

Motor Vehicle Accident Claims Act, R.S.O. 1990, c. M.41

R.S.O. 1990, CHAPTER M.41

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Definitions

1. (1) In this Act,

"designated insurer" means an insurer named as a designated insurer under subsection (3) and its estate; ("assureur désigné")

"Director" means the Director of the [Motor Vehicle](#) Accident Claims Fund appointed for the purposes of this Act; ("directeur")

"driver's licence" means a driver's licence issued under the *Highway Traffic Act*; ("permis de conduire")

"Fund" means the [Motor Vehicle](#) Accident Claims Fund; ("Fonds")

"insured [motor vehicle](#)" means a [motor vehicle](#),

(a) that is insured under a [motor vehicle](#) liability policy in accordance with the *Insurance Act*, or

(b) in respect of which there is on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability prescribed under section 251 of the *Insurance Act*, or

(c) in respect of which the owner is exempt from the payment of registration fees under the regulations made under the *Highway Traffic Act*, or

(d) that is registered under the *Highway Traffic Act* in the name of a municipality; ("véhicule automobile assuré")

"licence" means a driver's licence issued under the *Highway Traffic Act*; ("permis")

"Minister" means the member of the Executive Council to whom the administration of this Act is assigned; ("ministre")

"Ministry" means the Ministry of the Minister; ("ministère")

"permit" means an owner's permit issued under the *Highway Traffic Act*; ("certificat d'immatriculation")

"Registrar" means the Registrar of Motor Vehicles; ("registrateur")

"Superintendent" means the Superintendent of Financial Services appointed under the *Financial Services Commission of Ontario Act, 1997*; ("surintendant")

"uninsured [motor vehicle](#)" means a [motor vehicle](#) that is not an insured [motor vehicle](#). ("véhicule automobile non assuré") R.S.O. 1990, c. M.41, s. 1 (1); 1997, c. 19, s. 16 (1); 1997, c. 28, s. 187.

Exception re: excluded driver

(2) Even though a [motor vehicle](#) is insured under a [motor vehicle](#) liability policy, it shall be deemed to be an uninsured [motor vehicle](#) for the purposes of this Act while it is being operated by an excluded driver as defined in the *Insurance Act* with respect to that policy unless the excluded driver is a named insured under another [motor vehicle](#) liability policy.

Designated insurer

(3) Where the Lieutenant Governor in Council is of the opinion that an insurer is not paying or is unable to pay, within a reasonable period of time, claims made against the insurer or claims for which final judgments have been given, the Lieutenant Governor in Council may, by regulation, name the insurer as a designated insurer for the purposes of this Act. R.S.O. 1990, c. M.41, s. 1 (2, 3).

Fund continued

2. (1) The fund known in English as the [Motor Vehicle](#) Accident Claims Fund and in French as Fonds d'indemnisation des victimes d'accidents de véhicules automobiles is continued. R.S.O. 1990, c. M.41, s. 2 (1).

Fee on issue or renewal of licence

(2) Upon the issue or renewal of a driver's licence, there shall be paid to the Fund by the person to whom the licence or renewal is issued such fee as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1990, c. M.41, s. 2 (2).

Fund may be subsidized

(3) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may direct payment out of the Consolidated Revenue Fund of such an amount as may be considered necessary or advisable to subsidize the Fund. R.S.O. 1990, c. M.41, s. 2 (3).

Interest credited to Fund

(4) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined by the Lieutenant Governor in Council, and such interest shall be made up at the

close of each fiscal year upon the balance in the Fund at the end of the previous calendar year. R.S.O. 1990, c. M.41, s. 2 (4).

Administration expenses

[\(5\)](#) The Lieutenant Governor in Council in each year shall authorize the payment out of the Fund to the Consolidated Revenue Fund of an amount for the payment of expenses in connection with the administration of the Fund. R.S.O. 1990, c. M.41, s. 2 (5).

