” or “reciprocal or inter-insurance exchange”**

23 **“exchange” or “reciprocal or inter-insurance exchange”** means a group of subscribers exchanging reciprocal contracts of indemnity or inter-insurance with each other through the same attorney;

**“extra-provincial company”**

24 **“extra-provincial company”** means a company incorporated or legally constituted, otherwise than by or under any Act of the Legislature, but does not include a company with Dominion registry;

**“fire insurance”**

25 **“fire insurance”** means insurance, not being insurance incidental to some other class of insurance defined by or under this Act, against loss of or damage to property through fire, lightning or explosion due to ignition;

**“fraternal society”**

26 **“fraternal society”** means a company, society, order or voluntary association incorporated or formed and carried on for the benefit of its members and their beneficiaries and not for profit, which makes provision by its constitution and laws for payment to beneficiaries of benefits on the death or disability of its members;

**“governing executive authority”**

27 **“governing executive authority”** means the executive committee, executive board, management committee, grand executive committee, or such other board, committee or body as is charged under the constitution and rules of a fraternal society with its general management between general meetings;

**“guarantee insurance”**

28 **“guarantee insurance”** means the undertaking to perform an agreement or contract or to discharge a trust, duty or obligation upon default of the person liable for such performance or discharge or to pay money upon such default or in lieu of such performance or discharge, or where there is loss or damage through such default, and includes insurance against loss or liability for loss due to the invalidity of the title to any property or of any instrument or to any defect in such title or instrument, but does not include credit insurance;

**“hail insurance”**

29 **“hail insurance”** means insurance against loss of or damage to growing crops caused by hail;

**“head office”**

30 **“head office”** means the place where the chief executive officer of an insurer transacts his business;

**“industrial contract”**

31 **“industrial contract”** means a contract of life insurance for an amount not exceeding \$2,000, exclusive of any benefit, surplus, profit, dividend or bonus also payable under the contract, and which provides for payment of premiums at fortnightly or shorter intervals, or, if the premiums are usually collected at the home of the insured, at monthly intervals;

**“inland transportation insurance”**

32 **“inland transportation insurance”** means insurance, other than marine insurance, against loss of or damage to property:

- (a) while in transit or during delay incidental to transit; or
- (b) where, in the opinion of the superintendent, the risk is substantially a transit risk;

**“insurance”**

33 **“insurance”** means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;

**“insurance fund” or “insurance funds”**

34 **“insurance fund” or “insurance funds”**, as applied to a fraternal society or as applied to any company not incorporated exclusively for the transaction of insurance, includes all money, securities for money and assets appropriated by the rules of the society or company to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but does not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage earners unemployed or upon strike;

**“insurance money”**

35 **“insurance money”** means the amount payable by an insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses and annuities payable under the contract;

**“insurance on the cash plan”**

36 **“insurance on the cash plan”** means and includes any insurance which is not mutual insurance;

**“insurer”**

37 **“insurer”** means the person who undertakes or agrees or offers to undertake a contract;

**“life insurance”**

38 **“life insurance”** means insurance whereby the insurer undertakes to pay insurance money on death, or on the happening of any contingency dependent on human life, or whereby the insurer undertakes to pay insurance money subject to the payment of premiums for a term depending on human life, but, except to the extent of double indemnity insurance, does not include insurance payable in the event of death by accident only;

**“live stock insurance”**

39 **“live stock insurance”** means insurance not being insurance incidental to some other class of insurance defined by or under this Act, against loss through the death or sickness of or accident to an animal;

**“lodge”**

40 **“lodge”** includes a primary subordinate division, by whatever name known, of a fraternal society;

**“marine insurance”**

41 **“marine insurance”** means insurance against marine losses; that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air which are incidental to any sea voyage;

**“member”**

42 **“member”**, as applied to any mutual or cash mutual company transacting insurance, means a person holding a contract of insurance issued by a mutual or cash mutual company;

**“minister”**

43 **“minister”** means the member of the Executive Council charged for the time being by the Lieutenant Governor in Council with the administration of this Act;

**“mutual benefit society”**

44 **“mutual benefit society”** means a mutual company formed for the purpose of providing sick and funeral benefits for its members, or for this and any other purposes necessary or incidental thereto except life insurance;

**“mutual company”**

45 **“mutual company”** means a company without share capital or with guarantee capital stock subject to repayment by the company, in respect of which the dividend rate is limited by its Act or instrument of incorporation, which is empowered to undertake mutual insurance exclusively;

**“mutual insurance”**

46 **“mutual insurance”** means a contract of insurance in which the consideration is not fixed or certain at the time the contract is made and is to be determined at the termination of the contract or at fixed periods during the term of the contract according to the experience of the insurer in respect of all similar contracts whether or not the maximum amount of such consideration is predetermined;

**“officer”**

47 **“officer”** includes any trustee, director, manager, treasurer, secretary or member of the board or committee of management of an insurer or any person appointed by the insurer to sue and be sued in its behalf;

**“paid in”**

48 **“paid in”** when applied to the capital stock of an insurer or to any shares thereof, means the amount paid to the insurer on its shares, not including the premium, if any, paid thereon, whether such shares are or are not fully paid;

**“paid up”**

49 **“paid up”** when applied to the capital stock of an insurer or to any shares thereof, means capital stock or shares on which there remains no liability, actual or contingent, to the issuing insurer;

**“person”**

50 **“person”** includes a partnership;

**“plate glass insurance”**

51 **“plate glass insurance”** means insurance, not being insurance incidental to some other class of insurance defined by or under this Act, against loss of or damage to plate, sheet or window glass, whether in place or in transit;

**“policy”**

52 **“policy”** means the instrument evidencing a contract;

**“premium”**

53 **“premium”** means the single or periodical payment under a contract for the insurance, and includes dues, assessments and other considerations;

**“premium note”**

54 **“premium note”** means an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer, but the aggregate of which sums does not exceed an amount specified in the instrument;

**“property”**

55 **“property”** includes profits, earnings and other pecuniary interest, and expenditure for rents, interest, taxes and other outgoings and charges and inability to occupy the insured premises, but only to the extent of express provision in the contract;

**“property damage insurance”**

56 **“property damage insurance”** means insurance against loss of or damage to property which is not included in or incidental to some other class of insurance defined by or under this Act;

**“provincial company”**

57 **“provincial company”** means a company incorporated by or under an Act of the Legislature;

**“public liability insurance”**

58 **“public liability insurance”** means insurance against loss or damage to the person or property of others which is not included in or incidental to some other class of insurance defined by or under this Act;

**“registrar”**

59 **“registrar”** means the Registrar of Joint Stock Companies;

**“sick and funeral benefits”**

60 **“sick and funeral benefits”** includes insurance against sickness, disability or death under which the moneys payable upon the happening of sickness, disability or death do not exceed the limits prescribed by section 437;

“sickness insurance”

61 “**sickness insurance**” means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance;

“sprinkler leakage insurance”

62 “**sprinkler leakage insurance**” means insurance against loss of or damage to property through the breakage or leakage of sprinkler equipment or any other fire protection system, or of pumps, water pipes or plumbing and its fixtures;

“superintendent”

63 “**superintendent**” means the Superintendent of Insurance and includes the Deputy Superintendent of Insurance;

“the *Insurance Act (Canada)*”

64 “**the *Insurance Act (Canada)***” includes any Act of the Parliament of Canada that may be in force from time to time governing insurance;

“theft insurance”

65 “**theft insurance**” means insurance against loss or damage through theft, wrongful conversion, burglary, housebreaking, robbery or forgery;

“upon proof”

66 “**upon proof**” as applied to any matter connected with the licensing of an insurer or other person means upon proof to the satisfaction of the superintendent;

“weather insurance”

67 “**weather insurance**” means insurance against loss or damage through windstorm, cyclone, tornado, rain, hail, flood or frost, but does not include hail insurance;

“workmen’s compensation insurance”

68 “**workmen’s compensation insurance**” means insurance of an employer against the cost of compensation prescribed by statute for bodily injury, disability or death of a workman through accident or disease arising out of or in the course of his employment;

“written”

69 “**written**” as applied to an instrument includes written or printed or partly written and partly printed.

1949, c.40, s.2; R.S.S. 1953, c.133, s.2.

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PART I

SUPERINTENDANT OF INSURANCE

**Appointment, power and duties of superintendent**

3(1) There may be appointed an officer to be called the Superintendent of Insurance, who shall be paid such salary as may be approved by the Lieutenant Governor in Council.

(2) The superintendent shall act under the instructions of the minister and shall have such powers, rights and privileges of administration as may be required under the provisions of this Act. He shall have general supervision of the business of insurance within Saskatchewan and shall see that the laws relating to the conduct thereof are enforced and obeyed and shall examine and report to the minister from time to time upon all matters connected with insurance.

1949, c.40, s.3; R.S.S. 1953, c.133, s.3.

#### **Deputy superintendent**

4 There may also be appointed an officer to be called the Deputy Superintendent of Insurance, who shall act as superintendent during the absence or inability of the superintendent and shall perform such other duties as are assigned to him by this Act, by the Lieutenant Governor in Council, by the minister, or by the superintendent.

1949, c.40, s.4; R.S.S. 1953, c.133, s.4.

#### **Officers and clerks**

5 There may be appointed such officers and clerks under the superintendent as are necessary for the purposes of this Act.

1949, c.40, s.5; R.S.S. 1953, c.133, s.5.

#### **Evidence**

6 For the purpose of his duties under this Act the superintendent may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath; and he shall have the same power to summon officers of corporations, receivers and liquidators and other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence as the court has in civil cases.

1949, c.40, s.6; R.S.S. 1953, c.133, s.6.

#### **Oaths**

7 An oath required by this Act to be taken may be administered and certified to by the superintendent or by any person authorized to administer oaths in Saskatchewan.

1949, c.40, s.7; R.S.S. 1953, c.133, s.7.

#### **Actions by superintendent**

8 The superintendent may bring actions and institute proceedings in his name of office for the enforcement of any of the provisions of this Act or for the recovery of fees and penalties payable hereunder.

1949, c.40, s.8; R.S.S. 1953, c.133, s.8.

#### **Records of superintendent**

9(1) The superintendent shall keep the following books and records:

- (a) a register of all licences issued pursuant to this Act, in which shall appear the name of the insurer, the address of the head office, the address of the principal office in Canada, the name and address of the chief or general agent in Saskatchewan, the number of the licence issued, particulars of the classes of insurance for which the insurer is licensed, and such other information as the superintendent deems necessary;

(b) a record of all securities deposited by each insurer with the minister, naming in detail the several securities, their par value, their date of maturity and the value at which they are received as deposit;

(c) a record of all claims of which notice of dispute has been filed pursuant to the provisions of this Act;

(d) a record of agents, brokers, inspectors and adjustors authorized under this Act.

(2) The books and records required by this section to be kept shall be open to inspection at such time as may be prescribed by the regulations.

1949, c.40, s.9; R.S.S. 1953, c.133, s.9.

**Notice of suspension, etc., of licence**

**10** The superintendent shall cause to be published in *The Saskatchewan Gazette* the name of any company whose licence has been suspended, revived, revoked or cancelled, together with the date of such suspension, revival, revocation or cancellation.

1949, c.40, s.10; R.S.S. 1953, c.133, s.10.

**Certificate of superintendent as evidence of licence, etc.**

**11** A certificate under the hand and seal of office of the superintendent that on a stated day:

(a) an insurer mentioned therein was or was not licensed under this Act;

(b) any insurer was originally admitted to licence;

(c) the licence of any insurer was renewed, suspended, revived, revoked or cancelled;

(d) an agent did or did not hold a certificate of authority under this Act;

shall be *prima facie* evidence of the facts stated in the certificate.

1949, c.40, s.11; R.S.S. 1953, c.133, s.11.

**Superintendent to determine right of insurer to be licensed**

**12** The duty of determining the right of any insurer in Saskatchewan to be licensed under this Act shall devolve upon the superintendent subject to appeal as provided by section 15, but nothing in this section affects the right of the Lieutenant Governor in Council or of the minister to suspend or cancel any licence in the exercise of his authority under the provisions of this Act.

1949, c.40, s.12; R.S.S. 1953, c.133, s.12.

**Decision of superintendent**

**13(1)** Every decision of the superintendent upon an application for a licence shall be in writing and notice thereof shall be forthwith given to the applicant.

(2) The applicant or any person interested shall be entitled to a certified copy of the decision.

1949, c.40, s.13; R.S.S. 1953, c.133, s.13.

**Stenographic report of evidence**

**14** The evidence and proceedings in any matter before the superintendent may be reported by a stenographer sworn before the superintendent to report the same faithfully.

1949, c.40, s.14; R.S.S. 1953, c.133, s.14.

**Appeal**

**15** An applicant for a licence or any person who deems himself aggrieved by a decision of the superintendent may appeal therefrom to the minister.

1949, c.40, s.15; R.S.S. 1953, c.133, s.15.

**Failure of insurer to answer inquiries**

**16** The superintendent may direct to an insurer any inquiry touching the contracts or, in the case of provincial licences, the financial affairs of the insurer and the insurer shall be bound to make prompt and explicit answer to such inquiry, and in case of refusal or neglect to answer is guilty of an offence.

1949, c.40, s.16; R.S.S. 1953, c.133, s.16.

**Superintendent to have access to books, etc., of an insurer**

**17** The superintendent or any person authorized under his hand or seal of office shall, at all reasonable times, have access to all the books, securities and documents of an insurer, which relate to contracts of insurance, and any officer, general agent or person in charge, possession, custody or control of such books, securities or documents who refuses or neglects to afford such access is guilty of an offence.

1949, c.40, s.17; R.S.S. 1953, c.133, s.17.

**Duty to furnish information on request**

**18** It shall be the duty of the officers and agents of a licensed insurer, and of persons licensed hereunder, to furnish the superintendent on his request with full information relative to any contract of insurance issued by the insurer which comes within the terms of sections 134 and 169 or to the application for such contract, the amount of the premium and the commission paid or payable to the agent, or relative to any settlement or adjustment under such contract.

1949, c.40, s.18; R.S.S. 1953, c.133, s.18.

**Inspection on order of minister**

**19** The minister may, at his discretion, instruct the of minister superintendent to visit the head office or chief agency from which the contract was issued, or the office of the adjuster, and inquire into such contract or settlement, and the provisions of section 17 apply *mutatis mutandis* to such inquiry.

1949, c.40, s.19; R.S.S. 1953, c.133, s.19.

**Inspection of insurers**

**20(1)** The superintendent shall visit personally, or cause a duly qualified member of his staff to visit, at least annually, the head office or chief office in Saskatchewan of every licensed insurer other than an insurer incorporated and licensed by Canada, and he shall verify the statements of the condition and affairs of each such insurer filed under this Act, and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its contracts as they mature and whether or not it has complied with all the provisions of this Act applicable to its transactions, and the superintendent shall report thereon to the minister as to all matters requiring his attention and decision.

(2) Where the head office of an insurer is not in Saskatchewan and the superintendent deems it necessary and expedient to make a further examination into the affairs of the insurer and so reports to the minister, the minister may, in his discretion, instruct the superintendent to visit the head office of such insurer to inspect and examine its affairs and to make such further inquiries as the minister may require.

(3) The officers or agents of such insurer shall cause the books and records of the insurer to be opened for the inspection of the superintendent and shall otherwise facilitate such examination so far as it is in their power.

(4) In order to facilitate the inspection of the books and records of an insurer the insurer may be required by the superintendent, with the approval of the minister, to produce the books and records at the head or chief office of the insurer in Saskatchewan or at such other convenient place as the superintendent may direct; the officer or officers of the insurer who have custody of the books and records shall be entitled to be paid by the insurer for the actual expenses of such attendance.

(5) The superintendent, with the approval of the minister, may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets and liabilities of the insurer and the cost thereof upon the certificate of the superintendent approved by the minister shall be paid by the insurer.

(6) Where the office of an insurer at which an examination is made pursuant to subsection (2) is outside Saskatchewan, the insurer shall pay the account in connection with such examination upon the certificate of the superintendent approved by the minister.

1949, c.40, s.20; R.S.S. 1953, c.133, s.20.

**Service of notice or process on superintendent**

**21** Where the head office of a licensed insurer is situated outside Saskatchewan, notice or process in any action or proceeding in Saskatchewan may be served upon the superintendent by leaving two copies of each such notice or process in his office, or forwarding such copies to him by registered mail, and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

1949, c.40, s.21; R.S.S. 1953, c.133, s.21.

**Insurer to file address**

**22** Every licensed insurer shall file in the office of the superintendent notice of a post office address to which such notice or process may be forwarded by the superintendent, and shall from time to time notify the superintendent of any change in the address so filed.

1949, c.40, s.22; R.S.S. 1953, c.133, s.22.

**Superintendent to forward notice or process**

**23** The superintendent shall, forthwith after the receipt of such notice or process, forward the same to the insurer by registered mail, postage prepaid, addressed in the manner last notified to him for this purpose by the insurer.

1949, c.40, s.23; R.S.S. 1953, c.133, s.23.

**Annual report**

**24** The superintendent shall prepare for the minister from the statements filed by the insurers and from any inspection or inquiries made, an annual report, showing particulars of the business of each insurer as ascertained from such statement, inspection and inquiries, and such report may, at the discretion of the minister, be printed and published forthwith after completion.

1949, c.40, s.24; R.S.S. 1953, c.133, s.24.

**What investments allowed as assets**

**25(1)** In his annual report prepared for the minister as under the provisions of section 24, the superintendent shall allow as assets only such of the investments of the several insurers as are authorized by this Act, or by their Acts of incorporation, or by the general Acts applicable to such investments.

(2) In his said report the superintendent shall make all necessary corrections in the annual statements made by the insurers as herein provided and shall be at liberty to allow or disallow any asset other than an investment authorized by law or to increase or diminish the liabilities of such insurers to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office thereof or otherwise.

(3) The superintendent may request any provincial insurer to dispose of and realize any of its investments acquired after the fourth day of February, 1919, and not authorized by this Act, and the insurer shall, within sixty days after receiving such request, absolutely dispose of and realize the said investments, and, if the amount realized therefrom falls below the amount paid by the insurer therefor, the directors of the insurer shall be jointly and severally liable for the payment to the insurer of the amount of the deficiency:

Provided that if any director present when such investment is authorized does forthwith, or if any director then absent does, within eight days after he becomes aware of such investment, give notice of his protest by registered letter to the superintendent, such director may thereby, and not otherwise, exonerate himself from such liability.

1949, c.40, s.25; R.S.S. 1953, c.133, s.25.

**Appraisalment of assets**

**26(1)** If it appears to the superintendent, or if he has any reason to suppose, from the annual statements prepared and delivered to him by all insurers, that the value placed by any insurer, incorporated and licensed in Saskatchewan, upon the real estate owned by it or any parcel thereof is too great, he may either require such insurer to secure an appraisalment of such real estate by one or more competent valuator, or may himself procure such appraisalment at the expense of the insurer, and the appraised value, if it varies materially from the statement or return made by the insurer, may be substituted in the annual report of the superintendent.

(2) In like manner, if it appears to the superintendent, or if he has any reason to suppose, that the amount secured by mortgage upon any parcel of real estate, together with the interest due and accrued thereon, is greater than the value of such parcel, or that such parcel is not sufficient for such loan and interest, he may procure an appraisal thereof, and if from the appraised value it appears that such parcel is not adequate security for the loan and interest, he may write off such loan and interest a sum sufficient to reduce the same to such an amount as may fairly be realizable from such security, in no case to exceed such appraised value, and may insert such reduced amount in his annual report.

(3) In like manner, if it appears to the superintendent, or if he has any reason to suppose, that the value of any other investment of the funds of the insurer is less than the amount of the value of the investment as shown in the books of the insurer, he may make or cause to be made an appraisal of such security, and if from the appraised value it appears that the value of the security as shown in the books of the insurer is greater than its true value as shown by the appraisal he may reduce the book value of the same to such amount as may fairly be realizable therefrom, in no case to exceed such appraised value, and may insert such reduced amount in his annual report.

1949, c.40, s.26; R.S.S. 1953, c.133, s.26.

#### **Appeal**

**27(1)** An appeal lies in a summary manner from the ruling of the superintendent as to the admissibility of any asset not allowed by him, or as to any item or amount added to liabilities, or as to any correction or alteration made in any statement, to the Lieutenant Governor in Council, who may make all necessary rules for the conduct of appeals under this section.

(2) For the purpose of such appeal the superintendent shall at the request of the insurer interested give a certificate in writing setting forth the ruling appealed from and the reasons therefor, which ruling shall be binding upon the insurer unless the insurer, within fifteen days after notice of such ruling, serves upon the superintendent notice of its intention to appeal therefrom, setting forth the grounds of appeal and within fifteen days thereafter files its appeal with the Lieutenant Governor in Council and with due diligence prosecutes the same, in which case action on such ruling shall be suspended until the Lieutenant Governor in Council has rendered judgment thereon.

1949, c.40, s.27; R.S.S. 1953, c.133, s.27.

#### **Officials not to be shareholders**

**28** The superintendent, the deputy superintendent, or shareholders any officer or clerk in the office of the superintendent, shall not directly or indirectly be interested as a shareholder in any insurance company doing business in Saskatchewan.

1949, c.40, s.28; R.S.S. 1953, c.133, s.28.

## PART II

## GENERAL PROVISIONS APPLICABLE TO INSURERS IN SASKATCHEWAN

**Application**

29(1) This Part applies to insurance undertaken in Saskatchewan and to all insurers carrying on business in Saskatchewan.

(2) Any insurer undertaking a contract of insurance which, under the provisions of this Act, is deemed to be made in Saskatchewan, whether the contract is original or renewed except the renewal from time to time of life insurance policies, shall be deemed to be undertaking insurance in Saskatchewan within the meaning of this Part.

(3) Any insurer undertaking or offering to undertake insurance in Saskatchewan, or which within Saskatchewan sets up or causes to be set up any sign containing the name of an insurer, or which within Saskatchewan distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document, or which within Saskatchewan makes or causes to be made any written or oral solicitation for insurance, or which within Saskatchewan issues or delivers any policy of insurance or interim receipt or collects or receives or negotiates for or causes to be collected or received or negotiated for any premium for a contract of insurance, or which prosecutes or maintains in Saskatchewan any action or proceeding in respect of a contract of insurance, or any society or association incorporated or voluntary which receives contributions from its members out of which any gratuities or benefits are paid directly or indirectly upon the death of its members or any of them, shall be deemed to be carrying on business in Saskatchewan within the meaning of this Part.

1949, c.40, s.29; R.S.S. 1953, c.133, s.29.

**Necessity of licence**

30(1) Every insurer undertaking insurance in Saskatchewan or carrying on business in Saskatchewan shall obtain from the superintendent and hold a licence under the provisions of this Act.

(2) No licence shall be issued to any insurer, other than a provincial company, unless it holds a certificate of registry under the *Insurance Act (Canada)*:

Provided that the Lieutenant Governor in Council may direct that a licence be issued to an insurer which in his opinion is solvent but which may not be able to meet the requirements of the *Insurance Act (Canada)*.

(3) It shall be a condition of a licence to carry on automobile insurance, for breach of which such licence may be cancelled, that, in any action or proceeding against the insurer or its insured, arising out of a motor vehicle accident in the province, the insurer shall appear and shall not set up any defence under a policy issued outside the province which could not be set up if such policy were issued inside the province and in accordance with the law of the province relating to motor vehicle liability insurance.

(4) Every insurer undertaking insurance or carrying on business in Saskatchewan without having obtained a licence as required by this section, is guilty of an offence.

(5) Where the superintendent is satisfied that an insurer licensed under this Act is carrying on or soliciting business in a foreign jurisdiction without being first authorized to do so under the laws of that foreign jurisdiction, the Lieutenant Governor in Council may, upon the report of the superintendent, suspend or cancel the licence of the insurer.

1949, c.40, s.30; R.S.S. 1953, c.133, s.30.

#### Exceptions from licensing

**31** The following shall not be deemed insurers within the meaning of this Act or required or entitled to be licensed as such:

- (a) any society, association or corporation formed and carried on by the officers or officers and employees of an employer for the purpose of providing support, pensions or sickness or accident benefits for such of the officers or employees or officers and employees as become incapacitated or cease to be employed by the employer, or for the purposes of paying pensions, annuities or gratuities to, or for dependants of, such officers or employees or officers and employees, or funeral benefits upon their death, and membership in which is restricted exclusively to *bona fide* employees of one employer;
- (b) any society, association or corporation membership in which is restricted exclusively to *bona fide* members of one trade union and which under the authority of its charter has an assurance or benefit fund for the benefit of its own members exclusively;
- (c) mutual benefit societies membership in which is restricted exclusively to railway employees and which do not grant mortuary or funeral benefits;
- (d) such other organizations as the Lieutenant Governor in Council determines.

1949, c.40, s.30a; R.S.S. 1953, c.133, s.31.

#### Reinsurance with unlicensed insurer

**32** Nothing in this Act prevents a licensed insurer which has lawfully effected a contract of insurance in Saskatchewan from reinsuring the risk or any portion thereof with any insurer transacting business out of Saskatchewan and not licensed under this Act.

1949, c.40, s.31; R.S.S. 1953, c.133, s.32.

#### Issue of licences of insurers

**33** Upon due application and payment of the prescribed fees, and upon proof of compliance with this Act, the superintendent may issue to any insurer a licence to undertake contracts of insurance and carry on business in Saskatchewan.

1949, c.40, s.32; R.S.S. 1953, c.133, s.33.

#### Effect of licence

**34** A licence issued pursuant to this Act shall authorize the insurer named therein to exercise within Saskatchewan all rights and powers reasonably incidental to the carrying on of the business of insurance named therein which are not inconsistent with the provisions of this Act or with the terms of its Act or instrument of incorporation or organization.

1949, c.40, s.33; R.S.S. 1953, c.133, s.34.

**Scope of life insurance licence**

**35** Every insurer licensed for the transaction of life insurance may, under the authority of its licence, unless the licence expressly provides otherwise, issue annuities and endowments of all kinds and also include in any policy of life insurance, in respect of the same life or lives insured thereby, disability insurance and double indemnity insurance.

1949, c.40, s.34; R.S.S. 1953, c.133, s.35.

**Scope of fire insurance licence**

**36** Every insurer licensed for the transaction of fire insurance may, subject to the provisions of its Act of incorporation and the restrictions prescribed by the licence, insure the same risk against loss or damage from falling aircraft, earthquake, tornado, hail, sprinkler leakage, limited or inherent explosion, civil commotion and impact by vehicles and such other classes of insurance as may be prescribed by the regulations.

1949, c.40, s.35; R.S.S. 1953, c.133, s.36.

**Scope of automobile insurance licence**

**37** Every insurer licensed for the transaction of automobile insurance may, under the authority of its licence, unless the licence expressly provides otherwise, provide the restricted accident insurance authorized under section 248.

1951, c.37, s.2; R.S.S. 1953, c.133, s.37.

**Scope of licence**

**38** A licence may be granted to an insurer to carry on any one or more of the classes of insurance defined in section 2 and such other classes as may be prescribed by the regulations.

1949, c.40, s.36; R.S.S. 1953, c.133, s.38.

**Restrictions on granting licences**

**39** A licence shall not be granted:

- (a) to a joint stock company undertaking fire or fire and inland marine, or fire and accident, or life, or life and accident, or guarantee or fidelity insurance, or hail insurance, unless the amount of its authorized capital stock is at least \$500,000 and unless the company furnishes to the superintendent satisfactory evidence that of the said capital stock at least \$200,000 has been *bona fide* subscribed and taken up, and that at least \$25,000 of the said subscribed stock has been paid up in cash;
- (b) to a joint stock company undertaking accident, or sickness, or accident and sickness, or live stock insurance, unless the amount of its authorized capital stock is at least \$200,000, of which \$100,000 at least is shown to have been *bona fide* subscribed and taken up, and at least \$10,000 paid up in cash;
- (c) to a joint stock company, not being one of those referred to in clause (d), undertaking only inland marine insurance, or inland transportation insurance, or insurance against loss of or damage to property by accidental causes, including explosions, or by reason of larceny, housebreaking or burglary, or any two of said kinds of insurance, unless the amount of its authorized capital stock is at least \$100,000, of which at least \$50,000 is shown to have been *bona fide* subscribed and taken up and at least \$10,000 paid up in cash;

(d) to a joint stock company undertaking plate glass insurance, unless the amount of its authorized capital stock is at least \$25,000, of which \$12,000 at least is shown to have been *bona fide* subscribed and taken up and at least \$3,000 paid up in cash;

(e) to a joint stock company undertaking automobile insurance, unless the amount of its authorized capital stock is at least \$100,000, of which \$50,000 at least is shown to have been *bona fide* subscribed and taken up and at least \$25,000 paid up in cash.

1949, c.40, s.37; R.S.S. 1953, c.133, s.39.

**Licences to insurers under assigned risk plan**

**40(1)** Where an assigned risk plan has been made and established by insurers undertaking automobile public liability insurance or automobile property damage insurance in the province, and has been approved as provided in section 253, a licence to undertake such insurance in the province shall not be granted to any such insurer that is not a party to, or a member of, or does not hold itself bound by, the assigned risk plan.

(2) Subsection (1) shall come into force on a day to be fixed by proclamation of the Lieutenant Governor.

1949, c.40, s.38; R.S.S. 1953, c.133, s.40.

**No licence for both fire and life insurance**

**41** Except in the case of an insurer holding a certificate of registry under the *Insurance Act (Canada)*, a licence shall not be granted to an insurer for the transaction of both fire and life insurance.

1949, c.40, s.39; R.S.S. 1953, c.133, s.41.

**Documents filed by applicants**

**42(1)** Before the issue of a licence to an insurer, the applicants insurer shall file in the office of the superintendent:

- (a) a certificate of registration under *The Companies Act*, unless otherwise provided for;
- (b) a certified copy of the Act of incorporation or other instrument of association of the insurer, which shall include its charter and regulations verified in manner satisfactory to the superintendent;
- (c) an affidavit or statutory declaration that the insurer is still in existence and legally authorized to transact business under its charter;
- (d) a certified copy of the last balance sheet and auditor's report thereon;
- (e) notice of the place where the head office of the insurer outside Saskatchewan is situated;
- (f) notice of the place where the head office or chief agency of the insurer in Saskatchewan is to be situated;
- (g) a statement showing the amount of the capital of the insurer and the number of shares into which it is divided, the number of shares subscribed and the amount paid up thereon;

(h) in the case of insurers not holding certificates of registry under the *Insurance Act (Canada)*, a statement in such form as may be required by the superintendent of the condition and affairs of the insurer on the thirty-first day of December then next preceding or up to the usual balancing day of the insurer or as the superintendent may require;

(i) a certificate that the insurer, if not a Dominion licensee, has complied with the provisions of *The Securities Act* or of any other Act governing the sale of securities in the province.

(2) When any of the documents referred to in this section have been filed with the Registrar of Joint Stock Companies under *The Companies Act*, they shall be deemed to have been filed in compliance with the terms of this section.

1949, c.40, s.40; R.S.S. 1953, c.133, s.42.

**Statement of expenses of organization to be submitted with application**

**43** Upon application for a licence under this Act by an insurer hereafter incorporated under any general or special Act of Saskatchewan, there shall be submitted to the superintendent a sworn statement setting forth the several sums of money paid in connection with the incorporation and organization of the insurer, and such statement shall, in addition, include a list of all unpaid liabilities, if any, in connection with or arising out of the incorporation and organization.

1949, c.40, s.41; R.S.S. 1953, c.133, s.43.

**Organization expenses limited**

**44** Until the licence is granted, no payments on account of expenses of incorporation and organization shall be made out of the moneys paid in by shareholders except reasonable sums for the payment of clerical assistance, legal services, office rental, advertising, stationery, postage and expense of travel, if any.

1949, c.40, s.42; R.S.S. 1953, c.133, s.44.

**Conditions precedent to issue of licence**

**45** The superintendent shall not issue the licence until he is satisfied that all the requirements of this Act and of *The Companies Act*, as to the subscriptions to the capital stock, the payment of money by shareholders on account of their subscriptions, the election of directors and other preliminaries have been complied with, and unless he is satisfied that the expenses of incorporation and organization, including the commission payable for the sale of the stock of the insurer, are reasonable.

1949, c.40, s.43; R.S.S. 1953, c.133, s.45.

**Form of licences**

**46(1)** The licence shall be in such form as may be determined by the superintendent, and it shall specify the business to be carried on by the insurer and shall expire on the thirty-first day of December in each year but shall be renewable from year to year.

(2) Such licence when issued to an insurer other than a Dominion licensee shall be subject to such limitations or restrictions as the minister may prescribe.

1949, c.40, s.44; R.S.S. 1953, c.133, s.46.

**Issue of licences**

47 When an insurer applying for a licence has deposited with the superintendent the security hereinafter mentioned and has otherwise conformed to the requirements of this Act, the superintendent may issue the licence.

1949, c.40, s.45; R.S.S. 1953, c.133, s.47.

**Publication of licences**

48 Every insurer on first obtaining a licence shall forthwith give notice thereof in two successive issues of the *Gazette* and shall give the like notice when it ceases to carry on business in Saskatchewan.

1949, c.40, s.46; R.S.S. 1953, c.133, s.48.

**Proof before renewal**

49 Before the renewal of the licence of an insurer under this Act, proof shall be furnished to the superintendent that the requirements of *The Companies Act* with respect to the renewal of licences have been complied with.

1949, c.40, s.47; R.S.S. 1953, c.133, s.49.

**Dominion licences**

50 Insurers holding certificates of registry under the *Insurance Act (Canada)* shall, upon due application and upon proof of such Dominion certificates subsisting and upon otherwise conforming to the provisions of this Act, be entitled to a licence under this Act.

1949, c.40, s.48; R.S.S. 1953, c.133, s.50.

**Insufficiency of assets to be reported by superintendent**

51(1) If the superintendent, upon examination, or from annual statements, or upon other evidence, finds that the assets of any insurer are insufficient to justify the continuance of the insurer in business or to provide proper security to persons effecting insurance with the insurer in Saskatchewan, or that the insurer has failed to comply with any provision of law, or with the Act or instruments of incorporation or association of the insurer, he shall so report to the minister.

(2) If it appears in the case of an insurer undertaking contracts of life insurance, that its policy reserves, and, in the case of any other insurer, that its unearned premiums respecting, in both cases, outstanding contracts within the liabilities in Saskatchewan, exceed its assets in Saskatchewan, including the deposit in the hands of the minister, the assets of the insurer shall be deemed insufficient to justify the continuance of the insurer in business within the meaning of subsection (1) and the superintendent shall so report to the minister.

1949, c.40, s.49; R.S.S. 1953, c.133, s.51.

**Suspension or cancellation**

**52** If the minister, after consideration of the report and after a reasonable time has been given to the insurer to be heard by him, and upon such further inquiry and investigation as he thinks proper to make, reports to the Lieutenant Governor in Council that he concurs in the report of the superintendent, the Lieutenant Governor in Council may suspend or cancel the licence of the insurer and prohibit the insurer from doing any further business or soliciting or undertaking insurance in Saskatchewan, and thereafter it shall be unlawful for the insurer to undertake insurance in Saskatchewan or carry on business in Saskatchewan until the suspension or prohibition is removed by the Lieutenant Governor in Council.

1949, c.40, s.50; R.S.S. 1953, c.133, s.52.

**Notice**

**53** Notice of the suspension or cancellation of the licence shall be published in the *Gazette* and thereafter any person transacting business on behalf of the insurer, except for winding up purposes, is guilty of an offence.

1949, c.40, s.51; R.S.S. 1953, c.133, s.53.

**Limited or conditional licence**

**54** Where the superintendent has reported as provided in subsection (1) of section 51, the minister or the Lieutenant Governor in Council may direct the issue of such modified, limited or conditional licence as may be deemed necessary for the protection of persons in Saskatchewan who have effected or effect contracts of insurance with the insurer.

1949, c.40, s.52; R.S.S. 1953, c.133, s.54.

**Dominion certificate holders**

**55** Sections 51 to 54 do not apply to an insurer holding a certificate of registry under the *Insurance Act (Canada)*, but withdrawal of such certificate by Canada shall *ipso facto* act as a suspension or cancellation of licence under this Act.

1949, c.40, s.53; R.S.S. 1953, c.133, s.55.

**Notice of disputed claims to superintendent**

**56** An insurer shall give notice in writing to the superintendent of every disputed claim arising from loss insured under a contract made in Saskatchewan within sixty days after proof of the loss or of the happening of the event upon which the insurance money is to become payable.

1949, c.40, s.54; R.S.S. 1953, c.133, s.56.

**Withdrawal of licence for non-payment of undisputed claim judgment**

**57** Where written notice has been served on the superintendent, and upon proof of an undisputed claim arising from loss insured against in Saskatchewan remaining unpaid for the space of sixty days after being due, or of a disputed claim after final judgment in the regular course of law and tender of a legal valid discharge being unpaid, the licence of the insurer shall *ipso facto* be null and void and shall be deemed to be cancelled.

1949, c.40, s.55; R.S.S. 1953, c.133, s.57.

**Revival of licence**

**58** Such licence may be revived and the insurer may again transact business if, within six months after notice to the superintendent of the failure of the insurer to pay any undisputed claim or the amount of any final judgment as provided in section 57, such undisputed claim or final judgment upon or against the insurer in Saskatchewan is paid and satisfied.

1949, c.40, s.56; R.S.S. 1953, c.133, s.58.

## DEPOSIT AND SECURITIES

**Deposit of securities**

**59** Every insurer other than a licensee of Canada shall, before the issue or the renewal of the licence, lodge with the minister either in cash or in any stock, debentures or other securities in which trustees may invest trust money, or in bonds or debentures secured by rates or taxes levied under the authority of the Government of any province of Canada on property situated in such province, and collectable by the municipalities in which such property is situated, the initial or renewal deposits respectively hereinafter stated.

1949, c.40, s.57; R.S.S. 1953, c.133, s.59.

**Title to securities**

**60** The title to any stock, bonds or debentures already deposited with the minister, or hereafter deposited, shall be vested in the minister by virtue of his office while the stock, bonds or debentures form the whole or any part of the deposit required by sections 61, 63, 64 and 77, without any formal transfer, and the deposit of the stock, bonds or debentures by any insurer as required by this Act, shall be *prima facie* evidence that the stock, bonds or debentures are the absolute property of the insurer and are free from liens and encumbrances of any nature whatever.

1949, c.40, s.58; R.S.S. 1953, c.133, s.60.

**Initial deposits**

**61** The initial deposit to be made by an insurer before the original issue of the licence shall be the sum appointed for such insurer in section 63.

1949, c.40, s.59; R.S.S. 1953, c.133, s.61.

**Annual readjustment of deposit**

**62** The amount of deposit required of every insurer shall on or before the first day of May in each year be readjusted in terms of sections 63 and 64, and on default in making such readjustment the insurer's licence may be cancelled.

1949, c.40, s.60; R.S.S. 1953, c.133, s.62.

**Amount of deposit**

**63(1)** If on the preceding thirty-first day of December in any year the insurer's total contingent liability or amount at risk does not exceed \$1,500,000, then:

- (a) every insurer, if provincial, shall keep on deposit with the minister \$10,000; and, if an extra-provincial company, \$20,000, except a plate glass company, which shall deposit \$3,000;

(b) every fraternal society, transacting life insurance, or sickness and funeral benefit insurance, or both, and every mutual benefit society, shall keep on deposit such sum as may be fixed by regulations of the Lieutenant Governor in Council;

(c) every provincial mutual fire insurance company insuring mercantile and manufacturing risks shall keep on deposit with the minister \$5,000;

(d) every extra-provincial mutual fire insurance company shall keep on deposit with the minister \$10,000.

(2) This section does not apply to provincial mutual fire insurance companies or co-operative insurance companies licensed only for the insurance of farm buildings and contents and of isolated risks other than mercantile and manufacturing risks, or to provincial mutual hail insurance companies.

1949, c.40, s.61; R.S.S. 1953, c.133, s.63.

#### **Additional security**

**64** If it appears from any annual statement furnished by the insurer under the provisions of section 108 that the insurer's total contingent liability or amount at risk on the preceding thirty-first day of December exceeds \$1,500,000, then for each additional \$1,500,000, or fraction thereof, each insurer mentioned in clause (a) of subsection (1) of section 63 shall, if an extra-provincial insurer, lodge with the minister by way of additional security a sum equal to one-half of the initial deposit, and, if a provincial insurer, the sum of \$200 for every \$100,000, or fraction thereof, by which the total contingent liability exceeds \$1,500,000.

1949, c.40, s.62; R.S.S. 1953, c.133, s.64.

#### **Provincial companies governed by Act**

**65** Notwithstanding the provisions of its charter of incorporation every insurer heretofore or hereafter chartered under the authority of the Legislature shall be governed only by this Act with regard to deposits to be made with the minister.

1949, c.40, s.63; R.S.S. 1953, c.133, s.65.

#### **Value of Canadian securities**

**66** Securities of Canada or securities issued by any of the provinces of Canada shall be accepted at their market value at the time when they are deposited.

1949, c.40, s.64; R.S.S. 1953, c.133, s.66.

#### **Debentures to be accepted**

**67** Municipal and school debentures, legally and properly issued in the province shall be accepted at their market value at the time when they are deposited.

1949, c.40, s.65; R.S.S. 1953, c.133, s.67.

#### **Other securities**

**68** Other securities shall be accepted at such valuation as the minister may direct.

1949, c.40, s.66; R.S.S. 1953, c.133, s.68.

**Further deposit where securities decline**

**69(1)** If the market value of any of the securities which have been deposited by an insurer declines below the value at which they were deposited, the minister may from time to time call upon the insurer to make a further deposit so that the market value of all the securities deposited by the insurer shall be equal to the amount which it is required to deposit by this Act.

(2) Notwithstanding anything herein contained, the minister may at his discretion place a value upon any securities which have been deposited by an insurer, and may certify the value at which such deposit will be accepted.

1949, c.40, s.67; R.S.S. 1953, c.133, s.69.

**Substituting securities**

**70** Where an insurer desires to substitute other securities for securities deposited, the minister may permit the substitution to be made.

1949, c.40, s.68; R.S.S. 1953, c.133, s.70.

**Withdrawal of deposit**

**71(1)** An insurer having made a deposit under this Act shall be entitled to withdraw the same, with the sanction of the minister, whenever it is made to appear to him that the insurer is registered and holds a certificate of registry under the *Insurance Act (Canada)*, or has made a reciprocal deposit under section 78 of this Act.

(2) If at any time it appears that an insurer has on deposit with the minister under this Act a sum in excess of the prescribed amount, the minister, upon being satisfied that the interest of the insured policy holders in this province will not be prejudiced thereby, and upon giving such notice in the *Gazette* and taking such other precautions as he deems expedient, may authorize the withdrawal of the amount of such excess or such portion thereof as he deems advisable. The minister may authorize such withdrawal without giving notice.

1949, c.40, s.70; R.S.S. 1953, c.133, s.71.

**Interest upon deposit**

**72** Except in cases in respect of which it may be otherwise provided by the minister, so long as an insurer's deposit is unimpaired and no notice of any final judgment or order to the contrary is served upon him, the interest upon securities forming a deposit shall be handed over to the insurer when received by him.

1949, c.40, s.71; R.S.S. 1953, c.133, s.72.

