O.C. 285 /2026

JUL 3 0 2026

Province of Alberta
Order in Council

ORDER IN COUNCIL

Approved and ordered:

Slakhani

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Exclusions and Tort Bar Exceptions Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT
as ALBERTA REGULATION 205/2026
ON July 30 20 26

REGISTRAR OF REGULATIONS

For Information only

Recommended by: President of Treasury Board and Minister of Finance

Authority: Automobile Insurance Act
(section 101)

APPENDIX

Automobile Insurance Act

EXCLUSIONS AND TORT BAR EXCEPTIONS REGULATION

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Part 1
Interpretation and Application

Interpretation

1(1) In this Regulation, "excess compensation" has the same meaning as in section 6(1) of the Act.

(2) For the purposes of the Act or this Regulation, a reference to a person being found guilty of an offence means that the person has been convicted of the offence, has had a finding of guilt formally entered by a court in respect of the offence or has had a substantially similar result.

(3) For greater certainty, a person has not been found guilty of an offence for the purposes of subsection (2) if, in respect of that offence,

(a) a conditional discharge or absolute discharge has been granted under section 730 of the *Criminal Code* (Canada) or substantially similar legislation, or

(b) the matter has been dealt with by way of an extrajudicial sanction, diversion, alternative measure, restorative justice process, mental health diversion program or substantially similar non-conviction resolution under the *Criminal Code* (Canada), the *Youth Criminal Justice Act* (Canada) or substantially similar legislation.

Act does not apply

2(1) In this section,

(a) "public transit automobile" means an automobile that is

(i) designed for carrying 11 or more persons including a driver,

(ii) used for a shared transportation service for the public, other than special transportation facilities for persons with disabilities, for which a fare is normally charged and schedules and routes are normally planned and available in advance, and

(iii) operated by or on behalf of a municipality as defined in the *Municipal Government Act*;

(b) “race or speed test” means driving at high speed and includes passing maneuvers, driving in proximity to another vehicle or assessing vehicle limitations in speed, acceleration, turning or braking.

(2) The Act does not apply to the following:

(a) bodily injury or death sustained as a result of an accident caused by an automobile being used or operated in a contest, show or race, or in advanced or performance driver training, if the use, operation or training is

(i) held or conducted in compliance with the *Traffic Safety Act* or with a substantially similar law in another jurisdiction where the accident occurred on a track or other location that is temporarily or permanently closed to all other automobile traffic, and

(ii) conducted in a manner that includes an element of race or speed test;

(b) bodily injury or death sustained by an occupant of an automobile as a result of an accident in the following circumstances:

(i) only one automobile was involved in the accident, the automobile was not an insured motor vehicle within the meaning of the *Traffic Safety Act* or under a substantially similar law in another jurisdiction where the accident occurred, and the automobile was being used or operated in such a manner or place that it was not required under the *Traffic Safety Act*, or under a substantially similar law in another jurisdiction where the accident occurred, to be an insured motor vehicle;

(ii) more than one automobile was involved in the accident and each automobile was an automobile described in clause (i);

(c) bodily injury or death sustained by an occupant of a public transit automobile as a result of an accident, if the public transit automobile did not collide with another automobile or any other object or person.

(3) For greater certainty, subsection (2)(b) does not apply to a person who was not an occupant of an automobile described in that subsection.

Exclusions from payment of compensation

3(1) For the purposes of section 5(9) of the Act, a person is not entitled to compensation under the Act in respect of their own or another person's bodily injury or death sustained as a result of an accident if the person was

(a) a voluntary occupant of the automobile involved in the accident at the time of the accident, and

(b) knew or ought reasonably to have known that the automobile

(i) was not an insured motor vehicle within the meaning of the *Traffic Safety Act* or under a substantially similar law in another jurisdiction where the accident occurred, and the automobile was being used or operated in such a manner or place that it was not required under the *Traffic Safety Act*, or under a substantially similar law in another jurisdiction where the accident occurred, to be an insured motor vehicle, or

(ii) was being used or operated for an illicit or prohibited trade or transport.