Assessment

[\(6\)](#) The Lieutenant Governor in Council may assess insurers within a prescribed class of insurers for amounts paid out of the Fund under section 6.1 and for all expenses and expenditures incurred in respect of the Fund in relation to section 6.1. 2002, c. 22, s. 144.

Determination of share

[\(7\)](#) If an assessment is made under subsection (6), the share of the assessment in respect of a class of insurer and the share of the assessment payable by an insurer shall be determined in the manner prescribed by regulation. 2002, c. 22, s. 144.

Insurer to pay

[\(8\)](#) An insurer shall pay the amount assessed against it under subsection (6). 2002, c. 22, s. 144.

Crown may recover

[\(9\)](#) If an insurer does not pay the assessment, the unpaid amount of the assessment is a debt due to the Crown and the Crown may recover the debt by action or by any other remedy or procedure available by law to the Crown for the collection of debts owed to the Crown, whether or not the Superintendent exercises the rights set out in subsection (10). 2002, c. 22, s. 144.

Cancellation or suspension

[\(10\)](#) If an insurer fails to pay an assessment made under subsection (6), the Superintendent may suspend or cancel the insurer's licence issued under the *Insurance Act*. 2002, c. 22, s. 144.

Revival of licence

[\(11\)](#) The Superintendent may revive the licence of an insurer whose licence was suspended or cancelled under subsection (10) if the insurer pays the amount owing on the assessment. 2002, c. 22, s. 144.

Definition

[\(12\)](#) In this section,

"insurer" means an insurer as defined in the *Insurance Act*. 2002, c. 22, s. 144.

Superintendent deemed agent for service re uninsured vehicles

3. (1) The Superintendent shall be deemed to be an agent of the owner and of the operator of every uninsured [motor vehicle](#) for service of notice or process in an action in Ontario arising out of the use or operation in Ontario of the uninsured [motor vehicle](#), and, where such an action is commenced,

(a) a notice or process shall be served on the Superintendent by leaving a copy thereof with or at the office of the Superintendent; and

(b) a copy of the notice or process shall be sent forthwith by the Director by registered mail to the defendant at the defendant's last address as recorded with the Ministry of Transportation. R.S.O. 1990, c. M.41, s. 3.

Exception

(2) Subsection (1) does not apply where any part of the claim made is in respect of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*. 1997, c. 19, s. 16 (2).

Application for payment out of Fund where person has cause of action

4. (1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by an uninsured [motor vehicle](#), any person who would have a cause of action against the owner or driver of such uninsured [motor vehicle](#) in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 7 (1), may make application, in a form approved by the Director, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage. R.S.O. 1990, c. M.41, s. 4 (1); 1997, c. 19, s. 16 (3); 1997, c. 28, s. 188.

Deductible

(2) In the case of loss or damage to property, only the amount by which the loss or damage exceeds \$100 shall be paid out of the Fund under this section.

Notice to owner and driver

(3) Upon receipt of an application under subsection (1), the Minister shall, by registered mail, forward a notice of the application for payment out of the Fund to the owner and the driver of the uninsured [motor vehicle](#) against whom liability for the damages occasioned by the operation of the uninsured [motor vehicle](#) is alleged, to their last addresses as recorded with the Ministry of Transportation.

Payment out of Fund authorized

(4) The Minister may, in respect of an application made under subsection (1), make payment out of the Fund, subject to section 23, of an amount that the Minister considers proper in all the circumstances if,

(a) the applicant executes a release under seal of all claims arising out of the motor vehicle accident that occasioned the damages to be paid out of the Fund; and

(b) subject to clause (c), the owner and driver of the uninsured motor vehicle, against whom liability for the damages occasioned by the operation of the motor vehicle is alleged, execute a consent to the payment of the sum for damages out of the Fund and also execute under seal an undertaking to repay to the Fund the amount to be paid from the Fund; or

(c) the person to whom a notice is sent in accordance with subsection (3) does not reply within thirty days of the date upon which the notice was sent either,

(i) by mail, or

(ii) by attending in person at the place named in the notice,

and disputes liability to the person making application under subsection (1).