**Insufficiency of security voids licence**

**73(1)** Where an insurer fails to make the deposits under this Act at the time required, or where written notice has been served on the superintendent of an undisputed claim arising from loss insured against in Saskatchewan remaining unpaid for the space of sixty days after being due or a disputed claim after final judgment in the regular course of law and tender of a legal valid discharge being unpaid, so that the amount of securities representing the deposit of the insurer is liable to be reduced by sale of any portion thereof for the satisfaction of such claims, the licence of the insurer shall *ipso facto* be null and void and shall be deemed to be cancelled.

(2) The licence may in the two last mentioned cases be renewed and the insurer may again transact business if, within six months after notice to the superintendent of the insurer's failure to pay an undisputed claim or the amount of a final judgment as provided in this section, such undisputed claim or final judgment upon or against the insurer in Saskatchewan is paid and satisfied and the insurer's deposit is no longer liable to be reduced below the amount required by this Act.

1949, c.40, s.72; R.S.S. 1953, c.133, s.73.

**Return of deposit on ceasing to do business**

74(1) An insurer which has ceased to transact business in Saskatchewan and desires to obtain a return of its deposit may give written notice to that effect to the superintendent, and shall publish in the *Gazette* a notice that it has applied to the Lieutenant Governor in Council for the return of its deposit, calling upon all claimants, contingent or actual, who object to the return to file their objections with the superintendent on or before a day named in the notice, which shall not be less than three months after the first publication of it.

(2) Upon giving the notice to the superintendent the insurer shall file with him a list of all its outstanding contracts of insurance, including contracts in respect of which claims have accrued.

(3) After the day named in the notice, if the minister is satisfied that the insurer has obtained a discharge of all such outstanding contracts, the Lieutenant Governor in Council may direct that the deposit be returned.

(4) If the minister is not satisfied that all such contracts have been discharged the Lieutenant Governor in Council may direct that a sufficient amount be retained to meet the contracts unprovided for and that the remainder of the deposit be returned, and thereafter from time to time as such contracts lapse or proof is adduced that they have been satisfied further return of the deposit may be directed by the Lieutenant Governor in Council.

(5) The onus of proof that all claimants have been properly and fairly satisfied or paid shall rest on the insurer, and the minister shall be the absolute and final judge as to whether or not such claimants have been properly or fairly satisfied or paid. All costs in connection with advertising and in connection with proving that all such claimants have been paid or satisfied shall be borne by the insurer and if necessary deducted from the deposit in the hands of the minister.

(6) The minister may at his option pay any claimants who file claims after the expiration of the time stated in the above mentioned advertised notice in the *Gazette*.

(7) Before the release of securities as hereinbefore mentioned, the insurer shall prove to the satisfaction of the minister that all fees or taxes payable to the Government of the province have been fully paid, such fees or taxes to be a first lien on all such deposits.

(8) Where the deposit is, by virtue of reciprocal legislation in another province, held for the benefit of policy holders resident in such province, the notice mentioned in subsection (1) shall also be given to the Superintendent of Insurance or minister in charge of the Department of Insurance in that province and shall be published in the official gazette of that province.

1949, c.40, s.73; R.S.S. 1953, c.133, s.74.

**Transfer of deposit on purchase or reinsurance**

**75(1)** Where a licensed insurer, hereinafter called the continuing insurer, has, by purchase or otherwise, acquired the assets and assumed the liabilities, within Saskatchewan, of another licensed insurer, hereinafter called the discontinuing insurer, or reinsured all the contracts of a discontinuing insurer outstanding within Saskatchewan, the Lieutenant Governor in Council may, upon the application of the continuing insurer, and upon the report of the superintendent, direct the transfer of the deposit held by the minister under the provisions of this Act in the name of the discontinuing insurer to the continuing insurer.

(2) In such case the deposit so transferred shall thereafter be treated and dealt with under the provisions of this Act in the same manner as though it had been originally deposited by the continuing insurer.

1949, c.40, s.74; R.S.S. 1953, c.133, s.75.

## RECIPROCAL DEPOSITS

**Meaning of “contracts” under and application of ss.76 to 78**

**76(1)** In sections 77 and 78 the expression “contracts”, in relation to any other province of Canada, has the meaning assigned to it by the Act of that province under which insurers are licensed to carry on the business of insurance.

(2) This section and sections 77 and 78 apply notwithstanding that the insurer is or may become licensed in one province for classes of insurance different from those for which it is or may become licensed in another province.

1949, c.40, s.75; R.S.S. 1953, c.133, s.76.

**Sole deposit of insurer in this province**

**77(1)** Where an insurer has its head office for Canada in this province and makes a deposit under this Act for the purposes of this section, by virtue whereof the insurer will not be required to make a deposit in another province in which it is or may become licensed to undertake insurance, the following provisions shall have effect, and to the extent that they are inconsistent with any other provision of this Act shall prevail over that provision, namely:

- (a) the amount of the deposit to be made and maintained by the insurer shall be fixed by order of the Lieutenant Governor in Council, and the order shall declare what provinces are reciprocating provinces with respect to that insurer’s deposit;
- (b) the deposit shall be held and administered as security *pari passu* for the Saskatchewan contracts of the insurer and for its contracts in any reciprocating province;
- (c) the minister shall, upon the request of the official who issues or proposes to issue a licence to the insurer in another province, certify under his hand that the deposit is held in manner provided by clause (b), and the superintendent shall forward the certificate to that official and a copy to the Superintendent of Insurance in each province;

(d) where, with respect to the outstanding contracts of the insurer, it appears to the superintendent from the annual report of such insurer or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, or where it appears to the Superintendent of Insurance for another province in which the insurer is licensed from any annual report made to him by the insurer or any examination of the affairs of the insurer that a further deposit for the purposes of this section is necessary, and such superintendent requests the superintendent to obtain a further deposit, the insurer shall forthwith deposit such further sum as the Lieutenant Governor in Council may fix;

(e) if the insurer obtains a Dominion licence extending to this or another province, the minister may, on the request of the insurer, authorize the superintendent to deliver to the insurer or to transfer to the Minister of Finance for Canada the whole or part of such deposit as the minister thinks fit, having regard to the extent of the Dominion licence, and the superintendent forthwith shall give notice of the delivery or transfer to the Superintendent of Insurance of each reciprocating province;

(f) where the licence of the insurer is suspended or cancelled under this Act, the superintendent shall give immediate notice to the Superintendent of Insurance in each province;

(g) where the insurer ceases to carry on insurance business in Canada, and its deposit may be withdrawn under this Act, the superintendent shall notify the Superintendent of Insurance in each province, and all claims and liabilities arising in any such province shall be verified by the Superintendent of Insurance there and a statement thereof communicated to the superintendent;

(h) where the insurer ceases to transact business in or its licence is suspended or cancelled in a reciprocating province and notice thereof is given to the superintendent, the minister and the superintendent, upon the request of the superintendent in the reciprocating province, may take any action that could be taken if the insurer were ceasing to transact business in or its licence were suspended or cancelled in this province.

(2) The insurer shall not change the situation of its head office to another province without the consent of the minister, but where the minister so consents he may authorize the superintendent to transfer the insurer's deposit to the minister responsible for the deposit in that province, or to the insurer, as the minister in that province requests, and the superintendent forthwith shall give notice of any change or transfer to the Superintendent of Insurance of each reciprocating province.

1949, c.40, s.76; 1952, c.46, s.2; R.S.S. 1953,  
c.133, s.77.

**Sole deposit of insurer in another province**

78(1) Where an insurer has its head office for Canada in another province and there makes a deposit of such amount as may be fixed by the proper authority in that province, and under the laws of that province the deposit is held as security *pari passu* for its Saskatchewan contracts and its contracts in every reciprocating province, the minister, upon receipt of a certified copy of an order of the Lieutenant Governor in Council of the province in which the deposit is made fixing the amount of the deposit and declaring that Saskatchewan is a reciprocating province with respect to that insurer's deposit, and upon receipt of the consent of the insurer to its deposit being so held, shall exempt the insurer from the provisions of this Act requiring it to make and maintain a deposit.

(2) Where the insurer ceases to transact business in or its licence is suspended or cancelled in this province, the superintendent shall immediately give notice thereof to the superintendent of the province in which the reciprocal deposit is held and to the superintendent of each other reciprocating province.

(3) Where an order is made for the administration of a reciprocal deposit held in another province pursuant to the provisions of subsection (1), the superintendent, as soon as is reasonably possible after receipt of notice of the termination date fixed by the receiver, shall proceed pursuant to section 89 to give the notice required by that section to the insured persons under the Saskatchewan contracts.

(4) Where a licensed insurer is exempted under this section, the minister shall transfer its deposit under this Act to the minister responsible for the deposit in the province in which the insurer has its head office and which will hold the deposit, or to the insurer, as that minister requests.

(5) Every provision of this section prevails over any other provision of this Act to the extent that it is inconsistent with such other provision.

1949, c.40, s.77; 1952, c.46, s.3; R.S.S. 1953, c.133, s.78.

**Use of deposit for reinsurance**

79 At any time before the granting of an order for the reinsurance administration of a reciprocal deposit, the Superintendent of Insurance of each reciprocating province may enter into an agreement to use all or any part of the securities deposited for the purpose of reinsuring all or any part of the risks of the insurer outstanding in all or any of those provinces.

1952, c.46, s.4; R.S.S. 1953, c.133, s.79.

**Power to apply ss. 76 to 78 to other provinces**

80(1) The Lieutenant Governor in Council may, on being satisfied that any other province has enacted provisions identical with or substantially the same as sections 76 to 78, direct that those sections shall apply to that province, and may from time to time revoke or alter any such order.

(2) Every order in council under this section shall be published in the *Gazette*, and a copy shall be sent to the Superintendent of Insurance in each province.

1949, c.40, s.78; R.S.S. 1953, c.133, s.80.

## ADMINISTRATION OF DEPOSIT

**Interpretation**

**81(1)** In sections 82 to 102 and in sections 507 to 518:

**“insured person”**

1 **“insured person”** means a person who enters into a subsisting contract of insurance with an insurer and includes:

- (a) every person insured by a contract whether named or not; and
- (b) every person to whom or for whose benefit all or part of the proceeds of a contract of insurance are payable; and
- (c) every person entitled to have insurance money applied toward satisfaction of his judgment in accordance with section 251;

**“loss”**

2 **“loss”** includes the happening of an event or contingency by reason of which a person becomes entitled to a payment under a contract of insurance of money other than a refund of unearned premiums;

**“reciprocal deposit”**

3 **“reciprocal deposit”** means a deposit of an insurer held pursuant to section 77 or 78;

**“reciprocating province”**

4 **“reciprocating province”** means a province that has been declared to be a reciprocating province pursuant to clause (a) of subsection (1) of section 77 or subsection (1) of section 78 with respect to the deposit of a particular insurer;

**“Saskatchewan contract”**

5 **“Saskatchewan contract”** means a subsisting contract of insurance that:

- (a) has for its subject:
  - (i) property that at the time of the making of the contract is in the province or is in transit to or from the province; or
  - (ii) the life, safety, fidelity or insurable interest of a person who at the time of the making of the contract is resident in or has its head office in the province; or
- (b) makes provision for payment thereunder primarily to a resident of the province or to an incorporated company that has its head office in the province.

(2) This section and sections 77 and 78 are applicable notwithstanding that the insurer is or may become licensed in one province for classes of insurance different from those for which it is or may become licensed in another province.

1952, c.46, s.5; R.S.S. 1953, c.133, s.81.

**Use of deposit for reinsurance**

**82(1)** Subject to subsection (2) but otherwise not withstanding anything hereinafter contained, at any time before the granting of an order for administration of a deposit and upon the recommendation of the superintendent certifying that such action is necessary or desirable for the protection of policy-holders entitled to share in the proceeds of the deposit, the minister may use all or any part of the deposit for the purpose of reinsuring all or any part of the Saskatchewan contracts.

(2) A reciprocal deposit may be used for purposes of reinsurance in the manner and to the extent agreed upon by the Superintendents of Insurance of the reciprocating provinces and not otherwise.

1952, c.46, s.5; R.S.S. 1953, c.133, s.82.

**Deposit subject to administration**

**83(1)** The deposit made by an insurer under this Act shall be subject to administration in the manner hereinafter provided.

(2) Subject to sections 77 and 78, the deposit shall be held and administered for the benefit of all insured persons under Saskatchewan contracts and they shall be entitled to share in the proceeds of the deposit.

(3) An insured person under a Saskatchewan contract shall be entitled to share in the proceeds of the deposit in respect of:

- (a) a claim for a loss that is covered by the contract and that occurred before the termination date fixed pursuant to section 88 or section 514; or
- (b) a claim for refund of unearned premiums except in the case of life insurance; or
- (c) a claim for payment of the legal reserve in respect of the contract in the case of life insurance; or
- (d) claims under both clauses (a) and (b).

1952, c.46, s.5; R.S.S. 1953, c.133, s.83.

**Application for administration of deposit**

**84(1)** An application for administration of a deposit shall be made by originating notice of motion to a judge of the Court of Queen's Bench.

(2) The application shall be made in the judicial district:

- (a) in which the head office of the insurer is situated; or
- (b) in which the chief office of the insurer in the province is situated if its head office is outside the province.

1952, c.46, s.82; R.S.S. 1953, c.133, s.84.

**Persons permitted to make application**

**85(1)** With the approval of the minister, the superintendent may make application for administration at any time when, in his opinion, it is necessary or desirable for the protection of the insured persons entitled to share in the proceeds of the deposit.

(2) In the case of a reciprocal deposit held in this province, the Superintendent of Insurance of any reciprocating province may make application for administration of the deposit.

(3) An insured person entitled to share in the proceeds of a deposit may make application for administration of the deposit upon producing evidence:

- (a) that he has served the Superintendent of Insurance for Saskatchewan with a notice in writing of his intention to make the application if the superintendent or the Superintendent of Insurance of any reciprocating province does not apply; and

(b) that sixty days have elapsed since the service of the notice and that no application for administration of the deposit has been made.

(4) In the case of a reciprocal deposit, if the superintendent is served with a notice as provided in subsection (3), he shall forthwith notify the Superintendent of Insurance of each reciprocating province that he has been so served. 1952, c.46, s.5.

**Service of notice of motion**

**86(1)** The applicant for administration of the deposit motion shall serve the originating notice of motion, at least ten days prior to the date specified in the notice for the making of the application:

- (a) upon the insurer or, where the insurer is in liquidation, upon the liquidator of the insurer; and
- (b) upon the Superintendent of Insurance for Saskatchewan; and
- (c) in the case of a reciprocal deposit, upon the Superintendent of Insurance of each reciprocating province.

(2) An applicant for administration shall be entitled to an order for administration upon proof:

- (a) that the licence of the insurer has been cancelled, and that its assets are insufficient to discharge its outstanding liabilities; or
- (b) that an order has been made for the winding up of the insurer; or
- (c) that the insurer has failed to pay:
  - (i) an undisputed claim for sixty days after it has been admitted; or
  - (ii) a disputed claim after final judgment and tender of a valid discharge;

if the claim arose under a contract of insurance in respect of which the deposit is subject to administration.

1952, c.46, s.5; R.S.S. 1953, c.133, s.86.

**Appointment and duties of receiver**

**87(1)** Upon granting an order for administration the court shall appoint a receiver to administer the deposit.

(2) Where a provisional liquidator or a liquidator has been appointed under this Act or *The Companies Winding Up Act*, or a liquidator has been appointed under the *Winding-up Act (Canada)* to wind up a company that has made a deposit under this Act, the court may appoint the provisional liquidator or the liquidator as the receiver to administer the deposit.

(3) Thereupon the provisional liquidator or the liquidator shall administer the deposit for the benefit of the insured persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act.

1952, c.46, s.5; R.S.S. 1953, c.133, s.87.

**Termination date for subsisting contracts and notice thereof**

88(1) Where a termination date has not been fixed by a provisional liquidator or a liquidator pursuant to section 514, forthwith after his appointment the receiver shall fix a termination date for the subsisting contracts of insurance of the insurer; and on and after that date coverage and protection under the Saskatchewan contracts shall cease and determine, and the insurer shall not be liable under any such contract for a loss that occurs after that date.

(2) Where a receiver administering a reciprocal deposit held in another province for the benefit of the insured persons under Saskatchewan contracts fixes a termination date for the subsisting contracts of insurance of the insurer, on and after that date coverage and protection under the Saskatchewan contracts shall cease and the insurer shall not be liable under any such contract for a loss that occurs after that date.

(3) The termination date shall not be fewer than twenty nor more than forty-five days after the date upon which the receiver was appointed.

(4) The receiver shall forthwith give notice in writing of the termination date to the Superintendent of Insurance for Saskatchewan and, in the case of a reciprocal deposit, to the Superintendent of Insurance of each reciprocating province.

(5) The receiver shall forthwith publish notice of the termination date in the *Gazette* and in the official gazette of each reciprocating province, and in such newspapers circulating in those provinces as the receiver in his opinion deems advisable in order to give reasonable notice of the termination date.

1952, c.46, s.5; R.S.S. 1953, c.133, s.88.

**Duties and powers of superintendant upon receipt of notice**

89(1) The superintendent, upon receiving notice of a termination date fixed by the receiver administering the deposit of an insurer, shall forthwith take such action as he may deem advisable in the interests of the insured persons under Saskatchewan contracts to give notice of that date to them as soon as is reasonably possible.

(2) Without restricting the generality of subsection (1), the superintendent may forthwith require each agent of the insurer in the province to forward to him a list showing the name and address of each person who has entered into a contract of insurance with the insurer of whom he has a record.

(3) On receipt of each list forwarded by an agent, the superintendent may send by ordinary mail to each person whose name appears on the list a notice containing the following information:

- (a) the termination date fixed by the receiver;
- (b) the name and address of the receiver to whom particulars of claims for loss and claims for refund of unearned premiums should be submitted;
- (c) such other information as the superintendent deems advisable.

(4) The superintendent, in his discretion, may publish, broadcast or otherwise communicate or distribute the information stated in the notice, either generally or in any particular area or case, in such manner and by such means as he deems best suited to convey the information to the insured persons as soon as is reasonably possible having regard to all the circumstances.

1952, c.46, s.5; R.S.S. 1953, c.133, s.89.

**Lists and claims by persons entitled to share**

**90** Forthwith after his appointment the receiver shall:

- (a) call either upon the insurer or its agents or liquidator to furnish a list of all insured persons who are entitled to share in the proceeds of the deposit; and
- (b) call upon all insured persons who are entitled to share in the proceeds of the deposit to file their claims if they have not already done so.

1952, c.46, s.5; R.S.S. 1953, c.133, s.90.

**Powers of receiver**

**91** The court, by the order appointing a receiver or by any subsequent order, may authorize the receiver to exercise, in respect of the accounts of the insurer, all or any of the powers that a local master would have if he were taking an account of the claims against the deposit, and every receiver so authorized shall have those powers, as well as all other powers enjoyed by a receiver appointed under an order of the court.

1952, c.46, s.5; R.S.S. 1953, c.133, s.91.

**Order of court authorizing sale of securities and payments from proceeds**

**92(1)** The receiver may apply to the court from time to time for an order authorizing him:

- (a) to sell or realize upon all or any portion of the securities comprised in the deposit of the insurer; and
  - (b) to pay from the proceeds thereof the costs of the administration of the deposit including salaries of office staff, office expenses, the fee for the services of the receiver, fees and disbursements to adjusters and solicitors, and such other costs and expenses as the court deems proper.
- (2) The court may require the receiver to give such notice, if any, of the application in such manner as the court may require.
- (3) After hearing the application the court may make the order and may require the receiver to comply with such conditions as the court may direct.

1952, c.46, s.5; R.S.S. 1953, c.133, s.92.

**Priorities in payment of proceeds of deposit**

**93** The proceeds of the deposit shall be payable:

- (a) first, in payment of the receiver and of all costs and expenses incurred by him in the administration of the deposit and in payment of all or part of the remuneration, costs and expenses of the provisional liquidator if so ordered by the minister pursuant to subsection (3) of section 510;
- (b) secondly, in payment of the insured persons who are entitled to share in the proceeds of the deposit in accordance with the priorities set out in section 94.

1952, c.46, s.5; R.S.S. 1953, c.133, s.93.

**Priority of loss claims**

**94(1)** Except in the case of life insurance, each insured person who claims in respect of a loss covered by the contract that occurred before the termination date fixed pursuant to section 88 or section 514 shall be entitled to receive payment of his approved or settled claim in full in priority to the insured persons who claim in respect of refunds of unearned premiums.

(2) Subject to subsection (1), an insured person who claims in respect of a refund of unearned premiums may claim such part of the premium paid as is proportionate to the period of his contract unexpired:

- (a) at the termination date fixed by the receiver pursuant to section 88 or fixed by the provisional liquidator or the liquidator pursuant to section 514; or
- (b) at the date the insured person cancelled the contract;

whichever date is the earlier.

(3) In the case of life insurance, each insured person who has a claim for a loss covered by the contract that occurred before the termination date fixed pursuant to section 88 or section 514 shall rank, in the distribution of the proceeds of the deposit, for the approved or settled amount of the claim *pari passu* with insured persons under unexpired life insurance contracts.

(4) An insured person under an unexpired life insurance contract shall be entitled to the full amount of the legal reserve in respect of his contract determined by the receiver according to the valuation thereof approved by the superintendent under this Act.

1952, c.46, s.5; R.S.S. 1953, c.133, s.94.

**Action of receiver upon receipt of loss claims**

**95(1)** Where an insured person has filed a claim for a loss covered by the contract that occurred before the termination date fixed pursuant to section 88 or section 514, the receiver shall inquire into the claim and:

- (a) may approve the claim if a final judgment has been obtained against the insurer in respect thereof; or
- (b) may approve the claim if it has been adjusted or settled by the insurer or by the receiver at an amount that, in his opinion, the claimant is reasonably entitled to receive; or
- (c) may refuse to approve the claim or the amount thereof.

(2) An appeal lies from any decision of the receiver if taken within thirty days from the date on which the person appealing has received notice of the decision.

(3) The appeal shall be taken by the filing and service on the receiver of a notice of motion returnable before a judge of the Court of Queen's Bench in chambers, who may summarily determine the matter or may direct an issue to be tried or may make such other order as he deems proper.

1952, c.46, s.5; R.S.S. 1953, c.133, s.95.

**List of persons entitled to share in deposit**

**96(1)** The receiver shall prepare a list showing the names of the persons who appear by the books and records of the insurer or otherwise to be entitled to share in the proceeds of the deposit.

**Schedule of approved claims**

(2) The receiver shall prepare and attach to the list a schedule of approved claims for losses showing, in respect of each approved claim for loss made by a person appearing on the list:

- (a) the name and address of the claimant;
- (b) the particulars of the contract of insurance upon which the claim is based;
- (c) whether the claim was reduced to judgment or was adjusted or settled; and
- (d) the amount for which the claimant is entitled to rank upon the fund.

**Schedule of approved claims**

(3) The receiver shall prepare and attach to the list a schedule of unapproved claims for losses showing, in respect of each claim for loss that has not yet been approved made by a person appearing on the list:

- (a) the name and address of the claimant;
- (b) the particulars of the contract of insurance upon which the claim is based;
- (c) the amount for which the claim is made or the amount estimated by the receiver as the probable maximum amount that will be payable under the contract in respect of that loss.

**Schedule of refundable unearned premiums**

(4) Except in the case of life insurance, the receiver shall prepare and attach to the list a schedule of unearned premiums refundable showing, in respect of each person whose name appears on the list and who is entitled to a refund:

- (a) his name and address;
- (b) the particulars of the contract of insurance in respect of which the unearned premium is refundable;
- (c) the date on which the policy was terminated either by the receiver pursuant to section 88 or by the provisional liquidator or the liquidator pursuant to section 514 or was cancelled by the insured person;
- (d) the amount of the unearned premium as calculated by the receiver in accordance with subsection (2) of section 94;

**Schedule of legal reserves on life policies**

(5) In the case of life insurance, the receiver shall prepare and attach to the list a schedule of contract legal reserves showing, in respect of each person whose name appears on the list and who is entitled to claim for the legal reserve in respect of his contract:

- (a) his name and address;
- (b) the particulars of the contract of insurance in respect of which the legal reserve is payable;
- (c) the amount of the legal reserve calculated by the receiver pursuant to subsection (4) of section 94.

**Distribution of proceeds of deposit**

**97(1)** Upon completion of the schedules and after having paid or provided reasonable reserves from the deposit to pay the amounts payable pursuant to clause (a) of section 93, the receiver may apply to the court for an order authorizing the payment of such aggregate sum as may be fixed by the court on account of the amounts payable pursuant to clause (b) of section 93.

(2) Except in the case of life insurance, the receiver shall divide the sum mentioned in subsection (1) so as to provide for payment of the claims for loss in full or, if the sum is inadequate, *pro rata* on account of:

- (a) the approved claims for losses set out in the schedule of approved claims for losses; and
- (b) the unapproved claims for losses set out in the schedule of unapproved claims for losses;

and shall distribute the portion referred to in clause (a) at such time or times as the receiver may determine to the persons entitled thereto, and shall retain the portion referred to in clause (b) for distribution from time to time as the unapproved claims are approved.

(3) Except in the case of life insurance, if there appears to be a surplus remaining after the receiver has paid or retained a sum that in his opinion is reasonably adequate to pay in full all claims for loss referred to in subsection (2), the receiver shall divide the surplus so as to provide for payment of all unearned premiums in full or, if it is inadequate, among the persons entitled to a refund of unearned premiums in proportion to the amounts payable as set out in the schedule of unearned premiums refundable.

(4) In the case of life insurance, the receiver shall divide the sum fixed pursuant to subsection (1) so as to provide for payment of the following amounts in full or, if the sum is inadequate, *pro rata* on account of:

- (a) the approved claims for losses set out in the schedule of approved claims for losses;
- (b) the unapproved claims for losses set out in the schedule of unapproved claims for losses;
- (c) the full amount of the legal reserve in respect of each unexpired life insurance contract as set out in the schedule of contract legal reserves;

and shall distribute the portions referred to in clauses (a) and (c) at such time or times as the receiver may determine to the persons entitled thereto, and shall retain the portion referred to in clause (b) for distribution from time to time as the unapproved claims are approved.

1952, c.46, s.5; R.S.S. 1953, c.133, s.97.

**Payment of delayed claims**

**98** If a claim in respect of a loss that occurred before the termination date is filed after the receiver has applied to the court under subsection (1) of section 97 and before the final order of the court discharging the receiver, the claimant shall be entitled to share in the distribution of the moneys remaining in the hands of the receiver upon proof of his claim and upon such terms and conditions as the court may direct.

1952, c.46, s.5; R.S.S. 1953, c.133, s.98.

**Application to court for directions or advice**

**99** The receiver administering a deposit may apply to the court at any time, on summary application, for directions or advice pertaining to any matter arising in the administration of the deposit.

1952, c.46, s.5; R.S.S. 1953, c.133, s.99.

**Submission by receiver of final accounts**

**100** Upon the completion of the distribution of the proceeds of the deposit the receiver shall submit his final accounts to the court; and the court, on the passing thereof, may make an order approving the accounts and discharging the receiver.

1952, c.46, s.5; R.S.S. 1953, c.133, s.100.

**Subsequent claims**

**101** If a claim is made after the completion of the distribution of the proceeds of the deposit and the discharge of the receiver, or if there is a claim against the insurer by an insured person not fully paid by the distribution of the proceeds of the deposit, the claimant is not barred from any recourse he may have against the insurer, and his claim shall be a first lien or charge on the assets of the insurer in winding up as provided in subsection (2) of section 512.

1952, c.46, s.5; R.S.S. 1953, c.133, s.101.

**Surrender of security**

**102** A person who holds security for his claim under a contract, or who is entitled to share in the administration of a deposit with the government of another province for the protection of persons resident therein, shall be entitled to share in the administration of the deposit held by this province only if he abandons the security or releases his claim upon the deposit with the other government.

1952, c.46, s.5; R.S.S. 1953, c.133, s.102.

## INVESTMENTS

**Surplus and reserve funds**

**103(1)** A provincial insurer, whensoever incorporated, may invest its surplus funds and reserve in the following securities and no other:

- (a) the stock, funds or Government securities of Canada or of any province of Canada, or guaranteed thereby respectively, or the public stock, funds or Government securities of, or securities guaranteed by, the United Kingdom or the United States of America, the bonds or debentures of any municipality or school district in Canada, or bonds or debentures secured by rates or taxes levied under the authority of the Government of any province of Canada on property situated in such province, and collectable by the municipalities in which such property is situated;
- (b) first mortgages on improved lands in Canada up to sixty per cent of their cash value, provided that the total amount so invested does not exceed twenty per cent of the total amount of the insurer's investment;

(c) terminating debentures of incorporated companies which have, in Canada, for the last preceding five consecutive years, been actually supplying gas, water, heat, light, power or electricity to the public or to any municipal corporation; or of steam, electric or street railway or telegraph or telephone companies in actual operation in Canada, but loans on the security of, or the investment in debentures of any of the companies mentioned in this clause shall not in the aggregate exceed one-fifth of the paid up capital of the insurer;

(d) any other securities in which trustees are by law permitted to invest trust funds:

provided that the total amount of investments under clause (b) and this clause combined shall not exceed twenty per cent of the total amount of the insurer's investment;

(e) in the case of a life insurer, life or endowment policies or contracts issued by the insurer, but not in excess of the loan value of such policy or contract;

(f) in the case of an insurer with a paid up capital of not less than \$100,000:

(i) the debentures or other evidences of indebtedness of any corporation which has paid regular dividends on its preferred or on its common stocks for a term of at least five years immediately preceding the date of investment in such debentures or other evidences of indebtedness;

(ii) the preferred stocks of any corporation which has paid regular dividends upon such stocks, or upon its other preferred stocks ranking equally therewith or upon its common stocks, for not less than five years preceding the purchase of such preferred stocks.

(2) Uninvested funds of the insurer shall be kept on deposit in the name of the insurer in a post office savings bank or in a chartered bank of Canada.

(3) Uninvested funds of a co-operative insurer incorporated under Part XII of this Act shall be kept on deposit in the name of the insurer in a post office savings bank, in a chartered bank of Canada, with a trust company authorized to receive money on deposit or with the Saskatchewan Co-operative Credit Society Limited.

1949, c.40, s.92; R.S.S. 1953, c.133, s.103.

## BOOKS TO BE KEPT BY COMPANIES

### Books kept by companies

**104** Each insurer, other than one holding a certificate companies of registry under the *Insurance Act (Canada)*, shall keep such a classification of its contracts and such registers and books of account as may be directed or authorized by the minister; and if it appears to the minister that such books are not kept in such businesslike way as to make at any time a proper showing of the affairs and standing of the insurer he shall thereupon nominate a competent accountant to proceed under his directions to audit such books and to give such instructions as will enable the officers of the insurer to keep them correctly thereafter, the expense of the accountant to be borne by the insurer and not to exceed \$10 per day and necessary travelling expenses; the account for such audit and instructions shall be certified and approved by the minister and thereupon shall be payable forthwith by the insurer.

1949, c.40, s.93; R.S.S. 1953, c.133, s.104.

**Stock register**

**105** Where the insurer has a share or stock capital, the stock register or register of members shall at all reasonable times be open to the examination of the minister or superintendent.

1949, c.40, s.94; R.S.S. 1953, c.133, s.105.

## RECORDS AND RETURNS

**Record of premium income and losses**

**106(1)** Every licensed insurer which carries on in Saskatchewan the business of fire insurance shall keep a record of its premium income derived from risks located in Saskatchewan and of claims paid in respect of such risks so as to show at any time its experience according to the classification of occupancy hazards of the National Board of Fire Underwriters, with such modifications as the superintendent may prescribe.

(2) If it appears to the minister on the report of the superintendent that such records are not kept in such a manner as to show correctly the experience of the insurer in Saskatchewan as herein required the minister may nominate a competent accountant to proceed under his direction to audit the books and records of the insurer and to give such instructions as will enable the officers of the insurer to keep the records correctly thereafter.

(3) The expense of the audit shall be borne by the insurer and shall not exceed \$15 per day and necessary travelling expenses of the accountant nominated and the account shall, when certified and approved under the hand of the superintendent, be paid by the insurer forthwith.

(4) Every licensed insurer undertaking the business of fire insurance in Saskatchewan, shall prepare and file annually with the superintendent on or before the first day of May in each year, on a printed form to be supplied by the superintendent, a sworn statement of the premium income and losses experienced within Saskatchewan for the calendar year next preceding the date of the return according to the records required to be kept by this section.

(5) Any insurer and the principal officer within Saskatchewan of any insurer which contravenes the provisions of this section is guilty of an offence.

1949, c.40, s.95; R.S.S. 1953, c.133, s.106.

**Record of automobile insurance statistics**

**107(1)** Every licensed insurer which carries on the business of automobile insurance shall prepare and file, when required, with the superintendent or with such statistical agency as he designates, a record of its automobile insurance premiums, and of its loss and expense costs in the province in such form and manner, and according to such system of classification, as he approves.

(2) The superintendent may require any agency so designated to compile the data so filed in such form as he approves; and the expense of making such compilation shall be apportioned among the insurers, whose data are compiled by such agency, by the superintendent, who shall certify in writing the amount due from each insurer and the amount shall be payable by the insurer to the agency forthwith.

(3) The provisions of subsections (2), (3) and (5) of section 106 apply, with appropriate changes, to this section.

1949, c.40, s.96; R.S.S. 1953, c.133, s.107.

**Annual statement**

**108(1)** Every licensed insurer shall prepare annually and deliver to the superintendent on or before the last day of February of each year, a statement of the condition of affairs of the insurer as at the thirty-first day of December next preceding, which statement shall be in such form as may be prescribed by the superintendent and shall exhibit the assets, liabilities, receipts and expenditures of the insurer for the calendar year ended on the said date, and shall also exhibit particulars of the business done in Saskatchewan during such year and such other information as is deemed necessary by the minister or superintendent from time to time, and such statement shall be verified in the manner prescribed by the superintendent.

(2) The insurer shall attach to the statement a certificate duly signed by the auditors of the company:

(a) that they have audited the books of the company and have verified the cash, bank balance and securities;

(b) in the case of companies transacting insurance other than life insurance, that they have checked the reserve of the unearned premiums and that it is calculated as required by this Act;

(c) that they have examined the reserve for unpaid claims and that in their opinion it is adequate;

(d) that they have verified the balances owing by agents and other insurers;

(e) that the balance sheet does not include as assets, items prohibited by this Act from being shown in the annual statements required to be filed thereunder;

(f) that, after due consideration, they have formed an independent opinion as to the position of the company and that, in view of the information available and the explanations given them, they are of opinion that the balance sheet sets forth fairly and truly the state of the company's affairs; and

(g) that all transactions of the company that have come within their notice have been within its powers.

(3) Every licensed insurer shall also prepare annually and deliver to the superintendent on or before the last day of January in each year a return giving the names and addresses of all persons authorized to act as agents of the insurer in the province and of all persons to whom the insurer has, during the period mentioned in subsection (1), paid or allowed, directly or indirectly, any commission or compensation for obtaining or negotiating insurance in the province, or negotiating for the continuance or the renewal thereof, or collecting premiums in respect thereof or attempting so to do, such return to be verified in the manner prescribed by the superintendent.

(4) A copy of every balance sheet or other statement published or circulated by an insurer purporting to show its financial condition, shall be mailed or delivered to the superintendent concurrently with its issue to the shareholders or policy holders, or to the general public.

**Modified statement for Dominion licenses**

**109** In the case of an insurer who holds a certificate of registry under the *Insurance Act (Canada)* the superintendent may, in lieu of the annual statement required to be filed by all insurers under section 108, direct the preparation of a modified statement respecting the business of the insurer in Saskatchewan only.

1949, c.40, s.98; R.S.S. 1953, c.133, s.109.

**Verification of statement**

**110** In the case of a corporation the annual statement shall be verified by the president, vice-president or managing director, or other director appointed for the purpose by the board of directors, and by the secretary or manager of the corporation.

1949, c.40, s.99; R.S.S. 1953, c.133, s.110.

**Answers to inquiries of superintendent**

**111** Every insurer shall, when required by the superintendent, make prompt and explicit answer in reply to any inquiry directed to the insurer by him in relation to the annual statement or in relation to the transactions of the insurer in Saskatchewan.

1949, c.40, s.100; R.S.S. 1953, c.133, s.111.

**Unearned premiums shown as a liability**

**112** In the case of all classes of insurance other than life insurance, and in the case of all insurers other than purely mutual corporations insuring only risks other than mercantile and manufacturing on the premium note plan, the statement shall show as a liability of the insurer, eighty per cent of the actual portions of unearned premiums on all business in force on the thirty-first day of December then last past, or eighty per cent of fifty per cent of the premiums written in its policies and received in respect of contracts having one year or less to run and *pro rata* on those for longer periods.

1949, c.40, s.101; R.S.S. 1953, c.133, s.112.

**Life insurers' statement**

**113** In the case of insurers transacting life insurance the statement shall show as a liability the valuation of outstanding contracts of insurance according to the standard for valuation of policies of life insurance prescribed by sections 121 and 122, or such higher standard as the insurer may, with the approval of the superintendent, adopt.

1949, c.40, s.102; R.S.S. 1953, c.133, s.113.

**Unpaid balances shown as assets**

**114** The statements shall not show as assets the unpaid balances owing by agents or other insurers which are more than three months overdue, or bills receivable on account of the same, or unpaid premium on subscribed shares of capital stock, nor shall such statements include as assets any investments not authorized by any special or general Act to which the insurer is subject.

1949, c.40, s.103; R.S.S. 1953, c.133, s.114.

**Valuation of securities**

**115** Every licensed insurer may, in its annual statement or in any valuation of its securities required to be made, value all of its securities, having a fixed term and rate and not in default as to principal or interest, according to the following rule: If purchased at par at the par value; if purchased above or below par on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made; provided the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and provided the superintendent shall have full discretion in determining the method of calculating values according to the foregoing rule.

1949, c.40, s.104; R.S.S. 1953, c.133, s.115.

**Advertised statement**

**116** A statement purporting to show the financial condition of an insurer differing from the financial condition shown by the statement filed with the superintendent shall not be published or circulated, and every insurer publishing such a statement is guilty of an offence.

1949, c.40, s.105; R.S.S. 1953, c.133, s.116.

**Statements that financial standing guaranteed by Government prohibited**

**117** Every person who represents orally or in writing that the issue of a licence to an insurer or the printing or publication of an annual statement in the report of the superintendent or in any other publication issued by the superintendent, or any other circumstance of the supervision or regulation of the business of the insurer by law or the superintendent, is a warranty or guarantee of the financial standing of the insurer or of its ability to provide for the payment of its contracts at maturity, is guilty of an offence.

1949, c.40, s.106; R.S.S. 1953, c.133, s.117.

## REAL ESTATE

**Powers of insurers**

**118(1)** Except in the case of a fraternal society, a licensed insurer may acquire and hold absolutely for its own use and benefit such real property as is necessary for the transaction of its business, and such real property as is acquired by it by foreclosure and in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same:

Provided that no such last mentioned property shall be held for a longer period than ten years after the acquisition thereof, but any such property shall on or before the expiration of that period be absolutely sold and disposed of so that the insurer shall no longer retain any interest therein, except by way of security.

(2) Any such real property which has been held by the insurer for a longer period than ten years without being disposed of shall be liable to be forfeited to Her Majesty for the use of Saskatchewan, provided that:

(a) no such forfeiture shall take effect until the expiration of at least six calendar months after notice in writing to the insurer by the minister of the intention of Her Majesty to claim the forfeiture; and

- (b) the insurer may, notwithstanding such notice, before the forfeiture is effected, sell or dispose of the property free from liability to forfeiture.
- (3) The insurer shall give the minister, when required, a full and correct statement of all property at the date of such statement held by the insurer, or in trust for it, and subject to the proviso to subsection (1).

1949, c.40, s.107; R.S.S. 1953, c.133, s.118.

#### **Additional real property**

**119** Unless herein otherwise provided, a licensed insurer may acquire and hold real property in addition to that provided for by section 118, and may acquire or hold or construct a building larger than is required for the transaction of its business and may lease any part of such building not so required.

1949, c.40, s.108; R.S.S. 1953, c.133, s.119.

#### **Powers of fraternal societies**

**120** In the case of a fraternal society, any licensed society or any branch or lodge thereof may, subject to its constitution or rules, acquire and hold absolutely for its own use and benefit such real estate as is necessary for the transaction of its business, and, when so authorized by the Lieutenant Governor in Council, may acquire and hold or construct a building larger than is required for the transaction of its business and may lease any part of such building not so required, and may hold such real estate as is acquired by it by foreclosure or in satisfaction of a debt, and may sell, mortgage, lease or otherwise dispose of the same; but the society, branch or lodge shall sell any such last mentioned real estate within seven years after it has been so acquired, otherwise it shall be forfeited to Her Majesty for the use of Saskatchewan.

1949, c.40, s.109; R.S.S. 1953, c.133, s.120.

## RESERVES

#### **Valuation of life insurance contracts**

**121** The method of valuation and the valuation of contracts of life insurance issued by insurers incorporated and licensed under the law of Saskatchewan, except contracts of fraternal societies licensed under this Act, shall be in accordance with regulations to be made by the superintendent, and for that purpose the superintendent shall adopt, *mutatis mutandis*, the provisions of the *Canadian and British Insurance Companies Act (Canada)* governing the said matters.

1949, c.40, s.110; R.S.S. 1953, c.133, s.121.

#### **Annuity contracts**

**122** In the case of annuity contracts, whether immediate or deferred, the valuation basis shall be the British Offices' Select Life Annuity Tables, 1893 (male or female according to the sex of the nominee) with interest at three and one-half per cent per annum.

1949, c.40, s.111; R.S.S. 1953, c.133, s.122.

**Hail insurance profits**

**123** Every insurer, other than one who holds a certificate of registry under the *Insurance Act (Canada)*, licensed to transact the business of hail insurance in Saskatchewan shall each year set aside as a hail insurance surplus fund at least fifty per cent of the profit realized from such business during the year, until the amount of the fund in any given year is equal to at least fifty per cent of the net hail premiums received during the preceding calendar year, at which proportion the fund shall be maintained.

1949, c.40, s.112; R.S.S. 1953, c.133, s.123.

## PAYMENTS TO AGENTS

**Payment to agent deemed payment to insurer**

**124(1)** Payment in cash in whole or in part to an agent of an insurer of the amount of a premium or assessment due in respect of a contract issued by the insurer, shall be deemed a payment to the insurer, notwithstanding any condition or stipulation to the contrary; but this provision does not apply to life insurance.

(2) An agent or broker who acts in negotiating, or renewing or continuing a contract of insurance, other than life insurance, with a licensed insurer, and who receives from the insured any money or substitute for money as a premium for the contract, shall be deemed to hold such premium in trust for the insurer, and, if he fails to pay the same over to the insurer within thirty days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the insurer, he may be entitled, such failure shall be *prima facie* evidence that he has used or applied the premium for a purpose other than paying the same over to the insurer.

1949, c.40, s.113; R.S.S. 1953, c.133, s.124.

## INSURANCE IN UNLICENSED COMPANIES

**Cases in which unlicensed companies may effect insurance**

**125(1)** Notwithstanding anything in this Act contained, any person may insure his property or any property in which he has an insurable interest, situated in Saskatchewan with any British or foreign unlicensed insurance company or underwriters, and may also insure with persons who reciprocally insure for protection only and not for profit; and any property insured or to be insured under the provisions of this section may be inspected and any loss incurred in respect thereof adjusted, provided that:

- (a) such insurance is effected outside Canada and without any solicitation whatever directly or indirectly on the part of such insurer;
- (b) the person effecting such insurance shall pay to the superintendent a tax of five per cent and in addition the amount of tax levied on the premiums of licensed insurers under *The Fire Prevention Act*, on the amount of premium paid or to be paid or of the premium note given or to be given for such insurance, unless such tax has been paid by a broker licensed under section 478 of this Act.

