Province of Alberta
Order in Council

O.C. 286 /2026

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ORDER IN COUNCIL

Approved and ordered:

Shakhani

Lieutenant Governor
or
Administrator

The Lieutenant Governor in Council makes the Income Replacement and Monetary Benefits Regulation set out in the attached Appendix.

CHAIR

FILED UNDER
THE REGULATIONS ACT
as ALBERTA REGULATION 206/2026
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

INCOME REPLACEMENT AND MONETARY BENEFITS REGULATION

Table of Contents

Part 1
Interpretation

Interpretation

1(1) In this Regulation,

(a) “adjustment date” means the date on which an insurer or the Minister, as the case may be, is required to adjust a gross yearly employment income, benefit amount or other amount established by the Minister for the purposes of this Regulation;

(b) “determined employment”, in respect of an insured, means the employment determined by an insurer under section 19, 20, 55 or 61;

(c) “full-time basis”, in respect of employment, means

(i) employment at one employment for at least 28 hours, not including overtime hours, in each week of the year before the date of the accident, or

(ii) employment at one employment

(A) for at least 28 hours per week, not including overtime hours, and

(B) for at least 2 years before the date of the accident, with periods of work of at least 8 consecutive months in duration and no period of more than 4 consecutive months in duration without work;

(d) “gross yearly employment income” or “GYEI” means an insured’s gross income as determined under Part 4;

(e) “Indigenous group” means

(i) a band as defined in the *Indian Act* (Canada), or

(ii) a Metis settlement;

(f) “industrial average wage”, in respect of a calendar year, means the industrial aggregate average weekly earnings for all employees of Alberta determined in accordance with section 2;

(g) “major occupational group” means an occupational group assigned a two-character code under the National Occupational Classification;

(h) “maximum yearly insurable income” means the amount established under section 6 or 7(2), as applicable;

(i) “National Occupational Classification” means the National Occupational Classification established by Statistics Canada, as amended from time to time;

(j) “original end-of-studies date”, in respect of a student or minor, means the date that was scheduled, at the time of the accident, for the completion of the student’s or minor’s studies, as the case may be;

(k) “part-time basis”, in respect of employment, means employment at one or more employment for less than 28 hours per week per employment, not including overtime hours.

(2) For the purposes of the Act and this Regulation,

(a) “employment” means, except where the context requires otherwise, a remunerative occupation;

(b) “school year” means the period beginning July 1 in a year and ending on June 30 of the following year;

(c) “studies” means,

(i) in the case of a student, a program of study at the secondary level or post-secondary level that the student was admitted to or registered in at the time of the accident, or

(ii) in the case of a minor, a program of study at the kindergarten to grade 12 level provided by any of the following:

(A) a school as defined in the *Education Act*;

(B) a structured learning environment operated by the Government of Canada;

(C) a structured learning environment operated by or on behalf of an Indigenous group;

(D) a school or other structured learning environment outside of Alberta that offers a program of study similar to a program of study offered through a school or structured learning environment referred to in paragraphs (A) to (C);

(d) “temporary basis”, in respect of employment, means employment other than on a part-time basis or full-time basis;

(e) “unable”, in relation to an insured continuing or holding employment, means the insured is fully or substantially unable to perform the essential duties of the employment.

(3) A reference in this Regulation to an amount established by the Minister, including a maximum or minimum amount, is a reference to the amount established for that purpose by the Minister under section 94 of the Act.

Industrial average wage

2(1) For the purposes of this Regulation, the industrial average wage for a calendar year is the industrial aggregate average weekly earnings for all employees of Alberta for that year, as published by Statistics Canada.

(2) If the Minister or an insurer, as the case may be, is required to use the industrial average wage for a calendar year to adjust, calculate or determine a benefit or other amount under this Regulation and Statistics Canada has not published the industrial average wage for that calendar year, the Minister or insurer shall adjust, calculate or determine the benefit or amount using the industrial average wage published for the calendar year immediately preceding that calendar year.

Part 2
Entitlement

Coordination of benefits — income replacement benefits

3(1) For the purpose of section 77(3) of the Act and subject to subsections (4) and (5), an insurer is not liable to pay an income replacement benefit to an insured under Part 2, Division 3 of the Act if the insured is entitled to other compensation for their bodily injury similar to the income replacement benefit, except to the extent that the amount of the income replacement benefit exceeds the amount of the other compensation.

(2) For greater certainty, subsection (1) applies only to an income replacement benefit referred to in the following sections under Part 2, Division 3 of the Act:

(a) sections 18 to 21;

(b) sections 23 to 25;

(c) sections 28 to 30.

(3) Subsection (1) applies even if an insured elects not to claim or forfeits a claim to the other compensation.

(4) Despite section 77(1) of the Act, other compensation does not, for the purposes of subsection (1), include a benefit under the *Assured Income for the Severely Handicapped Act* that an insured is eligible to receive because of their bodily injury.

(5) For greater certainty, an insurer shall pay an income replacement benefit to an insured in priority to any benefit the insured is eligible to receive under the *Assured Income for the Severely Handicapped Act* in respect of their bodily injury.

Coordination of benefits — other benefits

4 For the purpose of section 77(3) of the Act, an insurer is liable to pay a benefit or pay or reimburse an expense under Part 2, Divisions 3 and 5 of the Act, excluding an income replacement benefit referred to in section 3(2), in priority to any other compensation to which an insured or other claimant is entitled.

Entitlement and minimum amounts

5(1) Subject to this Regulation, the income replacement benefit to which an insured is entitled under Part 2, Division 3 of the Act is an amount equal to 90% of the insured's net income, determined on a yearly basis in accordance with this Regulation.

(2) Subject to section 51 of the Act, section 14 and subsection (3), the minimum income replacement benefit to which an insured who is a full-time earner or an insured for whom an insurer determines an employment under section 19 is entitled is the amount to which the insured would be entitled if

(a) the insured's gross yearly employment income were calculated using the minimum wage under the *Employment Standards Code*, and

(b) except in the case of a part-time employment, the insured were to work 40 hours per week for 52 weeks of the year.

(3) The minimum income replacement benefit to which an insured, other than a student or minor, who sustains a catastrophic injury is entitled is the amount to which the insured would be entitled if the insured's gross yearly employment income were determined on the basis of

(a) the industrial average wage for the calendar year before the date of the accident

multiplied by

(b) 52.

(4) If an insured, other than a student or minor, sustains a catastrophic injury and would be entitled, during the first 180 days after the accident, to both an income replacement benefit under section 20 or 21(1)(b) of the Act and a caregiver benefit under section 32 of the Act, the insured is entitled to the greater of the following, but not both:

(a) an income replacement benefit in the amount determined under subsection (3);

(b) the income replacement benefit under section 20 or 21(1)(b) of the Act plus the caregiver benefit under section 32 of the Act.

Maximum yearly insurable income

6(1) Subject to section 7, the maximum yearly insurable income for the period beginning on January 1, 2027 and ending on March 31, 2027 is the amount established by the Minister.

(2) The Minister shall adjust the maximum yearly insurable income annually, with effect from April 1, in accordance with section 48(2).

(3) If the maximum yearly insurable income, after being adjusted under subsection (2), is not a multiple of $500, it shall be rounded to the nearest multiple of $500.

(4) The Minister shall, each year prior to April 1, publish the adjusted maximum yearly insurable income for the period commencing on April 1 of that year and ending on March 31 of the following year on the website of the Minister's department.

Maximum yearly insurable income — excess compensation

7(1) An insurer may, under section 6 of the Act, offer a motor vehicle liability policy that provides an income replacement benefit based on a gross yearly employment income greater than the maximum yearly insurable income amount established by the Minister.

(2) If an insurer issues a motor vehicle liability policy referred to in subsection (1), the maximum yearly insurable income applicable to an insured under the policy is the amount set out in the policy.

Full-time earners

8(1) An insurer shall determine the income replacement benefit to which a full-time earner is entitled under section 18(1)(a) or (b) of the Act on the basis of the following:

(a) if the full-time earner held employment other than self-employment at the time of the accident, the gross yearly employment income from the full-time earner's employment;

(b) if the full-time earner was self-employed at the time of the accident, the greater of the following:

(i) the gross yearly employment income from the full-time earner's self-employment determined under section 23;

(ii) the gross yearly employment income determined under section 33(4) for employment in the major occupational group under which the full-time earner's self-employment at the time of the accident falls;

(c) if the full-time earner held more than one employment at the time of the accident, the full-time earner's gross yearly employment income from all employment that the full-time earner is unable to continue because of their bodily injury.

(2) The income replacement benefit to which a full-time earner is entitled under section 18(1)(c) of the Act is the amount of the benefit the full-time earner would have been paid under the *Employment Insurance Act* (Canada).

(3) If a full-time earner is entitled to a benefit referred to in subsection (2), an insurer shall include the amount of that benefit in the full-time earner's gross yearly employment income.

