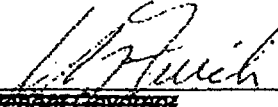


**PROVINCE OF BRITISH COLUMBIA**  
**ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL**

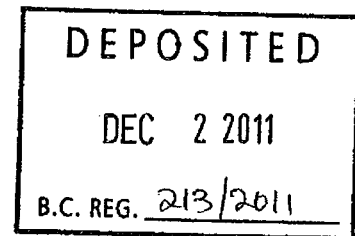
Order in Council No. **589**, Approved and Ordered **DEC - 1 2011**

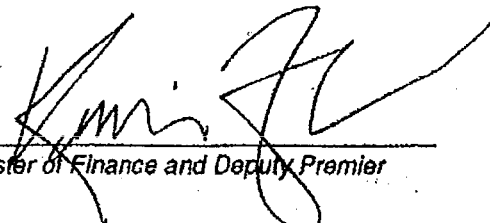
  
\_\_\_\_\_  
~~Lieutenant Governor~~  
Administrator

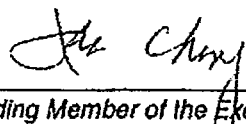
Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~ <sup>Administrator</sup>, by and with the advice and consent of the Executive Council, orders that, effective July 1, 2012

- (a) the *Insurance Amendment Act, 2009*, S.B.C. 2009, c. 16, except section 4 insofar as it enacts section 2.3 of the *Insurance Act*, section 13 insofar as it repeals section 28 of the *Insurance Act*, section 14 insofar as it enacts section 28.6 of the *Insurance Act*, section 101, section 111 (b) and section 112, is brought into force,
- (b) the Insurance Regulation, B.C. Reg. 115/2011, is repealed,
- (c) the Insurance Classes Regulation, B.C. Reg. 337/90, is repealed,
- (d) the Insurance Regulation, attached as Schedule A, is made,
- (e) the Exclusion Regulation, B.C. Reg. 153/73, is amended as set out in section 1 of the attached Schedule B, and
- (f) the Insurance (Captive Company) Act Regulation, B.C. Reg. 157/87, is amended as set out in section 2 of the attached Schedule B.



  
\_\_\_\_\_  
Minister of Finance and Deputy Premier

  
\_\_\_\_\_  
Presiding Member of the Executive Council

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

**Authority under which Order is made:**

Act and section: *Insurance Amendment Act, 2009*, S.B.C. 2009, c. 16, s. 113; *Insurance Act*, R.S.B.C. 1996, c. 226, s. 192.1;  
*Insurance Corporation Act*, R.S.B.C. 1996, c. 228, s. 8;  
*Insurance (Captive Company) Act*, R.S.B.C. 1996, c. 227, s. 3

Other: OIC 1346/90; 1833/73; 1080/87

November 8, 2011

R/101/2011/14

## SCHEDULE A

### INSURANCE REGULATION

#### Interpretation

1 (1) In this regulation:

“Act” means the *Insurance Act*;

“travel insurance” means insurance

(a) in respect of a trip by a person away from the place where the person ordinarily resides, without any individual assessment of risk, against

(i) loss of, or damage to, personal property that occurs while on a trip,

(ii) loss that is caused by the delayed arrival of personal baggage while on the trip, or

(iii) loss that is incurred from the rental of a motor vehicle while on the trip,

(b) in respect of a trip by a person away from the place where the person ordinarily resides,

(i) against expenses incurred while on the trip that result from an illness or disability of the person that occurs on the trip,

(ii) against expenses incurred while on the trip that result from bodily injury to, or the death of, the person that is caused by an accident while on the trip,

(iii) whereby the insurer undertakes to pay one or more sums of money in the event of an illness or the disability of the person that occurs on the trip, or of bodily injury to, or the death of, the person that is caused by an accident on the trip,

(iv) against expenses incurred by the person for dental care necessitated by an accident while on the trip, or

(v) in the event that the person dies while on the trip, against expenses incurred for the return of that person's remains to the place where the person was ordinarily resident before death, or travel expenses for a person to go and pick up that person's remains, or

(c) against loss that results from the cancellation or interruption of the trip.