(2) In order to carry out the provisions of clause (b) of subsection (1) the superintendent shall have power, when so instructed by the minister, to examine the records and books of the insured in order to determine where his insurance is carried and the amount of premium paid or payable or of the premium note given or to be given or mutual liability assumed in connection with such insurance; and if the insured refuses to allow such examination or give such information, he is guilty of an offence and liable on summary conviction to a fine of \$25 for each offence.

1949, c.40, s.114; R.S.S. 1953, c.133, s.125.

## UNDERWRITERS AGENCIES

### Licence necessary

**126** A policy of insurance shall not be issued through any underwriters agency under its own name for an insurer, unless the insurer is licensed to carry on business in Saskatchewan and unless the underwriters agency has obtained from the superintendent a licence to issue contracts of insurance.

1949, c.40, s.115; R.S.S. 1953, c.133, s.126.

### Policy to bear name of insurer

**127(1)** Every policy of insurance issued through an underwriters agency shall be in a form approved by the superintendent, and shall bear upon its face the name and address of the insurer in a prominent and conspicuous manner, and the name of the underwriters agency shall not appear on the face of the policy except as a countersignature thereto.

### Form of policy

(2) On no other part of the policy shall the name of the underwriters agency appear except that for identification purposes the words "issued through Underwriters Agency" may be printed on the filing back of the policy, following the name of the insurer and in type not larger than half the depth of that used in printing such name.

1949, c.40, s.116; R.S.S. 1953, c.133, s.127.

### Evidence of adoption of form of policy by insurer

**128** Upon an application for a licence every underwriters agency shall furnish to the superintendent evidence of the approval and adoption of the form of the policy by the insurer and of the authority of the underwriters agency or its agents to bind the insurer in all its transactions in Saskatchewan.

1949, c.40, s.117; R.S.S. 1953, c.133, s.128.

### Annual return

**129** Every insurer licensed under this Act carrying on business or issuing any policy of insurance through an underwriters agency shall file an annual return of the business transacted through the underwriters agency in a form prescribed by the superintendent.

1949, c.40, s.118; R.S.S. 1953, c.133, s.129.

**Form of licence**

**130** The licence referred to in section 126 shall be in such form as may be determined by the superintendent, and it shall specify the business to be carried on by the insurer and shall expire on the thirty-first day of December in each year, but shall be renewable from year to year.

1949, c.40, s.119; R.S.S. 1953, c.133, s.130.

**FORFEITURE OF CORPORATE POWERS****Forfeiture of corporate powers by non-user**

**131** The corporate powers of an insurer, whether incorporated under a special or a general Act, shall be forfeited by non-user during any continuous period of four years; or if, after an insurer has undertaken contracts within the intent of this Act, such insurer discontinues business for one year, or if its licence remains suspended for one year, or if its licence is cancelled otherwise than by mere effluxion of time and is not renewed within the period limited by this Act; and thereupon the insurer's corporate powers shall *ipso facto* cease and determine, except for the sole purpose of winding up its affairs; and a judge of the Court of Queen's Bench, upon the petition of the Attorney General or of any person interested, may by judgment or order limit the time within which the insurer shall settle and close its accounts and may, for this specific purpose or for the purposes of liquidation generally, appoint a receiver.

1949, c.40, s.120; R.S.S. 1953, c.133, s.131.

**FEES AND REGULATIONS****Fees and regulations**

**132(1)** The fees or taxes payable to the superintendent by an insurer or other person mentioned in this Act shall be as prescribed by the regulations.

(2) Such fees or taxes shall be paid before a licence or the renewal of a licence is issued.

(3) The Lieutenant Governor in Council may make regulations:

(a) prescribing the schedule of fees or taxes payable under this Act and also the classes and groups of the different kinds of insurance which may be transacted;

(b) extending the provisions of this Act or any of them to a system or class of insurance not particularly mentioned herein;

(c) generally for the better administration of this Act.

1949, c.40, s.121; R.S.S. 1953, c.133, s.132.

## PART III

## INSURANCE CONTRACTS IN SASKATCHEWAN

**Application**

**133** Except where otherwise provided and where not inconsistent with any other provision of this Act, the provisions of this Part apply to every contract of insurance made in Saskatchewan other than contracts of life and accident and sickness insurance.

1949, c.40, s.122; R.S.S. 1953, c.133, s.133.

**Contracts deemed made in Saskatchewan**

**134(1)** Where the subject matter of a contract of insurance is property or an insurable interest in property within Saskatchewan, or is a person domiciled or resident therein, the contract of insurance, if signed, countersigned, issued or delivered in Saskatchewan or committed to the post office or to any carrier, messenger or agent to be delivered or handed over to the insured, his assign or agent in Saskatchewan, shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in Saskatchewan of the insurer in lawful money of Canada.

(2) This section has effect notwithstanding any agreement, condition or stipulation to the contrary.

1949, c.40, s.123; R.S.S. 1953, c.133, s.134.

**Terms, etc., of contracts invalid unless set out in full**

**135(1)** All the terms and conditions of the contract of insurance shall be set out in full in the policy or by writing securely attached to it when issued, and unless so set out no term of the contract or condition, stipulation, warranty, or proviso, modifying or impairing its effect shall be valid or admissible in evidence to the prejudice of the insured or any beneficiary.

(2) Subsection (1) does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

(3) Where a contract, whether it does or does not provide for its renewal, is renewed by a renewal receipt, it shall be a sufficient compliance with subsection (1) if the terms and condition of the contract were set out as provided by that subsection and the renewal receipt refers to the contract by its number or date.

(4) The proposal or application of the insured shall not, as against him, be deemed a part of or be considered with the contract of insurance except in so far as the court may determine that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

(5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso, providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the corporation, unless such term, condition, stipulation, warranty or proviso is limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

(6) The question of materiality in any contract of insurance shall be a question of fact for the jury, or for the court if there is no jury; and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract, or in any agreement or document relating thereto shall have any force or validity.

(7) Nothing in this section impairs the effect of any statutory condition required by this Act to be inserted in a contract of insurance.

1949, c.40, s.124; R.S.S. 1953, c.133, s.135.

**Prohibition of certain policies**

**136(1)** The superintendent may require an insurer to file with him a copy of any form of policy, or form of application for a policy, or any endorsement used or to be used with regard to any policy as issued or to be issued by the insurer.

(2) The superintendent shall report to the minister any case where an insurer issues a policy or endorsement or uses an application which in the opinion of the superintendent is unfair, fraudulent or not in the public interest, and, after hearing the insurer, the minister may, if he concurs in the report, order the superintendent to prohibit the insurer from issuing such form of policy or application or endorsement.

(3) An insurer which, after being so prohibited, issues any such policy or endorsement, or uses such application, is guilty of an offence against this Act.

(4) Where a question arises as to the class of insurance into which any specific contract of insurance or form of policy falls, the superintendent may determine the question and his determination shall be effective and final for the purposes of this Act.

1949, c.40, s.125; R.S.S. 1953, c.133, s.136.

**Effect of delivery of policy or receipt for premium**

**137(1)** Where a contract of insurance, other than life insurance, has been delivered, it shall be as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had not authority to deliver it.

(2) This section has effect notwithstanding any agreement, condition or stipulation to the contrary.

(3) The insurer may deduct from any loss sustained by the insured under a contract of insurance any indebtedness of the insured on such contract for premium due or to become due, whether evidenced by note or otherwise given either to the insurer or its agent and held either by the insurer or other parties.

(4) In making the deduction mentioned in subsection (3) the insurer shall allow to the insured the same discount upon any unpaid premium as he would be entitled to if such unpaid premium were paid in cash at the date of the loss.

1949, c.40, s.126; R.S.S. 1953, c.133, s.137.

**Insurer to furnish forms**

**138(1)** Every insurer shall, immediately upon receipt of notice of claim under a contract of insurance, forward to the insured, or person to whom the insurance money is payable, printed forms upon which to make the proof of loss required under the contract.

(2) Every insurer who fails to comply with subsection (1) is guilty of an offence; provided that if the insurer has, within thirty days after notification of loss, adjusted the claim acceptably to the claimant and such adjustment has been duly signed by him or his agent, or if the amount of loss has been determined by arbitration or appraisal as herein provided, the insurer shall be deemed to have complied with the provisions of this section.

1949, c.40, s.127; R.S.S. 1953, c.133, s.138.

**When action may be brought under contract**

**139** No action shall be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract, of the loss or of the happening of the event upon which the insurance money is to become payable or such shorter period as may be prescribed by any enactment regulating the contracts of the insurer or as may be fixed by the contract of insurance or otherwise provided in this Act.

1949, c.40, s.128; R.S.S. 1953, c.133, s.139.

**Beneficiary may sue in own name**

**140** After such sixty days or shorter period any person entitled as beneficiary or by assignment or other derivative title to the insurance money, and having the right to receive the same and to give an effectual discharge therefor, may sue for the same in his own name, any rule, stipulation or condition to the contrary notwithstanding.

1949, c.40, s.129; R.S.S. 1953, c.133, s.140.

**Consolidation of actions for insurance money**

**141(1)** Where several actions are brought for the recovery of money payable under a contract or contracts of insurance the court may consolidate or otherwise deal therewith so that there shall be but one action for and in respect of all the claims made in such actions.

(2) Where an action is brought to recover the share of one or more infants, all the other infants entitled, or the trustees, executors or guardians entitled, to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.

(3) In all actions where several persons are interested in the insurance money the court or judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.

1949, c.40, s.130; R.S.S. 1953, c.133, s.141.

**Payment into court**

**142(1)** Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that:

- (a) there are adverse claimants; or
- (b) the place of abode of a person entitled is unknown; or
- (c) there is no person capable of giving or authorized to give a valid discharge;

the insurer may, at any time after the expiration of one month from the maturity of the contract, apply to the court for an order for payment of the money into court, and the court may upon such notice, if any, as it thinks necessary make an order accordingly.

(2) Where the insurer, under a contract of insurance, admits liability for the insurance money or any part thereof and the insured is a minor and there is no person capable of giving a valid discharge therefor, the insurer may at any time prior to the commencement of an action by the insured against the insurer, apply to the court or a judge for an order for payment of the money into court.

(3) An application under subsection (1) or (2) shall, in the first instance, be made *ex parte*.

(4) The court or judge shall, on such application, fix the costs incidental thereto and to the payment into court, which shall be deducted by the insurer from the amount to be paid in.

1949, c.40, s.131; R.S.S. 1953, c.133, s.142.

#### **Payment to payee domiciled or resident abroad**

**143** Where the person entitled to receive money due and payable under any contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment, valid according to the law of such jurisdiction, is made to such person, such payment shall be valid and effectual for all purposes.

1949, c.40, s.132; R.S.S. 1953, c.133, s.143.

#### **Notices, how given**

**144(1)** Subject to any statutory condition, any notice given by an insurer for any of the purposes of this Act, when the mode thereof is not otherwise expressly provided, may be given in the case of a member or person insured by mailing it to his post office address given in his original application for insurance or otherwise notified in writing to the insurer.

(2) Subject to any statutory condition, delivery of any written notice to an insurer for any of the purposes of this Act, where the mode thereof is not otherwise expressly provided, may be by letter delivered at the chief office of the insurer in Saskatchewan, or sent by registered post addressed to the insurer, its manager or agent at such chief office or to an authorized agent of the insurer.

1949, c.40, s.133; R.S.S. 1953, c.133, s.144.

#### **Copy of proposal furnished to insured**

**145** Every insurer shall upon request furnish to the insured a true copy of his application or proposal for insurance.

1949, c.40, s.134; R.S.S. 1953, c.133, s.145.

#### **No contract inconsistent with Act**

**146** No insurer shall make a contract of insurance in-consistent with the provisions of this Act.

1949, c.40, s.135; R.S.S. 1953, c.133, s.146.

**Imperfect compliance**

**147** An act or omission of the insurer resulting in imperfect compliance with any of the provisions of this Act does not render a contract invalid as against the insured.

1949, c.40, s.136; R.S.S. 1953, c.133, s.147.

**Resident agent approves contracts and signs policies**

**148(1)** No insurer licensed under this Act to transact fire or hail insurance shall make, write, place, or cause to be made, written or placed, any policy, duplicate policy or contract of insurance upon property real or personal situated in Saskatchewan or described in any policy, duplicate policy or contract of insurance as situated in Saskatchewan, unless such policy, duplicate policy, or contract of insurance has been signed or countersigned by an agent of the insurer, who is resident in this province and holds a certificate of authority from the superintendent. Such agent shall make a record of the same in books provided for that purpose and receive the commission, or any part thereof, when the premium stipulated in such policy, duplicate policy or contract of insurance is paid.

(2) Nothing herein shall be construed to prevent any insurer from issuing policies at its principal or branch office or general agency covering property situated in this province, provided that such policies are issued either upon application procured and submitted to such insurer by resident authorized agents or else after being signed or countersigned by a resident authorized agent.

(3) No provision of this section is intended to or shall apply to direct insurance covering the rolling stock of railroad corporations or property in transit which is in the possession and custody of railroad corporations or other common carriers nor to moveable property of such common carriers used or employed by them in their business as common carriers.

(4) This section does not apply to that class of insurers commonly known as reciprocals or inter-insurers.

(5) Any insurer which issues a contract of insurance save as mentioned in this section is guilty of an offence and liable to a fine of not less than \$100 nor more than \$300 for each contract of insurance so issued.

1949, c.40, s.137; R.S.S. 1953, c.133, s.148.

**Resident agents' actions restricted**

**149(1)** No resident agent holding a certificate of authority shall sign a blank policy or contract of insurance.

(2) No resident agent holding a certificate of authority shall give a power of attorney to persons residing outside Saskatchewan for the purpose of countersigning contracts as required by section 148.

1949, c.40, s.138; R.S.S. 1953, c.133, s.149.

**Fire insurance policy as collateral security**

**150(1)** Where a contract of fire insurance is given as collateral security to a mortgage or vendor's lien on property, or where any such contract so given is about to expire, whether or not a specific insurer is named in the mortgage or agreement for sale, a term in the mortgage or agreement for sale, whether heretofore or hereafter made or entered into, requiring the mortgagor or purchaser to insure shall be sufficiently satisfied, save as to the amount, by the production by such mortgagor or purchaser of a subsisting policy of insurance in any insurer authorized to transact its business in the province.

(2) No person by himself or by his agent shall require:

(a) as a condition precedent to financing, as vendor under an agreement for sale or otherwise, purchase of property or to lending money upon the security of a mortgage on property; or

(b) as a condition prerequisite for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith, that the person:

(c) for whom such purchase is to be financed or to whom the money is to be lent; or

(d) for whom such extension, renewal or other act is to be granted or performed;

negotiate, take out or pay the premium for any policy of insurance or renewal thereof covering such property with a specified insurer or with any one or more of a designated group of the insurers authorized to transact business in the province.

(3) In the policy produced under the provisions of subsection (1) the mortgagee or vendor shall be named therein as payee by assignment, endorsement or otherwise but such mortgagee or vendor shall have the right to require, in addition, that an endorsement be attached to the policy by the insurer evidencing:

(a) that no act or default of the insured before or after the production of the policy in violation of the law or of the terms of the policy shall prejudice the right of the mortgagee or vendor to recover his interest under the policy or be available to the insurer as a defence to any action by the mortgagee or vendor; and

(b) that whenever the insurer shall pay to the mortgagee or vendor any sum for loss under the policy and shall claim that as to the insured no liability therefor existed, the insurer shall at once be legally subrogated to all rights of the mortgagee or vendor under all securities held as collateral to the mortgage debt or balance of purchase money owing, to the extent of such payment; or at its option the insurer may pay to the mortgagee or vendor the whole amount owing him secured by his mortgage or agreement of sale, and shall thereupon receive a full assignment and transfer of the mortgage or agreement of sale, and all other securities held as collateral thereto; but no such subrogation shall impair the rights of the mortgagee or vendor to recover in priority the full amount of his claim.

(4) If the mortgagor or purchaser has not placed the insurance agreed upon on the property, whether farm or otherwise, and has not lodged the policy with the mortgagee or vendor within the time agreed upon, or, where there is a subsisting policy, has not renewed the policy or has not substituted another policy with the mortgagee or vendor at least ten days before the expiry date of the subsisting policy in accordance with the provisions of this section, the mortgagee or vendor may insure the property to the amount agreed upon with any insurer authorized to transact its business in the province.

(5) Where the contract of insurance has been placed by the mortgagee in accordance with the provisions of this section, a copy of the description of the property insured given in the contract together with the amount of insurance placed upon each item shall forthwith be given to the mortgagor.

(6) This section has effect notwithstanding any agreement, condition or stipulation to the contrary.

1949, c.40, s.139; 1951, c.37, s.3; R.S.S. 1953, c.133, s.150.

**Effect upon contracts of a violation of law**

**151** Unless the contract otherwise provides, a violation of any criminal or other law in force in the province or elsewhere shall not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the violation is committed by the insured, or by another person with the consent of the insured, with intent to bring about loss or damage; provided that in the case of a contract of life insurance this section applies only to disability insurance undertaken as part of the contract.

1949, c.40, s.140; R.S.S. 1953, c.133, s.151.

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PART IV

FIRE INSURANCE

**Interpretation “contract”**

**152** In this Part:

**“contract”**

1 “**contract**” means a contract of insurance against loss of or damage to property in the province or in transit therefrom or thereto, caused by fire, lightning, or explosion, and includes a policy, certificate, interim receipt, renewal receipt or writing, evidencing the contract, whether sealed or not, and a binding oral agreement;

**“property”**

2 “**property**” includes use and occupancy, rents, profits and charges where these are the subject matter of the insurance.

1949, c.40, s.141; R.S.S. 1953, c.133, s.152.

**Application of Part**

**153(1)** This Part applies to fire insurance and to any insurer carrying on the business of fire insurance in the province.

(2) This Part does not apply to the insurance of auto mobiles against loss or damage by fire except when they are insured as provided in subsection (2) of section 154.

1949, c.40, s.142; R.S.S. 1953, c.133, s.153.

#### **Powers of insurers**

**154(1)** Every insurer licensed for the transaction of fire insurance may, within the limits and subject to the restrictions prescribed by the licence, insure or reinsure any property in which the insured has an insurable interest against damage or loss by fire, lightning or explosion, whether the same happens by accident or by any other means except that of design on the part of the insured.

(2) An insurer licensed under this Act for the transaction of fire insurance may insure an automobile against loss or damage by fire under a fire insurance policy, provided that in the case of a mutual fire insurance company such automobile shall be specifically insured under a policy separate from that insuring other property.

(3) No agent shall knowingly issue any contract for fire insurance upon property situated in the province for an amount which, with any existing contracts, exceeds the fair value of the property or of the interest of the insured therein.

(4) An insurer and any agent who knowingly effects, and any insured person who knowingly procures, insurance on any building or property or interest therein against loss or damage by fire in excess of the insurable value thereof, shall be guilty of an offence and liable on summary conviction to a fine of not less than \$100 nor more than \$200 for each offence.

(5) Every adjuster who adjusts any loss by fire to property situated in the province shall ascertain whether there is any over-insurance upon the property, and the facts and circumstances, so far as practicable, pertaining to the origin and cause of the fire, and shall report his findings in writing to the superintendent, together with any circumstances which indicate that an offence has been committed against the law of this province or Canada.

(6) In the event of the total destruction of any insured property with respect to which the total amount of insurance money payable is less than the total amount of insurance thereon, the insurer or insurers shall return to the insured the total amount of insurance premium paid for the excess of the insurance over the appraised value of the property at the time of the loss, which amount shall be paid to the insured at the same time and in the same manner as the loss is paid.

(7) Subsection (6) does not apply where an insured person has knowingly procured insurance in excess of the insurable value of any building or property or interest therein, contrary to subsection (4), or to insurance on stocks of merchandise.

(8) No prosecution shall be instituted under subsection (4) without the consent of the Attorney General.

1949, c.40, s.143; R.S.S. 1953, c.133, s.154.

#### **Renewal of contract**

**155** A contract may be renewed by the delivery of a renewal receipt identifying the policy by number, date or otherwise or by a new premium note.

1949, c.40, s.144; R.S.S. 1953, c.133, s.155.

**Contents of policy**

**156** Every policy shall contain the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the premium or other consideration for the insurance, the subject matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which such liability is to accrue and the term of the insurance.

1949, c.40, s.145; R.S.S. 1953, c.133, s.156.

**Statutory conditions**

**157(1)** Subject to sections 158 and 159 and to subsection (1) of section 163 the conditions set forth in this section shall be deemed to be part of every contract in force in Saskatchewan and shall be printed on every policy with the heading "Statutory Conditions", and no variation or omission of any statutory condition shall be binding on the insured, nor shall anything contained in the description of the subject matter of the insurance be effective in so far as it is inconsistent with, varies, modifies or avoids any such condition.

(2) Where the subject matter of the insurance is exclusively rents, charges, or loss of profits, the conditions set forth in this section shall not be required to be part of the contract or to be printed therein.

## STATUTORY CONDITIONS

**Misrepresentation**

1 If any person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance which is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract shall be void as to the property in respect of which the misrepresentation or omission is made.

**Form of contract**

2 After application for insurance, if the same is in writing, it shall be deemed that any policy sent to the insured is intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy.

**Property not insured**

3 Unless otherwise specifically stated in the policy, money, books of account, securities for money, evidences of debt or title, and automobiles, tractors and other motor vehicles, are not insured.

**Risks not covered**

4 Unless otherwise specifically stated in the policy, the insurer is not liable for the losses following, that is to say:

- (a) for loss of or damage to property owned by any person other than the insured, unless the interest of the insured therein is stated in the policy;
- (b) for loss or damage caused by invasion, insurrection, riot, civil commotion, military or usurped power;

(c) for loss due to the want, within the knowledge of the insured, of good and substantial chimneys; or caused by ashes or embers being deposited, with the knowledge and consent of the insured, in wooden vessels; or by stoves or stove-pipes being, to the knowledge of the insured, in an unsafe condition or improperly secured; or

(d) for loss of or damage to goods while undergoing any process in or by which the application of fire heat is necessary.

**Risks not covered except by special permission**

5 Unless permission is given by the policy or endorsed thereon, the insurer shall not be liable for loss or damage occurring:

**Repairs**

(a) to buildings or their contents during alteration or repair of the buildings and in consequence thereof, fifteen days being allowed in each year for incidental alterations or repairs without such permission;

**Inflammable substances**

(b) while illuminating gas or vapour is generated by the insured or to his knowledge in the building insured or which contains the property insured, or while there is stored or kept therein by the insured or, to his knowledge, by any person under his control, petroleum or any liquid product thereof, coal oil, camphene, gasoline, burning fluid, benzine, naphtha, or any of their constituent parts (refined oil for lighting, heating or cooking purposes only, not exceeding five gallons in quantity, gasoline, if contained in a tightly closed metallic can free from leaks and not exceeding one quart in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than is required by law for illuminating purposes, not exceeding five gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder, dynamite or similar explosives;

**Change of interest**

(c) after the interest of the insured in the subject matter of the insurance is assigned, but this condition is not to apply to an authorized assignment under the *Bankruptcy Act (Canada)* or to change of title by succession, by operation of law, or by death;

**Vacancy**

(d) when the building insured or containing the property insured is, to the knowledge of the insured, vacant or unoccupied for more than thirty consecutive days or, being a manufacturing establishment, ceases to be operated and continues out of operation for more than thirty consecutive days.

**Explosion and lightning**

6 The insurer will make good loss or damage caused by lightning or by the explosion of coal or natural gas in a building not forming part of gas works, whether fire ensues therefrom or not, and loss or damage by fire caused by any other explosion; but, if electrical appliances or devices are insured, any loss or damage to them caused by lightning or other electrical currents is excluded and the insurer shall be liable only for such loss or damage to them as may occur from fire originating outside the article itself.

**Material change**

7 Any change material to the risk, and within the control and knowledge of the insured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent; and the insurer when so notified may return the unearned portion, if any, of the premium paid, and cancel the policy, or may notify the insured in writing that, if he desires the policy to continue in force, he must within fifteen days of the receipt of the notice pay to the insurer an additional premium, and in default of such payment the policy shall no longer be in force and the insurer shall return the unearned portion, if any, of the premium paid.

**Other insurance**

8 (a) If the insured has at the date of this policy any other insurance on property covered thereby which is not disclosed to the insurer, or hereafter effects any other insurance thereon without the written assent of the insurer, he shall not be entitled to recover more than sixty per cent of the loss in respect of such property; but if for any fraudulent purpose the insured does not disclose such other insurance, this policy shall be void;

(b) The insurer shall be deemed to have assented to such other insurance unless it dissents by notice in writing within two weeks after notice thereof;

(c) In the event of there being any other insurance on property herein described at the time of the happening of a loss in respect thereof, the insurer shall be liable only for payment of a rateable proportion of the loss or a rateable proportion of such amounts as the insured shall be entitled to recover under clause (a) of this condition.

**Mortgagees and other payees**

9 Where the loss, if any, under a policy has, with the consent of the insurer, been made payable to some person other than the insured, the policy shall not be cancelled or altered by the insurer to the prejudice of such person without reasonable notice to him.

**Termination of insurance**

10(1) The insurance may be terminated:

(a) subject to the provisions of condition 9, by the insurer giving to the insured at any time fifteen days' notice of cancellation by registered mail, or five days' notice of cancellation personally delivered, and, if the insurance is on the cash plan, refunding the excess of premium actually paid by the insured beyond the *pro rata* premium for the expired time;

(b) if on the cash plan, by the insured giving written notice of termination to the insurer, in which case the insurer shall, upon surrender of this policy, refund the excess of premium actually paid by the insured beyond the customary short rate for the expired time.

**Excess premium**

(2) Repayment of the excess premium may be made by money, post office order or postal note or by cheque payable at par and certified by a chartered bank doing business in the province. If the notice is given by registered letter, such repayment shall accompany the notice, and in such case the fifteen days mentioned in clause (a) of this condition shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

**Salvage**

11 After loss or damage to insured property, it shall be the duty of the insured, when and as soon as practicable, to secure the insured property from further damage, and to separate as far as reasonably may be the damaged from the undamaged property, and to notify the insurer of the separation.

**Insurance on goods moved**

12 If any of the insured property is necessarily removed to prevent damage or further damage thereto, that part of the insurance under this policy which exceeds the amount of the insurer's liability for any loss already incurred shall for seven days only, or for the unexpired term if less than seven days, cover the property removed, and any property remaining in the original location in the proportions which the value of the property in the respective locations bears to the value of the property in them all; and the insurer will contribute *pro rata* towards any loss or expense connected with such act of salvage, according to the respective interests of the parties.

**Entry, control, abandonment**

13 After loss or damage to insured property, the insurer shall have an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make an appraisal or particular estimate of the loss or damage, but the insurer shall not be entitled to the control or possession of the insured property, or the remains or salvage thereof, unless it accepts a part thereof at its agreed value or its value as ascertained according to condition 17 or undertakes replacement under condition 19, and without the consent of the insurer there can be no abandonment to it of insured property.

**Who to make proof**

14 Proof of loss must be made by the insured, although the loss is payable to a third person, except that, in case of the absence of the insured or his inability to make the same, proof may be made by his agent, such absence or inability being satisfactorily accounted for, or in the like case or if the insured refuse to do so, by a person to whom any part of the insurance money is payable.

**Requirements after loss**

15 Any person entitled to claim under this policy shall:

- (a) forthwith after loss give notice in writing to the insurer;
- (b) deliver, as soon thereafter as practicable, a particular account of the loss;
- (c) furnish therewith a statutory declaration declaring:
  - (i) that the account is just and true;
  - (ii) when and how the loss occurred, and if caused by fire, how the fire originated, so far as the declarant knows or believes;
  - (iii) that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured;
  - (iv) the amount of other insurances, and names of other insurers;
  - (v) all liens and encumbrances on the property insured;
  - (vi) the place where the property insured, if moveable, was deposited at the time of the fire;

(d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration, and furnish a copy of the written portion of any other policy. The evidence furnished under this clause shall not be considered proofs of loss within the meaning of conditions 18 and 19.

**Fraud**

16 Any fraud or wilfully false statement in a statutory declaration, in relation to any of the above particulars, shall vitiate the claim of the person making the declaration.

**Arbitration**

17 If any difference arises as to the value of the property insured, the property saved, or the amount of the loss, such value and amount and the proportion thereof, if any, to be paid by the insurer shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the insured and the other by the insurer, and a third to be appointed by the persons so chosen, or on their failing to agree, then by a judge of the county or district court of the county or district in which the loss has happened; and such reference shall be subject to the provisions of *The Arbitration Act* and the award shall, if the insurer is in other respects liable, be conclusive as to the amount of the loss and the proportion to be paid by the insurer; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

**When loss payable**

18 The loss shall be payable within sixty days after completion of the proofs of loss, unless the contract provides for a shorter period.

**Replacement**

19 The insurer, instead of making payment, may repair, rebuild or replace the property damaged or lost, giving written notice of its intention so to do within fifteen days after receipt of the proofs of loss. In such event the insurer shall commence to so repair, rebuild, or replace the property within thirty days after receipt of the proofs of loss and shall thereafter proceed with all due diligence to the completion thereof.

**Action**

20 Every action or proceeding against the insurer for the recovery of any claim under or by virtue of this policy shall be absolutely barred unless commenced within one year next after the loss or damage occurs.

**Agency**

21 Any officer or agent of the insurer who assumes on behalf of the insurer to enter into a written agreement relating to any matter connected with the insurance shall be deemed *prima facie* to be the agent of the insurer for the purpose.

**Waiver**

22 No condition of this policy shall be deemed to have been waived by the insurer, either in whole or in part, unless the waiver is clearly expressed in writing signed by an agent of the insurer.

**Notice**

23 Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in the province or delivered or so sent to an authorized agent of the insurer therein. Written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received.

**Subrogation**

24 The insurer may require from the insured an assignment of all right of recovery against any other party for loss or damage to the extent that payment therefor is made by the insurer.

1949, c.40, s.146; R.S.S. 1953, c.133, s.157.

**Co-insurance clause**

**158** A policy may contain a co-insurance clause, in which case it shall have printed or stamped upon its face in conspicuous type and in red ink the words: "This policy contains a co-insurance clause", and unless those words are so printed or stamped such clause shall not be binding upon the insured. Such clause shall not be deemed a variation of any statutory condition.

1949, c.40, s.147; R.S.S. 1953, c.133, s.158.

**Co-insurance clause**

**159(1)** A policy may contain a limitation of liability clause or clauses:

- (a) to the effect that the insurer shall only be liable for a specified proportion of any loss which may be sustained to any of the property covered by the policy; or
- (b) to the effect that the insurer shall not be liable for more than a specified percentage of the value of any of the said property at the time of the loss; or
- (c) in the event of there being any other insurance covering any of the property, to the effect:
  - (i) that the insurer shall only be liable for a rateable proportion of a specified percentage or proportion of any loss to any of the property; or
  - (ii) that the insurer shall not be liable for more than a rateable proportion of a specified percentage of the value of any of the property at the time of the loss; or
- (d) to the effect that the insurer shall only be liable for a specified percentage of any loss, or, in the event of there being other insurance covering any of the property, for a specified percentage of its rateable proportion of any loss, but, upon the fulfilment by the insured of certain specified stipulations or agreements, shall be liable for a further specified percentage of the loss, or, in the event of there being other insurance covering any of the property, for a further specified percentage of its rateable percentage of the loss; but no such stipulation or agreement shall be binding upon the insured unless it is clearly set forth in a written application for the insurance signed by the applicant;

and every policy which contains any clause to the above effect shall have printed or stamped on the face of it in conspicuous type and in red ink, the following words:

“This policy contains a limitation of liability clause (or clauses)”.

(2) No such clause shall be deemed to be a variation of any statutory condition.

1949, c.40, s.148; R.S.S. 1953, c.133, s.159.

**Rateable contribution**

**160(1)** If, at the time of the happening of any loss or damage or fire to property insured, there is in force more than one policy taken by and in the name of the insured, insuring the property against loss or damage caused by the peril of fire, no term of any such policy that excludes the insurer from contributing a rateable proportion of the loss with an insurer under any such other policy shall be valid unless the insurer under such other policy has expressly assented in writing to such term.

(2) For the purposes of subsection (1), a policy shall be deemed to be in force notwithstanding any term thereof that the policy shall not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

(3) Nothing in subsection (1) affects the validity of any divisions of the sum insured into separate items, or any limits of insurance on specified property, or a co-insurance clause, or a limitation of liability clause authorized under section 159, or the provisions of statutory condition 8 respecting undisclosed insurance.

(4) Notwithstanding subsection (1), insurance on identified articles shall be a first loss insurance as against all other insurance.

(5) This section, in respect of the peril of fire, applies to all policies of all classes of insurance except aircraft, automobile, boiler and machinery, live stock and marine insurance.

1949, c.40, s.149; R.S.S. 1953, c.133, s.160.

**Use of red ink**

**161** No red ink shall be used on the face of a policy except for the name, address and emblem of the insurer, the policy number and for the purposes mentioned in this Act.

1949, c.40, s.150; R.S.S. 1953, c.133, s.161.

**Relief from forfeiture**

**162** In any case where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as may seem just.

1949, c.40, s.151; R.S.S. 1953, c.133, s.162.

**Special stipulations**

**163(1)** Where the rate of premium is affected or modified by the user, condition, location, or maintenance of the insured property, the policy may contain a clause not inconsistent with any statutory condition setting forth any stipulation in respect of such user, condition, location, or maintenance, and such clause shall not be deemed a variation of any statutory condition. Such clause shall be binding on the insured only in so far as it is held by the court before which a question relating thereto is tried to be just and reasonable.

(2) The insurer and the insured instead of proceeding by arbitration under statutory condition 17, may at any time after the loss or damage make a joint survey, examination, estimate or appraisal of the loss or damage, in which case the insurer shall be deemed to have waived all right to make a separate survey, examination, estimate or appraisal thereof.

1949, c.40, s.152; R.S.S. 1953, c.133, s.163.

**Policy issued on application of agent to principal office**

**164** In accordance with section 148, on every contract of insurance issued by a licensed fire insurance company at its principal or branch office on application procured and submitted to it by an authorized agent, shall be printed, stamped or written the words: "Issued on application submitted by \_\_\_\_\_; authorized resident agent at \_\_\_\_\_"; but if the contract is countersigned, or is to be countersigned before delivery, by an authorized resident agent, the provisions of the Act shall be deemed to have been complied with.

1949, c.40, s.153; R.S.S. 1953, c.133, s.164.

**Proof of loss**

**165** Forms for proof of loss, furnished by an insurer under section 138, shall, for the purposes of this Part, be in form A. In furnishing such form the insurer shall attach, for the information of the claimant, a copy of the policy wording giving the description and location of the property insured.

1949, c.40, s.154; R.S.S. 1953, c.133, s.165.

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**PART V**
**Life Insurance****INTERPRETATION****Interpretation**

**166** In this Part:

**"adopted child"**

1 **"adopted child"** means a person who has been adopted by another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;

**"adopting parent"**

2 **"adopting parent"** means a person who has adopted another person as his child and by reason thereof is entitled under the law of the place of adoption to inherit real property from that other person, if he dies intestate;

**“beneficiary”**

3 **“beneficiary”** means a person designated or appointed as one to whom or for whose benefit insurance money is to be payable;

**“child” and “issue”**

4 **“child”** and **“issue”** include an adopted child;

**“contract”, “contract of insurance” and “contract of life insurance”**

5 **“contract”, “contract of insurance”** and **“contract of life insurance”** mean a contract of life insurance and include any other contract which an insurer may issue under the authority of a licence to transact life insurance;

**“court”**

6 **“court”** means Her Majesty’s Court of Queen’s Bench for Saskatchewan or a judge thereof;

**“creditor’s group life insurance”**

7 **“creditor’s group life insurance”** means life insurance effected by a creditor on the lives of his debtors whereby the lives of the debtors are insured severally under a single contract;

**“declaration”**

8 **“declaration”** means an instrument in writing signed by the insured, attached to or endorsed on a policy, or an instrument in writing, signed by the insured in any way identifying the policy or describing the subject of the declaration as the insurance or insurance fund or a part thereof or as the policy or policies of the insured or using language of like import, by which the insured designates or appoints a beneficiary or beneficiaries or alters or revokes the designation or appointment of a beneficiary or beneficiaries, or apports or reapports, or appropriates or reapropriates, insurance money between or among beneficiaries;

**“foreign jurisdiction”**

9 **“foreign jurisdiction”** means any jurisdiction other than the province;

**“fraternal society”**

10 **“fraternal society”** means a society, order or association incorporated for the purpose of making with its members only and not for profit contracts of life, accident or sickness insurance under which benefits may be paid only to its members or their beneficiaries, in accordance with its constitution and laws and the provisions of this Act;

**“group life insurance”**

11 **“group life insurance”** means life insurance other than creditor’s group life insurance, whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person contracting with the insurer;

**“instrument in writing”**

12 **“instrument in writing”** includes a last will;

**“insurance”**

13 **“insurance”** means life insurance;

**“insurance money”**

14 **“insurance money”** includes all insurance money, benefits, surplus, profits, dividends, bonuses and annuities payable by an insurer under a contract of insurance;

**“insured”**

15 **“insured”** means the person who makes a contract with an insurer;

**“insurer”**

16 **“insurer”** includes any corporation, or any society or association, incorporated or unincorporated, any fraternal society or any person or partnership or any underwriter or group of underwriters, that undertakes or effects, or agrees or offers to undertake or effect, a contract of insurance;

**“judge”**

17 **“judge”** means a judge of the court;

**“parent”, “father” and “mother”**

18 **“parent”, “father” and “mother”** include an adopting parent of the same sex respectively;

**“person”**

19 **“person”** includes firm, partnership, corporation and unincorporated society or association;

**“premium”**

20 **“premium”** means the single or periodical payment to be made for the insurance, and includes dues and assessments;

**“will”**

21 **“will”** includes a codicil.

1949, c.40, s.155; 1951, c.37, s.4; R.S.S. 1953,  
c.166.

**Application**

**167(1)** Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to every contract of life insurance made in the province after the thirty-first day of December, 1924, and any term in a contract inconsistent with the provisions of this Part shall be null and void.

(2) This Part applies to every contract of life insurance made in the province before the first day of January, 1925, where the maturity of the contract had not occurred before that date.

(3) This Part applies to every other contract of life insurance made after the thirty-first day of December, 1924, where the contract provides that this Part shall apply or that the contract shall be construed or governed by the law of the province.

(4) Where this Part applies to a contract, the rights and status of beneficiaries and the powers of the insured with regard to the designation or appointment of beneficiaries and the apportionment of the insurance money shall be governed by the provisions of this Part, whether or not the insured or any of the beneficiaries is domiciled in the province at the time at which the contract is made, or at any time subsequent thereto.

(5) This section does not apply to a contract of group life insurance.

1949, c.40, s.156; R.S.S. 1953, c.167.

**Law governing rights under contracts of group life insurance**

**168** In the case of a contract of group life insurance, whether made before or after the coming into force of this section:

(a) the law of the place where the contract was made shall apply between the insurer and the insured;

(b) the law of the place where the person whose life is insured was resident at the time his life became insured shall apply in determining the rights and status of beneficiaries and the rights and obligations of the person whose life is insured.

1949, c.40, s.157; R.S.S. 1953, c.168.

**When contract deemed made in province**

**169(1)** A contract is deemed to be made in the province :

(a) if the place of residence of the insured is stated in the application or the policy to be in the province; or

(b) if neither the application nor the policy contains a statement as to the place of residence of the insured, but the actual place of residence of the insured is within the province at the time of the making of the contract.

(2) This section does not apply to a contract of group life insurance.

1949, c.40, s.158; R.S.S. 1953, c.169.

## THE CONTRACT OF INSURANCE

**Evidence of contract**

**170** Every contract of insurance shall be evidenced by an instrument in writing called in this Part a policy.

1949, c.40, s.159; R.S.S. 1953, c.170.

**Contents of policy**

**171(1)** Every policy issued after the thirty-first day of December, 1924, other than a group life insurance policy, shall state the name or sufficient designation of the insured, of the person whose life is insured, and of the beneficiary, the insurance money payable, the manner of payment, the premium, and the facts that determine the maturity of the contract.

(2) Every group life insurance policy shall state the name or sufficient designation of the insured, the method of determining the amount of insurance on each life and the persons or classes of persons whose lives are insured, and the facts that determine the manner and time of payment of the insurance money and the amount of the premium.

(3) Every policy shall state the period of grace within which the premiums may be paid and the terms and conditions upon which the policy may, if it shall lapse, be reinstated, and shall indicate the amount, if any, of cash surrender or loan value and the options, if any, of the insured as to paid up or extended insurance respectively provided by the policy.

(4) Every policy shall further indicate whether or not it will participate in any surplus or profits which may be declared.

(5) Every policy which includes disability insurance shall further state what notice of disablement shall be given to the insurer.

(6) In the case of a contract of group life insurance made after the date of the coming into force of this subsection, the insurer shall issue, for delivery by the insured to each person whose life is insured under the policy, a certificate identifying the policy and stating the name or sufficient designation of the person whose life is insured, of his beneficiary, of the insurer, and of the insured, and stating the amount or the method of determining the amount of insurance and indicating any right of the person whose life is insured upon termination of insurance on his life under the policy.

(7) This section does not apply to a contract of insurance made by a fraternal society.

1949, c.40, s.160; R.S.S. 1953, c.171.

**“Insured” in group life insurance**

**172(1)** Except as provided in subsection (2), in the case of group life insurance the employer or other person making the contract with the insurer is the insured for the purposes of this Part.

(2) In the case of group life insurance “insured”, in the provisions of this Part relating to the designation or appointment of beneficiaries and the rights and status of beneficiaries, means the person whose life is insured.

1949, c.40, s.161; R.S.S. 1953, c.172.

**Provision for repayment of certain expenses incurred for person whose life is insured**

**173** Where the amount of insurance money, exclusive of dividends and bonus, does not exceed \$2,000, the policy, notwithstanding that it is expressed to be payable to a named or designated beneficiary, may provide that the insurance money may be paid to any relative by blood or connection by marriage of the person whose life is insured or any other person appearing to the insurer to be equitably entitled to the same by reason of having incurred expense for the maintenance, medical attendance or burial of the person whose life is insured or to have a claim against the estate of the person whose life is insured in relation thereto.

1949, c.40, s.162; R.S.S. 1953, c.173.

**Conditions invalid unless set out in policy**

**174(1)** Except in the case of a contract made with a fraternal society, no term or condition of a contract of insurance which is not set out in full in the policy, or in a document or documents in writing attached to it, when issued, shall be valid or admissible in evidence to the prejudice of the insured or a beneficiary.

(2) subsection (1) does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.

(3) In the case of a contract of insurance made by a fraternal society, the policy, the Act or instrument of incorporation of the society, its constitution and laws and the amendments validly made thereto, and the application for the contract and medical examination of the applicant as signed by him shall constitute the contract between the society and its member.

1949, c.40, s.163; R.S.S. 1953, c.174.

