

AUTOMOBILE INSURANCE DISPUTE RESOLUTION COMMITTEE

COMPLAINT RESOLUTION HANDBOOK

June 1, 2005

Contents

Page #

Approval.....	1
Introduction	2
The AIDR Committee	2
Functions of the Committee	3
Purpose of this handbook	3

Chapter 1

<i>Complaint Resolution Flow Chart</i>	5
--	---

Chapter 2

AIDR Committee's Management of Disputes

Nature of disputes	8
Disputes about premiums for basic coverage for ppv	8
Disputes about alleged adverse contractual action	10
AIDR Committee action on receipt of an arbitration application	12
Application Form.....	14

Chapter 3

Dispute Settlement Facilitation Rules

Authority for the rules	16
Definitions	16
Information gathering	16
Jurisdiction	17
Issues the AIDR Committee may consider	17
Dispute resolution continuum	18
Mediation/facilitation Roster	18
Qualifications	19
Notification of decision	19
Code of Ethical Conduct	20
Coming into force	21

Chapter 4

Arbitration Proceedings Rules

Definitions	23
Application	23

PART 1

ARBITRATORS ROSTER AND APPOINTMENTS

Arbitrators roster.....	23
Appointment to the roster.....	23
Conditions of appointment as arbitrator of a dispute	24

Appointment of arbitrator.....	24
--------------------------------	----

**PART 2
PROCESS AND PROCEDURES**

Representative actions and consolidating disputes	25
Administrative and procedural issues	25
Pre-hearing meetings	25
Procedural issues	26
Nature of hearings.....	26
Hearings are private	26
Time for award	26
Copies of award.....	26
Public information	27

**PART 3
COSTS, ARBITRATION ACT AND REPORTS**

Fees, costs and expenses	27
Modification of Arbitration Act.....	27
Report to Superintendent.....	28
Expiry.....	28
Coming into force	28

**Schedule to the
Arbitration Proceedings Rules**

Code of Ethical Conduct

<i>Impartiality and independence</i>	28
<i>Fairness</i>	28
<i>Respect</i>	28
<i>Disclosure</i>	28
<i>Conflict of interest</i>	28
<i>Availability</i>	28
<i>Competence and knowledge</i>	28
<i>Integrity.....</i>	28
<i>Arbitration Act prevails.....</i>	28

Appendices

- *Appendix 1: Selected list of words and phrases having defined meanings.....* 30
- *Appendix 2: Information about the General Insurance OmbudService.....* 32
- *Appendix 3: Policies and Procedures of the General Insurance Ombudsman agreed to by the Superintendent.....* 37
- *Appendix 4: Complaint Resolution Regulation.....* 53
- *Appendix 5: Automobile Insurance Premiums Regulation (A.R. 124/2004).....* 56
- *Appendix 6: Arbitration Act.....* 85

Approval

This Handbook contains the policies and procedures that govern the Automobile Insurance Dispute Resolution Committee (AIDR).

The handbook has been created to provide for a consistent approach to the delivery of the services provided under the jurisdiction of the AIDR.

If you have any questions regarding the interpretation of the handbook, contact Peter Thomas, Executive Director, at (780) 415-1126.

The AIDR reserves the right to amend, modify, alter or delete any of the policies and procedures outlined in this handbook as circumstances warrant, to ensure procedural fairness to all parties.

The Handbook was approved on:

Irene Pfeiffer
Chair
Automobile Insurance Dispute Resolution Committee

Introduction

The AIDR Committee

The Automobile Insurance Dispute Resolution Committee (the AIDR Committee) is established by section 18 of the *Automobile Insurance Premiums Regulation*. Members of the Committee are appointed by the Minister of Finance. The members are:

- chair – Irene Pfeiffer
- member – Ken Allred
- member – Linda Long

The AIDR Committee's contact information is as follows:

- address: 402 Terrace Building, 9515-107 Street, Edmonton, Alberta T5K 2C3
- telephone number: (780) 427-8322
- fax number: (780) 427-1636
- e-mail address: aidr@gov.ab.ca
- website address: <http://www.autoinsurance.gov.ab.ca/disputes.html>

Finance staff are attending to the following administrative matters:

- creating letterhead and getting an address, telephone number, fax number, email
- creating a website for publication of information and committee rules, forms and related matters
- establishing a filing system, diary system
- creating arbitration request forms, form letters acknowledging receipt, decision-making template letters
- establishing contracts and standard forms for arbitrators, facilitators and mediators.

A roster of arbitrators in accordance with the Arbitration Procedure Rules is to be established. A roster of facilitators/mediators is to be established.

Functions of the Committee

The AIDR Committee's functions are set out in section 18(3) of the *Automobile Insurance Premiums Regulation* as follows:

- (3) The Committee's function is to seek to resolve complaints under this Part as expeditiously and efficiently as possible, and the Committee may
- (a) establish mediation or other dispute resolution processes to facilitate settlement of disputes;
 - (b) establish, subject to the approval of the Minister, rules for arbitration proceedings, including
 - (i) providing for electronic hearings and documents-only hearings when the situation warrants,
 - (ii) specifying the time within which an award must be issued, subject to extension of time by agreement of the parties,
 - (iii) determining responsibility for the payment of the arbitrator's fees, costs and expenses,
 - (iv) the appointment of arbitrators and the manner in which the Committee decides the matter in dispute,
 - (v) the consolidation of several similar or related matters into one reference to arbitration, or the reference of a representative dispute to arbitration, and
 - (vi) generally, for the procedure and conduct of arbitration proceedings;
 - (c) establish a roster of suitably qualified individuals to act as arbitrators;
 - (d) establish or adopt a code of ethical conduct for arbitrators.
- (4) With the consent of the Minister, the Committee may delegate any one or more of its functions to another person.

Purpose of this handbook

This handbook provides a step-by-step description of the process for managing issues arising under section 14 of the *Automobile Insurance Premiums Regulation*, which reads:

- 14(1)** If a policyholder, with respect to a calculation, a determination, an action or an incident occurring on or after this section comes into force,
- (a) is not satisfied with respect to the basis on which a premium for basic coverage for a private passenger vehicle was determined under this Regulation, or
 - (b) considers that an insurer, directly or indirectly, has with respect to insurance for basic coverage taken an adverse contractual action contrary to section 613.1 of the Act,

the policyholder may make a complaint to the insurer.

The complaint is initially considered by the insurer in accordance with regulations made under section 511 of the *Insurance Act* (see Appendix 4 for the *Complaint Resolution Regulation*). If the complaint is not resolved the dispute can move to the GIO mediation process and the AIDR Committee through other processes described in this handbook.

This handbook has been created under the authority of section 18 of the *Automobile Insurance Premiums Regulation* and is organized as follows:

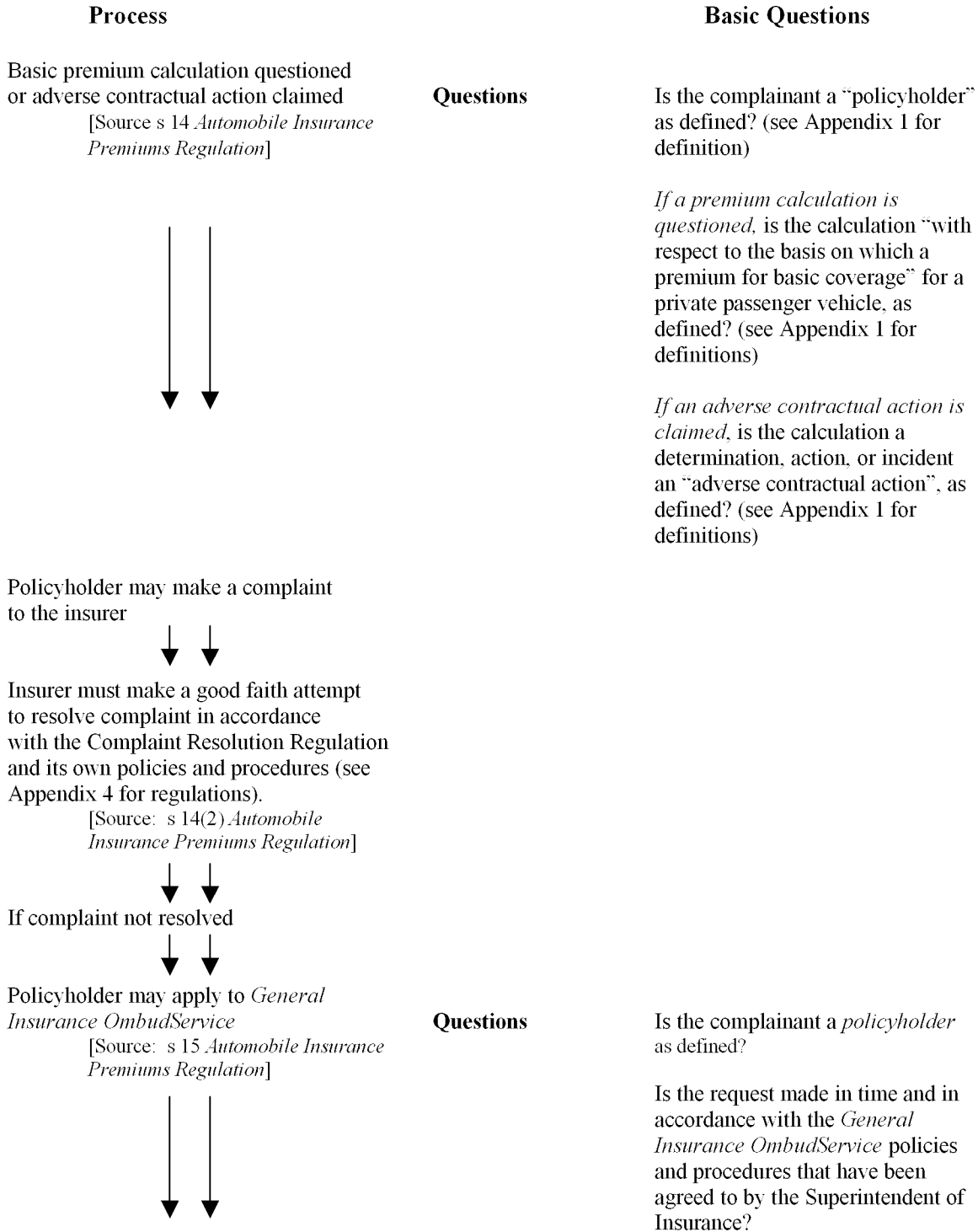
- **chapter 1: Complaint Resolution Flow Chart**, contains a flow chart of the process for managing complaints under section 14 of the Premiums Regulation as a whole and shows where individual elements of the process fit
- **chapter 2: AIDR Committee's Management of Complaints**, focuses on the role of the *Automobile Insurance Dispute Resolution Committee* in the management of matters in dispute that are sent to it by policyholders
- **chapter 3: Dispute Settlement Facilitation Rules**, describes the criteria the AIDR Committee will consider in deciding whether further settlement efforts are appropriate, whether further action should be taken by the AIDR Committee at all or whether the matter in dispute should be referred to arbitration
- **chapter 4: Arbitration Proceedings Rules**, deals with the establishment of a roster of arbitrators and
 - establishes criteria for appointment to the roster
 - describes the method of selecting arbitrators from the roster to hear and decide matters referred to arbitration by the AIDR Committee
 - describes some of the arbitration procedures arbitrators must follow. These procedures supplement and modify the *Arbitration Act* which also governs the arbitration proceedings.

An appendix to the handbook collects various reference materials, namely:

- *Appendix 1: Selected list of words and phrases having defined meanings*
- *Appendix 2: Information about the General Insurance OmbudService*
- *Appendix 3: Policies and Procedures of the General Insurance Ombudsman agreed to by the Superintendent*
- *Appendix 4: Complaint Resolution Regulation*
- *Appendix 5: Automobile Insurance Premiums Regulation (A.R. 124/2004)*
- *Appendix 6: Arbitration Act.*

Chapter 1

Complaint Resolution Flow Chart for an issue arising on or after October 1, 2004



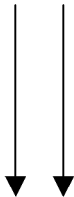
General Insurance OmbudService completes its process (approved by Superintendent) and issues written report to the policyholder and insurer

[Source: s 15(3).Automobile Insurance Premiums Regulation]



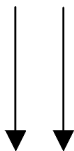
Within 30 days of receipt of report, the policyholder may apply to the Automobile Insurance Dispute Resolution Committee to refer a matter in dispute to arbitration

[Source: s 16(1).Automobile Insurance Premiums Regulation]



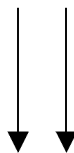
Automobile Insurance Dispute Resolution Committee decides, in accordance with its rules, what action, if any, is to be taken, and notifies applicant and insurer

[Source: s 16(2).Automobile Insurance Premiums Regulation]



If the matter is the subject of further dispute settlement efforts

- efforts successful, matter resolved
- efforts unsuccessful, then
 - the AIDR Committee may refer matter to arbitration
 - the AIDR Committee may decide the matter does not warrant further action and complainant and insurer are so notified



Questions

Is the applicant a *policyholder* as defined?

Is the application made in time?

Is the matter in dispute either

- the premium for *basic coverage for a private passenger vehicle*? or
- an *adverse contractual action*?

Questions

What is the matter in dispute?

Would further settlement efforts help?

Should the matter go to arbitration?

Should no further action be taken?

If the matter is referred to arbitration, then, in accordance with the AIDR Committee's rules,

- arbitrator or arbitration tribunal appointed
- notice given to complainant, insurer and Superintendent
- arbitrator holds hearing in accordance with rules (see Chapter 4 for Arbitration Procedure Rules) and Appendix 6 for *Arbitration Act*.



Arbitration award resolves matter unless appeal made to court under the *Arbitration Act* (see section 44 of *Arbitration Act*)

Chapter 2

AIDR Committee's Management of Disputes

Nature of disputes

The kind of complaints over which the AIDR Committee has jurisdiction fall into two broad categories:

- *category 1 disputes*: disputes over the basis on which a premium for basic coverage for a private passenger vehicle is determined by an insurer, and
- *category 2 disputes*: disputes over allegations of an adverse contractual action by an insurer with respect to premiums for basic coverage.

[**Note:** “category 1” and “category 2” disputes are terms coined for ease of reference in describing the two general types of disputes the AIDR Committee will deal with.]

As chapter 1 of this handbook indicates, and the *Automobile Insurance Premiums Regulation* requires, attempts to resolve both category 1 and category 2 type disputes must first be made by the policyholder with the insurer direct, and if that is unsuccessful the policyholder may apply to the *General Insurance OmbudService* for mediation services. If mediation is unsuccessful, the policyholder can apply to the AIDR Committee for arbitration.¹

Disputes about premiums for basic coverage for ppv

The AIDR Committee's jurisdiction and functions are limited by the wording of the *Automobile Accident Insurance Premiums Regulation*. In particular, for the AIDR Committee to have jurisdiction over a *category 1 dispute*, the following three conditions must be met:

- firstly, a request for AIDR Committee involvement must come from a *policyholder*. A *policyholder* is defined as:

a person who holds a policy for basic coverage in respect of a private passenger vehicle or an applicant for basic coverage or renewal of basic coverage

If the applicant is not a “policyholder”, as defined, or someone acting on the policyholder's behalf and with their consent, the AIDR Committee has no jurisdiction under the Regulation to deal with the matter

¹ These steps are described in section 14(2) and 15 of the *Automobile Insurance Premiums Regulation* (A.R. 124/2004) – see Appendix 5 for the Regulation.

- secondly, the request for AIDR Committee involvement must be in respect of premiums for *basic coverage* (not additional or extra coverage). Basic coverage is defined as:

insurance provided for under sections 627 and 629 of the Act.²

If the premium is with respect to something *other* than basic coverage, the AIDR Committee has no jurisdiction under the Regulation to deal with the matter

- thirdly, the request by a policyholder must be with respect to a premium for basic coverage for a *private passenger automobile*. *Private passenger automobile* is defined as:

a motor vehicle not weighing more than 4500 kg that is used for

- (i) pleasure,
- (ii) driving to or from work or school, or
- (iii) business purposes, including farming operations,

but does not include

- (iv) a motorcycle, power bicycle or moped,
- (v) a vehicle used for commercial purposes, including, but not limited to,
 - (A) a vehicle used for transporting individuals for compensation, delivery of goods, courier or messenger service, parcel delivery, meal delivery or driver training,
 - (B) a vehicle rated under a fleet formula,
 - (C) a short-term lease or rental vehicle,
 - (D) a funeral vehicle, or
 - (E) a vehicle held for sale or used for demonstration or testing,
- (vi) an emergency vehicle as defined in section 1(1)(m) of the *Traffic Safety Act*,³

² Section 627 requires compulsory automobile insurance for bodily injury, death and property damage. Section 629 requires compulsory automobile insurance for accident benefits coverage.

³ Section 1(1)(m) of the *Traffic Safety Act* reads:

- (m) "emergency vehicle" means
 - (i) a vehicle operated by a police service as defined in the *Police Act*;
 - (ii) a fire-fighting or other type of vehicle operated by the fire protection service of a municipality;
 - (iii) an ambulance operated by a person or organization providing ambulance services;
 - (iv) a vehicle operated as a gas disconnection unit of a public utility;
 - (v) a vehicle designated by regulation as an emergency response unit;

- (vii) a recreational vehicle,
- (viii) an antique vehicle registered under the *Traffic Safety Act* as an antique vehicle, or
- (ix) an all terrain vehicle, a snow vehicle, a miniature motor vehicle or any other similar off-highway vehicle;

If the vehicle is not a private passenger automobile, as defined, the AIDR Committee has no jurisdiction under the Regulation to deal with the matter.

Most disputes over the basis on which a premium for basic coverage for a private passenger vehicle is determined are likely to involve interpretation or calculation issues, or both, under the *Automobile Insurance Premiums Regulation*.

However, some disputes may arise over whether a vehicle is a private passenger vehicle – e.g. whether it is used for “business” (in which case it is a private passenger vehicle under the definition) or for “commercial” purposes (in which case the vehicle is not a private passenger vehicle under the definition).

Disputes about alleged adverse contractual action

Section 14 of the *Automobile Accident Insurance Premiums Regulation* says that if

a policyholder with respect to a calculation, a determination, an action or an incident . . . considers that an insurer, directly or indirectly, has with respect to insurance for basic coverage taken an adverse contractual action contrary to section 613.1 of the Act

the policyholder can first complain to their insurer, then seek mediation services from the *General Insurance OmbudService*. If neither of those processes resolves the issue, the policyholder may request the AIDR Committee to refer the matter to arbitration.

