



ORDINANCES
OF THE
YUKON TERRITORY

PASSED BY THE
YUKON COUNCIL

IN THE YEAR
1977
FIRST SESSION
March 1, 1977 to April 28, 1977

A. M. PEARSON
COMMISSIONER

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EXPLANATORY NOTE

The Legislative Assembly adjourned April 28th, 1977. Any additional legislation that may be enacted prior to prorogation of the 1977 First Session will be contained in subsequent volumes of the sessional Ordinances for the 1977 First Session.

ORDINANCES OF THE YUKON TERRITORY

1977

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CHAPTER 1
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

INSURANCE ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE

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|--------|---|-------------|
| 1. (1) | This Ordinance may be cited as the <i>Insurance Ordinance</i> . | Short title |
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INTERPRETATION

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|--------|---|--|
| 2. (1) | In this Ordinance, except where inconsistent with the interpretation sections of any Part,
"accident insurance" means insurance by which the insurer undertakes, otherwise than incidentally to some other class of insurance defined by or under this Ordinance, to pay insurance money in the event of accident to the person or persons insured, but does not include insurance by which the insurer undertakes to pay insurance money both in the event of death by accident and in the event of death from any other cause;
"accidental death insurance" means insurance undertaken by an insurer as part of a contract of life insurance whereby the insurer undertakes to pay an additional amount of insurance money in the event of the death by accident of the person whose life is insured;
"actuary" means a Fellow of the Canadian Institute of Actuaries;
"adjuster" means a person who, | Definitions

"accident insurance"

"accidental death insurance"

"actuary"

"adjuster" |
|--------|---|--|

- (a) on behalf of an insurer or an insured, for compensation, directly or indirectly solicits the right to negotiate the settlement of or investigate a loss or claim under a contract or a fidelity, surety or guarantee bond issued by an insurer, or investigates, adjusts or settles any such loss or claim, or
- (b) hold himself out as an adjuster, investigator, consultant or adviser with respect to the settlement of such losses or claims, but does not include,
 - (c) a barrister or solicitor acting in the usual course of his profession,
 - (d) a trustee or agent of the property insured,
 - (e) a salaried employee of a licensed insurer while acting on behalf of such insurer in the adjustment of losses,
 - (f) a person who is employed as an appraiser, engineer or other expert solely for the purpose of giving expert advice or evidence, or
 - (g) a person who acts as an adjuster of marine losses only;

"agent"

"agent" means a person who, for compensation, not being a duly licensed insurance broker or not being a person acting under the authority of subsection 216.(15), (16) or (17), solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal;

"aircraft insurance"

"aircraft insurance" means insurance against loss

of or damage to an aircraft and against liability for loss or damage to persons or property caused by an aircraft or by the operation thereof;

"appeal" includes a judicial revision or review of a judgment, decision, order, direction, determination, finding or conviction, and a case stated or reserved, and a removal of proceedings by law of *certiorari* or otherwise;

"appeal"

"automobile" includes a self-propelled vehicle and the trailers, accessories and equipment of automobiles, but does not include railway rolling stock that runs on rails, watercraft or aircraft;

"automobile"

"automobile insurance" means insurance

"automobile insurance"

- (a) against liability arising out of
 - (i) bodily injury to or the death of a person, or
 - (ii) loss of or damage to property, caused by an automobile or the use or operation thereof, or
- (b) against loss of or damage to an automobile and the loss of use thereof

and includes insurance otherwise coming within the class of accident insurance where the accident is caused by an automobile or the use or operation thereof, whether liability exists or not, if the contract also includes insurance described under employers' liability insurance;

"Automobile Insurance Plan" means an organization of insurers undertaking automobile insurance in the Territory formed for the purpose of allocating automobile insurance risks so as to ensure the availability of insurance coverage to owners and drivers wishing to purchase automobile insurance;

"Automobile Insurance Plan"

"boiler and machinery insurance"	"boiler and machinery insurance" means insurance against loss of or damage to persons or property and against liability for loss or damage to persons or property through the explosion, collapse, rupture or breakdown of, or accident to, boilers or machinery of any kind;
"broker"	"broker" means a person who, for compensation, not being a licensed agent or not being a person acting under the authority of subsection 216.(15), (16), or (17), acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance or in negotiating the continuance or renewal of such contracts for a person other than himself;
"chief agency"	"chief agency" means the principal office or place of business in the Territory of any licensed insurer having its head office out of the Territory;
"contract"	"contract" means a contract of insurance, and includes a policy, certificate, interim receipt, renewal receipt, or writing evidencing the contract, whether sealed or not, and a binding oral agreement;
"credit insurance"	"credit insurance" means insurance against loss to the insured through the insolvency or default of a person to whom credit is given in respect of goods, wares or merchandise;
"disability insurance"	"disability insurance" means insurance undertaken by an insurer as part of a contract of life insurance whereby the insurer undertakes to pay insurance money or to provide other benefits in the event that the person whose life is insured becomes disabled as a result of bodily injury or disease;
"due application"	"due application" includes such information, evi-

dence and material as the Superintendent requires to be furnished, and also the payment of the fees hereinafter prescribed in respect of any application, certificate or document required or issued by virtue of this Ordinance;

"employers' liability insurance" means insurance, not being insurance incidental to some other class of insurance defined by or under this Ordinance, against loss to an employer through liability for accidental injury to or death of an employee arising out of or in the course of his employment;

"employers' liability insurance"

"endowment insurance", as applied to a fraternal society, means an undertaking to pay an ascertained or ascertainable sum at a fixed future date if the person whose life is insured is then alive, or at his death if he dies before such date;

"endowment insurance"

"fire insurance" means insurance, not being insurance incidental to some other class of insurance defined by or under this Ordinance, against loss of or damage to property through fire, lightning or explosion due to ignition;

"fire insurance"

"foreign jurisdiction" means a jurisdiction other than the Territory;

"foreign jurisdiction"

"fraternal society" means a society, order or association incorporated for the purpose of making with its members only, and not for profit, contracts of life, accident or sickness insurance in accordance with its constitution, by-laws and rules and this Ordinance;

"fraternal society"

"guarantee insurance" means the undertaking to perform an agreement or contract or to discharge a trust, duty or obligation upon default of the person liable for such performance or discharge or to pay money upon such default or in lieu of

"guarantee insurance"

such performance or discharge, or where there is loss or damage through such default, but does not include credit insurance;

"head office"

"head office" means the place where the Chief executive officer of an insurer transacts his business;

"inland transportation insurance"

"inland transportation insurance" means insurance other than marine insurance, against loss of or damage to property,

(a) while in transit or during delay incidental to transit, or

(b) where, in the opinion of the Superintendent, the risk is substantially a transit risk;

"insurance"

"insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed, or to pay a sum of money or other thing of value upon the happening of a certain event;

"insurance fund"

"insurance fund" or "insurance funds", as applied to a fraternal society or as applied to a corporation not incorporated exclusively for the transaction of insurance, includes all money, securities for money and assets appropriated by the rules of the society or corporation to the payment of insurance liabilities or appropriated for the management of the insurance branch or department or division of the society, or otherwise legally available for insurance liabilities, but does not include funds of a trade union appropriated to or applicable for the voluntary assistance of wage earners unemployed or upon strike;

"insurance money"

"insurance money" means the amount payable by an

insurer under a contract, and includes all benefits, surplus, profits, dividends, bonuses and annuities payable under the contract;

"insurer" means the person who undertakes or agrees or offers to undertake a contract;

"insurer"

"life insurance" means insurance whereby an insurer undertakes to pay insurance money,

"life insurance"

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

and, without restricting the generality of the foregoing, includes accidental death insurance but not accident insurance;

"licence" means a licence granted under this Ordinance by the Superintendent;

"licence"

"live stock insurance" means insurance, not being insurance incidental to some other class of insurance defined by or under this Ordinance, against loss through the death or sickness of or accident to an animal;

"live stock insurance"

"marine insurance" means insurance against,

"marine insurance"

- (a) liability arising out of,
 - (i) bodily injury to or death of a person, or
 - (ii) the loss of or damage to properties;or

(b) the loss of or damage to property, occurring during a voyage or marine adventure at sea or on an inland waterway or during delay incidental thereto, or during transit otherwise than by water incidental to such a voyage or marine adventure;

"mortgage insurance"

"mortgage insurance" means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage upon real property, a hypothec upon immovable property or an interest in real or immovable property;

"motor vehicle liability policy"

"Motor vehicle liability policy" means a policy or part of a policy evidencing a contract insuring,

- (i) the owner or driver of an automobile, or
- (ii) a person who is not the owner or driver thereof where the automobile is being used or operated by his employee or agent or any other person on his behalf,

against liability arising out of bodily injury to or the death of a person or loss or damage to property caused by an automobile or the use or operation thereof;