**Disclosure and misrepresentation of material facts**

**175(1)** The applicant for a contract and the person whose life is to be insured shall each disclose to the insurer in the application for the contract, on the medical examination, if any, or in any statements or answers furnished in lieu of a medical examination, every fact within his knowledge which is material to the contract, and a failure to disclose or misrepresentation of any such fact by either person shall render the contract voidable at the instance of the insurer.

(2) The statements made by the insured, or the person whose life is insured, in the application, on the medical examination (if any), or in any statements or answers furnished in lieu of a medical examination other than fraudulent statements or statements erroneous as to age, shall be deemed to be true and incontestable after the insurance on the person whose life is insured has been in force for two years during his lifetime, but this provision does not apply with respect to disability insurance or double indemnity insurance.

1949, c.40, s.164; R.S.S. 1953, c.175.

**Contracts not void unless facts material: incontestability**

**176** A failure to disclose or misrepresentation of a fact material to the contract by the insurer renders the contract voidable at the instance of the insured; provided that in the absence of fraud the contract shall not by reason of such failure to disclose or misrepresentation be voidable after the contract has been in force for two years during the life time of the person whose life is insured.

1949, c.40, s.165; R.S.S. 1953, c.176.

**Materiality**

**177** The question of materiality shall be one of fact.

1949, c.40, s.166; R.S.S. 1953, c.177.

**Adjustment of insurance money where wrong age stated**

**178(1)** Where the age of the person whose life is insured is understated in the application, the insurance money shall be reduced to the amount which would have been payable in respect of the premium stated in the policy at the correct age, according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(2) Where such tables of rates of premium of the insurer do not extend to or include the rates for the correct age of the person whose life is insured, the insurance money shall be reduced in the proportion that the premium at the age stated in the application bears to the premium at the correct age, both premiums for this purpose being the net premiums shown in or deduced from the British Offices' Life Table, 1893 O<sup>M(6)</sup>, the rate of interest being three and one-half per cent per annum, or, at the option of the insurer, both premiums for this purpose being calculated on the same principles as govern the calculation of premiums for ages mentioned in the table of rates of premiums of the insurer in force at the time of the issue of the policy.

(3) Where the age of the person whose life is insured is overstated in the application, and the policy does not provide that in that event the insurance money shall be increased, the insurer shall repay the amount by which the premium paid exceeds the premium which would have been payable in respect of the correct age, but if the policy so provides, the insurance money shall be increased to the amount which would have been payable in respect of the premium stated in the policy at the correct age according to the tables of rates of premium of the insurer in force at the time of the issue of the policy.

(4) Where, by the terms or for the purposes of the contract, an addition is made to the age stated in the application, and the age is understated in the application, then, for the purpose of the calculation, the correct age and the stated age shall respectively be deemed to be the correct age and the stated age increased by such addition.

(5) Where the application or contract expressly limits the insurable age, and the correct age at the date of the application exceeds the age so limited, the contract shall, during the lifetime of the person whose life is insured, but not later than five years from the date of the policy, be voidable at the option of the insurer within thirty days after the error comes to its knowledge.

(6) This section does not apply to a contract of group life insurance.

1949, c.40, s.167; R.S.S. 1953, c.178.

**When true age governs**

**179** If a contract of group life insurance provides that the age of a person whose life is insured affects the commencement or the termination of the insurance or the amount thereof or any other right or benefit under the contract, the true age shall govern.

1949, c.40, s.168; R.S.S. 1953, c.179.

**When contract takes effect**

**180(1)** Unless the contract or the application otherwise expressly provides, the contract shall not take effect or be binding on either party until the policy is delivered to the insured, his assign, or agent, or the beneficiary named therein, and payment of the first premium is made to the insurer or its duly authorized agent, no change having taken place in the insurability of the life about to be insured subsequent to the completion of the application.

(2) Subject to the provisions of section 181, where a cheque, bill of exchange or promissory note payable to the insurer, or other written promise to pay the insurer, is given, whether originally or by way of renewal, for the whole or part of any premium, and such cheque, bill of exchange or promissory note, or other written promise to pay, is not paid according to its tenor, the contract shall, unless otherwise provided in the policy, be void.

1949, c.40, s.169; R.S.S. 1953, c.180.

**Payment of premiums**

181(1) Where any premium, (not being the initial premium), under a contract is unpaid, the insured, his assign or agent, or any beneficiary, may, within a period of grace of thirty days or, in the case of an industrial contract, four weeks, from and excluding the day on which the premium is due, pay, deliver or tender to the insurer at its head office, or at its chief agency in the province, or to its collector or authorized agent, the sum in default.

(2) The payment may be made by sending a post office order or postal note, or a cheque payable at par and certified by a bank doing business in Canada under the *Bank Act (Canada)*, or a draft of such bank, or a money order of an express company doing business in the province, in a registered letter duly addressed to the insurer, and the payment, delivery or tender shall be deemed to have been made at the time of the delivery and registration of the letter at any post office.

(3) Payment, delivery or tender as aforesaid shall have the same effect as if made at the due date of the premium.

(4) The period of grace hereinbefore in this section mentioned shall run concurrently with the period of grace, if any, allowed by the contract for the payment of a premium or of an instalment of premium.

(5) Upon the maturity of the contract during the said period of grace and before the overdue premium is paid, the contract shall be deemed to be in as full force and effect as if the premium had been paid at its due date, but the amount of such premium with interest, not in excess of six per cent per annum, and the balance, if any, of the current year's premium, may be deducted from the insurance money.

(6) Nothing in this section deprives the insured of the benefit of any period of grace allowed by the contract in excess of the period of grace allowed by this section.

1949, c.40, s.170; R.S.S. 1953, c.181.

**Reinstatement of lapsed policy**

182(1) Where a contract lapses and its cash value has not been paid and any options as to paid up or extended insurance have not been exercised, the insured shall be entitled to have the contract reinstated upon application within two years, or in the case of an industrial contract within one year, from the date of lapse, upon the production of evidence of good health and other evidence of insurability of the person whose life was insured satisfactory to the insurer as at the date of the application for reinstatement and upon payment of all overdue premiums and other indebtedness to the insurer under the contract, with interest at such rate not exceeding six per cent per annum compounded annually as the contract provides, and provided that no change has taken place in such good health and insurability subsequently to the date of such application and before the contract is reinstated.

(2) Where an application is made to reinstate a contract and the contract is reinstated, section 175 applies *mutatis mutandis*, and the period of two years referred to in subsection (2) of that section shall run from the date of reinstatement.

(3) If the contract which lapsed provided that in the event of the suicide of the person whose life was insured within a period of time fixed thereby it should be void or that the amount payable thereunder should be reduced, and after the contract is reinstated such person commits suicide within a period of time commencing with the date of reinstatement and of the same duration as the period of time fixed by the contract, the reinstated contract shall be likewise void, or the amount payable thereunder shall be likewise reduced.

(4) This section does not apply to a contract of insurance made by a fraternal society or to a contract of group life insurance.

1949, c.40, s.171; R.S.S. 1953, c.182.

**Copy of application furnished to insured**

**183** The insurer shall, upon request, furnish to the insured a true copy of the application for the insurance.

1949, c.40, s.172; R.S.S. 1953, c.183.

**Heirs, etc.**

**184(1)** Except in the case of contracts of fraternal societies entered into prior to the first day of January, 1937, where by a contract or declaration the insured appoints as beneficiaries or appoints or apportions insurance money to his heirs, legal heirs, lawful heirs or next of kin, the appointment or apportionment shall be deemed to be for the benefit of the estate of the insured.

(2) In the case of contracts of fraternal societies entered into prior to the first day of January, 1937, where by a contract or declaration the insured appoints as beneficiaries or appoints or apportions insurance money to his heirs, legal heirs, lawful heirs or next of kin, the appointment or apportionment shall be deemed to be in favour of the persons provided by the law of the province, state or country in which the insured was domiciled at the time of his death respecting the distribution of the personal property of an intestate, and the insurance money so appointed or apportioned shall be paid to those persons in the shares provided by that law, and the insurance money shall not form part of the estate of the insured.

1949, c.40, s.173; R.S.S. 1953, c.184.

**Agent of insured**

**185** No officer, agent, employee or servant of the insurer or any person soliciting insurance, whether an agent of the insurer or not, shall to the prejudice of the insured be deemed to be for any purpose whatever the agent of the insured in respect of any question arising out of the contract of insurance.

1949, c.40, s.174; R.S.S. 1953, c.185.

**INSURABLE INTEREST**

**In one's own life**

**186** Every person has an insurable interest in his own life.

1949, c.40, s.175; R.S.S. 1953, c.186.

**In the lives of others**

**187** Without restricting the meaning which "insurable interest" now has in law, each of the following persons has an insurable interest:

- (a) a parent in the life of his child under twenty-five years of age;
- (b) a husband in the life of his wife;
- (c) a wife in the life of her husband;

- (d) one person in the life of another, upon whom he is wholly or in part dependent for support or education, or from whom he is receiving support or education;
- (e) a corporation or other person in the life of its or his officer or employee;
- (f) a person who has a pecuniary interest in the duration of the life of another person, in the life of that person.

1949, c.40, s.176; R.S.S. 1953, c.187.

**Contract void if no insurable interest**

**188** The contract shall be void, if at the time at which it would otherwise take effect and be binding, the insured has no insurable interest.

1949, c.40, s.177; R.S.S. 1953, c.188.

**Beneficiaries need not have insurable interest**

**189** Where the insured has at the time at which the contract takes effect an insurable interest in the life insured it is not necessary for the validity of the contract or any assignment that any beneficiary, or any person claiming under an assignment, or by will or by succession, have an insurable interest.

1949, c.40, s.178; R.S.S. 1953, c.189.

## POLICIES ON THE LIVES OF MINORS

**Powers of minor respecting life insurance**

**190** A minor shall after attaining the age of fifteen years have the capacity of a person of full age:

- (a) to effect a contract of insurance on his own life and to deal with such contract;
- (b) to deal with a contract of insurance on his own life effected by him before attaining the age of fifteen years;
- (c) to deal with his interest in a contract of insurance effected on his life by another, whether effected before or after the minor attained the age of fifteen years;
- (d) if married, to effect a contract of insurance on the life of his wife or her husband or his or her children, as the case may be, and to deal with such contract.

1949, c.40, s.179; R.S.S. 1953, c.190.

**Sums insurable at ages less than five**

**191(1)** No insurer shall pay on the death of a child who has not attained the age of five years, an amount that alone or together with any amount payable on the death of the child by another insurer, exceeds the following amount:

- \$ 200, if the child dies before attaining the age of 1 year.
- \$ 400, if the child dies after attaining the age of 1 year but before attaining the age of 2 years.

- § 600, if the child dies after attaining the age of 2 years but before attaining the age of 3 years.
- § 800, if the child dies after attaining the age of 3 years but before attaining the age of 4 years.
- § 1,000, if the child dies after attaining the age of 4 years but before attaining the age of 5 years.
- (2) Where the amount payable under a contract on the death of the child, either alone or together with an amount payable under any other contract previously made, is in excess of the maximum amount that may be paid under subsection (1), and the child dies before attaining the age of five years, the amount payable on death in excess of the amount specified in subsection (1) shall be limited to:
- (a) the amount of any excess premiums paid under the contract; and
  - (b) if the insurer has knowingly or without sufficient inquiry entered into the contract, interest at six per cent per annum on the excess premiums.
- (3) Every insurer that undertakes insurance on the lives of children who have not attained the age of five years shall print the scale of benefits set out in subsection (1) in conspicuous type upon every circular or advertisement soliciting the insurance, and upon every policy evidencing the insurance.
- (4) This section does not:
- (a) apply to a contract under which the insured has a pecuniary interest in the life insured, or that limits the payment on the death of a child who has not attained the age of five years to the premiums that have been paid, with interest at the rate provided in the contract; or
  - (b) preclude the payment of dividends or the repayment of premiums in addition to the amounts specified in subsection (1).

1950, c.31, s.2; R.S.S. 1953, c.191.

### THIRD PARTY POLICIES ON LIVES OF MINORS

#### **Rights under certain contracts upon death of insured**

**192(1)** Where a contract effected on the life of a minor by someone other than the minor, or an agreement in writing between the insurer and the insured respecting such a contract, provides that a person named in the contract or the agreement shall upon the death of the insured have all the rights and interests of the insured in the contract:

- (a) the contract shall not, upon the death of the insured, form part of his estate; and
  - (b) the person named pursuant to this section shall, upon the death of the insured, have all the rights and interests of the insured in the contract and shall be deemed to be the insured.
- (2) Notwithstanding any nomination made pursuant to this section the insured may, prior to his death, deal with the contract as if such nomination had not been made, and may alter or revoke such nomination by agreement in writing with the insurer.

1949, c.40, s.181; R.S.S. 1953, c.192.

## BENEFICIARIES

**Beneficiaries**

**193(1)** Beneficiaries for value are beneficiaries who have given valuable consideration other than marriage and who are expressly stated to be, or described as, beneficiaries for value in the policy or in an endorsement thereon or in a subsequent declaration signed by the insured.

(2) Subject to section 202, preferred beneficiaries are the husband, wife, children, adopted children, grandchildren, children of adopted children, father, mother and adopting parents of the person whose life is insured.

(3) Ordinary beneficiaries are beneficiaries who are not preferred beneficiaries, beneficiaries for value or assignees for value.

1949, c.40, s.182; R.S.S. 1953, c.193.

**Beneficiary for value and assignee for value have vested interest**

**194** A beneficiary for value and an assignee for value of a policy shall have a vested interest in the policy; but except as regards beneficiaries for value who are expressly stated to be or described as beneficiaries for value in the policy, a beneficiary for value or assignee for value who gives notice in writing of his interest in the policy to the insurer at the head or principal office of the insurer in Canada, prior to any other beneficiary for value or assignee for value, shall have priority of interest as against such last mentioned beneficiary or assignee.

1949, c.40, s.183; R.S.S. 1953, c.194.

**Effect of assignment to person whose life is insured**

**195** Where a contract is assigned, otherwise than as security for a loan or debt, to the person whose life is insured, is insured that person shall thereupon be deemed to be the insured.

1949, c.40, s.184; R.S.S. 1953, c.195.

**Power of insured to designate beneficiary**

**196(1)** Subject to the right of beneficiaries for value and assignees for value and to the provisions of this Act relating to preferred beneficiaries, the insured may designate the beneficiary by the contract or by a declaration, and may from time to time by any declaration appoint, appropriate or apportion the insurance money, or alter or revoke any prior designation, appointment, appropriation or apportionment, or substitute new beneficiaries, or divert the insurance money wholly or in part to himself or his estate, and may surrender the contract to the insurer, borrow from the insurer upon the security of the contract, receive the surplus of profits for his own benefit, and otherwise deal with the contract as may be agreed upon between him and the insurer.

(2) Subject to subsection (1), a beneficiary or a trustee appointed pursuant to section 221 may, at the maturity of the contract, enforce for his own benefit or as such trustee the payment of insurance money appointed, appropriated or apportioned to him by the contract or a declaration and in accordance with the terms thereof, but the insurer shall be entitled to set up any defence which it could have set up against the insured or his personal representatives; and payment made to the beneficiary or trustee shall discharge the insurer.

(3) A person whose life is insured under a contract of group life insurance may in his own name enforce any right stated in the policy to be given to him, subject to any defence available to the insurer against him or the insured.

(4) A declaration, whether contained in a will or other instrument in writing, shall, subject to subsection (1), have effect from time of its execution, but a declaration shall not affect the interest or rights of a beneficiary for value or assignee for value unless the declaration has been filed with the insurer at its head or principal office in Canada prior to the time when the beneficiary for value or assignee for value acquired such interest or rights and if not so filed the interest or rights of the beneficiary for value or assignee for value shall be as if the declaration had not been made.

(5) In the case of a declaration contained in a will it shall be sufficient for the purposes of subsection (4) to file a copy thereof or of the material part thereof verified by statutory declaration.

(6) A declaration contained in an instrument purporting to be a will which has not been revoked otherwise than by operation of law shall be effective as a declaration, notwithstanding that the instrument is invalid as a testamentary instrument.

1949, c.40, s.185; R.S.S. 1953, c.196.

**Beneficiaries share equally where no apportionment**

**197** Where two or more beneficiaries are designated otherwise than alternatively, but no apportionment is made, they shall share equally.

1949, c.40, s.186; R.S.S. 1953, c.197.

**Disposal of shares of deceased ordinary beneficiaries**

**198** Where there are several beneficiaries of whom one or more are ordinary beneficiaries and one or more of the ordinary beneficiaries die before the maturity of the contract, and no apportionment or other disposition of his or their shares is provided for in the contract or by a declaration, the share of any such deceased ordinary beneficiary shall be payable to the surviving designated beneficiary or beneficiaries whether preferred or ordinary, and, if more than one, in equal shares, but, if there is no surviving beneficiary, shall be payable to the insured or his estate.

1949, c.40, s.187; R.S.S. 1953, c.198.

**Disposal of shares of deceased ordinary beneficiaries**

**199(1)** Where the insured, in pursuance of the provisions of section 196, designates as beneficiary or beneficiaries, a member or members of the class of preferred beneficiaries, a trust is created in favour of the designated beneficiary or beneficiaries, and the insurance money, or such part thereof as is or has been apportioned to a preferred beneficiary, shall not, except as otherwise provided in this Act, be subject to the control of the insured, or of his creditors, or form part of the estate of the insured.

(2) The contract may provide or the insured may at any time direct by declaration that a preferred beneficiary shall be entitled only to the income from insurance money for life or a period of time or subject to any limitation or contingency stated in the instrument.

(3) The provisions of this section are subject to vested rights of beneficiaries for value and assignees for value, to the provisions hereinafter contained relating to preferred beneficiaries, and to any contingency or limitation stated in the instrument by which the insured designates a preferred beneficiary; provided that no provision in any instrument reserving to the insured the right to revoke or abridge the interest of a preferred beneficiary shall be effective so as to enable the insured to revoke or abridge that interest in favour of a person not in the class of preferred beneficiaries.

1949, c.40, s.188; R.S.S. 1953, c.199.

**Power of insured to transfer benefits**

**200** Notwithstanding the designation of a preferred beneficiary or beneficiaries, the insured may subsequently exercise the powers conferred by section 196 so as to restrict, limit, extend or transfer the benefits of the contract to any one or more of the class of preferred beneficiaries to the exclusion of any or all others of the class, or wholly or partly to one or more for life or any other term or subject to any limitation or contingency, with remainder to any other or others of the class.

1949, c.40, s.189; R.S.S. 1953, c.200.

**Meaning of “wife” and “children”**

**201(1)** Subject to the provisions of section 203, where by the policy or by a subsequent declaration the insurance money or any part of it is made payable to or for the benefit of the wife of the person whose life is insured, his future wife, his wife and children or his future wife and children generally, or his children generally, the word “wife” means the wife living at the maturity of the contract, and the word “children” includes all the children of the person whose life is insured living at the maturity of the contract as well as the issue living at the maturity of the contract of any child of his who predeceases him, such issue taking by representation.

(2) The provisions of subsection (1) apply *mutatis mutandis* to insurance effected by a woman on her life where the insurance money or any part of it is made payable to or for the benefit of her husband or future husband, her husband and children or future husband and children generally, or her children generally.

(3) Subsections (1) and (2) do not apply where the beneficiary or beneficiaries is or are designated by name, or otherwise definitely indicated.

1949, c.40, s.190; R.S.S. 1953, c.201.

**Status of adopted children**

**202** For the purposes of this Part an adopted child and its adopting parent shall from the date of the adoption be deemed to bear towards one another the relationship of preferred beneficiaries, and an adopted child and its natural parents shall from the date of the adoption be deemed to bear towards one another the relationship of ordinary beneficiaries, and in either case this provision shall apply in respect of insurance effected both before and after the date of adoption.

1949, c.40, s.191; R.S.S. 1953, c.202.

**Power of insured to dispose of share of deceased preferred beneficiary**

**203(1)** Subject to subsection (2) the contract may provide or the insured may at any time direct by declaration that if a preferred beneficiary shall die before the maturity of the contract, the insurance money or any part thereof appointed to the preferred beneficiary shall be payable to the insured, to his estate, or to any other person, whether that person is within the class of preferred beneficiaries or not.

(2) Where the contract provides or the insured by a declaration directs that insurance money shall go to a preferred beneficiary and in the event of the death of the preferred beneficiary to some other person in the class of preferred beneficiaries, and the first named beneficiary dies, the insured may, before the maturity of the contract, exercise only the powers referred to in section 200.

(3) In case of the death of a preferred beneficiary before the maturity of the contract and in the absence of any provision in the contract or a declaration by which some other person in the class of preferred beneficiaries is to become entitled to the insurance money or any part thereof appointed to the deceased beneficiary in the event of his death or upon the happening of any other event, the insured may deal under section 196 with the insurance money or part thereof in the same manner and to the same extent as if the deceased beneficiary had not been a preferred beneficiary.

(4) Subject to the provisions of this section, the share of a preferred beneficiary who dies before the maturity of the contract shall be payable as follows:

1 If the deceased beneficiary was a child of the person whose life is insured, and has left issue surviving at the maturity of the contract, his share, and any share to which he would have been entitled if he had survived, shall be payable to such issue in equal shares, such issue taking by representation;

2 If there is no person entitled under paragraph 1, the share of such deceased beneficiary shall be payable to the surviving designated preferred beneficiary or beneficiaries in equal shares;

3 If there is no person entitled under paragraph 1 and 2, the share of such deceased beneficiary shall be payable in equal shares to the wife or husband and the child or children of the person whose life is insured living at the maturity of the contract, and the issue then living of any deceased child of the person whose life is insured, such issue taking in equal shares the share to which his or their parent would have been entitled if living;

4 If there is no person entitled under paragraphs 1, 2 and 3, the share of such deceased beneficiary shall be payable to the insured, or his estate.

1949, c.40, s.192; R.S.S. 1953, c.203.

**Effect of divorce**

**204(1)** Where the wife or husband of the person whose life is insured is designated as beneficiary and is subsequently divorced, all interest of the beneficiary under the policy shall pass to the insured or his estate, unless such beneficiary is a beneficiary for value, or an assignee for value.

(2) Where a divorce has been granted on the application of the beneficiary, the beneficiary shall be estopped from denying the validity of the divorce for the purpose of this section.

(3) Until the insurer receives at its head or principal office in Canada notice in writing of the Act of Parliament, judgment, decree or order granting the divorce, it may deal with the insurance money in the same manner and with the same effect as if no divorce has been granted, and before paying the insurance money, the insurer shall be entitled to receive the original judgment, order or decree or a duly verified copy thereof, or a duly verified copy of the Act of Parliament, or a copy thereof printed by the Queen's Printer, as the case may be.

(4) Nothing in subsection (3) affects the right of any person entitled to payment by virtue of such divorce to recover from any person to whom payment is made by the insurer.

1949, c.40, s.193; R.S.S. 1953, c.204.

**Where husband or wife living apart**

**205** Where the wife or husband of the person whose life is insured is designated as beneficiary, and it appears, in the case of the wife, that she is living apart from her husband in circumstances disentitling her to alimony, or in the case of the husband, that he is living apart from his wife in circumstances disentitling him to an order for restitution of conjugal rights, and that there is no other member of the class of preferred beneficiaries whom the insured may designate as beneficiary in place of the designated beneficiary, the court may, on the application of the insured, and on such terms as may seem fit, declare the designated beneficiary disentitled to claim the benefit of the provisions of this Act relating to preferred beneficiaries, and the insured may then deal with the policy as provided by section 196.

1949, c.40, s.194; R.S.S. 1953, c.205.

**Power of insured to surrender contract where preferred beneficiary designated**

**206(1)** Where a preferred beneficiary is designated, the insured may surrender the contract to the insurer and accept in lieu thereof any paid-up or extended insurance provided by the contract in favour of the preferred beneficiary.

(2) Where a preferred beneficiary is designated, the insured may, from time to time, borrow from the insurer on the security of the contract, such sums as may be necessary and are applied to keep it in force, and the sums so borrowed, with such interest as may be agreed on, shall be a first charge on the contract and the insurance money.

1949, c.40, s.195; R.S.S. 1953, c.206.

**Disposal of surplus or profits where preferred beneficiary**

**207(1)** Notwithstanding the designation of a preferred beneficiary, any person who effects a participating contract, other than a contract of group life insurance, may, during his lifetime, receive for his own benefit the surplus or profits declared on the contract or may direct the insurer to apply them in payment or reduction of premiums, or in the purchase of paid-up additions to the sum insured, or to hold them to his credit for accumulation, or to deal otherwise with such surplus or profits as the contract may provide, and upon the maturity of the contract, all surplus or profits so held to the credit of the insured, or being due and unpaid, shall, subject to the contract and to any direction by the insured to the contrary, be added to the insurance money and the share of any beneficiary shall be increased accordingly.

(2) In the case of group life insurance, surplus, profits, dividends or bonuses shall be applied in accordance with the terms of the contract.

(3) The insurer may apply, for the purpose of keeping the contract in force, any surplus or profits declared on the contract and held by the insurer to the credit of the contract or of the insured, or held for accumulation and not otherwise applied or dealt with under subsection (1).

(4) The insurer shall not be obliged to pay or apply any surplus or profits in a manner contrary to the terms of the contract or of any subsequent agreement.

1949, c.40, s.196; R.S.S. 1953, c.207.

**Power to surrender contract where preferred beneficiaries of full age**

**208(1)** Where all the designated preferred beneficiaries are of full age, they and the insured may surrender the contract or may assign or dispose of the same either absolutely or by way of security, to the insurer, the insured or any other person, but notwithstanding anything herein contained the insured may exercise the borrowing powers conferred by section 206 without the concurrence of any beneficiary.

(2) Where the beneficiaries, whether designated by name or not, include the wife or children or grandchildren, it shall be sufficient, so far as their interests are concerned, if all then living are of full age and join in the surrender, assignment or disposal.

(3) Where insurance money is made payable to a minor or other person under disability or to a trustee on behalf of a minor or person under disability, and where the insurance money or a part thereof is required for the maintenance or education of the minor or person under disability, the court may, upon the application of the insured, upon at least ten days' notice to the insurer, make an order, on such terms as it may deem just, permitting the insured to surrender the contract to the insurer, or to borrow from the insurer on the security thereof, and payment by the insurer in accordance with such order shall discharge it from liability in respect of such payment.

(4) Where a contract has been assigned as security for a loan or debt the right of a beneficiary, whether ordinary or preferred, under such contract shall be affected only to the extent necessary to give effect to the rights of the assignee, and when the loan or debt is discharged the assignee shall furnish a certificate in writing to that effect and that the assignee has no further right, title or interest in the contract.

1949, c.40, s.197; R.S.S. 1953, c.208.

**Persons joining in surrender**

**209** Where by a contract or any instrument in writing surrender a person is to become entitled to insurance money only in the event of the death of another person named as a beneficiary it shall not be necessary for such first mentioned person to join in any surrender, assignment or disposal of the contract.

1949, c.40, s.198; R.S.S. 1953, c.209.

**Commutation of instalments of insurance money**

**210(1)** Where the insurance money is payable in instalments and the contract, or an instrument in writing signed by the insured and delivered to the insurer, expressly provides that the beneficiary shall not have the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not commute the instalments or pay them to any person other than the beneficiary, and the instalments shall not, in the hands of the insurer, be subject to legal process except in an action to recover for necessaries supplied to the beneficiary or his or her infant children.

- (2) Notwithstanding anything contained in subsection (1);
- (a) the insured may, by an instrument in writing signed by him and delivered to the insurer, declare that the beneficiary shall have the right to commute\*, or alienate or assign, as the case may be;
  - (b) the court may, upon the application of the insurer or the beneficiary, upon at least ten days' notice, declare that in view of special circumstances the beneficiary shall have the right to commute, or alienate or assign, as the case may be;
  - (c) after the death of the beneficiary his personal representatives may commute any instalments payable to them.
- (3) In this section "instalments" includes insurance money or any part thereof held by the insurer under the provisions of section 211.

1949, c.40, s.199; R.S.S. 1953, c.210.

**Insurance moneys held by an insurer subject to terms of contract or other direction**

**211** Subject to the provisions of this Part relating to preferred beneficiaries, where it is so expressly provided in the contract or by an agreement in writing with the insurer or by a declaration, the insurer may hold the insurance money or any part thereof after maturity of the contract subject to the order of the beneficiary, or upon such trusts or other agreements for the benefit of the beneficiary as may be provided in the contract, agreement or declaration, allowing and paying for the term during which the insurer retains such insurance money or any part thereof, interest thereon at a rate not less than that specified in the contract, agreement or declaration, or, if no rate be agreed upon, at the rate declared from time to time by the insurer with respect to insurance money so held by it; provided that the insurer shall not be bound to carry out the terms of any declaration to which it has not agreed in writing.

1949, c.40, s.200; R.S.S. 1953, c.211.

**Persons to whom insurer may make payment**

**212(1)** Until the insurer receives at its head or principal office in Canada notice in writing of the making of an order declaring a beneficiary disentitled to insurance money, or of any instrument in writing affecting the insurance money or any part thereof or of the appointment or the revocation of the appointment of a trustee, it may make any payment which would have been lawful and valid except for such order, instrument in writing, appointment or revocation of appointment, and before making any payment in pursuance or under the authority of such order, instrument in writing, appointment or revocation of appointment, it shall be entitled to receive the original or a true copy thereof.

(2) Nothing in this section affects the right of any person entitled to payment by virtue of such order, instrument in writing, appointment or revocation of appointment, to recover from any person to whom payment has been made by the insurer.

1949, c.40, s.201; R.S.S. 1953, c.212.

**Insurer failing to give or withholding information**

**213** The insurer shall not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument in writing affecting the insurance money which the insurer has received.

1949, c.40, s.202; R.S.S. 1953, c.213.

## PROOF OF CLAIM AND PAYMENT

**Proof of claim**

**214(1)** The insurer shall be entitled to reasonably sufficient proof in writing verified by affidavit or statutory declaration of the maturity of the contract, of the age of the person whose life is insured and of the right of the claimant to receive payment of the insurance money.

(2) Where the insurance money or part thereof is payable to or for the benefit of a beneficiary, the insurer shall be entitled to reasonably sufficient proof of the name and age of the beneficiary.

1949, c.40, s.203; R.S.S. 1953, c.214.

**Payment of insurance money**

**215(1)** Insurance money which is expressed to be payable at the maturity of the contract shall be payable thirty days after reasonably sufficient proof has been furnished to the insurer of the maturity of the contract, of the age of the person whose life is insured, and of the right of the claimant to receive payment.

(2) Except in the case of a contract of group life insurance, insurance money shall be payable in the province in which the insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, shall be payable at the head or principal office of the insurer in Canada.

(3) In the case of a contract of group life insurance, insurance money shall be payable in the province in which the person whose life is insured is domiciled at the time of death, or in which he is domiciled when it becomes payable otherwise than by reason of death, or, if he was not or is not then domiciled in Canada and the contract does not otherwise provide, shall be payable at the head or principal office of the insurer in Canada.

(4) Every amount to be paid to or by an insurer under a contract shall be payable in lawful money of Canada, unless the contract expressly provides for payment in another currency.

(5) In every contract whether the contract by its terms provides for payment in Canada or elsewhere, amounts expressed in dollars shall mean lawful dollars of Canadian currency, unless some other currency is specifically provided for in the contract.

1949, c.40, s.204; R.S.S. 1953, c.215.

**Idem**

**216** Where insurance money is payable in respect of a policy on the life of a person who is at the date of his death domiciled elsewhere than in Canada to another person domiciled elsewhere than in Canada, and there is no person in Canada entitled to receive it, the insurer may pay it to the person to whom it is so payable, or to any other person entitled to receive it on his behalf by the law of the domicile of the payee.

1949, c.40, s.205; R.S.S. 1953, c.216.

**Application to judge where proof insufficient**

**217(1)** Where the insurer admits the validity of the contract but does not admit the sufficiency of the proof furnished by the claimant of the maturity of the contract, or of the age of the person whose life is insured, or of the right of the claimant to receive payment of the insurance money, and where there is no other question in issue, except a question under subsection (2), the insurer or the claimant may, before or after action brought, upon at least thirty days' notice apply to the court for a declaration as to the sufficiency of the proof furnished, and the court may direct what further proof shall be furnished, or, in special circumstances, may dispense with further proof.

(2) Where the claimant alleges that the person whose life is insured is presumed to be dead by reason of his not having been heard of for seven years, and where there is no other question in issue except a question under subsection (1), the insurer or the claimant may, before or after action brought, upon at least thirty days' notice, apply to the court for a declaration as to the presumption of death.

(3) If the court finds that the proof of the maturity of the contract or of the age of the person whose life is insured or of the right of the claimant to receive payment is sufficient, or that a presumption of death has been established, or makes an order directing what further proof shall be furnished or in special circumstances dispensing with further proof, the finding or order of the court shall, subject to appeal, be conclusive and binding upon the applicant and all parties notified of the application and the court may make such order as to the payment of the insurance money and as to the costs as to it may seem just.

(4) The payment by the insurer in accordance with the order shall discharge it from liability in respect of such payment.

(5) If the court does not find that the proof of the maturity of the contract, of the age of the person whose life is insured, or of the right of the claimant to receive payment is sufficient, or that the presumption of death is established, the court may order that the question or questions in issue be decided in an action brought or to be brought, or may make such other order as to it seems just as to further proof to be furnished by the claimant, as to publication of advertisements, as to further inquiry, and as to costs, or otherwise.

(6) Unless otherwise ordered by the court, the application shall operate as a stay of any pending action with respect to the insurance money.

1949, c.40, s.206; R.S.S. 1953, c.217.

**Presumption in case of a common disaster**

**218** Where the person whose life is insured and any one or more of the beneficiaries perish in the same disaster, it shall be *prima facie* presumed that the beneficiary or beneficiaries died first.

1949, c.40, s.207; R.S.S. 1953, c.218.

**Contract not invalidated by suicide**

**219** An agreement, express or implied, contained in a contract of life insurance for the payment of insurance money in the event that the person whose life is insured commits suicide shall be lawful and enforceable.

1949, c.40, s.208; R.S.S. 1953, c.219.

## LIMITATION OF ACTIONS

**Limitation of actions**

**220(1)** Subject to the following subsections, any action or proceeding against the insurer for the recovery of insurance money shall be commenced within one year next after the furnishing of reasonably sufficient proof of the maturity of the contract and of the right of the claimant to receive payment, or within six years next after the maturity of the contract, whichever period shall first expire, but not afterwards.

(2) Where an order has been made declaring that death is presumed from the fact that the person whose life is insured has not been heard of for seven years, an action or proceeding shall be commenced within one year and six months from the date of the order, but not afterwards.

(3) Where the death of the person whose life is insured is unknown to the person entitled to claim under the contract, an action or proceeding may be commenced within the prescribed period or within one year and six months after the death becomes known to him whichever period shall first expire, but not afterwards.

(4) Where an action or proceeding is prematurely brought, the plaintiff may commence a new action or proceeding at any time within six months after the final determination of the first action or proceeding.

1949, c.40, s.209; R.S.S. 1953, c.220.

## TRUSTEES, GUARDIANS, ETC.

**Appointment by insured**

**221(1)** The powers conferred upon the insured by this Part with regard to the designation or appointment of a beneficiary or beneficiaries, and the alteration or revocation of such designation or appointment, and the apportionment or reapportionment of insurance money between or among beneficiaries, shall include power from time to time to appoint a trustee or trustees for any beneficiary or beneficiaries, to revoke such appointment or alter its terms, to appoint a new trustee or trustees, or to make provision for the appointment of a new trustee or trustees.

(2) The appointment of a trustee or trustees for any beneficiary shall not have the effect of taking away from the court or the insured any power of depriving the beneficiary of the benefit of the insurance money which the court or the insured would have under this Act if such beneficiary had been designated as beneficiary without the appointment of a trustee.

(3) Payment made to the trustee or trustees appointed as hereinbefore provided shall discharge the insurer.

1949, c.40, s.210; R.S.S. 1953, c.221.

**Appointment by court**

**222(1)** Where no trustee is appointed to receive the share to which a minor or other person under disability is entitled, or where a trustee is named but refuses or neglects to act or dies or otherwise becomes incapable of acting, the share of the minor or other person under disability may be paid to a guardian or tutor or trustee of the minor or to a curator, committee or trustee of such other person under disability duly appointed under the law of this province.

(2) Where insurance money not exceeding \$2,000 is payable to the husband and children or to the wife and children, or to the children of the person whose life is insured, and one or more of the children are minors, the court may, if the wife is the mother of such minors, appoint her their guardian, or if the husband is the father of such minors, appoint him their guardian, with or without security, and the insurance money may be paid to him or her as guardian.

(3) Where it appears that a guardian, tutor, curator, committee or trustee of minors or other beneficiaries under disability has been appointed in a foreign jurisdiction, and that the minors or other beneficiaries are resident within that jurisdiction, the court may authorize payment of the insurance money to the guardian, tutor, curator, committee or trustee with or without security in the province.

1949, c.40, s.211; R.S.S. 1953, c.222.

### PAYMENT INTO COURT

#### Insurer may obtain order

**223(1)** Where the insurer admits liability for the insurance money or any part thereof, and it appears to the insurer that:

- (a) there are adverse claimants; or
- (b) the place of abode of a person entitled is unknown; or
- (c) there is no person capable of giving or authorized to give a valid discharge;

the insurer may, at any time after the expiration of one month from the maturity of the contract, apply to the court for an order for payment of the money into court, and the court may upon such notice, if any, as it thinks necessary make an order accordingly. Such application shall, in the first instance, be made *ex parte*.

(2) Where the insurer admits liability for the insurance money or any part thereof payable to a minor and there is no person capable of giving a valid discharge therefor, the insurer may at any time after the expiration of one month from the maturity of the contract, pay such money, less the costs mentioned in subsection (3), into court to the credit of the minor.

(3) The insurer may retain out of the insurance money, for costs incurred upon payment into court in accordance with subsection (2), \$10 if the amount does not exceed \$1,000 and \$15 in other cases, and payment of the remainder into court shall discharge the insurer.

(4) No order shall be necessary for payment into court under subsection (2), but the accountant or other proper officer shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the official guardian of infants and deliver to him a copy of the affidavit.

(5) Where the insurance money is payable by instalments it shall be sufficient to file the affidavit required by subsection (4) when paying into court the first instalment.

1949, c.40, s.212; R.S.S. 1953, c.223.

**Order for payment into court**

**224** Where the insurer does not within two months after due proof of the claim, pay the insurance money to some person competent to receive the same under this Part or into court, the court may, upon application of any person, order that the insurance money, or any part thereof, be paid into court or may make such other order as to the distribution of such money as to the court seems just, and payment made in accordance with such order shall be a sufficient discharge to the insurer.

1949, c.40, s.213; R.S.S. 1953, c.224.

**Costs**

**225** The court may fix and ascertain without taxation the costs incurred upon or in connection with any application or order made under subsection (1) of section 223 or under section 224 and may order such costs to be paid out of the insurance money or by the insurer or the applicant or otherwise as may seem just.

1949, c.40, s.214; R.S.S. 1953, c.225.

## CONSTRUCTION OF PART

**Construction**

**226** This Part shall be so interpreted and construed as to effect its general purpose of making uniform the law of the provinces that enact it.

1949, c.40, s.215; R.S.S. 1953, c.226.

## PART VI

**Automobile Insurance**

## INTERPRETATION

**Interpretation**

**227** In this Part:

**“contract”**

1 “contract” includes any writing evidencing a contract, and an oral agreement;

**“driver’s policy”**

2 “driver’s policy” means a motor vehicle liability policy insuring a person named therein in respect of the operation or use by him of any automobile other than an automobile owned by him or registered under *The Vehicles Act* in his name;

**“motor vehicle liability policy”**

3 “**motor vehicle liability policy**” means a policy or that part of a policy insuring the owner or driver of an automobile against liability for loss or damage to persons or property;

**“owner’s policy”**

4 “**owner’s policy**” means a motor vehicle liability policy insuring a person named therein in respect of the ownership, operation or use of an automobile owned by him and specifically described in the policy and in respect of the ownership, operation or use of any other automobile which may be within the definition thereof appearing in the policy.

1949, c.40, s.216; 1951, c.37, s.5; R.S.S. 1953, c.227.

## APPLICATION OF PART

**Application**

**228(1)** This Part applies to automobile insurance and to any insurer carrying on the business of automobile insurance in the province and to all contracts made in the province.

(2) Nothing in this Part prevents the insurance against loss or damage of an automobile by fire under a policy of fire insurance, and in that event this Part does not apply.

(3) This Part, other than section 251, does not apply to insurance of an automobile chiefly used or operated off highways unless insured under a form of policy approved under this Part.

1949, c.40, s.217; R.S.S. 1953, c.228.

## APPLICATION FOR INSURANCE

**Requirements**

**229(1)** No insurer shall make any contract for a period exceeding fourteen days without a written application therefor, signed by the applicant or his agent, duly authorized in writing.

(2) No person carrying on the business of financing the sale or purchase of automobiles, and no automobile dealer, insurance agent or broker, and no officer or employee of any such person, dealer, agent or broker, shall act as agent of the applicant under this section.

(3) Every written application for a driver's policy shall set forth:

- (a) the name, address and occupation or business of the applicant;
- (b) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application;
- (c) whether any insurer has cancelled any policy of automobile insurance of the applicant or refused automobile insurance to him;
- (d) whether any licence, permit, registration certificate or other like authority, issued to the applicant under a law or statute of any province, state or country relating to automobiles, has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application;
- (e) such further information as the insurer may require or the superintendent may prescribe.

(4) Every other written application shall set forth:

- (a) the name, address and occupation or business of the applicant;
- (b) the description of the automobile to be insured as the described automobile;
- (c) the purchase price to the applicant of the automobile so described;
- (d) whether purchased new or otherwise;

- (e) particulars of any mortgage, lien or encumbrance thereon;
  - (f) the place where it is and will usually be kept;
  - (g) the locality in which and the purpose for which it is and will be chiefly used;
  - (h) particulars of all accidents, losses or claims arising out of the ownership, use or operation of an automobile by the applicant within the three years preceding the application;
  - (i) whether any insurer has cancelled any policy of automobile insurance of the applicant, or refused automobile insurance to him;
  - (j) whether any licence, permit, registration certificate or other like authority, issued to the applicant or a member of his family and household under any law or statute of any province, state or country relating to automobiles, has, to the knowledge of the applicant, been, or continued to be, suspended or cancelled within the three years preceding the application;
  - (k) such further information as the insurer may require or the superintendent may prescribe.
- (5) Where the requirements of subsection (3) or (4) are, in the opinion of the superintendent, inapplicable to any special form of contract, the superintendent may prescribe the form of application or vary, omit or add to those requirements.
- (6) Upon every written application and policy there shall be printed or stamped in conspicuous type, not less in size than ten point and in red ink, a copy of subsection (1) of section 235.
- (7) Where a contract is renewed without change or only the amount of the insurance, the rate of premium or the method of rating is changed, the renewal may be effected without a written application.
- (8) A copy of the application, or such part thereof as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer.

1949, c.40, s.218; 1951, c.37, s.6; R.S.S. 1953, c.229.

#### **Amendment of contract**

**230** Where it is proposed to change the subject matter of a contract by substitution or addition of one or more automobiles, the insurer may so amend the contract by an endorsement of the policy, but in that case it shall obtain a written application signed in accordance with section 229 and containing such particulars required by that section as relate to the new subject matter.