The AIDR Committee's jurisdiction and functions under complaints of adverse contractual action are again limited by the words used in the Regulation. In particular, the following 3 criteria must be met before the AIDR Committee has jurisdiction over *category 2 disputes*:

- firstly, the person making the request must be *a policyholder* (as defined – see Appendix 1), or someone acting on the policyholder's behalf and with their consent
- secondly, the issue must be with respect to *basic coverage* (as defined – see Appendix 1), and

- thirdly, the matter complained about must be an *adverse contractual action contrary to section 613.1 of the Insurance Act*. Section 613.1 reads:

613.1(1) In this section, “adverse contractual action” means, with respect to basic coverage,

- (a) refusing to process an application for automobile insurance;
- (b) refusing to issue a contract;
- (c) refusing to renew a contract;
- (d) terminating a contract;
- (e) cancelling a contract;
- (f) refusing to provide any coverage or endorsement;
- (g) refusing to continue any coverage or endorsement;
- (h) any action respecting a contract, not referred to in clauses (a) to (g), that is prescribed or otherwise described by regulation as adverse contractual action.

(2) An insurer, insurance agent or insurance broker must not, directly or indirectly, take any adverse contractual action with respect to an insured or an applicant for a contract except for one or more of the following reasons:

- (a) the non-payment of a premium or any portion of a premium;
- (b) the failure of the insured or the applicant for a contract to inform the insurer or to keep the insurer informed, where requested to do so by the insurer, as to who is the principal driver of the automobile for which the insurance coverage is or is to be issued;
- (c) in the case of an insurer that is a provincial or extra-provincial company, the insurer is required to cease to undertake or to offer to undertake insurance pursuant to section 25(2);
- (d) in the case of an insurer that is a federally authorized company, the federal Superintendent of Financial Institutions has ordered or otherwise directed the insurer to cease carrying on business or insuring risks in Canada;
- (e) the insurer has given notice under section 661.2(3) that the insurer intends to withdraw from the business of automobile insurance;
- (f) where permitted by regulation, any reasons not referred to in clauses (a) to (e) that are prescribed or otherwise described by regulation.

(3) Where

- (a) a premium or any portion of a premium that is owing in respect of a contract is in arrears,
- (b) the insurer takes adverse contractual action by reason of those arrears not being paid, and

- (c) the person liable for those arrears applies to the insurer to renew or issue a contract or to any other insurer to issue a contract,

the insurer may refuse to renew or issue, as the case may be, a contract to that person until those arrears are paid to the insurer to which the arrears are owing.

If the matter the subject of the complaint does *not* meet all 3 criteria (policyholder; basic coverage; contrary to section 613.1 *Insurance Act*) then the AIDR Committee has no jurisdiction under the Regulation to take action. Disputes under this category are likely to involve both interpretation of words used in the Act and deciding whether a particular action by an insurer is an “adverse action” under the *Insurance Act*, and if so whether the action is justified under that Act.

Note: Even though the AIDR Committee has no jurisdiction to deal with a matter under the Regulation it may still provide informational advice, refer matters to appropriate authorities, or notify the Superintendent of issues, as the situation warrants.

AIDR Committee action on receipt of an arbitration application

Under section 16 of the *Automobile Insurance Premiums Regulation*, the policyholder may, within 30 days of receipt of a report from the *General Insurance OmbudService*, apply to the AIDR Committee to refer a matter in dispute to arbitration.

Before it considers a request, the AIDR Committee must be satisfied that it has jurisdiction to deal with the dispute.

On receipt of an arbitration request that is made within the required time, the AIDR Committee, through its staff, should:

- open a file, acknowledge receipt of the request, record the date of receipt
- gather necessary information about the dispute and nature of it from the policyholder and insurer. Most of this should be available from the GIO report but either party may have more to add
- make an assessment of the issue and
 - identify the matter in dispute
 - decide if the matter is within the AIDR Committee's jurisdiction, outside its jurisdiction, or part in and part out of the AIDR Committee's jurisdiction.

Jurisdictional and timeliness issues, when there is doubt, will be referred to and decided by the AIDR Committee.

If a dispute is within its jurisdiction, in whole or in part, the AIDR Committee must⁴

- determine whether a further settlement effort may resolve the issue and, if so, facilitate that settlement effort
- determine whether the matter should be referred to arbitration
- determine whether any further action should be taken at all.

The AIDR Committee's rules for facilitating dispute settlement and arbitration processes provide the framework and guide the Committee's decision making. The Discipline Settlement Facilities Rules are dealt with in the next chapter, chapter 3.

⁴ Section 16(2) requires the determinations to be made in accordance with the Committee's rules. See Chapter 3.

(To be completed by the policyholder)

Application to Automobile Insurance Dispute Resolution Committee (Form 1)



FINANCE

Automobile Insurance Dispute Resolution Committee

Insurance Company	
Policy Number	
File Number	

Part 1 Personal Information	Last Name	First Name	Middle Name(s)	
	Address			
	City		Province	Postal Code
	Telephone Number (Home) Area Code	Fax Number Area Code	E-Mail	

Part 2 GIO Mediation	GIO Claim Number
	This number will be provided to the General Insurance OmbudService (GIO) to confirm that their mediator considered your complaint and issued a final report within the last 30 days (step 2 of the dispute resolution process).

Part 3 Dispute Details	My dispute is about: <input type="checkbox"/> Adverse contractual action <input type="checkbox"/> Calculation of basic premium for private passenger vehicle coverage? <input type="checkbox"/> Other (please describe)
	I understand the Committee will investigate whether a further settlement effort is appropriate before making a decision. I have attached the following with this application: <input type="checkbox"/> A description and nature of the dispute <input type="checkbox"/> Supporting documentation <input type="checkbox"/> Copy of the policy <input type="checkbox"/> Other:

Part 4 Terms of Arbitration	If the dispute goes to arbitration, I understand that I may be liable for all or part of the costs if the arbitrator is satisfied that my claim is obviously without merit or I have conducted myself in an inappropriate manner.
	Signature _____ Date _____

Part 5 Certification and consent to share information	I certify that the information provided is true and correct to the best of my knowledge.
	I authorize the Automobile Insurance Dispute Resolution Committee to confirm with GIO that I have participated in step two of the dispute resolution process and collect additional information about me from my insurance company, whose name appears on this form, and/or my broker as necessary to resolve this dispute.
	If this dispute goes to arbitration, I authorize the Automobile Insurance Dispute Resolution Committee to disclose my personal information to the arbitrator as necessary to resolve the dispute in compliance with the <i>Arbitration Procedure Rules</i> and the <i>Arbitration Act</i> . Signature _____ Date _____

**Part 6
Notice of
Collection
and
Publication
of
Information**

The personal information that you provide on this form and any attachments will be used for the purpose of seeking a settlement of the dispute described above. It is collected under the authority of the Alberta Insurance Act, Part 3 of the Insurance Premiums Regulation, Fair Practices Regulation and section 33(c) of the Freedom of Information and Protection Privacy Act (RSA 2000). It is protected by the privacy provisions of the Freedom of Information and Protection of Privacy Act. If you have any questions about the collection of this information, please call the AIDR at (780) 427-5428.

Signature _____ Date _____

Committee Use Only	
Administrator	Date Received

Send this form to:

**Automobile Insurance Dispute Resolution
Committee
Room 200 Terrace Building
9515 – 107 Street
Edmonton, Alberta, T5K 2C3
Fax (780) 644-7771
Phone (780) 427-5428
E-mail: aidr@gov.ab.ca**

Chapter 3

Dispute Settlement Facilitation Rules

Authority for the rules

Section 14(2) of the *Automobile Insurance Premiums Regulation* describes the decisions the AIDR Committee may take after receiving a request by a policyholder for a matter in dispute with an insurer to be referred to arbitration. The AIDR Committee's decisions must be made in accordance with its rules. The following constitute the AIDR Committee's *Dispute Settlement Facilitation Rules*.

Definitions

1(1) In these rules

AIDR Committee means the Automobile Insurance Dispute Resolution Committee established by section 18(1) of the *Automobile Insurance Premiums Regulation* (A.R. 124/2004);

policyholder has the same meaning that it has in section 13(d) of the *Automobile Insurance Premiums Regulation* (A.R. 124/2004).⁵

(2) Other words used in these rules that are defined in the *Automobile Insurance Premiums Regulation* or take their meaning from the *Insurance Act* have the same meaning in these rules.

Information gathering

2 On receipt by the AIDR Committee of an application by a policyholder that the AIDR Committee refer a matter in dispute with an insurer to arbitration, the AIDR Committee must

- (a) decide whether the application was made in time, as required by section 16(1) of the *Automobile Insurance Premiums Regulation*,⁶ [i.e. was the

⁵ The combined effect of section 13(d) of the *Automobile Insurance Premiums Regulation* and section 1(n) of the Regulations is that "policyholder" . . . means the person who holds a policy for basic coverage in respect of a private passenger vehicle and includes an applicant for basic coverage or for renewal of basic coverage.

⁶ An application is made in time if it is *sent* to the Committee within 30 days of the date the policyholder receives the General OmbudService report following mediation.

application *sent* to the AIDR Committee within 30 days of the date the policyholder received the GIO report]

- (b) obtain whatever information is necessary to determine whether it has jurisdiction over the matter in dispute in whole or in part,
- (c) obtain whatever information is necessary to
 - (i) identify the matter in dispute;
 - (ii) determine whether
 - (A) a further settlement effort may resolve the issue;
 - (B) the matter should be referred to arbitration;
 - (C) any further action should be taken,and
- (d) decide if a further settlement effort should be attempted, the matter should be referred to arbitration, or any further action should be taken by the AIDR Committee.

Jurisdiction

3 If the application by a policyholder to the AIDR Committee is made in time, and after considering the information gathered by it and after making such other inquiries and holding any meetings or hearings it considers necessary, the AIDR Committee must decide on whether it has jurisdiction over all, part or none of the matters in dispute.

Issues the AIDR Committee may consider

4 For those matters over which it has jurisdiction, the AIDR Committee may consider the following matters, among any others it considers appropriate, to determine whether further settlement attempts, arbitration or any action is appropriate:

- (a) the interest and willingness of parties to engage in any further settlement efforts;
- (b) information about the processes already undertaken and the report of the *General Insurance OmbudService*;

Qualifications

7(1) A person may be appointed to the AIDR Mediation/Facilitation Roster

- (a) as a mediator,
- (b) as a facilitator, or
- (c) as a mediator/facilitator.

(2) A person appointed as a mediator or mediator/facilitator should hold a certificate in conflict resolution issued by the Alberta Arbitration and Mediation Society, or an equivalent qualification acceptable to the Committee.

(3) A person appointed as a facilitator must have

- (a) knowledge of the automobile insurance industry and of premium setting for automobile insurance, and
- (b) demonstrable facilitation and interpersonal skills.

(4) Every person appointed to the AIDR Mediation/Facilitation Roster must

- (a) be of good character and a person with integrity;
- (b) be capable and willing to commit to and comply with the Code of Ethical Conduct at the end of these rules.

(5) The AIDR Committee may decide to appoint a person from the AIDR Facilitation/Mediation Roster to a file, as circumstances, and the case warrants.

Notification of decision

8(1) The AIDR Committee must notify the policyholder and insurer of its decision under section 5 in writing.

(2) If the AIDR Committee initiates further dispute resolution efforts that prove unsuccessful, the AIDR Committee may then, subject to subsection (3), refer the matter to arbitration.

(3) The AIDR Committee must not refer a dispute to arbitration until the policyholder has agreed to the terms of arbitration.

Code of Ethical Conduct

9

Code of Ethical Conduct Mediators and Facilitators on the AIDR Mediation/Facilitation Roster

The following Code of Ethical Conduct applies to mediators and to facilitators appointed to the AIDR Mediation/facilitation Roster. “You” means the mediator or facilitator.

(1) Impartiality and independence

You must act impartially as between the parties and independently of the parties.

(2) Fairness

You must be fair. This includes both what you do (or do not do) and the perceptions of the parties about what you do (or do not do).

(3) Respect

You must treat the parties with courtesy and respect.

(4) Disclosure

You must disclose anything that is or might be seen to be bias for or against one party or the other. This may cause you to decline an appointment. If in doubt, disclose the doubt. If a matter arises after a facilitation starts, disclose it to the parties and ask if you should withdraw, and decide yourself if you can continue in your role as facilitator.

(5) Conflict of interest

You must avoid conflicts of interest, actual or perceived. Obvious conflicts of interest include:

- if a family member, relation or friend is the policyholder
- if someone you know well is a party to the dispute
- if you are insured by one of the parties, and
- if you or someone you know stands to gain some kind of financial or other benefit from the outcome of the facilitation.

(6) Availability

The complaint resolution process is intended to be as speedy, and professional, as possible. You are expected to accept only those assignments you can complete in a competent and timely way.

(7) Competence and knowledge

The issues you will be facilitating can be complex. You will be expected to invest your own time in understanding the legislation (Act, regulations, and rules, and AIDR Committee processes) to have a good grasp of the legislative and policy framework of the issues you will be facilitating. You should satisfy yourself that you will be sufficiently competent and knowledgeable to undertake an appointment.

(8) Integrity

You are expected to act with integrity.

Coming into force

10 These rules come into force upon agreement of the Committee.

Chapter 4

Arbitration Proceedings Rules

The following constitute the AIDR Committee's *Arbitration Proceedings Rules*:

Table of Contents

- 1 Definitions
- 2 Application

Part 1 Arbitrators Roster and Appointments

- 3 Arbitrators roster
- 4 Appointment to the roster
- 5 Conditions of appointment as arbitrator of a dispute
- 6 Appointment of arbitrator

Part 2 Process and Procedures

- 7 Representative actions and consolidating disputes
- 8 Administrative and procedural issues
- 9 Pre-hearing meetings
- 10 Procedural issues
- 11 Nature of hearings
- 12 Hearings are private
- 13 Time for award
- 14 Copies of award
- 15 Public information

Part 3 Costs, Arbitration Act and Reports

- 16 Fees, costs and expenses
- 17 Modification of Arbitration Act
- 18 Report to Superintendent
- 19 Expiry
- 20 Coming into force

Schedule

Definitions

1(1) In these Rules,

- (a) “AIDR Committee” means the Automobile Insurance Dispute Resolution Committee established by section 18(1) of the *Automobile Insurance Premiums Regulation* (AR 124/2004);
- (b) “arbitrator” means the single arbitrator appointed under these Rules to hear and decide a dispute, or if a 3-person tribunal of arbitrators is appointed, the arbitration tribunal;
- (c) “arbitrators roster” means the Automobile Insurance Arbitrators Roster established by section 3(1);
- (d) “policyholder” has the same meaning that it has in section 13(d) of the *Automobile Insurance Premiums Regulation* (AR 124/2004).

(2) Words used in these Rules that are defined in the *Automobile Insurance Premiums Regulation* (AR 124/2004) or take their meaning from the *Insurance Act* have the same meaning in these Rules.

Application

2 These Rules apply to matters referred to arbitration under section 17 of the *Automobile Insurance Premiums Regulation* (AR 124/2004).

Part 1 Arbitrators Roster and Appointments

Arbitrators roster

3(1) The Automobile Insurance Arbitrators Roster is hereby established.

(2) The arbitrators roster is composed of not more than 10 persons appointed to the roster from time to time by the AIDR Committee.

Appointment to the roster

4(1) The following criteria must, in the opinion of the AIDR Committee, be met by applicants for appointment to the arbitrators roster before they are appointed to the roster:

- (a) demonstrated knowledge and experience in conducting hearings, for example, by previous experience as an arbitrator or membership on decision-making or quasi-judicial bodies;
- (b) sufficient knowledge of the *Arbitration Act*, for example, by successful completion of the Arbitration Course offered by the Alberta Arbitration and Mediation Society, appropriate completion of courses offered by the Alberta Foundation of Administrative Justice, successful completion of equivalent courses, or by professional knowledge and experience;
- (c) demonstrated capability to understand and to calculate premiums in accordance with the *Automobile Insurance Premiums Regulation* (AR 124/2004), for example, by education or professional experience;
- (d) commitment to be available to accept appointments on request and to completion of cases in a timely way;

- (e) good character and integrity;
 - (f) capacity and willingness to commit to and comply with the Code of Ethical Conduct in the Schedule to these Rules.
- (2) The AIDR Committee must seek applicants who meet the AIDR Committee's criteria by newspaper advertising or by publicizing the opportunity in any other manner the AIDR Committee considers appropriate, or both.
- (3) Subject to subsection (4), a person may be appointed to the arbitrators roster for a period of time specified by the AIDR Committee, but the appointment may, at the AIDR Committee's discretion, be renewed for the same or a different term any number of times.
- (4) No appointment or renewal of appointment of an arbitrator to the arbitrators roster may be for more than 3 years, but a person so appointed may be removed from the roster at any time by the AIDR Committee at the sole discretion of the Committee.
- (5) An arbitrator must be removed from the arbitrators roster by the AIDR Committee
- (a) on expiration of a term of appointment, unless the term is renewed, or
 - (b) on receipt by the chair of the AIDR Committee of the written resignation of the arbitrator.

Conditions of appointment as arbitrator of a dispute

- 5** Before an arbitrator is appointed from the arbitrators roster to decide a dispute,
- (a) the AIDR Committee must find out from the prospective appointee whether he or she has sufficient time available to serve as arbitrator and make a decision as expeditiously as circumstances allow, and
 - (b) a prospective appointee must tell the AIDR Committee whether the prospective appointee is aware of, or of any circumstances that may give rise to, a reasonable apprehension of bias if he or she were appointed as arbitrator to decide a dispute.

Appointment of arbitrator

- 6(1)** For each dispute referred to arbitration under section 17 of the *Automobile Insurance Premiums Regulation (AR 124/2004)*, the AIDR Committee must decide whether one arbitrator or a 3-person tribunal is to be appointed.
- (2) Arbitrators are to be appointed
- (a) in rotation from the arbitrators roster, with the initial order of rotation set by the AIDR Committee, or
 - (b) in such other manner as the AIDR Committee may determine, as the situation warrants.
- (3) If an arbitrator on the roster cannot be appointed or is unable to accept an appointment, the next arbitrator on the list must be approached for appointment, and so on until the appointment is made unless, in a particular case, another method of appointment is decided on by the AIDR Committee.
- (4) If a 3-person tribunal of arbitrators is appointed, the AIDR Committee may appoint one of them as chair or delegate that function to the tribunal.
- (5) If the arbitrators are delegated responsibility to appoint a chair from among themselves but are unable to do so within 14 days of the date of their appointment, the AIDR Committee

must make the appointment.

(6) An arbitrator must be appointed in writing and a copy of the appointment must be sent by the AIDR Committee to the Superintendent and the parties as soon as practicable after the appointment is made.

Part 2 Process and Procedures

Representative actions and consolidating disputes

7(1) If the circumstances warrant, the AIDR Committee may do either of the following:

- (a) refer a representative dispute to an arbitrator;
- (b) consolidate disputes having the same or very similar issues into one proceeding.