Temporary earners and part-time earners — first 180 days

9(1) An insurer shall determine the income replacement benefit to which a temporary earner or part-time earner is entitled under section 20(a) of the Act for the first 180 days after the accident on the basis of the following:

(a) if the temporary earner or part-time earner held or would have held employment other than self-employment at the time of the accident, the gross yearly employment income that the temporary earner or part-time earner earned or would have earned from that employment;

(b) if the temporary earner or part-time earner was self-employed at the time of the accident, the gross yearly employment income that the temporary earner or part-time earner earned or would have earned from self-employment;

(c) if the temporary earner or part-time earner held or would have held more than one employment at the time of the accident, the gross yearly employment income the temporary earner or part-time earner earned or would have earned from all employment that the temporary earner or part-time earner is unable to continue because of their bodily injury.

(2) The income replacement benefit to which a temporary earner or part-time earner is entitled under section 20(b) of the Act for the first 180 days after the accident is the amount of the benefit to which the temporary earner or part-time earner would have been paid under the *Employment Insurance Act* (Canada).

(3) If a temporary earner or part-time earner is entitled to a benefit referred to in subsection (2), an insurer shall include the amount of that benefit in the temporary earner's or part-time earner's gross yearly employment income.

Temporary earners and part-time earners — after 180 days

10(1) For the purpose of section 20(a) of the Act, an insurer shall, under section 19, determine an employment for a temporary earner or part-time earner for the period beginning on the 181st day after the accident, and if the temporary earner or part-time earner is unable to hold the determined employment because of their bodily injury, the temporary earner or part-time earner is entitled to an income replacement benefit.

(2) If the temporary earner or part-time earner held more than one employment at the time of the accident, the insurer shall, under section 19, determine only one employment for the temporary earner or part-time earner.

(3) The minimum income replacement benefit to which a temporary earner or part-time earner is entitled for the period beginning on the 181st day after the accident is the amount the temporary earner or part-time earner received during the first 180 days after the accident.

(4) A part-time earner who, under section 32(4) or (6) of the Act, elects or is deemed to elect to receive a caregiver benefit for the period beginning 181 days after the accident is not entitled to receive an income replacement benefit under this section.

Non-earners — first 180 days

11(1) An insurer shall determine the income replacement benefit to which a non-earner is entitled under section 21(1)(a) of the Act for the first 180 days after the accident on the basis of the gross yearly employment income from employment the non-earner would have held in the first 180 days after the accident if the non-earner had not sustained bodily injury.

(2) If an insurer is not satisfied that the non-earner would have, had the accident not occurred, held employment in the 180-day period after the accident, no income replacement benefit is payable under section 21(1)(a) of the Act for the first 180 days after the accident.

(3) The income replacement benefit to which a non-earner is entitled under section 21(1)(b) of the Act for the first 180 days after the accident is the amount of the benefit to which the non-earner would have been paid under the *Employment Insurance Act* (Canada).

(4) If a non-earner is entitled to a benefit referred to in subsection (3), an insurer shall include the amount of that benefit in the non-earner's gross yearly employment income.

Non-earners — after 180 days

12(1) For the purpose of section 21(1)(a) of the Act, an insurer shall, under section 19, determine an employment for a non-earner for the period beginning on the 181st day after the accident, and if the non-earner is unable to hold the determined employment because of their bodily injury, the non-earner is entitled to an income replacement benefit.

(2) The minimum income replacement benefit to which a non-earner is entitled beginning on the 181st day after the accident is the amount the non-earner received during the first 180 days after the accident.

(3) A non-earner who, under section 32(4) or (6) of the Act, elects or is deemed to elect to receive a caregiver benefit for the period beginning 181 days after the accident is not entitled to receive an income replacement benefit under this section.

Entitlement after relapse

13(1) If an insured sustains a relapse of their bodily injury, the insured is entitled to an income replacement benefit from the date of the relapse as though the insured had been entitled to the benefit from the date of the accident to the date of the relapse, if the relapse occurs within 2 years of the following:

(a) the date of the accident, if the insured was not entitled to an income replacement benefit before the relapse;

(b) the date on which the insured ceased to be entitled to the income replacement benefit received before the relapse, excluding an income replacement benefit referred to in section 51 of the Act or section 14, 55(3) or 61(3).

(2) An insurer shall determine the income replacement benefit to which an insured is entitled under subsection (1) on the basis of the greater of the following:

(a) the gross yearly employment income used by the insurer to determine the insured's income replacement benefit immediately before the date referred to in subsection (1)(b);

(b) the gross yearly employment income of the insured on the date of the relapse.

(3) An insured who sustains a relapse more than 2 years after the applicable period described in subsection (1) is entitled to an income replacement benefit determined as if the relapse were a second accident.

(4) Subsections (1) to (3) do not apply to an insured who sustains a catastrophic injury.

(5) An insured who sustains a catastrophic injury and whose income replacement benefit is suspended under section 50(1) of the Act is entitled to an income replacement benefit beginning on the day the insured has a relapse of their bodily injury or on the day the insured's employment ceases because of their bodily injury, whichever is later.

(6) An insurer shall determine an income replacement benefit under subsection (5) on the basis of the greater of the following:

(a) the income replacement benefit the insured received immediately prior to its suspension, adjusted under section 47 to the date of the insured's relapse or the date the insured's employment ceased, whichever is later;

(b) the gross yearly employment income of the insured as of the date of their relapse or the date their employment ceased, whichever is later.

(7) An insured receiving an income replacement benefit under subsection (5) following a relapse of their bodily injury is entitled to the income replacement benefit until

(a) the benefit is suspended under section 50(1) of the Act, or

(b) the benefit ceases under section 48 or 50(2) of the Act.

(8) An insured who is receiving an income replacement benefit, other than an income replacement benefit referred to in section 49(2) or 51 of the Act or section 14, 55(3) or 61(3), and who becomes entitled to an income replacement benefit under this section is entitled to whichever benefit is greater, but not both.

Income replacement benefit for reduced income from determined employment

14(1) If an insured, other than a student or minor, becomes able to hold the employment determined for the insured under section 20 but, because of their bodily injury, the insured earns from their employment a gross yearly employment income that is less than the gross yearly employment income used to determine the income replacement benefit that the insured received before the employment was determined, the insured is entitled, after the end of one year from the date the insured becomes able to hold the determined employment, to an income replacement benefit equal to the lesser of the following:

(a) the difference between

(i) the income replacement benefit the insured received before the insured's employment was determined under section 20, and

(ii) the net income from the insured's determined employment as calculated under this Regulation;

(b) the difference between

(i) the income replacement benefit the insured received before the insured's employment was determined under section 20, and

(ii) the net income the insured earns from employment.

(2) Section 51 of the Act does not apply to an income replacement benefit under subsection (1).

Events that end or suspend entitlement

15(1) For the purpose of

(a) section 49(1)(b.1) of the Act, the employment determined for the insured under section 19 is an employment, and

(b) section 49(1)(b.2) of the Act,

(i) the employment determined for the insured under section 20, 55 or 61, as applicable, is an employment, and

(ii) in the case of a student or minor, employment from which the gross yearly employment income is greater than or equal to the gross yearly employment income on which the insured's income replacement benefit is based is an employment,

and

(c) section 49(1)(b.3) of the Act, employment from which the gross yearly employment income is greater than or equal to the gross yearly employment income on which the insured's income replacement benefit is based is an employment.

(2) Subsection (1)(b)(ii) applies only in respect of an income replacement benefit under sections 24, 25, 29 and 30 of the Act.

(3) For the purpose of section 50(1)(c) of the Act, the following is an employment:

(a) employment determined for the insured under section 19;

(b) employment from which the gross yearly employment income is greater than or equal to the gross yearly employment income on which the insured's income replacement benefit is based.

Temporary continuation of income replacement benefit

16(1) For the purpose of section 49(2) of the Act, an insured, except an insured with a catastrophic injury, who is a full-time earner, temporary earner or part-time earner and who, because of their bodily injury, had lost the employment they held or would have held before receiving an income replacement benefit, is entitled to continue to receive an income replacement benefit from the date they are able to hold the employment that had been lost because of their bodily injury until the earlier of the following:

(a) the day the insured holds the employment that had been lost because of their bodily injury;

(b) if the insured is unable to obtain the employment that had been lost because of their bodily injury, on the expiration of

(i) 30 days, if the insured's entitlement to an income replacement benefit lasted for at least 90 days and not more than 180 days,

(ii) 90 days, if the insured's entitlement to an income replacement benefit lasted for more than 180 days but not more than one year,

(iii) 180 days, if the insured's entitlement to an income replacement benefit lasted for more than one year but not more than 2 years, or

(iv) one year, if the insured's entitlement to an income replacement benefit lasted for more than 2 years.

(2) Despite subsection (1) and subject to subsection (3), an insured, except an insured with a catastrophic injury, who is a full-time earner, temporary earner or part-time earner and who is able to hold the employment they held or would have held at the time of the accident, is entitled to continue to receive an income replacement benefit determined on the basis of the benefits they would have been paid under the *Employment Insurance Act* (Canada) if

(a) as a result of seasonal demands, that employment is no longer available, and

(b) the insured

(i) is not eligible for benefits under the *Employment Insurance Act* (Canada), and

(ii) continues to be available for employment.