(2) A minor is presumed, in the absence of evidence to the contrary, to not meet the criteria described in subsection (1).

(3) If a person is not entitled to compensation under subsection (1), no other person is entitled to compensation in respect of that person.

Part 2
Reduction, Suspension, Termination or Denial of Compensation

Section 47 prescribed matters and effects on compensation

4(1) For the purpose of section 47(a) and (b) of the Act, an insurer may terminate or deny payment of compensation to an insured or to another claimant in respect of an insured.

(2) For the purposes of section 47(c) and (e) of the Act, an insurer may

(a) reduce in accordance with section 5 an income replacement benefit, loss-of-studies benefit, retirement income benefit or permanent impairment benefit payable to an insured, or a death benefit payable to another claimant in respect of an insured's death, if the insured or other claimant is

(i) found guilty

(A) of an offence under section 220, 221, 236 or 320.13, subsection 320.14(1), (2) or (3), subsection 320.15(1), (2) or (3) or section 320.16 or 320.17 of the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or of an offence under a substantially similar provision of the law of a jurisdiction of the United States of America, or

(B) of an offence under section 157(1)(a) of the *Traffic Safety Act*, with respect to a failure to comply with section 166(2) of that Act, or a substantially similar provision of the law of another jurisdiction in Canada or a jurisdiction of the United States of America,

(ii) charged

(A) with an offence under section 220, 221, 236 or 320.13, subsection 320.14(1), (2) or (3), subsection 320.15(1), (2) or (3) or section 320.16 or 320.17 of the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or with an offence under a substantially similar provision of the law of a jurisdiction of the United States of America, or

(B) with an offence under section 157(1)(a) of the *Traffic Safety Act*, with respect to a failure to comply with section 166(2) of that Act, or a substantially similar provision of the law of another jurisdiction in Canada or a jurisdiction of the United States of America,

or

(iii) issued a notice of administrative penalty under section 88, 88.01, 88.02, 88.03 or 88.1 of the *Traffic Safety Act* or a substantially similar provision of the law of another jurisdiction in Canada or a jurisdiction of the United States of America,

(b) terminate or deny payment of compensation to an insured, or to another claimant in respect of an insured, if the insured or other claimant is found guilty of an offence under subsection 235(1) or 239(1) of the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or of an offence under a substantially similar provision of the law of a jurisdiction of the United States of America, or

(c) suspend payment of compensation to an insured, or to another claimant in respect of an insured, if the insured or other claimant is charged with an offence under subsection 235(1) or 239(1) of the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or with an offence under a substantially similar provision of the law of a jurisdiction of the United States of America.

(3) For the purposes of section 47(d) and (f) of the Act, an insurer may

(a) terminate or deny payment of compensation to an insured, or to another claimant in respect of an insured, if the insured or other claimant is found guilty of an offence under subsection 322(1), where the property stolen is the automobile, section 333.1, section 334, where the property stolen is the automobile, or subsection 335(1) of the

Criminal Code (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or of an offence under a substantially similar provision of the law of a jurisdiction of the United States of America, or

(b) suspend payment of compensation to an insured, or to another claimant in respect of an insured, if the insured or other claimant is charged with an offence under subsection 322(1), where the property stolen is the automobile, section 333.1, section 334, where the property stolen is the automobile, or subsection 335(1) of the *Criminal Code* (Canada) or in respect of one of those offences under the *Youth Criminal Justice Act* (Canada) or the *National Defence Act* (Canada) or with an offence under a substantially similar provision of the law of a jurisdiction of the United States of America.

(4) For the purposes of section 47(g) of the Act, an insurer may terminate or deny payment of compensation to a claimant only in respect of the type of compensation to which the false or inaccurate information relates.

(5) For the purposes of section 47(h) of the Act, an insurer may terminate or deny payment of compensation to

(a) an insured, or to another claimant in respect of an insured, if the insured or other claimant directed, authorized or allowed another person to

(i) wilfully cause the accident, or

(ii) wilfully cause the insured's bodily injury or death,

(b) a claimant if the claimant directed, authorized or allowed another person to knowingly provide false or inaccurate information to an insurer that is material to the compensation being claimed, but only in respect of the type of compensation to which the false or inaccurate information relates, or

(c) a claimant if or to the extent that the claimant prevents or obstructs the insurer from exercising the insurer's right of subrogation or recovery under the Act.