"mutual insurance"

"mutual insurance" means a contract of insurance in which the consideration is not fixed or certain at the time the contract is made and is to be determined at the termination of the contract or at fixed periods during the term of the contract according to the experience of the insurer in respect of all similar contracts, whether or not the maximum amount of such consideration is predetermined;

"non-owner's policy"

"non-owner's policy" means a motor vehicle liability policy insuring a person solely in respect of the use or operation by him or on his behalf of an automobile that is not owned by him;

"officer"

"officer" includes a trustee, director, manager, treasurer, secretary or member of the board or committee of management of an insurer and a person appointed by the insurer to sue and be sued in its behalf;

"owner's policy" means a motor vehicle liability policy insuring a person in respect of the ownership, use or operation of an automobile owned by him and within the description or definition thereof in the policy and, if the contract so provides, in respect of the use or operation of any other automobile;

"owner's policy"

"plate glass insurance" means insurance, not being insurance incidental to some other class of insurance defined by or under this Ordinance, against loss of or damage to plate, sheet or window glass, whether in place or in transit;

"plate glass insurance"

"policy" means the instrument evidencing a contract;

"policy"

"premium" means the single or periodical payment under a contract for insurance, and includes dues, assessments, administration fees paid for the administration or servicing of such contract, and other considerations;

"premium"

"property" includes profits, earnings and other pecuniary interests, and expenditure for rents, interest, taxes and other outgoings and charges and in respect of inability to occupy the insured premises, but only to the extent of express provisions in the contract;

"property"

"property damage insurance" means insurance against loss of or damage to property that is not included in or incidental to some other class of insurance defined by or under this Ordinance;

"property damage insurance"

"public liability insurance" means insurance against loss or damage to the person or property of others that is not included in or incidental to some other class of insurance defined by or under this Ordinance;

"public liability insurance"

"salesman" means a person who is employed by a

"salesman"

licensed insurance agent or broker on a stated salary that is not supplemented by commission, bonus or any other remuneration to solicit insurance or transact, for a person other than himself an application for a policy of insurance, or to act in the negotiation of such insurance or in negotiating its continuance or renewal, or collects and receives premiums on behalf of his employer only, but does not include a licensed insurance agent, broker or employee engaged solely in office duties for an agent or broker or a person acting under the authority of subsection 216.(15) or (16);

"sickness insurance"

"sickness insurance" means insurance by which the insurer undertakes to pay insurance money in the event of sickness of the person or persons insured, but does not include disability insurance;

"sprinkler leakage insurance"

"sprinkler leakage insurance" means insurance against loss of or damage to property through the breakage or leakage of sprinkler equipment or other fire protection system, or of pumps, water pipes or plumbing and its fixtures;

"Superintendent"

"Superintendent" means the Superintendent of Insurance and includes the Deputy Superintendent of Insurance;

"theft insurance"

"theft insurance" means insurance against loss or damage through theft, wrongful conversion, burglary, house-breaking, robbery or forgery;

"title insurance"

"title insurance" means insurance against loss or liability for loss due to the invalidity of the title to any property or of any instrument, or to any defect in such title or instrument;

"upon proof"

"upon proof", as applied to any matter connected with the licensing of an insurer or other person, means upon proof to the satisfaction of the Superintendent;

PART I

SUPERINTENDENT AND HIS DUTIES

- | | | |
|--------|---|---|
| 3. (1) | The Commissioner shall appoint a Superintendent of Insurance who shall exercise the powers and perform the duties vested in or imposed upon him by this or any other Ordinance, shall have the general supervision of the business of insurance in the Territory and shall see that the laws relating to the conduct thereof are enforced and obeyed. | Superintendent |
| (2) | The Superintendent may designate a person in his office to act as Superintendent during the absence or inability of the Superintendent. | Acting Superintendent |
| 4. (1) | For the purposes of his duties and in the exercise of his powers under this Ordinance or under any other Ordinance relating to insurance, the Superintendent may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses upon oath, and he has the same power to summon persons to attend as witnesses, and to enforce their attendance, and to compel them to produce books, documents and things, and to give evidence as any court has in civil cases. | Evidence |
| 5. (1) | An oath required by this Ordinance to be taken may be administered and certified to by the Superintendent or by any person authorized to administer oaths in the Territory. | Oaths |
| 6. (1) | Neither the Superintendent nor any person in his office shall be interested as a shareholder, directly or indirectly, in any insurance company doing business in the Territory. | Independence of Superintendent and Officers |

- Superintendent may bring actions, etc 7. (1) The Superintendent may bring actions and institute proceedings in his name of office for the enforcement of any provision of this Ordinance or for the recovery of any fee or penalty payable under this Ordinance.
- Leave (2) No action or proceeding for the recovery of any fee or penalty payable under this Ordinance shall be commenced without the leave of the Superintendent.
- Records of Superintendent 8. (1) The Superintendent shall keep a register of all licences, in which shall appear the name of the insurer, the address of the Head Office, the address of the principle office in Canada, the name and address of the chief agent in the Territory, the number of the licence issued, particulars of the classes of insurance for which the insurer is licensed and such other information as the Superintendent considers necessary.
- Inspection (2) The register referred to in subsection (1) shall be open to inspection at such times and upon payment of such fees as are prescribed.
- Annual publication in Gazette 9. (1) The Superintendent may cause to be published annually in the Yukon Gazette a list of the insurers licensed at the date of the list, and may from time to time cause notice of the licence of an insurer not theretofore licensed and notice of suspension or cancellation or revivor of licence to be given by publication in the Yukon Gazette.
- Certificate of Superintendent is evidence (2) A certificate under the hand and seal of office of the Superintendent that on a stated day an insurer mentioned therein was or was not licensed under this Ordinance or that any insurer was originally granted a licence, or that the licence of

- any insurer was renewed, suspended, revived, revoked or cancelled on a stated day, is admissible evidence as *prima facie* proof of the facts stated in the certificate.
- (3) A certificate of the filing of any document in the office of the Superintendent is admissible in evidence as *prima facie* proof of the filing if signed or purporting to be signed by the Superintendent.
10. (1) Every decision of the Superintendent upon an application for a licence shall be in writing and notice thereof shall be forthwith given to the insurer.
- (2) The insurer or any person interested is entitled upon payment of the prescribed fee, to a certified copy of a decision of the Superintendent.
- (3) The evidence and proceedings in any matter before the Superintendent may be reported by a stenographer sworn before the Superintendent to faithfully report the same.
11. (1) An applicant for a licence under this Ordinance or any person who considers himself aggrieved by a decision of the Superintendent may appeal therefrom to the Court of Appeal.
- (2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of thirty days from the decision complained of.
- (3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action.
- (4) The Superintendent shall certify to the Registrar of the Court of Appeal the decision appealed from,

Evidence,
filing of
documentsDecision of
Superinten-
dentStenographic
report

Appeal

When to be
set down

Procedure

Certificate

his reasons therefor and the documents, inspection reports and evidence, if any, and such other information as he had before him in making his decision.

- Consequences of failure to answer inquiries 12. (1) The Superintendent may direct to an insurer any inquiry touching the contracts or financial affairs of the insurer, and the insurer shall make prompt and explicit answer to any such inquiry, and, in case of refusal or neglect to answer, is guilty of an offence.
- Access to books 13. (1) The Superintendent or any person authorized under his hand or seal of office, shall, at all reasonable times, have access to all books, securities and documents of an insurer, agent or broker that related to control of insurance, and any officer or person in charge, possession, custody or control of such books, security or documents who refuses or neglects to afford such access is guilty of an offence.
- Duty to furnish information on request 14. (1) It is the duty of the officers and agents of a licensed insurer, and of persons licensed under this Ordinance, and of any insured, to furnish the Superintendent on his request with full information relating to any contract of insurance issued by the insurer or to the insured or relative to any settlement or adjustment under any such contract.
- Inspection 15. (2) The Superintendent may visit the head office or chief agency from which the contract was issued, or the office of the adjuster, and inquire into such contract or settlement, and section 13 applies *mutatis mutandis* to such inquiry.
- Annual inspection of insurers 15. (1) The Superintendent or any person authorized by

him may visit the head office or chief office of a licenced insurer, and he may examine the statements of the condition and affairs of each such insurer and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its contracts as they mature and whether or not it has complied with all the provisions of this Ordinance applicable to its transactions.

- (2) The officers and agents of an insurer shall cause the books and records of the insurer to be opened for the inspection of the Superintendent and shall otherwise facilitate such examination so far as it is in their power.

Duties of officers and agents
- (3) In order to facilitate the inspection of the books and records of an insurer, the insurer may be required by the Superintendent to produce the books and records at the head office or chief office of the insurer or at such other convenient place as the Superintendent directs, and the officer or officers of the insurer who have custody of the books and records are entitled to be paid by the insurer for the actual expenses of such attendance.