(2) If a dispute described in subsection (1) is referred to arbitration, the AIDR Committee may establish special rules of procedure to govern the conduct of the proceedings after consultation with the parties.

Administrative and procedural issues

8(1) As soon as reasonably practicable after receipt of a notice from the AIDR Committee referring a matter to arbitration under section 17 of the *Automobile Insurance Premiums Regulation* (AR 124/2004), the arbitrator must contact the parties to the arbitration and the Superintendent, and as required, decide who will make the necessary administrative arrangements for a hearing or arrange for them to be made.

(2) The arbitrator must, in writing,

- (a) notify the parties of the name or names of the arbitrator or arbitrators,
- (b) notify the parties about how the arbitrator is to be contacted and determine how the parties can be contacted and the manner in which notices and information are to be exchanged,
- (c) if necessary, arrange for preliminary meetings or hearings to settle administrative, procedural and other matters, and
- (d) if necessary, set a date, time and place for a pre-hearing meeting or the hearing, unless the matter is to be dealt with by documents-only.

(3) The arbitrator may meet at any place or in any manner considered appropriate for conducting the arbitration proceedings, hearing parties, witnesses or experts, or for inspecting property or records.

Pre-hearing meetings

9 The arbitrator may, on the arbitrator's own initiative or at the request of a party, direct that a pre-hearing meeting be held with the parties for one or more of the following purposes:

- (a) to determine the issues in question and the position of the parties;
- (b) to discuss the procedure to be adopted by the arbitrator with respect to the hearing and determine any preliminary procedural matters;
- (c) to determine whether the parties may benefit from a settlement meeting to discuss the issues;

- (d) if an oral hearing or electronic hearing is to be held, to set the date, time and place for the oral hearing or electronic hearing and, if necessary, to fix the time to be allotted to each party to present evidence and argument;
- (e) to decide or provide rulings or direction on any matter that may aid in the simplification or the fair and most expeditious disposition of the proceeding;
- (f) to settle any other matter or issue as may be required.

Procedural issues

- 10(1)** The arbitrator may require the parties to provide each other and the Superintendent with a statement or particulars within a specified time.
- (2) The parties may amend or supplement any statement or particulars, but the arbitrator may disallow an amendment or supplement that is unduly delayed.
- (3) The arbitrator may issue directions or rulings considered necessary for the fair and speedy disposition of proceedings.
- (4) Any directions or rulings made under these Rules may be made subject to conditions.

Nature of hearings

- 11** The arbitrator may do any or any combination of the following:
- (a) hold oral hearings,
 - (b) conduct electronic hearings,
 - (c) hold a combined oral and electronic hearing if no one is disadvantaged by the procedure, or
 - (d) hold a documents-only proceeding, unless a party requests an oral hearing.

Hearings are private

- 12** Unless the AIDR Committee otherwise directs, oral hearings, electronic hearings and documents-only proceedings are to be conducted in private.

Time for award

- 13** An arbitrator must issue an award within 30 days of the conclusion of a hearing, or completion of submission of documents in the case of a documents-only proceeding, unless the parties agree otherwise.

Copies of award

- 14(1)** In addition to the parties, the arbitrator must send a copy of the award to
- (a) the AIDR Committee, and
 - (b) the Superintendent, whether or not the Superintendent made representations to or appeared at the arbitration hearing or proceedings.
- (2) The AIDR Committee must keep copies of arbitration awards issued under these Rules and make them available or arrange to have them made available to the public.

Public information

15 The AIDR Committee may publish or arrange for the publication of information for the following purposes:

- (a) to provide guidance to the public on interpretation issues arising in respect of arbitration proceedings or arbitration awards;
- (b) to explain or enhance understanding of the law relating to arbitration proceedings conducted or that may be conducted under these Rules.

Part 3 Costs, Arbitration Act and Reports

Fees, costs and expenses

16(1) Each party to an arbitration is responsible for paying

- (a) their own representative if they are represented in arbitration proceedings,
- (b) the costs and fees, if any, of their own witnesses, and
- (c) related costs of preparing and presenting their case in arbitration.

(2) The following fees, costs and expenses of an arbitration under this Regulation are payable by the Government of Alberta:

- (a) the fees of the arbitrator;
- (b) the rental of rooms and equipment required for the arbitration hearing;
- (c) living and travelling expenses of the arbitrator;
- (d) the cost of administrative and secretarial services required by the arbitrator in the conduct of the arbitration proceedings;
- (e) any other costs and expenses related to the hearing or connected with the arbitration proceedings determined by the arbitrator

unless, in a particular case, the arbitrator is satisfied that a party's claim is obviously without merit or a party, in the opinion of the arbitrator, acted in an inappropriate manner, in which case all or part of the fees, costs and expenses may be directed by the arbitrator to be paid by that party and not by the Government.

(3) Section 53 of the *Arbitration Act* does not apply to an arbitration conducted under these Rules.

Modification of Arbitration Act

17(1) If there is any conflict or inconsistency between any provision of these Rules, other than the Code of Ethical Conduct in the Schedule to these Rules, and the *Arbitration Act*, these Rules prevail under the authority of section 17(5) of the *Automobile Insurance Premiums Regulation* (AR 124/2004).

(2) If there is any conflict or inconsistency between the Code of Ethical Conduct in the Schedule to these Rules and the *Arbitration Act*, the *Arbitration Act* prevails.

Report to Superintendent

18 Within 60 days of the end of each fiscal year of the Government of Alberta, the AIDR Committee must report to the Superintendent on all the following matters:

- (a) the number and nature of requests for arbitration;
- (b) a breakdown of the disposition of the requests for arbitration made to the AIDR Committee;
- (c) the number and description of the matters referred to arbitration by the AIDR Committee;
- (d) any other matters that the AIDR Committee considers warrant reporting;
- (e) any matter on which the Superintendent requests a report.

Expiry

19 For the purpose of ensuring that these Rules are reviewed for ongoing relevancy and necessity, with the option that they may be repassed in their present or an amended form following a review, these Rules expire on November 30, 2015.

Coming into force

20 These Rules come into effect on the date they are filed under the *Regulations Act* after having been approved by the Minister under section 18(3)(b) of the *Automobile Insurance Premiums Regulation* (AR 124/2004).

Schedule to the Arbitration Proceedings Rules

Code of Ethical Conduct

The following Code of Ethical Conduct applies to arbitrators appointed to the arbitrators roster. "You" means the arbitrator.

1 Impartiality and independence

You must act impartially as between the parties and independently of the parties.

2 Fairness

You must be fair. This includes both what you do (or do not do) and the perceptions of the parties about what you do (or do not do).

3 Respect

You must treat the parties with courtesy and respect.

4 Disclosure

You must disclose anything that is or might be seen to be bias for or against one party or the other. This may cause you to decline an appointment. If in doubt, disclose the doubt. If a matter arises after arbitration proceedings start, disclose it to the parties and

- ask the parties for their views if you are satisfied no bias or reasonable apprehension of bias would arise. Take the views of the parties into consideration when making your decision about continuing in your role, and
- decide yourself if you can continue in your role as arbitrator.

5 Conflict of interest

You must avoid conflicts of interest, actual or perceived. Obvious conflicts of interest include:

- if a family member, relation or friend is the policyholder,
- if someone you know well is a party or witness in arbitration proceedings,
- if you are insured by one of the parties, and
- if you or someone you know stands to gain some kind of financial or other benefit from the outcome of the arbitration proceedings.

6 Availability

The complaint resolution process is intended to be as speedy, and professional, as possible. You are expected to accept only those assignments you can complete in a competent and timely way.

7 Competence and knowledge

The issues you will be arbitrating can be complex. You will be expected to invest your own time in understanding the legislation (Act, regulations, and rules, and AIDR Committee processes) to have a good grasp of the legislative and policy framework of the issues you will be arbitrating. You should satisfy yourself that you will be sufficiently competent and knowledgeable to undertake an appointment.

8 Integrity

You are expected to act with integrity.

9 Arbitration Act prevails

This Code is intended to supplement, not replace, any obligation or responsibility imposed by the *Arbitration Act* and by other law.

Appendix 1

Selected list of words and phrases having defined meanings

“adverse contractual action” means, with respect to basic coverage,

- (a) refusing to process an application for automobile insurance;
- (b) refusing to issue a contract;
- (c) refusing to renew a contract;
- (d) terminating a contract;
- (e) cancelling a contract;
- (f) refusing to provide any coverage or endorsement;
- (g) refusing to continue any coverage or endorsement;
- (h) any action respecting a contract, not referred to in clauses (a) to (g), that is prescribed or otherwise described by regulation as adverse contractual action.

[Source: s 613.1 *Insurance Act*]

“basic coverage” means insurance provided for under sections 627 and 629 of the Act:

[Source: s 1(f) *Automobile Insurance Premiums Regulation*]

“policyholder”, except in section 2, means the person who holds a policy for basic coverage in respect of a private passenger vehicle:

[Source: s 1(n) *Automobile Insurance Premiums Regulation* A.R. 124/2004]

“policyholder” includes an applicant for basic coverage or for renewal of basic coverage.

[Source: s 13(d) *Automobile Insurance Premiums Regulation* A.R. 124/2004]

“private passenger vehicle” means a motor vehicle not weighing more than 4500 kg that is used for

- (i) pleasure,
- (ii) driving to or from work or school, or
- (iii) business purposes, including farming operations,
but does not include
- (iv) a motorcycle, power bicycle or moped,
- (v) a vehicle used for commercial purposes, including, but not limited to,
 - (A) a vehicle used for transporting individuals for compensation, delivery of goods, courier or messenger service, parcel delivery, meal delivery or driver training,
 - (B) a vehicle rated under a fleet formula,

- (C) a short-term lease or rental vehicle,
- (D) a funeral vehicle, or
- (E) a vehicle held for sale or used for demonstration or testing,
- (vi) an emergency vehicle as defined in section 1(1)(m) of the *Traffic Safety Act*,⁷
- (vii) a recreational vehicle,
- (viii) an antique vehicle registered under the *Traffic Safety Act* as an antique vehicle, or
- (ix) an all terrain vehicle, a snow vehicle, a miniature motor vehicle or any other similar off-highway vehicle:

[Source: s 1(o) *Automobile Insurance Premiums Regulation*]

⁷ Section 1(1)(m) *Traffic Safety Act* reads:

- (m) “emergency vehicle” means
 - (i) a vehicle operated by a police service as defined in the *Police Act*;
 - (ii) a fire-fighting or other type of vehicle operated by the fire protection service of a municipality;
 - (iii) an ambulance operated by a person or organization providing ambulance services;
 - (iv) a vehicle operated as a gas disconnection unit of a public utility;
 - (v) a vehicle designated by regulation as an emergency response unit;

Appendix 2

Information about General Insurance OmbudService

[Extracted from the GIO website.]

The General Insurance OmbudService assists in Canadian consumer insurance mediation and arbitration. It acts as a mediator between insurance companies and consumers providing dispute resolution and conflict resolution solutions. The services handle complaints for home insurance, car insurance, business insurance and casualty insurance. Services are offered in English and French, and are available in all provinces and territories of Canada.

When disputes arise, General Insurance OmbudService's professional mediators and experienced customer services officers guide all parties involved toward a solution that is in the best interest of each in a fair, independent and impartial environment.

By-Laws and governance

Below is a summary of the GIO by-laws taken from their website. This should not be considered as a legally binding representation of the GIO governance and is provided only as a service to those interested in more detail about the GIO operations.

- [Board of Directors](#)
- [Standards](#)
- [Conditions of membership](#)
- [Meetings of the Board](#)

Definitions

- "Corporation" means General Insurance OmbudService
- "Board" means Board of Directors of the Corporation

- "Member" means any of the Independent Directors, Industry Directors, insurers and reinsurers licensed in Canada to
- carry on the business of general insurance and admitted according to the membership requirements

Board of Directors

A seven-member Board of Directors manages the business of the General Insurance OmbudService. Of these seven directors:

- two are "Industry Directors" appointed by the Board of Directors of Insurance Bureau of Canada five are "Independent Directors." To ensure the independence of the service, these Independent Directors cannot be (or be the spouse or common law partner of) any of the following:
 - a director, officer or employee of the Insurance Bureau of Canada or any insurer or reinsurer that is a member of GIO, either currently or in the three years before being appointed as an Independent Director
 - currently an employee of a federal, provincial or territorial government, a current director, officer or employee of an Crown agency
 - a director, officer or employee of a government department or agency that regulates or supervises financial institutions or financial services financial services, currently or in the three years before being appointed as an Independent Director
 - a member of the Senate of Canada, member of Parliament or member of a provincial or territorial legislative assembly currently or, in the three years prior to appointment as an Independent Director
 - an individual who provides goods or services for a fee to an insurance company or reinsurance company that is a member of GIO
 - a person who has a significant interest (as defined by federal legislation) in a class of shares of a insurer or reinsurer that is a member of GIO

Independent Directors will represent a diverse experiences and interests. For example, they should:

- be known and respected regionally and nationally, either in their own right or because of an appointment or office held
- have a significant background in public and consumer affairs
- represent the Canadian population in gender, language, region and minority background

The Chair of the Board of Directors will be appointed from the Independent Directors.

Independent Directors retire in rotation to ensure continuity. They are expected to play a significant role in nominating and selecting their successors.

Meetings of Members and Board

- There will be at least two meetings of the Board in each financial year
- Quorum will require a minimum of the four independent directors and majority of directors present must be independent

Powers of the Board

The Board has the authority to do the following:

- Approve and, when required, update the business plan for the GIO
- Adopt, implement and oversee procedures to ensure compliance with the established service standards of accessibility, timeliness, courtesy, clarity, accuracy, consistency, expertise and knowledge, fairness and impartiality, confidentiality, objectivity and independence, and update the standards from time to time
- Prepare an annual report on the operations of the service
- Recommend and be consulted about any changes to the terms of reference
- Receive information about, and take appropriate action in relation to, systemic industry problems

Standards

- "Standards" means the set of values for dealing with general insurance consumer concerns and complaints. The standards reflect a commitment to accessibility, timeliness, courtesy, clarity, accuracy, consistency, knowledge, fairness and impartiality, confidentiality, objectivity and independence.

Condition of membership

- Membership is limited to insurers and reinsurers licensed in Canada to carry on the business of general insurance and that have agreed to abide by the organization's standards.
- Among other things, a persistent failure by the insurer or reinsurer to comply with the organization's standards will be sufficient cause for removal of membership. The organization will publish notice of such removal in its annual report.
- A Member may withdraw from GIO with the delivery of a written resignation. The GIO will publish notice of any resignation of insurer or reinsurer in its annual report.

Mandate and Role

The General Insurance OmbudService is the independent, regionally-based, consumer dispute resolution system for the home, car and business insurance industry. The GIO will assist insurance companies and their customers in resolving their differences in fair, independent and impartial environment.

The GIO is governed by a Board of Directors consisting of five Independent and two Industry Directors. The Board will ensure that the organization operates according to an established set of consumer-oriented standards.

The General Insurance OmbudService works to resolve disputes between insurance companies and their customers on claims related matters and interpretation of policy coverage.

However, there are some areas in which the GIO cannot or should not be involved. These include:

- insurance product pricing and business decisions
- settlement procedures established by legislation
- matters that have been, or are, before the courts.

Standards of Service

The General Insurance OmbudService is committed to the highest standards of service, based on these values:

- confidentiality
- fairness and impartiality
- knowledge
- clarity
- accessibility
- timeliness
- courtesy
- accuracy
- objectivity and independence
- consistency

Appendix 3

Policies and Procedures of the General Insurance OmbudService approved by the Superintendent

GUIDELINES AND PROCEDURES ALBERTA PREMIUM DISPUTE RESOLUTION PROCESS

Introduction

Pursuant to the Alberta Insurance Act, RSA 2000, Ch. I-3, (the “Act”), a regulation was recently passed to govern dispute resolution. Under the Automobile Insurance Premium Regulation (“Regulation”) the Government of Alberta has established a three-step premium dispute resolution process for resolving prescribed kinds of disputes between a complainant⁸ and insurer⁹ under section 15 of the Regulation, the General Insurance OmbudService (GIO) is prescribed as the independent body with responsibility for facilitating the second step of the process. The GIO has the following function.¹⁰

15(1) If a complaint is not resolved in accordance with section 14, the policyholder may, in accordance with the policies and procedures of the General Insurance OmbudService, apply to the General Insurance OmbudService to have the complaint addressed.

The complaint referred to in section 15 of the Regulation relate to¹¹

- Dissatisfaction over the basis on which a premium for which basic coverage for a private passenger vehicle is determined under the Premium Regulation, and
- Complaints that an insurer, directly or indirectly, has taken adverse contractual action contrary to section 613.1 of the Insurance Act.

⁸ ¹ Means the person who holds a policy for basic coverage in respect of a private passenger vehicle and includes an applicant for basic coverage or for renewal of basic coverage Automobile Insurance Premium Regulation (s1(n) and 13(d) AR 124/2004 pursuant to the Insurance Act as amended by SA 2003, Ch. 40) [“the Regulation”]

⁹ ² “insurer” means an insurer who provides basic coverage for private passenger vehicles (s1(k) Regulation)

¹⁰ Section 15 Regulation

¹¹ See Section 14(1) Regulation.

The purpose of this document is to describe the policies and procedures of the GIO as it relates to its prescribed function under the Regulation.

Who is the General Insurance OmbudService (GIO)?

GIO provides bilingual, integrated consumer service and complaint handling assistance to consumers across Canada regarding property and casualty insurance. GIO provides information and/or deals with complaints with GIO member companies in the areas of home, auto and business insurance. GIO offers complainants who do not satisfactorily resolve their dispute with their insurer an opportunity to attempt to settle the matter through a mediation session.

GIO is governed by a seven-member Board of Directors (5 Independent, 2 Industry Directors). GIO is an independent corporation funded by its members who are licensed property and casualty insurers. Independence is assured through two classes of members, voting and non-voting. The only voting members are the members of the Board of Directors.

The Board of Directors are responsible for adopting and implementing procedures to facilitate member compliance with established consumer-oriented standards in complaint-handling and dispute-resolution as well as to provide guidance on, and communicate, the standards.