(6) For the purposes of section 47(i) of the Act, an insurer may suspend payment of an income replacement benefit, loss-of-studies benefit, caregiver benefit, retirement income benefit, permanent impairment benefit or death benefit to a claimant if or while the claimant fails, without reasonable excuse, to

(a) provide any information, or any authorization necessary for the insurer to obtain information, reasonably requested by the insurer under section 54(2) of the Act, or

(b) notify the insurer promptly of a change in circumstances under section 60 of the Act.

(7) For the purposes of section 47(j) of the Act, an insurer may suspend payment of an income replacement benefit or loss-of-studies benefit to an insured if the insured

(a) is remanded in custody, or

(b) is serving a sentence of imprisonment.

(8) A suspension of payment under subsection (7)(a) begins 29 days after the day the insured is remanded in custody.

(9) Subsection (7) applies regardless of whether the remand in custody or sentence of imprisonment is related to the accident.

Calculating amount of reduction

5(1) The amount of a reduction in an income replacement benefit, loss-of-studies benefit or retirement income benefit under section 4(2)(a) must be

(a) calculated in accordance with section 1 of the Schedule, and

(b) limited to the first 12 months after the accident.

(2) The amount of a reduction in a permanent impairment benefit under section 4(2)(a) must be calculated in accordance with section 2 of the Schedule.

(3) The amount of a reduction in a death benefit under section 4(2)(a) must be calculated in accordance with section 3 of the Schedule.

(4) If a degree of fault for an accident must be determined for the purposes of the Schedule, it is to be determined under section 585.1 of the *Insurance Act* and any rules prescribed for the purposes of that section.

If more than one circumstance applies

6(1) If more than one circumstance set out in section 47 of the Act or section 4 applies, any reduction, suspension, termination or denial of compensation may be applied so as to give effect to all of the applicable provisions to the extent possible.

(2) For greater certainty, when a circumstance set out in section 47 of the Act or section 4 no longer applies to an insured or other claimant, it does not necessarily mean that other circumstances set out in those sections no longer apply.

Same result under excess compensation policy

7 If compensation is reduced, suspended, terminated or denied under section 47 of the Act, the same reduction, suspension, termination or denial must be applied in the same manner in respect of any excess compensation option provided under a motor vehicle liability policy under section 6 of the Act.

Changes in circumstance that make reduced, suspended, terminated or denied compensation payable

8(1) Subject to section 6, if compensation is reduced, suspended, terminated or denied under section 4, the relevant reduction, suspension, termination or denial must be cancelled and full compensation must resume if

(a) the insured or other claimant is not found guilty of an offence prescribed under section 4(2) or (3) for which the insured or other claimant was charged in respect of the accident or, if applicable, in respect of the automobile, and all rights of appeal or review are exhausted or extinguished,

(b) the insured or other claimant has successfully appealed the finding of guilt of an offence prescribed in section 4(2) or (3), and all rights of appeal or review are exhausted or extinguished,

(c) the insured or other claimant has a notice of administrative penalty or other penalty prescribed in section 4(2) cancelled, or a substantially similar result, and all rights of appeal or review are exhausted or extinguished,

(d) section 4(6) no longer applies because the claimant

(i) provides a reasonable excuse for the claimant's failure,

(ii) provides the information or necessary authorization, or

(iii) notifies the insurer of the change in circumstances,

or

(e) section 4(7) no longer applies because the insured ceases to be remanded in custody or serving a sentence of imprisonment.

(2) When subsection (1)(a), (b), (c) or (d)(i) applies, the insurer must make a payment to the insured or other claimant retroactive to the initial date of the relevant reduction, suspension, termination or denial in the amount that was reduced, suspended, terminated or denied.