Rights of insured to which insurer subrogated

(5) The release executed under clause (4) (a) does not affect the rights of recovery of an insured against any person to which an insurer becomes subrogated under section 244 of the *Insurance Act*.

Minister subrogated to rights of applicant

(6) Where an amount is paid out of the Fund under subsection (4), the Minister is subrogated to the rights of the person to whom such amount is paid and the Minister may maintain an action in the Minister's name or in the name of such person against any other person or persons responsible for the use or operation of the uninsured motor vehicle.

Suspension of licence

(7) Where payment is made under subsection (4), the driver's licence of the person to whom notice was forwarded under subsection (3) shall be forthwith suspended by the Registrar and shall not be reinstated and no further licence or renewal shall be issued until such person has,

(a) repaid in full to the Fund the amount paid out; or

(b) commenced instalment repayments in accordance with an undertaking referred to in clause (4) (b) or the regulations made under section 11.

Suspension on default of payment

(8) Where a person who has commenced repayment of the amount paid out of the Fund on the undertaking referred to in clause (4) (b) or by the payment of instalments in accordance with the regulations under section 11 is in default in any payment for a period of ten days, the Registrar upon receiving notice of such default from the Director shall forthwith suspend the driver's licence of such person. R.S.O. 1990, c. M.41, s. 4 (2-8).

Settlement of debt

(9) Despite subsections (7) and (8), the Registrar shall reinstate a driver's licence that has been suspended if the Director notifies the Registrar that the Minister has entered into a settlement in respect of the amount owing to the Fund. 1993, c. 10, s. 54 (1).

Application in respect of designated insurer

5. (1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by a motor vehicle insured under a motor vehicle liability policy issued by a designated insurer, any person who would have a cause of action against the owner or driver of such motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 7 (1), may make application, in a form approved by the Director, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage. R.S.O. 1990, c. M.41, s. 5 (1); 2004, c. 31, Sched. 25, s. 1 (1).

Deductible

(2) In the case of loss or damage to property, only the amount by which the loss or damage exceeds \$100 shall be paid out of the Fund under this section. R.S.O. 1990, c. M.41, s. 5 (2).

Payment out of Fund authorized

(3) The Minister may, in respect of an application made under subsection (1), make payment out of the Fund of an amount that the Minister considers proper in all the circumstances if,

(a) the receiver or liquidator of the designated insurer irrevocably agrees to the validity and amount of the claim; and

(b) the applicant executes a release and direction for payment in a form approved by the Director to permit the Minister to claim from the designated insurer the amount paid to the applicant. R.S.O. 1990, c. M.41, s. 5 (3); 2004, c. 31, Sched. 25, s. 1 (2).

Statutory accident benefits

6. (1) Any person who has recourse against the Fund for statutory accident benefits under section 268 of the *Insurance Act* may make application, in a form approved by the Superintendent, for the payment of benefits out of the Fund. 2002, c. 22, s. 145 (1).

Idem

[\(2\)](#) If a person has recourse against the Fund under section 268 of the *Insurance Act*,

(a) a reference to an insurer in the Statutory Accident Benefits Schedule shall be deemed to be a reference to the Fund and a reference to an insured person shall be deemed to be a reference to the person who has recourse against the Fund; and

(b) sections 272, 274 and 279 to 287 of the *Insurance Act* apply with necessary modifications. R.S.O. 1990, c. M.41, s. 6 (2); 1993, c. 10, s. 54 (2).

Idem

[\(3\)](#) The Minister shall make payment out of the Fund of the amounts owing to a person described in subsection (2). R.S.O. 1990, c. M.41, s. 6 (3).

Accidents outside Ontario

[\(3.1\)](#) Subject to section 6.1, no payment out of the Fund shall be made in respect of statutory accident benefits if the accident from which the entitlement to statutory accident benefits arose occurred outside Ontario. 2002, c. 22, s. 145 (2).