(3) An insured is entitled to continue to receive an income replacement benefit under subsection (2) until the earlier of the following:

(a) the date that the insured's benefits under the *Employment Insurance Act* (Canada) would have expired;

(b) the date that the insured obtains employment.

Reduced income replacement benefit

17(1) For the purpose of section 51 of the Act, "lower income" means lower gross yearly employment income.

(2) The income replacement benefit payable to an insured shall be reduced under section 51 of the Act by 75% of the net income the insured earns from employment referred to in that section.

Part 3
Determined Employment

Definition

18 In this Part, "normally available", in respect of employment, means

(a) employment that,

(i) on the date of the accident, the insured performed or was about to perform, or

(ii) on the date an insurer determines an employment for an insured, the insured is performing or is about to perform,

(b) employment or a category of employment that is the subject of an advertisement for employment, or

(c) employment or a category of employment that exists and is likely to continue as employment or a category of employment for the foreseeable future.

Required determined employment

19(1) Where required under this Regulation, an insurer shall, for the period beginning on the 181st day after the accident, determine an employment for an insured in accordance with this section.

(2) An insurer shall consider the following when determining an employment for an insured under subsection (1):

(a) the education, training and work experience and the physical, mental and intellectual abilities of the insured immediately before the accident;

(b) whether the insured could have held the determined employment, had the accident not occurred, on a full-time or part-time basis;

(c) the insured's work experience in the 5 years before the accident;

(d) the insured's earnings in the 5 years before the accident.

(3) An employment determined by an insurer under subsection (1) shall be employment that

(a) the insured, immediately before the accident, could have held on a regular and full-time basis or, if that would not have been possible, on a part-time basis, and

(b) is normally available in the region in which the insured resides.

(4) An insurer may determine employment for an insured under this section on a part-time basis if

(a) the insured did not hold employment on a full-time basis in the 2 years before the accident, and

(b) the insurer is not satisfied that the insured would have, had the accident not occurred, held employment on a full-time basis in the future.

Authorized determined employment — residual capacity

20(1) On or after the second anniversary date of the accident, an insurer may determine an employment for an insured who is able to hold employment but who is unable, because of their bodily injury, to hold the employment referred to in section 18 or 19 of the Act or the employment determined for the insured under section 19.

(2) Subsection (1) does not apply to an insured who sustains a catastrophic injury.

(3) In determining an employment under subsection (1), the insurer shall consider the education, training, knowledge, skills and work experience and the physical, mental and intellectual abilities of the insured at the time of the determination.

(4) An employment determined by an insurer under subsection (1) shall be employment that

(a) the insured is able to hold on a regular and full-time basis or, if that is not possible, on a part-time basis, and

(b) is normally available in the region in which the insured resides.

(5) An insurer may determine employment for an insured under this section on a part-time basis if

(a) the insured did not hold employment on a full-time basis in the 2 years before the accident, and

(b) the insurer is not satisfied that the insured would have, had the accident not occurred, held employment on a full-time basis in the future.

Part 4
Gross Yearly Employment Income

Division 1
General

Maximum GYEI

21(1) Subject to subsection (2), an insured's gross yearly employment income shall not be greater than the maximum yearly insurable income established by the Minister.

(2) Subsection (1) does not apply to an insured who, under a motor vehicle liability policy described in section 7, is entitled to an income replacement benefit based on a gross yearly employment income greater than the maximum yearly insurable income established by the Minister.

GYEI not derived from self-employment

22 Subject to this Regulation, an insured's gross yearly employment income not derived from self-employment at the time of the accident is the sum of the following amounts:

(a) in the case of a full-time earner, the salary or wages received or receivable for the pay period in which the accident occurred, calculated as if the full-time earner worked the full pay period, multiplied by the number of pay periods per year;

(b) in the case of a temporary earner or part-time earner, the salary or wages received or receivable in respect of employment that the temporary earner or part-time earner held or would have held if the temporary earner or part-time earner had not sustained bodily injury, to be calculated based on the greater of the following:

(i) the salary or wages received or receivable for the pay period in which the accident occurred, calculated as if the temporary earner or part-time earner worked the full pay period, multiplied by the number of pay periods per year;

(ii) the salary or wages receivable during the first 180 days following the date of the accident, divided by 180 and then multiplied by 365;

(c) in the case of a non-earner, the salary or wages, if any, from the employment that the non-earner would have held, if the non-earner had not sustained bodily injury, during the first 180 days following the date of the accident, divided by the number of days the non-earner would have held that employment and multiplied by 365;

(d) in all cases, the following benefits, to the extent that the benefit is not received as a result of the accident:

(i) a bonus received or earned in the 52 weeks before the date of the accident;

(ii) tips, in the amount that is the greater of

(A) the amount reported in the insured's personal income tax return for the calendar year before the year in which the accident occurred, and

(B) the amount reported in the insured's personal income tax return for the calendar year in which the accident occurred;

(iii) remuneration for overtime hours not included in clause (a) and received or earned in the 52 weeks before the date of the accident;

(iv) the cash value from a profit-sharing plan allocation received or earned in the 52 weeks before the date of the accident;

(v) the value of the personal use of a motor vehicle provided by an employer at the time of the accident, in the amount reported in the insured's personal income tax return for the calendar year before the year in which the accident occurred or, if no such amount was reported, in an amount calculated under section 6(1)(a) of the *Income Tax Act* (Canada) as an annualized benefit;

(vi) the value of the employer's contribution to the insured's pension plan;

(vii) the cash value of any other benefit that the insured received, or was entitled to receive, in the 52 weeks before the date of the accident;

(viii) the greatest amount of commissions that the insured earned or to which the insured was entitled within one of the following periods:

(A) in the 52 weeks before the date of the accident;

(B) in the calendar year before the date of the accident;

(C) in the 3 calendar years before the date of the accident, divided by 3.

GYEI from self-employment or Canadian-controlled private corporation

23(1) In this section,

(a) "business income" means the income derived from self-employment or a Canadian-controlled private corporation by way of proprietorship, partnership interest or significant-influence shareholder interest, less any expense that relates to the income and is allowed under the *Alberta Personal Income Tax Act* and the *Income Tax Act* (Canada), but not including the following:

(i) a capital cost allowance or allowance on eligible capital property;

(ii) a capital gain or loss;

(iii) a loss deductible under section 111 of the *Income Tax Act* (Canada);

(b) "Canadian-controlled private corporation" means a Canadian-controlled private corporation as defined in section 125(7) of the *Income Tax Act* (Canada);

(c) "significant-influence shareholder" means a shareholder in a Canadian-controlled private corporation who

(i) holds 20% or more of the voting rights in the Canadian-controlled private corporation, and

(ii) can demonstrate an active and authoritative influence over the day-to-day financial and administrative operations of the Canadian-controlled private corporation.

(2) Subject to this Regulation, an insured's gross yearly employment income derived from self-employment that was carried on at the time of the accident is,

(a) if section 8(1)(b)(i) or section 9(1)(b) apply, the greatest amount of

(i) business income that the insured received or to which the insured was entitled within one of the following periods:

(A) the 52 weeks before the date of the accident;

(B) the 52 weeks before the fiscal year end immediately before the date of the accident;

(C) if the insured operated the business for not less than 2 fiscal years before the date of the accident, the 104 weeks before the fiscal year end immediately before the date of the accident, divided by 2;

(D) if the insured operated the business for not less than 3 fiscal years before the date of the accident, the 156 weeks before the fiscal year end immediately before the date of the accident, divided by 3;

or

(ii) business income derived by a significant-influence shareholder in a Canadian-controlled private corporation that was declared for income tax purposes in the fiscal year prior to the accident,

or

(b) if section 8(1)(b)(ii) applies, the amount determined under section 33(4).

GYEI inaccuracy

24(1) Subject to subsection (2), if an insurer determines that an insured's gross yearly employment income, as determined under either or both of sections 22 and 23, is a substantially inaccurate representation of the insured's actual gross annual employment earnings at the time of the accident, the insurer may adjust the insured's gross yearly employment income to an amount that fairly and justly represents the insured's actual gross annual employment earnings at the time of the accident.

(2) Subsection (1) does not apply to an insured's gross yearly employment income under section 23(2)(b).

Division 2
GYEI for Full-time, Temporary and Part-time Earners and Non-earners

GYEI for full-time earner under section 19 of Act

25 The gross yearly employment income of a full-time earner referred to in section 19 of the Act is the amount determined under sections 29 to 32 without adjustment under section 36.

GYEI for temporary or part-time earner — first 180 days

26 The gross yearly employment income of a temporary earner or part-time earner during the first 180 days after the date of the accident is the amount determined under sections 22 and 23.

GYEI for temporary or part-time earner — after 180 days

27 The gross yearly employment income for a temporary earner or part-time earner beginning on the 181st day after the date of the accident is the greater of the amounts determined under

(a) section 26, and

(b) sections 29 to 32.