(3) When subsection (1)(d)(ii) or (iii) applies, the insurer must make a payment to the claimant retroactive to the date the claimant provides the information or necessary authorization or notifies the insurer of the change in circumstances.

(4) When subsection (1)(e) applies, the insurer must make a payment to the insured retroactive to the date the insured ceases to be remanded in custody or serving the sentence of imprisonment.

Part 3
Recovery of Compensation

Exceptions to recovery of overpayment

9(1) An insurer may not recover an overpayment under section 75(1) of the Act from a claimant

(a) of an amount paid or reimbursed by the insurer after the insurer has received a claim for compensation under section 54(1) of the Act but before the insurer has given notice of a decision with respect to that claim for compensation under section 71 of the Act,

(b) if, following a reconsideration under section 72(1)(b) of the Act, the insurer decides that compensation has been overpaid and the error was caused by the insurer, or

(c) if it is decided, in a review under section 73 of the Act or by the Tribunal under Part 4 of the Act, that compensation has been overpaid.

(2) Subsection (1) does not apply to the amount of an overpayment that arises because

(a) section 47(g) of the Act applies to the claimant, or

(b) section 47(h) of the Act and section 4(5)(b) apply to the claimant.

(3) Subsection (1)(b) does not apply if the error is solely as a result of an overpayment made to a claimant due to a clerical error or is inadvertently inconsistent with an insurer's notice of decision about a claimant's entitlement to compensation or the amount of compensation.

(4) Subsection (1)(c) does not apply if a review under section 73 of the Act or a Tribunal decision under Part 4 of the Act confirms the insurer's decision following a reconsideration under section 72 of the Act that compensation has been overpaid for a reason other than an error caused by the insurer.

(5) An insurer may not deduct an overpayment made to a deceased insured from compensation payable under the Act to a claimant in respect of the insured.

(6) Except in the circumstances described in section 12(2), an insurer may not, under section 75(1) of the Act, recover from a claimant an overpayment made to a person other than the claimant.

Restriction on deduction

10 For the purposes of section 75(4) of the Act, if an insurer is entitled to recover an overpayment and the claimant is continuing to receive payments of a benefit under Division 3 of Part 2 of the

Act, the insurer may, notwithstanding the type of compensation that was overpaid,

(a) deduct not more than 50% of the amount of each subsequent payment of benefit until the overpayment is fully recovered, or

(b) deduct more than 50% of the amount of each subsequent payment of benefit, if the claimant consents to the percentage deducted, until the overpayment is fully recovered.

Prescribed offences

11(1) For the purposes of section 76(1)(a)(i) of the Act,

(a) the offences under sections 220 and 221, subsection 235(1), section 236, subsection 239(1), section 320.13, subsections 320.14(1), (2) and (3) and 320.15(1), (2) and (3) and sections 320.16 and 320.17 of the *Criminal Code* (Canada) are prescribed offences,

(b) the offence under section 157(1)(a) of the *Traffic Safety Act*, with respect to a failure to comply with section 166(2) of that Act, is a prescribed offence, and

(c) sections 88, 88.01, 88.02, 88.03 and 88.1 of the *Traffic Safety Act* are prescribed provisions.

(2) For the purposes of section 76(1)(a)(ii) of the Act, the offences under subsection 322(1), where the property stolen is the automobile, section 333.1, section 334, where the property stolen is the automobile, and subsection 335(1) of the *Criminal Code* (Canada) are prescribed offences.

Recovery of compensation paid

12(1) If an insurer is, under section 75(1) of the Act, entitled to recover an amount of compensation the insurer paid to a claimant in circumstances where sections 5(9) and 47 of the Act do not apply, the amount the insurer may recover is to be determined by reducing the amount the insurer paid by the amount to which the claimant was entitled, after taking into consideration section 9(1) to (5).

(2) If an insurer is, under section 75(1) or 76(1) of the Act, entitled to recover an amount of compensation the insurer paid to or on behalf of a claimant in circumstances where section 5(9) or 47 of the Act applies, the amount the insurer may recover is to be determined by reducing the amount the insurer paid by the amount the insurer would have paid had section 3, 4, 6 or 7 been applied, after taking into consideration section 9(1) to (5).