1949, c.40, s.219; R.S.S. 1953, c.230.

## POLICY OF INSURANCE

#### **Contents of policy**

**231(1)** Every policy shall set forth:

- (a) the name and address of the insurer;

- (b) the name, address, occupation or business of the insured named therein;
- (c) the premium for the insurance;
- (d) the subject matter of the insurance;
- (e) the indemnity for which the insurer may become liable;
- (f) the event on the happening of which liability is to accrue;
- (g) the term of the insurance; and
- (h) except in case of motor vehicle liability policies, the name of the person to whom the insurance money is payable.

(2) Unless otherwise expressly stated therein, any written application shall be deemed to be one for a policy embodying the terms and conditions of the insurer's corresponding standard policy form approved under this Part; and the policy shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, and, in that event, the insured shall be deemed to have accepted the policy unless within one week from the receipt of the notification he informs the insurer in writing that he rejects the policy.

(3) Notwithstanding any agreement, the insurer shall deliver or mail to the insured named therein the policy or a true copy thereof and every endorsement or amendment of the policy or a true copy thereof.

1949, c.40, s.220; R.S.S. 1953, c.231.

#### Statutory conditions

**232(1)** Subject to the provisions of subsections (2) and (3) and sections 233 and 254:

- (a) the conditions set forth in this section shall be statutory conditions and deemed to be part of every contract of automobile insurance and shall be printed on every policy with the heading "Statutory Conditions";
- (b) no variation or omission of a statutory condition shall be valid nor shall anything contained in any addition to a statutory condition or in the description of the subject matter of the insurance be effective in so far as it is inconsistent with, varies or avoids any such condition.

(2) Where the insurance is neither insurance under a motor vehicle liability policy nor insurance against loss of or damage to an automobile designated in the policy, the superintendent may prescribe appropriate conditions or may omit, vary or add to the statutory conditions.

(3) The superintendent may approve a form of motor vehicle liability policy appropriate to insure a limited or restricted use of the automobile and in that case the statutory conditions shall be deemed to be amended so far as is necessary to give effect to the terms and conditions of the policy so approved, and the provisions of sections 242 and 243 shall not apply.

#### STATUTORY CONDITIONS

In these statutory conditions, unless the context otherwise requires, the word "insured" means a person insured by the policy whether named or not.

**Material change in risk**

- 1 (a) The insured named in the policy shall promptly notify the insurer, or its local agent, in writing, of any change in the risk material to the contract and within his knowledge.
  - (b) Without restricting the generality of the foregoing, the words “change in the risk material to the contract” shall include:
    - (i) any change in the insurable interest of the insured named in the policy in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act (Canada)*;
 

and in cases other than motor vehicle liability policies:
    - (ii) any mortgage, lien or encumbrance affecting the automobile after the application for the policy;
    - (iii) any other insurance of the same interest, whether valid or not, covering loss or damage insured by the policy or any portion thereof.

**Prohibited use**

- 2(1) The insured shall not drive or operate the automobile:
  - (a) while under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
  - (b) unless he is for the time being either authorized by law or qualified to drive or operate the automobile, or while he is under the age of sixteen years or under such other age as is prescribed by the law of the province where he resides at the time the policy is issued; or
  - (c) for any illicit or prohibited trade or transportation; or
  - (d) in any race or speed test.
- (2) The insured shall not permit, suffer, allow or connive at the use of the automobile:
  - (a) by any person under the influence of intoxicating liquor or drugs to such an extent as to be for the time being incapable of the proper control of the automobile; or
  - (b) by any person, unless such person is for the time being either authorized by law or qualified to drive or operate the automobile, or while such person is under the age of sixteen years or under such other age as is prescribed by law; or
  - (c) for any illicit or prohibited trade or transportation; or
  - (d) in any race or speed test.

**Use prohibited without permission**

- 3 Unless permission is expressly given by an endorsement of the policy and in consideration of an additional stated premium, the automobile shall not be rented or leased nor shall it be used:
  - (a) to carry explosives; or
  - (b) as a taxicab, public omnibus, livery, jitney, or sight-seeing conveyance or for carrying passengers for compensation or hire.

**Trailers**

4 In the case of indemnity afforded by motor vehicle liability policies the automobile shall not be used for the towing of a trailer owned or hired by the insured that is not covered by like indemnity by the insurer; nor shall a trailer so covered by the policy be towed by an automobile owned or hired by the insured that is not covered by like indemnity by the insurer.

**Non-liability for loss or damage cause by war, etc.**

5 In cases other than motor vehicle liability policies the insurer shall not be liable for loss or damage that is caused, directly or indirectly, by bombardment, invasion, civil war, insurrection, rebellion, revolution, military or usurped power, or by operations of armed forces while engaged in hostilities (whether war be declared or not), or by civil commotion arising from any of the foregoing, unless the policy or an endorsement thereon expressly provides otherwise.

**Loss or damage to persons or property**

6(1) The insured shall promptly give to the insurer written notice, with all available particulars, of any accident involving loss or damage to persons or property, and of any claim made on account of accident; shall verify by affidavit or statutory declaration, if required by the insurer, that the claim arises out of the operation or use of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured by the policy; and shall forward immediately to the insurer every writ, letter, document or advice received by him from or on behalf of the claimant.

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

**Loss or damage to the automobile**

7(1) Upon the occurrence of loss of or damage to the automobile, the insured shall, if the loss or damage is covered by this policy:

(a) forthwith give notice thereof, in writing to the insurer, with fullest information obtainable at the time, and shall at the expense of the insurer, and as far as reasonably possible, protect the automobile from further loss or damage, and any such further loss or damage accruing directly or indirectly from a failure to protect shall not be recoverable hereunder. No repairs shall be undertaken or any physical evidence of the loss or damage removed without the written consent of the insurer, except such repairs as are immediately necessary for the protection of the automobile from further loss or damage; or until the insurer has had a reasonable time to make the examination provided for in statutory condition 9;

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

**Examination of insured**

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

**Insurer liable for cash value of automobile**

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

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

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

**In case of disagreement**

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

**Appraisal**

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

**Appointment of appraisers**

(7) In case either party fails to name an appraiser within seven clear days after being served with written notice so to do, or in case the appraisers fail to agree upon an umpire within fifteen days after their appointment, or in case an appraiser or umpire refuses to act or is incapable of acting or dies, a judge of a superior, county or district court having jurisdiction in the county or district in which the appraisal is to be made may appoint such appraiser or umpire on the application of the insured or the insurer.

**Award**

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

**Costs of appraisal**

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

**Waiver**

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

**Inspection of automobile**

9 The insurer shall be permitted at all reasonable times to inspect the automobile and its equipment.

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

10 (1) An insurer shall pay the insurance money for which it is liable under a contract within sixty days after the proof of loss has been received by it, or, where an appraisal is had under statutory condition 7, within fifteen days after the award is rendered by the appraisers.

(2) The insured may not bring an action to recover the amount of a claim under the policy unless the requirements of statutory conditions 6 and 7 are complied with nor until the amount of the loss has been ascertained as therein provided, or by a judgment against the insured after trial of the issue, or by agreement between the parties with the written consent of the insurer.

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

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

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

**Cancellation**

12(1) The policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force.

(2) This policy may be cancelled at any time by the insurer giving to the insured named in the policy fifteen days' notice in writing of cancellation by registered post, whether registered within or without Canada, or five days' notice of cancellation personally delivered, and refunding the excess of paid premium beyond the *pro rata* premium for the expired time. Repayment of excess premiums may be made by money, post office order, postal note or cheque. Such repayment shall accompany the notice, and in such case the fifteen days above mentioned shall commence to run from the day following the receipt of the registered letter at the post office to which it is addressed.

(3) In this condition the expression "paid premium" means premium actually paid by the insured to the insurer or its agent, and does not include any premium or part thereof paid to the insurer by an agent unless actually paid to the agent by the insured.

**Notice**

13 Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in this province. Written notice may be given to the insured named in the policy by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or, where no address is notified and the address is not known, addressed to him at the post office of the agency, if any, from which the application was received. In this condition the expression "registered" shall mean registered within or without Canada.

1949, c.40, s.221; 1951, c.37, s.7; 1952, c.46, s.6;  
R.S.S. 1953, c.232.

**Certain conditions not part of policy**

**233(1)** If the policy does not insure against liability for loss or damage to persons or property, statutory condition 6 shall not be deemed to be part of the policy.

(2) If the policy does not insure against loss of or damage to an automobile, statutory condition 7 shall not be deemed to be part of the policy.

1949, c.40, s.222; R.S.S. 1953, c.233.

**Policy to be approved by superintendent**

**234** No insurer shall issue or deliver a policy in the province until a copy of the form of policy has been on file with the superintendent for at least thirty days, unless sooner approved in writing by him, nor if within that period the superintendent notifies the insurer in writing that the said form of policy is not approved. The superintendent shall, on being so required, specify the reasons for not approving or for disapproving thereof.

1949, c.40, s.223; R.S.S. 1953, c.234.

**Misrepresentation, fraud or violation of conditions renders claim invalid**

**235(1)** Where an applicant for a contract gives false particulars of the described automobile to be insured, to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein or where the insured violates a term or condition of the policy or commits a fraud, or makes a wilfully false statement with respect to a claim under the policy, a claim by the insured shall be invalid and the right of the insured to recover indemnity shall be forfeited.

(2) Where a written application for a contract is made, no statement of the applicant shall be used in defence of a claim under the policy, unless it is contained in the written application.

1949, c.40, s.224; 1951, c.37, s.8; R.S.S. 1953,  
c.235.

**Relief from forfeiture**

**236** Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the insured with respect to the loss, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it may deem just.

1949, c.40, s.225; R.S.S. 1953, c.236.

**Payment in Canadian currency**

**237** Insurance money shall be payable in the province in lawful money of Canada.

1949, c.40, s.226; R.S.S. 1953, c.237.

**Waiver**

**238** No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part, unless the waiver is stated in writing and signed by an agent of the insurer.

1949, c.40, s.227; R.S.S. 1953, c.238.

**Subrogation**

**239(1)** The insurer, upon making any payment or assuming liability therefor under a contract, shall be subrogated to all rights of recovery of the insured against any person and may bring action in the name of the insured to enforce such rights.

(2) If the net amount recovered, after deducting the costs of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, such amount shall be divided between the insurer and the insured in the proportion in which such loss or damage has been borne by them respectively.

1949, c.40, s.228; R.S.S. 1953, c.239.

**Use of red ink**

**240** No red ink shall be used in printing a policy, except for the name, address and emblem of the insurer, the policy number and for the purposes mentioned in this Part.

1949, c.40, s.229; R.S.S. 1953, c.240.

**Effect of imperfect compliance by insurer**

**241** Any act or omission of the insurer resulting in non-compliance or imperfect compliance with any of the provisions of this Part shall not render a contract invalid as against the insured.

1949, c.40, s.230; R.S.S. 1953, c.241.

**Coverage of owner's policy**

**242(1)** Every owner's policy shall insure the person named therein, and every other person who, with his consent, personally drives any automobile specifically described in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage:

- (a) arising from the ownership, use or operation of any such automobile within Canada, the continental United States of America or Alaska, or upon a vessel plying between ports thereof; and
- (b) resulting from:
  - (i) bodily injury to or death of any person; or
  - (ii) damage to property; or
  - (iii) both.

(2) Nothing in subsection (1) precludes coverage being provided in an owner's policy to the person named therein, and such other persons as may be specified therein who with his consent personally drive any other automobile within the definition thereof appearing in the policy, against the liability imposed by law upon the insured named therein or upon any such other person for loss or damage:

- (a) arising from the ownership, use or operation of any such automobile within Canada, the continental United States of America or Alaska, or upon a vessel plying between ports thereof; and
- (b) resulting from:
  - (i) bodily injury to or death of any person; or
  - (ii) damage to property; or
  - (iii) both.

(3) Any person insured by but not named in a policy may recover indemnity in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

1951, c.37, s.9; R.S.S. 1953, c.242.

#### Coverage of driver's policy

**243** Every driver's policy shall insure the person named therein against the liability imposed by law upon such insured for loss or damage:

- (a) arising from the operation or use by him of any automobile, other than an automobile owned by or registered in the name of such insured, while he is personally in control as driver or occupant of such automobile within Canada, the continental United States of America or Alaska, or upon a vessel plying between ports within those countries; and
- (b) resulting from:
  - (i) bodily injury to or death of any person; or
  - (ii) damage to property; or
  - (iii) both.

1949, c.40, s.232; 1951, c.37, s.10; R.S.S. 1953, c.243.

#### Additional agreements

**244(1)** Under an owner's policy or a driver's policy the insurer shall:

- (a) upon receipt of notice of loss or damage caused to persons or property, serve the insured by such investigation thereof, or by such negotiations with the claimant, or by such settlement of any resulting claims, as may be deemed expedient by the insurer; and
- (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action which may at any time be brought against the insured on account of loss or damage to persons or property; and
- (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment which is within the limits of the insurer's liability; and

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

(2) Where a person is insured under more than one motor vehicle liability policy (whether the insurance is first loss insurance or excess) and a question arises under clause (b) of subsection (1) between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its policy, the insured or any insurer may apply to the Court of Queen's Bench and the court shall give such directions as may appear proper with respect to the performance of the obligation.

(3) On an application under subsection (2) the only parties entitled to notice thereof and to be heard thereon shall be the insured and his insurers and no material or evidence used or taken upon such an application shall be admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use of the automobile in respect of which the insurance is provided,

(4) An order under subsection (2) shall not affect the rights and obligations of the insurers with respect to payment of any indemnity under their respective policies.

(5) Where the insured has indemnity under two or more policies and one or more is or are excess insurance by virtue of section 249, the insurers shall, as between themselves, contribute to the payment of expenses, costs and reimbursement provided for in subsection (1) in accordance with their respective liabilities for damages against the insured.

1949, c.40, s.233; 1951, c.37, s.11; R.S.S. 1953, c.244.

#### Exceptions from liability

**245** Subject to section 248, the insurer shall not be liable under an owner's policy or a driver's policy:

(a) for any liability imposed by any workmen's compensation law upon the insured; or

(b) for loss or damage resulting from bodily injury to or the death of (i) the son, daughter, wife, husband, mother, father, brother or sister of the insured while being carried in or upon or entering or getting on to or alighting from the automobile; or (ii) the insured;

or, unless the coverage is expressly extended under section 247:

(c) to any person, not the owner of the automobile, engaged in the business of an automobile garage, repair shop or service station or as an automobile dealer, for loss or damage sustained while engaged in the operation or repair of the automobile; or

(d) for any loss or damage resulting from bodily injury to or the death of any person being carried in or upon or entering or getting on to or alighting from the automobile; or

(e) for loss of or damage to property carried in or upon the automobile or to any property owned or rented by, or in the care, custody or control of the insured; or

(f) for loss or damage resulting from bodily injury to or the death of any employee of the insured while engaged in the operation or repair of the automobile.

1951, c.37, s.12; R.S.S. 1953, c.245.

**Minimum liability under policy**

**246** Every owner's policy and driver's policy shall insure under policy in case of bodily injury or death, to the limit of at least \$5,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or the death of any one person, and, subject to such limit for any one person so injured or killed, of at least \$10,000, exclusive of interest and costs, against loss or damage resulting from bodily injury to or death of two or more persons in any one accident, or, in case of property damage, to the limit of at least \$1,000, exclusive of interest and costs, for damage to property resulting from any one accident.

1949, c.40, s.235; R.S.S. 1953, c.246.

**Excess coverage**

**247(1)** The insurer may, by an endorsement on the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in the case of an owner's policy or driver's policy in whole or in part in any or all of the following respects, namely, the matters mentioned in clauses (c), (e) and (f) of section 245.

(2) The insurer may, by an endorsement on the policy or by provision in the policy and in consideration of an additional stated premium, and not otherwise, extend the coverage in whole or in part in the case of an owner's policy or driver's policy in respect to the matter mentioned in clause (d) of section 245.

(3) The insurer may, in the case of an owner's policy, extend the coverage in whole or in part in respect to the operation or use of automobiles not owned by or registered in the name of the insured.

(4) The insurer may, in the case of an owner's policy or a driver's policy, extend the coverage to such other matters as the superintendent may approve.

(5) No insurer shall extend the coverage under subsection (3) or (4) without the approval of the superintendent as to the form of the extended coverage, the method of providing therefor and as to the necessity or otherwise of an additional stated premium for the coverage.

1951, c.37, s.13; R.S.S. 1953, c.247.

**Expenses for medical services, etc.**

**248(1)** An insurer issuing an owner's policy or a driver's policy may, in consideration of an additional stated premium, in addition to the other insuring agreements therein, agree to pay for each person who sustains bodily injury caused by an accident while driving, being carried in or upon, or entering or getting on to, or alighting from the automobile specifically described in the policy or within the definition thereof appearing in the policy within Canada, the continental United States of America, or Alaska, or upon a vessel plying between ports thereof, if the automobile is being used by the insured named in the policy or with his consent, all reasonable expenses incurred, within one year from the date of the accident as a result of the injury, for necessary medical, surgical, dental, ambulance, hospital, professional nursing and funeral services.

(2) No insurer shall give the insurance under subsection (1) without the approval of the superintendent as to the terms and conditions thereof.

1951, c.37, s.14; R.S.S. 1953, c.248.

**Liability of insurer**

**249(1)** Subject to subsection (2), if the insured named in a policy has or places any additional or other valid insurance of his interest in the subject matter of the contract, or any part thereof, the insurer shall be liable only for its rateable proportion of any loss or damage.

(2) Where a valid motor vehicle liability policy insures a person named therein and that person is also insured under another valid motor vehicle liability policy as an unnamed insured, the first mentioned policy shall be a first loss insurance and the second mentioned policy shall be excess insurance only.

(3) A copy of subsections (1) and (2) shall be printed or stamped in conspicuous type, not less in size than ten point, upon every automobile insurance policy and those subsections shall constitute terms of the contract between the insurer and the insured, and subsection (2) shall operate as between insurers.

1951, c.37, s.14; R.S.S. 1953, c.249.

**Policy in special cases**

**250** Where any provision of sections 242 to 249 is inapplicable by reason of the requirements of any Act or is, in the opinion of the superintendent, unsuitable to any special form of contract, he may approve a form of motor vehicle liability policy sufficient or appropriate to insure the risks required or proposed to be insured and in that case those sections shall not apply.

1949, c.40, s.237; 1951, c.38, s.1; R.S.S. 1953, c.250.

**Application of insurance money under motor vehicle liability policy**

**251(1)** Any person having a claim against an insured, for which indemnity is provided by a motor vehicle liability policy, shall, notwithstanding that such person is not a party policy to the contract, be entitled, upon recovering a judgment therefor against the insured, to have the insurance money payable under the policy applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered by the indemnity and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

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

(3) (i) No assignment, waiver, surrender, cancellation or discharge of the policy, or of any interest therein, or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the policy; and

(ii) no act or default of the insured before or after such event in violation of the provisions of this Part or of the terms of the contract; and

(iii) no violation of the *Criminal Code* or of any law or statute of any province, state or country, by the owner or driver of the automobile;

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

(4) It shall not be a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer, and alleged by a party to the action to be such a policy, is not a motor vehicle liability policy; and the provisions of this section shall apply *mutatis mutandis* to the instrument.

(5) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims referred to in subsection (1) to be made parties to the action and to contribute according to their respective liabilities, whether this be rateably or by way of first loss or excess insurance as the case may be, and the insured shall, on demand, furnish the insurer with particulars of all other insurance covering the subject matter of the contract.

(6) Subject to subsection (7), where a policy provides, or if more than one policy the policies provide for coverage in excess of the limits mentioned in section 246 or for extended coverage in pursuance of subsections (1), (2) and (4) of section 247, nothing in this section shall, with respect to such excess coverage or extended coverage, prevent any insurer from availing itself, as against a claimant, of any defence that the insurer is entitled to set up against the insured.

(7) Where a policy provides for extended coverage in respect of loss or damage resulting from bodily injury to, or the death of, any person being carried in or upon, or entering, or getting on to, or alighting from, an automobile operated in the business of carrying passengers for compensation or hire subsection (6) shall apply only to that part of such extended coverage:

- (a) which exceeds any minimum coverage required by this Act; or
- (b) where a greater minimum coverage is required by or pursuant to any other Act of, or in force in, the province, which exceeds such greater minimum coverage.

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

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

(10) An insurer shall be entitled to avail itself of subsection (9) notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party.

**Insured to give notice of action and disclose insurance**

**252** Every insured against whom an action is commenced for damages occasioned by an automobile shall:

- (a) give notice thereof in writing to the insurer within five days after service of notice or process in the action; and
- (b) disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of such policy within ten days after written demand therefor.

1949, c.40, s.239; R.S.S. 1953, c.252.

**Establishment of assigned risk plan**

**253(1)** Subject to subsection (2), insurers undertaking automobile public liability insurance or automobile property damage insurance in the province may make, establish, become members of, and hold themselves bound by, an agreement or plan whereby persons who are otherwise unable to obtain such insurance may, under the agreement or plan, become insured by an insurer that is a party to, or a member of, the agreement or plan.

(2) An agreement or plan made or established pursuant to subsection (1) shall not become effective, nor be binding on the parties thereto or the members thereof, until it has been approved by order of the Lieutenant Governor in Council and a notice of such approval has been published in one issue of the *Gazette*.

1949, c.40, s.240; R.S.S. 1953, c.253.

(3) Subsections (1) and (2) shall come into force on a day to be fixed by proclamation of the Lieutenant Governor.

## POLICIES OTHER THAN MOTOR VEHICLE LIABILITY POLICIES

**Partial payment of loss clause**

**254** A policy, other than a motor vehicle liability policy, may contain a clause to the effect that the insurer in the event of loss shall pay only an agreed portion of any loss which may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed upon the face of the policy in conspicuous type, in red ink, the words "This policy contains a partial payment of loss clause".

1949, c.40, s.241; R.S.S. 1953, c.254.

**Claims to be adjusted with insured**

**255** Where a claim is made under any policy other than with insured a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the policy as well as with any person having an interest indicated in the policy.

1949, c.40, s.242; R.S.S. 1953, c.255.

## VIOLATION OF PART

**Violation of Act an offence**

**256** Every insurer or person who fails to comply with or violates any provision of this Part is guilty of an offence against this Act.

1949, c.40, s.243; R.S.S. 1953, c.256.

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 PART VII

## ACCIDENT AND SICKNESS INSURANCE

**Application**

**257(1)** This Part applies to accident and sickness insurance and to an insurer undertaking accident and sickness insurance in the province but does not apply to any fraternal society or to its contracts.

(2) This Part does not apply to contracts of life insurance to which Part V applies notwithstanding such contracts include provisions for special benefits or indemnities upon death by accident, or upon disability which is by the terms of the contract deemed to be total and permanent, or upon total disability which exists for a continuous period of not less than three months or ninety days, according as the contract may provide.

(3) This Part except section 268 does not apply to a contract made with an employer and insuring his employees or made with a representative of a group and insuring such group for the individual benefit of the employees or persons insured thereby, but sections 170, 185 to 189 and 218 apply to any such contract.

(4) Sections 170, 185 to 190 and section 218 apply to contracts to which this Part applies.

(5) This Part does not apply to insurance provided under section 248.

1949, c.40, s.244; 1951, c.37, s.16; R.S.S. 1953, c.257.

**What may be insured against**

**258** Every insurer licensed for the transaction of accident or sickness insurance may, within the limits and subject to the restrictions prescribed by the licence, insure or reinsure any person against accident, sickness or disability, total or partial, so long as the contingency insured against does not happen by design of the insured.

1949, c.40, s.245; R.S.S. 1953, c.258.

**Effect of delivery of policy or receipt for premium**

**259** Where the contract of insurance has been delivered it shall be as binding on the insurer as if the premium had been paid, although it has not in fact been paid and although delivered by an officer or agent of the insurer who had not authority to deliver it.

1949, c.40, s.246; R.S.S. 1953, c.259.

**Right of insurer in respect of unpaid premium**

**260(1)** The insurer may sue for the unpaid premium and may deduct the same from the amount for which he may become liable under the contract.

(2) Where the premium is paid by a cheque or a promissory note and the cheque is not paid on presentation or the promissory note at maturity the contract shall at the option of the insurer be voidable.

1949, c.40, s.247; R.S.S. 1953, c.260.

**Contents of policy**

**261(1)** Every policy shall contain the name and address of the insurer, the name, address and occupation of the insured, the name of the person to whom the insurance money is payable, the premium for the insurance, the indemnity for which the insurer may become liable, the event on the happening of which such liability is to accrue, and the term of the insurance.

(2) A contract may be renewed by the delivery of a renewal receipt, identifying the policy by number, date or otherwise.

1949, c.40, s.248; R.S.S. 1953, c.261.

**Statutory conditions**

**262** The conditions set forth in this section shall be deemed, subject to the provisions of sections 263 to 265, to be part of every contract of accident and of sickness insurance in force in Saskatchewan, and shall be printed on every policy hereafter issued under the heading "Statutory Conditions".

## STATUTORY CONDITIONS

**Entire contract included in policy**

1 This policy, including the endorsements and attached papers, if any, contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates as provided by condition 3.

**Statements of the insured**

2 All statements made by the insured upon the application for this policy shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall be used in defence of a claim under this policy unless it is contained in the written application for the policy and unless a copy of the application, or such part thereof as is material to the contract, is endorsed upon or attached to the policy when issued.

**Limited liability where insured engaged in more hazardous occupation**

3 If a *bodily injury or any sickness* insured against happens to the insured while engaged temporarily or permanently in an occupation classified as more hazardous than that stated herein to be the occupation of the insured, the liability under this policy shall be limited to such amount as the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks, and premium rates of the insurer last filed with the Superintendent of Insurance; provided that the performance of ordinary duties about his residence or while engaged in recreation shall not be regarded as a change of occupation by the insured.

**Rebate of premium where insured adopts less hazardous occupation**

4 If the insured shall, at any time, change his occupation either temporarily or permanently to an occupation classified by the insurer as less hazardous than that stated in the policy to be the occupation of the insured, the insurer shall, upon written request of the insured and surrender of this policy, issue a policy for the unexpired term at the lower rate of premium applicable to such less hazardous occupation, and the insurer shall return to the insured the amount by which the unearned premium on the original policy exceeds the premium charge at such lower rate for the unexpired term.

**Insurer not liable for sickness within first 15 days**

5 Unless otherwise specifically stated in this policy, the first insurer is not liable for any loss occasioned by sickness contracted by the insured within fifteen days from noon standard time of the day on which the policy comes into force.

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

6 If the *accident or sickness* benefits for loss of time secured hereunder, together with the *accident or sickness* benefits payable under other contracts of insurance upon the person of the insured, make up an aggregate indemnity in excess of the money value of the time of the insured, the insurer shall be liable only for such proportion of the benefits stated in this policy as the money value of the time of the insured bears to the aggregate of the benefits payable under all such contracts on the person of the insured, and the excess premiums, if any, paid by the insured shall be returned to him by the insurer.

**Notice to insurer**

7 Any written notice to the insurer may be delivered at or sent by registered post to the chief agency or head office of the insurer in the province or delivered or sent to any authorized agent of the insurer therein.

**Notice to insured**

8 Any written notice may be given to the insured by letter personally delivered to him or by registered letter addressed to him at his last post office address notified to the insurer, or where not notified and the address is not known, addressed to him at the agency, if any, at which the application was received.

**Termination by insurer**

9 The insurance may be terminated by the insurer at any time by giving to the insured ten days' notice of cancellation by registered mail or five days' notice of cancellation personally delivered to the insured and refunding in either case the excess of paid premium beyond the *pro rata* premium for the expired time.

**Termination by insured**

10 The insurance may be terminated by the insured at any time by giving written notice of termination to the insurer, in which case the insurer shall upon surrender of this policy refund the excess of paid premium beyond the customary short rate for the expired time.

**Repayment of excess premium**

11 In the case of termination of the insurance by the insurer, repayment of the excess premium may be made in money, by post office order, postal note or cheque, payable at par certified by a chartered bank doing business in the province. If the notice is given by registered letter, such repayment shall accompany the notice and in such case the ten days mentioned in condition 9 shall commence to run from the day following the receipt of a registered letter at the post office to which it is addressed.

**Notice of claim**

12 Any person entitled to make a claim under this policy shall:

**Time**

(a) give notice of claim in writing to the insurer not later than thirty days from the date of the accident or from the date of the commencement of disability from sickness; provided that failure to give notice shall not invalidate the claim if it is shown that it was not reasonably possible to give such notice within such time, and that notice was given as soon as was reasonably possible;

**Proof of claim**

(b) furnish to the insurer such proof of claim as is thereby, within ninety days after the happening of the accident, or, in the case of sickness, within ninety days after the date of commencement of the period of disability from sickness for which the insurer is liable;

**Medical certificate**

(c) if so required by the insurer, furnish a certificate from a licensed medical practitioner as to the cause and nature of the accident or sickness for which the claim is made and as to duration of the disability caused thereby.

**Insurer to furnish forms for proof of claim**

13 The insurer shall, upon receiving notice of accident or sickness, furnish to the claimant such forms as are usually furnished by them for proofs of claim, and if such forms are not so furnished within fifteen days after receipt of such notice, the claimant shall be deemed to have complied with the requirements of the policy as to proof of claim, if he submits within the time fixed in this policy, for filing such proofs, a written statement of the happening and character of the accident or sickness and of the extent of the loss for which the claim was made.

**Right of examination, including right to make an autopsy**

14 The insurer shall have the right, and the claimant shall afford to the insurer an opportunity, to examine the person of the insured when and as often as it may reasonably require while the claim hereunder is pending and also in the case of death of the insured to make an autopsy subject to any law of the province relating to autopsies.

**Claimant other than beneficiary must prove interest**

15 Any claim made under this policy by a claimant other than the beneficiary named in the policy, shall be subject to proof of the interest of the claimant.

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

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

**When moneys other than for disability payable**

17 All moneys payable under this policy for loss other than that of time on account of disability shall be paid payable within sixty days after the receipt of proofs of claim.

**When indemnity on amount of disability payable**

18 The indemnity for loss of time on account of disability shall be paid within thirty days after proof of claim payable and as long as the insurer remains liable for the disability at the expiration of every succeeding sixty days, provided that the insurer may, in case the disability continues, require proof thereof for each such period of sixty days, which proof shall be furnished within ninety days after the termination of each period in respect of which the claim is made.

**Right of insured to assign policy**

19 Where moneys are payable under this policy upon the death of the insured by accident, the insured may from time to time designate a beneficiary, appoint, appropriate or apportion such moneys and alter or revoke any prior designation, appointment, appropriation or apportionment.

**Waiver**

20 The insurer shall not be deemed to have waived any condition of this policy either in whole or in part, unless the waiver is clearly expressed in writing, signed by the insurer.

**Limitation of actions**

21 Any action or proceeding against the insurer for the recovery of any claim under this policy shall be commenced within one year after the cause of action arose.

1949, c.40, s.249; R.S.S. 1953, c.262.

**Certain conditions to be omitted from policy in special cases**

**263**(1) If the policy does not insure against accident the words of conditions 3, 6, 12 and 13 relating to accident and printed in italics may be omitted from the policy.

(2) If the policy does not insure against sickness, condition 5, and also the words of conditions 3, 6, 12 and 13, relating to sickness and printed in italics, may be omitted from the policy.

(3) If the policy provides that the contract may not be terminated by the insurer at any time, the conditions 9, 10 and 11 may be omitted from the policy.

(4) If, in the opinion of the superintendent, any condition or any part of a condition is not suitable having regard to the nature of the contract, the insurer may, with the approval of the superintendent, omit the condition or part of a condition from the policy.

(5) If an entire condition is omitted pursuant to this section, there shall be inserted after the condition number the following words within brackets “[This condition is not applicable to this policy and is omitted pursuant to statute]”.

1949, c.40, s.250; R.S.S. 1953, c.263.

**Policies issued by transportation corporations**

**264** Where a policy of accident insurance is issued through the agency of a transportation corporation that corporations holds a subsisting certificate of authority issued by the superintendent, the statutory conditions set out in section 262 need not be printed on the policy if the policy contains the following notice printed in conspicuous type:

“Notwithstanding any other provision herein contained this policy is subject to the statutory conditions respecting contracts of accident insurance”.

1949, c.40, s.251; R.S.S. 1953, c.264.

**Variations in conditions**

**265(1)** If an insurer desires to vary, omit, or add to the statutory conditions or any of them except as provided in sections 263 and 264, there shall be printed inconspicuous type not less in size than ten point, and in red ink, immediately after such conditions, the proposed variations or additions or a reference to the omissions, with these introductory words:

“VARIATIONS IN CONDITIONS.

“This policy is issued on the above statutory conditions with the following variations, omissions and additions, which are, by virtue of the law of this province, in force so far only as they shall be held to be just and reasonable to be exacted by the insurer”.

(2) No variation, omission or addition except as provided in sections 263 and 264 shall be binding upon the insured unless the foregoing provisions of this section have been complied with, and any variation, omission or addition shall be so binding only in so far as it is held by the court before which a question relating thereto is tried, to be just and reasonable.

1949, c.40, s.252; R.S.S. 1953, c.265.

**Payments to hospital, medical practitioner or dentist under *Hospitalization Act* or *Health Services Act***

**266(1)** Unless other wise specifically provided in a contract, any moneys paid under *The Saskatchewan Hospitalization Act, 1948* or *The Saskatchewan Hospitalization Act*, chapter 233 of these Revised Statutes, or *The Health Services Act, 1950*, or *The Health Services Act*, chapter 232 of these Revised Statutes, to a hospital for the account of, or on behalf of, a person insured under a contract of accident, or sickness, or accident and sickness insurance shall be deemed to be moneys paid and expended by the insured and not under any of the said Acts; and the insured shall be deemed to have incurred expense by reason of that payment and to the amount thereof.

(2) Unless otherwise specifically provided in a contract, any moneys paid under *The Health Services Act, 1950*, or *The Health Services Act*, chapter 232 of these Revised Statutes, to a duly qualified medical practitioner or a duly qualified dental surgeon for the account of, or on behalf of, a person insured under a contract of accident, or sickness, or accident and sickness insurance shall be deemed to be moneys paid and expended by the insured and not under either of the said Acts; and the insured shall be deemed to have incurred expense by reason of that payment and to the amount thereof.

1949, c.40, s.253; R.S.S. 1953, c.266.

**Use of red ink**

**267** No red ink shall be used on the face of a policy except for the name, address and emblem of the insurer, and the policy number and for the purposes mentioned in this Act.

1949, c.40, s.254; R.S.S. 1953, c.267.

**Relief from forfeiture**

**268** In any case where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or as to any matter or thing to be done or omitted by the insured after the maturity of the contract, and a consequent forfeiture or avoidance of the insurance in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it may deem just.

1949, c.40, s.255; R.S.S. 1953, c.268.

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**PART VIII****LIVE STOCK INSURANCE****Application of Part**

**269** This Part applies to live stock insurance and to any insurer carrying on the business of live stock insurance in the province.

1949, c.40, s.256; R.S.S. 1953, c.269.

**Powers of insurers**

**270(1)** Every insurer licensed for the transaction of live stock insurance may, within the limits and subject to the conditions prescribed by the licence, insure against loss of live stock, by fire, lightning, accident, disease or other means, except that of design on the part of the insured, or by the invasion of an enemy or by insurrection.

(2) An insurer licensed to transact mutual fire insurance may, within the limits and subject to the conditions prescribed by its licence, insure against loss, by fire and lightning only, of live stock, except that caused by design on the part of the insured, or by the invasion of an enemy or by insurrection.

1949, c.40, s.257; R.S.S. 1953, c.270.

**Application of provisions as to fire insurance**

**271** The following provisions of Part IV apply to live stock insurance contracts:

- (a) the provisions as to the form and contents of the policy;
- (b) the provisions as to the conditions including the statutory conditions, except where inapplicable to the nature of the risk.

1949, c.40, s.258; R.S.S. 1953, c.271.

**Application of Part XI**

**272** The provisions of Part XI apply to all contracts of live stock insurance issued by mutual fire insurers.

1949, c.40, s.259; R.S.S. 1953, c.272.

**Term of contract**

**273** Contracts of insurance shall not in any case exceed the term of three years.

1949, c.40, s.260; R.S.S. 1953, c.273.

**Renewals**

**274** A contract made for one year or any shorter period may be renewed from time to time at the discretion of the directors by renewal receipt instead of by policy, on the insured paying the required premium or giving his premium note; and all payments on renewal by cash or premium notes shall be made at or before the end of the period for which the policy was granted or renewed, otherwise the policy shall be void.

1949, c.40, s.261; R.S.S. 1953, c.274.

**Form of mutual contracts**

**275** A contract of live stock insurance issued under this Part by a mutual fire insurer may be issued as a separate policy, or such contract may form part of the insured's fire insurance policy, subject to the provisions of this Part.

1949, c.40, s.262; R.S.S. 1953, c.275.

**Notice of claim**

**276** A person claiming under a contract of live stock insurance shall, within ten days after loss, furnish notice of such claim to the insurer. Failure to give the notice within the time specified shall not invalidate the claim if it is shown that it was not reasonably possible to give the notice within such time and that notice was given as soon as was reasonably possible.

1949, s.40, s.263; R.S.S. 1953, c.276.

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## PART IX

### HAIL INSURANCE

**Application and interpretation**

**277(1)** This Part applies to hail insurance and to every insurer carrying on the business of hail insurance in the province.

(2) For the purpose of this Part "premium" as defined in paragraph 53 of section 2 includes a negotiable instrument accepted by the insurer or its general agent as payment of the premium.

1949, c.40, s.264; R.S.S. 1953, c.277.

**Powers of insurers**

**278(1)** Every insurer may, within the limits and subject to the restrictions prescribed by its licence, insure or reinsure:

- (a) crops of wheat, oats, barley, flax, rye or speltz, field peas, buckwheat, grasses or clover grown for seed, field corn or sunflower grown for seed or fodder; or
- (b) field or garden or horticultural crops other than those specified in clause (a).

- (2) In the case of the crops mentioned in clause (b) of subsection (1) the superintendent may approve a form of contract appropriate to insure such crops and in that event the statutory conditions shall be read with such modification as is necessary to give effect to the terms and conditions of a contract in the form so approved.
- (3) The insurer may by an endorsement on the policy, and in consideration of an additional premium, insure the crop:
- (a) for any period during which it is lying in windrows; or
  - (b) for any period during which it is in sheaves either on the ground or in stooks.
- (4) The insurer may by an endorsement on the policy, and in consideration of an additional premium, insure the crop against loss or damage arising from other losses incidental to crops and in such case the statutory conditions shall be read with such modification as is necessary to give effect to the terms and conditions of the endorsement.

1949, c.40, s.265; R.S.S. 1953, c.278.

#### **Insurable interest**

- 279(1)** The contract shall be void if, at the time at which it would otherwise take effect, the insured has not an insurable interest in the crop insured.
- (2) If the insured has an insurable interest in the crop insured when the contract takes effect, it shall not be necessary for the validity of the contract that any person to whom the insurance money is payable, whether by the terms of the contract or by assignment, have an insurable interest in the crop.

1949, c.40, s.266; R.S.S. 1953, c.279.

#### **Application for insurance**

- 280(1)** No insurer shall effect a contract of insurance unless such insurer has been tendered an application therefor in writing signed by the applicant or his agent.
- (2) A copy of the application or of such part thereof as is material to the contract shall be embodied in, endorsed upon or attached to the policy when issued by the insurer, and shall form part thereof.
- (3) The application shall set forth:
- (a) the name and address of the applicant;
  - (b) an itemized description of the location and acreage of each part of the crop to be insured and the amount of insurance applied for on each acre;
  - (c) whether or not the crop has been hailed prior to the time of the application;
  - (d) the insurable interest of the applicant;
  - (e) the name of the person or persons to whom the insurance money is payable; and
  - (f) with the approval of the superintendent, such further information as the insurer requires.

1949, c.40, s.267; R.S.S. 1953, c.280.

**Information to appear on face of policy**

**281(1)** On the face of every policy there shall appear the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the premium or other consideration for the insurance, the subject matter of the insurance, the maximum amount or amounts which the insurer contracts to pay, the date of the commencement of liability, the event on the happening of which payment is to be made and the term of the contract.

(2) There shall also appear on every application and on every policy in a prominent position and in prominent type, the name and address of the insurer's head or branch office or general agency from which the policy is to be or is issued.

1949, c.40, s.268; R.S.S. 1953, c.281.

**Duty of agents to forward applications**

**282** Every agent who takes an application on behalf of an insurer shall deliver it to the insurer, or forward it to the insurer by mail, not later than the day following the day on which it is taken.

1949, c.40, s.269; R.S.S. 1953, c.282.

**Commencement of liability**

**283(1)** If an agent of an insurer mails an application for insurance on crops mentioned in clause (a) of subsection (1) of section 278 to the head or branch office or the general agency of the insurer in the province and tenders therewith payment of the premium in cash, or by post office order, postal note, express order, bank money order, certificate of deposit of a chartered bank or certified cheque, a contract of insurance in accordance with the application shall take effect at noon, standard time, of the day following the date of such mailing. In such case the post office date stamp shall determine the date of mailing.

(2) The insurer may decline the application on its receipt. If the application is declined the insurer shall forthwith give notice thereof by registered letter, or by prepaid telegram if possible, to the applicant at his address as is given in the application and to the agent tendering the application, in which case the contract of insurance mentioned in subsection (1) shall continue in force only until noon of the day following the receipt of the notice by the applicant. Notwithstanding the foregoing provision, notice in writing that the application has been declined may be personally delivered to the applicant by the agent, and in that event the contract of insurance mentioned in subsection (1) shall continue in force only until noon of the day following receipt of the notice by the applicant.

(3) The premium tendered with the application shall be returned to the applicant or held by the insurer for the applicant for premium purposes solely and payable on the direction of the applicant to any insurer to whom an application for insurance is subsequently tendered.

(4) If the applicant subsequently tenders an application for insurance to another insurer, and endorses on the application a notice that the premium is held as mentioned in subsection (3), then the amount so held shall, for the purpose of this section, be deemed to have been tendered with the application.

1949, c.40, s.270; R.S.S. 1953, c.283.

**Procedure where wrong premium tendered**

**284** If the amount of premium tendered with an application made in accordance with the provisions of section 283 is not the correct amount, the insurance shall, unless readjusted before loss occurs, be either reduced or increased to such amount as the premium actually tendered would pay for according to the correct rate of premium applicable to the risk.

1949, c.40, s.271; R.S.S. 1953, c.284.

**Procedure by insurer on receipt of application**

**285(1)** If an agent of an insurer tenders an application, with payment of the premium otherwise than as specified in section 283, or if the applicant tenders his application and payment of the premium, to the head or branch office or the general agency of the insurer in the province, the application shall immediately be stamped with the date of its receipt.

(2) Subject to subsection (3), the application shall be accepted or declined not later than the day following the date of its receipt and shall be so stamped.

(3) If the applicant tenders with his application an order on a third party as payment of the premium, the application shall be accepted or declined on the day following the date of receipt from the third party of notice of acceptance of or refusal to accept the order for payment.

(4) If accepted, the insurance applied for shall take effect at noon, standard time, of the day on which the application is accepted.

(5) If declined, the applicant shall be so notified on the day on which the application is declined, at his address as given in the application. Where there is a telegraph office at such address, the notice shall be given by telegram prepaid, otherwise it shall be forwarded in writing by a registered letter.