GYEI for non-earner — after 180 days

28 The gross yearly employment income of a non-earner beginning on the 181st day after the date of the accident is the greater of the amounts determined under sections 30 and 32.

Division 3
GYEI for Determined Employment

Calculation of Determined Employment GYEI

GYEI for insured holding employment re determined employment before, at time of accident

29 If an insured, at the time of the accident, held employment corresponding to the determined employment and held such employment in any of the 5 calendar years before the date of the accident, the gross yearly employment income of the insured is the greatest gross yearly employment income earned by the insured from the employment in any one of those calendar years, as determined under section 31, indexed under section 37 and adjusted under section 36 to a maximum reduction of 50%.

GYEI for insured holding employment re determined employment before, not at time of accident

30 If an insured, at the time of the accident, did not hold employment corresponding to the determined employment but did hold such employment in any of the 5 calendar years before the date of the accident, the gross yearly employment income of the insured is the greatest gross yearly employment income earned by the insured from the employment in any one of those calendar years, as determined under section 31, indexed under section 37 and adjusted under section 36 to a maximum reduction of 50%.

Determination of GYEI for employment re determined employment

31(1) For the purposes of sections 29 and 30, the gross yearly employment income earned by an insured from employment corresponding to the determined employment in a calendar year is to be calculated using the following formula:

$$\frac{((A \times B) \times 52)}{C \times D}$$

where

A is the gross yearly employment income earned from the employment in the calendar year, as determined under sections 22 and 23;

B is the average usual full-time weekly hours worked for the major occupational group in which the employment falls in the calendar year, as derived from the Labour Force Survey for Alberta and published by Statistics Canada;

C is the average weekly hours worked by the insured in the employment in the calendar year;

D is the number of weeks the insured held the employment in the calendar year.

(2) For the purpose of the formula in subsection (1), the value of C shall not exceed the value of B.

GYEI of insured not holding employment re determined employment in prior 5 years

32 If an insured, at the time of the accident, did not hold employment corresponding to the determined employment and did not hold such employment in any of the 5 calendar years before the date of the accident, the gross yearly employment income of the insured is the gross yearly employment income, as determined under section 33(5) and adjusted under section 36 to a maximum reduction of 50%, for the determined employment.

GYEI for employment based on major occupational groups

33(1) In this section and sections 34 and 35, “NOC Table” means the table of average annual employment incomes for the major occupational groups for Alberta established under subsection (2).

(2) The Minister shall establish a NOC Table based on the average annual employment incomes for full-time and full-year work for the major occupational groups for Alberta, as published by Statistics Canada following each census, subject to any modification the Minister considers appropriate.

(3) An insurer shall use the NOC Table to determine an insured’s gross yearly employment income for the purposes of the following sections:

(a) section 8(1)(b)(ii);

(b) section 20;

(c) section 32;

(d) section 55;

(e) section 61.

(4) To determine the gross yearly employment income for a full-time earner under section 8(1)(b)(ii), an insurer shall

(a) identify the major occupational group under which the full-time earner's self-employment at the time of the accident falls, and

(b) select the income amount for the major occupational group identified in clause (a) that corresponds to the level of experience the full-time earner has holding employment that falls under that major occupational group.

(5) To determine the gross yearly employment income for an employment determined for an insured under section 20, 55 or 61, or for an insured referred to in section 32, an insurer shall

(a) identify the major occupational group under which the determined employment falls, and

(b) select the income amount for the major occupational group identified in clause (a) that corresponds to the level of experience the insured has holding employment that falls under that major occupational group.

(6) For the purposes of subsections (4) and (5), if an insurer is unable to identify a major occupational group under which the insured's employment or determined employment falls, the insurer shall select the major occupational group most closely corresponding to the employment or determined employment.

(7) When using the NOC Table for the purposes of this Regulation, an insurer shall determine the level of experience an insured has holding employment that falls under a major occupational group as follows:

(a) "Level 1" means less than 36 months of experience;

(b) "Level 2" means 36 months or more but less than 120 months of experience;

(c) "Level 3" means 120 months or more of experience.

(8) For the purpose of determining the number of months of experience an insured has holding employment falling under a major occupational group,

(a) a month in which the insured held employment in an occupation that falls under the major occupational group is to be considered a month of experience, and

(b) a month in which the employment begins or ends is to be considered a complete month of experience.

(9) The minimum gross yearly employment income that may be determined for an insured under this section for the purposes of section 8(1)(b)(ii) or 32 is the amount determined by

(a) multiplying the minimum hourly wage established under the *Employment Standards Code* by 40, and

(b) multiplying the product of clause (a) by 52.

NOC Table adjustments

34(1) Subject to section 35, the Minister shall, each year as of April 1, adjust the income amounts corresponding to each level of each major occupational group in the NOC Table by an amount equal to

(a) the income amount for the period prior to the adjustment date

multiplied by

(b) the annual change in the industrial average wage, as determined under section 48(4) and rounded to the nearest one-thousandth.

(2) Section 48(5) and (10) apply, with necessary modifications, to an adjustment to the NOC Table income amounts under subsection (1).

(3) The Minister shall, before the adjustment date in each year, publish an updated NOC Table on the website of the Minister's department.

NOC Table adjustments — census

35(1) The Minister shall, as of the initial April 1 following the publication of a new census by Statistics Canada, adjust the income amounts corresponding to each level of each major occupational group in the NOC Table based on the income amounts published in the new census, subject to any modification the Minister considers appropriate.

(2) If the Minister adjusts the income amounts in the NOC Table under subsection (1), the Minister shall not make an adjustment based on the annual change in the industrial average wage under section 34 until the following year.

(3) The Minister shall, whenever adjusting the income amounts in the NOC Table under subsection (1), publish an updated NOC Table on the website of the Minister's department before the adjustment date.

Adjustment to GYEI for Determined Employment

Adjustments re amounts under sections 29 to 32

36(1) Subject to subsections (2) and (5), an insurer shall

(a) adjust an insured's gross yearly employment income under sections 29 to 32 based on the ratio of the insured's presence at work, and

(b) make the adjustment using the greatest of the following ratios:

(i) the number of months the insured held employment in the 12-month period before the date of the accident divided by 12;

(ii) the number of months the insured held employment in the 60-month period before the date of the accident divided by 60;

(iii) the sum of the number of months the insured held employment in each consecutive 12-month period before the date of the accident, to a maximum of five such periods, divided by the product resulting from multiplying the number of such periods by 12.

(2) The divisors in subsection (1)(b)(i) to (iii) shall be reduced by the number of months in those periods in which the insured was a minor or student or was not capable of holding employment, provided that the ratio obtained does not exceed 1.

(3) For the purpose of determining an insured's ratio of presence at work, a month in which an insured's employment begins or ends is to be considered a complete month of employment.

(4) For the purposes of sections 29 to 32, the adjusted gross yearly employment income of an insured referred to in those sections is the greater of the following:

(a) the amount determined by the following formula:

E x F = G

where

E is the gross yearly employment income as determined under sections 29 to 32 and indexed, as applicable, under section 37;

F is the ratio determined under subsection (1)(b);

G is the adjusted gross yearly employment income;

(b) the minimum wage established under the *Employment Standards Code*, except in the case of a part-time employment, on the basis of 40 hours of work per week.

(5) An insurer shall not adjust an insured's gross yearly employment income under this section if, on the date of the accident, the insured

(a) had been unemployed for less than 12 consecutive months and had held full-time employment for the balance of the period used as the divisor in subsection (1)(b)(ii) less 12, or

(b) had held temporary or part-time employment for less than 12 consecutive months and had held full-time employment for the balance of the period used as the divisor in subsection (1)(b)(ii) less 12.

Indexation for sections 29 and 30

37 An insurer shall index a gross yearly employment income determined under section 29 or 30 using the following formula:

$$H \times I = J$$

where

H is the gross yearly employment income as determined under section 29 or 30 before adjustment under section 36;

I is the ratio of the industrial average wage for the calendar year in which the accident occurred to the industrial average wage for the calendar year in which the insured earned the greatest gross yearly employment income from employment corresponding to the determined employment, as determined under section 29 or 30;

J is the indexed gross yearly employment income.

GYEI for part-time determined employment

38 Despite sections 26 to 32, if an insurer determines that an insured can hold or would have held only part-time employment, the gross yearly employment income of the insured, in respect of the insured's determined employment, is the amount determined by the following formula:

$$G \times \frac{H}{40} = I$$

where

G is the gross yearly employment income, determined or calculated in accordance with sections 26 to 32 or section 33(5), of the determined employment;

H is the number of hours the insured can work or would have worked in the determined employment on a weekly basis, which shall not exceed 40 hours;

I is the reduced gross yearly employment income of the determined employment.

Part 5
Net Income

Net income

39(1) Subject to subsections (2) and (3), the net income of an insured is the gross yearly employment income of the insured, less the following, as applicable:

(a) the income tax payable by the insured, as determined under section 41;

(b) the premiums payable by the insured in respect of employment insurance, as determined under section 43;

(c) the contributions payable by the insured in respect of the *Canada Pension Plan* (Canada), as determined under section 44.