GIO Standards for dispute resolution:

Accessibility, in terms of ease of contact for complainants' to express and pursue their concerns;

Timeliness, in terms of prompt initial acknowledgement of complainants' inquiries and complaints;

Courtesy, in terms of treating complainants' with respect, civility and politeness;

Clarity, in terms of using plain language in all communications with complainants';

Accuracy, in terms of providing complainants' with correct information;

Consistency, in terms of dealing with similar cases in a similar fashion;

Knowledge, in terms of understanding the product and providing accurate information and guidance on the complaint resolution process;

Fairness & Impartiality, in terms of freedom from favouritism or bias in words or actions by mediators and others involved in the dispute resolution process. Cases are dealt with on the basis of due diligence with respect to the facts;

Privacy/Confidentiality, in terms of ensuring the protection of personal and commercial information. GIO complies with the prescribed information management practices of the Alberta Personal Information Protection Act (“PIPA”) that govern the collection, use, disclosure, maintenance and security of personal information. Mediation sessions are held in private and are confidential. Disclosures among the complainant, insurer, GIO and mediator are privileged and inadmissible in any further litigation or arbitration¹² ;

Independence & Objectivity, in terms of ensuring that GIO is a separate entity, independent of the industry and government, with its own Board of Directors comprising a majority of Independent Directors. Mediators are also independent and must comply with a code of ethics and procedural fairness requirements.

Nature of Complaints

Section 14(1) of the Regulation sets out the kinds of complaints that may be referred to the GIO for mediation. These are:

14(1) A policyholder, with respect to a calculation, a determination, an action or an incident occurring on or after this section comes into force¹³

- (a) is not satisfied with respect to the basis on which a premium for basic coverage for a private passenger vehicles was determined under this Regulation, or
- (b) considers that an insurer, directly or indirectly, has with respect to insurance for basic coverage taken an adverse contraction action contrary to section 613.1 of the Act,

the policyholder may make a complaint to the insurer.

Under Section 609 of the Act, basic coverage is defined as

¹² This is subject to the law of compellability pursuant to the Criminal Code or Provincial Offences Procedures Act

¹³ October 1, 2004

insurance coverage required or provided for under sections 627 and 629;

Section 627 and 629 of the Act further defines “basic coverage” as:

627(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of not less than \$200 000 exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property.

(6) Notwithstanding subsection (4), but subject to section 613.1, no insurer may refuse a request by an insured or an applicant for a contract to increase the limit to one of the following amounts, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and loss of or damage to property:

- (a) \$500 000;
- (b) \$1 000 000;
- (c) \$2 000 000.

629(1) In this section,

- (a) “benefits” means accident insurance benefits provided for in this section or in regulations made under subsection (9)(c);
- (b) “prescribed” means provided for by regulations made under this section.

(2) A contract evidenced by a motor vehicle liability policy insures in respect of an accident, for accident insurance benefits payable to the prescribed person, in or to at least the prescribed amounts and in accordance with or subject to this section and the prescribed terms, conditions, restrictions and exclusions.

In section 613.1 of the Act, adverse contractual action is defined as:

613.1(1) In this section, “adverse contractual action” means, with respect to basic coverage,

- (a) refusing to process an application for automobile insurance;
- (b) refusing to issue a contract;
- (c) refusing to renew a contract;

- (d) terminating a contract;
- (e) cancelling a contract;
- (f) refusing to provide any coverage or endorsement;
- (g) refusing to continue any coverage or endorsement;
- (h) any action respecting a contract, not referred to in clauses (a) to (g), that is prescribed or otherwise described by regulation as adverse contractual action.

(2) An insurer, insurance agent or insurance broker must not, directly or indirectly, take any adverse contractual action with respect to an insured or an applicant for a contract except for one or more of the following reasons:

- (a) the non-payment of a premium or any portion of a premium;
- (b) the failure of the insured or the applicant for a contract to inform the insurer or to keep the insurer informed, where requested to do so by the insurer, as to who is the principal driver of the automobile for which the insurance coverage is or is to be issued;
- (c) in the case of an insurer that is a provincial or extra-provincial company, the insurer is required to cease to undertake or to offer to undertake insurance pursuant to section 25(2);
- (d) in the case of an insurer that is a federally authorized company, the federal Superintendent of Financial Institutions has ordered or otherwise directed the insurer to cease carrying on business or insuring risks in Canada;
- (e) the insurer has given notice under section 661.2(3) that the insurer intends to withdraw from the business of automobile insurance;
- (f) where permitted by regulation, any reasons not referred to in clauses (a) to (e) that are prescribed or otherwise described by regulation.

(3) Where:

- (a) a premium or any portion of a premium that is owing in respect of a contract is in arrears,
- (b) the insurer takes adverse contractual action by reason of those arrears not being paid, and
- (c) the person liable for those arrears applies to the insurer to renew or issue a contract or to any other insurer to issue a contract,

the insurer may refuse to renew or issue, as the case may be, a contract to that person until those arrears are paid to the insurer to which the arrears are owing.

Furthermore, a private passenger vehicle is defined in section 1(o) of the Regulation as:

"private passenger vehicles" means a motor vehicle not weighing more than 4500 kg that is used for:

- (a) pleasure
- (b) driving to or from work or school, or
- (c) business purposes, including farming operations,

but does not include

- (d) a motorcycle, power bicycle or moped,
- (e) a vehicle used for commercial purposes, including but not limited to,
 - (I) a vehicle used for transporting individuals for compensation, delivery of goods, courier or messenger service, parcel delivery, meal delivery or driver training,
 - (II) a vehicle rated under a fleet formula,
 - (III) a short term lease or rental vehicle,
 - (IV) a funeral vehicle, or
 - (V) a vehicle held for sale or used for demonstration or testing,
- (f) an emergency vehicle as defined in section 1(1)(m) of the Traffic Safety Act.

Complaints not covered by the Regulation

Under the Regulation, GIO does not deal with complaints that:

- have not been submitted to the insurer and have not gone through the insurer's established complaint process as required by section 14 of the Regulation and the Complaint Resolution Regulation;
- are being, or have been, dealt with by a court of law or an alternative dispute resolution process;

Filing a Complaint

GIO divides the kinds of disputes under the Regulation, into two broad categories:

- *category 1 disputes: disputes over the basis on which a premium for basic coverage for a private passenger vehicle is determined*

by an insurer, and

- *category 2 disputes: disputes over allegations of an adverse contractual action by an insurer with respect to premiums for basic coverage.*

A complainant may request GIO assistance in settling a category 1 dispute if the following three conditions are met. The request must:

- come from a complainant as defined in the Regulation (see footnote 1 on page 1) or someone acting on the complainant's behalf acting with their written consent.
- be in respect of premiums for basic coverage as defined in the previous section.
- be in respect of a premium for basic coverage for a private passenger automobile as defined in the previous section.

A complainant may request GIO assistance in settling a category 2 dispute if the following three conditions are met. The request must:

- come from a complainant as defined in the Regulation (see footnote 2 on page 1) or someone acting on the complainant's behalf with their written consent.
- be in respect of premiums for basic coverage as defined in the previous section.
- be an adverse contractual action contrary to section 613.1 of the Act as defined in the previous section.

If all three conditions for a dispute category are not met, section 15 of the Regulation will not apply to that dispute.

Prior to filing a request with GIO for assistance in resolving a dispute, the following additional preconditions must be met:

- The complainant must have first attempted to resolve the complaint with the insurer's representatives (section 15(1) of the Regulation).

- The request must be filed in writing (letter, website on-line complaint form, E-mail, facsimile) to the GIO Information Officer.
- A Registration for Mediation Services form must be completed, signed and submitted to the GIO Information Officer to initiate the GIO mediation process.

Method of Dispute Resolution

The form of dispute resolution used by GIO is mediation. Mediation is a fair and efficient consensual process to, through the guidance of professional and qualified mediators help resolve complainant disputes with the goal of reaching a voluntary, negotiated arrangement to resolve the dispute with the insurer. Mediators are appointed from the GIO roster of professional mediators. GIO mediators are members of the Alberta Arbitration and Mediation Society and the ADR Institute of Canada. Mediator members are required to meet standards of core competence and to abide by the Institute's Code of Ethics. They are held accountable to the Institute through its discipline policy.

Mediation is a process to help the complainant and the insurer reach a mutually agreeable solution to their dispute without having to resort to legal proceedings. Mediation is non-adversarial in nature. It involves the help of a neutral third party called a "mediator" who acts as a facilitator to help the complainant and the insurer – who are central to the mediation process – resolve their dispute through consensus.

If the mediation is unsuccessful, the complainant may, within 30 days of receipt of the mediation report, apply under the Regulation to the Automobile Insurance Dispute Resolution (AIDR) Committee to have the complaint reviewed and/or referred to arbitration.

Cost of Mediation

The basic mediation offered by GIO, is a two (2) hour session. Fees for a mediator during a basic mediation session are covered by GIO, except for the costs of the complainant, who must cover his/her own expenses and those of his/her representative(s) to attend the mediation

Unless a valid reason (e.g., car accident, family and/or personal health emergency) is provided, the complainant who has requested mediation

may lose the opportunity to use mediation provided through GIO if he/she fails to provide GIO with at least 2 business days before the scheduled mediation to reschedule or withdraw.

Role of the Participants

Complainant

- Participates in the mediation session with or without a representative in accordance with the Mediation Agreement (form attached).
- Complainant may seek legal advice or be represented by legal counsel at anytime during the mediation process.
- If mediation does not resolve the dispute, may, within 30 days of receipt of the mediator's report, apply to the AIDR Committee to have the dispute reviewed and/or referred to arbitration, where appropriate.
- Contacts the GIO Information Officer to request a process review, where there has been a failure to comply with the code of ethics, the mediation process guidelines or both.
- Contacts the AIDR Committee to refer a matter in dispute to arbitration, where appropriate.

Insurer Representative (Company Complaint Liaison Officer)

- Addresses complainant dispute on behalf of the insurance company.
- Sends complainant a GIO brochure "Alberta's Premium Dispute Resolution Process" under cover of the insurer's final letter of position in response to a dispute with complainant.
- Participates in a mediation session in accordance with the Mediation Agreement (form attached)
- Contacts the AIDR Committee to refer a matter in dispute to arbitration, where appropriate.

GIO Information Officer

- Receives and addresses requests for assistance from complainants.
- Ensures the request for assistance falls within the scope of the requirements of the Regulation and these policies and procedures.
- Provides assistance to complainants in resolving a complaint through the mediation process.
- Coordinates the mediation session.
- Helps the complainant select a mediator from the GIO roster of mediators.

- Sends all documents from the complainant and the insurer to the mediator.
- Sends copies of the GIO Mediation Agreement (form attached) to the complainant, insurer and the mediator, informing them to bring the document to the mediation session.
- Arranges the execution of the GIO Mediation Contract for Services between the insurer, the mediator and GIO prior to the mediation session.

Mediator

- Facilitates and conducts the mediation session in accordance with the GIO Mediation Agreement and Rules of Procedure (form attached).
- When the mediation is successful, assists the complainant and the insurer by developing the consensus agreement portion of the mediation report containing:
 - The date of the mediation;
 - The names of the participants and whom they represented if the participants are not the complainant and the insurer;
 - That the matter was resolved by mutual agreement of the parties and the details of their agreement, and,
 - The signature of the parties agreeing to the terms.
- When the mediation is unsuccessful, prepares the mediator's report containing:
 - The date of the mediation,
 - The names of the participants and whom they represented if the participants are not the complainant and the insurer,
 - With the prior agreement of the participants, any items on which agreement was reached, and
 - That the matter was unresolved.
- The mediation report must be submitted to the complainant, insurer and GIO no later than 10 business days after the mediation session.

ADR Institute of Canada, Inc.

- With assistance of the Alberta Arbitration and Mediation Society and the ADR Institute of Canada the GIO will establish a roster of independent and qualified mediators to conduct mediations.

Complaints Concerning GIO's Mediation Process

In exceptional circumstances when GIO's operating standards of fairness, impartiality, and confidentiality may not have been respected in the mediation session, the complainant or the insurer representative may write to the GIO Corporate Secretary detailing the circumstances and the standard that was deemed to be breached.

Contact Information:

General Insurance OmbudService (GIO)

1-888-421-4212 (Toll-free)
780-421-8181 (Edmonton Area)
780-421-4212 (Facsimile)

Mailing Address:

Address:

General Insurance OmbudService
Insurance OmbudService
P.O. Box 1426
108th Street, Suite 10
Station Main
Edmonton, AB T5J 1L7
Edmonton AB T5J 2N5

Delivery

General
10301-

GIO Website at www.gio-scad.org

Automobile Insurance Dispute Resolution Committee (AIDR)

780-427-8322 or call Service Alberta toll free at 310-4455

www.autoinsurance.gov.ab.ca

SAMPLE MEDIATION AGREEMENT

BETWEEN
Complainant
("the Complainant")

AND
Insurer
("the Insurer")

AND
Mediator
("the Mediator")

The Complainant, Insurer (collectively "the Parties") and Mediator understands and agrees as follows:

1. The Complainant has requested General Insurance OmbudsService ("GIO") to assist in resolving a dispute with Insurer. The Complainant has chosen the Mediator from the GIO roster of mediators. The Parties appoint and retain the Mediator to assist them in the resolution of the dispute between them under the Insurance Act and the Automobile Insurance Premiums Regulation ("the dispute").
2. The Parties understand that mediation is a process whereby they attempt, with the assistance of an impartial third party, the Mediator, to reach a consensual settlement of the dispute.
3. It is understood that the mediation session governed by this Agreement will involve the Parties in a joint session with the Mediator, but, if the Mediator considers it would assist in resolving the dispute, the Mediator may have private meetings with either or both of the Parties during the mediation session.
4. The Parties understand that honest disclosure of relevant information is essential to the mediation process. Accordingly, the Parties have through GIO exchanged relevant information and further the Parties agree to communicate in good faith regarding all documents and information disclosed during mediation. Unless otherwise specifically stated beforehand, it is agreed that the Mediator may disclose fully to each party all information provided to the Mediator by the other party, or any other information of which he becomes aware, which is relevant to the issues being mediated.

5. The Parties understand that the Mediator is not a lawyer and the Mediator is not acting as legal counsel for either the Parties. It is understood that the Mediator shall remain impartial in all contacts with the Parties and will not advance the interests of either of the Parties over the other.
6. The Parties agree that, because the mediation process is an attempt to settle differences between them through assisted negotiation, all communications between the Parties and those with the Mediator in private meetings during the mediation session will be made without prejudice. Any information arising out of mediation session shall be treated by the Parties as both confidential and non-compellable and will not be raised by either of the Parties in any legal proceeding. Accordingly, the Mediator shall not be asked or required by either of the Parties to provide information, give evidence, or produce documents in any legal proceeding concerning the content of the mediation session.
7. The Parties acknowledge that the confidentiality referred to in this Agreement will not apply where the Mediator is obliged by law to report to a third party or where a Court compels either of the Parties or the Mediator to give evidence.
8. Pursuant to the policy of GIO, the basic mediation session shall continue for 2 hours, until terminated by either of the Parties, or longer subject to an extension agreement between the Insurer, GIO and the Mediator. Mediation may be terminated if the Parties reach agreement or if one of the Parties or the Mediator decides that the dispute cannot be resolved by mediation and wishes to terminate the mediation session.
9. If the Parties are unable to reach agreement during the mediation session the Mediator shall prepare a report to the Parties and the GIO within 10 days after the mediation session including:
 - (a) the date of the mediation,
 - (b) the names of the participants and whom they represented if the participants are not the complainant or the insurer,
 - (c) with the prior agreement of the participants, any items on which agreement was reached, and
 - (d) that the matter was unresolved.
10. It is agreed that the Mediator will be paid by the GIO for all work done during this mediation, in accordance with a fee for service agreement amongst them and the Parties are each responsible for their

own expenses to participate in the mediation session.

11. The Mediator will conduct the mediation session in accordance with the procedures of the GIO, a copy of which has been provided to the parties at the time of execution of this Agreement.

This Agreement entered into on the ____ day of _____,
200 __, at, _____, Alberta

CAL_LAW\1097943\1

Appendix 4

Complaint Resolution Regulation

Table of Contents

- 1 Definitions
- 2 Duties of insurers
- 3 Responding to complaints
- 4 Complaints resolution process
- 5 Reports
- 6 Publication
- 7 Expiry
- 8 Coming into force

Definitions

1 In this Regulation,

- (a) “complaint” means a complaint made under section 14 of the Premiums Regulation;
- (b) “insurer” has the same meaning that it has in the Premiums Regulation;
- (c) “policyholder” has the same meaning as it has in section 13(d) of the Premiums Regulation;
- (d) “Premiums Regulation” means the *Automobile Insurance Premiums Regulation* (AR 124/2004).

Duties of insurers

2 Before January 1, 2005, every insurer must

- (a) appoint one or more persons to be responsible for receiving and dealing with complaints from policyholders and notify the Superintendent of the name of the person or persons, and
- (b) establish a complaint resolution process in accordance with this Regulation.

Responding to complaints

3 The person appointed by an insurer to receive and to deal with complaints by policyholders must

- (a) be reasonably available to respond to policyholder's complaints,
- (b) facilitate the timely, expeditious and efficient management of complaints, and
- (c) keep the complaints resolution process of the insurer up-to-date, including notifying the Superintendent of any changes to the person or persons responsible for receiving and dealing with complaints.

Complaints resolution process

4(1) An insurer must establish and maintain a complaints resolution process, including the following:

- (a) a written process describing the means by which complaints are received, processed, considered and responded to within the time referred to in subsection (2);
- (b) the means by which and the times at which policyholders will be notified of the management of their complaint;
- (c) the opportunity that will be provided to policyholders to explain their complaint and the manner in which the insurer will respond to the policyholder;
- (d) a written code of ethical conduct for the manner in which complaints are processed, managed and decided;
- (e) a fair and efficient process for managing complaints that will allow the insurer, in accordance with section 14(2) of the Premiums Regulation, to make an attempt in good faith to resolve the policyholder's complaint.

(2) Unless the insurer and policyholder agree to extend the time period, the insurer must notify the policyholder in writing of the insurer's decision about the policyholder's complaint within 30 days of the date the insurer receives the complaint.

Reports

5 On or before June 1, 2005, and once every 6 months after that, an insurer must file a written report with the Superintendent covering all the following matters:

Appendix 4: Complaint Resolution Regulation

- (a) stating the number of complaints received;
- (b) stating the number of complaints resolved;
- (c) categorizing the general nature of the complaints received and the number in each category;
- (d) providing any other information the Superintendent requests.

Publication

6 An insurer must provide to its policyholders information about the complaint resolution process established in accordance with this Regulation and the person to whom and how complaints may be made.

Expiry

7 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 November 30, 2014.