Non-application of subs. 23 (6)

[\(4\)](#) Subsection 23 (6) does not apply to payments under this section. R.S.O. 1990, c. M.41, s. 6 (4); 1993, c. 27, Sched.

Benefits payable as a result of winding-up order

[6.1 \(1\)](#) If a winding-up order is made in respect of an insurer under the *Winding-up and Restructuring Act* (Canada) and statutory accident benefits are payable out of the Fund pursuant to section 268.0.1 of the *Insurance Act*, any person entitled to the benefits may make application, in a form approved by the Superintendent, for payment out of the Fund of the benefits. 2002, c. 22, s. 146.

Rights and obligations of Fund

[\(2\)](#) If an application is made under subsection (1),

(a) the Fund has the same rights and obligations with respect to the statutory accident benefits payable out of the Fund as the insurer that was subject to the winding-up order; and

(b) the person entitled to the statutory accident benefits shall be deemed to have assigned to the Minister all of his or her rights against the insurer that was subject to the winding-up order. 2002, c. 22, s. 146.

Payment

[\(3\)](#) The Minister shall make payment out of the Fund of the amounts owing to a person who makes an application under subsection (1). 2002, c. 22, s. 146.

Release

[\(4\)](#) A release under section 274 of the *Insurance Act* does not affect an assignment under clause (2) (b). 2002, c. 22, s. 146.

Application of subs. 23 (6)

[\(5\)](#) Subsection 23 (6) does not apply to payments under this section. 2002, c. 22, s. 146.

No need for designation

[\(6\)](#) This section applies whether or not the insurer that was subject to the winding-up order is a designated insurer. 2002, c. 22, s. 146.

Not retrospective

[\(7\)](#) This section only applies to a winding-up order made after this section comes into force. 2002, c. 22, s. 146.

Application for payment of judgment

[7. \(1\)](#) Subject to section 8, where a person recovers in any court in Ontario a judgment for damages on account of injury to or the death of any person or loss of or damage to property occasioned in Ontario by a [motor vehicle](#) owned or operated by the judgment debtor within Ontario, upon the determination of the proceeding, including any appeals, the person may apply, in the form approved by the Director, for and the Minister shall pay the amount of the judgment or of the unsatisfied portion thereof out of the Fund, provided that, in respect of a judgment for loss of or damage to property, only that amount by which the judgment exceeds \$100 is payable out of the Fund. R.S.O. 1990, c. M.41, s. 7 (1); 1993, c. 27, Sched.; 2004, c. 31, Sched. 25, s. 2.

Where Minister objects to payment

[\(2\)](#) Where an application is made to the Minister under subsection (1), the Minister at any time within thirty days of the receipt of the application or within such further time as may be allowed upon application to a judge of the Superior Court of Justice give written notice to the applicant of any objection to payment of the judgment or part of the judgment, and, where the Minister gives the notice, the applicant may apply to a judge of the Court for a finding or determination in respect of any matter in connection with the application for payment out of the Fund. R.S.O. 1990, c. M.41, s. 7 (2); 1993, c. 27, Sched.; 2006, c. 19, Sched. C, s. 1 (1).

Action against all persons reasonably liable to be sued

[\(3\)](#) The Minister shall not pay out of the Fund any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal. R.S.O. 1990, c. M.41, s. 7 (3).

Application of s.7

[8. \(1\)](#) Section 7 does not apply in the case of a judgment that has been signed in an action in which,

(a) Repealed: 1993, c. 27, Sched.

(b) the defendant did not file a statement of defence; or

(c) the defendant did not appear in person or by counsel at the trial; or

(d) the defendant did not appear in person at an examination for discovery; or

(e) judgment was signed upon the consent or with the agreement of the defendant,

unless the Minister has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as he or she may consider advisable under subsection (2). R.S.O. 1990, c. M.41, s. 8 (1); 1993, c. 27, Sched.