(2) Except where this Regulation provides otherwise, an insurer shall calculate an insured's net income under subsection (1) in accordance with the legislation referred to in this Part as it read on December 31 of the year before the year for which the insured's net income is calculated.

(3) For the purpose of determining the deductions under subsection (1), an insurer shall take into account the number of dependants the insured had on the date of the accident.

Taxable income — GYEI less deductions

40 For the purpose of section 41, an insured's taxable income is the gross yearly employment income of the insured less the following:

(a) any amount allowable to the insured under paragraphs 60(b), (c) and (c.2) of the *Income Tax Act* (Canada), in the calendar year before the year for which the taxable income is calculated;

(b) any amount of the insured's gross yearly employment income that would have been exempt from income tax under paragraph 81(1)(a) of the *Income Tax Act* (Canada) as that paragraph read on the date of the accident.

Income tax — tax on taxable income less credits

41 For the purposes of this Regulation, the income tax payable by an insured is the tax that would be payable on the taxable income of the insured calculated in accordance with the *Income Tax Act* (Canada) and the *Alberta Personal Income Tax Act*, if

(a) all of the taxable income were income from employment within the meaning of section 5 of the *Income Tax Act* (Canada),

(b) all of the taxable income were taxable, for provincial income tax purposes, under the *Alberta Personal Income Tax Act*, and

(c) only the following credits were allowed:

(i) the credits allowed under section 118.7 of the *Income Tax Act* (Canada) and section 19 of the *Alberta Personal Income Tax Act*, where "B" in the formula set out in section 118.7 of the *Income Tax Act* (Canada) is the total of

(A) the premiums payable for employment insurance, as determined under section 43, and

(B) the contributions payable in respect of the *Canada Pension Plan* (Canada), as determined under section 44 and as would be allowed as a credit;

(ii) the credits allowed under subsections 118(1) and (2) of the *Income Tax Act* (Canada), without any reduction in the credits in respect of the income of a dependant referred to in section 39(3);

(iii) the credits allowed under sections 8(1) and 9 of the *Alberta Personal Income Tax Act*, without any reduction in the credits in respect of the income of a dependant referred to in section 39(3).

GYEI — insurable and pensionable earnings

42 For the purposes of sections 43 and 44, the gross yearly employment income of an insured is the insurable earnings of the insured for the purpose of the *Employment Insurance Act* (Canada) and the pensionable earnings of the insured for the purpose of the *Canada Pension Plan* (Canada).

Premiums payable under Employment Insurance Act (Canada)

43 For the purposes of this Regulation, the premiums payable under the *Employment Insurance Act* (Canada) are the amounts payable by the insured as an employee's or self-employed person's premium, as applicable, for the year under that Act in respect of the insured's insurable earnings, not to exceed the maximum amount payable by the insured for the year under that Act.

Contributions payable under Canada Pension Plan (Canada)

44 For the purposes of this Regulation, the contributions payable under the *Canada Pension Plan* (Canada) are the amounts payable by the insured as an employee's or self-employed person's contribution, as applicable, for the year under the *Canada Pension Plan* (Canada) in respect of the insured's pensionable earnings, not to exceed the maximum amount payable by the insured for the year under the plan.

Part 6
Retirement Income Benefit

Retirement income

45(1) The retirement income benefit to which an insured is entitled under section 34 of the Act is an amount equal to 70% of the insured's net income as determined under subsection (2), minus any pension income as determined under subsection (3).

(2) An insured's net income for the purpose of subsection (1) is the net income calculated under Part 5, as adjusted under section 47 up to the last adjustment date before the insured became entitled to the retirement income benefit, and without reduction under section 51 of the Act or section 14, 55(3) or 61(3).

(3) An insured's pension income for the purpose of subsection (1) is the annual total of

(a) a pension or supplement under the *Old Age Security Act* (Canada) or a similar payment made under the laws of another jurisdiction,

(b) a benefit, including a disability benefit, under the *Canada Pension Plan* (Canada), *An Act Respecting the Québec*

Pension Plan (Quebec) or a similar benefit payable under the laws of another jurisdiction, excluding a payment resulting from the death of the insured's spouse or adult interdependent partner, and

(c) the amount by which the total of

(i) all pension income, as defined by subsection 118(7) of the *Income Tax Act* (Canada), determined without reference to an election under section 60.03 of that Act, that is received or receivable by the insured, and

(ii) all payments out of or under a registered retirement savings plan, other than a payment included in subparagraph (a)(ii) of the definition of "pension income" in subsection 118(7) of the *Income Tax Act* (Canada), that are received or receivable by the insured and included in the insured's income for the purpose of that Act,

exceeds the income tax that would be payable by the insured on the amounts referred to in subclauses (i) and (ii) if

(iii) no election were made under section 60.03 of the *Income Tax Act* (Canada), and

(iv) the tax payable were determined in accordance with section 41 as if the amounts were taxable income for the purpose of that section.

Part 7
Payments and Benefits

Payment of benefits

46(1) In this section, "resident of Alberta" means a person lawfully entitled to be or to remain in Canada, who makes their home in Alberta and is ordinarily present in Alberta, but does not include a tourist, transient or visitor to Alberta.

(2) Subject to subsections (3) and (4), an insurer shall pay an income replacement benefit or retirement income benefit to an insured once every 14 days.

(3) An insurer shall not pay an income replacement benefit in respect of the first 7 days after the date of the accident, except for an income replacement benefit described in section 13(3).

(4) An insurer may pay an income replacement benefit in a single payment equivalent to the capital value of the income replacement benefit if

(a) the amount to be paid every 14 days is less than $150, or

(b) the insured entitled to the income replacement benefit has not been a resident of Alberta for at least one year.

Adjustment

47(1) An insurer shall, on each anniversary date of the accident, adjust the amount of the gross yearly employment income used as the basis for determining an insured’s income replacement benefit.

(2) An insurer shall, on each anniversary date of the date on which the gross yearly employment income for an employment determined for an insured under section 19 was fixed, adjust the amount of the gross yearly employment income fixed for the determined employment.

(3) An insurer shall, on each anniversary date of the date on which an insured became entitled to receive an income replacement benefit under section 14(1), 55(3) or 61(3), adjust the following amounts:

(a) the gross yearly employment income used by the insurer to determine the income replacement benefit the insured received before the insured’s employment was determined under section 20, 55(1) or 61(1);

(b) the gross yearly employment income on which the net income from the determined employment referred to in section 14(1)(a)(ii), 55(3)(a)(ii) or 61(3)(a)(ii) is based.

(4) An insurer shall, each year as of April 1, adjust the amount of a retirement income benefit.

(5) Each year as of April 1,

(a) the Minister shall adjust each amount referred to in section 48(7), and

(b) an insurer shall adjust the amount of compensation to which an insured is entitled under this Regulation in accordance with the adjustments made by the Minister.

(6) Adjustments required by subsections (1) to (5) shall be made in accordance with section 48.

Adjustment formulas

48(1) In this section, “Alberta escalator” means the Alberta escalator as defined in section 44.2 of the *Alberta Personal Income Tax Act*.

(2) For the purpose of section 6(2), the Minister shall adjust the maximum yearly insurable income by an amount equal to

(a) the maximum yearly insurable income amount for the period prior to the adjustment date

multiplied by

(b) the annual change in the industrial average wage, as determined under subsection (4) and rounded to the nearest one-thousandth.

(3) An insurer shall adjust each amount referred to in section 47(1) to (3) annually, with effect from the adjustment date, by an amount equal to

(a) the amount for the period prior to the adjustment date

multiplied by

(b) the annual change in the industrial average wage, as determined under subsection (4) and rounded to the nearest one-thousandth.

(4) For the purposes of section 34(1)(b) and subsections (2) and (3), the annual change in the industrial average wage is the amount determined by the following formula:

$$J = \frac{(K - L)}{L}$$

where

J is the annual change in the industrial average wage;

K is the industrial average wage for the calendar year before the adjustment date;

L is the industrial average wage for the calendar year immediately before the calendar year referred to in K.

(5) If the annual change determined in accordance with subsection (4) is a negative number, that negative number shall be treated as if it were zero.

(6) For the purpose of section 47(4), an insurer shall adjust a retirement income benefit annually, with effect from the adjustment date, by an amount equal to

(a) the amount of the retirement income benefit for the period prior to the adjustment date

multiplied by

(b) the Alberta escalator.

(7) For the purpose of section 47(5), the following amounts established by the Minister shall be adjusted in accordance with subsection (8):

(a) a loss-of-studies benefit for a student under section 51(1)(b);

(b) the maximum yearly amount under section 51(1)(b)(ii);

(c) an income replacement benefit for a student under section 54(1)(a);

(d) the maximum yearly amount under section 54(1)(a)(ii);

(e) a loss-of-studies benefit for a minor under section 57(1);

(f) the income replacement benefit for a minor under section 60(1)(a);

(g) a caregiver benefit under section 63(1);

(h) the minimum and maximum death benefit under section 68(4);

(i) the death benefit to which a dependant of a deceased is entitled, including

(i) the additional amount, if any, payable in respect of a dependant with a disability under section 69(3)(b)(ii), and

(ii) the amounts in the table published by the Minister under section 69(4);

(j) the death benefit to which each child and parent of a deceased who is not a dependant of the deceased is entitled under section 70;

(k) the maximum amount payable for funeral and interment expenses under section 71;

(l) the maximum amount payable for grief counselling and travel expenses under section 72(6) and (9).