Appendix 5

Automobile Insurance Premiums Regulation (A.R. 124/2004)

Table of Contents

- 1 Definitions

Part 1 Refunds, Premiums for Basic Coverage and Adjustments

- 2 Refunds of premiums for basic coverage
- 3 Maximum premium for basic coverage
- 4 Industry-wide adjustments
- 5 Offsetting adjustments to rating variables
- 6 Review of insurer rating program
- 7 Equalization of rate differentials
- 8 Setting of premiums

Part 2 Additional Coverage, New Insurers and Information Requirements

- 9 Filing of additional coverage
- 10 New insurers
- 11 Information required
- 12 Use of prescribed forms

Part 3 Complaint Resolution

- 13 Definitions
- 14 Complaint to insurer
- 15 Complaint to General Insurance OmbudService
- 16 Application for arbitration
- 17 Referral to arbitration
- 18 Automobile Insurance Dispute Resolution Committee

Part 4 Transitional Provisions, Amendments, Review and Coming into Force

- 19 Application of former Act
- 20 Transitional
- 21 Freeze order amended
- 22 Enforcement and Administration Regulation

- 23 Review
- 24 Coming into force

Schedules

Definitions

1 In this Regulation,

- (a) “Act” means the *Insurance Act*;
- (b) “additional coverage” has the same meaning as it has in section 652(a) of the Act;
- (c) “adjust” and “adjustment” mean increase or decrease;
- (d) “application for basic coverage” includes an application for renewal of basic coverage;
- (e) “base premium” means the premium determined under Schedule 3 for basic coverage for 12 months, or if for a period of less than 12 months, an amount prorated accordingly;
- (f) “basic coverage” means insurance provided for under sections 627 and 629 of the Act;
- (g) “Board” means the Automobile Insurance Rate Board established under section 653 of the Act;
- (h) “freeze order” means Order in Council numbered O.C. 592/2003, as amended from time to time;
- (i) “grid” means the grid established by Schedule 2;
- (j) “grid step” means the location on the grid corresponding to a step indicated on the grid;
- (k) “insurer” means, except in Part 2, an insurer who provides basic coverage for private passenger vehicles;
- (l) “maximum market premium” means the premium calculated under section 3(2) for basic coverage for 12 months, or if for a period of less than 12 months, an amount prorated accordingly;
- (m) “new insurer” means an insurer referred to in section 10(1);

- (n) “policyholder”, except in section 2, means the person who holds a policy for basic coverage in respect of a private passenger vehicle:
- (o) “private passenger vehicle” means a motor vehicle not weighing more than 4500 kg that is used for
 - (i) pleasure,
 - (ii) driving to or from work or school, or
 - (iii) business purposes, including farming operations,
but does not include
 - (iv) a motorcycle, power bicycle or moped,
 - (v) a vehicle used for commercial purposes, including, but not limited to,
 - (A) a vehicle used for transporting individuals for compensation, delivery of goods, courier or messenger service, parcel delivery, meal delivery or driver training,
 - (B) a vehicle rated under a fleet formula,
 - (C) a short-term lease or rental vehicle,
 - (D) a funeral vehicle, or
 - (E) a vehicle held for sale or used for demonstration or testing,
 - (vi) an emergency vehicle as defined in section 1(1)(m) of the *Traffic Safety Act*,
 - (vii) a recreational vehicle,
 - (viii) an antique vehicle registered under the *Traffic Safety Act* as an antique vehicle, or
 - (ix) an all terrain vehicle, a snow vehicle, a miniature motor vehicle or any other similar off-highway vehicle:
- (p) “rates”, when used in relation to a rating program, means the premiums in respect of the rating variables under the rating program that are used to determine the premium to be charged to or collected from a policyholder:

- (q) “rating program” means the rules, criteria, policies or guidelines of any nature, including rates, used or adopted by an insurer to determine the premiums for either basic or additional coverage, as applicable, to be charged to or collected from a policyholder;
- (r) “rating variable” means a class of risk for which a rate under a rating program is determined.

Part 1

Refunds, Premiums for Basic Coverage and Adjustments

Refunds of premiums for basic coverage

2(1) In this section, “policyholder” means a person who holds a policy for basic coverage in respect of a private passenger vehicle on October 1, 2004.

(2) An insurer must refund to its policyholders with respect to each private passenger vehicle insured under the policy an amount determined in accordance with the following formulas, whichever amount is greater:

(a)
$$R = \frac{(A - B) \times C}{365}$$

(b)
$$R = \frac{(A \times C) \times 5\%}{365}$$

where

- R** means the refund to be provided to the policyholder in respect of the private passenger vehicle;
- A** means the annualized premium of the policyholder for basic coverage in respect of the private passenger vehicle as of October 1, 2004;
- B** means the grid premium in respect of the private passenger vehicle determined under Schedule 1, section 6(2);
- C** means the number of days in the period beginning on October 1, 2004 and ending on the day the basic coverage in respect of the private passenger vehicle expires.

(3) Notwithstanding subsection (2), if the policyholder is paying a premium in instalments,

- (a) the refund payable under subsection (2) must be prorated with respect to the premium already paid, and
- (b) for the portion of the premium unpaid, the insurer must, in accordance with subsection (2), reduce the amount payable, prorated accordingly.

(4) Any refund exceeding \$10 to which a policyholder is entitled under this section must be provided to the policyholder by January 31, 2005.

(5) Refunds of \$10 or less must be provided to the policyholder at the request of the policyholder.

(6) A policyholder is not entitled to a refund under this section in respect of a private passenger vehicle if the premium for that vehicle includes an amount that takes into account a criminal code conviction as defined in Schedule 4.

Maximum premium for basic coverage

3(1) With respect to basic coverage for a private passenger vehicle coming into effect or renewed on or after October 1, 2004, no insurer may charge or collect a premium of more than

- (a) the maximum market premium, or
- (b) the grid premium determined under Schedule 1, section 6(2),

whichever is less.

(2) The maximum market premium for each private passenger vehicle of the policyholder is,

- (a) during the period October 1, 2004 to September 30, 2005, the premium for basic coverage calculated
 - (i) in accordance with the freeze order, less 5%;
 - (ii) in the case of a new insurer offering basic coverage for private passenger vehicles, in accordance with the rates set by the Board under section 10;
- (b) on and after October 1, 2005, the premium for basic coverage calculated in accordance with sections 4, 5, 6 and 7 or, in the case of a new insurer, in accordance with

the rates set by the Board under section 10 and subsequently in accordance with sections 4, 5, 6 and 7.

(3) Notwithstanding section 4 of the freeze order and notwithstanding that the maximum market premium with respect to basic coverage for a private passenger vehicle is lower than the grid premium determined under Schedule 1, an insurer may charge the grid premium determined under Schedule 1 if any one or more of the following apply in respect of the relevant driver of the vehicle:

- (a) the relevant driver had 3 or more at-fault claims during the preceding 6 years;
- (b) the relevant driver had 5 or more traffic safety convictions in the preceding 2 years;
- (c) the relevant driver had one or more criminal code convictions in the preceding 3 years;
- (d) the relevant driver had 2 or more serious traffic safety convictions in the preceding 3 years;
- (e) the relevant driver was convicted of one or more offences for fraud relating to automobile insurance in the previous 10 years.

(4) Subsection (3) does not apply in respect of a person who on October 1, 2004 is a policyholder of the insurer or a person insured under that policy.

(5) Terms defined in Schedules 1 and 4 apply to subsection (3).
[am A.R. 183/2004]

Industry-wide adjustments

4(1) On or before August 1 in each year, the Board may adjust uniformly on an Alberta automobile insurance industry-wide basis, in accordance with the criteria described in subsection (3), the rates under rating programs for basic coverage of private passenger vehicles.

(2) In accordance with the procedures of the Board, the Board may hear representations with respect to an adjustment under this section.

(3) The criteria for an adjustment are

- (a) the Alberta automobile insurance industry-wide loss costs, as that term is understood by the Board, for basic coverage for private passenger vehicles;

- (b) the administrative expenses relating to basic coverage for private passenger vehicles, on an Alberta automobile insurance industry-wide basis, that the Board considers appropriate to consider, which may include commissions, federal, provincial and municipal taxes and general expenses, as reported in the annual returns submitted by insurers to the Superintendent or a similar regulatory authority in another jurisdiction;
- (c) other Alberta automobile insurance industry-wide costs or expenses that the Board considers appropriate relating to basic coverage for private passenger vehicles;
- (d) any other criteria recommended by the Superintendent and approved by the Board.

(4) An adjustment under this section is effective October 1 of the year in which the adjustment is made by the Board.

(5) Notwithstanding subsection (4), if the Board increases the rates under a rating program for basic coverage in respect of private passenger vehicles, the increases may be applied by an insurer over a period of not more than 3 years commencing October 1 of the year in which the adjustment is made by the Board.

(6) Information about adjustments under subsection (1) must be made publicly available in a manner satisfactory to the Superintendent.

Offsetting adjustments to rating variables

5(1) On and after October 1, 2005, an insurer may, by notice in writing to the Board, increase, by up to 10% each, the rates for one or more of its rating variables under a rating program for basic coverage for private passenger vehicles if the increases in the rates are offset by reductions in the rates of one or more other rating variables.

(2) In making an adjustment under subsection (1), the insurer must ensure that the results of the adjustments are revenue neutral to the insurer, determined on the policies for basic coverage for private passenger vehicles in effect at a point in time not more than 60 days before a notice under subsection (1) is given.

(3) A notice under subsection (1) must be accompanied with

- (a) details of the rates that would apply to each rating variable after applying the adjustments, and
- (b) an analysis of how the adjustments are revenue neutral.

(4) An insurer may not, solely as a result of the adjustments under subsection (1), charge a policyholder on renewal a premium that on an annualized basis exceeds by more than 10% the premium previously charged for basic coverage for private passenger vehicles by that insurer to that policyholder.

(5) The information provided under subsection (3) must be verified as accurate by statutory declaration made by an officer of the insurer satisfactory to the Board.

Review of insurer rating program

6(1) On application by an insurer to the Superintendent, on or after October 1, 2005, to review the rating program of the insurer for basic coverage for private passenger vehicles, the Superintendent may in his or her sole discretion direct the Board to undertake such a review.

(2) On completion of the review, the Board, if it determines that an adjustment is appropriate, shall adjust the rates under the rating program for that insurer for basic coverage for private passenger vehicles effective on a date specified by the Board.

Equalization of rate differentials

7(1) In accordance with procedures established by the Superintendent under section 658 of the Act, and before July 1, 2005, or such later date approved by the Superintendent, each insurer must file with the Board a plan to eliminate any differential in rates in its rating programs for basic coverage identified by the Superintendent with respect to private passenger vehicles.

(2) The elimination of the differential referred to in subsection (1) must not commence before October 1, 2005 and must be completed in accordance with the plan by October 1, 2008 in instalments approved by the Superintendent.

Setting of premiums

8(1) For the purpose of section 656 of the Act, the premium set for basic coverage for private passenger vehicles for the period October 1, 2004 to September 30, 2005 is the premium calculated in accordance with the freeze order, less 5%.

(2) On the receipt of a notice under section 5(1), a determination under section 6(2) and the filing of a plan under section 7, premiums are deemed to have been set for the purpose of section 656 of the Act.

(3) Adjustments under sections 4, 5, 6 and 7 are cumulative.

Extension of time

8.1 Where an insurer is unable to comply with section 2 or 3 within the time determined by the section, the Superintendent, if satisfied that the insurer had made every reasonable effort to comply or that there were extenuating circumstances, may, subject to any terms and conditions, extend the time by which the section is to be complied with.

[am A.R. 183/2004]

Part 2
Additional Coverage, New Insurers
and Information Requirements

Filing of additional coverage

9(1) Every insurer that offers additional coverage must file with the Board by February 1, 2005,

- (a) its rating program for additional coverage, and
- (b) the rates under the rating program applicable to each type of additional coverage.

(2) An insurer, by notice in writing to the Board, may change its rating program for additional coverage or its rates under the rating program for additional coverage.

(3) Any proposed increase in rates for additional coverage made before the freeze order ends has no effect until the freeze order has ended.

[am A.R. 183/2004]

New insurers

10(1) An insurer that, under the Act,

- (a) becomes, on or after October 1, 2004, licensed in Alberta to undertake the class of automobile insurance and intends to offer basic coverage, or
- (b) is licensed in Alberta to undertake the class of automobile insurance and is not offering basic coverage but, on or after October 1, 2004, intends to begin offering basic coverage

must file with the Board its rating program for basic coverage for

private passenger vehicles and the rates under the rating program.

(2) If the Board is satisfied with the material, information, calculations and proposed rates filed with it under this section, the Board must set the rates for basic coverage under the rating program, effective on a date specified by the Board.

(3) An insurer that, under the Act,

- (a) becomes, on or after October 1, 2004, licensed in Alberta to undertake the class of automobile insurance and intends to offer additional coverage, or
- (b) is licensed in Alberta to undertake the class of automobile insurance and is not offering additional coverage but, on or after October 1, 2004, intends to begin offering additional coverage

must comply with section 9(1) as soon as practicable, and must comply with section 9(2).

Information required

11 For the purposes of carrying out any of its functions under this Regulation, the Board may

- (a) require an insurer to provide any information to it that the Board considers necessary if the information can reasonably be obtained taking into account the cost and practicability of doing so;
- (b) specify the manner and form in which anything required to be filed or provided under this Regulation or required to be provided under clause (a) must be provided to the Board;
- (c) require anything filed with or provided to the Board to be verified as true and correct by a statutory declaration made by an officer of the insurer satisfactory to the Board.

Use of prescribed forms

12 An insurer must use any form prescribed by the Minister under section 803 of the Act.

Part 3 Complaint Resolution

Definitions

13 In this Part,

- (a) “adverse contractual action” has the same meaning as it has in section 613.1(1) of the Act;
- (b) “Committee” means the Automobile Insurance Dispute Resolution Committee established by section 18;
- (c) “General Insurance OmbudService” means the General Insurance OmbudService incorporated under the *Canada Corporations Act* (Canada);
- (d) “policyholder” includes an applicant for basic coverage or for renewal of basic coverage.

Complaint to insurer

14(1) If a policyholder, with respect to a calculation, a determination, an action or an incident occurring on or after this section comes into force,

- (a) is not satisfied with respect to the basis on which a premium for basic coverage for a private passenger vehicle was determined under this Regulation, or
- (b) considers that an insurer, directly or indirectly, has with respect to insurance for basic coverage taken an adverse contractual action contrary to section 613.1 of the Act,

the policyholder may make a complaint to the insurer.

(2) On receipt of the complaint, the insurer must, in accordance with its policies and procedures and in accordance with regulations made under section 511(2) of the Act, make an attempt in good faith to resolve the policyholder’s complaint.

Complaint to General Insurance OmbudService

15(1) If a complaint is not resolved in accordance with section 14, the policyholder may, in accordance with the policies and procedures of the General Insurance OmbudService, apply to the General Insurance OmbudService to have the complaint addressed.

(2) The policies and procedures of the General Insurance OmbudService are, for the purposes of this section, those policies

and procedures agreed to by the Superintendent and the General Insurance OmbudService.

(3) On completion of its process, the General Insurance OmbudService must issue a written report to the policyholder and to the insurer.

Application for arbitration

16(1) Within 30 days of receipt of a report from the General Insurance OmbudService, the policyholder may apply to the Committee to refer a matter in dispute with an insurer to arbitration.

(2) In accordance with its rules, the Committee must

- (a) identify the matter in dispute,
 - (b) determine whether
 - (i) a further settlement effort may resolve the issue and, if so, facilitate that settlement effort,
 - (ii) the matter should be referred to arbitration, or
 - (iii) any further action should be taken
- and
- (c) notify the policyholder and the insurer of its determination.

Referral to arbitration

17(1) If the Committee decides to refer a matter to arbitration it must, in accordance with its rules,

- (a) appoint one or more arbitrators and identify the matter in dispute, and
- (b) give notice of the appointment to the insurer, the policyholder and the Superintendent,

and the arbitration is commenced on service of the notice.

(2) The Superintendent has the right to attend and make representations in an arbitration.

(3) An arbitrator must make an award as soon as practicable, but in any case within the time specified by the Committee's rules, and

send copies to

- (a) the parties,
- (b) the Superintendent, and
- (c) the Committee.

(4) An arbitrator may make an award to remedy the matter in dispute, but if damages are claimed the arbitrator may award only compensatory damages.

(5) The *Arbitration Act* as modified by this Part and the Committee's rules apply to an arbitration conducted under this Part.

(6) The fees and expenses of the arbitrator and the arbitrator's costs in conducting the arbitration shall be set by the Superintendent.

Automobile Insurance Dispute Resolution Committee

18(1) The Automobile Insurance Dispute Resolution Committee is hereby established composed of the one or more persons appointed to the Committee by the Minister.

(2) If the Committee has more than one member,

- (a) the Minister must appoint a member as chair, and
- (b) the chair may designate one or more members of the Committee to act on the Committee's behalf.

(3) The Committee's function is to seek to resolve complaints under this Part as expeditiously and efficiently as possible, and the Committee may

- (a) establish mediation or other dispute resolution processes to facilitate settlement of disputes;
- (b) establish, subject to the approval of the Minister, rules for arbitration proceedings, including
 - (i) providing for electronic hearings and documents-only hearings when the situation warrants,
 - (ii) specifying the time within which an award must be issued, subject to extension of time by agreement of the parties,

- (iii) determining responsibility for the payment of the arbitrator's fees, costs and expenses,
 - (iv) the appointment of arbitrators and the manner in which the Committee decides the matter in dispute,
 - (v) the consolidation of several similar or related matters into one reference to arbitration, or the reference of a representative dispute to arbitration, and
 - (vi) generally, for the procedure and conduct of arbitration proceedings:
- (c) establish a roster of suitably qualified individuals to act as arbitrators;
 - (d) establish or adopt a code of ethical conduct for arbitrators.
- (4) With the consent of the Minister, the Committee may delegate any one or more of its functions to another person.

Part 4 Transitional Provisions, Amendments, Review and Coming into Force

Application of former Act

19(1) Sections 652 to 660 of the Act, except section 654(a), as the Act read immediately before being amended by the *Insurance Amendment Act, 2003 (No. 2)* continue to apply to the insurance of automobiles other than private passenger vehicles.

(2) For the purposes of the provisions referred to in subsection (1), "Board" means the Alberta Automobile Insurance Board until the Automobile Insurance Rate Board is established.

(3) On the establishment of the Automobile Insurance Rate Board, that Board has the duties and functions of the Alberta Automobile Insurance Board under the provisions of the Act referred to in subsection (1).

Transitional

20 A classification of automobiles

- (a) approved by the Alberta Automobile Insurance Board, or

- (b) filed with the Alberta Automobile Insurance Board for 60 days that is neither approved or disapproved by that Board

under section 656(1) of the Act as it read immediately before section 15 of the *Insurance Amendment Act, 2003 (No. 2)* came into force is deemed to be a rating variable under this Regulation.

Freeze order amended

21 The freeze order is amended

- (a) in section 7 by striking out “automobiles” and substituting “new model automobiles only”;
- (b) in section 10(1) by striking out “April 29,” and substituting “September 30,”.

Enforcement and Administration Regulation

22 The *Enforcement and Administration Regulation* (AR 129/2001) is amended in the Schedule by adding the following after item 5:

6 *Automobile Insurance Premiums Regulation*

- sections 2, 3, 5(4), 9, 10, 11 and 12.