Production of books at head office or as Superintendent directs
- (4) The Superintendent may cause abstracts to be prepared of the books and vouchers and a valuation to be made of the assets or liabilities of any such insurer and the cost thereof upon the certificate of the Superintendent shall be paid by the insurer.

Examination of affairs of an insurer
- (5) Where the office of an insurer at which an examination is made under this section is out of the Territory, the insurer shall pay the account in connection with such examination upon the certificate of the Superintendent.

Expenses of examination

Service of 16. (1) Where the head office of a licensed insurer is notice or process on Superintendent situated out of the Territory, notice or process in any action or proceeding in the Territory may be served upon the chief agent of the insurer in the Territory or where no appointment of a chief agent is then in effect notice may be served upon the Superintendent and such service shall be deemed service upon the insurer in the case of a corporation and upon members of the insurer in the case of an unincorporated body or association.

Insurer to file address (2) Every licensed insurer shall file in the office of the Superintendent notice of a postal address to which any such notice or process may be forwarded by the Superintendent and shall from time to time notify the Superintendent of any change in the address so filed.

Superintendent to forward notice of process 17. (1) The Superintendent shall forthwith after the receipt of any notice or process referred to in section 16 forward it to the insurer by registered mail addressed in the manner last notified to him for this purpose by the insurer.

Publication by Superintendent 18. (1) The Superintendent may publish from time to time notices, reports, correspondence, results of hearings, decisions and any other matter considered by the Superintendent to be in the public interest.

PART II

GENERAL PROVISIONS APPLICABLE

TO INSURERS

Application of Part 19. (1) This Part applies to insurance undertaken in the Territory and to all insurers carrying on business in the Territory.

Undertaking insurance (2) An insurer undertaking a contract that under this

Ordinance is deemed to be made in the Territory, whether the contract is original or renewed, except the renewal from time to time of life insurance policies, shall be deemed to be undertaking insurance in the Territory within the meaning of this Part.

- (3) An insurer undertaking insurance in the Territory or that in the Territory, Carrying on business
- (a) displays or causes to be displayed a sign containing the name of an insurer,
 - (b) maintains or operates, either in its own name or in the name of its agent or other representative, an office for the transaction of the business of insurance either in or out of the Territory.
 - (c) distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document,
 - (d) makes or causes to be made any written or oral solicitation for insurance,
 - (e) issues or delivers any policy of insurance or interim receipt or collects or receives or negotiates for or causes to be collected or received or negotiated for any premium for a contract of insurance or inspects any risk or adjusts any loss under a contract of insurance, or
 - (f) prosecutes or maintains in the Territory an action or proceeding in respect of a contract of insurance shall be deemed to be an insurer carrying on business in the Territory within the meaning of this Ordinance.
- (4) Any club, society or association incorporated

or unincorporated that receives, either as trustees or otherwise, gratuities or benefits which are paid directly or indirectly upon the death of its members, of any of them, shall be deemed to be an insurer carrying on business in the Territory within the meaning of this Ordinance.

Licences

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| Necessity for license | 20.(1) | Every insurer undertaking insurance in the Territory or carrying on business in the Territory shall obtain from the Superintendent and hold a licence under this Ordinance. |
| Prohibition | (2) | Every insurer undertaking insurance or carrying on business in the Territory without having obtained a licence as required by this section is guilty of an offence. |
| Prohibition against person acting on behalf of unlicensed insurer | (3) | A person who in the Territory does or causes to be done any act or thing mentioned in sub-section 19. (3) or (4) on behalf of or as agent of an insurer not licensed under this Ordinance or who receives directly or indirectly any remuneration for so doing is guilty of an offence. |
| Exception | (4) | The following shall not be deemed insurers within the meaning of this Ordinance or required or entitled to be licensed as such, namely; <ul style="list-style-type: none"> (a) pension fund societies or employees' mutual benefit societies incorporated in the Territory; (b) corporations mentioned in paragraphs 215. (3) (a) and (b). |
| Reinsurance with unlicensed insurer | 21.(1) | Nothing in this Ordinance prevents a licensed insurer who has lawfully effected a contract of insurance in the Territory from reinsuring the risk or part thereof with an insurer |

transacting business out of the Territory and not licensed under this Ordinance.

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| 22.(1) | <p>Upon due application and upon proof of compliance with this Ordinance, the Superintendent may issue a licence to undertake contracts of insurance and carry on business in the Territory to any insurer coming within one of the following classes, namely:</p> <ul style="list-style-type: none"> (a) joint stock insurance companies; (b) mutual insurance corporations; (c) cash-mutual insurance corporations; (d) fraternal societies; (e) companies duly incorporated to undertake insurance contracts and not within classes (a) to (d); (f) underwriters or syndicates of underwriters operating on the plan known as Lloyds; (g) pension fund associations. | <p>What insurers may be licensed for</p> |
| (2) | <p>A licence authorizes the insurer named therein to exercise in the Territory all rights and powers reasonably incidental to the carrying on of the business of insurance named therein that are not inconsistent with this Ordinance or with its Act or instrument of incorporation or organization.</p> | <p>Effect of licence</p> |
| 23.(1) | <p>The Commissioner may make regulations determining and defining classes of insurance and classes of licences for the purposes of this Ordinance.</p> | <p>Classes of insurance</p> |
| (2) | <p>Subject to the provisions of the Parts of this Ordinance that particularly relate to the classes</p> | <p>Licence to carry on insurance business</p> |

of insurers mentioned in section 22, a licence may be granted to an insurer to carry on any one or more of the classes of insurance defined in section 2 and such other classes as are prescribed.

Determination of classes of insurance by Superintendent

- (3) For the purposes of this Ordinance, the Superintendent may determine the class or classes of insurance into which the circumstances or conditions in any case may bring any insurance granted or that may be granted in respect thereto, and the policy form to be used for that class of insurance.

Limited or conditional licence

- (4) Any licence may be issued subject to such limitations and conditions as the Superintendent may specify.

Conditions of automobile insurance licence

- 24 (1) A licence to carry an automobile insurance in the Territory is subject to the following conditions:
- (a) in any action in the Territory against the licenced insurer or its insured arising out of an automobile accident in the Territory, the insurer shall appear and shall not set up any defence to a claim under a contract made outside the Territory, including any defence as to the limit or limits of liability under the contract, that might not be set up if the contract were evidenced by a motor vehicle liability policy issued in the Territory and such contract made outside the Territory shall be deemed to include the benefits set out in the Schedule;
- (b) in any action in a province of Canada against the licenced insurer or its insured arising out of an automobile

accident in that province, the insurer shall appear and shall not set up any defence to a claim under a contract evidenced by a motor vehicle liability policy issued in the Territory, including any defence as to the limit or limits of liability under the contract, that might not be set up if the contract, were evidenced by a motor vehicle liability policy issued in that province.

- (2) Any insurer undertaking automobile liability insurance in the Territory shall be and remain a party to the Agreement establishing the Automobile Insurance Plan and shall comply with the requirements of the Automobile Insurance Plan as to rates to be charged for business placed through the Automobile Insurance Plan.
- (3) The Automobile Insurance Plan shall publish a rate manual but such rate manual and any changes to it shall be submitted to the Superintendent and shall not be used unless approved by him.
- (4) A licence may be cancelled when the holder commits a breach of condition as set out in subsection (1).

Insurance Plan

Penalty for breach

25.(1) Every insurer licensed for the transaction of life insurance may, under the authority

Scope of Life insurance licence

of its licence, unless the licence expressly provides otherwise,

- (a) include in any policy of life insurance, in respect of the same life or lives insured thereby, disability insurance and accidental death insurance; and
- (b) transact annuities of all kinds and insurance providing for the establishment of accumulation or endowment funds.

Scope of fire insurance

26.(1) Every insurer licensed to carry on fire insurance may, subject to its Act of incorporation and subject to the restrictions prescribed by the licence, insure or reinsure any property in which the insured has an insurable interest against loss or damage by fire, lightning or explosion and may insure or reinsure the same property against loss or damage from falling aircraft, earthquake, windstorm, tornado, hail, sprinkler leakage, riot, malicious damage, weather, water damage, smoke damage, civil commotion and impact by vehicles and any one or more perils falling within such other classes of insurance as are prescribed.

Insurance of automobiles

(2) An insurer licensed to carry on fire insurance may insure an automobile against loss or damage under a policy falling within Part IV of this Ordinance.

Application of other Parts

27.(1) A licence shall not be granted to an insurer except upon proof that it has complied with the provisions of this Ordinance and the regulations applicable to it.