(8) Each amount referred to in subsection (7) shall be adjusted annually, with effect from the adjustment date, by an amount equal to

(a) the amount established for the period prior to the adjustment date

multiplied by

(b) the Alberta escalator.

(9) The Minister shall, before the adjustment date in each year, publish each amount adjusted by the Minister on the website of the Minister's department.

(10) An amount adjusted under this section shall be rounded to the nearest dollar, and an amount ending in 0.50 shall be rounded up to the next dollar.

Part 8
Benefits for Students

Definitions

49(1) In this Part,

(a) "Alberta Journeyperson Certification" means a trade certificate referred to in section 9 of the *Designated Trades and Restricted Activities Regulation* (AR 161/2022);

(b) "category 1 student" means a student in a program of study at a post-secondary institution for a baccalaureate degree, an applied degree or an Alberta Journeyperson Certification, or the equivalent in another jurisdiction;

(c) "category 2 student" means a student in a program of study at a post-secondary institution for a master's degree, a doctoral degree or a professional degree, or the equivalent in another jurisdiction;

(d) "category 3 student" means a student who is neither a category 1 student nor a category 2 student;

(e) "post-secondary institution" means

(i) a public post-secondary institution under the *Post-secondary Learning Act*,

(ii) an independent academic institution under the *Post-secondary Learning Act*,

(iii) an institution authorized to provide vocational training to students under a licence issued under the *Private Vocational Training Act*,

(iv) a theological institution incorporated or continued under a private Act of the Legislature,

(v) an institution within or outside of Alberta that is a specified educational institution within the meaning of the *Canada Student Loans Act* (Canada),

(vi) an institution controlled or operated by an Indigenous group that offers a program of study similar to a program of study offered by any of the institutions referred to in subclauses (i) to (v), or

(vii) an institution outside of Canada that offers a program of study similar to a program of study offered by any of the institutions referred to in subclauses (i) to (vi);

(f) "post-secondary level" means educational instruction or training that is part of a program of study at a post-secondary institution;

(g) “professional degree” means any of the following degrees or the equivalent in another jurisdiction:

(i) Bachelor of Civil Law;

(ii) Bachelor of Laws;

(iii) Doctor of Dental Medicine;

(iv) Doctor of Dental Surgery;

(v) Doctor of Medicine;

(vi) Doctor of Medicine and Master of Surgery;

(vii) Doctor of Optometry;

(viii) Doctor of Pharmacy;

(ix) Doctor of Veterinary Medicine;

(x) Juris Doctor;

(h) “secondary level” means grades 10 to 12;

(i) “secondary school” means a school or structured learning environment referred to in section 1(2)(c)(ii)(A) to (D) that provides a program of study at the secondary level.

(2) For the purposes of sections 24 and 25 of the Act, “employment”, in relation to a student, means employment that would have reasonably suited the student if the student had not sustained bodily injury and had completed their studies.

Full-time basis

50(1) For the purposes of sections 1(u) and 22 of the Act and subject to this section, an insured is to be considered a student attending a secondary school or post-secondary institution on a full-time basis if the insured, at the time of the accident,

(a) is admitted to or registered in a secondary school or post-secondary institution,

(b) continues to meet the requirements for admission to or registration in the secondary school or post-secondary institution,

(c) is a full-time student, as determined by the secondary school or post-secondary institution the insured is admitted to or registered in,

(d) has not discontinued their studies, and

(e) has not been expelled from the secondary school or post-secondary institution.

(2) If a secondary school or post-secondary institution does not, for the purpose of subsection (1)(c), determine an insured to be a full-time student for any of the following reasons, but the insured satisfies the remaining criteria in subsection (1)(a), (b), (d) and (e), the insured is to be considered a student for the purposes of the Act:

(a) the initial academic semester or term of the student's studies has not yet commenced;

(b) the insured is participating in a work experience program, co-op program or other form of on-the-job instruction related to the insured's studies;

(c) the insured is on a leave of absence approved by the secondary school or post-secondary institution;

(d) the insured is not registered in any course at the post-secondary institution but will resume studies as a full-time student at the commencement of the next semester or term.

(3) An insured who, at the time of the accident, is conditionally admitted to a secondary school or post-secondary institution is not considered to be attending the secondary school or post-secondary institution for the purpose of section 1(u) of the Act.

Loss-of-studies benefit

51(1) The loss-of-studies benefit to which a student is entitled under section 22 of the Act is the greater of the following:

(a) an amount equal to the tuition fees paid for each course that is part of the student's studies that the student is unable to begin or continue because of their bodily injury and for which the student is unable to obtain a refund or credit;

(b) a lump sum amount established by the Minister

(i) for each school year not completed at the secondary level, or

(ii) for each semester or term not completed at the post-secondary level, up to the maximum yearly amount established by the Minister.

(2) If a school year at the secondary level is divided into semesters or terms, the amount established by the Minister for the purpose of subsection (1)(b)(i) shall be pro-rated for each semester or term not completed.

(3) An insurer shall pay a loss-of-studies benefit to a student in accordance with the following:

(a) in the case of a student at the secondary level,

(i) at the end of each school year the student does not complete, or

(ii) at the end of each semester or term of a school year the student does not complete, if the school year is divided into semesters or terms;

(b) in the case of a student at the post-secondary level, at the end of each semester or term the student does not complete.

Determination of income replacement benefit — students

52(1) An insurer shall determine the income replacement benefit to which a student is entitled under section 23(a) of the Act on the basis of the following:

(a) if the student held or would have held employment other than self-employment at the time of the accident, the gross yearly employment income the student earned or would have earned from that employment;

(b) if the student was or would have been self-employed at the time of the accident, the gross yearly employment income the student earned or would have earned from self-employment;

(c) if the student held or would have held more than one employment at the time of the accident, the gross yearly employment income the student earned or would have earned from all employment that the student is unable to hold because of their bodily injury.

(2) For the purpose of subsection (1), an insurer shall determine the gross yearly employment income for a student under sections 22 and 23 as if the student was a full-time earner, temporary earner, part-time earner or non-earner under this Regulation, as applicable.

(3) Despite subsection (2), an insurer shall not, in respect of an income replacement benefit under section 23 of the Act, determine an employment for a student under section 19.

(4) The income replacement benefit to which a student is entitled under section 23(b) of the Act is the amount of the benefit to which the student would have been paid under the *Employment Insurance Act* (Canada).

(5) If a student is entitled to a benefit referred to in subsection (4), an insurer shall include the amount of that benefit in the student's gross yearly employment income.

Income replacement benefit for students unable to begin or continue studies and hold employment

53(1) For the purpose of section 24(1) of the Act, the prescribed date is the student's original end-of-studies date.

(2) An insurer shall determine the income replacement benefit to which a student is entitled under section 24 of the Act on the basis of a gross yearly employment income that is,

(a) for a category 1 student,

(i) during the first 2 years after the student's original end-of-studies date, equal to

(A) the industrial average wage for the calendar year before the student's original end-of-studies date

multiplied by

(B) 52,

and

(ii) after the period referred to in subclause (i), the amount calculated under subclause (i) multiplied by 1.15,

(b) for a category 2 student, equal to 1.5 times

(i) the industrial average wage for the calendar year before the student's original end-of-studies date

multiplied by

(ii) 52,

and

(c) for a category 3 student, equal to

(i) the industrial average wage for the calendar year before the student's original end-of-studies date

multiplied by

(ii) 52.

Income replacement benefit for students unable to hold employment after studies

54(1) The income replacement benefit to which a student whose studies are completed or end before the student's original end-of-studies date is entitled under section 25 of the Act is the following:

(a) until the student's original end-of-studies date, the amount established by the Minister

(i) for each school year not completed at the secondary level, or

(ii) for each term or semester not completed at the post-secondary level, up to the maximum yearly amount established by the Minister;

(b) after the student's original end-of-studies date, the amount determined on the basis of a gross yearly employment income that is,

(i) for a category 1 student,

(A) during the first 2 years after the student's original end-of-studies date, equal to

(I) the industrial average wage for the calendar year before the student's original end-of-studies date

multiplied by

(II) 52,

and

(B) after the period referred to in paragraph (A), the amount calculated under paragraph (A) multiplied by 1.15,

(ii) for a category 2 student, equal to 1.5 times

(A) the industrial average wage for the calendar year before the student's original end-of-studies date

multiplied by

(B) 52,

and

(iii) for a category 3 student, equal to

(A) the industrial average wage for the calendar year before the student's original end-of-studies date

multiplied by

(B) 52.