Review

23 A review of this Regulation must be completed no later than September 30, 2006.

Coming into force

24(1) This Regulation, except section 21, comes into force on October 1, 2004.

(2) Section 21 comes into force on June 21, 2004.

Schedule 1

Calculation of Grid Premiums

Definitions

1(1) In this Schedule,

- (a) “at-fault claim” means, in respect of liability described in section 627 of the Act or under the same or equivalent coverage in any other jurisdiction, inside or outside Canada,
- (i) a claim paid in respect of that liability for which the driver is wholly or partially at fault, and
 - (ii) a claim made in respect of which the insurer has reasonably determined that a payment will or is likely to be made as a result of the fault, whole or partial, of the driver,

but does not include a claim in respect of which the policyholder has repaid the insurer for the amount of the claim within 90 days after the claim was paid by the insurer;

- (b) “driver training certificate” means a certificate evidencing successful completion of an approved driver training course issued by a driver training school licensed under the *Traffic Safety Act* or any other school outside Alberta satisfactory to the insurer;

- (c) “driving experience” means the combined time during which a person has had

- (i) a valid operator’s licence in Canada, and
- (ii) a valid operator’s licence in a country outside Canada, if the person provides evidence satisfactory to the insurer,

but does not include

- (iii) the time during which the person held a learner’s operator’s permit, and
- (iv) a period of time during which the person’s operator’s licence was suspended, cancelled or revoked;

- (d) “highest rated driver” means the person who has the highest percentage determined under section 6(1)(b);
- (e) “inexperienced driver” means a driver who has less than 8 years’ driving experience;
- (f) “occasional driver” means an inexperienced driver referred to in section 4(4)(b);
- (g) “relevant date” means
 - (i) with respect to a driver referred to in section 5(2)(a), the most recent date on or before September 30, 2004 on which the basic coverage came into effect;
 - (ii) with respect to a driver referred to in section 5(2)(b), the date the basic coverage comes into effect;
- (h) “relevant driver” means the person determined to be the relevant driver under section 4.

(2) For the purpose of determining driving experience, if a driver obtains a driver training certificate before or within 2 years after obtaining an operator’s licence, the driver is considered to have 2 years’ driving experience, but is not considered to have 3 years’ driving experience until the person has actually had 3 years’ driving experience.

(3) For the purpose of section 4(4), an inexperienced driver is a principal driver of a private passenger vehicle if the inexperienced driver will be driving the vehicle more than any other driver.

Guidelines

2 The Superintendent may issue guidelines respecting location and movements on the grid.

Steps to determine grid premium

3 To determine a grid premium in respect of a private passenger vehicle,

- (a) the relevant driver and any occasional driver of the private passenger vehicle must be determined in accordance with section 4,
- (b) the relevant driver and any occasional driver of the private passenger vehicle must each be located at a grid step in accordance with section 5, and

- (c) the grid steps at which the relevant driver and any occasional driver are located must be converted to a dollar amount in accordance with section 6.

Relevant and occasional drivers

4(1) The relevant driver and any occasional driver of a private passenger vehicle must be determined in accordance with this section.

(2) If the policyholder has the same number of private passenger vehicles as there are drivers of those vehicles, each driver must be matched to a vehicle, and the drivers are the relevant drivers in respect of the vehicles to which they are matched.

(3) If the policyholder has more private passenger vehicles than there are drivers of those vehicles,

- (a) each driver must be matched to a vehicle, and
- (b) for those vehicles not matched with a driver, the drivers already matched must be matched with the one or more unmatched vehicles, starting with the driver who has the lowest percentage determined under section 6(1)(b),

and the drivers are the relevant drivers in respect of the vehicles to which they are matched.

(4) If the policyholder has fewer private passenger vehicles than there are drivers of those vehicles,

- (a) the highest rated drivers must be matched with the vehicles first, but an inexperienced driver may not be matched unless the inexperienced driver is the principal driver of one of the vehicles, and the drivers are the relevant drivers in respect of the vehicles to which they are matched, and
- (b) the remaining drivers must not be matched with respect to any of the vehicles unless the drivers are inexperienced drivers, in which case those inexperienced drivers are considered to be occasional drivers.

(5) If the number of occasional drivers is equal to or less than the number of passenger vehicles, each occasional driver must be matched to a vehicle.

(6) If there are more occasional drivers than there are vehicles, each occasional driver must be matched to a vehicle starting with the occasional driver who is the highest rated driver, but in no case

may more than one occasional driver be matched in respect of the same vehicle.

Locating the correct grid step

5(1) A grid step must be established for each driver of a private passenger vehicle.

(2) A grid step is first established for a driver

- (a) with respect to a driver under basic coverage for a private passenger vehicle in effect on September 30, 2004, as of the relevant date of that coverage, and
- (b) if clause (a) does not apply in respect of a driver, the first time a policy for basic coverage for a private passenger vehicle comes into effect on or after October 1, 2004 under which the driver is included.

(3) The grid step is first established for a driver as follows, starting at grid step zero:

- (a) move up 5 grid steps for each at-fault claim during the 6 years preceding the relevant date, then, if applicable, move down one grid step for each year of driving experience, to a maximum of 5 years, in which there has not been an at-fault claim since the last at-fault claim preceding the relevant date, or
- (b) if there are no at-fault claims during the 6 years preceding the relevant date, move down one grid step for each year of driving experience, to a maximum of 15 years' driving experience.

(4) An insurer must, with respect to each subsequent application for basic coverage, make any necessary adjustments to the driver's location on the grid under subsections (5) and (6), starting from the previous grid location for that person, whether or not location on the grid was previously established by the same insurer.

(5) If, during the term of the policy being renewed or replaced,

- (a) the driver had an at-fault claim, the driver must be moved up 5 grid steps for each at-fault claim during the term of the policy, or
- (b) the driver did not have an at-fault claim and is not already located at grid step -15, the driver must be moved down one grid step for each full year of driving experience with no at-fault claims since the driver's location on the grid

was last changed or, if it has never changed, since the driver's location on the grid was first established.

(6) Despite subsection (5), if no at-fault claims have been made for the 6 consecutive years of driving experience immediately preceding the coming into effect or renewal of a policy for basic coverage, and the driver is located higher than grid step zero, the driver must be located on grid step zero.

(7) Every insurer must on the request of another insurer provide to that insurer any information necessary to determine a driver's location on the grid, including information about his or her current location on the grid.

Computation of grid premium

6(1) After each driver is located on a grid step in accordance with section 5, a premium must be determined for each driver as follows:

- (a) determine the base premium for the driver in accordance with Schedule 3;
- (b) determine the percentage by which to multiply the base premium in accordance with the following formula:

$$P = A + (A \times B)$$

where

- P means the percentage by which to multiply the base premium of the driver;
- A means the percentage of the base premium for the grid step of the driver determined in accordance with Schedule 2;
- B means the percentage surcharge, if any, for driving convictions calculated in accordance with Schedule 4;

- (c) multiply the base premium determined in clause (a) by the percentage determined in clause (b).

(2) The grid premium for basic coverage for a private passenger vehicle is the premium for the relevant driver determined in subsection (1) plus 25% of the premium determined in subsection (1) for the occasional driver, if any, of that vehicle.

Schedule 2

Grid

Grid established

1 The following grid is established for the purposes of this Regulation:

Grid steps	% for element A of Schedule 1, section 6(1)
	an increase of 23 percentage points for this and each subsequent step up the grid, computed cumulatively (see section 2 of this Schedule)
— +16.....	338%
— +15.....	315%
— +14.....	293%
— +13.....	270%
— +12.....	248%
— +11.....	225%
— +10.....	210%
— +9.....	195%
— +8.....	180%
— +7.....	165%
— +6.....	150%
— +5.....	140%
— +4.....	130%
— +3.....	120%
— +2.....	110%
— +1.....	100%
— Grid step zero	100%
— -1.....	95%
— -2.....	90%
— -3.....	85%
— -4.....	80%
— -5.....	75%
— -6.....	70%
— -7.....	65%
— -8.....	60%
— -9.....	55%
— -10.....	50%
— -11.....	50%
— -12.....	50%
— -13.....	50%
— -14.....	50%
— -15.....	50%

Determining percentage

2 Element A of Schedule 1, section 6(1), is determined by identifying the percentage opposite the grid step on which the relevant driver or occasional driver is located, except that

- (a) at grid step +16, the percentage is 23 percentage points more than the percentage opposite grid step +15, and
- (b) at each step higher than +16, the percentage is to be increased by 23 percentage points more than the percentage for the preceding grid step.

Schedule 3

Base Premium Calculation

Definitions

1 In this Schedule,

- (a) “Calgary territory” means the City of Calgary;
- (b) “Edmonton territory” means Townships 52, 53 and 54, Ranges 23, 24 and 25, all west of the 4th Meridian, which includes the City of Edmonton, the City of St. Albert, Clover Bar, Sherwood Park, Lancaster Park, Namao and Winterburn;
- (c) “rest of Alberta territory” means all areas of Alberta that are not included in the Edmonton territory or the Calgary territory.

Determining base premium

2(1) The base premium for a relevant driver and occasional driver is an amount calculated in accordance with the following table by determining

- (a) the territory in which the policyholder resides, and
- (b) the choice of the policyholder’s coverage under section 627 of the Act, namely: \$200 000, \$500 000, \$1 million or \$2 million or such other coverage amounts offered by the insurer that are included in the table.

Policyholder's choice of coverage	Territory		
	Edmonton territory	Calgary territory	Rest of Alberta territory
\$200 000	\$1683	\$1530	\$1224
\$250 000	\$1738	\$1580	\$1264
\$300 000	\$1775	\$1614	\$1291
\$400 000	\$1835	\$1668	\$1334
\$500 000	\$1881	\$1710	\$1368
\$750 000	\$1922	\$1747	\$1398
\$1 million	\$1980	\$1800	\$1440
\$2 million	\$2158	\$1962	\$1570

NOTE: The amounts in this table are subject to change by the Board under section 2(2), (3) and (4) of this Schedule.

(2) The Board must,

- (a) effective October 1, 2005, reduce the differential base premium between the Edmonton territory and the Calgary territory shown in the table by 40%;
- (b) effective October 1, 2006, reduce the differential base premium between the Edmonton territory and the Calgary territory shown in the table by 50%;
- (c) effective October 1, 2007, eliminate the remaining differential between the Edmonton territory and the Calgary territory shown in the table.

(3) In making an adjustment under subsection (2), the Board must ensure that the base premium for the rest of Alberta territory is 20% less than for the Calgary territory.

(4) In addition to the adjustments under subsections (2) and (3), if the Board has made an adjustment on an industry-wide basis under section 4 of this Regulation, the Board must, effective October 1 of the year in which the adjustment is made, make a corresponding percentage change to the base premiums in the table in this Schedule.

Schedule 4 Surcharges for Driving Convictions

Surcharges for driving convictions

1(1) This Schedule determines the percentage, if any, to be included in element B of the formula described in Schedule 1, section 6(1).

(2) A percentage is to be determined for a driver, in accordance with Table 1, for a criminal code conviction, serious traffic safety conviction and traffic safety conviction on a driver's abstract within the 3 years before the effect date of basic coverage or renewal of basic coverage, or any longer period determined under subsection (3).

(3) If a driver's operator's licence has been suspended or cancelled or the driver has been disqualified from driving, the 3-year period is extended by adding the period of suspension, cancellation or disqualification to the 3 years.

(4) If a person's driver abstract described in subsection (2) has on it a combination of any 2 or more of the following:

- (a) one or more criminal code convictions:
- (b) one or more serious traffic safety convictions:
- (c) one or more traffic safety convictions,

the percentage totals in each of the applicable columns of Table 1 must be added together and that total is the percentage for the relevant driver or occasional driver to be included in element B of the formula described in Schedule 1, section 6(1):

Table 1

Number of convictions	Surcharge for		
	Traffic safety convictions	Serious traffic safety convictions	Criminal Code convictions
1	0%	25%	300%
2	25%	50%	450%
3	35%	100%	For each additional conviction, add 150 percentage points to the immediately preceding percentage
4	50%	200%	
5	75%	400%	
6	100%	800%	
7 or more	For each additional conviction, double the immediately preceding percentage	For each additional conviction, double the immediately preceding percentage	

Definitions

2 In this Schedule,

- (a) “criminal code conviction” means a conviction for an offence under section 130 of the *National Defence Act* or for any of the following offences under the *Criminal Code* (Canada):

Description of offence (for convenience of reference only)	Criminal Code Section Number
Criminal negligence causing death committed by means of a motor vehicle	220
Criminal negligence causing bodily harm committed by means of a motor vehicle	221
Manslaughter committed by means of a motor vehicle	236
Dangerous operation of a motor vehicle	249(1)
Dangerous operation of a motor vehicle causing bodily harm	249(3)
Dangerous operation of a motor vehicle causing death	249(4)
Failing to stop a motor vehicle while being pursued by peace officer	249.1(1)
Failing to stop a motor vehicle causing bodily harm or death while being pursued by peace officer	249.1(3)
Failing to stop at scene of accident	252(1)
Failing to stop at scene of accident knowing bodily harm has been caused	252(1.2)
Failing to stop at scene of accident knowing death has been caused or reckless re bodily harm causing death	252(1.3)
Impaired driving or over .08	253
Failing or refusing to provide a blood or breath sample on demand	254
Impaired driving causing bodily harm	255(2)
Impaired driving causing death	255(3)
Operating a motor vehicle while disqualified	259(4)

- (b) “driver abstract” means the abstract of the driving record referred to in section 5(1) of the *Access to Motor Vehicle Information Regulation* (AR 140/2003) or a similar document of another province or territory in Canada;
- (c) “serious traffic safety conviction” means a conviction for any of the following offences under the *Traffic Safety Act*, or a conviction for an offence that is substantially similar under an enactment of Canada, other than the *Criminal Code* (Canada), or of another province or territory:

Appendix 5: Automobile
Insurance Premiums Regulation

Description of offence (for convenience of reference only)	Enactment and section number	
	Traffic Safety Act	Use of Highway and Rules of the Road Regulation
Failing to remain at scene of accident	69(1)	
Speeding - exceeding limit by more than 50 kph	115(2)(p)	53(5)(c)
Careless driving	115(2)(b)	
Racing	115(2)(c)	
Driving on a bet or wager	115(2)(d)	
Failing to stop for a school bus		72(1)
Driving while unauthorized	94(2)	
Failing to stop school bus, vehicle carrying explosives, etc. at uncontrolled railway crossing		42(5)
Failing to stop for a peace officer	166(2)	

- (d) “traffic safety conviction” means a conviction for any of the following offences under the *Traffic Safety Act*, or a conviction for an offence that is substantially similar under an enactment of Canada, other than the *Criminal Code* (Canada), or of another province or territory:

Description of offence (for convenience of reference only)	Enactment and section number	
	Traffic Safety Act	Use of Highway and Rules of the Road Regulation
Speeding - unreasonable rate of speed		2(1)(a)
Speeding - exceeding limit by over 30 but not more than 50 kph	115(2)(p)	53(5)(c)
Following too close		18
Failing to notify owner		
(a) of an unattended vehicle damaged in accident	69(2)(a)	
(b) of property damaged in accident	69(2)(b)	
Driver failing to make accident report	71(1)	
Speeding - exceeding limit by over 15 but not more than 30 kph	115(2)(p)	53(5)(c)
Improper passing in school zone or playground zone		8
Failing to stop, etc. when meeting		14

Appendix 5: Automobile
Insurance Premiums Regulation

oncoming vehicle on narrow roadway		
Passing on hill or curve or near railway crossing		19(1)
Passing on left when view obstructed or traffic present on left side of highway		20
Failing to pass on left in safe manner or failing to return to right side of roadway in safe manner		21(1)
Overtaking another vehicle by driving off the roadway, in a parking lane or when unsafe		23
Passing another vehicle stopped at crosswalk		41(2)
Driving left of centre line		12(1)
Driving wrong way on one-way highway		17
Impeding passing vehicle		21(2)
Impeding passing vehicle - multi-lane highway		22(2)(b)
Failing to yield right of way to a vehicle (a) at an intersection, or turning left unsafely (b) at yield sign (c) in traffic circle (d) at merge sign (e) at green light or green arrow (f) at flashing yellow light		34 39 40 50, 51 52(1), (3)-(5) 53(3)
Failing to yield right of way to a pedestrian (a) at an alley entrance or driveway (b) in a crosswalk (c) at a green light or green arrow (d) at flashing yellow light at intersection (e) at flashing yellow light not at intersection (f) at flashing yellow light with zone sign or symbol		36(3) 41(1) 52(1)-(5) 53(3) 53(4) 53(5)(d)
Failing to stop (a) before entering highway (b) at a stop sign (c) for an emergency vehicle sounding siren (d) at railway crossing when a train is approaching (e) within prescribed distance from		36(2) 37 65(1) 42(2)

Appendix 5: Automobile
Insurance Premiums Regulation

<ul style="list-style-type: none"> railway when stop sign (f) at yellow light at intersection (g) at yellow light not at intersection (h) at red light at intersection (i) at red light not at intersection (j) at flashing red light at intersection (k) at flashing red light not at intersection 		<ul style="list-style-type: none"> 42(4)(a) 53(1) 53(2) 54(1)(a) 54(4) 54(5)(a) 54(6)(a)
Unauthorized following within 150 metres of emergency vehicle sounding siren or with flashing lights or both		65(2)
Driving around barrier at railway crossing		42(3)
Proceeding when unsafe <ul style="list-style-type: none"> (a) after stopping at intersection (b) after stopping for stop sign at railway crossing (c) after stopping for school bus (d) after stopping for red light at intersection (e) after stopping for flashing red light at intersection (f) after stopping for flashing red light not at intersection 		<ul style="list-style-type: none"> 38 42(4)(b) 72(2) 54(1)(b) 54(5)(b) 54(6)(b)
Stunting	115(2)(f)	
Speeding - exceeding limit by up to 15 kph	115(2)(p)	53(5)(c)
Traffic lane violation <ul style="list-style-type: none"> (a) slow moving vehicle in incorrect lane (b) driving at less than maximum speed in designated fast lane outside an urban area (c) improperly crossing solid or broken lines or driving improperly on left side of broken lines on 2-way highway (d) making unsafe lane change (e) failing to drive in centre of marked lane (f) occupying 2 lanes (g) improperly driving in centre lane of 3 lane highway (h) driving in lane marked with "X" 		<ul style="list-style-type: none"> 3 2(1)(b) 15(1) 15(4) 15(5) 15(6) 16(1) 27(4)
Failing to obey instruction of traffic control device		57
Slow driving impeding or blocking traffic		2(1)(c)