(6) If the insurer does not so notify the applicant that his application has been declined the insurer shall be conclusively presumed to have accepted the application.

1949, c.40, s.272; R.S.S. 1953, c.285.

**Policy deemed to be in accordance with application**

**286** A policy issued to an insured upon an application in writing shall be deemed to be in accordance therewith, unless the insurer forthwith gives notice to the insured in writing of the particulars wherein the policy and application differ.

1949, c.40, s.273; R.S.S. 1953, c.286.

**Expiry of contracts**

**287(1)** Subject to subsection (2), all policies of hail insurance shall expire at noon on the fifteenth day of September in the year in which they are made.

(2) If any portion of the insured crop is cut before that date the liability of the insurer shall cease in respect of that portion when it is cut, and the insurance on each acre of the remaining acreage shall continue until the crop thereon is cut but not beyond the said date unless extended pursuant to subsection (3).

(3) The insurer may, by an endorsement on the policy, in consideration of an additional premium, extend the term of the contract beyond the said date.

1949, c.40, s.274; R.S.S. 1953, c.287.

**Partial payment of loss**

**288(1)** A policy may contain a partial payment of loss clause to the effect that the insurer shall pay only an agreed proportion of any loss which may be sustained or the amount of the loss after deduction of a sum specified in the policy, in either case not exceeding the amount of the insurance, in which case there shall be printed or stamped upon the face of the policy in conspicuous type in red ink, the words: "This policy contains a partial payment of loss clause".

(2) Such partial payment of loss clause shall not be deemed a variation of or addition to the statutory conditions.

1949, c.40, s.275; R.S.S. 1953, c.288.

**Premium rates**

**289(1)** Every insurer shall, before the first day of May in each year, file with the superintendent the rates of premium to be charged in designated areas in the province and such rates shall be effective during the current calendar year unless changed in the meantime and the change is notified to the superintendent at least ten days before becoming effective.

(2) When a rate has been reduced after notification the new rate shall be applicable to all contracts issued by the insurer within such designated areas; and the insurer shall return to each insured within such designated areas the amount by which the premium paid by each insured exceeds the premium at the lower rate.

1949, c.40, s.276; R.S.S. 1953, c.289.

**Agents' commission**

**290(1)** Every insurer shall, before the first day of May in each year, file with the superintendent the rate of commission payable to its agents in respect of its contracts issued during the current year.

(2) No insurer or its general agent for the province shall, directly or indirectly, pay or allow or offer or agree to pay or allow any compensation or anything of value to any person for acting or attempting or assuming to act as its agent in excess of that offered, paid or allowed to any one of its agents on risks for which like rates of premium are payable.

(3) If on investigation by the superintendent an insurer or its general agent for the province is found to have contravened the provisions of subsection (2), the same rate of commission shall be paid to all agents on risks for which such like rates of premium are charged.

1949, c.40, s.277; R.S.S. 1953, c.290.

**Notice of termination when loss payable to third party**

**291** Where the loss has, with the consent of the insurer, to been made payable to some person other than the insured, third party the contract shall not be cancelled or altered to the prejudice of such person without reasonable notice to him by the insurer.

1949, c.40, s.278; R.S.S. 1953, c.291.

**Copy of adjustment given to insured**

**292** When an adjustment of loss under a contract has been made, a copy of the adjustment, duly signed by the adjuster and the insured or his agent, shall be given to the insured or his agent.

1949, c.40, s.279; R.S.S. 1953, c.292.

**Procedure where acreage wrongly stated in application**

**293(1)** If the actual acreage of the crop insured under any item of the policy is found to be less than the acreage mentioned in the application under such item, the insurer shall repay to the insured the premium paid on the excess acreage.

(2) If the actual acreage of the crop insured under any item of the policy is found to be greater than the acreage mentioned in the application, the amount of insurance on each acre shall be reduced *pro rata* in its relation to the actual acreage, unless the acreage insured is clearly identified in the application or by a diagram on the application.

1949, c.40, s.280; R.S.S. 1953, c.293.

**Statutory conditions part of every policy**

**294** The conditions set forth in this section shall be deemed to be part of every contract in force in the province and shall be printed on every policy with the heading "Statutory Conditions", and no stipulations to the contrary, or provisions for a variation, addition or omission, shall be binding on the insured, nor shall anything contained in the description of the subject matter of the insurance be effective in so far as it is inconsistent with, varies, modifies or avoids any such condition.

## STATUTORY CONDITIONS

**Misdescription, misrepresentation or omission**

1 Where an applicant in his application falsely describes the location and acreage of the crop, to the prejudice of the insurer, or knowingly misrepresents or fails to disclose in the application any fact required to be stated therein, the insurance shall be void as to the item of the application in respect of which the misdescription, misrepresentation or omission is made.

**Waiver of condition**

2 No term or condition of this policy shall be deemed to have been waived by the insurer, either in whole or in part, unless the waiver is clearly expressed in writing signed by or on behalf of the insurer at its head or branch office or general agency from which the policy was issued.

**Officers of insurer deemed agents**

3 Any officer or general agent of the insurer who assumes on behalf of the insurer to enter into a written agreement relating to any matter connected with the insurance shall be deemed *prima facie*, to be the agent of the insurer for the purpose.

**Minimum amount of damage**

4 No claimant shall be entitled to indemnity under the policy for any loss or damage which is found to be less than five per cent of the crop upon the hailed acreage or any portion thereof and in no case for less than ten dollars, except where the acreage insured is forty acres or less.

**Injury by causes other than hail**

5 No claimant shall be entitled to indemnity under the policy:

- (a) when the crop is wholly destroyed by any agency other than hail; or
- (b) when the crop is over-ripe; or
- (c) when the crop or any portion thereof has been so injured by causes other than hail that the crop or such portion, as the case may be, would not yield profit over and above the actual cost of cutting, threshing and marketing it.

**Notice of claim**

6 Any person claiming under the policy shall give notice of claim in writing to the head or branch office or the general agency of the insurer from which the policy was issued within three days of the occurrence of loss, stating the number of the policy, the day and hour of the storm, the estimated damage to each portion of the insured crop and the names of other insurers carrying insurance on the hailed area; provided that failure to give notice within such time shall, subject to condition 9, not invalidate the claim if it is shown that it was not reasonably possible to give notice within such time and that notice was given as soon as was reasonably possible.

**Right of access of insurer**

7 After any loss or damage to the insured crop, the insurer shall have immediate right of access and entry by accredited representatives sufficient to enable them to survey and examine the crop and to make an estimate of the loss or damage.

**Ascertainment of damage**

8 Within thirty days after the receipt of notice of loss or damage the insurer and the insured or their accredited representatives shall together ascertain and agree upon the percentage of loss or damage sustained on the acreage of the crop or any portion thereof insured under any item of the policy. The amount of indemnity shall be ascertained on the agreed percentage of the insurance on each acre of acreage sustaining loss or damage by hail, subject to any partial payment of loss clause contained in the policy or subject to the determination of the amount of the loss or damage by appraisal as hereinafter provided. No account shall be taken of the cost of cutting or threshing the portion not destroyed or damaged. The determination of the percentage of loss or damage may be deferred to a later date agreed upon by the insurer and the insured.

**Proof of loss**

9 A person making a claim under the policy shall, within thirty days after the occurrence of a loss or within thirty days of the deferred adjustment date, unless such time is extended in writing by the insurer, furnish a statutory declaration, hereinafter called proof of loss, on a form furnished by the insurer, setting forth the date and number of the policy, the date of the occurrence of the loss or damage, the location and acreage of the crop damaged, the estimated percentage of loss or damage sustained on the acreage of the crop or any portion thereof insured under any item of the policy and whether the crop was damaged by hail prior to the time of the application. If the claimant fails to furnish proof of loss he shall forfeit any claim under the policy:

Provided that if the insurer, within the said thirty days or at the time of the deferred adjustment, has ascertained the loss acceptably to the claimant or if the amount of loss has been determined by appraisal as hereinafter provided, the insurer shall be deemed to have waived proof of loss, unless proof of loss is requested by the insurer in writing.

**Proof to be made by insured personally**

10 Proof of loss must be made by the insured, though the loss is payable to a third person, except that, in case of the absence of the insured or his inability to make the same, proof may be made by his agent, such absence or inability being satisfactorily accounted for, or in the like case or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

**Fraud or false statement vitiates claim**

11 Any fraud or wilfully false statement in a proof of loss shall vitiate the claim of the person making such proof of loss.

**Payment of loss**

12 The insurer shall pay the insurance money for which it is liable under the policy within sixty days after the proof of loss has been received by it or where an appraisal is had under condition 15, within thirty days after the award is rendered by the appraisers.

**When insured liable for expenses of adjustment**

13 If the insured claims for loss or damage under the policy and it is found that he is not entitled to indemnity adjustment under the conditions of the policy the insured shall be liable for the expenses incurred in the adjustment of his claim.

**Cancellation of policy**

14 A policy may be cancelled at any time by the insured named therein by giving written notice to that effect to the head or branch office or the general agency of the insurer from which the policy was issued and the insurer shall, upon surrender of the policy, refund the excess of paid premium above the customary short rate premium for the time the policy has been in force. If a note or other undertaking was accepted as payment of the premium the insured shall pay the insurer the earned portion of the premium and on payment or tender of such amount the insurer shall return such note or undertaking to pay, or if the insured does not pay or tender the amount, the insurer shall endorse on the note or other undertaking a credit of the amount of the unearned portion of the premium.

**Appraisal in case of disagreement**

15 In the event of a disagreement as to the percentage of damage by hail to any of the crops insured, whether the right to recover on the policy is disputed or not, such percentage shall, when so required by either party, be ascertained by an appraisal which shall be conducted as follows:

- (i) the party desiring appraisal shall within three days of such disagreement deliver or cause to be delivered by mail or otherwise to the other party a notice in writing requiring an appraisal to be made and appointing an appraiser who is a taxpayer in the province, who shall act either alone or with an appraiser chosen by the other party to estimate the percentage of the damage;
- (ii) not later than three days after receipt of such notice the other party shall, if he so desires, appoint an appraiser to represent him and, within the said period, shall notify the first party of such appointment by notice in writing delivered by mail or otherwise;
- (iii) in the latter case the appraisers shall together estimate the percentage of damage, and failing to agree shall submit their differences to an umpire, and the award in writing of any two shall determine the percentage of the damage. Such umpire shall be chosen by the appraisers, or in case they cannot agree, then on the application of either appraiser, by the Superintendent of Insurance;
- (iv) if only one appraiser has been chosen, both parties shall share equally his expenses; if two, each party shall pay the expense of the appraiser chosen by him; both parties shall bear equally the expense of the umpire if an umpire is required;

(v) should either party after receipt of written notice from the other, neglect or refuse to choose an appraiser within the time above specified the percentage of damage shall be estimated and determined by the appraiser chosen by the party giving notice;

(vi) the actual appraisal of such damage shall be commenced within two days after both appraisers have been chosen, or after the expiration of the time herein allowed for such choice;

(vii) the periods of time specified in this condition may on application be extended at the discretion of the Superintendent of Insurance.

**Limitation of action**

16 Every action or proceeding against the insurer in respect of loss or damage to the crops insured under the policy shall be commenced within one year next after the occurrence of the loss or damage and not afterwards.

**Assignment or change of property**

17 If the crop insured or the interest of the insured in such crop is assigned without the written permission of the head or branch office or general agency of the insurer from which the policy was issued, such assignment shall not be binding on the insurer; but this condition does not apply to change of title by succession or by operation of the law, or by reason of death.

1949, c.40, s.281; R.S.S. 1953, c.294.

**Relief from forfeiture**

295 Where there has been imperfect compliance with a statutory condition as to proof of loss to be given by the insured after the occurrence of the loss insured against, and a consequent forfeiture or avoidance of the insurance, in whole or in part, and the court deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it may deem just.

1949, c.40, s.282; R.S.S. 1953, c.295.

**Variation of conditions with approval of superintendent**

296(1) If the Act by or under which a provincial company is incorporated contains provisions which are inconsistent with any condition of the statutory conditions as set out in this Part, the insurer may with the approval of the superintendent vary such condition or omit it from the policy.

(2) If an entire condition is omitted pursuant to subsection (1), there shall be inserted after the condition number the following words within brackets: “[This condition is not applicable to this policy and is omitted pursuant to statute]”.

1949, c.40, s.283; R.S.S. 1953, c.296.

PART X

WEATHER INSURANCE

**Application of Part**

297 This part applies to weather insurance and to every insurer carrying on the business of weather insurance in the province, but does not apply to weather insurance provided by an endorsement to a contract of fire insurance.

1949, c.40, s.284; R.S.S. 1953, c.297.

**What may be insured**

**298** Every insurer licensed for the transaction of weather insurance may, within the limit and subject to the conditions prescribed by the licence, insure against such atmospheric disturbances, discharges or conditions as the contract of insurance shall specify.

1949, c.40, s.285; R.S.S. 1953, c.298.

**Application of certain provisions as to fire insurance**

**299** The following provisions of this Act apply to weather insurance contracts:

- (a) the provisions of Part IV as to the form and contents of the policy;
- (b) the provisions of Part IV as to conditions, including the statutory conditions, except where inapplicable to the nature of the risk;
- (c) the provisions of Part XI relating to premium notes and assessments, where the insurance is on the premium note plan.

1949, c.40, s.286; R.S.S. 1953, c.299.

**Additional conditions**

**300** The following additional conditions form part of every weather insurance contract:

- 1 The insurance may be terminated by the insurer by giving seven days' notice to that effect;
- 2 The insurer is not liable for loss or damage occurring to buildings or structures or to their respective contents where the buildings or structures have been weakened by subsequent alterations unless permission to make such alterations has been previously granted in writing signed by a duly authorized agent of the insurer.

1949, c.40, s.287; R.S.S. 1953, c.300.

**Duration of contract**

**301** A contract of weather insurance shall not in any case exceed the term of three years.

1949, c.40, s.288; R.S.S. 1953, c.301.

**Fixed payments on premium note**

**302** On every premium note taken by the insurer there shall be payable at the commencement of each year of insurance a cash payment amounting to at least one-fifth of one per cent of the sum insured or *pro rata* when the cash payment is paid in advance for a longer term; and the premium note shall, as to the balance thereof, be subject to assessment by the directors; provided that when the amount of insurance in force exceeds \$3,000,000 and the total assets of the insurer do not fall below two per cent of the total amount at risk, the superintendent may authorize the reduction of the cash payment to one-eighth of one per cent of the sum insured per annum, or *pro rata* for a longer term.

1949, c.40, s.289; R.S.S. 1953, c.302.

## PART XI

**Mutual Insurance**

## MUTUAL FIRE INSURANCE COMPANIES

## INCORPORATION AND LICENCE

**Meeting to establish company, how called**

**303** Where it appears to the minister that there is in any district no adequate provision for insurance on the mutual plan against fire, the minister may certify that fact, and thereupon any ten persons having an insurable interest in property real or personal exposed to damage by fire may call a meeting of freeholders to consider whether it is expedient to establish a fire insurance company upon the mutual plan.

1949, c.40, s.290; R.S.S. 1953, c.303.

**Advertisement calling meeting**

**304** The meeting shall be called by advertisement stating the time, place and object of the meeting; and the advertisement shall be published once a week for three successive weeks in a newspaper published in the district, the free holders of which are considering the formation of a mutual company.

1949, c.40, s.291; R.S.S. 1953, c.304.

**Subscription book**

**305(1)** If thirty persons, each having an insurable interest in property, are present and a majority of them determine that it is expedient to establish a mutual fire insurance company, they may elect from their number three persons to open and keep a subscription book in which owners of real or personal property within Saskatchewan may sign their names and enter the sum for which they shall respectively bind themselves to effect insurance with the company.

(2) In such subscription book shall also appear the name in full of each applicant and his address, the description and location of the property to be insured, and a statement that the applicant shall not be individually liable for the debts of the proposed company beyond the amounts due under the premium note to be given by him to the company.

1949, c.40, s.292; R.S.S. 1953, c.305.

**When meeting of subscribers may be called**

**306** When the aggregate amount subscribed as in section 305 is not less than \$50,000, a meeting shall be called as hereinafter provided.

1949, c.40, s.293; R.S.S. 1953, c.306.

**How meeting called**

**307(1)** When the subscription has been completed, any ten of the subscribers may call the first meeting of the proposed company at such time and place as they may determine by sending a printed notice by mail, addressed to every subscriber at his post office address, at least ten days before the day of meeting and by advertisement in a newspaper published or circulated in the district.

(2) The notice and advertisement shall state the object of the meeting, and the time and place at which it is to be held.

1949, c.40, s.294; R.S.S. 1953, c.307.

#### **Election of officers**

**308(1)** At such meeting or any adjournment of it, the name and style of the company, which shall contain the words “fire” and “mutual”, shall be adopted, a secretary ad interim appointed, a board of directors elected as hereinafter provided, and some central and generally accessible place within the province named, at which the head office of the company shall be located.

(2) The presence of at least twenty-five of the subscribers shall be necessary to constitute a valid meeting.

(3) As soon as convenient after the meeting, the secretary ad interim shall call a meeting of the board of directors for the election from among themselves of a president and vice-president, for the appointment of a secretary and a treasurer or a secretary treasurer or a manager, and the transaction of such other business as may be brought before the meeting.

1949, c.40, s.295; R.S.S. 1953, c.308.

#### **Documents delivered to superintendent**

**309(1)** Thereupon there shall be delivered to the superintendent, certified as correct under the hands of the chairman and secretary:

(a) a copy of the minutes of the meetings, including all resolutions respecting the object of the proposed company, its name or style, and the location of its head office;

(b) a copy of the subscription book;

(c) a list showing the names and addresses of the directors elected and of the officers appointed.

(2) There shall also, for verification, be produced to the superintendent, the originals of such documents.

1949, c.40, s.296; R.S.S. 1953, c.309.

#### **Superintendent ascertains correctness of proceedings**

**310** Upon the receipt by the superintendent of the documents mentioned in section 309, he shall ascertain and determine whether the proceedings for the incorporation of the company have been taken in accordance with the provisions of this Act, and whether the subscriptions are *bona fide*, and by persons possessing property to insure, and whether the proposed name is the same as that of any existing company, or may easily be confounded therewith, or is otherwise objectionable.

1949, c.40, s.297; R.S.S. 1953, c.310.

#### **Certificate of incorporation**

**311(1)** If the superintendent determines that the provisions of this Act have been complied with and that there is no reason why the company should not be incorporated, he shall so report to the minister.

- (2) Upon receipt of such report, and on the presentation of the documents mentioned in section 309 and the payment of such fees as are prescribed by the regulations of the Lieutenant Governor in Council under *The Companies Act*, the minister may authorize the registrar under his hand and seal of office to issue a certificate of registration.
- (3) From the time of the issue of such certificate, the proposed company shall be a corporation and the members of the corporation shall be the persons who for the time being hold contracts of mutual insurance therein, and as long as the company remains registered it shall be capable, on being duly licensed, of undertaking within Saskatchewan fire insurance on the mutual plan in the terms of its licence.
- (4) A company duly incorporated and licensed under this Act may, if authorized by the superintendent, carry on its business outside Saskatchewan.

1949, c.40, s.298; R.S.S. 1953, c.311.

#### Licence

**312** After registration the superintendent may issue a licence to the company in the form provided for by section 46.

1949, c.40, s.299; R.S.S. 1953, c.312.

## POWERS

#### Powers

**313(1)** The company may:

- (a) purchase, lease, hold, sell, transfer, convey or mortgage any real or personal property required for its business;
  - (b) invest its funds in securities authorized by clause (a) of subsection (1) of section 103;
  - (c) appoint such officers or agents as its business may require, define their powers and duties, and fix their remuneration and the amount of the security to be required of them;
  - (d) make bylaws not inconsistent with this Act for the management of its business, the regulation of the tariff of rates, the levying of assessments and the terms and conditions of its insurance policies.
- (2) The company may, within the limitations and subject to the restrictions, if any, contained in its licence, insure or reinsure any property in which the insured has an insurable interest against loss by fire, lightning, explosion or wind storm and against other losses incidentally insured in contracts of fire insurance and issue contracts of automobile insurance and contracts of accident insurance.
- (3) The powers conferred by subsection (2) may, on application by the company to the superintendent, be extended by the Lieutenant Governor in Council to other classes of insurance.
- (4) A company may effect any insurance upon the cash plan and all the property and assets of the insurer shall be liable for losses under contracts of insurance.
- (5) Except as above mentioned no mutual company shall issue contracts of insurance other than upon the mutual plan.

1949, c.40, s.300; R.S.S. 1953, c.313.

**Forfeiture of corporate powers**

**314** Subject to section 131, the corporate powers of the company shall be forfeited and cease except for the purpose of winding up, provided:

- (a) that the mutual insurance policies of the company in force at the expiration of one year from the date of issue of the initial licence are less in amount than \$100,000; or
- (b) that at any time thereafter the total amount of such insurance policies shall have diminished and become less than \$100,000.

1949, c.40, s.301; R.S.S. 1953, c.314.

**Change of name**

**315(1)** Where a company incorporated under the provisions of any Act of the Legislature is desirous of adopting a name differing from that by which it was incorporated, or where, in the opinion of the Lieutenant Governor in Council, the name by which such company was incorporated may be easily confounded with that of any other existing company, the Lieutenant Governor in Council upon being satisfied that a change of name will not work or effect any improper purpose, may by order in council change the name of the company to some other name to be set forth in the order in council; but no change of name shall affect the rights or obligations of the company; and all proceedings which might have been commenced or continued by or against the company by its former name may be commenced and continued by or against the company by its new name.

(2) A certificate by the registrar showing the former name of the company and the new name may be filed in the land titles office of any land registration district in which there are lands owned by the company or lands in which it has a registered interest, and thereafter the registrar of land titles shall accept for registration any transfer, mortgage, lease, assignment of mortgage or other instrument executed by the company in its new name, and shall deal with the lands affected thereby in all respects as if the title or interest of the company had always been registered in its new name.

1949, c.40, s.302; R.S.S. 1953, c.315.

**Notice of application for change of name**

**316** The Lieutenant Governor in Council may require the same notice to be given upon an application for such change of name as is required on an application for change of name under *The Companies Act*.

1949, c.40, s.303; R.S.S. 1953, c.316.

**Notice of change**

**317** Notice of change of name shall be forthwith inserted by the company in at least one issue of the *Gazette*.

1949, c.40, s.304; R.S.S. 1953, c.317.

## ELECTION OF DIRECTORS

**Number of directors**

**318(1)** The affairs of the company shall be managed by a board of directors which shall consist of six, nine, twelve or fifteen directors, as shall be determined by resolution passed at the meeting held under section 307, all of whom shall be members of the company in good standing and insured therein for at least \$1,000 each.

(2) The number of directors may from time to time be increased or decreased if so determined at a special general meeting of the company called for the purpose, or at an annual general meeting, if notice in writing of the intention to propose a bylaw for that purpose at such annual general meeting is given to the secretary of the company at least one month before the holding of the meeting; but the increased or decreased number of directors shall in any such case be six, nine, twelve or fifteen.

1949, c.40, s.305; R.S.S. 1953, c.318.

**Power of directors elected at first meeting**

**319** The directors elected at the meeting held under section 307 shall hold office and enjoy all the powers exercised by the directors elected as hereinafter provided until replaced or re-elected at the first annual meeting of the company.

1949, c.40, s.306; R.S.S. 1953, c.319.

**Retirement of directors in rotation**

**320** One-third of the directors shall retire annually in rotation, and at the first meeting of the directors, or as soon thereafter as possible, it shall be determined by lot which of them shall hold office for one, two or three years respectively, and the determination shall be entered in the minutes of the meeting.

1949, c.40, s.307; R.S.S. 1953, c.320.

**Annual election to fill vacancies**

**321** At every annual general meeting thereafter, one-third of the total number of directors shall be elected for a period of three years, to fill the places of the retiring directors, who shall be eligible for re-election.

1949, c.40, s.308; R.S.S. 1953, c.321.

**Manager may be a director**

**322** The manager of the company although he has not the qualification required by section 318, may be a director of the company and may be paid an annual salary under a bylaw passed as provided by section 339.

1949, c.40, s.309; R.S.S. 1953, c.322.

**Certain persons not eligible as directors**

**323(1)** No paid officer, or officer of the bankers of the company, or person in the employment of the company, other than the manager, shall be eligible to be elected as a director or shall interfere in the election of directors.

(2) Nothing herein shall apply to a person receiving applications for insurance, or taking to his own use the customary application, survey or policy fee, not exceeding \$2 in respect of any one policy, or prevent a director from so doing.

1949, c.40, s.310; R.S.S. 1953, c.323.

**Election of directors**

**324(1)** The election of directors shall be held and made by the members who attend for that purpose in their proper persons, or in the case of a corporation or partnership by a person authorized in writing to represent it.

(2) The election shall be by ballot.

(3) If two or more members have an equal number of votes, so that less than the whole number to be elected appear to have been chosen directors by a majority of votes, the members present shall proceed to ballot until it is determined which of the persons so having an equal number of votes shall be the director or directors.

(4) The directors shall at their first meeting after any such election elect by ballot from among themselves a president and vice-president, and the secretary shall preside at such election.

1949, c.40, s.311; R.S.S. 1953, c.324.

**Vacancies**

**325** If a vacancy is caused in the board of directors by the death of a member before the expiration of his term of office, his resignation, his ceasing to have the prescribed qualification, his insolvency or his absence without the previous permission of the board from three successive regular meetings which shall, *ipso facto*, create a vacancy, the remaining directors shall forthwith, in the case of a board limited to six directors, and may, in the case of a board whose members exceed six in number, appoint a qualified person to fill the vacancy until the next general meeting of the company, and at such meeting the vacancy shall be filled for the portion of the term, if any, still unexpired.

1949, c.40, s.312; R.S.S. 1953, c.325.

**Representations of partnerships**

**326** Where a partnership has the qualification which would qualify an individual to be a director of the company one member of the partnership shall be eligible to be a director of the company.

1949, c.40, s.313; R.S.S. 1953, c.326.

**Failure to elect directors**

**327** If an election of directors is not made on the day on which it ought to have been made the company shall not for this cause be dissolved but the election may be held on any subsequent day at a meeting to be called by the directors for that purpose or as is otherwise provided for by the bylaws of the company and in such case the directors shall continue to hold office until their successors are elected.

1949, c.40, s.314; R.S.S. 1953, c.327.

**POWERS OF DIRECTORS****Appointment of officers**

**328** The directors may from time to time appoint a manager, a secretary, a treasurer and such other officers, agents or assistants as to them may seem necessary, prescribe their duties, fix their compensations or allowances, take such security from them as may be required for the faithful performance of their respective duties and remove them and appoint others instead.

1949, c.40, s.315; R.S.S. 1953, c.328.

**Table of rates**

**329** The directors may also, subject to the provisions of this Act, adopt a table of rates, premiums or premium notes, as the case may be, and vary such tables from time to time and may also prescribe the maximum amount of any risk to be undertaken.

1949, c.40, s.316; R.S.S. 1953, c.239.

**Pro rata payments of losses**

**330** In the event of the assets, and the total actual and estimated revenue of the company for the year not being considered by the directors to be sufficient to pay in full all losses incurred during such year, the same shall be paid *pro rata* and the directors shall fix the percentage of such *pro rata* payment and shall file with the superintendent a statement showing how such *pro rata* percentage has been determined. Such percentage of *pro rata* payment shall be approved by the superintendent before any payments or credits under such percentage are made or allowed.

1949, c.40, s.317; R.S.S. 1953, c.330.

**Distribution of profits**

**331** Subject to the provisions of sections 123, 375 and 376, the directors may from time to time out of the earnings of the company distribute equitably to the holders of policies issued by the company such sums as in the judgment of the directors are proper and justifiable.

1949, c.40, s.318; R.S.S. 1953, c.331.

**Meetings**

**332(1)** A regular meeting of the directors shall be held at least once in every three months, and oftener if necessary, for transacting the business of the company, and a special meeting may at any time be held, on the call of the president or acting president, upon at least three days' notice in writing or at least one day's verbal notice to each director, stating the business for which the special meeting is called.

(2) The directors shall keep a record of their proceedings in a book to be known as the minute book of the company in which also shall be entered the proceedings of all general meetings of the members.

(3) A majority of the duly elected directors shall constitute a quorum for the transaction of business. The chairman shall have a vote and in case of an equality of votes at any meeting the question shall be determined in the negative.

(4) A director disagreeing with the majority at a meeting may have his dissent, with the reasons therefor, recorded.

1949, c.40, s.319; R.S.S. 1953, c.332.

**Bylaws**

**333(1)** The directors may pass bylaws respecting the funds and property of the company, the duties of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by this Act, the holding of the annual and other meetings, and all other matters which appertain to the business of the company and are not contrary to law, and may from time to time repeal, alter and amend such bylaws, except where the repeal or alteration would affect the rights of others than the members of the corporation or is prohibited by this Act.

## INSURANCE

c. 133

(2) Every bylaw shall be in writing and under the corporate seal, and shall be entered in a book called the bylaw book, and unless and until amended or repealed by the directors or amended or annulled by a general meeting of the members or disallowed by the superintendent shall be deemed to be a bylaw of the company.

(3) Every bylaw and every repeal, amendment or reenactment thereof, shall, unless in the meantime confirmed at a general meeting of the company duly called for the purpose, be effective only until the next annual meeting of the company, and shall, in default of confirmation thereat, cease to have any force, in which case no new bylaw to the same or a like effect shall come into operation until confirmed at a general meeting of the company.

(4) A copy of every bylaw certified by the manager or secretary to be a true copy shall be filed with the superintendent within seven days after the passing thereof.

(5) A bylaw may be disallowed by the superintendent within one month after it is filed.

(6) Notice of such disallowance shall be forthwith given to the company.

1949, c.40, s.320; R.S.S. 1953, c.333.

**General powers**

**334** The directors shall superintend and have the management of the funds and property of the company, and of all matters relating thereto and not otherwise provided for.

1949, c.40, s.321; R.S.S. 1953, c.334.

**Reinsurance**

**335** The directors may make arrangements with any mutual or other company for the reinsurance of a risk or any portion thereof, and may accept reinsurance of a risk or any portion thereof from other companies, on such conditions with respect to the payment of premiums thereon as may be agreed upon.

1949, c.40, s.322; R.S.S. 1953, c.335.

**Power to issue debentures, etc.**

**336(1)** The directors may issue debentures, promissory notes or bills of exchange for the loan of money, and may borrow money thereon for such period and on such conditions as they deem proper, and may renew the same from time to time upon such terms as they may deem proper, and the whole of the assets of the company including premium notes, shall be liable for payment of the same at maturity, but no such debenture, promissory note or bill of exchange shall be for a less sum than \$100.

(2) The amount of all the debentures, promissory notes and bills of exchange at any time outstanding shall not exceed one-third of the amount remainin<sup>15</sup> unpaid upon the premium notes of the company.

1949, c.40, s.323; R.S.S. 1953, c.336.

**Loans to or by directors prohibited**

**337** The board shall not lend money to or borrow money prohibited from a director or enter into any contract with a director other than the issue of a contract of insurance in the ordinary course of business, but nothing in this section contained shall prevent a director from acting as agent of the company and accepting the regular commissions allowed to agents.

1949, c.40, s.324; R.S.S. 1953, c.337.

**Travelling expenses**

**338** The directors may be paid a reasonable allowance for travelling expenses to attend meetings of the board or to attend to the business of the company.

1949, c.40, s.325; R.S.S. 1953, c.338.

**Remuneration a matter of bylaw**

**339** At any general meeting of the company or at any special meeting thereof, if such purpose was clearly expressed in the notice of the special general meeting, it shall be lawful to enact bylaws for the remuneration of the directors and a certified copy of every such bylaw shall, within seven days after its passing, be filed with the superintendent.

1949, c.40, s.326; R.S.S. 1953, c.339.

## MEMBERS

**How member admitted**

**340** The company may admit the owner of any property real or personal as a member by the issue to him of a contract of insurance insuring him against loss in respect of such property, and every person so admitted shall have the like rights and be subject to the like liabilities as other members of the company.

1949, c.40, s.327; R.S.S. 1953, c.340.

**Not a member until policy is issued**

**341** No applicant for insurance shall be deemed a member of the company or be entitled to be elected as a director of the company or be entitled to take part in any of the company's meetings until his policy of insurance has been issued to him.

1949, c.40, s.328; R.S.S. 1953, c.341.

**Withdrawal of member**

**342** Any member may, with the consent of the directors, withdraw from the company upon such terms as the directors may lawfully prescribe; and upon such withdrawal his policy shall be cancelled, but he shall nevertheless be liable to be assessed for and to pay his proportion of the losses, expense and reserve to the time of cancelling the policy, and on payment of the amount then payable he shall be entitled to a return of his premium note.

1949, c.40, s.329; R.S.S. 1953, c.342.

**Liability**

**343** Subject to section 342, every member shall be liable in respect of any loss or other claim or demand against the company to the extent of the amount unpaid upon his premium note or other undertaking or his cash premium, and no more.

1949, c.40, s.330; R.S.S. 1953, c.343.

## MEETINGS OF THE COMPANY

**Annual general meetings**

**344(1)** The annual general meeting of the members of the company shall be held before the first day of March in every year at such time and place as may be prescribed by the directors or by the bylaws of the company. At such meetings in addition to the election of directors there shall be submitted and considered a report of the transactions of the company for the preceding year, together with a full statement of its affairs, exhibiting in detail its receipts and expenditures and its assets and liabilities, and a report by the auditors of the company thereon.

(2) With the consent of the minister, the annual general meeting may be held at a different date from that prescribed above.

1949, c.40, s.331; R.S.S. 1953, c.344.

**Special meetings**

**345(1)** A special meeting of the members shall be convened by the directors at the written request of ten members of the company, and the directors may themselves convene such a meeting when occasion requires.

(2) In either case notice of the meeting shall be given in the manner hereinafter provided.

1949, c.40, s.332; R.S.S. 1953, c.345.

**Notices of general meetings**

**346(1)** Notice of an annual general meeting of the company shall be published in one or more daily or weekly newspapers published and circulating in the district embraced in its operations and duly approved by the superintendent, the last publication to be not less than ten days before the date of the meeting.

(2) Notice of a special general meeting of the company shall be published in one or more daily or weekly newspapers published and circulating in such district and duly approved by the superintendent, and shall be given by circular letter mailed by the secretary to the last known postal address of the members at least fourteen days previous to the date of the meeting.

1949, c.40, s.333; R.S.S. 1953, c.346.

**Votes of members**

**347(1)** Each member of the company shall be entitled to one vote, but no member shall be entitled to vote while in arrear for any assessment due by him to the company.

(2) Where a policy is made to two or more persons one only shall be entitled to vote, and the right of voting shall belong to the one first named on the register of policy holders if he is present, and if not present to the one who stands second and so on.

1949, c.40, s.334; R.S.S. 1953, c.347.

**Quorum**

**348** At all meetings of the company except that referred to in section 307, twelve members actually present in person shall form a quorum.

1949, c.40, s.335; R.S.S. 1953, c.348.

**Change of head office**

**349** The situation of the head office of a company shall only be changed by a two-thirds vote of the members of the company at a general meeting or at a special meeting called for that purpose.

1949, c.40, s.336; R.S.S. 1953, c.349.

## OFFICERS AND RECORDS

**Security furnished by officers**

**350(1)** Every officer or person appointed or elected by officers to any office concerning the receipt, safe keeping or proper application of money shall furnish security for the just and faithful execution of the duties of his office according to the bylaws or rules of the company, and any person intrusted with -the performance of any other service may be required to furnish similar security, and the securities so furnished and then subsisting shall be produced to the auditors at the annual audit.

(2) The security given by the treasurer or other officer having charge of the money of the company shall not be less than \$2,000.

1949, c.40, s.337; R.S.S. 1953, c.350.

**Records kept**

**351** Every company shall keep full and distinct records of all its business and transactions, including registers of all policies issued and premium notes and cash payments received in respect thereof; books of account showing all cash transactions; minute books, bylaw book, and letter book and such other records as are usual and necessary to give a full and clear idea of the operations of the company; and these records shall be at all times accessible to any director or auditor of the company or to any one having authority from a general meeting on their behalf to examine and report upon the same.

1949, c.40, s.338; R.S.S. 1953, c.351.

**Appointment of auditors**

**352(1)** At the annual general meeting, or at a special meeting of which due notice has been given, one or more auditors of the company may be appointed who shall make periodical or special examination of the books of the company and report to the directors thereon, and who shall receive such remuneration as may be fixed by that or any meeting of the directors of the company.

(2) Except as herein otherwise provided, the provisions of sections 152, 153 and 154 of *The Companies Act* apply to the appointment of auditors and their duties.

1949, c.40, s.339; R.S.S. 1953, c.352.

## CONTRACTS

**Application of Part IV**

**353(1)** The provisions of Part IV apply to all mutual fire insurance contracts.

(2) Wherever the provisions of the statutory conditions set out in Part IV are in conflict with the provisions of this Part, the provisions of this Part prevail with respect to mutual fire insurance companies.

1949, c.40, s.340; R.S.S. 1953, c.353.

**Minimum rates**

**354** The minimum rate to be charged for insuring ordinary frame buildings and their contents shall not be less than forty cents per \$100 of insurance per annum; and the minimum rates upon this and other property shall be increased or decreased relatively with the increased or decreased risk according to the nature of such property, but any company which creates and maintains a reserve fund of at least \$5,000 for the first \$1,000,000 of insurance in force and an additional \$2,000 for each additional \$1,000,000 or part thereof in force, may, notwithstanding anything in this section contained, charge such rates as the board of directors may decide.

1949, c.40, s.341; R.S.S. 1953, c.354.

**Liability when policy is cancelled**

**355** If a policy is cancelled or avoided by the company, is cancelled the liability of the insured on his premium note or undertaking shall cease from the date of such cancellation or avoidance on account of any loss that may occur to the company thereafter, but the insured shall nevertheless be liable to pay his proportion of the losses and expenses of the company to the time of cancelling or avoiding the policy, and, on payment of his proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period shall be entitled to a return of his premium note or undertaking and such proportion of the premium paid by him as shall not have been absorbed by the losses and expenses of the company up to such period, and a condition to this effect shall be endorsed on the policy.

1949, c.40, s.342; R.S.S. 1953, c.355.

**Assignment of property insured**

**356** If the company becomes entitled to avoid a policy for alienation or partial alienation of the insured property or of any interest therein, upon the return of the policy to the company to be cancelled, unless the directors elect to continue the same, the insured shall be entitled to receive his premium note or notes upon payment of his proportion of all losses and expenses which had accrued prior to such surrender; but the assignee may have the policy transferred to him, and upon application of the directors such assignee, on giving proper security to their satisfaction for such proportion of the premium note or undertaking as remains unpaid and with their consent within thirty days next after such alienation, may have the policy ratified and confirmed to him; and by such ratification and confirmation the said assignee shall be entitled to all the rights and privileges and be subject to all the liabilities and conditions to which the original party insured was entitled and subject:

Provided that, in cases where the assignee is a mortgagee, the directors may permit the policy to remain in force and to be transferred to him by way of additional security without requiring any premium note or undertaking from such assignee or without his becoming in any manner personally liable for premiums or otherwise; but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof shall continue and be in no wise affected.

1949, c.40, s.343; R.S.S. 1953, c.356.

**Application of certain sections**

**357** Notwithstanding anything contained in this Act, the provisions of sections 362 to 364 and 366 to 373 apply to the contracts of all mutual and cash mutual insurance companies carrying on business in the province, whether incorporated under this Act, or by or under any other Act of the province or any Act of any other province of Canada or any Act of Canada.

1949, c.40, s.344; R.S.S. 1953, c.357.

**PREMIUM NOTES AND ASSESSMENTS****Company may accept premium notes**

**358** The company may accept the premium note of the insured for insurance and may undertake contracts in consideration thereof, and such notes shall be assessable for the losses, expenses and reserve of the company in the manner hereinafter provided.

1949, c.40, s.345; R.S.S. 1953, c.358.

**First payment to be made at time of application**

**359** At the time the application for insurance is made the applicant shall make a first payment of not less than ten per cent on the premium note or undertaking. Such first payment shall be made in cash and shall be remitted to the company together with the application. Such first payment shall be credited upon the first assessment levied under the provisions of section 362. Not more than sixty per cent of any premium note shall be paid in cash at the time of the application or of effecting the insurance.

1949, c.40, s.346; R.S.S. 1953, c.359.

**Part of premium may be in cash**

**360** The directors may collect a portion of the premium in cash and take a premium note for the remainder thereof; and, in case the amount so collected is more than sufficient to pay all losses and expenses during the continuance of the policy, then such surplus shall become part of the reserve fund.

1949, c.40, s.347; R.S.S. 1953, c.360.

**Power to make assessments on premium notes**

**361** The directors may make assessments upon premium notes before losses have happened or expenses have been incurred, and any surplus from such assessment shall become part of the reserve fund.

1949, c.40, s.348; R.S.S. 1953, c.361.

**Assessment**

**362** All premium notes shall be assessed by the directors at such intervals and for such sums as they may determine, and for such further sums as they deem necessary and as are authorized by this Act, for losses, expenses and reserve during the currency of the policies for which such notes were given, and in respect of which they are liable to assessment; and every member of the company who has given a premium note shall pay the sums from time to time payable by him to the company during the continuance of his policy in accordance with the assessment.

1949, c.40, s.349; R.S.S. 1953, c.362.

**Notice of assessment**

**363** Notice of every assessment, stating therein the date on which the same is payable, shall be mailed to each member who has given a premium note, at his post office address as given in his original application or otherwise given in writing to the company.

1949, c.40, s.350; R.S.S. 1953, c.363.

**Assessment notices to mortgagee**

**364** If the property insured has been mortgaged by the member and the company has assented to the mortgage, the notices of assessments shall also be mailed to the mortgagee if his post office is known to the company.

1949, c.40, s.351; R.S.S. 1953, c.364.

**Particulars of assessments filed with superintendent**

**365** Before notice of an assessment is given to the members, the directors shall file full particulars thereof with the superintendent and shall obtain his approval of the same.

1949, c.40, s.352; R.S.S. 1953, c.365.

**Policy void if assessment is not paid within thirty days**

**366(1)** If an assessment is not paid within thirty days after the date of payment mentioned in the notice referred to in section 363, the contract of insurance in respect of which the assessment has been made shall be null and void as to any claim for loss occurring during the time of nonpayment; but the contract shall be revived when the assessment has been paid unless the secretary gives notice to the contrary to the person assessed, in the manner in this Act provided.

(2) Nothing herein contained shall relieve the insured from his liability to pay the assessment or any subsequent assessments, nor shall he be entitled to recover the amount of any loss or damage which happens to property insured under the contract while the assessment remains due and unpaid, unless the directors determine otherwise.

(3) A notice of assessment mailed as required by section 363 shall be sufficient if it states the registered number of the contract, the amount of the assessment, the time when and the place where it is payable.

1949, c.40, s.353; R.S.S. 1953, c.366.

**Assessment, how proportioned**

**367** The assessment shall always be in proportion to the amount of the premium notes held by the company, but where a company alters its premium note rate and still holds in respect of subsisting contracts premium notes at the prior rate, the company, as between the respective premium notes so differing in rate, may make and levy such differential assessments as will in risks of the same amount and of the same class of hazard equalize the cost of insurance to the makers of the respective premium notes.

1949, c.40, s.354; R.S.S. 1953, c.367.