Rights of Minister

[\(2\)](#) Within thirty days after receiving notice under subsection (1), the Minister may file a defence, make payment into court, appear by counsel at the trial or take such other action as he or she considers appropriate on behalf and in the name of the defendant, and may thereupon, on behalf and in the name of the defendant, conduct the defence, and may, where he or she considers it advisable to do so, consent to judgment in such amount as he or she may consider proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of such defendant.

Notice of Default set aside

[\(3\)](#) Where the Minister or defendant is noted in default, the Minister may give notice to the local registrar or clerk of the court, as the case may be, that he or she intends to defend the action on behalf of and in the name of the defendant, and may require the noting of default to be set aside.

Minor defendant

[\(4\)](#) The Minister, without the appointment of a litigation guardian, may exercise the rights and take the action referred to in subsection (2) and assert a counterclaim on behalf of a defendant who is a minor.

Deceased defendant

(5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no litigation administrator is appointed, the Minister may exercise the rights and take the action referred to in subsection (2) in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased. R.S.O. 1990, c. M.41, s. 8 (2-5).

Assignment of judgment to Minister

9. (1) The Minister shall not pay out of the Fund any sum under section 7 until the judgment creditor assigns the judgment to the Minister and the assignment shall be absolute in its form and effect even though the amount paid out of the Fund is less than the amount of the judgment.

Lodging assignment with court

(2) Upon lodging a copy of the assignment of judgment, certified by the Director to be a true copy, with the local registrar or clerk of the court in which judgment was obtained, the Minister shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor.

Lodging with sheriff

(3) Where execution is issued in the name of the judgment creditor and a copy of the assignment of judgment, certified as prescribed in subsection (2), is lodged with the sheriff having the writ of execution, the provisions of subsection (2) apply with necessary modifications.

Non-application of subss. (2, 3)

(4) Subsections (2) and (3) do not apply where the judgment debtor was insured under a motor vehicle liability policy issued by a designated insurer at the time of the accident that gave rise to the judgment. R.S.O. 1990, c. M.41, s. 9.

Suspension of licence

10. (1) Where the Minister pays out of the Fund any amount in satisfaction of a judgment, the driver's licence of the judgment debtor on whose behalf such payment is made shall forthwith be suspended by the Registrar and shall not be reinstated and no further licence or renewal shall be issued until the judgment debtor has,

- (a) repaid in full to the Fund the amount paid out; or
- (b) commenced instalment repayments in accordance with the regulations made under section 11.

Non-application of subs. (1)

(2) Subsection (1) does not apply to a judgment debtor who was insured under a [motor vehicle](#) liability policy issued by a designated insurer at the time of the accident that gave rise to the judgment. R.S.O. 1990, c. M.41, s. 10.

Settlement of debt

(3) Despite subsection (1), the Registrar shall reinstate a driver's licence that has been suspended if the Director notifies the Registrar that the Minister has entered into a settlement in respect of the amount owing to the Fund. 1993, c. 10, s. 54 (3).

Restoration of licence on instalment payments

11. (1) The Lieutenant Governor in Council may make regulations providing for the restoration of the drivers' licences and owners' permits of persons indebted to the Fund who are making repayment to the Fund in instalments.

Instalment payments and conditions of restoration of licence

(2) The regulations shall prescribe the classes of cases to which they apply, and shall provide for the manner of determining the amount of the instalment payments, the time and place of payment and the terms and conditions, including proof of financial responsibility, of the restoration of the licences and permits.

Further suspension

(3) When a person is in default of any such payment for a period of ten days, the Registrar upon receiving notice of such default from the Director shall forthwith suspend the driver's licence and owner's permit or permits of such person. R.S.O. 1990, c. M.41, s. 11.

Settlement of amounts owing to Fund

11.1 The Minister may negotiate and enter into a settlement in respect of an amount owing to the Fund. 1993, c. 10, s. 54 (4).