Appendix 5: Automobile
Insurance Premiums Regulation

Driving at less than minimum speed	115(2)(q)	
Failing to obey direction of peace officer to increase speed, etc.		2(4)
Failing to signal		
(a) when changing lanes		15(2)
(b) when turning left or right		24
(c) when stopping		35
Improper turns		
(a) when turning right		25
(b) when turning left		26
(c) failing to obey traffic control device		27(1), (2)
(d) making U-turn unsafely or where prohibited		29, 30
(e) making U-turn with a school bus where prohibited		31
Backing up vehicle unsafely or where prohibited		32, 33

Appendix 6

Arbitration Act

Table of Contents

Introductory Matters

- 1 Interpretation
- 2 Application of Act
- 3 Party autonomy
- 4 Waiver of right to object
- 5 Arbitration agreements

Court Intervention

- 6 Court intervention limited
- 7 Stay
- 8 Powers of court

Arbitral Tribunal

- 9 Number of arbitrators
- 10 Appointment of arbitral tribunal
- 11 Independence and impartiality of arbitrators
- 12 No revocation
- 13 Challenge
- 14 Termination of arbitrator's mandate
- 15 Removal of arbitrator by court
- 16 Appointment of substitute arbitrator

Jurisdiction of Arbitral Tribunal

- 17 Jurisdiction, objections
- 18 Detention, preservation and inspection of property and documents

Conduct of Arbitration

- 19 Equality and fairness
- 20 Procedure
- 21 Evidence
- 22 Time and place of arbitration and meetings
- 23 Commencement of arbitration
- 24 Matters referred to arbitration
- 25 Procedural directions
- 26 Hearings and written proceedings
- 27 Default

- 28 Appointment of expert
- 29 Obtaining evidence
- 30 Restriction

Award and Termination of Arbitration

- 31 Application of law and equity
- 32 Conflict of laws
- 33 Application of arbitration agreement, contract and usages of trade
- 34 Decision of arbitral tribunal
- 35 Mediation and conciliation
- 36 Settlement
- 37 Binding nature of award
- 38 Form of award
- 39 Extension of time limits
- 40 Amplification of reasons
- 41 Interim and final awards
- 42 Termination of arbitration
- 43 Correction of errors

Remedies

- 44 Appeal of award
- 45 Setting aside award
- 46 Time limit
- 47 Declaration of invalidity of arbitration
- 48 Further appeal to Court of Appeal
- 49 Enforcement of award

General

- 50 Crown bound
- 51 Limitation periods
- 52 Service of notice
- 53 Costs
- 54 Interest

- 55 Taxation of costs
- 56 Transitional

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Introductory Matters**Interpretation**

1(1) In this Act,

- (a) “arbitration agreement” means, subject to subsections (2) and (3), an agreement or part of an agreement by which 2 or more persons agree to submit a matter in dispute to arbitration;
- (b) “arbitrator” includes an umpire;
- (c) “court” means,
 - (i) in sections 6 and 7, the Court of Queen’s Bench and the Provincial Court, and
 - (ii) in all other sections, the Court of Queen’s Bench.

(2) If the parties to an arbitration agreement make a further agreement in connection with the arbitration, it is deemed to form part of the arbitration agreement.

(3) Where a matter is authorized or required under an enactment to be submitted to arbitration, a reference in this Act to an arbitration agreement is a reference to the enactment, unless the context otherwise requires.

1991 cA-43.1 s1

Application of Act

2(1) This Act applies to an arbitration conducted under an arbitration agreement or authorized or required under an enactment unless

- (a) the application of this Act is excluded by an agreement of the parties or by law, or
- (b) Part 2 of the *International Commercial Arbitration Act* applies to the arbitration.

(2) If there is a conflict between this Act and the other enactment that authorized or required the arbitration, the other enactment prevails.

(3) This Act does not apply to an arbitration authorized or required under any of the following:

- (a) repealed 2003 cP-19.5 s133;
- (b) *Cancer Programs Act*.

- (c) repealed 2003 cP-19.5 s133;
- (d) *Labour Relations Code*;
- (e) *Police Officers Collective Bargaining Act*;
- (e.1) *Post-secondary Learning Act*;
- (f) *Public Service Employee Relations Act*;
- (g),(h) repealed 2003 cP-19.5 s133;
- (i) any other enactment set out in the regulations.

(4) The Lieutenant Governor in Council may make regulations prescribing enactments to which the *Arbitration Act* does not apply.

RSA 2000 cA-43 s2;2003 cP-19.5 s133

Party autonomy

3 The parties to an arbitration agreement may agree, expressly or by implication, to vary or exclude any provision of this Act except sections 5(2), 19, 39, 44(2), 45, 47 and 49.

1991 cA-43.1 s3

Waiver of right to object

4 A party to an arbitration who is aware of a non-compliance with a provision of this Act, except with a provision referred to in section 3, or with the arbitration agreement and who does not object to the non-compliance within the time limit provided or, if none is provided, within a reasonable time, is deemed to have waived the right to object.

1991 cA-43.1 s4

Arbitration agreements

5(1) An arbitration agreement need not be in writing.

(2) An agreement requiring or having the effect of requiring that a matter in dispute be adjudicated by arbitration before it may be dealt with by a court has the same effect as an arbitration agreement.

(3) An arbitration agreement may be rescinded only in accordance with the law of contract.

1991 cA-43.1 s5

Court Intervention

Court intervention limited

6 No court may intervene in matters governed by this Act, except for the following purposes as provided by this Act:

- (a) to assist the arbitration process;
- (b) to ensure that an arbitration is carried on in accordance with the arbitration agreement;
- (c) to prevent manifestly unfair or unequal treatment of a party to an arbitration agreement;
- (d) to enforce awards.

1991 cA-43.1 s6

Stay

7(1) If a party to an arbitration agreement commences a proceeding in a court in respect of a matter in dispute to be submitted to arbitration under the agreement, the court shall, on the motion of another party to the arbitration agreement, stay the proceeding.

(2) The court may refuse to stay the proceeding in only the following cases:

- (a) a party entered into the arbitration agreement while under a legal incapacity;
- (b) the arbitration agreement is invalid;
- (c) the subject-matter of the dispute is not capable of being the subject of arbitration under Alberta law;
- (d) the motion to stay the proceeding was brought with undue delay;
- (e) the matter in dispute is a proper one for default or summary judgment.

(3) An arbitration of the matter in dispute may be commenced or continued while the motion is before the court.

(4) If the court refuses to stay the proceeding,

- (a) no arbitration of the matter in dispute shall be commenced, and
- (b) an arbitration that has been commenced shall not be continued, and anything done in connection with the arbitration before the court's refusal is without effect.

(5) The court may stay the proceeding with respect to the matters in dispute dealt with in the arbitration agreement and allow the proceeding to continue with respect to other matters if it finds that

- (a) the agreement deals with only some of the matters in dispute in respect of which the proceeding was commenced, and
- (b) it is reasonable to separate the matters in dispute dealt with in the agreement from the other matters.

(6) There is no appeal from the court's decision under this section.

1991 cA-43.1 s7

Powers of court

8(1) The court's powers with respect to the detention, preservation and inspection of property, interim injunctions and the appointment of receivers are the same in arbitrations as in court actions.

(2) On the application of the arbitral tribunal, or on a party's application with the consent of the other parties or the arbitral tribunal, the court may determine any question of law that arises during the arbitration.

(3) The court's determination of a question of law may be appealed to the Court of Appeal with leave of that Court.

(4) On the application of all the parties to more than one arbitration, the court may order, on terms that it considers just,

- (a) that the arbitrations be consolidated,
- (b) that the arbitrations be conducted simultaneously or consecutively, or

(c) that any of the arbitrations be stayed until any of the others are completed.

(5) When the court orders that arbitrations be consolidated, it may appoint an arbitral tribunal for the consolidated arbitration, and if all the parties agree as to the choice of the arbitral tribunal, the court shall appoint that arbitral tribunal.

(6) Subsection (4) does not prevent the parties to more than one arbitration from agreeing to consolidate the arbitrations and doing everything necessary to effect the consolidation.

1991 cA-43.1 s8

Arbitral Tribunal

Number of arbitrators

9 If the arbitration agreement does not specify the number of arbitrators who are to form the arbitral tribunal, it shall be composed of one arbitrator.

1991 cA-43.1 s9

Appointment of arbitral tribunal

10(1) The court may appoint the arbitral tribunal, on a party's application, if

- (a) the arbitration agreement provides no procedure for appointing the arbitral tribunal, or
- (b) a person with power to appoint the arbitral tribunal has not done so within the time provided in the agreement or after a party has given the person 7 days' notice to do so, whichever is later.

(2) There is no appeal from the court's appointment of the arbitral tribunal.

(3) Subsections (1) and (2) apply to the appointment of individual members of arbitral tribunals.

(4) An arbitral tribunal composed of 3 or more arbitrators shall, and an arbitral tribunal composed of 2 arbitrators may, elect a chair from among themselves.

1991 cA-43.1 s10

Independence and impartiality of arbitrators

11(1) An arbitrator shall be independent of the parties and impartial as between the parties.

(2) Before accepting an appointment as arbitrator, a person shall disclose to all parties to the arbitration any circumstances of which that person is aware that may give rise to a reasonable apprehension of bias.

(3) An arbitrator who, during an arbitration, becomes aware of circumstances that may give rise to a reasonable apprehension of bias shall promptly disclose the circumstances to all the parties.

1991 cA-43.1 s11

No revocation

12 A party may not revoke the appointment of an arbitrator.

1991 cA-43.1 s12

Challenge

13(1) A party may challenge an arbitrator only on one of the following grounds:

- (a) circumstances exist that may give rise to a reasonable apprehension of bias;
- (b) the arbitrator does not possess qualifications that the parties have agreed are necessary.

- (2) A party who appointed an arbitrator or participated in the arbitrator's appointment may challenge the arbitrator only on grounds of which the party was unaware at the time of the appointment.
- (3) A party who wishes to challenge an arbitrator shall send the arbitral tribunal a statement of the grounds for the challenge within 15 days after becoming aware of them.
- (4) The other parties may agree to remove the arbitrator who is being challenged, or the arbitrator may resign.
- (5) If the arbitrator is not removed by the parties or does not resign, the arbitral tribunal, including the arbitrator who is being challenged, shall decide the issue and shall notify the parties of its decision.
- (6) Within 10 days after being notified of the arbitral tribunal's decision, a party may make an application to the court to decide the issue.
- (7) While an application is pending, the arbitral tribunal, including the arbitrator who is being challenged, may continue the arbitration and make an award, unless the court orders otherwise.

1991 cA-43.1 s13

Termination of arbitrator's mandate

- 14(1)** An arbitrator's mandate terminates when
- (a) the arbitrator resigns or dies,
 - (b) the parties agree to remove the arbitrator,
 - (c) 10 days elapse after all the parties are notified of the arbitral tribunal's decision to uphold a challenge of the arbitrator and remove the arbitrator, and no application is made to the court under section 13(6), or
 - (d) the court removes the arbitrator under section 15(1).
- (2) An arbitrator's resignation or a party's agreement to terminate an arbitrator's mandate does not imply acceptance of the validity of any reason advanced for challenging or removing the arbitrator.

1991 cA-43.1 s14

Removal of arbitrator by court

- 15(1)** The court may remove an arbitrator on a party's application under section 13(6), or may do so on a party's application if the arbitrator becomes unable to perform the functions of an arbitrator, commits a corrupt or fraudulent act, delays unduly in conducting the arbitration or does not conduct the arbitration in accordance with section 19.
- (2) The arbitrator is entitled to be heard by the court on an application under subsection (1).
- (3) When the court removes an arbitrator, it may give directions on the conduct of the arbitration.
- (4) If the court removes an arbitrator for a corrupt or fraudulent act or for undue delay, it may order that the arbitrator receive no payment for services and may order that the arbitrator compensate the parties for all or part of the costs, as determined by the court, that they incurred in connection with the arbitration before the arbitrator's removal.
- (5) The arbitrator or a party may, within 30 days after receiving the court's decision, appeal an order made under subsection (4) or the refusal to make such an order to the Court of Appeal, with leave of that Court.

(6) Except as provided in subsection (5), there is no appeal from the court's decision or from its directions under this section.

1991 cA-43.1 s15

Appointment of substitute arbitrator

16(1) When an arbitrator's mandate terminates, a substitute arbitrator shall be appointed, following the procedures that were used in the appointment of the arbitrator being replaced.

(2) When an arbitrator's mandate terminates, the court may, on the application of any party, give directions about the conduct of the arbitration.

(3) The court may appoint the substitute arbitrator on a party's application if

- (a) the arbitration agreement provides no procedure for appointing the substitute arbitrator, or
- (b) a person with power to appoint the substitute arbitrator has not done so within the time provided in the agreement or after a party has given the person 7 days' notice to do so, whichever is later.

(4) There is no appeal from the court's decision or from its directions under this section.

(5) This section does not apply if the arbitration agreement provides that the arbitration is to be conducted only by a named arbitrator.

1991 cA-43.1 s16

Jurisdiction of Arbitral Tribunal

Jurisdiction, objections

17(1) An arbitral tribunal may rule on its own jurisdiction to conduct the arbitration and may in that connection rule on objections with respect to the existence or validity of the arbitration agreement.

(2) The arbitral tribunal may determine any question of law that arises during the arbitration.

(3) If the arbitration agreement forms part of another agreement, it shall, for the purposes of a ruling on jurisdiction, be treated as an independent agreement that may survive even if the other agreement is found to be invalid.

(4) A party who objects to the arbitral tribunal's jurisdiction to conduct the arbitration shall do so no later than the beginning of the hearing or, if there is no hearing, no later than the first occasion on which the party submits a statement referred to in section 25 to the tribunal.

(5) A party who has appointed or participated in the appointment of an arbitrator is not prevented from objecting to the jurisdiction of the arbitral tribunal to conduct the arbitration.

(6) A party who objects that the arbitral tribunal is exceeding its jurisdiction shall do so as soon as the matter alleged to be beyond the tribunal's jurisdiction is raised during the arbitration.

(7) Notwithstanding section 4, if the arbitral tribunal considers the delay justified, a party may object after the time referred to in subsection (4) or (6), as the case may be, has passed.

(8) The arbitral tribunal may rule on an objection when it is raised or may deal with it in an award.

(9) If the arbitral tribunal rules on an objection as a preliminary question, a party may, within 30 days after receiving notice of the ruling, make an application to the court to decide the matter.

(10) There is no appeal from the court's decision on an application under subsection (9).

(11) While an application is pending, the arbitral tribunal may continue the arbitration and make an award.

1991 cA-43.1 s17

Detention, preservation and inspection of property and documents

18(1) On a party's request, an arbitral tribunal may make an order for the detention, preservation or inspection of property and documents that are the subject of the arbitration or as to which a question may arise in the arbitration and may order a party to provide security in that connection.

(2) The court may enforce the order of an arbitral tribunal as if it were a similar order made by the court in an action.

1991 cA-43.1 s18

Conduct of Arbitration

Equality and fairness

19(1) An arbitral tribunal shall treat the parties equally and fairly.

(2) Each party shall be given an opportunity to present a case and to respond to the other parties' cases.

1991 cA-43.1 s19

Procedure

20(1) The arbitral tribunal may determine the procedure to be followed in the arbitration.

(2) An arbitral tribunal that is composed of more than one arbitrator may delegate the determination of questions of procedure to the chair.

1991 cA-43.1 s20

Evidence

21(1) The arbitral tribunal is not bound by the rules of evidence or any other law applicable to judicial proceedings and has power to determine the admissibility, relevance and weight of any evidence.

(2) The arbitral tribunal may determine the manner in which evidence is to be admitted.

1991 cA-43.1 s21

Time and place of arbitration and meetings

22(1) The arbitral tribunal shall determine the time, date and place of arbitration, taking into consideration the parties' convenience and the other circumstances of the case.

(2) The arbitral tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or parties or for inspecting property or documents.

1991 cA-43.1 s22

Commencement of arbitration

23(1) An arbitration may be commenced in any way recognized by law, including the following:

- (a) a party to an arbitration agreement serves on the other parties notice to appoint or to participate in the appointment of an arbitrator under the agreement;

- (b) if the arbitration agreement gives a person who is not a party power to appoint an arbitrator, a party serves notice to exercise that power on the person and serves a copy of the notice on the other parties;
- (c) a party serves on the other parties a notice demanding arbitration under the arbitration agreement.

(2) The arbitral tribunal may exercise its powers when every member has accepted appointment.

1991 cA-43.1 s23

Matters referred to arbitration

24 An arbitration commenced without identifying the matters in dispute is deemed to refer to arbitration all matters in dispute that the arbitration agreement entitles the party commencing the arbitration to refer.

1991 cA-43.1 s24

Procedural directions

25(1) An arbitral tribunal may require that the parties submit their statements within a specified period of time.

(2) The statements of the parties shall indicate the facts supporting their position, the points at issue and the relief sought.

(3) The parties may submit, with their statements, the documents they consider relevant or may refer to the documents or other evidence they intend to submit.

(4) The parties may amend or supplement their statements during the arbitration, but the arbitral tribunal may disallow a change that is unduly delayed.

(5) The parties may submit their statements orally with the permission of the arbitral tribunal.

(6) The parties, and persons claiming through or under them, shall, subject to any legal objection, comply with the directions of the arbitral tribunal, including directions to

- (a) submit to examination on oath or affirmation with respect to the matters in dispute, or
- (b) produce records and documents that are in their possession or power.

(7) The court may enforce a direction of the arbitral tribunal as if it were a direction made by the court in an action.

1991 cA-43.1 s25

Hearings and written proceedings

26(1) The arbitral tribunal may conduct the arbitration on the basis of documents or may hold hearings for the presentation of evidence and for oral argument, but the tribunal shall hold a hearing if a party requests it.

(2) The arbitral tribunal shall give the parties sufficient notice of hearings and of meetings of the tribunal for the purpose of inspecting property or documents.

(3) A party shall

- (a) provide to the other parties a copy of any statement submitted to the arbitral tribunal, and
- (b) make available to the other parties any other information supplied to the arbitral tribunal.

(4) The arbitral tribunal shall not rely on an expert report or other document of which the parties have not been informed.

1991 cA-43.1 s26

Default

27(1) If the party commencing the arbitration does not submit a statement within the period of time specified under section 25(1), the arbitral tribunal may dismiss the claim by making an award terminating the arbitration, unless the party offers a satisfactory explanation.

(2) If a party other than the one who commenced the arbitration does not submit a statement within the period of time specified under section 25(1), the arbitral tribunal may continue the arbitration unless that party offers a satisfactory explanation, but the tribunal shall not treat the failure of that party to submit a statement as an admission of any other party's allegations.

(3) If a party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the arbitration and make an award on the evidence before it, unless the party offers a satisfactory explanation.