(2) In the Act or this regulation:

“accident and sickness insurance” means insurance

(a) against loss resulting from bodily injury to, or the death of, a person caused by an accident,

(b) under which an insurer undertakes to pay a sum or sums of insurance money in the event of bodily injury to, or the death of, a person caused by an accident,

(c) against loss resulting from the sickness or disability of a person not caused by an accident, but does not include insurance for losses resulting from the death of a person caused by sickness,

- (d) under which an insurer undertakes to pay a sum or sums of insurance money in the event of the sickness or disability of a person not caused by an accident, or
- (e) under which an insurer undertakes to pay a sum of insurance money in respect of the health care, including dental care and preventative care, of a person;

**“fidelity insurance”** means insurance

- (a) against loss caused by theft, the abuse of trust or the unfaithful performance of duties, by a person in a position of trust, and
- (b) under which an insurer undertakes to guarantee the proper fulfillment of the duties of an office;

**“life insurance”** means insurance that is payable

- (a) on the death of the person whose life is insured,
- (b) on the happening of an event or contingency dependent on human life,
- (c) at a fixed or determinable future time, or
- (d) for a term dependent on human life,

including, without limiting paragraphs (a) to (d), insurance under which the insurer

- (e) undertakes to pay an additional sum of insurance money in the event of the death by accident of the person whose life is insured,
- (f) undertakes to pay a sum of insurance money or to provide other benefits in the event that the person whose life is insured becomes disabled as a result of bodily injury or disease, or
- (g) undertakes to provide an annuity, or what would be an annuity except that the periodic payments may be unequal in amount, for a term dependent solely or partly on a human life;

**“reinsurance”** means insurance against some or all of the risks undertaken by an insurer;

**“statutory condition”** means a condition under section 27.1 or 89 of the Act;

**“surety insurance”** means insurance under which an insurer undertakes

- (a) to guarantee the due performance of a contract or undertaking, or
- (b) to pay a penalty or indemnity for any default in the performance of a contract or undertaking.

#### **Limits on use of electronic communications**

- 2 The *Electronic Transactions Act* and section 2.5 (1) of the Act do not apply to or in respect of an insurer’s notice terminating a contract under
  - (a) section 17 or 92 of the Act, or
  - (b) a statutory condition.

#### **Notice of dispute resolution process**

- 3 (1) An insurer must give written notice to an insured of the availability of the dispute resolution process under section 9 of the Act

- (a) within 10 days after the insurer determines that the insurer and insured have a dispute to which section 9 of Act applies, or
- (b) within 70 days after the insured submits a proof of loss, if at that time the insurer has not yet made a decision in respect of a matter to which section 9 of the Act applies.

(2) A notice under subsection (1) must include a copy of section 9 of the Act.

#### **Notification of limitation period**

4 (1) In this section:

“**applicable statutory limitation period**” means the limitation period established for a contract by section 22, 65 or 91.1 of the Act that applies in respect of the contract;

“**business day**” means a day other than Saturday or a holiday;

“**claimant**” includes a judgment creditor referred to in section 24 of the Act.

(2) An insurer must give written notice to a claimant of the applicable statutory limitation period

(a) at the time or within 5 business days after the insurer denies liability for all or part of the claim, and

(b) at or within the 10 business days after the first anniversary of the date the insurer receives a notice referred to in paragraph (a), unless the insurer has already

(i) adjusted the loss acceptably to the claimant or settled the claim or

(ii) provided notice to that claimant under paragraph (b).

(3) A notice under subsection (2) must contain a statement that the limitation period is set out in the Act.

(4) An insurer is not required to give notices under subsection (2) to a claimant who is represented by legal counsel.

(5) An insurer is not required to give notice under subsection (2) in respect of a claim for coverage described in paragraph (e) of the definition of accident and sickness insurance in section 1 (2) of this regulation.

(6) If an insurer fails to comply with subsection (2) in respect of a claim, the running of time with respect to the applicable statutory limitation period is suspended for the period starting on the date the notice was required to be given under that subsection and ending on the earlier of the following dates:

(a) the date that notice is given;

(b) the date that would cause the limitation period to exceed 6 years after the date the cause of action against the insurer arose.