Where identity of vehicle cannot be established

12. Where the death of or personal injury to any person is occasioned in Ontario by a [motor vehicle](#) but the identity of the [motor vehicle](#) and of the driver and owner thereof cannot be established, any person who would have a cause of action against the owner or driver in respect of such death or personal injury may bring an action against the Superintendent, either alone or as a co-defendant with others alleged to be responsible for the death or personal injury. R.S.O. 1990, c. M.41, s. 12.

Adding Superintendent as party

13. Where an action has been commenced in respect of the death of or injury to any person occasioned in Ontario by a [motor vehicle](#) and it is alleged that the death or injury was caused or contributed to by another [motor vehicle](#), the identity of which and the owner and driver thereof cannot be established, the Superintendent may be added as a defendant on the motion of any party and shall be added as a defendant on his or her own motion. R.S.O. 1990, c. M.41, s. 13.

Non-jury action

14. When the Superintendent is a party to an action, the action shall be tried by a judge without a jury. R.S.O. 1990, c. M.41, s. 14.

Where owner known but identity of driver cannot be established

15. When the death of or personal injury to any person is occasioned in Ontario by a [motor vehicle](#) at a time when the [motor vehicle](#) was without the owner's consent in the possession of some person other than the owner or the owner's chauffeur and the identity of the person in possession of the [motor vehicle](#) cannot be established, any person who would have a cause of action against the person in possession of the [motor vehicle](#) in respect of such death or injury may bring an action against the Superintendent. R.S.O. 1990, c. M.41, s. 15.

General denial

16. In an action against the Superintendent, the Superintendent may deny generally the allegations in respect of the unidentified [motor vehicle](#) and unidentified owner and driver thereof and shall not be required to set forth the facts upon which he or she relies. R.S.O. 1990, c. M.41, s. 16.

All reasonable efforts to ascertain identity condition to granting judgment

17. In an action against the Superintendent, a judgment against the Superintendent shall not be granted unless the court in which the action is brought is satisfied that all reasonable efforts have been made by the parties, other than the Superintendent, to ascertain the identity of the [motor vehicle](#) and of the owner and driver thereof, and that,

(a) in the case of actions under section 12, the identity of the [motor vehicle](#) and of the owner and driver thereof cannot be established; or

(b) in the case of actions under section 15, the identity of the driver of the [motor vehicle](#) that caused the death or injury cannot be established. R.S.O. 1990, c. M.41, s. 17.

18. Repealed: 2002, c. 24, Sched. B, s. 25.

Payment of judgment against Superintendent

19. Where judgment is obtained against the Superintendent, upon the determination of the proceeding, including any appeals, the Minister, subject to subsection 23 (4), shall pay out of the

Fund to the plaintiff in the action the amount of the judgment. R.S.O. 1990, c. M.41, s. 19; 1993, c. 27, Sched.

Order of judge as to owner or driver

20. (1) Where judgment has been obtained against the Superintendent, the Superintendent may at any time thereafter, apply to a judge of the Superior Court of Justice for an order declaring that any person was, at the time of the accident, the owner or driver of the **motor vehicle** that occasioned the death or injury in respect of which the judgment was obtained. R.S.O. 1990, c. M.41, s. 20 (1); 1993, c. 27, Sched.; 2006, c. 19, Sched. C, s. 1 (1).

Owner or driver defendant in action

(2) Upon the making of an order declaring that any person was the owner or driver of a **motor vehicle**,

(a) such person shall for the purpose of this Act be deemed to be the defendant in the action in which judgment was given against the Superintendent, and the judgment against the Superintendent shall be deemed to be a judgment against such person; and

(b) the Minister shall be deemed to have a judgment against such person for the amount of all money paid out of the Fund in respect of the judgment and accordingly has all the rights of a judgment creditor, including the right to recover any money that would have been payable in respect of the death or injury under any policy of insurance that was in force at the time of the accident. R.S.O. 1990, c. M.41, s. 20 (2).

