

APPENDIX
Insurance Act
Automobile Insurance Premiums Regulation
ARBITRATION PROCEEDINGS RULES

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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.