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| (2) | Where the head office of an applicant for a licence under this Ordinance is situate out of the Territory, a licence shall not be granted except upon proof of its ability to provide for the payment at maturity of all its contracts, but the Superintendent may accept as sufficient the fact that it is licensed by any other government in Canada. | Evidence by insurer when head office outside of the Territory |
| (3) | A licence shall not be granted to a corporation that is incorporated under the law of a province unless its head office and chief place of business is situate in that province. | Licence of extra-provincial corporation |
| 28.(1) | The Superintendent shall require such notice of the application for a licence to be given by publication in the Yukon Gazette and elsewhere as he considers necessary. | Information preliminary to licence |
| 29.(1) | Every insurer shall, when applying for a licence, file in the office of the Superintendent the following documents: | Documents to be filed by applicants for licence |
| | (a) a certified copy of its Act or other instrument of incorporation or association and of its constitution and by-laws and regulations verified in a manner satisfactory to the Superintendent; | |
| | (b) a certified copy of its last balance sheet and auditor's report thereon; | |
| | (c) if the head office of the insurer is out of the Territory, notice of the place where the chief office of the insurer in the Territory is to be situate; | |

- (d) if the head office of the insurer is out of the Territory an executed copy of a power of attorney from the insurer to the chief agent resident in the Territory;
- (e) copies of all policy forms and forms of application for insurance proposed to be used by the insurer in the Territory;
- (f) any evidence or documents required by other Parts of this Ordinance.

Execution of power of attorney

- (2) A power of attorney filed pursuant to paragraph (1)(d) shall be under the seal of the insurer, and shall be signed by the president and secretary or other proper officers of the insurer in the presence of a witness who shall make oath as to its due execution.

Contents of power of attorney

- (3) A power of attorney filed pursuant to paragraph (1)(d) shall declare in what place in the Territory the chief agency of the corporation is and shall expressly authorize the chief agent to receive service of process in all actions and proceedings against the insurer in the Territory for any liability incurred by the insurer therein, and also to receive from the Superintendent all notices that the law requires to be given, or that it is thought advisable to give and shall declare that service of process for or in respect of such liability on the chief agent is legal and binding on the insurer.

- (4) The production of a copy of the power of attorney certified by the Superintendent is sufficient evidence for all purposes of the power and authority of the person therein named to act on behalf of the insurer in the manner and for the purposes set forth in the certified copy.

Effect of copy and evidence

- (5) Where the insurer changes its chief agent in the Territory it shall, within seven days of the appointment file with the Superintendent a similar power of attorney stating the change and containing a similar declaration as to service of process and notices.

Changes in chief agent

- (6) After the power of attorney is filed, any process in any action or proceeding against the insurer for liability incurred in the Territory may be validly served on the insurer upon its chief agent but nothing in this section renders invalid service in any other modes in which the corporation may be lawfully served.

Service of process thereafter

- (7) An applicant for a licence shall furnish evidence satisfactory to the Superintendent that the requirements of this Ordinance have been complied with and that the applicant is entitled to the licence applied for.

Evidence

- (8) When the Superintendent considers it necessary to conduct an examination of the affairs of an applicant for a licence, the applicant shall pay the costs of the examination upon receiving a statement thereof certified by the Superintendent.

- (9) Every licensed insurer shall file in the office of the Superintendent certified copies of every amendment, revision or consolidation of its Act or other instrument of incorporation or association and of its constitution, by-laws and regulations verified in a manner satisfactory to the Superintendent within thirty days after the passing or adoption of the amendment, revision or consolidation.

Forms of licence

- 30.(1) A licence shall be in such form or forms for the different classes of insurers as may be determined from time to time by the Superintendent and a licence shall specify the business to be carried on by the insurer.

Terms of licence

- (2) Every licence expires on the thirtieth day of June in each year, subject to renewal by the Superintendent on or before that date.

Conditions of licence

- (3) Any licence may be issued or renewed subject to such limitations or conditions as the Superintendent considers appropriate.

Variation of licence

- (4) Notwithstanding subsections (2) and (3), the Superintendent may at any time and in respect of any licence of an insurer,
- (a) reduce the term for which the licence was issued or renewed;
 - (b) impose any conditions or limitations relating to the carrying on of the insurer's business that he considers appropriate; or
 - (c) vary, amend or revoke any condition or limitation to which the licence is then subject,

but the Superintendent may not exercise any power granted under this subsection until he has given the insurer notice of his intention to exercise such power and has afforded the insurer a reasonable opportunity to be heard with respect thereto.

- 31.(1) Where written notice has been served on the Superintendent and upon proof of an undisputed claim arising from loss insured against in the Territory remaining unpaid for sixty days after being due or of a disputed claim after final judgment in the regular course of law and tender of a legal, valid discharge being unpaid, the Superintendent may suspend or cancel the licence.
- Failure to pay undisputed claim
- (2) The licence may be revived and the insurer may again transact business if, within six months after notice to the Superintendent of the failure of the insurer to pay an undisputed claim or the amount of a final judgment as provided in this section, the undisputed claim or final judgment upon or against the insurer in the Territory is paid and satisfied.
- Revival of licence
- 32.(1) If the Superintendent, upon examination, or from annual statements or upon other evidence, finds
- Insufficiency of assets to be reported by Superintendent
- (a) that the assets of an insurer are insufficient to justify its continuance in business or to provide proper security to persons effecting insurance with it in the Territory, or

(b) that an insurer has failed to comply with any provision of law or with its Act or instrument of incorporation or association,

he may suspend or cancel the licence of the insurer.

Notice

(2) Notice of suspension or cancellation under this section shall be published in the Yukon Gazette and elsewhere as the Superintendent directs and thereafter any person transacting business on behalf of the insurer except for winding-up purposes is guilty of an offence.

Limited or conditional licence

(3) In the case mentioned in subsection (1) the Superintendent may in lieu of suspending or cancelling the licence of the insurer, issue such modified, limited or conditional licence as he considers necessary for the protection of persons in the Territory who have effected or effect contracts of insurance with the insurer.

Application to licensees of any government in Canada

(4) Upon the suspension or cancellation of the licence of an insurer by any government in Canada, the Superintendent may suspend or cancel the licence of such insurer under this Ordinance.

Appeal

(5) An insurer may appeal a suspension or cancellation of his licence by the Superintendent pursuant to subsection (1) or the decision of the Superintendent to issue a modified, limited or conditional licence issued pursuant to subsection (3), to the Court of Appeal

and the provisions of section 11 apply to the appeal *mutatis mutandis*.

- 33.(1) Every licensed insurer that carries on in the Territory the business of automobile insurance, fire insurance, property damage insurance, or sprinkler leakage insurance shall prepare and file, when required, with the Superintendent or with such statistical agency as he may designate such statistical return of the experience of such business as the Superintendent may require and in such form and manner and according to such system of classification as he may approve.
- (2) The Superintendent may require any agency designated under subsection (1) to compile the data so filed in such form as he may approve, and the expense of making the compilation shall be apportioned among the insurers whose data is compiled by such agency by the Superintendent who shall certify in writing the amount due from each insurer and it is payable by the insurer to such agency forthwith.
- (3) If at any time it appears to the Superintendent that the insurer's record of premium income and claims paid are not kept in such manner as to show correctly the experience of the insurer for the purposes of the statistical return, the Superintendent may nominate an accountant to proceed under his direction to audit the books and records of the insurer and to give such instructions as will enable the officers
- Statistical returns
- Compilation of data
- Audit and direction where records not duly kept

of the insurer to keep the records correctly thereafter.

Expenses of audit

- (4) The expense of an audit under subsection (3) shall be borne by the insurer and the account shall, when certified and approved under the hand of the Superintendent, be paid by the insurer forthwith.

Offence

- (5) Any insurer that contravenes this section and the principal officer in the Territory of any such insurer are guilty of an offence.

Annual statement

- 34.(1) Every licensed insurer shall prepare annually and deliver to the Superintendent on or before the fifteenth day of March of each year, a statement of the condition of affairs of the insurer as at the 31st day of December immediately preceding, which statement shall be in a form prescribed by the Superintendent and shall exhibit the assets, liabilities, receipts and expenditures of the insurer for the calendar year ending on such date, and shall also exhibit particulars of the business done in the Territory during such year and such other information as the Superintendent considers necessary from time to time, and such statement shall be verified in such manner as may be prescribed by the Superintendent.

Who may verify statement

- (2) In the case of a corporation, a statement under subsection (1) shall be verified by the president, vice-president or managing director or other director appointed for the

purpose by the board of directors and by the secretary or manager of the corporation.