#### **Exclusion of statutory conditions**

5 (1) The following classes of insurance are determined and defined for the purposes of this section:

“**aircraft insurance**” means insurance against

- (a) liability arising out of bodily injury to, or the death of, a person, or the loss of, or damage to, property, caused by an aircraft or the use of an aircraft, or
  - (b) the loss of, the loss of use of, or damage to, an aircraft;
- “boiler and machinery insurance”** means insurance against liability arising out of bodily injury to, or the death of, a person, or the loss of, or damage to, property, or against the loss of, or damage to, property, caused by
- (a) the explosion or rupture of, or accident to, pressure vessels of any kind or pipes, engines and machinery connected to or operated by those pressure vessels, or
  - (b) a breakdown of machinery;
- “credit insurance”** means insurance against loss to a creditor if the loss is the result of the insolvency or default of the creditor’s debtor;
- “credit protection insurance”** means insurance under which an insurer undertakes to pay off credit balances or debts of an individual, in whole or in part, in the event of an impairment or potential impairment in the individual’s income or ability to earn an income;
- “hail insurance”** means insurance against the loss of, or damage to, crops in the field caused by hail;
- “mortgage insurance”** means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage or charge on, or other security interest in, real property;
- “product warranty insurance”** means insurance, not being insurance included in or incidental to any other class of insurance, under which the insurer undertakes, in the event of loss of, or damage to, personal property, other than a motor vehicle, to pay, for a specified period after it is purchased, the cost of repairing or replacing the personal property;
- “title insurance”** means insurance against loss or damage caused by
- (a) the existence of a mortgage, charge, lien, encumbrance, servitude or any other restriction on real property,
  - (b) the existence of a mortgage, charge, lien, pledge, encumbrance or any other restriction on personal property,
  - (c) a defect in any document that evidences the creation of any restriction referred to in paragraph (a) or (b),
  - (d) a defect in the title to real or personal property, or
  - (e) any other matter affecting the title to real or personal property or affecting the right to the use and enjoyment of real or personal property;
- “travel insurance”** as defined in section 1 (1);
- “vehicle warranty insurance”** means insurance, not being insurance included in or incidental to automobile insurance, as defined in the Classes of Insurance Regulation, under which the insurer undertakes, in the event of loss of, or damage to, a motor vehicle arising from mechanical failure, to pay, for a specified period after the motor vehicle is purchased,
- (a) the cost of repairing or replacing the motor vehicle,

- (b) towing fees,
  - (c) the cost of renting a substitute motor vehicle, or
  - (d) the cost of accommodation required because of the mechanical failure.
- (2) The statutory conditions set out in section 27.1 of the Act do not apply to the classes of insurance defined in subsection (1).

#### **Fire exclusions**

- 6 (1) For the purposes of section 28.4 (1) of the Act, an insurer may provide in a contract that includes coverage for loss or damage by fire an exclusion for fire or explosion caused by
- (a) subject to section 28.6 of the Act, a criminal act or omission, or an act or omission of the insured or a person having an insurable interest in the subject of the insurance, which act or omission was intended to bring about the loss or damage, or
  - (b) riot, civil commotion, war, invasion, act of a foreign enemy, hostilities, whether war is declared or not, civil war, rebellion, revolution, insurrection or military power.
- (2) For the purposes of section 28.4 (1) of the Act, an insurer may provide in a contract that includes coverage for loss or damage by fire an exclusion for fire or explosion caused by terrorism but only as the contract applies to property that is not used for residential purposes.
- (3) For the purposes of section 28.4 (2) of the Act, except as authorized under subsections (1) and (2) of this section, an insurer may not provide in a contract that provides coverage for loss or damage by fire an exclusion for loss or damage by fire that occurs when the insured property is vacant for a period not longer than 30 days.

#### **Recovery by Innocent persons**

- 7 (1) For the purposes of section 28.6 (1) (d) of the Act, all classes of persons other than natural persons are prescribed.
- (2) For the purposes of section 28.6 (3) of the Act, a person described by that provision must co-operate with the insurer in respect of the investigation of the loss, including, without limitation,
- (a) by submitting to an examination under oath, if requested by the insurer, and
  - (b) by producing for examination at a reasonable time and place designated by the insurer, documents specified by the insurer that relate to the loss.