Superintendent not personally liable

21. In an action brought against the Superintendent, the Superintendent is not personally liable to satisfy a judgment obtained in the action. R.S.O. 1990, c. M.41, s. 21.

Payments in relation to amounts payable by insurer, etc., prohibited

22. (1) No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Superintendent of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance.

Claims and judgments against persons insured by designated insurers

(2) Despite subsection (1), payments may be made out of the Fund in respect of a claim or judgment for damages where the claim or judgment is against a person who at the time of the accident that gave rise to the claim or judgment was insured under a **motor vehicle** liability

policy issued by a designated insurer, but any amount paid in respect of the claim or judgment by the designated insurer shall be deducted from the amount payable out of the Fund.

No payments by insurers

(3) Despite subsections (1) and (2), no amount shall be paid out of the Fund to reimburse or otherwise indemnify an insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*. R.S.O. 1990, c. M.41, s. 22.

Limits payable from Fund

23. (1) In respect of any application under section 4 or 7 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, and subject to subsection (4), the Minister shall not pay out of the Fund more than the total amount of \$200,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$10,000, but in any event the Minister shall not pay out of the Fund more than a total of \$10,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(2) In respect of any application under section 4 or 7 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of March, 1981, and subject to subsection (4), the Minister shall not pay out of the Fund more than the total amount of \$100,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(3) In respect of any application under section 4 or 7 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, and subject to subsection (4), the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of

or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(4) Subject to subsection (5), the Minister shall not pay out of the Fund in respect of judgments against the Superintendent for damages,

(a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, more than \$200,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or

(b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of January, 1981, more than \$100,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or

(c) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident.

Partial discharge of judgment debt

(5) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister.

Interest

(6) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. R.S.O. 1990, c. M.41, s. 23.

Application

24. (1) This section applies only to payments out of the Fund made by reason of an insurer being named a designated insurer.

Limits payable in respect of designated insurer

(2) Where a payment is made out of the Fund by reason of an insurer being named as a designated insurer, the limits payable out of the Fund shall be those prescribed by this section and not those prescribed by section 23.

Idem

(3) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, the Minister shall not pay out of the Fund more than the total amount of \$200,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$10,000.

Idem

(4) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of March, 1981, the Minister shall not pay out of the Fund more than the total amount of \$100,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000.

Idem

(5) In respect of any application for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one motor vehicle insured with a designated insurer and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000.

Additional payment

(6) Where a payment has been made out of the Fund by reason of an insurer being named as a designated insurer and the amount of the judgment, excluding interest thereon, exceeds the limits of the Fund as determined under subsections (3) to (5), upon receiving the final payment by the designated insurer, the Minister shall pay to the original judgment creditor an additional amount determined in accordance with the following formula:

$$A = (J - F) \times \frac{R}{J}$$

where,

A = The amount to be paid to the original judgment creditor under this subsection.

F = The amount paid out of the Fund.

J = The lesser of,

(a) the amount of the judgment, excluding interest thereon and costs therein; or

(b) the liability limit of the [motor vehicle](#) liability policy issued by the designated insurer.

R = The total amount recovered from the designated insurer with respect to the judgment by the Minister.

Partial discharge of judgment debt

[\(7\)](#) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister.

Interest

[\(8\)](#) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. R.S.O. 1990, c. M.41, s. 24.

Payments to non-residents

[25. \(1\)](#) The Minister shall not pay out of the Fund any amount in favour of a person who ordinarily resides in a jurisdiction outside Ontario unless that jurisdiction provides persons who ordinarily reside in Ontario with recourse of a substantially similar character to that provided by this Act. 2002, c. 22, s. 147.

Same

[\(2\)](#) The total amount paid out of the Fund in favour of a person who ordinarily resides in a jurisdiction outside Ontario shall not exceed the amount that would be payable in equivalent circumstances under the law of that jurisdiction to a person who ordinarily resides in Ontario. 2002, c. 22, s. 147.