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| (3) | An insurer shall, when required by the Superintendent, make prompt and explicit answer in reply to any inquiry directed to the insurer by him in relation to the statement or in relation to the transactions of the insurer in the Territory. | Prompt reply to inquiries |
| (4) | Subject to subsection (5), in the case of all classes of insurance, other than life insurance, and in the case of all insurers, the statement shall show as a liability of the insurer not less than eighty percent of the actual portions of unearned premiums on all business in force on the 31st day of December immediately preceding or not less than eighty percent of fifty percent of the premiums written in its policies and received in respect of contracts having one year or less to run and <i>pro rata</i> on those for longer periods. | Unearned premiums a liability |
| (5) | In the case of non-cancellable accident and sickness insurance, the statement shall show as a liability of the insurer a reserve computed on such bases and in accordance with such methods as will place an adequate value on the liabilities thereunder, but in no case shall the value placed upon the benefits under any policy be less than the value placed upon the future premiums. | Reserve liability on non-cancellable accident and sickness insurance |
| (6) | The statement shall not show as assets the unpaid balances owing by agents or other | Certain agents' balances, unauthorized securities etc., must not show as assets |

insurers in respect of business written before the 1st day of October in the next preceding calendar year, or bills receivable on account of the same, or unpaid capital or premium on subscribed shares of capital stock, or investment in office furnishings or equipment, nor shall such statements include as assets any investments not authorized by any special or general Act or Ordinance to which the insurer is subject.

Valuation of securities

- (7) Every licensed insurer may, in its annual statement or in any valuation of its securities required to be made, value all of its securities having a fixed term and rate and not in default as to principal or interest according to the following rule: if purchased at par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made; but the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase, and the Superintendent has full discretion in determining the method of calculating values according to the foregoing rule.

Published statements

- 35.(1) No statement purporting to show the financial condition of an insurer that differs from the financial condition shown by the statement filed with the Superintendent, and no balance sheet or other statement that differs in form from the form prescribed by the regulations.

shall be published or circulated, and every insurer publishing such a statement is guilty of an offence.

36.(1) Every person who represents orally or in writing that the issue of a licence to an insurer or the printing or publication of an annual statement in any report or publication of the Superintendent or any other circumstance of the supervision or regulation of the business of the insurer by law or the Superintendent is a warranty or guarantee of the financial standing of the insurer or of its ability to provide for the payment of its contracts at maturity is guilty of an offence.

Statements that financial standing guaranteed by government prohibited

37.(1) Every insurer licensed to transact life insurance shall keep separate and distinct accounts of participating and non-participating business.

Separate accounts

Insurance With Unlicensed Insurers

38.(1) Notwithstanding anything in this Ordinance any person may insure property situated in the Territory against fire with an unlicensed insurer, if such insurance is effected outside the Territory and without any solicitation whatsoever directly or indirectly on the part of the insurer, and any property insured or to be insured under this section may be inspected and any loss incurred in respect thereof adjusted.

Insurance with unlicensed insurers

General

39.(1) Any person, other than an insurer or its duly

Trafficking in life insurance policies prohibited

authorized agent, who advertises or holds himself out as a purchaser of life insurance policies or of benefits thereunder, or who trafficks or trades in life insurance policies for the purpose of procuring the sale, surrender, transfer, assignment, pledge or hypothecation thereof to him or any other person, is guilty of an offence.

Privileged information

40.(1) Any information, document, record, statement or thing made or disclosed to the Superintendent concerning a person licensed or applying for a licence under this Ordinance is absolutely privileged and shall not be used as evidence in any action or proceeding in any court brought by or on behalf of such person.

Insurer to file form of policy

41.(1) The Superintendent may require an insurer to file with him a copy of any form of policy or of the form of application for any policy issued or used by the insurer.

Prohibit issue of policy

(2) Where the Superintendent finds that an insurer has issued a policy or used an application that is unfair, fraudulent, or not in the public interest the Superintendent may, after giving the insurer an opportunity to be heard and make representations, prohibit the insurer from issuing or using such form of policy or application and any insurer, that after being so prohibited issues such policy or uses any such application is guilty of an offence.

- (3) An insurer who considers himself aggrieved by a decision of the Superintendent pursuant to subsection (1) may appeal therefrom to the Court of Appeal and the provisions of section 11 shall apply *mutatis mutandis*. Appeal

- 42.(1) Unless the contract otherwise provides, a contravention of any criminal or other law in force in the Territory or elsewhere does not, *ipso facto*, render unenforceable a claim for indemnity under a contract of insurance except where the contravention is committed by the insured, or by another person with the consent of the insured, with intent to bring about loss or damage but in the case of a contract of life insurance this section applies only to disability insurance undertaken as part of the contract. Effect of violation of law on claim for indemnity

- 43.(1) Where an insurer wrongfully withholds payment of any sum of money due to an insured under a contract of insurance, the insurer shall be liable to pay to the insured interest on the said sum from the date it became due and payable at a rate to be prescribed. Where insurer withholds payment

Penalties

- 44.(1) Unless otherwise provided, every person who knowingly,
 - (a) furnishes false information in any application under this Ordinance or in any statement, return or answer required to be furnished under this Ordinance or the regulations, General penalty

(b) fails to comply with any order, direction or other requirement made under this Ordinance, or

(c) contravenes any provision of this Ordinance or the regulations,

and every director or officer of an insurer who knowingly concurs in such furnishing, failure or contravention is guilty of an offence and on summary conviction is liable to a fine of not more than two thousand dollars or to imprisonment for a term of not more than one year or both.

Penalty to insurer

(2) Where an insurer is convicted of an offence under subsection (1), the maximum penalty that may be imposed upon the insurer is twenty-five thousand dollars and not as provided therein.

Suspension of licence

(3) In addition to the penalty set out in subsection (2) where an insurer contravenes the prohibitions or fails to comply with the requirements of this Ordinance the Superintendent may suspend or cancel the licence of the insurer.

Penalty for carrying on business without a licence

(4) Every person who

- (a) undertakes insurance or carries on business as an insurer in the Territory,
- (b) acts on behalf of an insurer in the Territory, or
- (c) does or performs any one or more of the acts constituting the business of insurance,

in relation to any class of insurance without being licenced for that class, is guilty of an offence and on summary conviction is liable to a fine of not more than twenty-five thousand dollars.

- (5) In case of default in making a return required by this Ordinance to be made within a limited time, the insurer or the person required by this Ordinance to make the return shall, in addition to the fine provided by subsection (1), incur a further fine of one hundred dollars for every month or part thereof during which such insurer or person neglects to file the return so required.

Penalty for default in making returns

- (6) In any prosecution under this Ordinance, whenever it appears that the accused has done any act or been guilty of any omission in respect of which he would be liable to some penalty under this Ordinance or the regulations, unless he is duly licensed, it is incumbent upon him to prove that he is duly licensed.

Burden of proof of licence

Fees and Regulations

- 45.(1) The Commissioner may make regulations,
 - (a) requiring the payment of fees for licences and renewals of licences and in respect of any function performed by the Superintendent under this Ordinance and prescribing the amounts thereof;
 - (b) extending the provisions of this Ordinance or any of them to a system or class

Regulations

of insurance not particularly mentioned in this Ordinance;

- (c) governing group insurance contracts or schemes, or any class thereof including prescribing and regulating their terms and conditions, qualifications for membership in groups and regulating the marketing of group insurance contracts or schemes;
- (d) governing the advertising of insurance contracts or any class thereof including prescribing and regulating the form and content of advertisements and requiring their filing;
- (e) amending or altering the terms, conditions, provisions, exclusions and limits set forth in the Schedule; and
- (f) generally for the better administration of this Ordinance.

PART III

INSURANCE CONTRACTS IN THE TERRITORY

- 46.(1) Except where otherwise provided and where not inconsistent with other provisions of this Ordinance, this Part applies to every contract of insurance made in the Territory, other than contracts of
 - (a) accident and sickness insurance;
 - (b) life insurance;
 - (c) marine insurance; and
 - (d) workers' compensation insurance.

Contracts deemed made in the Territory

- 47.(1) Where the subject matter of a contract of insurance is property in the Territory or an

insurable interest of a person resident in the Territory, the contract of insurance, if signed, countersigned, issued or delivered in the Territory or committed to the postal office or to any carrier, messenger or agent to be delivered or handed over to the insured, his assign or agent in the Territory, shall be deemed to evidence a contract made therein, and the contract shall be construed according to the law thereof, and all moneys payable under the contract shall be paid at the office of the chief officer or agent in the Territory of the insurer in lawful money of Canada.

- 48.(1) All the terms and conditions of the contract of insurance shall be set out in full in the policy or by writing securely attached to it when issued, and, unless so set out, no term of the contract or condition, stipulation, warranty or proviso modifying or impairing its effect is valid or admissible in evidence to the prejudice of the insured or beneficiary.
- (2) Subsection (1) does not apply to an alteration or modification of the contract agreed upon in writing by the insurer and the insured after the issue of the policy.
- (3) Whether the contract does or does not provide for its renewal, but it is renewed by a renewal receipt, it is a sufficient compliance with subsection (1) if the terms and conditions of the contract are set out as provided by that

Terms, etc., of contracts invalid unless set out in full

Exception

Contents of renewal receipt

subsection and the renewal receipt refers to the contract by its number or date.