(2) A student who completes or ends their studies on or after their original end-of-studies date is entitled under section 25 of the Act to an income replacement benefit determined on the basis of a gross yearly employment income determined in accordance with subsection (1)(b).

(3) Despite section 46(2), an income replacement benefit under subsection (1)(a) shall be paid in accordance with section 51(3).

(4) If a school year at the secondary level is divided into semesters or terms, the amount established by the Minister for the purpose of subsection (1)(a)(i) shall be pro-rated for each semester or term not completed.

(5) A student is not entitled to receive both a loss-of-studies benefit under section 22 of the Act and an income replacement benefit under subsection (1)(a) in respect of the same period.

Determination of employment for students after end-of-studies — residual capacity

55(1) An insurer may determine an employment for a student who is receiving an income replacement benefit under section 23, 24 or 25 of the Act on or after the later of

(a) the student's original end-of-studies date, and

(b) the second anniversary date of the accident.

(2) Section 20(3) to (5) apply, with necessary modifications, to a determination of employment made under subsection (1).

(3) If a student becomes able to hold the employment determined for the student under subsection (1) but, because of their bodily injury, the student earns from their employment a gross yearly employment income that is less than the gross yearly employment income used by an insurer to determine the income replacement benefit the student received before the student's employment was determined, the student is entitled, after the end of one year from the date the student becomes able to hold the determined employment, to an income replacement benefit equal to the lesser of the following:

(a) the difference between

(i) the income replacement benefit the student received before the student's employment was determined under subsection (1), and

(ii) the net income from the student's determined employment as calculated under this Regulation;

(b) the difference between

(i) the income replacement benefit the student received before the student's employment was determined under subsection (1), and

(ii) the net income the student earns from employment.

(4) Section 51 of the Act does not apply to an income replacement benefit under subsection (3).

(5) This section does not apply to a student who sustains a catastrophic injury.

Part 9
Benefits for Minors

Definition

56 For the purposes of sections 29 and 30 of the Act, "employment", in relation to a minor, means employment on a full-time basis earning the minimum wage under the *Employment Standards Code*.

Loss-of-studies benefit

57(1) The loss-of-studies benefit to which a minor is entitled under section 27 of the Act is the following:

(a) for each school year not completed from kindergarten to grade 9, the amount established by the Minister;

(b) for each school year not completed from grades 10 to 12, the amount established by the Minister.

(2) If a school year is divided into semesters or terms, the applicable amount established by the Minister for the purpose of subsection (1) shall be pro-rated for each semester or term not completed.

(3) An insurer shall pay a loss-of-studies benefit to a minor

(a) at the end of each school year the minor does not complete, or

(b) at the end of each semester or term of a school year the minor does not complete, if the school year is divided into semesters or terms.

Determination of income replacement benefit — minors

58(1) An insurer shall determine the income replacement benefit to which a minor is entitled under section 28(a) of the Act on the basis of the following:

(a) if the minor held or would have held employment other than self-employment at the time of the accident, the gross yearly employment income the minor earned or would have earned from that employment;

(b) if the minor was or would have been self-employed at the time of the accident, the gross yearly employment income the minor earned or would have earned from self-employment;

(c) if the minor held or would have held more than one employment at the time of the accident, the gross yearly employment income the minor earned or would have earned from all employment that the minor is unable to hold because of their bodily injury.

(2) For the purpose of subsection (1), an insurer shall determine the gross yearly employment income for a minor under sections 22 and 23 as if the minor was a full-time earner, temporary earner, part-time earner or non-earner under this Regulation, as applicable.

(3) Despite subsection (2), an insurer shall not, in respect of an income replacement benefit under section 28 of the Act, determine an employment for a minor under section 19.

(4) The income replacement benefit to which a minor is entitled under section 28(b) of the Act is the amount of the benefit to which the minor would have been paid under the *Employment Insurance Act* (Canada).

(5) If a minor is entitled to a benefit referred to in subsection (4), an insurer shall include the amount of that benefit in the minor's gross yearly employment income.

Income replacement benefit for minors unable to begin or continue studies and hold employment

59(1) Subject to subsection (2), an insurer shall determine the income replacement benefit to which a minor is entitled under section 29 of the Act on the basis of a gross yearly employment income equal to

(a) the industrial average wage for the calendar year before the end of the school year in which the minor reaches 18 years of age multiplied by

(b) 52.

(2) If a minor's original end-of-studies date falls in a school year prior to the school year in which the minor reaches 18 years of age, the minor is entitled to an income replacement benefit under section 29 of the Act following the end of the school year in which the minor's original end-of-studies date falls.

(3) For the purpose of subsection (2), the income replacement benefit shall be based on a gross yearly employment income equal to

(a) the industrial average wage for the calendar year before the end of the school year in which the minor's original end-of-studies date falls

multiplied by

(b) 52.

Income replacement benefit for minors unable to hold employment after studies

60(1) The income replacement benefit to which a minor whose studies are completed or end before the minor's original end-of-studies date is entitled under section 30(1) of the Act is the following:

(a) until the minor's original end-of-studies date, the amount established by the Minister

(i) for each school year not completed from kindergarten to grade 9, and

(ii) for each school year not completed from grades 10 to 12;

(b) after the minor's original end-of-studies date, the amount provided for in subsection (2).

(2) An insurer shall determine the income replacement benefit to which a minor whose studies are completed or end on or after the minor's original end-of-studies date is entitled under section 30(1) of the Act on the basis of a gross yearly employment income equal to

(a) the industrial average wage for the calendar year before the end of the school year in which the minor's original end-of-studies date falls

multiplied by

(b) 52.

(3) If a school year is divided into semesters or terms, the applicable amount established by the Minister for the purpose of subsection (1)(a) shall be pro-rated for each semester or term not completed.

(4) Despite section 46(2), an income replacement benefit under subsection (1)(a) shall be paid in accordance with section 57(3).

(5) A minor is not entitled to receive both a loss-of-studies benefit under section 27 of the Act and an income replacement benefit under subsection (1)(a) in respect of the same period.

Determination of employment for minors after end-of-studies — residual capacity

61(1) An insurer may determine an employment for a minor who is receiving an income replacement benefit under section 28, 29 or 30 of the Act on or after the later of

(a) the minor's original end-of-studies date, and

(b) the second anniversary date of the accident.

(2) Section 20(3) to (5) apply, with necessary modifications, to a determination of employment made under subsection (1).

(3) If a minor becomes able to hold the employment determined for the minor under subsection (1) but, because of their bodily injury, the minor earns from their employment a gross yearly employment income that is less than the gross yearly employment income used by an insurer to determine the income replacement benefit the minor received before the minor's employment was determined, the minor is entitled, after the end of one year from the date the minor becomes able to hold the determined employment, to an income replacement benefit equal to the lesser of the following:

(a) the difference between

(i) the income replacement benefit the minor received before the minor's employment was determined under subsection (1), and

(ii) the net income from the minor's determined employment as calculated under this Regulation;

(b) the difference between

(i) the income replacement benefit the minor received before the minor's employment was determined under subsection (1), and

(ii) the net income the minor earns from employment.

(4) Section 51 of the Act does not apply to an income replacement benefit under subsection (3).

(5) This section does not apply to a minor who sustains a catastrophic injury.

Part 10
Caregiver Benefits

Interpretation

62 For the purpose of section 32(1)(b) of the Act, an insured is unable to continue providing care to a care recipient if the insured is entirely or substantially unable to perform the essential duties the insured

(a) performed when providing care to the care recipient at the time of the accident, or

(b) would have performed for the care recipient if the insured had not sustained bodily injury.

Benefit amount

63(1) The caregiver benefit to which an insured is entitled under section 32(1) of the Act is the amount established by the Minister.

(2) A caregiver benefit shall be paid every 14 days.

(3) If 2 or more insureds provide care to the same care recipient, only one of the insureds is entitled to a caregiver benefit.

(4) An insured is not entitled to a caregiver benefit in respect of a care recipient if the care recipient does not reside with the insured for a period of more than 28 days for a reason not related to the insured's bodily injury.

(5) If a care recipient returns to reside with an insured, the insured is entitled to a caregiver benefit in respect of that care recipient once the care recipient has resided with the insured for at least 14 days.

(6) If the number of care recipients changes, or a circumstance described in subsection (4) or (5) occurs, the new amount of the caregiver benefit

(a) shall be determined at the end of the week in which the number changes or the circumstance occurs, and

(b) applies as of the beginning of the following week.

Death of caregiver

64(1) For the purpose of section 32(2) of the Act and subject to subsections (4) and (5), a caregiver benefit shall be paid following the death of an insured, in the amount payable under section 63(1), as if the insured did not die as a result of the accident.

(2) If a caregiver benefit is payable under section 32(2) of the Act in respect of a care recipient who is under 16 years of age, the benefit shall be paid in accordance with section 68(1) of the Act.

(3) If a caregiver benefit is payable under section 32(2) of the Act in respect of a care recipient who is 16 years of age or older, the benefit shall be paid

(a) in accordance with section 68(1) of the Act, if the care recipient is under 18 years of age,

(b) to the care recipient, if the care recipient is 18 years of age or older, or

(c) to the care recipient's trustee or attorney, in the case of a care recipient to whom section 69(1) of the Act applies.