Application

[\(3\)](#) This section does not apply to payments made under section 6.1. 2002, c. 22, s. 147.

Interpretation

[\(4\)](#) For the purpose of this section, residence shall be determined as of the date of the [motor vehicle](#) accident as a result of which the payment out of the Fund is claimed. 2002, c. 22, s. 147.

Costs

26. (1) The Minister shall pay out of the Fund costs of an action but not more than the actual disbursements and fees as awarded in the judgment as between the parties to the action.

Idem

(2) Where, by reason of an action having been maintained in part by an insurer, an application under this section is for payment out of the Fund of only part of the amount of the judgment obtained in the action, the Minister shall not pay out of the Fund more than that part of the costs of the action as awarded in the judgment as between parties to the action that bears the same proportion to the whole of such costs as the total amount of the judgment, less the amount of the insurer's interest in the judgment, bears to the total amount of the judgment.

Solicitor's fee

(3) Where a solicitor has completed the application referred to in subsection 7 (1) and the assignment of judgment and has issued execution and filed it with the sheriff, the solicitor is entitled to a fee of \$30 out of the Fund, and such fee includes disbursements.

Direction of Minister for payment of solicitor's fee

(4) If the Minister is satisfied that it is not feasible to issue and file execution as required under subsection (3), the Minister may waive such requirements, and in such case the solicitor is entitled to the fee under subsection (3). R.S.O. 1990, c. M.41, s. 26.

Bill of costs to be assessed and filed

27. (1) No money shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister or solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as assessed on a solicitor and client basis, is filed with the Minister.

Fees limited to assessed costs

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection (1), other than the amounts as assessed on a solicitor and client basis in the bill or bills of costs.

No order required

(3) No order is required to assess such a bill. R.S.O. 1990, c. M.41, s. 27.

Minister may require information

27.1 The Minister may require a person who has a cause of action against the Superintendent or against the owner or driver of a **motor vehicle** that may be uninsured to,

(a) provide the Minister with the information prescribed by the regulations within the time period prescribed by the regulations;

(b) at the Minister's expense, undergo examinations by one or more persons selected by the Minister who are members of Colleges within the meaning of the *Regulated Health Professions Act, 1991*;

(c) provide the Minister with a statutory declaration describing the circumstances surrounding the incident and the nature of the claim being made;

(d) provide the Minister with evidence of the person's identity;

(e) provide the Minister with a copy of any notice and information provided under subsection 258.3 (1) of the *Insurance Act, 2002*, c. 22, s. 148.

Forms

28. (1) The Director may approve the use of forms for any purpose of this Act and the forms may provide for the information to be furnished that the Director requires.

Electronic forms

(2) The Director may approve electronic forms for any purposes under this Act. 1997, c. 28, s. 189.

Offences

29. (1) Every person is guilty of an offence who,

(a) knowingly makes a false or misleading statement or representation in connection with the person's entitlement to a benefit or payment under this Act to the Minister, the Superintendent or an employee or agent of the Ministry whose duties relate to this Act;

(b) wilfully fails to inform the Superintendent or an employee or agent of the Ministry whose duties relate to this Act of a material change in circumstances in connection with the person's entitlement to a benefit or payment under this Act within 14 days of the material change; or

(c) knowingly makes a false or misleading statement or representation in order to obtain payment from the Fund for goods or services. 2002, c. 22, s. 149.

Penalty

[\(2\)](#) On conviction for an offence under this section, the person convicted is liable on a first conviction to a fine of not more than \$100,000 and on each subsequent conviction to a fine of not more than \$200,000. 2002, c. 22, s. 149.

Regulations

[30.](#) The Lieutenant Governor in Council may make regulations,

(a) prescribing classes of insurers to be assessed under section 2, the manner of determining the amounts to be assessed, and the manner of determining the share of a class of insurers and of an insurer;

(b) prescribing information to be provided to the Minister under section 27.1 and the period within which information is to be provided to the Minister. 2002, c. 22, s. 149.