What regard to be given to proposal

- (4) The proposal or application of the insured shall not as against him be deemed a part of or be considered with the contract of insurance except in so far as the court determines that it contains a material misrepresentation by which the insurer was induced to enter into the contract.

Contract not to be invalidated by erroneous statement in application unless material

- (5) No contract of insurance shall contain or have endorsed upon it, or be made subject to, any term, condition, stipulation, warranty or proviso providing that such contract shall be avoided by reason of any statement in the application therefor, or inducing the entering into of the contract by the insurer, unless such term, condition, stipulation, warranty or proviso is and is expressed to be limited to cases in which such statement is material to the contract, and no contract shall be avoided by reason of the inaccuracy of any such statement unless it is material to the contract.

Materiality, now decided

- (6) The question of materiality in a contract of insurance is a question of fact for the jury, or for court if there is no jury, and no admission, term, condition, stipulation, warranty or proviso to the contrary contained in the application or proposal for insurance, or in the instrument of contract or in any agreement or document relating thereto, has

any force or validity.

- (7) This section does not apply to contracts of fire or automobile insurance. Application

- 49.(1) An insurer shall upon request furnish to the insured a true copy of his application or proposal for insurance. Copy of proposal to be furnished to insured

- 50.(1) No insurer shall make a contract of insurance inconsistent with this Ordinance. No contract shall be inconsistent with Ordinance

- (2) An act or omission of the insurer resulting in imperfect compliance with any of the provisions of this Ordinance does not render a contract invalid as against the insured. Rights of insured

- 51.(1) Every policy shall contain the name of the insurer, the name of the insured, the name of the person or persons to whom the insurance money is payable, the amount, or the method of determining the amount, of the premiums for the insurance, the subject matter of the insurance, the indemnity for which the insurer may become liable, the event on the happening of which the liability is to accrue, the date upon which the insurance takes effect and the date it terminates or the method by which the latter is fixed or to be fixed. Contents of policy

- (2) This section does not apply to contracts of guarantee insurance. Application of section

- 52.(1) This section applies to a contract containing a condition, statutory or otherwise, providing for an appraisal to determine specified mat- Application

ters in the event of a disagreement between the insured and the insurer.

- Appraisals (2) The insured and the insurer shall each appoint an appraiser, and the two appraisers, so appointed, shall appoint an umpire.
- Appraisers (3) The appraisers shall determine the matters in disagreement and, if they fail to agree, they shall submit their differences to the umpire, and the finding in writing of any two determines the matters.
- Costs (4) Each party to the appraisal shall pay the appraiser appointed by him and shall bear equally the expense of the appraisal and the umpire.
- (5) Where
- (a) a party fails to appoint an appraiser within seven clear days after being served with written notice to do so,
 - (b) the appraisers fail to agree upon an umpire within fifteen days after their appointment, or
 - (c) an appraiser or umpire refuses to act or is incapable of acting or dies,
- a judge of the Supreme Court may appoint an appraiser or umpire, as the case may be, upon the application of the insured or of the insurer.
- Relief from forfeiture 53.(1) Where there has been imperfect compliance with a statutory condition as to the proof of loss to be given by the insured or other matter or thing required to be done or omitted by the

insured with respect to the loss and a consequent forfeiture or avoidance of the insurance in whole or in part and the court considers it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it considers just.

54.(1) Insurance money is payable in the Territory in lawful money of Canada. How policy payable

55.(1) No term or condition of a contract shall be deemed to be waived by the insurer in whole or in part unless the waiver is stated in writing and signed by a person authorized for that purpose by the insurer. Waiver of term or condition

(2) Neither the insurer nor the insured shall be deemed to have waived any term or condition of a contract by any act relating to the appraisal of the amount of loss or the delivery and completion of proofs or to the investigation or adjustment of any claims under the contract.

56.(1) Where a person (a) incurs a liability for injury or damage to the person or property of another, (b) is insured against such liability, and (c) fails to satisfy a judgment awarding damages against him in respect of his liability, Right of claimant against insurer where execution against insured returned unsatisfactory and an execution against him in respect thereof is returned unsatisfied, the person entitled to the damages may recover by action against

the insurer the amount of the judgment up to the face value of the policy, but subject to the same equities as the insurer would have if the judgment had been satisfied.

- Exception (2) This section does not apply to motor vehicle liability policies.
- Consolidation of actions 57.(1) Where several actions are brought for the recovery of money payable under a contract or contracts of insurance, the court may consolidate or otherwise deal therewith so that there is but one action for and in respect of all the claims made in such actions.
- Where infants are entitled to insurance money (2) Where an action is brought to recover the share of one or more infants, all the other infants entitled, or the trustees, executors or guardians entitled to receive payment of the shares of such other infants, shall be made parties to the action, and the rights of all the infants shall be determined in one action.
- Apportionment of sums directed to be paid (3) In all actions where several persons are interested in the insurance money, the court or judge may apportion among the persons entitled any sum directed to be paid, and may give all necessary directions and relief.
- When payee is domiciled or resident abroad (4) Where the person entitled to receive money due and payable under a contract of insurance, except insurance of the person, is domiciled or resides in a foreign jurisdiction and payment valid according to the law of such jurisdiction, is made to such person, such payment

is valid and effectual for all purposes.

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| 58.(1) | Where the policy has been delivered, the contract is as binding on the insurer as if the premium had been paid, although it has not in fact been paid, and although delivered by an officer or agent of the insurer who had no authority to deliver it. | Effect of delivery of policy |
| (2) | The insurer may sue for any unpaid premium and may deduct the amount thereof from the amount for which he is liable under the contract of insurance. | Right of insurer in respect of unpaid premium |
| (3) | Where a cheque, bill of exchange or promissory note is given, whether originally or by way of renewal, for the whole or part of any premium and the cheque, bill of exchange or promissory note is not honoured according to its tenor, the insurer may terminate the contract upon giving written notice by registered mail to the insured. | Where note or cheque for premium not honoured |
| 59.(1) | An insurer, immediately upon receipt of a request, and in any event not later than sixty days after receipt of notice of loss, shall furnish to the insured or person to whom the insurance money is payable forms upon which to make the proof of loss required under the contract. | Insurer to furnish forms |
| (2) | An insurer who neglects or refuses to comply with subsection (1) is guilty of an offence, and in addition section 60 is not available to the insurer as a defence to an action brought, | Offence |

after such neglect or refusal, for the recovery of moneys alleged to be payable under the contract of insurance.

Furnishing of forms not an admission

(3) The furnishing by an insurer of forms to make proof of loss shall not be taken to constitute an admission by the insurer that a valid contract is in force or that the loss in question falls within the insurance provided by the contract.

When action may be brought under contract

60.(1) No action should be brought for the recovery of money payable under a contract of insurance until the expiration of sixty days after proof, in accordance with the provisions of the contract,
(a) of the loss, or
(b) of the happening of the event upon which the insurance money is to become payable, or of such shorter period as is fixed by the contract of insurance.

Insurance as Collateral Security

Mortgagee not to receive commission from insurer

61.(1) No mortgagee shall accept or be entitled to receive either directly or through his agent or employee, and no officer or employee of such mortgagee shall accept or receive, any commission or other remuneration or benefit in consideration of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

Payment of commission prohibited.

(2) No insurer or agent or broker shall pay, allow or given any commission or other remuneration or benefit to a mortgagee or to any person in his employ or on his behalf in consideration

of effecting a contract of insurance or renewal thereof under which contract loss, if any, is payable to him as mortgagee.

(3) Every insurer or other person who contravenes the section is guilty of an offence.

62.(1) Where an insured assigns the right to refund of premium that may accrue by reason of the cancellation or termination of a contract of insurance under the terms thereof and notice of the assignment is given by the assignee to the insurer, the insurer shall pay any such refund to the assignee notwithstanding any condition in the contract, whether prescribed under this Ordinance or not, requiring the refund to be paid to the insured or to accompany any notice of cancellation or termination to the insured.

(2) Where the condition in the contract dealing with cancellation or termination by the insurer provides that the refund shall accompany the notice of cancellation or termination, the insurer shall include in the notice a statement that in lieu of payment of the refund in accordance with the condition the refund is being paid to the assignee under this section.

Contracts of Title Insurance

63.(1) Every contract of title insurance shall be in writing, and, in addition to the other requirements prescribed by this Ordinance, shall expressly limit the liability of the insurer to a sum stated in the contract.

- (2) If a question arises as to the validity of the title insured or as to the liability of the insurer, the insured or the insurer or any person entitled to proceed in right of either may apply in a summary way to the Supreme Court to have such question determined and the court may make such order upon the application as may be considered just.