(4) If 2 or more deceased provided care to the same care recipient, only one caregiver benefit is payable under section 32(2) of the Act.

(5) If the deceased provided care to more than one care recipient, the caregiver benefit payable under subsection (1) shall be

(a) divided by the number of care recipients in respect of which a benefit is payable under this section, and

(b) paid in equal portions to each care recipient in accordance with subsections (2) and (3).

(6) The benefit payable under section 32(2) of the Act ceases to be payable, in respect of a care recipient, on the earliest of the following dates:

(a) the date the care recipient

(i) reaches 16 years of age, in the case of a care recipient described in section 1(e.1)(i)(A) of the Act, or

(ii) becomes able to hold employment, in the case of a care recipient described in section 1(e.1)(i)(B) of the Act;

(b) the date on which, if the accident did not occur, the deceased would have ceased providing care similar to the care the deceased provided before the accident.

Election of income replacement benefit or caregiver benefit

65(1) For the purpose of section 32(3) and (4) of the Act, the period is the first 180 days after the accident.

(2) For the purpose of section 32(6) of the Act, if an insured does not make an election within the first 180 days after the accident, the insured is, on the 181st day after the accident, deemed to elect whichever benefit is greater, as determined by an insurer in accordance with subsection (3).

(3) An insurer shall determine the greater benefit and deem the insured to have chosen that benefit under subsection (2) based on

(a) the benefit amount payable to the insured,

(b) foreseeable changes in the benefit amount, and

(c) the expected duration of the insured’s entitlement to the benefit.

Part 11
Death Benefits

Definitions

66 In Part 2, Division 5 of the Act and this Part,

(a) "adult interdependent partner", in relation to a deceased, means a person who, on the date of the deceased's death, was an adult interdependent partner of the deceased and living in the same dwelling premises as the deceased;

(b) "spouse", in relation to a deceased, means a person who, on the date of the deceased's death, was married to and living in the same dwelling premises as the deceased.

Sixty-day rule

67 A death benefit under Part 2, Division 5 of the Act is payable to a person only if the person survives the deceased by at least 60 days.

Death benefit for spouse or adult interdependent partner

68(1) In this section, "gross income", in relation to a deceased, means the gross yearly employment income that would have been used as the basis for determining the income replacement benefit to which the deceased would have been entitled under Part 2, Division 3 of the Act if, on the date of death, the deceased had survived but had been unable to hold employment because of their bodily injury.

(2) For the purpose of this section, a spouse or adult interdependent partner of a deceased has a disability if the spouse or adult interdependent partner is a person considered to be disabled under subsection 42(2) of the *Canada Pension Plan* (Canada).

(3) Subject to subsection (4), the death benefit to which the spouse or adult interdependent partner of a deceased is entitled under section 39 of the Act is the following:

(a) if the spouse or adult interdependent partner does not have a disability, the amount determined by multiplying the gross income of the deceased on the date of death by the factor appearing opposite the age of the deceased on the date of death set out in Table 1 of the Schedule, and

(b) if the spouse or adult interdependent partner has a disability, the amount determined by multiplying the gross income of the deceased on the date of death by the factor appearing opposite the age of the deceased on the date of death set out in Table 2 of the Schedule.

(4) The death benefit to which a spouse or adult interdependent partner of a deceased is entitled under section 39 of the Act shall not be

(a) less than the minimum amount established by the Minister, or

(b) greater than the maximum amount established by the Minister.

Death benefit for dependant

69(1) For the purpose of this section, a child of a deceased who is born after the date of the deceased's death is to be considered a dependant of the deceased who is under one year of age on the date of the deceased's death.

(2) For the purpose of this section, a dependant has a disability if the dependant is a person considered to be disabled under subsection 42(2) of the *Canada Pension Plan* (Canada).

(3) The death benefit to which a dependant of a deceased is entitled under section 40 of the Act is the following:

(a) if the dependant does not have a disability on the date of the deceased's death, the amount opposite the age of the dependant on the date of death in the table published by the Minister under subsection (4);

(b) if the dependant has a disability on the date of the deceased's death, the sum of

(i) the amount opposite the age of the dependant on the date of death in the table published by the Minister under subsection (4), and

(ii) any additional amount established by the Minister as payable in respect of a dependant with a disability.

(4) For the purpose of subsection (3), the Minister shall publish a table establishing the death benefit to which a dependant of a deceased is entitled based on the age of the dependant on the date of the deceased's death.

Entitlement of child and parent of deceased

70 The death benefit to which each child and parent of a deceased who is not a dependant of the deceased is entitled under section 42 of the Act is the amount established by the Minister.

Funeral and interment expenses

71(1) For the purpose of section 43 of the Act, the maximum amount an insurer is liable to pay or reimburse a person for funeral and interment expenses is the amount, if any, established by the Minister.

(2) If the maximum amount is adjusted between the date of the accident and the date of the deceased's death, the maximum amount payable is the adjusted amount.

Grief counselling

72(1) In this section,

(a) "eligible person" means a person in a class of relationship referred to in subsection (2) with a deceased;

(b) "related persons" means persons connected by blood relationship, marriage or adoption or by virtue of an adult interdependent relationship.

(2) For the purpose of section 44(a) of the Act, each of the following is a class of relationship:

(a) adult interdependent partner;

(b) familial-like;

(c) grandparent-grandchild;

(d) great-grandparent-great-grandchild;

(e) marriage-like;

(f) parent-child;

(g) sibling;

(h) spousal.

(3) For the purpose of subsection (2)(b), a familial-like relationship is a relationship between a deceased and a person who, on the date of the deceased's death,

(a) resided with the deceased as a member of the deceased's family, or

(b) had a demonstrably similar familial relationship with the deceased.

(4) Subject to subsection (5), an expense incurred by an eligible person for grief counselling is payable or reimbursable under section 44 of the Act only if the counselling is provided by one of the following:

(a) a person authorized to perform

(i) the restricted activity of "psychosocial intervention" under the *Health Professions Restricted Activity Regulation* (AR 22/2023), or

(ii) an activity similar to the restricted activity referred to in subclause (i) under equivalent legislation of another jurisdiction;

(b) a member of the clergy or spiritual leader of another religious denomination to which the eligible person belongs;

(c) if the eligible person belongs to an Indigenous group, an elder or spiritual leader of the Indigenous group who provides counselling services or religious or spiritual instruction or guidance to members of the group.

(5) A grief counselling expense is not payable or reimbursable if the person who provides counselling and the eligible person who receives counselling are related persons.

(6) The maximum amount an insurer is liable to pay or reimburse an eligible person for grief counselling expenses, excluding travel expenses paid or reimbursed under subsection (7), is the amount, if any, established by the Minister.

(7) Subject to subsection (8), if an eligible person is required to travel more than 100 km round trip from the eligible person's residence to receive grief counselling, the following expenses incurred by the eligible person are payable or reimbursable:

(a) transportation expenses, determined in accordance with section 25 of the *Benefits, Treatment and Care Regulation*;

(b) lodging expenses, determined in accordance with section 26 of the *Benefits, Treatment and Care Regulation*;

(c) meal expenses, determined in accordance with section 27 of the *Benefits, Treatment and Care Regulation*.

(8) An expense referred to in subsection (7) is not payable or reimbursable unless the eligible person obtains the insurer's approval in advance to travel a distance greater than 100 km round trip to receive grief counselling.

(9) The maximum amount an insurer is liable to pay or reimburse an eligible person for the expenses referred to in subsection (7) is the amount, if any, established by the Minister.

Part 12
Expiry and Coming into Force

Expiry

73 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

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

Schedule

Table 1
Death Benefit Factors for Spouse or Adult Interdependent Partner without Disabilities

Column 1 Age of deceased on date of death in years	Column 2 Factor
25 or under	1.0

26	1.2
27	1.4
28	1.6
29	1.8
30	2.0
31	2.2
32	2.4
33	2.6
34	2.8
35	3.0
36	3.2
37	3.4
38	3.6
39	3.8
40	4.0
41	4.2
42	4.4
43	4.6
44	4.8
45	5.0
46	4.8
47	4.6
48	4.4
49	4.2
50	4.0
51	3.8
52	3.6
53	3.4
54	3.2
55	3.0
56	2.8
57	2.6
58	2.4
59	2.2
60	2.0
61	1.8
62	1.6
63	1.4
64	1.2
65 or over	1.0

Table 2
Death Benefit Factors for Spouse or Adult Interdependent Partner with Disabilities

Column 1 **Age of deceased on date of death in years**	**Column 2** **Factor**
45 or under	5.0
46	4.8
47	4.6
48	4.4
49	4.2
50	4.0
51	3.8
52	3.6
53	3.4
54	3.2
55	3.0
56	2.8
57	2.6
58	2.4
59	2.2
60	2.0
61	1.8
62	1.6
63	1.4
64	1.2
65 or over	1.0