## RECOVERY OF ASSESSMENTS

**Action for recovery**

**368** If, for thirty days after an assessment becomes payable, a member who has given a premium note refuses or neglects to pay the assessment, the company may sue for and recover the same with costs of suit, and such proceeding shall not be a waiver of any forfeiture incurred by such nonpayment.

1949, c.40, s.355; R.S.S. 1953, c.368.

**Evidence of amount due to company**

**369** Where an action is brought to recover the assessment, the certificate of the secretary of the company, specifying the assessment and the amount due on the note in respect of such assessment, shall be *prima facie* evidence thereof in any court.

1949, c.40, s.356; R.S.S. 1953, c.369.

**Return of premium note after insurance ended**

**370** Forty days after the expiration of the term of insurance the premium note given for the insurance policy shall on application therefor be given up to the grantor thereof, provided all assessments levied and all losses and expenses with which the note is chargeable have been paid.

1949, c.40, s.357; R.S.S. 1953, c.370.

**Directors may retain amount of premium notes**

**371** If there is a loss on property insured the directors may retain the amount of the premium note until the time has expired for which insurance has been made, and at the expiration of such time the insured shall have the right to demand and receive such part of the retained sum as has not been assessed for.

1949, c.40, s.358; R.S.S. 1953, c.371.

**Premium notes not to create lien on land**

**372** No premium note shall create a lien upon the land on which the insured property is situated.

1949, c.40, s.359; R.S.S. 1953, c.372.

**Judicial district in which action brought**

**373(1)** Any action upon a premium note or for an assessment thereon may be entered, tried and determined in the judicial district wherein the head office or any agency of the company is situated. The word "action" in this section includes a proceeding under *The Small Debts Recovery Act*.

(2) If, in any proceeding under the said Act, the defendant, not being a resident of such judicial district, delivers to the justice of the peace before whom the proceedings were instituted, before the hour set for the hearing, either personally or otherwise, a notice in writing disputing the claim, the right of that justice to adjudicate thereon shall cease, and he shall upon request of the plaintiff transfer the proceedings to the district court for the judicial district in which the defendant resides for adjudication in accordance with the small debt procedure of the district court and the matter shall be disposed of at the judicial centre of the district or at such other place in the judicial district as the judge of the district court thereof may appoint.

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(3) The secretary of the company shall cause a copy of this section to be endorsed on or securely attached to the summons; and failure to do so shall render the summons void and of no effect.

1949, c.40, s.360; R.S.S. 1953, c.373.

## EXECUTIONS AGAINST COMPANY

**When execution may issue**

**374(1)** No execution shall issue against a company may upon a judgment until after the expiration of sixty days from the recovery thereof but this section does not apply to a judgment recovered on a contract of insurance where more than sixty per cent of the premium, or premium note, was paid in cash at the time of the insurance or the application therefor.

(2) A judge of the Court of Queen's Bench or the master in chambers after the recovery of a judgment against the company, upon the application of the judgment creditor and upon notice to the company, may inquire into the facts, and if he finds that more than sixty per cent of the premium note was paid in cash at the time of the insurance, or upon the application therefor, he may direct that execution be issued forthwith upon such judgment.

1949, c.40, s.361; R.S.S. 1953, c.374.

## RESERVE FUND

**Formation and application**

**375(1)** The company shall form a reserve fund to consist of all moneys which shall remain on hand at the end of each year after payment of ordinary expenses and losses, and in addition shall levy an annual assessment not exceeding twenty-five per cent and not less than five per cent on premium notes and other undertakings held by the company until such reserve reaches the sum of \$500 for every \$100,000 of the first \$1,000,000 in force, and \$3,000 for each additional \$1,000,000 or part thereof in force, at which level it shall be maintained, and for such purpose the company shall thereafter levy annually such adequate assessment as may be approved by the superintendent.

(2) The reserve fund may from time to time be applied by the directors to pay off such liabilities of the company as may not be provided for out of the ordinary receipts for the same or any succeeding year.

(3) The provisions of section 112 apply to all business transacted on the cash plan by a mutual company.

1949, c.40, s.362; R.S.S. 1953, c.375.

**Reserve fund the property of company**

**376** The reserve fund shall be the property of the company as a whole and no member shall have a right to claim any share or interest therein in respect of any payment contributed by him towards it, but in the event of the company being wound up possessed of an existing reserve fund the then members shall be entitled to divide the same among themselves *pro rata* according to the amount of their premium notes with the company.

1949, c.40, s.363; R.S.S. 1953, c.376.

## OTHER MUTUAL COMPANIES

**Formation**

**377** The minister may sanction the formation of other mutual insurance companies, the mode of calling meetings, the proceedings for formation and the operation of all such companies being the same *mutatis mutandis* as in the case of a mutual fire insurance company, subject, in the case of a mutual hail insurance company, to the following provisions:

- 1 The aggregate amount of insurance to be subscribed under the provisions of section 305 and 306 shall not be less than \$100,000;
- 2 The persons who shall be considered members and entitled to vote at annual general meetings of a mutual hail insurance company, or at any special general meeting held prior to the sixteenth day of June in any year, shall be those who held contracts of insurance during the preceding year. The persons entitled to vote at a special general meeting held after the fifteenth day of June in any year shall be those who held contracts of insurance during the preceding year and those who hold contracts issued during the current year;
- 3 The rates of premium filed under the provisions of section 289 shall be subject to review by the superintendent and shall, before being put into operation, be approved by him as being reasonably adequate and non-discriminatory, taking into consideration the location of the risk and the hazard thereof;
- 4 Where the premium for a contract of hail insurance has been paid by promissory note and a loss has occurred under the contract, no credit of a loss payment shall be allowed on the note until the directors have ascertained what percentage of its total losses the company will be able to pay, and in no case shall the credit for the amount of the loss payable to the insured exceed that percentage;
- 5 The company shall not deduct the amount of the note or notes tendered in payment of the premium from the amount of the loss sustained under the contract, until the directors have ascertained what percentage of its total loss the company will be able to pay, and in such case the deduction shall be made from the amount of loss ascertained in accordance with the percentage of loss payment determined by the directors;
- 6 In the case of a *pro rata* distribution of assets to satisfy indebtedness for losses under contracts of insurance issued by the company, the same percentage of payment shall be made to each member whether such payments are made at one time or in instalments;
- 7 The company may form a reserve fund which shall consist of all moneys remaining on hand at the end of each year after paying the ordinary expenses and losses of the company for the year;

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8 The reserve fund shall be the property of the company and, unless the company is being wound up, no member shall have any right to claim a share or any interest therein in respect of any payment contributed by him. If the company is wound up before the sixteenth day of September in any year, the reserve shall be the property of the members who held contracts of insurance during the preceding year or hold contracts issued during the current year. If the company is wound up after the fifteenth day of September, the reserve shall be the property of the members holding contracts of insurance during the current year. The reserve shall be divided *pro rata* according to the amount of premiums paid during the said periods; provided that in case a company is wound up after the fifteenth day of September, and the number of members holding contracts of insurance during the current year do not equal at least twenty-five per cent of the number of members of the preceding year, the reserve shall be the property of the members who held contracts of insurance during the preceding year and those members holding contracts of insurance during the current year;

9 The company shall keep a record of its premium income derived from risks, according to townships, and of claims paid in respect of such risks. If at any time it appears to the minister, on the report of the superintendent, that the records of a company are not kept in such manner as to show correctly the transactions of the company as herein required, the minister may nominate a competent accountant to proceed under his direction to audit the books and records of the company and to give such instructions as will enable the officers of the company to keep the records correctly thereafter;

10 The expenses of the audit shall be borne by the company and shall not exceed \$15 per day and the necessary expenses of the accountant; and the company shall forthwith pay the expenses when certified and approved under the hand of the superintendent;

11 The provisions of Part IX apply to mutual hail insurance companies;

12 Every application for a contract and every policy or instrument shall bear the words "mutual company-subject to *pro rata* distribution of assets and losses" printed or stamped in large type and in red ink at the head thereof.

1949, c.40, s.364; R.S.S. 1953, c.377.

## REGULATIONS

**Power of Lieutenant Governor in Council**

**378** All mutual insurance companies shall be subject to such regulations as may be prescribed by the Lieutenant Governor in Council.

1949, c.40, s.365; R.S.S. 1953, c.378.

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## PART XII

## CO-OPERATIVE INSURERS

**Power to incorporate**

**379** Subject to the approval of the minister and subject to such terms and conditions, including terms and conditions with respect to capitalization and deposits with the minister, as the Lieutenant Governor in Council may deem expedient, co-operative insurance companies may be incorporated under this Act. No company so incorporated shall carry on any business other than the business of insurance.

1949, c.40, s.366; R.S.S. 1953, c.379.

**Notice of intended application for incorporation**

**380** Applicants for incorporation under this Part shall give to the superintendent at least one month's notice of intention to apply for incorporation and shall publish a notice of such intention in the *Gazette*.

1949, c.40, s.367; R.S.S. 1953, c.380.

**Memorandum of association to be filed**

**381(1)** Any five or more persons who desire to become incorporated under this Part shall, in the presence of a witness, sign in duplicate and cause to be filed in the office of the superintendent a memorandum of association (form B), to which an affidavit verifying the signatures shall be attached.

(2) The subscribers to the memorandum shall furnish such further particulars as the superintendent may require.

1949, c.40, s.368; R.S.S. 1953, c.381.

**Report to minister**

**382** If the superintendent determines that the provisions of this Part have been complied with, and that there is no reason why the company should not be incorporated, he shall so report to the minister.

1949, c.40, s.369; R.S.S. 1953, c.382.

**Certificate of incorporation**

**383(1)** Upon receipt of such reports and the relative documents the minister may authorize the superintendent to issue a certificate of incorporation.

(2) When authorized to do so by the minister, the superintendent shall issue a certificate that the company has been duly incorporated under this Part and such certificate shall be conclusive evidence of such incorporation.

1949, c.40, s.370; R.S.S. 1953, c.383.

**Use of word "co-operative" permitted**

**384** Notwithstanding anything contained in any Act, the word "co-operative" may be used as part of the name of any company incorporated under this Part.

1949, c.40, s.371; R.S.S. 1953, c.384.

**Distribution of surplus**

**385** A co-operative insurance company shall, by bylaw, provide that after payment of dividends, if any, to shareholders, the surplus may be distributed among its policyholders in proportion to the volume of business which they have done with the company, such distribution to take place under such conditions as may be determined by the board of directors and approved by the superintendent.

1949, c.40, s.372; R.S.S. 1953, c.385.

**Non-application of *The Companies Act***

**386** A company incorporated under this Part shall not be required to comply with the provisions of *The Companies Act* respecting registration and licensing, but shall nevertheless be capable of contracting and being contracted with, of suing and being sued, of pleading and being impleaded in any court.

1949, c.40, s.373; R.S.S. 1953, c.386.

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 PART XIII

## FRATERNAL SOCIETIES

**Interpretation**

**387** In this Part:

**“actuary”**

1 **“actuary”** means a Fellow of the Actuarial Society of America, or of the Institute of Actuaries of Great Britain, or of the Faculty of Actuaries in Scotland;

**“rates of contribution”**

2 **“rates of contribution”** means the regular net premiums, dues, rates or contributions receivable from the members for the purpose of the payment at maturity of the society’s certificates or contracts of insurance;

**“society”**

3 **“society”** means fraternal society.

1949, c.40, s.374; R.S.S. 1953, c.387.

**Application of Part**

**388** Except as otherwise provided, the provisions of this Part apply to all fraternal societies duly licensed and carrying on the business of life insurance in the province, and to clubs, societies or associations, incorporated or unincorporated, which receive either as trustees or otherwise, contributions or moneys from their members out of which gratuities or benefits are paid, directly or indirectly, upon the death of any of their members; but this Part does not apply to any such Saskatchewan clubs, societies or associations carrying on business in the province prior to the first day of January, 1933.

1949, c.40, s.375; R.S.S. 1953, c.388.

**Cases in which such societies not to be licensed**

**389** No fraternal society shall be licensed:

- (a) if it undertakes insurance contracts with persons other than its own members; or
- (b) if it insures or indemnifies against contingencies other than sickness, disability, or death, or funeral expenses, or if the sum or sums payable on the death of any one member other than a funeral benefit exceed \$10,000; or
- (c) if it undertakes endowment insurance other than old age insurance as authorized in section 428, or annuities upon lives; or
- (d) if it has upon its books less than seventy-five members in good standing; or
- (e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise, or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured; or
- (f) in the case of a fraternal society which has not been authorized to carry on business in Saskatchewan before the coming into force of this Act, unless the society files with the superintendent a declaration of its actuary in the form and to the effect required by the provisions of section 413.

1949, c.40, s.376; R.S.S. 1953, c.389.

**Societies not deemed to be fraternal societies**

**390** The following shall not be deemed fraternal societies within the meaning of this Part or required or entitled to be licensed as such:

- (a) societies known as mutual benefit societies as defined in section 2 and subject to Part XIV of this Act;
- (b) a corporation not otherwise provided for in this Act which has, by or under the authority of an Act of the Parliament of Canada, created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;
- (c) a corporation not otherwise provided for in this Act which has, by or under the authority of an Act of the Parliament of Canada, an insurance and provident society or association, or an insurance or guarantee fund, in connection with the corporation;
- (d) a corporation having charge of, or managing, or distributing charity, or gratuities, or donations only;
- (e) a corporation which undertakes or offers to under take contracts of insurance other than with its own members exclusively, or for more than \$10,000, payable on the death of any one member other than a funeral benefit, or any contracts of insurance with its members other than:
  - (i) life insurance; or
  - (ii) contracts for the payment of mortuary or funeral benefits; or
  - (iii) old age insurance;
- (f) a corporation in which the insurance fund is used for the purpose of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, the insurance fund of which is held other than as a trust fund for the members insured;

(g) a society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective control over the insurance fund of the society; or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years;

(h) any corporation which undertakes contracts of insurance but is not formed exclusively for that purpose and which does not for the purposes of such contracts keep distinct and separate funds, securities, books and vouchers.

1949, c.40, s.377; R.S.S. 1953, c.390.

#### Guarantee and endowment insurance

**391** Clause (c) of section 389 and clause (e) of section 390 do not apply to contracts guaranteeing the fidelity of officers, servants or employees of the branches or subdivisions of the corporation, and do not disentitle to licence a fraternal society which before the first day of January, 1925, was *bona fide* transacting exclusively with its members endowment insurance in Saskatchewan, and which has continued so to do up to the date of application for licence.

1949, c.40, s.378; R.S.S. 1953, c.391.

#### Central body for Saskatchewan or representative may be dealt with

**392(1)** Where two or more lodges or branches of a society, though separately incorporated, are under the financial or administrative control of a central governing body in Saskatchewan or a duly authorized provincial representative of the society, such governing body if incorporated or such provincial representative of the society may, if the superintendent thinks proper, be dealt with as the society.

(2) In the case of a fraternal society incorporated elsewhere than in Saskatchewan the central governing or controlling body in Saskatchewan if incorporated by virtue of the law of Saskatchewan may, if the superintendent thinks proper, be dealt with as the society.

1949, c.40, s.379; R.S.S. 1953, c.392.

#### Non-application of *Companies Act*

**393(1)** A fraternal society shall not, if licensed under this Act, be required to comply with the provisions of *The Companies Act* respecting registration and licensing, but shall nevertheless be capable of contracting and being contracted with, of suing and being sued, of pleading and being pleaded in any court.

(2) This section applies retrospectively to all contracts, acts, suits and proceedings entered into, done, commenced or carried on by or on behalf of or against any such society since the twenty-first day of June, 1915.

1949, c.40, s.380; R.S.S. 1953, c.393.

#### Bylaws and rules to be filed with superintendent

**394** Every fraternal society shall, with its application for licence, file in the office of the superintendent, duly certified copies in duplicate of those articles or provisions of the subsisting constitution, bylaws or rules which contain material terms set out in the instrument of contract adopted by the society, and shall from time to time file in the office of the superintendent duly certified copies in duplicate of every amendment, revision or consolidation of the said articles or provisions of the constitution, bylaws and rules, within thirty days after the passing or adoption thereof.

1949, c.40, s.381; R.S.S. 1953, c.394.

**Superintendent may take exception within 30 days**

**395** The superintendent may, within thirty days after the date of filing documents under section 394, take exception to any amendment or revision or any part thereof if, in his opinion, such amendment or revision or any part thereof is (i) contrary to the provisions of this Act, or (ii) actuarially unsound, or (iii) oppressive to, or discriminatory in application against, any class of the membership of the society, or (iv) unjust or unreasonable.

1949, c.40, s.382; R.S.S. 1953, c.395.

**Notice**

**396** If the superintendent takes exception to such amendment or revision or any part thereof, he shall forthwith notify the society thereof in writing and the reasons therefor.

1949, c.40, s.383; R.S.S. 1953, c.396.

**Appeal**

**397** The society, or any person who deems himself aggrieved by the decision of the superintendent, may appeal therefrom to the minister.

1949, c.40, s.384; R.S.S. 1953, c.397.

**Certification of bylaws and rules**

**398** The original constitution bylaws and rules and any amendment, revision or consolidation thereof, to which the superintendent does not take exception, or which, after the superintendent has taken exception to any amendment or revision or any part thereof, have been further amended in accordance with the superintendent's direction, or which, after the superintendent has taken exception to any amendment or revision or any part thereof, have been approved and confirmed on appeal from the superintendent as herein provided, shall be certified by the superintendent to be duly passed by the society, as filed.

1949, c.40, s.385; R.S.S. 1953, c.398.

**Bylaws and rules as filed to be binding on society**

**300** The constitution, bylaws or rules and any amendment, revision or consolidation thereof so certified shall, notwithstanding the declaration or other instrument filed under any general or special Act, be deemed to be the rules in force on and after the date of the certificate until a subsequent amendment, revision or consolidation is in like manner certified and filed, and so from time to time, and shall be binding and obligatory upon all members of the society and upon all their beneficiaries and legal representatives and upon everyone entitled to any benefit under a certificate of the society; provided that the failure of the superintendent to take exception to any rule of the society or amendment or revision thereof, and his certifying and filing of the same, shall not make valid any provision of such rule which is inconsistent with the provisions of this Act.

19:19, c.40, s.386; R.S.S. 1953, c.300.

**Effect of preceding sections**

**400** Sections 394 to 399 do not apply to the constitution, bylaws and rules of a society or any amendment, revision or consolidation thereof passed and adopted by the society prior to the sixteenth day of January, 1925.

1949, c.40, s.387; R.S.S. 1953, c.400.

**When rules must be amended**

401 Where, because of a provision in any of its rules, a society otherwise entitled to be licensed ought not in the opinion of the superintendent to be licensed, it shall not be entitled to a licence until it has repealed or amended such rules in accordance with the direction of the superintendent.

1949, c.40, s.388; R.S.S. 1953, c.401.

**Rules deliverable on demand**

402(1) A copy of all rules of a society relating to its insurance contracts and to the management and application of its insurance funds shall be delivered by the society to any person requiring the same on payment of twenty-five cents.

(2) If an officer or agent of a society, with intent to mislead or defraud, gives to any person a copy of rules other than the rules then in force on the pretence that the same are the rules then in force he is guilty of an offence.

1949, c.40, s.389; R.S.S. 1953, c.402.

**Substitution of instalments for gross payment**

403(1) Where by the constitution and rules of a society provision is made for the payment of an ascertained or ascertainable sum to a member of the society in the event of his becoming totally disabled, or of his reaching a stated age, or upon the concurrence of both events, whether such provision is combined with other life insurance or not, the society may with the approval of the superintendent so amend its constitution and rules as to provide for the payment of such sum in equal consecutive annual instalments without interest, the payment of such instalments to be completed within a period not exceeding ten years from the happening of the event, but no person entitled to any such annual instalment shall receive payment of the same unless at the maturity of each instalment such person has continued to be a member of the society and has paid all dues and assessments adopted by the society.

(2) All such amendments, whether heretofore or hereafter made by a society pursuant to the provisions of the constitution and rules, shall be valid and binding upon all its members and upon all their beneficiaries and legal personal representatives and upon every one entitled, notwithstanding anything to the contrary in the instrument of incorporation of the society or the previous provisions of its constitution and rules.

(3) If a member of a society dies after becoming totally disabled or reaching the stated age, but before the payment of all instalments, the instalments unpaid shall form part of the insurance money or benefits payable upon the death of such member.

1949, c.40, s.390; R.S.S. 1953, c.403.

**Unmatured policies as liabilities**

404 No unmaturing policy or contract of insurance shall create any claim or liability against the society while a going society, or against the estate of the society in a winding up or liquidation, but in a winding up or liquidation the insured or beneficiary for value under such unmaturing policy or contract shall be entitled to share in the surplus assets of the society.

1949, c.40, s.391; R.S.S. 1953, c.404.

**Limitation of member's liability**

**405(1)** The liabilities of a member under his contract shall at any date be limited to the assessments, fees and dues which became payable within the preceding twelve months and of which, at such date, notice had been given in accordance with the constitution and rules of the society.

(2) A member may at any time withdraw from the society by delivering or sending by registered post to the society notice in writing of his intention to withdraw and paying or tendering the assessments, fees and dues mentioned in subsection (1).

(3) After withdrawal the member shall become thereby released from all further liability under his contract.

(4) This section is subject to the provisions of any rules to the contrary certified by the superintendent.

1949, c.40, s.392; R.S.S. 1953, c.405.

**Notice before forfeiture of benefit**

**406(1)** No forfeiture or suspension shall be incurred by reason of default in paying any contribution or assessment, except such as are payable in fixed sums and at fixed dates, until:

(a) after notice to the member stating the amount due by him, and that in case of default of payment within a reasonable time, not less than thirty days, to the proper officer, who shall be named in such notice, his interest or benefit will be forfeited or suspended; and

(b) default has been made by him in paying his contributions or assessment in accordance with such notice.

(2) In subsection (1) the expression "fixed dates" includes any numbered day, or any Monday, Tuesday, or as the case may be, numbered, alternate or recurring, of a stated month or months.

1949, c.40, s.393; R.S.S. 1953, c.407.

**Saving rights to reinstatement**

**407** Where under the constitution or rules or bylaws reinstatement of the society a defaulting member is entitled to be reinstated on payment of arrears, after a stated number of days' default, section 406 shall not prejudice the rights of such member.

1949, c.40, s.394; R.S.S. 1953, c.407.

**Conditions of forfeiture restricted**

**408** Where it is stipulated that the benefit of the contract shall be suspended or reduced or forfeited for any other reason than for non-payment of money, such condition shall not be valid unless it is held to be just and reasonable under the circumstances of the case.

1949, c.40, s.395; R.S.S. 1953, c.408.

**Condition as to abstinence**

**409** In a contract in which total abstinence from intoxicating liquors is made an express condition, such condition shall be deemed to be just and reasonable.

1949, c.40, s.396; R.S.S. 1953, c.409.

**How notice may be given to members**

**410(1)** Subject to subsection (2), a notice required to be given to a member for any purpose of this Act or of the rules of the society may be effectually given by written or printed notice delivered or sent by registered post to the member or left at his last known place of abode or business or by publication in the official paper of the society.

(2) A notice of the reduction of any benefit payable under a contract of insurance or of the increase of the premium payable thereunder shall be sent by registered post to the member at his last known place of abode or of business.

1949, c.40, s.397; 1950, c.31, s.3; R.S.S. 1953, c.410.

**Head offices of Saskatchewan societies**

**411** A society incorporated under an Act of this Legislature shall not be entitled to a licence unless its head office is located and maintained in Saskatchewan and the secretary and treasurer are *bona fide* residents in Saskatchewan.

1949, c.40, s.398; R.S.S. 1953, c.411.

**Societies to file actuarial report annually**

**412** In addition to the annual statement required to be filed under this Act, each society shall file with the superintendent, not later than the first day of May in each year, a valuation of its certificates or contracts of insurance in force at the last preceding thirty-first day of December, which valuation shall have regard to the prospective liabilities of the society under its certificates or contracts of insurance and to the rates of contribution to be thereafter received from its members on such certificates according to the rates in force at the date of valuation, and shall be made and certified by an actuary appointed by the society and shall include a valuation balance sheet in such form and detail as the superintendent may prescribe.

1949, c.40, s.399; R.S.S. 1953, c.412.

**Society to file declaration of actuary, under what circumstance**

**413** Where in the opinion of the actuary appointed by the society the valuation balance sheet shows that the society is in a position to provide for the payment of its contracts of insurance as they mature, without deduction or abatement and without increase in its existing rates of contribution, the society shall file with the superintendent a declaration of the actuary to that effect.

1949, c.40, s.400; R.S.S. 1953, c.413.

**Distribution of summary and statement to members**

**414** A summary of the valuation certified by the actuary and a statement as to the financial condition of the society disclosed by such valuation shall be mailed to each insured member not later than the first day of June in each year or in lieu thereof such certified summary of the valuation and statement of the actuary may be published in the society's official paper and a copy mailed to each insured member.

1949, c.40, s.401; R.S.S. 1953, c.414.

**Insufficiency of assets**

**415(1)** If it appears to the superintendent from the statement and reports filed with him or from an examination or valuation made in pursuance of this Act, that the assets of a licensed fraternal society applicable to the payment of its insurance contracts are insufficient to provide for the payment of its contracts of insurance at maturity without deduction or abatement and without increase in its existing rates of contribution, he shall make a special report to the minister as to the financial condition of the society.

(2) If the minister, after consideration of the report concurs in the opinion of the superintendent, the minister shall request the society to make within such time as he may prescribe, but not exceeding four years, such increase in its rates of contribution or such reduction in the benefits payable under its contracts of insurance or otherwise, as will enable the society to provide for the payment of its contracts of insurance at maturity.

(3) On receipt of the request the society shall take the steps prescribed by its laws or constitution for putting into effect such changes as may be approved by the actuary appointed by the society for the purpose aforesaid.

(4) Where in the opinion of the governing executive authority of the society a special meeting of the society is desirable for the purpose of considering the request of the minister, the said authority may call a special meeting of the supreme legislative body of the society upon such notice as the authority may deem reasonable, and as the superintendent may approve, and such meeting so called shall be deemed to have been regularly constituted notwithstanding any provisions contained in the constitution and bylaws of the society.

1949, c.40, s.402; R.S.S. 1953, c.415.

**Reduction of benefits, or increase of rates**

**416** A fraternal society incorporated or licensed under the laws of Saskatchewan may, by amendment of its constitution and bylaws reduce the benefits payable under its contracts of insurance or some of them, or increase the rates of contribution payable by its members as a whole or some class or classes thereof, or make such other changes as are necessary to comply with the request of the minister made under subsection (2) of section 415; and such amendments, when adopted by a majority of the votes duly cast by the members of the supreme legislative body of the society at a regular or special meeting of that body duly called, shall be binding upon the members of the society and upon their beneficiaries or legal representatives and upon all persons deriving legal rights from any member or beneficiary, notwithstanding anything contained in the provisions of its constitution and bylaws before such amendments, or in its Act or instrument of incorporation, or in any contract, policy or certificate of insurance heretofore or hereafter issued by the society.

1949, c.40, s.403; R.S.S. 1953, c.416.

**Readjustment committee, appointment and duties**

**417** Where a society does not within the time allowed comply with the request of the minister made under subsection (2) of section 415, the superintendent shall report the default to the minister, who shall thereupon appoint a readjustment committee of three persons, of whom at least one shall be an actuary, who shall at as early a date as practicable investigate the assets, liabilities, rate of contribution and plans of insurance of the society and prepare a report containing such amendments to the society's constitution and bylaws, reducing the benefits payable under its contracts of insurance or some of them or increasing the rates of contribution payable by its members as a whole or some class or classes thereof, or such other amendments as the committee deems necessary in order to provide for the payment of all the contracts of insurance of the society as they mature, in accordance with the said amendments.

1919, c.40, s.404; R.S.S. 1953, c.417.

**Amendments of committee to become part of constitution**

**418** The readjustment committee shall file its report in the office of the superintendent and deliver to the society a certified copy thereof, and, immediately upon such report being filed, the amendments contained therein shall be and become part of the constitution and bylaws of the society and shall be valid and binding upon all its members and upon their beneficiaries or legal personal representatives and upon all persons deriving legal rights from any member or beneficiary, notwithstanding anything contained in the provisions of its constitution and bylaws before such amendments or in its Act or instrument of incorporation or in any policy or certificate of insurance issued by the society.

1949, c.40, s.405; R.S.S. 1953, c.418.

**Date to be fixed in report**

**419** The committee shall in the said amendments fix a date not more than six months after the date of filing the report when the reduction of benefits or increase in the rate of contribution provided for by such amendments shall be in full force and effect.

1949, c.40, s.406; R.S.S. 1953, c.419.

**Expenses**

**420** The society shall bear the expense of the investigation and report and furnish the committee with required information.

1949, c.40, s.407; R.S.S. 1953, c.420.

**Establishment of separate reserve fund on adoption of new rates**

**421(1)** Where a society which is unable to furnish the declaration of an actuary prescribed in section 413 has at any time adopted new rates of contribution which in the opinion of the actuary appointed by the society, filed with the superintendent, make reasonable provision for the payment in full at maturity of the contracts of insurance issued to its members who have entered or shall enter the society upon such new rates of contribution, the society shall, after payment of the matured contracts of those members, create and from time to time maintain out of their rates of contributions and interest accretions thereto, a reserve fund not less than the amount which, with the rates of contributions to be collected from such members, is, in the opinion of the actuary, required to pay in full such contracts of insurance as they mature, and such fund shall be a separate fund of the society and shall not be liable for payment of the debts and obligations of the society under its contracts of insurance with those members who have not contributed to the funds of the society under the new rates of contribution or under the provisions of subsection (2).

(2) The society may provide in its constitution and bylaws for the issue of new certificates to members admitted to the society prior to the establishment of such fund upon such terms and conditions as will in the opinion of the actuary appointed by the society, certified in writing to the superintendent, enable the society to pay in full the contracts of insurance issued to them as they mature, and the provisions of subsection (1) shall apply to the new certificates.

(3) The annual valuation of the actuary of the society maintaining a separate fund as hereinbefore prescribed shall show clearly and separately, and in such detail as the superintendent may require; the financial position of the society in respect of the certificates of insurance included and those not included within the scope of the separate fund.

(4) When a society, which has been maintaining a separate fund for new members in accordance with the provisions of this section, files with the superintendent a declaration of the actuary appointed by the society in accordance with the provisions of section 413, separate fund may, with the approval of the superintendent, be merged with the other funds of the society of a kindred nature.

(5) Nothing herein contained shall prevent a society which maintains a separate fund as hereinbefore described, from maintaining a common expense fund.

1949, c.40, s.408; R.S.S. 1953, c.421.

**Life insurance of children**

**422** Where a society is authorized by its constitution and bylaws and undertakes in Saskatchewan to insure the lives of children, the rates of contribution for such child insurance shall be approved by an actuary and the society shall maintain out of the rates paid upon contracts of child insurance and interest accretions thereto, a separate fund for the payment at maturity of such contracts, and the actuary appointed by the society to value its contracts of insurance shall make a separate valuation of the outstanding child insurance contracts, and shall show the amount of the fund held for such contracts.

1949, c.40, s.409; R.S.S. 1953, c.422.

**When society may limit period to twenty years**

**423** A society which files with the superintendent the declaration prescribed by section 413, or a society that is maintaining a separate fund for its contracts of insurance as prescribed by section 421, may provide in its constitution and laws for the issue of contracts of life insurance wherein the regular rates of contribution payable thereunder may be limited to a period of twenty or more years, provided such rates of contribution have been approved by an actuary and provided further that such contracts of insurance shall be subject to the provisions of subsection (1) of section 421, but such limitation of payments shall not affect the right of the society to make an assessment or assessments in respect of such contracts in accordance with the constitution and bylaws of the society either during or after the period of such limited payments.

1949, c.40, s.410; R.S.S. 1953, c.423.

**Epidemic or unforeseen contingency**

**424** In the event of an epidemic or other unforeseen contingency impairing the funds of a society the governing executive authority of the society may impose a special assessment or special assessments upon the members of the society or upon such class or classes thereof and with such incidence as in the opinion of the authority is deemed necessary and equitable and such special assessment or assessments shall be binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation or its constitution or bylaws, or in any certificate of insurance heretofore or hereafter issued by the society.

1949, c.40, s.411; R.S.S. 1953, c.424.

**General or expense fund**

**425** The governing executive authority of a society may make such additional levies from time to time upon all members of the society as are, in the opinion of the authority, necessary to carry on properly the work of the society and prevent any deficit in its general or expense fund, and such additional levies shall be binding on the members of the society notwithstanding anything to the contrary in its Act or instrument of incorporation or its constitution or bylaws, or in any certificate of insurance heretofore or hereafter issued by the society.

1949, c.40, s.412; R.S.S. 1953, c.425.

**Application of surplus**

**426** A society whose valuation balance sheet prescribed by section 412 shows a surplus of assets of more than five per cent over and above all net liabilities may apply such portion of the surplus as may be approved by the actuary appointed by the society, in the manner prescribed by the constitution and bylaws of the society.

1949, c.40, s.413; R.S.S. 1953, c.426.

**Certificate of actuary filed before putting into effect new benefits**

**427** Every licensed fraternal society shall, before putting into effect any new or additional benefits or any new scale of rates of contribution under certificates of insurance, file with the superintendent a certificate of an actuary approving such benefits or rates of contribution.

1949, c.40, s.414; R.S.S. 1953, c.247.

**Old age insurance**

**428** Notwithstanding anything in this Act, a fraternal society licensed under this Act which files with the superintendent a declaration of an actuary, as provided by section 413, may, if its constitution so provides and subject thereto, issue to its members old age insurance contracts providing for the payment of money due on maturity thereof either at death or upon the insured attaining any age not less than sixty-five years.

1949, c.40, s.415; R.S.S. 1953, c.248.

**Endowment insurance**

**429** A fraternal society licensed under this Act:

- (a) having more than five thousand members in the life insurance department; and
- (b) having filed with the superintendent for at least three successive years a declaration of an actuary as provided by section 413;

may, if its constitution so provides and subject thereto, issue to its members endowment insurance contracts providing for the payment of the insurance money to them at the expiration of twenty or more years from the date of such contracts, or to the beneficiary or beneficiaries under any of such contracts in case of death of any of the members prior to the expiration of the endowment period.

1949, c.40, s.416; R.S.S. 1953, c.429.

**Surrender values and other equities**

**430** A fraternal society licensed under this Act which files with the superintendent a declaration of an actuary as provided by section 413 may, if its constitution so provides and subject thereto, grant such surrender values or other equities as may be approved by the actuary of the society and authorized by its constitution.

1949, c.40, s.417; R.S.S. 1953, c.430.

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## PART XIV

**Mutual Benefit Societies****Petition to minister**

**431** Any five or more persons of full age may petition the minister for his approval of the authorization of a mutual benefit society for the purpose of providing sickness and funeral benefits for its members, or for that and any other purpose except life insurance.

1949, c.40, s.418; R.S.S. 1953, c.431.

**Procedure for incorporation**

**432(1)** Upon the approval of the minister being given, the petitioners shall make and sign a declaration in writing, setting forth:

- (a) the intended corporate name of the society;
- (b) the purpose of the society;

- (c) the place where its operations are to be chiefly carried on in the province;
- (d) the proposed bylaws and constitution under which the society will operate;
- (e) the names of those who are to be the first trustees or managing officers;
- (f) the mode in which their successors are to be appointed;
- (g) an address in the province to which communications and notices may be sent and at which process may be served; and
- (h) such other particulars and provisions, not contrary to law, as the incorporators think fit.

(2) The declaration may be made and signed in duplicate or in as many parts as are required. It shall be dated and signed in the presence of a witness with the full names of the declarants, giving their addresses and occupations; and the witness shall sign his full name, adding his occupation and address.

1949, c.40, s.419; R.S.S. 1953, c.432.

#### Declaration to be filed

**433** The declaration shall be filed with the superintendent, who shall ascertain and determine whether the proceedings for incorporation have been taken in accordance with the provisions of this Act, whether the purposes of the society are those authorized by section 431, whether the signatures to the declaration are genuine and whether the proposed name is the same as that of any existing company or society or may be easily confounded therewith, or is otherwise objectionable.

1949, c.40, s.420; R.S.S. 1953, c.433.

#### Report of superintendent

**434(1)** If the superintendent decides that the provisions of this Act have been complied with and that there is no reason why the society should not be incorporated, he shall so report to the registrar.

(2) Upon receipt of the report and of the declaration mentioned in section 432, and upon payment of such fees as may be prescribed by regulations of the Lieutenant Governor in Council under *The Benevolent Societies Act*, the registrar shall issue under his hand and seal of office a certificate of incorporation under *The Benevolent Societies Act*.

(3) From the date of the issue of the certificate, the proposed society shall be a corporation and its members shall be the persons who for the time being hold contracts of insurance therein, and as long as the society remains registered it shall be capable, on being duly licensed, of undertaking within Saskatchewan mutual benefit insurance in the terms of its licence.

194, c.40, s.421; R.S.S. 1953, c.434.

#### Licence

**435** After registration the superintendent may issue a licence to the society in the form provided for by section 46.

1949, c.40, s.422; R.S.S. 1953, c.435.

**Societies under *Benevolent Societies Act* to be licensed**

**436** A mutual benefit society incorporated under the provisions of *The Benevolent Societies Act*, or any former *Benevolent Societies Act*, which does not undertake and does not offer to undertake contracts of life insurance, shall nevertheless be licensed under this Act.

1949, c.40, s.423; R.S.S. 1953, c.436.

**What societies may not be licensed**

**437(1)** Subject to the provisions of subsection (2), no mutual benefit society shall be licensed, or have its licence renewed:

- (a) if it has upon its books less than seventy-five members in good standing;
  - (b) if it insures or indemnifies against contingencies other than sickness, disability or funeral expenses;
  - (c) if it contracts for sick benefits for an amount in excess of \$12 per week, or for a funeral benefit in excess of \$400;
  - (d) if it undertakes insurance contracts with persons other than its own members;
  - (e) if it is in effect the property of its officers or collectors, or of any other person for his own benefit, or is conducted as a mercantile or business enterprise or for the purpose of mercantile profit, or if its funds are under the control of persons or officers appointed for life and not under that of the insured;
  - (f) if it has charge of or manages or distributes charity or gratuities or donations only.
- (2) The superintendent may, in his discretion, renew the licence of any mutual benefit society notwithstanding that it has upon its books, at the time of application for such renewal, less than seventy-five members in good standing.

1949, c.40, s.424; R.S.S. 1953, c.438.

**Application of certain sections of Part XIII**

**438** The provisions of sections 392 and 394 to 401 apply *mutatis mutandis* to societies licensed under this Part.

1949, c.40, s.425; R.S.S. 1953, c.438.

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**PART XV**
**Reciprocal or Inter-insurance Exchanges****Interpretation**

**439** In this Part:

**“attorney”**

1 “**attorney**” means a person authorized to act for subscribers as provided in section 442;

**“subscribers”**

2 “subscribers” means persons exchanging with each other reciprocal contracts of indemnity or inter-insurance as provided in section 440.

1949, c.40, s.426; R.S.S. 1953, c.439.

**Authority for exchange for reciprocal contracts of insurance**

**440** It Shall be lawful for any person to exchange with other persons in Saskatchewan and elsewhere reciprocal contracts of indemnity or inter-insurance for any class of insurance for which an insurance company may be licensed under the provisions of this Act except life insurance, accident insurance, sickness insurance and guarantee insurance.

1949, c.40, s.427; R.S.S. 1953, c.440.

**Subscriber not to be deemed an insurer**

**441** No person shall be deemed to be an insurer within the meaning of this Act by reason of exchanging with other persons reciprocal contracts of indemnity or inter-insurance under the provisions of this Act.

1949, c.40, s.428; R.S.S. 1953, c.441.

**Who may maintain action in contract**

**442** Reciprocal contracts of indemnity or inter-insurance may be executed on behalf of subscribers by any other person acting as attorney under a power of attorney, a copy of which has been duly filed as hereinafter provided.

1949, c.40, s.429; R.S.S. 1953, c.442.

**Who may maintain action in contract**

**443** Notwithstanding any condition or stipulation in a power of attorney or in a contract of indemnity or interinsurance, any action or proceeding in respect of such contract may be maintained in any court of competent jurisdiction in Saskatchewan.

1949, c.40, s.430; R.S.S. 1953, c.443.

**Declaration by members of exchanges**

**444** The persons constituting the exchange shall, through their attorney, file with the superintendent a declaration verified by oath, setting forth:

- (a) the name of the attorney and the name or designation under which such contracts are issued, which name or designation shall not be so similar to any other name or designation previously adopted by an exchange or by a licensed insurer as in the opinion of the superintendent to be likely to result in confusion or deception;
- (b) the classes of insurance to be effected or exchanged under such contracts;
- (c) a copy of the form of the contract, agreement or policy under or by which such reciprocal contracts of indemnity or inter-insurance are to be effected or exchanged;
- (d) a copy of the form of power of attorney under which such contracts are to be effected or exchanged;
- (e) the location of the office from which such contracts are to be issued;

- (f) a financial statement in the form prescribed by the superintendent;
- (g) evidence satisfactory to the superintendent that it is the practice of the exchange to require its subscribers to maintain in the hands of the attorney, as a condition of membership in the exchange, a premium deposit reasonably sufficient for the risk assumed by the exchange;
- (h) evidence satisfactory to the superintendent that the management of the affairs of the exchange is subject to the supervision of an advisory board or committee of the subscribers in accordance with the terms of the power of the attorney.

1949, c.40, s.431; R.S.S. 1953, c.444.

#### Form of licence

**445** Upon an exchange complying with the provisions of this Part the superintendent may issue a licence in form C.

1949, c.40, s.432; R.S.S. 1953, c.445.

#### Licence fee

**446(1)** Every licensed exchange shall, at the time of the issue of its licence or renewal thereof, pay the annual licence fee prescribed by the regulations.

(2) Notwithstanding anything in this Act contained, the superintendent may, with the approval of the minister, require an exchange, as a condition of the issue or renewal of its licence, to deposit approved securities with the minister in such amount and upon such terms and conditions as the superintendent may deem proper.

1949, c.40, s.433; R.S.S. 1953, c.446.

#### Evidence required before issue of licence

**447** A licence shall not be issued to an exchange to effect or exchange contracts of indemnity or inter-insurance:

- (a) against loss by fire, until evidence satisfactory to the superintendent has been filed with him that applications have been made for indemnity upon at least seventy-five separate risks in Saskatchewan or elsewhere aggregating not less than \$1,500,000 as represented by executed contracts or *bona fide* applications to become currently effective;
- (b) in respect of automobiles, until evidence satisfactory to the superintendent has been filed with him that applications have been made for indemnity upon at least five hundred automobiles as represented by executed contracts or *bona fide* applications to become concurrently effective, and that arrangements satisfactory to the superintendent are in effect for the re-insurance of all liabilities in excess of such limits as the superintendent may prescribe.

1949, c.40, s.434; R.S.S. 1953, c.447.

#### Service of process

**448** Where the office from which such contracts are to be issued is not in Saskatchewan, service upon the superintendent of notice or process in any action or proceeding in Saskatchewan in respect of a contract of indemnity or interinsurance effected by the exchange, shall be deemed service upon the subscribers who are members of the exchange at the time of such service.

1949, c.40, s.435; R.S.S. 1953, c.448.