Application of Limitations Act

13 For the purposes of section 76(4) of the Act in respect of section 76(1)(a) of the Act, a proceeding is not warranted under section 3(1)(a)(iii) of the *Limitations Act* until the insured or other claimant is

(a) found guilty of an offence described in section 76(1)(a)(i)(C)(I) to (V) or (a)(ii)(B)(I) to (III) of the Act,

(b) issued a notice of administrative penalty described in section 76(1)(a)(i)(C)(VI) of the Act, or

(c) issued a penalty described in section 76(1)(a)(i)(C)(VII) of the Act.

Part 4
Tort Bar Exceptions

Prescribed offences

14 For the purposes of section 80(1)(a) of the Act,

(a) the offences under sections 220 and 221, subsection 235(1), section 236, subsection 239(1), section 320.13, subsections 320.14(1), (2) and (3) and 320.15(1), (2) and (3) and sections 320.16 and 320.17 of the *Criminal Code* (Canada) are prescribed offences,

(b) the offence under section 157(1)(a) of the *Traffic Safety Act*, with respect to a failure to comply with section 166(2) of that Act, is a prescribed offence, and

(c) sections 88, 88.01, 88.02, 88.03 and 88.1 of the *Traffic Safety Act* are prescribed provisions.

Tort action for non-pecuniary damages

15(1) An insurer shall not defend or indemnify a person described in section 80(1)(a) of the Act in respect of liability imposed on the person by law or be liable for any legal expenses or disbursements or any other costs in respect of an action or proceeding commenced under section 80(1)(a) of the Act against the person.

(2) A person who sustained bodily injury as a result of an accident and commences or maintains proceedings under section 80(1) of the Act against a person described in section 80(1)(a) of the Act shall not recover any judgment or award of damages against their own insurer.

(3) For the purposes of section 80(7) of the Act, the following are prescribed persons:

(a) an insured to whom section 47(d) or (f) of the Act applies;

(b) a person to whom section 3(1) applies.

Application of Limitations Act

16(1) For the purposes of section 80(9) of the Act in respect of section 80(1)(a) of the Act, a proceeding is not warranted under section 3(1)(a)(iii) of the *Limitations Act* in respect of a person until

(a) the person is found guilty of an offence described in section 80(1)(a)(ii)(A) to (C) of the Act, or

(b) the person is issued a notice of administrative penalty described in section 80(1)(a)(ii)(D) of the Act.

(2) For the purposes of subsection (1), if a person is found guilty of more than one offence described in subsection (1)(a) or issued more than one notice of administrative penalty described in subsection (1)(b), or is both found guilty and issued a notice of administrative penalty, a proceeding is not warranted under section 3(1)(a)(iii) of the *Limitations Act* until the date of the latest finding of guilt or notice of administrative penalty.

Tort action for pecuniary damages restricted

17(1) If, under section 6 of the Act, an insurer offers a motor vehicle liability policy that provides an excess compensation option and the insured declines the excess compensation option, no person has a right of action under section 81(1) or (2) of the Act in respect of the declined excess compensation option.

(2) Subsection (1) applies to an offer of a motor vehicle liability policy and to any renewal of the policy.

(3) Subject to subsection (4), no right of action shall exist against an insurer, insurance agent, insurance broker, insurance brokerage or person who has been issued a certificate of authority under the *Insurance Act* for a declination by an insured of an excess compensation option.

(4) Subsection (3) does not apply if the insurer, insurance agent, insurance broker, insurance brokerage or person who has been issued a certificate of authority under the *Insurance Act* is grossly negligent.

Pecuniary damages — losses in excess of maximum amounts

18(1) For the purposes of section 81(1) and (2) of the Act, damages

(a) may be recovered only for the amount of a pecuniary loss after taking into account any excess compensation coverage under a motor vehicle liability policy under section 6 of the Act, and

(b) shall not be awarded in respect of any amount for which compensation was reduced, suspended, terminated or denied under section 47 of the Act or recovered under section 75(1) or 76(1)(a) or (c) of the Act.