General

- 64.(1) Where an insurer cannot obtain a sufficient discharge for insurance money for which it admits liability, the insurer may apply to the court *ex parte* for an order for the payment thereof into court, and the court may order the payment into court to be made upon such terms as to costs and otherwise as the court may direct, and may provide to what fund or name the amount shall be credited. Payment into Court
- (2) The receipt of the proper officer of the court is sufficient discharge to the insurer for the insurance money so paid into court, and the insurance money shall be dealt with according to the orders of the court. Discharge to insurer

PART IV

FIRE INSURANCE

- 65.(1) This Part applies to insurance against loss of or damage to property arising from the peril of fire in any contract made in the Territory except, Application of Part
 - (a) insurance falling within the classes of aircraft, automobile, boiler and

machinery inland transportation, marine, plate glass, sprinkler leakage and theft insurance;

- (b) where the subject matter of the insurance is rents, charges or loss of profits;
- (c) where the peril of fire is an incidental peril to the coverage provided; or
- (d) where the subject matter of the insurance is property that is insured by an insurer or a group of insurers primarily as a nuclear risk under a policy covering against loss of or damage to the property resulting from nuclear reaction or nuclear radiation and from other perils.

(2) Notwithstanding subsection (1), this Part applies to insurance of an automobile as provided in subsection 26.(2). Automobiles

66.(1) Subject to subsection (4) of this section and to paragraph 72.(1)(a), in any contract to which this Part applies the contract shall be deemed to cover the insured property Extent of coverage by contract

- (a) against fire, whether resulting from explosion or otherwise, not occasioned by or happening through,
 - (i) in the case of goods, their undergoing any process involving the application of heat,
 - (ii) riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion,

revolution, insurrection or
military power;

- (b) against lightning, but excluding destruction or loss to electrical devices or application caused by lightning or other electrical currents unless fire originates outside the article itself and only for such destruction or damage as occurs from such fire;
- (c) against explosion not occasioned by or happening through any of the perils specified in subparagraph (a)(ii) of natural, coal or manufactured gas in a building not forming part of a gas works, whether fire ensues therefrom or not.

Radioactive
contamination

- (2) Unless a contract to which this Part applies otherwise specifically provides, it does not cover the insured property against loss or damage caused by contamination by radioactive material directly or indirectly resulting from fire, lightning or explosion within the meaning of subsection (1).

Extent of
coverage by
contract

- (3) Where property insured under a contract covering at a specified location is necessarily removed to prevent loss or damage or further loss or damage thereto, that part of the insurance under the contract that exceeds the amount of the insurer's liability for any loss incurred covers, for seven days only or for the unexpired term of the contract if less than

seven days, the property removed and any property remaining in the original location in the proportions that the value of the property in each of the respective locations bears to the value of the property in them all.

(4) Nothing in subsection (1) precludes an insurer giving more extended insurance against the perils mentioned therein, but in that case this Part does not apply to the extended insurance.

Extended insurance

(5) An insurer licensed to carry on fire insurance may include in its insurance contracts a clause or endorsement providing that, in the case of livestock insured against death or injury caused by fire or lightning, the word "lightning" is deemed to include other electrical currents.

Power to extend meaning of "lightning" in livestock contracts

67.(1) After an application for insurance is made, if it is in writing, any policy sent to the insured shall be deemed to be intended to be in accordance with the terms of the application, unless the insurer points out in writing the particulars wherein it differs from the application, in which case the insured may, within two weeks from the receipt of the notification, reject the policy.

Form of contract

68.(1) Where the loss, if any, under a contract has, with the consent of the insurer, been made payable to a person other than the insured.

Mortgagees and other payees

the insurer shall not cancel or alter the policy to the prejudice of that person without notice to him.

(2) The length of time for any manner of giving the notice under subsection (1) is the same as notice of termination to the insured under the statutory conditions in the contract.

Statutory conditions

69.(1) The conditions set forth in this section shall be deemed to be part of every contract in force in the Territory and shall be printed on every policy with the heading "Statutory Conditions" and no variation or omission of or addition to any statutory condition is binding on the insured.

Interpretation

(2) In this section, "policy" does not include interim receipts or binders.

STATUTORY CONDITIONS

Misrepresentation

1. If a person applying for insurance falsely describes the property to the prejudice of the insurer, or misrepresents or fraudulently omits to communicate any circumstance that is material to be made known to the insurer in order to enable it to judge of the risk to be undertaken, the contract is void as to any property in relation to which the misrepresentation or omission is material.

Property of others

2. Unless otherwise specifically stated in the contract, the insurer is not liable for loss or damage to property owned by any person other

than the insured, unless the interest of the insured therein is stated in the contract.

3. The insurer is liable for loss or damage occurring after an authorized assignment under the *Bankruptcy Act (Canada)* or change of title by succession, by operation of law, or by death.

Change of interest

4. Any change material to the risk and within the control and knowledge of the insured avoids the contract as to the part affected thereby, unless the change is promptly notified in writing to the insurer or its local agent, and the insurer when so notified may return the unearned portion, if any, of the premium paid and cancel the contract, or may notify the insured in writing that, if he desires the contract to continue in force, he must, within fifteen days of the receipt of the notice, pay to the insurer an additional premium, and in default of such payment the contract is no longer in force and the insurer shall return the unearned portion, if any, of the premium paid.

Material changes

5. This contract may be terminated,

(a) by the insurer giving to the insured fifteen days' notice of termination by registered mail or five days' written notice of termination personally delivered;

Termination

- (b) by the insured at anytime on request.
- (2) Where this contract is terminated by the insurer,
- (a) the insurer shall refund the excess of premium actually paid by the insured over the pro rata premium for the expired time, but, in no event, shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified; and
 - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to amount, in which case the refund shall be made as soon as practicable.
- (3) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or cheque payable at par.
- (5) The fifteen days mentioned in clause (a) of subcondition (1) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

- 6.(1) Upon the occurrence of any loss of or damage to the insured property, the insured shall, if the loss or damage is covered by the contract, in addition to observing the requirements of conditions 9, 10 and 11,
- (a) forthwith give notice thereof in writing to the insurer;
- (b) deliver as soon as practicable to the insurer a proof of loss verified by a statutory declaration,
- (i) giving a complete inventory of the destroyed and damaged property and showing in detail quantities, costs, actual cash value and particulars of amount of loss claimed,
- (ii) stating when and how the loss occurred, and if caused by fire or explosion due to ignition, how the fire or explosion originated so far as the insured knows or believes,
- (iii) stating that the loss did not occur through any wilful act or neglect or the procurement, means or connivance of the insured,
- (iv) showing the amount of other insurances and the names of other insurers,
- (v) showing the interest of the insured and of all others in
- Requirement after loss

the property with particulars of all liens, encumbrances and other charges upon the property,

(vi) showing any changes in title, use, occupation, location, possession or exposures of the property since the issue of the contract,

(vii) showing the place where the property insured was at the time of loss;

(c) if required, give a complete inventory of undamaged property and showing in detail quantities, cost and actual cash value;

(d) if required and if practicable, produce books of account, warehouse receipts and stock lists, and furnish invoices and other vouchers verified by statutory declaration and furnish a copy of the written portion of any other contract.

(2) The evidence furnished under clauses (c) and (d) of subparagraph (1) of this condition shall not be considered proofs of loss within the meaning of conditions 12 and 13.

Fraud

7. Any fraud or wilfully false statement in a statutory declaration in relation to any of the above particulars, vitiates the claim of the person making the declaration.

Who may give notice and proof

8. Notice of loss may be given and proof of loss may be made by the agent of the insured named

in the contract in case of absence or inability of the insured to give the notice or make the proof, and absence or inability being satisfactorily accounted for, or in the like case, or if the insured refuses to do so, by a person to whom any part of the insurance money is payable.

- 9.(1) The insured, in the event of any loss or damage to any property insured under the contract, shall take all reasonable steps to prevent further damage to such property so damaged and to prevent damage to other property insured hereunder including, if necessary, its removal to prevent damage or further damage thereto.
- (2) The insurer shall contribute pro rata towards any reasonable and proper expenses in connection with steps taken by the insured and required under subparagraph (1) of this condition according to the respective interests of the parties.
10. After loss or damage to insured property, the insurer has an immediate right of access and entry by accredited agents sufficient to enable them to survey and examine the property, and to make an estimate of the loss or damage, and, after the insured has secured the property, a further right of access and entry sufficient to enable them to make appraisalment or particular estimate of the loss or damage, but
- Salvage
- Entry, Control, Abandonment

the insurer is not entitled to the control or possession of the insured property, and without the consent of the insurer there can be no abandonment to it of insured property.