#### **Confidential information disclosure limits – group contracts**

- 8 (1) In this section, “confidential commercial information” means information in a policy of group insurance or creditor’s group insurance the disclosure of which
- (a) could reasonably be expected to harm the competitive position of the insurer or insured, or

- (b) would reveal plan design and benefits information relating to a different class of group life insured, group person insured or debtor insured than the group life insured, group person insured or debtor insured to whom or in respect of whom the disclosure is being made.
- (2) For the purposes of sections 32 (8) and 84 (8) of the Act, the insurer may withhold confidential commercial information that
- (a) does not relate to the rights, responsibilities or coverage of the group life insured, group person insured or debtor insured under the contract, and
  - (b) the insurer did not rely on to determine the rights, responsibilities or coverage of the group life insured, group person insured or debtor insured under the contract.

**Cooling off period – life and accident and sickness contracts**

- 9 (1) The following classes of insurance are determined and defined for the purposes of this section:

“**annuity contract**” means a contract that provides for payment of an income for a specified period or for life and under which the only benefit stated to be payable by reason of death does not exceed the sum of the amounts paid as consideration for the contract together with interest;

“**travel insurance**” as defined in section 1 (1);

“**variable insurance contract**” means a contract of life insurance under which the interest of the purchaser is valued for purposes of conversion or surrender by reference to the value of a proportionate interest in a specified portfolio of assets.

- (2) A person who purchases a contract of life insurance or accident and sickness insurance may rescind the contract by notifying the insurer within 10 days after receiving the insurance policy or within a longer period specified in the contract.
- (3) Subsection (2) does not apply to
- (a) a contract of travel insurance with a term of less than 190 days,
  - (b) an annuity contract, or
  - (c) a variable insurance contract.
- (4) If a person exercises the right under subsection (2), the insurer must refund to the person the whole of the premium that has been paid in respect of the contract.

**Application of Part 2 to home warranty insurance**

- 10 The following provisions of the Act apply to home warranty insurance:

- (a) section 5 [*contracts deemed to be made in British Columbia*];
- (b) section 11 [*waiver and estoppel*];
- (c) section 12 [*effect of terms of contract not set out in policy*];
- (d) section 20 [*claims payable in Canadian money and in British Columbia*];
- (e) section 22 (1) (b) [*limitation of actions*];
- (f) section 23 [*payment by insurer into court*];
- (g) section 25 [*insurer to furnish copy of application and policy*].

### Application of Part 2 to deposit insurance contracts

- 11 The following provisions of the Act apply to deposit protection contracts:
- (a) section 5 [*contracts deemed to be made in British Columbia*];
  - (b) section 11 [*waiver and estoppel*];
  - (c) section 12 [*effect of terms of contract not set out in policy*];
  - (d) section 20 [*claims payable in Canadian money and in British Columbia*];
  - (e) section 22 (1) (b) [*limitation of actions*];
  - (f) section 23 [*payment by insurer into court*].

### Exemption for Catholic Mutual Relief Society of America

- 12 The Catholic Mutual Relief Society of America, as defined in section 1 of the Insurer Exemption Regulation, B.C. Reg. 366/2007, is exempt from the following provisions of the Act in respect of contracts entered into while exempt from Parts 1 to 10 of the *Financial Institutions Act* in accordance with section 2.1 of that regulation:
- (a) section 2.4 [*application of Limitation Act*];
  - (b) Part 2 [*General Insurance Provisions*], except sections 5 [*contracts deemed to be made in British Columbia*], 6 [*gaming or wagering contracts avoided*], 8 [*contents of policy*], 16 [*payment of refund to assignee*], 24 [*when third person has right of action against insurer*], 25 [*insurer to furnish copy of application and policy*], 25.1 [*insurer to furnish forms*] and 28.3 [*unjust contract provisions*].