(2) For the purposes of section 81(2)(b) of the Act, a person is in a prescribed class of relationship with the deceased if the person is in a class of relationship prescribed under section 72(2) of the *Income Replacement and Monetary Benefits Regulation*.

(3) Section 81(3) of the Act does not apply during the period of a suspension under section 47 of the Act in respect of

(a) an income replacement benefit, in the case of a loss described in section 81(1)(a) of the Act, or

(b) the payment or reimbursement of the expense described in section 81(1)(b) to (i) or (2) of the Act to which the loss relates, in the case of a loss described in section 81(1)(b) to (i) or (2) of the Act.

(4) Subject to any other enactment, for the purposes of section 81(5) of the Act, the amount of damages awarded for a pecuniary loss in respect of an action or proceeding under section 81 of the Act must be reduced by any other compensation described in section 77(1) of the Act that the claimant received in respect of the claimant's pecuniary losses listed in section 81(1) and (2) of the Act.

Part 5
Expiry and Coming into Force

Expiry

19 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on December 31, 2031.

Coming into force

20 This Regulation comes into force on the coming into force of section 101(1)(dd) of the *Automobile Insurance Act*.

Schedule
Benefit Reduction Formulas

Formula for reducing income replacement benefit, loss-of-studies benefit, retirement income benefit

1 The amount of reduction in an income replacement benefit, loss-of-studies benefit or retirement income benefit under section 4(2)(a) is the amount determined by the following formula:

A x B x C/0.5

where

A is the sum of the amount of income replacement benefit that would otherwise be payable under section 18, 19, 20, 21, 23, 24, 25, 28, 29 or 30 of the Act, the amount of loss-of-studies benefit that would otherwise be payable under section 22 or 27 of the Act and the amount of retirement income benefit that would otherwise be payable under section 34 of the Act, as applicable;

B is the following, as applicable:

(a) 100% if the insured has no dependants on the date the income replacement benefit, loss-of-studies benefit or retirement income benefit becomes payable;

(b) 80% if the insured has one dependant on the date the income replacement benefit, loss-of-studies benefit or retirement income benefit becomes payable;

(c) 60% if the insured has 2 dependants on the date the income replacement benefit, loss-of-studies benefit or retirement income benefit becomes payable;

(d) 40% if the insured has 3 dependants on the date the income replacement benefit, loss-of-studies benefit or retirement income benefit becomes payable;

(e) 20% if the insured has 4 or more dependants on the date the income replacement benefit, loss-of-studies benefit or retirement income benefit becomes payable;

C is the lesser of the following:

(a) 50%;

(b) the degree to which the insurer determines that the insured is at fault for the accident, expressed as a percentage.

Formula for reducing permanent impairment benefit

2 The amount of reduction in a permanent impairment benefit under section 4(2)(a) is the amount determined by the following formula:

D x C/0.5

where

D is the amount of permanent impairment benefit that would otherwise be payable under section 36 of the Act;

C is the lesser of the following:

(a) 50%;

(b) the degree to which the insurer determines that the insured is at fault for the accident, expressed as a percentage.

Formula for reducing death benefit

3 The amount of reduction in a death benefit under section 4(2)(a) is the amount determined by the following formula:

E x F x G/0.5

where

E is the amount of death benefit that would otherwise be payable under section 39, 40, 41 or 42 of the Act;

F is the following, as applicable:

(a) 100% if the claimant has no dependants on the date the death benefit becomes payable;

(b) 80% if the claimant has one dependant on the date the death benefit becomes payable;

(c) 60% if the claimant has 2 dependants on the date the death benefit becomes payable;

(d) 40% if the claimant has 3 dependants on the date the death benefit becomes payable;

(e) 20% if the claimant has 4 or more dependants on the date the death benefit becomes payable;

G is the lesser of the following:

(a) 50%;

(b) the degree to which the insurer determines that the claimant in respect of an insured's death is at fault for the accident, expressed as a percentage.