**Statement of maximum indemnity**

**449** There shall be filed with the superintendent by the indemnity attorney, as often as the superintendent may require, a statement of the attorney under oath showing, in the case of fire insurance, the maximum amount of indemnity upon any single risk and a statement of the attorney verified by oath to the effect that he has examined the commercial rating of the subscribers of the exchange as shown by the reference book of a commercial agency, having at least five hundred subscribers and that from such examination or other information in his possession it appears that no subscriber has assumed on any single fire insurance risk, an amount greater than ten per cent of the net worth of such subscriber.

1949, c.40, s.436; R.S.S. 1953, c.449.

**Amount of reserve**

**450** There shall at all times be maintained with such attorney, as a reserve fund, a sum in cash or approved securities equal to fifty per cent of the annual deposits or advance premiums collected or credited to the accounts of subscribers on contracts in force having one year or less to run and *pro rata* on those for longer periods.

1949, c.40, s.437; R.S.S. 1953, c.450.

**Guarantee**

**451(1)** Except as hereinafter provided, there shall also be maintained as a guarantee fund or surplus, an additional sum, in excess of all liabilities, in cash or approved securities amounting to not less than \$50,000.

(2) In the case of a fire insurance exchange whose principal office is in Saskatchewan, the guarantee fund or surplus referred to in subsection (1) shall not be less than \$25,000.

(3) In the case of an automobile insurance exchange whose principal office is in Saskatchewan, the guarantee fund or surplus referred to in subsection (1) shall, during the first year of operation of the exchange, be maintained at an amount not less than \$10,000, and thereafter not less than \$25,000.

1949, c.40, s.438; R.S.S. 1953, c.451.

**Deficiency**

**452(1)** If at any time the amounts on hand are less than required under sections 450 and 451, the subscribers or the attorney shall forthwith make up the deficiency.

(2) Where funds other than those which accrued from premiums or deposits of subscribers are supplied to make up a deficiency as herein provided for, such funds shall be deposited and held for the benefit of subscribers under such terms and conditions as the superintendent may require so long as a deficiency exists, and may thereafter be returned to the depositor.

1949, c.40, s.439; R.S.S. 1953, c.452.

**“Approved securities”**

**453** In sections 450 and 451 “approved securities” means securities the investment in which is authorized by the provisions of section 103.

1949, c.40, s.440; R.S.S. 1953, c.453.

**Investment of surplus funds and reserve**

**454** If the principal office of the exchange is in Saskatchewan, the surplus insurance funds and the reserve fund of the exchange shall be invested in the class of securities authorized by section 103.

1949, c.40, s.441; R.S.S. 1953, c.454.

**Evidence as to investments**

**455** If the principal office of the exchange is outside investments Saskatchewan it shall be a condition precedent to the issue of a licence under this Act that evidence satisfactory to the superintendent shall be filed with him showing that the class of security in which funds of the exchange are required by law to be invested, and are in fact invested, is within the limits of investment prescribed for the investment of the reserve funds of an insurance corporation by the jurisdiction in which the office of the exchange is situated.

1949, c.40, s.442; R.S.S. 1953, c.455.

**Contracts must be on behalf of subscribers only**

**456** No exchange shall undertake any liability on a contract of indemnity, inter-insurance or insurance except on behalf a subscriber.

1949, c.40, s.443; R.S.S. 1953, c.456.

**No reinsurance in another exchange**

**457** No attorney or exchange shall effect reinsurance of risks undertaken by the exchange in any other reciprocal or inter-insurance exchange.

1949, c.40, s.444; R.S.S. 1953, c.457.

**Attorney not to act until licence granted**

**458(1)** No person shall act as attorney, or for or on behalf of an attorney, in the exchange of reciprocal contracts of indemnity or inter-insurance, or in acts or transactions in connection therewith, unless and until a licence has been issued and unless such licence is in force.

(2) Any person who, in contravention of subsection (1) undertakes or effects or agrees or offers to undertake or effect an exchange of reciprocal contracts of indemnity or inter-insurance, or any act or transaction in connection therewith, is guilty of an offence and liable on summary conviction to a fine of not less than \$50 nor more than \$500.

1949, c.40, s.445; R.S.S. 1953, c.458.

**Suspension or revocation of licence**

**459(1)** Where a licensed exchange or attorney fails or refuses to comply with or contravenes any provision of this Act, the licence of the exchange may be suspended or revoked by the minister on the report of the superintendent after due notice and opportunity for a hearing before the superintendent has been given to the exchange or its attorney, but such suspension or revocation shall not affect the validity of any reciprocal contracts of indemnity or interinsurance effected prior thereto or the rights and obligations of subscribers under such contracts.

(2) Notice of the suspension or revocation shall be given by the superintendent in at least two successive issues of the *Gazette* as soon as reasonably may be after the suspension or revocation.

1949, c.40, s.446; R.S.S. 1953, c.459.

**Annual tax**

**460** The attorney shall, on or before the first day of March in each year, pay to the superintendent an annual tax equal to one per cent of the gross premiums or deposits collected from subscribers in respect of risks located in Saskatchewan during the preceding calendar year, after deducting returns for cancellations, considerations for reinsurances with licensed insurers and all amounts returned to subscribers or credited to their accounts as savings during such year.

1949, c.40, s.447; R.S.S. 1953, c.460.

*Note*:—Section 460 (formerly section 447) is suspended in operation by section 3 of *The Taxation Agreement Act*.

**Fire insurance in unlicensed exchanges outside Saskatchewan**

**461** Notwithstanding anything in this Act, any person may insure property situated in Saskatchewan against fire in an exchange not licensed under this Act, and property so insured or to be insured may be inspected and any loss incurred in respect thereof adjusted, provided such insurance is effected outside Saskatchewan and without any solicitation in Saskatchewan directly or indirectly on the part of the insurer and otherwise complies with section 125.

1949, c.40, s.448; R.S.S. 1953, c.461.

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 PART XVI

**Agents, Brokers and Adjusters**

## AGENTS

**Certificate of authority necessary**

**462** No person shall act or offer or undertake to act as an insurance agent in this province without having first obtained a certificate of authority under this Act.

1949, c.40, s.449; R.S.S. 1953, c.462.

**Application for certificate**

**463(1)** Every applicant for a certificate of authority shall deliver to the superintendent an application in the form and verified in the manner required by the superintendent, setting out the applicant's name, his address, occupation, time to be devoted to the insurance business, the name or names of insurers to be represented, the amount and value of insurance written by him during the preceding year, and such other information as may be required by the superintendent. Such application shall be approved in writing by at least one of the insurers to be represented, certifying to the good business reputation of the applicant and his qualifications for and knowledge of the business of insurance, and recommending the granting of a certificate of authority to him. Such approval may be given by the head or a branch office of the insurer, or by its general agent in the province or by an official qualified under the provisions of section 476.

(2) Notwithstanding anything contained in this Act, the superintendent may issue a certificate of authority to a transportation company authorizing it, by its employees in the province, to act as an agent for a licensed insurer with respect to accident insurance and such other classes of insurance as he may approve.

(3) The certificate mentioned in subsection (2) shall be subject to such regulations as the Lieutenant Governor in Council may prescribe with respect to the form of the certificate, the terms and conditions under which it is issued and the circumstances under which it may be suspended or cancelled.

1949, c.40, s.450; 1950, c.31, s.4; R.S.S. 1953, c.463.

**Issue of certificate**

**464(1)** Upon receipt of an application for a certificate of authority and payment of the prescribed fee, which shall be determined by the post office address of the applicant, the superintendent shall, if he is satisfied that the applicant is a suitable person to receive a certificate of authority, and intends to hold himself out publicly and carry on business in good faith as an insurance agent, issue to the applicant a certificate of authority authorizing the holder, during the term of the certificate, to carry on within Saskatchewan the business of insurance in the class stipulated in his certificate.

(2) If for any reason the superintendent is of the opinion that an applicant is not a suitable person to receive a certificate of authority, he may at his discretion refuse him a certificate.

1949, c.40, s.451; R.S.S. 1953, c.464.

**Classes of certificates**

**465** Certificates of authority so issued shall be of such classes as the minister deems necessary to cover the classes of insurance for which insurers are licensed in Saskatchewan.

1949, c.40, s.452; R.S.S. 1953, c.465.

**Expiry and renewal**

**466(1)** Every certificate shall expire on the thirty-first day of December in each year, but may be renewed on due application to the superintendent and payment of the prescribed fee.

(2) A certificate shall not be renewed unless it is shown to the satisfaction of the superintendent that the applicant has negotiated for and obtained not less than three applications for insurance of the class for which he was licensed and for which policies were issued.

1949, c.40, s.453; R.S.S. 1953, c.466.

**Certificate where head office outside Saskatchewan**

**467** Every general agent whose head office is situated outside Saskatchewan, transacting agency business in Saskatchewan for an insurer underwriting hail insurance, which general agent does not maintain within Saskatchewan an office where applications may be accepted or declined, shall obtain from the superintendent a certificate of authority authorizing him to transact such business within the province. Such certificate may be issued upon application filed with the superintendent, when such application has been approved by him and the prescribed fee paid.

1949, c.40, s.454; R.S.S. 1953, c.467.

**Powers of holders of certificate**

**468** A holder of a certificate of authority may, during the term and validity of his certificate, act as agent for any licensed insurer within the limits prescribed by his certificate, and may act as an insurance broker in dealing with insurers without any other or additional certificate, subject to the provisions of this Act.

1949, c.40, s.455; R.S.S. 1953, c.468.

**Transfer of services**

**469** If the holder of a certificate of authority for the transaction of life, or of accident and sickness, insurance, transfers his services from one company to another, he shall immediately notify the superintendent and at the same time obtain from both companies and furnish him with evidence of the change. Such change, if satisfactory, shall be endorsed on his certificate by the superintendent.

1949, c.40, s.456; R.S.S. 1953, c.469.

**Revocation or suspension of certificate**

**470** A certificate of authority may be revoked or suspended by the superintendent if, after due investigation by him or his duly accredited representative, he determines that the holder of such certificate:

- (a) has been guilty of misrepresentation, fraud, deceit or dishonesty; or
- (b) has violated any of the provisions of the *Insurance Act (Canada)*, or of this Act or any rule or regulation made for the purposes of this Act; or
- (c) has unreasonably failed to pay over to the insurer or agent entitled thereto any moneys collected by him and retained beyond the term stipulated in his agency contract or agreement; or
- (d) has placed insurance with insurers other than those licensed in Saskatchewan under this Act, without complying with the provisions herein contained relating to unlicensed insurance; or
- (e) has demonstrated his incompetency or untrustworthiness to transact the business of insurance agency for which such certificate was granted, by reason of anything done or omitted in or about such business.

1949, c.40, s.457; R.S.S. 1953, c.470.

**Appeal**

**471** The holder of a certificate of authority which has been revoked under section 470 may appeal against such revocation to the minister, who shall thereupon either confirm or cancel such revocation.

1949, c.40, s.458; R.S.S. 1953, c.471.

**One year's disability**

**472** No person whose certificate has been revoked shall be entitled to a new certificate for one year after such revocation.

1949, c.40, s.459; R.S.S. 1953, c.472.

**Exemption from municipal licence fee**

**473** The holder of a certificate of authority shall be exempt from payment of any licence fee imposed by a municipal corporation within Saskatchewan for the transaction of the business of insurance.

1949, c.40, s.460; R.S.S. 1953, c.473.

**No payments to unauthorized agent**

**474(1)** No insurer licensed under this Act, and notarized officer, agent or employee of such an insurer, and no insurance agent authorized under this Act, shall directly or indirectly, pay or allow, or offer or agree to pay or allow, any commission or other compensation or anything of value to any person for acting or attempting or assuming to act as an insurance agent in respect of insurance in the province unless that person holds at the time a subsisting insurance agent's certificate under this Act.

(2) Subsection (1) does not affect the payment or allowance by an agent of part of his commission to brokers outside the province.

(3) An agent who, at the time when he receives an application for insurance, does not hold a subsisting certificate of authority, shall not retain or deduct anything on account of commission from any payment made to him with such application, but shall remit to the insurer the full amount paid to him on account of premium.

(4) Any person licensed as an agent for life insurance under this Act who:

(a) induces, directly or indirectly, an insured to lapse, forfeit or surrender for cash, or for paid up or extended insurance, or for other valuable consideration, his contract of life insurance with one insurer in order to effect a contract of life insurance with another insurer; or

(b) makes any false or misleading statement or representation in the solicitation for or negotiation of insurance; or

(c) coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance, through the influence of a business or a professional relationship or otherwise, to give a preference with respect to the placing of the insurance which would not be otherwise given in effecting a life insurance contract;

is guilty of an offence.

1949, c.40, s.461; R.S.S. 1953, c.474.

**Penalty**

**475** Every insurer or other person who contravenes any of the foregoing provisions of this Part is guilty of an offence and liable on summary conviction to a fine of not less than \$20 nor more than \$100.

1949, c.40, s.462; R.S.S. 1953, c.475.

**Permit for appointments of agents**

**476(1)** No one other than the manager, branch manager or chief agent in Canada shall appoint an agent or agents on behalf of an insurer licensed under this Act, without first procuring from the superintendent a permit to do so, for which a fee of \$1 shall be paid.

(2) Such permit may be issued to any person making application therefor on a form prescribed by the superintendent. Every application shall be approved by the manager, branch manager or chief agent in Canada of the insurer on whose behalf agents are to be appointed.

(3) All permits shall expire on the fifteenth day of February in each year, but may be renewed on due application to the superintendent and payment of the prescribed fee.

(4) A permit issued in accordance with this section may be revoked or suspended by the superintendent if, after due investigation by him or his duly accredited representative, he determines that the holder of such permit:

- (a) has been guilty of misrepresentation;
- (b) has violated any of the provisions of this Act or any rule or regulation made for the purpose of this Act;
- (c) has made verbal arrangements with, or has completed agency arrangements with, any person, firm or corporation not holding, and who has not applied for, a certificate of authority under this Act;
- (d) in the case of hail insurance, has failed to advise the agency appointee of the powers delegated to him by the company, such powers being evidenced either by a signed contract or by an instrument in writing.

(5) No person whose permit has been revoked shall be entitled to a new permit under this section for one year after such revocation, unless in the meantime such revocation has been cancelled by the minister on appeal.

(6) For the purposes of this section any agency appointment made by a general agency of the insurer operating in Saskatchewan shall be construed as an agency appointment for such insurer.

1949, c.40, s.463; R.S.S. 1953, c.476.

#### BROKER'S LICENCES FOR BUSINESS WITH UNLICENSED INSURERS

##### Licence to special insurance broker

**477(1)** The superintendent may, upon the payment of a fee of \$25, issue to any suitable person a licence to act as a special insurance broker to negotiate, continue or renew contracts of fire insurance on property in Saskatchewan in insurers not authorized to transact such business in Saskatchewan.

(2) The applicant for such licence shall file with the superintendent a written application.

1949, c.40, s.464; R.S.S. 1953, c.477.

##### Issue and expiration of licence

**478** If the superintendent is satisfied with the statements and information required, he shall issue the licence applied for subject to suspension or revocation in the discretion of the superintendent, which licence shall expire at the end of one year from its date unless sooner suspended or revoked.

1949, c.40, s.465; R.S.S. 1953, c.478.

##### Renewal of licence

**479** The licence may, in the discretion of the superintendent be renewed for each succeeding year upon payment of a fee of \$25.

1949, c.40, s.466; R.S.S. 1953, c.479.

**Security to be filed with superintendent**

**480** Every person shall, before receiving such licence, execute and deliver to the superintendent security to the satisfaction of the superintendent in the sum of not less than \$2,000 that the licensee will faithfully comply with all the requirements of this Act.

1949, c.40, s.467; R.S.S. 1953, c.480.

**When licensee may effect insurance with unlicensed insurers**

**481(1)** Where sufficient insurance on property in Saskatchewan cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do business in Saskatchewan, the person named in such licence may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the property insured, its location and the amount of insurance required and stating that the insurance cannot be obtained in licensed insurers and that the application for such insurance at the stated rate of premium was previously made to and refused by named insurers licensed in Saskatchewan.

(2) The person named in such licence shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the superintendent a statement setting forth the name of the insured, the property insured and its location, the full names of the unlicensed insurers, and the amount of insurance placed with each and the rate and amount of premium paid to each.

1949, c.40, s.468; R.S.S. 1953, c.281.

**Records to be kept—inspection**

**482** Every such licensee shall keep a separate account inspection of insurance effected by him under his licence in books in the form prescribed by the superintendent, which shall be open to inspection by the superintendent or any person authorized by him.

1949, c.40, s.469; R.S.S. 1953, c.482.

**Monthly return**

**483** Within ten days after the end of each month every such licensee shall make to the superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under section 481 by the licensee during the month.

1949, c.40, s.470; R.S.S. 1953, c.483.

**Tax on premiums**

**484** In respect of all premiums on insurance effected under a licence, the licensee shall pay to the superintendent such taxes as would be payable if such premiums had been received by a licensed insurer, and payment thereof shall accompany the monthly return provided for in section 483.

1949, c.40, s.471; R.S.S. 1953, c.484.

*Note.*—Section 484 (formerly section 471) is suspended in operation by Order in Council No.2255/52 dated October 7, 1952, issued pursuant to subsection (2) of section 3 of *The Taxation Agreement Act, 1952*, now chapter 58 of these Revised Statutes.

**Release of security given by licensee**

**485** When it is shown to the satisfaction of the minister that all insurances effected under section 481 are no longer in force or have been reinsured, the licensee shall be entitled to a release or cancellation of his security.

1949, c.40, s.472; R.S.S. 1953, c.485.

**Forfeiture of licence**

**486** Every licensee who contravenes any of the foregoing provisions shall forfeit his licence and is guilty of an offence.

1949, c.40, s.473; R.S.S. 1953, c.486.

**PROVISIONS RELATING TO AGENTS AND BROKERS GENERALLY****Agent or broker receiving premiums**

**487(1)** An agent or broker shall, for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.

(2) This section does not apply to life insurance.

1949, c.40, s.474; R.S.S. 1953, c.487.

**Fraudulent representations**

**488** An agent or broker who knowingly procures fraudulent representations, payment or the obligation for payment of any premium on an insurance policy, is guilty of an offence.

1949, c.40, s.475; R.S.S. 1953, c.488.

**Adjuster's certificate necessary**

**489** No person, other than an agent holding a certificate of authority under section 464, shall make an adjustment of loss or damage under any contract of insurance covering property described as being situated in Saskatchewan unless he holds an adjuster's certificate from the superintendent or makes application for such certificate within two days after making a first adjustment.

1949, c.40, s.476; R.S.S. 1953, c.489.

**Adjuster's certificate**

**490(1)** The applicant for an adjuster's certificate shall file with the superintendent a written application upon a form provided by the superintendent in which the applicant shall state his name, age, residence and occupation for the five years next preceding the date of the application and such other information as the superintendent may require, and the applicant shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Saskatchewan, but this subsection does not apply to the renewal of subsisting adjuster's certificates.

(2) If the superintendent is satisfied with the statements and information required, he shall, upon payment of the prescribed fee, issue an adjuster's certificate.

1949, c.40, s.477; R.S.S. 1953, c.490.

**Expiry of certificate**

**491** Each certificate shall expire on the first of June in each year but may be renewed on due application to the superintendent and payment of the prescribed fee.

1949, c.40, s.478; R.S.S. 1953, c.491.

**Revocation or suspension of certificate**

**492** An adjuster's certificate issued in accordance with section 490 shall be revoked or suspended by the superintendent if, after due investigation and hearing had either before himself or his duly accredited agent, whose report he may adopt, he determines that the holder of the certificate has violated any provision of this Act, or has been guilty of fraudulent practices or is untrustworthy or incompetent. No person whose certificate has been revoked shall be granted another certificate until the lapse of a period of one year thereafter, nor shall he, until again duly authorized, act as an employee, or participant in the profits, of any insurance adjuster.

1949, c.40, s.479; R.S.S. 1953, c.492.

**Records and returns of adjustments**

**493(1)** Upon the completion of each adjustment of adjustments loss or damage by fire, a report of the adjustment shall be entered upon a form prescribed by the superintendent.

(2) Every adjuster shall file with the superintendent within seven days after the end of each calendar month the said form containing particulars of all adjustments made by him during that month.

(3) Where loss or damage by fire has been adjusted by the holder of a certificate of authority under section 464 he shall forthwith report the adjustment.

1949, c.40, s.480; R.S.S. 1953, c.493.

**Penalty for acting without certificate**

**494** Any person who acts as an adjuster without a licence or during a suspension of his licence, is guilty of an offence.

1949, c.40, s.481; R.S.S. 1953, c.494.

**PROVISIONS RELATING TO AGENTS, BROKERS AND ADJUSTERS  
GENERALLY**

**Acting without authority**

**495** Any person who, not being duly licensed as an agent, broker or adjuster, represents or holds himself out to the public as being such an agent, broker or adjuster, or as being engaged in the insurance business, by means of advertisements, cards, circulars, letter-heads, signs or other methods, or, being duly licensed as such agent, broker or adjuster, advertises as aforesaid or carries on such business in any other name than that stated in the licence, is guilty of an offence.

1949, c.40, s.482; R.S.S. 1953, c.495.

**Appeal**

**496** If the superintendent refuses, suspends or revokes a certificate or licence applied for by or issued to a broker or adjuster, he shall state in writing his reasons therefor and any person who deems himself aggrieved by the decision of the superintendent may appeal therefrom to the minister, and in case of an appeal, the decision of the superintendent shall not take effect until after the hearing and disposition thereof by the minister.

1949, c.40, s.483496.

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**PART XVII****Amalgamation, Transfer, Reinsurance and Liquidation****AMALGAMATION, TRANSFER AND REINSURANCE****Interpretation**

**497** In this Part “reinsurance” means an agreement whereby contracts made in Saskatchewan by a licensed insurer, or any class or group thereof, are undertaken or reinsured by another insurer either by novation, transfer, assignment or as a result of amalgamation of the insurers.

1949, c.40, s.484; R.S.S. 1953, c.497.

**Application**

**498** Nothing in this Part affects contracts of reinsurance of individual risks made by insurers in the ordinary course of business or contracts reinsured under section 32.

1949, c.40, s.485; R.S.S. 1953, c.498.

**Powers of companies as to amalgamation, transfer and reinsurance**

**499(1)** Any insurer incorporated by an Act of the Legislature of Saskatchewan and licensed under this Act may amalgamate its property and business with those of any other insurer, or may transfer its contracts of insurance to or reinsure the same with any other insurer, and may transfer its property and business or any part thereof to any other insurer, and such insurers are hereby authorized to enter into all contracts and agreements necessary to amalgamation, transfer or reinsurance upon compliance with the conditions hereinafter set forth.

(2) Any such insurer may reinsure the contracts of insurance of any other insurer, or my purchase and take over the business and property or any portion thereof of any other insurer.

1949, c.40, s.486; R.S.S. 1953, c.499.

**Petition to minister**

**500** When an agreement for such amalgamation, transfer, reinsurance or purchase has been entered into, the insurers which are parties to the agreement may apply by petition to the minister to sanction and confirm the agreement.

1949, c.40, s.487; R.S.S. 1953, c.500.

**Notice given**

**501** Notice of the insurer's intention to apply for sanction and confirmation of such amalgamation, transfer, reinsurance or purchase shall be given in the *Gazette* at least thirty days before the application is made.

1949, c.40, s.488; R.S.S. 1953, c.501.

**Documents filed**

**502** When the application is made, the insurers which are parties to the agreement shall file with the minister the following documents:

- (a) certified copies of the statement of the assets and liabilities of the insurers concerned in such amalgamation, transfer, reinsurance or purchase;
- (b) a statement of the nature and terms of the amalgamation, transfer, reinsurance or purchase;
- (c) a certified copy of the agreement under which such amalgamation, transfer, reinsurance or purchase is effected;
- (d) certified copies of the actuarial or other reports upon which such agreement is founded;
- (e) a declaration under the hands of the president and manager of each insurer that to the best of their knowledge and belief every payment made or to be made to any person whomsoever on account of the said amalgamation, transfer, reinsurance or purchase is therein fully set forth and that no other payments beyond those set forth have been made or are to be made either in money, contracts of insurance, bonds, valuable securities or other property, by or with the knowledge of any of the parties to the amalgamation, transfer, reinsurance or purchase.

1949, c.40, s.489; R.S.S. 1953, c.502.

**Superintendent's report**

**503** Before the amalgamation, transfer, reinsurance or purchase is sanctioned by the minister, he may instruct the superintendent to examine into and report to him with reference to the general affairs of the interested insurers, and the certificate of the superintendent approved by the minister shall be conclusive as to the expenses to be paid by the insurers in respect thereof.

1949, c.40, s.490; R.S.S. 1953, c.503.

**Capital not impaired**

**504** No insurer shall be permitted to amalgamate its business with, transfer its business to, reinsure its business in, or purchase and take over the business and property, or any portion thereof, of any other insurer if the capital of the combined insurers after such amalgamation or of the continuing insurer after such transfer, reinsurance or purchase shall be impaired.

1949, c.40, s.491; R.S.S. 1953, c.504.

**Sanction of minister**

**505** No insurer shall amalgamate with another insurer, transfer its business to, reinsure its business in or purchase and take over the business and property, or any part thereof, of another insurer unless such amalgamation, transfer, reinsurance or purchase is sanctioned by the minister in accordance with the provisions of this Act.

1949, c.40, s.492; R.S.S. 1953, c.505.

**Extra-provincial companies**

**506** The effect of sections 499 to 505, in so far as regards extra-provincial companies licensed under this Act, shall be limited to contracts of insurance in force in this province, as determined by section 134.

1949, c.40, s.493; R.S.S. 1953, c.506.

## LIQUIDATION

**Voluntary winding up**

**507** A provincially incorporated insurance company is subject to the provisions of *The Companies Winding Up Act* except in so far as they may be varied by the special provisions of this Act.

1952, c.46, s.7; R.S.S. 1953, c.507.

**Order of court on application of superintendent**

**508(1)** An insurer incorporated in Saskatchewan may also be wound up by order of the court on the application of the superintendent if the court is satisfied that:

- (a) the insurer has failed to exercise its corporate powers during any continuous period of four years; or
- (b) the insurer has not commenced business or gone into actual operation within four years after it was incorporated; or
- (c) the insurer has discontinued business for one year after it has undertaken insurance contracts within the meaning of this Act; or
- (d) the insurer's licence has been suspended for one year or more; or
- (e) the insurer has carried on business or entered into a contract or used its funds in a manner or for a purpose prohibited or not authorized by this Act or by its Act of incorporation or by *The Companies Act* or by any special Act applicable thereto; or
- (f) other sufficient cause has been shown.

(2) No such application shall be made by the superintendent without the approval of the Lieutenant Governor in Council.

(3) Upon the making of an order under this section the provisions of *The Companies Winding Up Act*, in so far as they are not inconsistent with this Act, shall apply.

1952, c.46, s.7; R.S.S. 1953, c.508.

**Provisional liquidator**

**509(1)** In the case of an insurer incorporated in Saskatchewan:

- (a) if its licence expires and:
  - (i) the insurer fails to renew within the period limited by this Act; or
  - (ii) a renewal is refused; or
- (b) if its licence is cancelled;

the minister may appoint a provisional liquidator, who shall take charge of the affairs of the company and may direct that it be wound up forthwith under *The Companies Winding Up Act*.

(2) Until a permanent liquidator is appointed the provisional liquidator shall exercise all the powers of the insurer, and none of the officers or servants of the insurer shall make any contract for, incur any liability on behalf of or expend any moneys of the insurer without the approval of the provisional liquidator.

(3) The provisional liquidator shall petition the court for a winding up order and if the court is of the opinion that it is just and equitable so to do, it may make an order winding up the company and thereupon the provisions of *The Companies Winding Up Act*, in so far as they are not inconsistent with this Act, shall apply.

(4) The provisional liquidator or the liquidator, notwithstanding the provisions of *The Companies Winding Up Act*, but subject to the approval of the court, may sell the business and undertaking of the company as a going concern.

1952, c.46, s.7; R.S.S. 1953, c.509.

**Remuneration, expenses, etc.**

**510(1)** The remuneration to be paid to a provisional liquidator appointed under subsection (1) of section 509 shall be fixed by the minister.

(2) The remuneration and all expenses and outlay in connection with the appointment of the provisional liquidator, together with all expenses and outlay of the provisional liquidator while he acts in that capacity, shall be borne and paid by the insurer and shall form a first lien or charge upon the assets of the insurer other than the deposit unless otherwise directed pursuant to subsection (3).

(3) The minister, in his discretion, may direct that the remuneration, expenses and outlay shall be paid out of the proceeds of the deposit made by the insurer, and in that case the amount directed to be paid shall have the same priority as the expenses of the receiver administering the deposit as fixed by clause (a) of section 93.

1952, c.46, s.7; R.S.S. 1953, c.510.

**Notice of insurer of intention to cease business, etc.**

**511(1)** When an insurer incorporated under or subject to the laws of the province proposes to cease writing insurance or to call a general meeting to consider a resolution for the voluntary liquidation of the insurer under the provisions of *The Companies Winding Up Act*, it shall give at least one month's notice in writing thereof to the superintendent and to the Superintendent of Insurance of each other province in which the insurer is licensed.

(2) When an insurer has passed a resolution for voluntary winding up, the insurer shall notify the superintendent thereof, and of the date at which contracts of insurance will cease to be entered into by the insurer, and of the name and address of its liquidator.

(3) The notice under subsection (2) shall also be published by the insurer in two consecutive issues of *The Saskatchewan Gazette* and of the official gazette of each province in which the insurer is licensed and in such newspapers and other publications as the superintendent may require.

(4) A fraternal society or mutual insurance company to which this Act applies shall not go into voluntary liquidation or otherwise arrange for the winding up of its affairs without the written consent of the superintendent.

1952, c.46, s.7; R.S.S. 1953, c.511.

#### Reinsurance

**512(1)** The provisional liquidator or the liquidator, before any order granting administration of the deposit and before the fixing of a termination date pursuant to section 514, may arrange for the reinsurance of the subsisting contracts of insurance of the insurer with some other insurer licensed in the province.

(2) For the purpose of securing the reinsurance the following funds shall be available:

(a) the entire assets of the insurer in the province other than the deposit, except the amount reasonably estimated by the liquidator or the provisional liquidator as being required to pay:

(i) the costs of the liquidation or winding up;

(ii) all claims for losses covered by the insurer's contracts of insurance of which notice has been received by the insurer or liquidator or provisional liquidator before the date on which the reinsurance is effected;

(iii) the claims of the preferred creditors who are the persons paid in priority to other creditors under *The Companies Winding Up Act*;

all of which shall be a first charge on the assets of the insurer other than the deposit;

(b) all or such portion, if any, of the deposit as may be agreed upon pursuant to subsection (3).

(3) If it appears necessary or desirable to secure reinsurance for the protection of insured persons entitled to share in the proceeds of the deposit, the minister, on the recommendation of the superintendent, or, in the case of a reciprocal deposit, the Superintendents of Insurance of each of the reciprocating provinces may enter into an agreement with the provisional liquidator or the liquidator, whereby, pursuant to section 79 or section 82, all or any part of the securities in the deposit may be used for the purpose of securing the reinsurance.

(4) Creditors of the insurer, other than the insured persons and the said preferred creditors, shall be entitled to receive a payment on their claims only if provision has been made for the payments mentioned in subsection (2) and for the reinsurance.

(5) If, after providing for the payments mentioned in subsection (2), the balance of the assets of the insurer, together with all or such portion, if any, of the deposit as may be agreed upon pursuant to subsection (3), is insufficient to secure the reinsurance of the contracts of the insured persons in full the reinsurance may be effected for such portion of the full amount of the contracts as may be possible.

(6) No contract of reinsurance shall be entered into pursuant to this section until it is approved by the court.

(7) Nothing in this section prejudices or affects the priority of any mortgage, lien or charge upon the property of the insurer.

1952, c.46, s.7; R.S.S. 1953, c.512.

**Transfer of deposit from receiver to liquidator and administration thereof**

**513(1)** In the winding up of an insurer that has made a deposit pursuant to this Act, if the person appointed as receiver to administer the deposit pursuant to section 87, thereof is not the person appointed as provisional liquidator or the liquidator under this Act or *The Companies Winding Up Act* or appointed as liquidator under the *Winding-up Act (Canada)*, as the case may be, the court, at any time in its discretion, may order that the deposit and the administration thereof be transferred from the receiver to the provisional liquidator or the liquidator.

(2) Upon the making of an order pursuant to subsection (1), the provisional liquidator or the liquidator shall administer the deposit for the benefit of the persons entitled to share in the proceeds thereof in accordance with the provisions of and the priorities set out in this Act.

(3) The amount payable to the provisional liquidator or the liquidator for administering the deposit and all costs and expenses incurred by him in administering the deposit shall be paid from the proceeds of the deposit in accordance with the priorities fixed by clause (a) of section 93, but the amount payable to the provisional liquidator or the liquidator and all costs and expenses incurred by him in the winding up of the insurer shall not be paid from the deposit but shall be paid from and shall be a first charge on the assets of the insurer except as provided in subsection (3) of section 510.

1952, c.46, s.7; R.S.S. 1953, c.51.

**Termination date for subsisting contracts**

**514(1)** If he fails to secure reinsurance, or if in his opinion it is impracticable or inexpedient to arrange for reinsurance, the provisional liquidator or the liquidator:

- (a) with the approval of the court and subject to such terms as may be prescribed by the court; and
- (b) for the purpose of securing the payment of existing claims and avoiding further losses;

may publish a notice fixing a termination date for the subsisting contracts of insurance of the insurer, and on and after that date coverage and protection under the Saskatchewan contracts shall cease, and the insurer shall not be liable under any such contract for a loss that occurs after that date.

(2) Where a provisional liquidator or a liquidator has been appointed in another province to wind up an insurer incorporated in that province, if the provisional liquidator or the liquidator fixes a termination date for the contracts of insurance of that insurer, on and after that date coverage and protection under the Saskatchewan contracts shall cease and determine, and the insurer shall not be liable under any such contract for a loss that occurs after that date.

(3) Where a receiver administering a deposit has fixed a termination date pursuant to section 88, the termination date fixed pursuant to this section shall apply only to those contracts of insurance not already terminated on the date fixed by the receiver.

1952, c.46, s.7; R.S.S. 1953, c.514.

**Publication of notice of termination date**

**515** The provisional liquidator or the liquidator shall cause the notice:

- (a) to be published in *The Saskatchewan Gazette* and in the official gazette of each other province in which the insurer is licensed, and in such newspapers as the court may direct in order to give reasonable notice of the termination date so fixed; and
- (b) to be mailed to each policy-holder at his address as shown on the books and records of the company.

1952, c.46, s.7; R.S.S. 1953, c.515.

**Sums to be paid or set aside by liquidator**

**516(1)** The liquidator shall pay or set aside from the assets of the insurer sums in his opinion sufficient to pay:

- (a) the costs of the liquidation or winding up;
- (b) all claims for losses covered by the insurer's contracts of insurance that occurred before the termination date fixed pursuant to section 88 or section 514 and that have not been paid or provided for in the administration of the deposit and of which notice has been received by the insurer or the liquidator;
- (c) the full amount of the legal reserve in respect of each unexpired life insurance contract;
- (d) the claims of preferred creditors who are the persons paid in priority to other creditors under *The Companies Winding Up Act*.

(2) Except in the case of life insurance, the assets remaining after payment or making provision for payment of the amounts mentioned in subsection (1) shall be used to pay the claims of the insured persons for refunds of unearned premiums on a *pro rata* basis in proportion to the periods of their contracts respectively unexpired on the termination dates, to the extent that those claims have not been paid or provided for in the administration of the deposit.

(3) The claims of the insured persons for refunds of unearned premiums shall be calculated:

- (a) as at the termination date fixed pursuant to section 88 or section 514;  
or
- (b) as at the date the insured person cancelled the contract;

whichever date is the earlier.

(4) The refund of all or a portion of the premium shall not destroy or defeat any other remedy the insured person may have against the insurer in respect thereof or for any other cause.

(5) Nothing in this section prejudices or affects the priority of any mortgage, lien or charge upon the property of the insurer.

1952, c.46, s.7; R.S.S. 1953, c.516.

**Payment of provincial taxes, etc.**

**517** The fees, taxes and costs payable by the insurer to each province shall be paid out of the assets of the insurer remaining after the reinsurance of the subsisting contracts of insurance of the insurer or after the payment of the claims of policyholders for refund of unearned premiums, as the case may be, and the balance shall be distributed amongst the creditors of the insurer other than the insured persons, preferred creditors and the several provinces.

1952, c.46, s.7; R.S.S. 1953, c.517.

**Schedules to be filed by liquidator**

**518(1)** Unless otherwise ordered by the court, within seven days after the close of each period of three months and until the affairs of the insurer are wound up and the accounts are finally closed the liquidator shall file with the court or other authority appointing him and also with the superintendent, detailed schedules showing in such forms as may be required:

- (a) receipts and expenditures; and
- (b) assets and liabilities.

(2) The liquidator, whenever he is required to do so by the authority appointing him or by the minister, shall exhibit the office books and vouchers and furnish such other information respecting the affairs of the insurer as may be required.

(3) A liquidator refusing or neglecting to furnish such information is guilty of an offence and liable on summary conviction for each such offence to a fine of not less than \$50 nor more than \$200 and he shall in addition be liable to be dismissed or removed.

1952, c.46, s.7; R.S.S. 1953, c.518.

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**PART XVIII**
**PENALTIES****Penalties**

**519(1)** Any insurer or other person contravening or committing a breach of this Act or any rules or regulations made thereunder or refusing, omitting or neglecting to fulfill, observe, carry out or perform any duty or obligation by this Act created, prescribed or imposed, is liable on summary conviction before a justice of the peace to a fine not exceeding \$200 for each such offence, unless herein otherwise provided.

(2) Any director, officer, agent, employee or other person representing or purporting to represent an insurer who in contravention of section 30 undertakes or effects or agrees or offers to undertake or effect or solicit any contract or collect any premium on behalf of an insurer without the insurer being licensed under this Act, or, if such licence has been suspended or cancelled, without revival thereof, is guilty of an offence and liable on summary conviction to a fine of \$200 for each such contravention.

(3) In a prosecution under this Act, when it appears that the defendant or accused has done any act or has been guilty of any act of omission in respect of which were he or it not duly licensed he or it would be liable to some penalty under this Act or the regulations, it shall be incumbent upon the defendant or accused to prove that he or it is duly licensed.

(4) Any violation of section 108, 109, 111, 112 or 113 shall subject the insurer violating the same to a penalty of \$200 for every violation and to an additional sum of \$100 for every month during which the company neglects to comply with any of the said provisions, and if such penalties are not paid the Lieutenant Governor in Council may order such insurer's licence to be suspended or cancelled as may be deemed expedient.

(5) An insurer or any officer or agent of an insurer causing any policy, interim receipt or other insuring document to be printed, published or issued falsely bearing the words "Licensed under *The Saskatchewan Insurance Act*", or to like effect, is guilty of an offence and liable on summary conviction to a fine of \$200 for each such offence.

(6) Any person who solicits membership for, or in any manner assists in procuring membership in, any fraternal society or mutual benefit society, not licensed under this Act but which is required to be licensed, is guilty of an offence and liable on summary conviction to a fine of not less than \$50 nor more than \$200 for each offence.

(7) Any penalty imposed by this Act shall when recovered belong to the province.

1949, c.40, s.500; R.S.S. 1953, c.519.

**Limitation of prosecution**

**520** Any prosecution for an offence against any of the provisions or regulations of or under this Act, shall be commenced within two years of the commission of the offence.

1949, c.40, s.501; R.S.S. 1953, c.520.

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SCHEDULE

FORM A

(Section 165)

PROOF OF LOSS

Policy No. \_\_\_\_\_ Amount of Policy \$ \_\_\_\_\_

To \_\_\_\_\_ Insurance Company

By your Policy of Insurance No. \_\_\_\_\_ issued at your \_\_\_\_\_

Agency, dated the \_\_\_\_\_ day of \_\_\_\_\_ and expiring the \_\_\_\_\_ day of \_\_\_\_\_ at 12 o'clock noon, you insured

\_\_\_\_\_ against loss or damage by fire, to the amount of \_\_\_\_\_ dollars according to the terms and conditions printed therein.

*N.B.*—(Give particulars of the material loss sustained and the value thereof as follows):

A particular account of the loss is attached hereto and marked Exhibit A and forms part of this proof and the ACTUAL CASH VALUE of each specific subject thus situated and described by the aforesaid policy at the time of loss, and the ACTUAL Loss and DAMAGE by said fire to same as shown by the particular account attached hereto were as follows:

	Sound value	Total loss	Total insurance	Amounts named in this policy	Claimed under this policy
1st Item of Policy					
2nd Item of Policy					
3rd Item of Policy					
4th Item of Policy					
5th Item of Policy					
Total					
Total amount claimed of this company under above named policy \$ _____,					

The said account is just and true.

The said property was (*damaged or destroyed*) by fire at or about \_\_\_\_\_ o'clock \_\_\_\_\_ m. on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and was then occupied as \_\_\_\_\_.

The fire to the best of my knowledge and belief was caused by \_\_\_\_\_.

The loss did not occur nor was the fire caused through any wilful act or neglect or the procurement, means or connivance of the insured.

The amount of other insurances and the names of other insuring companies were as follows:

Name of Company	Amount of Insurance
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THE PROPERTY described in the said policy BELONGED at the time of the fire hereinafter mentioned to and no other person or persons had any interest therein except as follows:

Name of Person	Nature and extent of interest, lien or encumbrance
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The movable property insured was deposited in at the time of the fire.

I, \_\_\_\_\_ do solemnly declare that the foregoing claims and statements are to the best of my knowledge and belief true in every particular and I make this solemn declaration conscientiously believing it to be true and knowing it is of the same force and effect as if made under oath, and by virtue of the *Canada Evidence Act*.

Declared before me at \_\_\_\_\_  
 this \_\_\_\_\_ day of \_\_\_\_\_  
 ..... } .....  
*Insured*

*A Commissioner for Oaths in and for Saskatchewan.*

FORM B  
(Section 381)

MEMORANDUM OF ASSOCIATION

- 1 We (insert name, address and occupation of at least five subscribers) desire to become incorporated under Part XII of *The Saskatchewan Insurance Act*.
- 2 The name of the company is to be *(insert name proposed)* Limited.
- 3 The head office of the company is to be at \_\_\_\_\_ in the Province of Saskatchewan.
- 4 The objects for which the company is to be formed are *(insert objects)*.
- 5 The capital stock of the company is to consist of *(insert number)* shares *(insert par value)* each.
- 6 The liability of the members is limited.
- 7 The following are the terms and conditions prescribed by the Lieutenant Governor in Council under the authority of Part XII of *The Saskatchewan Insurance Act*, namely.

*(here set forth the terms and conditions)*

Dated at \_\_\_\_\_, in the Province of Saskatchewan, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

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FORM C  
(Section 445)

RECIPROCAL INSURANCE LICENCE

No. \_\_\_\_\_ Term of Licence \_\_\_\_\_ to \_\_\_\_\_

This is to certify that \_\_\_\_\_ being an exchange within the meaning of *The Saskatchewan Insurance Act*, has complied with the requirements of the said Act; and the subscribers of the said exchange are hereby licensed and authorized for and during the term beginning on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, and ending on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to exchange reciprocal contracts of indemnity or inter-insurance *(here state class of insurance)*.

.....  
*Superintendent of Insurance*

FOR HISTORICAL REFERENCE ONLY

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