### Transition – Part 2 of the Act

- 13 (1) The following provisions of the *Insurance Amendment Act, 2009* do not apply in respect of a contract that is in effect on the date the provision comes into force until the date the contract is renewed or replaced:
- (a) section 7 insofar as it enacts section 8 (1) (j) of the Act;
  - (b) section 11 [*repealing sections 19 and 21 of the Act*];
  - (c) section 13 insofar as it enacts sections 27.1 [*statutory conditions*], 28.2 [*limitation of liability clause*], 28.4 [*exclusions from coverage*] and 28.5 [*fire perils insured against*] of the Act.
- (2) Section 7 of the *Insurance Amendment Act, 2009*, insofar as it re-enacts section 9 [*dispute resolution*] of the *Insurance Act*, does not apply to a contract in respect of a claim if the insurer has given notice in respect of the claim to an insured under section 9 (2) [*appraisals*] of the Act before the date section 7 of the *Insurance Amendment Act, 2009* comes into force.
- (3) Section 8 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 12 (3) of the *Insurance Act*, does not apply in respect of a contract that is in effect on the date section 12 (3) of the Act comes into force unless the contract to which the renewal receipt refers complies with Part 2 of the Act as amended by the *Insurance Amendment Act, 2009*.
- (4) The following provisions of the *Insurance Amendment Act, 2009* do not apply to a contract in respect of loss or damage covered by the contract if the loss or damage occurs before the date the provision comes into force:



- (a) section 4 insofar as it enacts section 2.4 (1) [*application of the Limitation Act*] of the Act;
  - (b) section 12 [*re-enacting section 22 (1) of the Act*];
  - (c) section 14 insofar as it enacts section 28.6 [*recovery by innocent persons*] of the Act.
- (5) A provision of the Act that is amended, repealed or re-enacted by a provision of the *Insurance Amendment Act, 2009* continues to apply as it read immediately before the amendment, repeal or re-enactment in respect of a contract, or a matter under a contract, for any period during which the provision of the *Insurance Amendment Act, 2009* does not apply under this section to the contract or the matter under the contract.

**Transition – Part 3 of the Act**

- 14 (1) The following provisions of the *Insurance Amendment Act, 2009* do not apply in respect of a contract that is in effect on the date the provision comes into force:
- (a) section 20 (b) [*adding section 33 (2) (g) to the Act*] and (c) [*adding section 33 (3) to the Act*];
  - (b) section 21 [*adding section 34 (f) to (h) to the Act*].
- (2) Section 22 [*re-enacting section 35 of the Act*] of the *Insurance Amendment Act, 2009* does not apply with respect to a certificate or other document issued under section 35 of the Act before the date section 22 of the *Insurance Amendment Act, 2009* comes into force.
- (3) Section 31 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 47.1 (1) to (3) [*termination and replacement of group policies*] of the Act, does not apply in respect of a contract or a benefit provision that was terminated before the date section 47.1 (1) to (3) of the Act comes into force.
- (4) Section 47 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 65 (1) to (4) [*limitation of actions*] of the Act, does not apply to a contract
- (a) in respect of money payable in the event of a person's death if, before the date section 65 (1) to (4) of the Act comes into force,
    - (i) evidence respecting the death has been furnished under section 62, or
    - (ii) a declaration respecting the death has been made under the *Survivorship and Presumption of Death Act*, or
  - (b) in respect of money payable other than in the event of a person's death if, before the date section 65 (1) to (4) comes into force, the first instance of the loss or occurrence giving rise to the claim for insurance money has occurred.
- (5) Section 47 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 65 (5) of the Act, does not apply to a contract with respect to money payable on a periodic basis if, under the contract, insurance money has been paid and the next payment that would have been payable had the insurer continued to make periodic payments was due to be paid before the date section 65 (5) of the Act comes into force.

- (6) A provision of the Act that is amended, repealed or re-enacted by a provision of the *Insurance Amendment Act, 2009* continues to apply as it read immediately before the amendment, repeal or re-enactment in respect of a contract or a matter under a contract for any period during which the provision of the *Insurance Amendment Act, 2009* does not apply to the contract or the matter under the contract under this section.