(4) In the case of an unreasonable delay by the party who commenced the arbitration, the arbitral tribunal may

- (a) make an award terminating the arbitration, or
- (b) give directions for the speedy determination of the arbitration,

and may impose conditions on its decision.

1991 cA-43.1 s27

Appointment of expert

28(1) An arbitral tribunal may appoint an expert to report to it on specific issues.

(2) The expert shall be a person agreed on by the parties and, failing an agreement, shall be determined by the arbitral tribunal.

(3) The remuneration to be paid to the expert shall be paid by the parties in equal portions, subject to the direction of the arbitral tribunal.

(4) The arbitral tribunal may require the parties to give the expert any relevant information or to allow the expert to inspect property or documents.

(5) At the request of a party or of the arbitral tribunal, the expert, after making the report, shall participate in a hearing in which the parties may question the expert and present the testimony of another expert on the subject-matter of the report.

1991 cA-43.1 s28

Obtaining evidence

29(1) A party may serve a person with a notice requiring the person to attend and give evidence at the arbitration at the time and place named in the notice.

(2) The notice has the same effect as a notice in a court proceeding requiring a witness to attend at a hearing or produce documents and shall be served in the same way.

(3) An arbitral tribunal may administer oaths, affirmations and declarations.

(4) An arbitral tribunal shall require witnesses to testify under oath, affirmation or declaration.

(5) On the application of a party or of the arbitral tribunal, the court may make orders and give directions with respect to the taking of evidence for an arbitration as if the arbitration

were a court proceeding.

1991 cA-43.1 s29

Restriction

30 No person shall be compelled to produce information, property or documents or to give evidence in an arbitration that the person could not be compelled to produce or give in a court proceeding.

1991 cA-43.1 s30

Award and Termination of Arbitration

Application of law and equity

31 An arbitral tribunal shall decide a matter in dispute in accordance with law, including equity, and may order specific performance, injunctions and other equitable remedies.

1991 cA-43.1 s31

Conflict of laws

32(1) In deciding a matter in dispute, an arbitral tribunal shall apply the law of a jurisdiction designated by the parties or, if none is designated, the law of a jurisdiction it considers appropriate in the circumstances.

(2) A designation by the parties of the law of a jurisdiction refers to the jurisdiction's substantive law and not to its conflict of laws rules unless the parties expressly indicate that the designation includes them.

1991 cA-43.1 s32

Application of arbitration agreement, contract and usages of trade

33 The arbitral tribunal shall decide the matters in dispute in accordance with the arbitration agreement and the contract, if any, under which the matters arose and shall also take into consideration any applicable usages of trade.

1991 cA-43.1 s33

Decision of arbitral tribunal

34 If an arbitral tribunal is composed of more than one member, a decision of a majority of the members is a decision of the arbitral tribunal, but if there is no majority decision or unanimous decision, the decision of the chair governs.

1991 cA-43.1 s34

Mediation and conciliation

35(1) The members of an arbitral tribunal may, if the parties consent, use mediation, conciliation or similar techniques during the arbitration to encourage settlement of the matters in dispute.

(2) After the members of an arbitral tribunal use a technique referred to in subsection (1), they may resume their roles as arbitrators without disqualification.

1991 cA-43.1 s35

Settlement

36 If the parties settle the matters in dispute during arbitration, the arbitral tribunal shall terminate the arbitration and shall record the settlement in the form of an award.

1991 cA-43.1 s36

Binding nature of award

37 An award binds the parties unless it is set aside or varied under section 44 or 45.

1991 cA-43.1 s37

Form of award

38(1) An award shall be made in writing and, except in the case of an award made under section 36, shall state the reasons on which it is based.

(2) An award shall indicate the place where and the date on which it is made.

(3) An award shall be dated and signed by all the members of the arbitral tribunal, or by a majority of them if an explanation of the omission of the other signatures is included.

(4) A copy of an award shall be served on each party.

1991 cA-43.1 s38

Extension of time limits

39 The court may extend the time within which the arbitral tribunal is required to make an award, even if the time has expired.

1991 cA-43.1 s39

Amplification of reasons

40(1) A party may, within 30 days after receiving a copy of the award, request, in writing, that the arbitral tribunal provide a further explanation of the reasons on which the award is based.

(2) If the arbitral tribunal does not give a sufficient explanation within 15 days after receiving the request, the court, on the party's application, may order the tribunal to do so.

1991 cA-43.1 s40

Interim and final awards

41(1) The arbitral tribunal may make interim awards.

(2) The arbitral tribunal may make more than one final award, disposing of one or more matters in dispute referred to arbitration in each award.

1991 cA-43.1 s41

Termination of arbitration

42(1) An arbitration is terminated when

- (a) the arbitral tribunal makes a final award or awards in accordance with this Act, disposing of all matters in dispute referred to arbitration,
- (b) the arbitral tribunal terminates the arbitration under subsection (2) or section 27(1) or (4), or
- (c) the arbitrator's mandate is terminated, if the arbitration agreement provides that the arbitration is to be conducted only by that arbitrator.

(2) An arbitral tribunal shall make an order terminating the arbitration if

- (a) the party that commenced the arbitration withdraws the matters in dispute, unless the other party objects to the termination and the arbitral tribunal agrees that the other party is entitled to obtain a final settlement of the matters in dispute,
- (b) the parties agree that the arbitration should be terminated, or
- (c) the arbitral tribunal finds that the continuation of the arbitration has become unnecessary or impossible.

(3) An arbitration that is terminated may only be revived for the purposes of section 43, 44(4), 45(7) and (8) or 53(4).

- (4) The death of a party to an arbitration does not terminate an arbitral tribunal.
- (5) Subsection (4) does not affect a rule of law or an enactment under which the death of a person extinguishes a cause of action.

1991 cA-43.1 s42

Correction of errors

43(1) An arbitral tribunal may, on its own initiative within 30 days after making an award or at a party's request made within 30 days after receiving the award,

- (a) correct typographical errors, errors of calculation and similar errors in the award, or
- (b) amend the award so as to correct an injustice caused by an oversight on the part of the arbitral tribunal.

(2) The arbitral tribunal may,

- (a) on its own initiative within 30 days after making an award or such longer time as approved by the parties, or
- (b) at the request of a party within 30 days after receipt of the award by that party,

make an additional award to deal with a matter in dispute that was presented in the arbitration but omitted from the earlier award.

(3) The arbitral tribunal need not hold a hearing or meeting before rejecting a request made under this section.

1991 cA-43.1 s43

Remedies**Appeal of award**

44(1) If the arbitration agreement so provides, a party may appeal an award to the court on a question of law, on a question of fact or on a question of mixed law and fact.

(2) If the arbitration agreement does not provide that the parties may appeal an award to the court on a question of law, a party may appeal an award to the court on a question of law with leave, which the court shall grant only if it is satisfied that

- (a) the importance to the parties of the matters at stake in the arbitration justifies an appeal, and
- (b) determination of the question of law at issue will significantly affect the rights of the parties.

(3) Notwithstanding subsections (1) and (2), a party may not appeal an award to the court on a question of law that the parties expressly referred to the arbitral tribunal for decision.

(4) The court may require the arbitral tribunal to explain any matter.

(5) The court may confirm, vary or set aside the award or may remit the award to the arbitral tribunal and give directions about the conduct of the arbitration.

(6) Where the court remits the award to the arbitral tribunal in the case of an appeal on a question of law, it may also remit to the tribunal the court's opinion on the question of law.

1991 cA-43.1 s44

Setting aside award

45(1) On a party's application, the court may set aside an award on any of the following grounds:

- (a) a party entered into the arbitration agreement while under a legal incapacity;
- (b) the arbitration agreement is invalid or has ceased to exist;
- (c) the award deals with a matter in dispute that the arbitration agreement does not cover or contains a decision on a matter in dispute that is beyond the scope of the agreement;
- (d) the composition of the arbitral tribunal was not in accordance with the arbitration agreement or, if the agreement did not deal with the matter, was not in accordance with this Act;
- (e) the subject-matter of the arbitration is not capable of being the subject of arbitration under Alberta law;
- (f) the applicant was treated manifestly unfairly and unequally, was not given an opportunity to present a case or to respond to another party's case, or was not given proper notice of the arbitration or of the appointment of an arbitrator;
- (g) the procedures followed in the arbitration did not comply with this Act or the arbitration agreement;
- (h) an arbitrator has committed a corrupt or fraudulent act or there is a reasonable apprehension of bias;
- (i) the award was obtained by fraud.

(2) If subsection (1)(c) applies and it is reasonable to separate the decisions on matters covered by the arbitration agreement from the impugned ones, the court shall set aside the impugned decisions and allow the others to stand.

(3) The court shall not set aside an award on grounds referred to in subsection (1)(c) if the applicant has agreed to the inclusion of the matter in dispute, waived the right to object to its inclusion or agreed that the arbitral tribunal has power to decide what matters in dispute have been referred to it.

(4) The court shall not set aside an award on grounds referred to in subsection (1)(h) if the applicant had an opportunity to challenge the arbitrator on those grounds under section 13 before the award was made and did not do so or if those grounds were the subject of an unsuccessful challenge.

(5) The court shall not set aside an award on a ground to which the applicant is deemed under section 4 to have waived the right to object.

(6) If the ground alleged for setting aside the award could have been raised as an objection to the arbitral tribunal's jurisdiction to conduct the arbitration, the court may set the award aside on that ground if it considers the applicant's failure to make an objection in accordance with section 17 justified.

(7) When the court sets aside an award, it may remove an arbitrator or the arbitral tribunal and may give directions about the conduct of the arbitration.

(8) Instead of setting aside an award, the court may remit it to the arbitral tribunal and give directions about the conduct of the arbitration.

Time limit

46(1) The following must be commenced within 30 days after the appellant or applicant receives the award, correction, explanation, change or statement of reasons on which the appeal or application is based:

- (a) an appeal under section 44(1);
- (b) an application for leave to appeal under section 44(2);
- (c) an application to set aside an award under section 45.

(2) An application to set aside an award on the grounds that an arbitrator has committed a corrupt or fraudulent act or that the award was obtained by fraud must be commenced

- (a) within the period referred to in subsection (1), or
- (b) within 30 days after the applicant discovers or ought to have discovered the fraud or corrupt act,

whichever is later.

1991 cA-43.1 s46;1992 c21 s4

Declaration of invalidity of arbitration

47(1) At any stage during or after an arbitration on the application of a party who has not participated in the arbitration, the court may grant a declaration that the arbitration is invalid because

- (a) a party entered into the arbitration agreement while under a legal incapacity,
- (b) the arbitration agreement is invalid or has ceased to exist,
- (c) the subject-matter of the arbitration is not capable of being the subject of arbitration under Alberta law, or
- (d) the arbitration agreement does not apply to the matter in dispute.

(2) When the court grants the declaration it may also grant an injunction prohibiting the commencement or continuation of the arbitration.

1991 cA-43.1 s47

Further appeal to Court of Appeal

48 An appeal from the Court of Queen's Bench decision under section 44, 45 or 47 may be made to the Court of Appeal with leave of a justice of the Court of Appeal.

RSA 2000 cA-43 s48;RSA 2000 c16(Supp) s69

Enforcement of award

49(1) A person who is entitled to enforce an award made in Alberta or elsewhere in Canada may make an application to the court to that effect.

(2) The application shall be made on notice to the person against whom enforcement is sought, in accordance with the *Alberta Rules of Court*, and shall be supported by the original award or a certified copy of it.

(3) The court shall give a judgment enforcing an award made in Alberta unless

- (a) the 30-day period for commencing an appeal or an application to set the award aside has not yet elapsed,
- (b) an appeal, an application to set the award aside or an application for a declaration of invalidity is pending, or

- (c) the award has been set aside or the arbitration is the subject of a declaration of invalidity.
- (4) The court shall give a judgment enforcing an award made elsewhere in Canada unless
- (a) the period for commencing an appeal or an application to set the award aside provided by the laws in force in the province or territory where the award was made has not yet elapsed,
 - (b) an appeal, an application to set the award aside or an application for a declaration of invalidity is pending in the province or territory where the award was made,
 - (c) the award has been set aside in the province or territory where it was made or the arbitration is the subject of a declaration of invalidity granted there, or
 - (d) the subject-matter of the award is not capable of being the subject of arbitration under Alberta law.
- (5) If the period for commencing an appeal, an application to set the award aside or an application for a declaration of invalidity has not yet elapsed, or if such a proceeding is pending, the court may
- (a) enforce the award, or
 - (b) order, on such conditions as the court considers just, that enforcement of the award is stayed until the period has elapsed without such a proceeding being commenced or until the pending proceeding is finally disposed of.
- (6) If the court stays the enforcement of an award made in Alberta until a pending proceeding is finally disposed of, it may give directions for the speedy disposition of the proceeding.
- (7) If the award gives a remedy that the court does not have jurisdiction to grant or would not grant in a proceeding based on similar circumstances, the court may
- (a) grant a different remedy requested by the applicant, or
 - (b) in the case of an award made in Alberta, remit it to the arbitral tribunal with the court's opinion, in which case the arbitral tribunal may award a different remedy.
- (8) The court has the same powers with respect to the enforcement of awards as with respect to the enforcement of its own judgments.

1991 cA-43.1 s49

General

Crown bound

50 This Act binds the Crown.

1991 cA-43.1 s50

Limitation periods

51(1) The law with respect to limitation periods applies to an arbitration as if the arbitration were an action and a matter in dispute in the arbitration were a cause of action.

(2) If the court sets aside an award, terminates an arbitration or declares an arbitration to be invalid, it may order that the period from the commencement of the arbitration to the date of the order is excluded from the computation of the time within which an action may be brought on a cause of action that was a matter in dispute in the arbitration.

- (3) An application for the enforcement of an award may not be made more than
- (a) 2 years after the day on which the applicant receives the award, or
 - (b) 2 years after all appeal periods have expired,

whichever is later.

1991 cA-43.1 s51

Service of notice

- 52(1)** A notice or other document may be served on an individual by leaving it with that individual.
- (2) A notice or other document may be served on a corporation by leaving it with an officer, director or agent of the corporation, or at a place of business of the corporation with a person who appears to be in control or management of the place.
- (3) A notice or other document may be served by facsimile telecommunication by sending it to the addressee at the number that the addressee specified in the arbitration agreement or furnished to the arbitral tribunal.
- (4) If a reasonable effort to serve a notice or other document under subsection (1) or (2) is not successful and it is not possible to serve it under subsection (3), it may be sent by prepaid registered mail to the mailing address that the addressee specified in the arbitration agreement or furnished to the arbitral tribunal or, if none was specified or furnished, to the addressee's last known place of business or residence.
- (5) Unless the addressee establishes that the addressee, acting in good faith, through absence, illness or other cause beyond the addressee's control failed to receive the notice or other document until a later date, it is deemed to have been received,
- (a) on the day it is given or transmitted, in the case of service under subsection (1), (2) or (3), or
 - (b) on the 5th day after the day of mailing, in the case of service under subsection (4).
- (6) The court may make an order for substituted service or an order dispensing with service in the same manner as under the *Alberta Rules of Court* if the court is satisfied that it is necessary to serve the notice or other document to commence an arbitration or proceed toward the appointment of an arbitral tribunal and that it is impractical for any reason to effect prompt service under subsection (1), (2), (3) or (4).
- (7) This section does not apply to the service of documents in respect of court proceedings.

1991 cA-43.1 s52

Costs

- 53(1)** An arbitral tribunal may award the costs of an arbitration.
- (2) The arbitral tribunal may award all or part of the costs of an arbitration on a solicitor-and-client basis, a party-and-party basis or any other basis but if it does not specify the basis, the costs shall be determined on a party-and-party basis.
- (3) The costs of an arbitration consist of the parties' legal expenses, the fees and expenses of the arbitral tribunal and any other expenses related to the arbitration.
- (4) If the arbitral tribunal does not deal with costs in an award, a party may, within 30 days after receiving the award, request that it make a further award dealing with costs.
- (5) In the absence of an award dealing with costs, each party is responsible for that party's own legal expenses and for an equal share of the fees and expenses of the arbitral tribunal

and of any other expenses related to the arbitration.

(6) If a party makes an offer, in writing, to another party to settle the matter in dispute or part of it, the offer is not accepted and the arbitral tribunal's award is no more favourable to the party to which the offer was made than was the offer, the arbitral tribunal may take that fact into account in awarding costs in respect of the period from the making of the offer to the making of the award.

(7) The fact that an offer to settle has been made shall not be communicated to the arbitral tribunal until it has made a final determination of all aspects of the matters in dispute other than costs.

1991 cA-43.1 s53

Interest

54(1) An arbitral tribunal has the same power with respect to interest as the court has under the *Judgment Interest Act*, but the provision for payment into court does not apply.

(2) An award is a judgment debt for the purposes of the *Judgment Interest Act*.

1991 cA-43.1 s54

Taxation of costs

55(1) The fees and expenses paid to an arbitrator shall not exceed the fair and reasonable value of the services performed and the necessary and reasonable expenses actually incurred.

(2) A party to an arbitration may apply to the clerk of the court to have an arbitrator's account for fees and expenses taxed by a taxing officer in the same manner as a charge for services of a barrister and solicitor under the *Alberta Rules of Court*.

(3) If the arbitral tribunal awards costs and directs that they be taxed, or awards costs without fixing the amount or indicating how it is to be ascertained, a party to the arbitration may have the costs taxed by a taxing officer in a similar manner as costs under the *Alberta Rules of Court*, having regard to the special characteristics of arbitrations.

(4) In taxing the part of the costs represented by the fees and expenses of the arbitral tribunal, the taxing officer shall apply the same principles as in the taxation of an account under subsection (1).

(5) Subsection (2) applies even if the account has been paid.

(6) On the application of a party to the arbitration, the court may review a taxation of costs or of an arbitrator's account for fees and expenses and may confirm the taxation, vary it, set it aside or remit it to the taxing officer with directions.

(7) On the application of an arbitrator, the court may review the taxation of the arbitrator's account for fees and expenses and may confirm it, vary it, set it aside or remit it to the taxing officer with directions.

(8) An application for review may not be made after the period specified in the taxation officer's certificate has elapsed or, if no period is specified, more than 30 days after the date of the certificate, unless the court orders otherwise.

(9) When the time during which an application for review may be made has expired and no application has been made or when the court has reviewed the taxation and made a final determination, the taxing officer's certificate may be filed with the court and enforced as if it were a judgment of the court.

1991 cA-43.1 s55

Transitional

56(1) This Act applies to arbitrations conducted under arbitration agreements made before September 1, 1991 if the arbitration is commenced on or after September 1, 1991.

(2) Notwithstanding its repeal by section 58, the Arbitration Act (RSA 1980 cA-43) continues to apply to arbitrations that are commenced before September 1, 1991.

1991 cA-43.1 s56