#### Transition – Part 4 of the Act

- 15 (1) The following provisions of the *Insurance Amendment Act, 2009* do not apply in respect of a contract that is in effect on the date the provision comes into force:
  - (a) section 60 (d) and (e) [adding section 85 (2) (f) and (3) to the Act];
  - (b) section 61 [amending section 86 of the Act];
  - (c) section 64 [amending section 89 of the Act];
  - (d) sections 65 [amending section 90 of the Act] and 66 [amending section 91 of the Act].
- (2) Section 62 [amending section 87 of the Act] of the *Insurance Amendment Act, 2009* does not apply with respect to a certificate or other document issued under section 87 of the Act before the date section 62 of the *Insurance Amendment Act, 2009* comes into force.
- (3) Sections 56 to 96 [amending Part 4 of the Act] of the *Insurance Amendment Act, 2009* do not apply in respect of a contract of creditor's group insurance that is in effect on the date those sections come into force until the earlier of the following dates:
  - (a) the date the contract is renewed or replaced;
  - (b) 2 years after the date sections 56 to 96 of the *Insurance Amendment Act, 2009* come into force.
- (4) Section 67 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 91.1 (1) to (4) [limitation of actions] of the Act, does not apply in respect of loss or damage covered by a contract if the loss or damage occurs before the date section 91.1 (1) to (4) of the Act comes into force.
- (5) Section 67 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 91.1 (5) of the Act [limitation of actions], does not apply to a contract with respect to money payable on a periodic basis if, under the contract, insurance money has been paid and the next payment that would have been payable had the insurer continued to make periodic payments was due to be paid before the date section 91.1 (5) of the Act comes into force.
- (6) Section 77 of the *Insurance Amendment Act, 2009*, insofar as it enacts section 101.1 (1) to (3) [termination and replacement of group policies] of the Act, does not apply in respect of a contract or a benefit provision that was terminated before the date section 101.1 (1) to (3) of the Act comes into force.
- (7) A provision of the Act that is amended, repealed or re-enacted by a provision of the *Insurance Amendment Act, 2009* continues to apply as it read immediately before the amendment, repeal or re-enactment in respect of a contract or a matter

under a contract for any period during which the provision of the *Insurance Amendment Act, 2009* does not apply to the contract or the matter under the contract under this section.

## SCHEDULE B

- 1 *Section 2 of the Exclusion Regulation, B.C. Reg. 153/73, is amended by striking out "defined in the Insurance Act or a regulation under that Act" and substituting "defined under the Financial Institutions Act".*
- 2 *The Insurance (Captive Company) Act Regulation, B.C. Reg. 157/87, is amended*
  - (a) *by renumbering section 3 as section 3 (1),*
  - (b) *in section 3 (1) by striking out "may carry on any class of insurance within the meaning of the Insurance Act except" and substituting "may undertake any class of insurance established and defined by regulation for the purposes of the Financial Institutions Act except",*
  - (c) *in section 3 (1) (c) by striking out "insurance of motor vehicles," and substituting "automobile insurance.",*
  - (d) *in section 3 by adding the following subsection:*
    - (2) *Despite subsection (1), if a class of insurance described in section 289 (4.1) of the Financial Institutions Act is established and defined, a captive insurance company may undertake under that class only the types of insurance business the superintendent specifies in writing in respect of the captive insurance company.",*  
*and*
  - (e) *by adding the following section:*

### Application of the Insurance Act

- 3.1 (1) The following provisions of the *Insurance Act* apply to a captive insurance company.
  - (a) section 2.1 [*contract must be consistent with Act*];
  - (b) section 2.2 [*liability of continuing insurer*];
  - (c) section 2.3 [*effect on contracts of violation of law*];
  - (d) section 2.5 [*electronic communications*];
  - (e) section 5 [*contracts deemed to be made in British Columbia*];
  - (f) section 6 [*gaming or wagering contracts avoided*];
  - (g) section 8 [*contents of policy*];
  - (h) section 16 [*payment of refund to assignee*];
  - (i) section 24 [*when third person has right of action against insurer*];
  - (j) section 25 [*insurer to furnish copy of application and policy*];
  - (k) section 25.1 [*insurer to furnish forms*].

- (2) The following provisions of the *Insurance Act* apply to an association captive insurance company and a sophisticated insured captive insurance company:
- (a) section 2.4 [*application of Limitation Act*];
  - (b) section 9 [*dispute resolution*];
  - (c) section 10 [*court may relieve against forfeiture and termination*];
  - (d) section 11 [*waiver and estoppel*];
  - (e) section 12 [*effect of terms of contract not set out in policy*];
  - (f) section 13 [*misrepresentation and nondisclosure*];
  - (g) section 14 [*effect of delivery of policy or premium receipt*];
  - (h) section 17 [*effect of unpaid cheque or note for premium*];
  - (i) section 18 [*unpaid premium deductible from indemnity*];
  - (j) section 20 [*claims payable in Canadian money and in British Columbia*];
  - (k) section 22 [*limitation of actions*];
  - (l) section 23 [*payment by insurer into court*].