Appraisal

- 11. In the event of disagreement as to the value of the property insured, the property saved or the amount of the loss, those questions shall be determined by appraisal as provided under the *Insurance Ordinance* before there can be any recovery under this contract whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

When loss payable

- 12. The loss is payable within sixty days after completion of the proof of loss, unless the contract provides for a shorter period.

Replacement

- 13.(1) The insurer, instead of making payment, may repair, rebuild, or replace the property damaged or lost, giving written notice of its intention so to do within thirty days after receipt of the proofs of loss.
- (2) In that event the insurer shall commence to so repair, rebuild, or replace the property within forty-five days after receipt of the proofs of loss, and shall thereafter proceed with all due diligence to the completion thereof.

14. Every action or proceeding against the insurer for the recovery of a claim under or by virtue of this contract is absolutely barred unless commenced within two years next after the loss or damage occurs.

Action

15. Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Territory. Written notice may be given to the insured named in the contract letter personally delivered to him or by registered mail addressed to him at his latest postal address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada.

Notice

70.(1) A contract containing,
(a) a deductible clause; or
(b) a co-insurance, average or similar clause; or
(c) a clause limiting recovery by the insured to a specified percentage of the value of any property insured at the time of loss, whether or not that clause is conditional or unconditional,
shall have printed or stamped upon its face in red ink the words "This policy contains a clause that may limit the amount payable", failing which the clause is not binding upon the insured.

Limitation of liability

71.(1) Where on the happening of any loss or damage to property insured there is in force more than

Rateable contribution

one contract covering the same interest, each of the insurers under the respective contracts is liable to the insured for its rateable proportion of the loss, unless it is otherwise expressly agreed in writing between the insurers.

Effect of policy may not be postponed

- (2) For the purpose of subsection (1), a contract shall be deemed to be in force notwithstanding any term thereof that the policy will not cover, come into force, attach or become insurance with respect to the property until after full or partial payment of any loss under any other policy.

Certain restrictions valid

- (3) Nothing in subsection (1) affects the validity of any divisions of the sum into separate items, or any limits of insurance on specified property, or any clause referred to in section 70 or any contract condition limiting or prohibiting the having or placing of other insurance.

Ascertainment of rateable proportions

- (4) Nothing in subsection (1) affects the operation of any deductible clause and,
 - (a) where one contract contains a deductible, the pro rata proportion of the insurer under that contract shall be first ascertained without regard to the clause and then the clause shall be applied only to affect the amount of recovery under that contract; and
 - (b) where more than one contract contains a deductible, the pro rata proportion

of the insurers under those contracts shall be first ascertained without regard to the deductible clauses and then the highest deductible shall be pro rated among the insurers with deductibles and these pro rated amounts shall affect the amount of recovery under those contracts.

(5) Nothing in subsection (4) shall be construed to have the effect of increasing the pro rata contribution of an insurer under a contract that is not subject to a deductible clause.

Idem

(6) Notwithstanding subsection (1), insurance on identified articles is a first loss insurance as against all other insurance.

Insurance on identified articles

72.(1) Where a contract,

Special stipulations

- (a) excludes any loss that would otherwise fall within the coverage prescribed by section 66; or
- (b) contains any stipulation, condition or warranty that is or may be material to the risk including, but not restricted to, a provision in respect to the use, condition, location or maintenance of the insured property,

the exclusion, stipulation, condition or warranty is not binding upon the insured, if it is held to be unjust or unreasonable by the court before which a question relating thereto is tried.

- Subrogation 73.(1) The insurer, upon making a payment or assuming liability therefor under a contract of fire insurance, is subrogated to all rights of recovery of the insured against any person, and may bring action in the name of the insured to enforce such rights.
- Where amount recovered is not sufficient to indemnify (2) Where the net amount recovered under subsection (1), after deducting the costs of recovery, is not sufficient to provide a complete indemnity for the loss or damage suffered, that amount shall be divided between the insurer and the insured in the proportions in which the loss or damage has been borne by them respectively.

PART V

LIFE INSURANCE

Interpretation

- Interpretation 74.(1) In this Part
- "application" (a) "application" means an application for insurance or for the reinstatement of insurance;
- "beneficiary" (b) "beneficiary" means a person, other than the insured or his personal representative, to whom or for whose benefit insurance money is made payable in a contract or by a declaration;
- "contract" (c) "contract" means a contract of life insurance;
- "court" (d) "court" means the Supreme Court or a judge thereof;

- (e) "creditor's group insurance" means insurance effected by a creditor in respect of the lives of the debtors whereby the lives of the debtors are insured severally under a single contract;
- (f) "declaration" means an instrument signed by the insured,
 - (i) with respect to which an endorsement is made on the policy,
 - (ii) that identifies the contract, or
 - (iii) that describes the insurance or insurance fund or a part thereof,in which he designates, or alters or revokes the designation of, his personal representative or a beneficiary as one to whom or for whose benefit insurance money is to be payable;
- (g) "family insurance" means insurance whereby the lives of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured;
- (h) "group insurance" means insurance, other than creditor's group insurance and family insurance whereby the lives of a number of persons are insured severally under a single contract between an insurer and an employer or other person;

- "group life insured"
- (i) "group life insured" means a person whose life is insured by a contract of group insurance but does not include a person whose life is insured under the contract as a person dependent upon or related to him;
- "instrument"
- (j) "instrument" includes a will;
- "insurance"
- (k) "insurance" means life insurance;
- "insured"
- (l) "insured",
- (i) in the case of group insurance, means, in the provisions of this Part relating to the designation of beneficiaries and the rights and status of beneficiaries, the group life insured, and
- (ii) in all other cases, means the person who makes a contract with an insurer;
- "life insurance"
- (m) "life insurance" includes disability insurance and accidental death insurance;
- "will"
- (n) "will" includes a codicil.

Application of Part

- Application 75.(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to a contract made in the Territory on or after the first day of July, 1967, and subject to subsections (2) and (3), applies to a contract made in the Territory before that day.

- (2) The rights and interests of a beneficiary for value under a contract that was in force immediately prior to the first day of July, 1966 are those provided in Part IV of the *Insurance Ordinance* as it existed immediately prior to that day. **Beneficiary for value**
- (3) Where the person who would have been entitled to the payment of insurance money, if the money had become payable immediately prior to the first day of July, 1967, was a preferred beneficiary within the meaning of Part IV of the *Insurance Ordinance* as it existed immediately prior to that day, the insured may not, except in accordance with that Part,
- (a) alter or revoke the designation of a beneficiary; or
 - (b) assign, exercise rights under or in respect of, surrender or otherwise deal with the contract, but this subsection does not apply after a time at which the insurance money, if it were then payable, would be payable wholly to a person other than a preferred beneficiary within the meaning of that Part. **Preferred beneficiary**
- 76.(1) In the case of a contract of group insurance made with an insurer authorized to transact insurance in the Territory at the time the contract was made, this Part applies in determining, **Group Insurance**

- (a) the rights and status of beneficiaries if the group life insured was resident in the Territory at the time he became insured; and
- (b) the rights and obligations of the group life insured if he was resident in the Territory at the time he became insured.

Issuance of Policy and Contents Thereof

Insurer to issue policy

77.(1) An insurer entering into a contract shall issue a policy.

- (2) Subject to subsection (3), the provisions in
 - (a) the application;
 - (b) the policy;
 - (c) any document attached to the policy when issued; and
 - (d) any amendment to the contract agreed upon in writing after the policy is issued;

constitute the entire contract.

Contract of fraternal society

- (3) In the case of a contract made by a fraternal society, the policy, the Act or instrument of incorporation of the society, its contribution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant constitute the entire contract.

Copy of application

- (4) An insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

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| 78.(1) | This section does not apply to a contract,
(a) of group insurance;
(b) of creditor's group insurance; or
(c) made by a fraternal society. | Exceptions |
| (2) | An insurer shall set forth the following particulars in the policy:
(a) the name or a sufficient description of the insured and of the person whose life is insured;
(b) the amount or the method of determining the amount of the insurance money payable, and the conditions under which it becomes payable;
(c) the amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid;
(d) whether the contract provides for participation in a distribution of surplus or profits that may be declared by the insurer;
(e) the conditions upon which the contract may be reinstated if it lapses; and
(f) the options, if any,
(i) of surrendering the contract for cash;
(ii) of obtaining a loan or an advance payment of the insurance money; and
(iii) of obtaining paid-up or extended insurance. | Contents of Policy |

Contents of
group policy

- 79.(1) In the case of a contract of group insurance or of creditor's group insurance, an insurer shall set forth the following particulars in the policy:
- (a) the name or a sufficient description of the insured;
 - (b) the method of determining the persons whose lives are insured;
 - (c) the amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable;
 - (d) the period of grace, if any, within which the premium may be paid; and
 - (e) whether the contract provides for participation in a distribution of surplus or profits that may be declared by the insurer.

Contents of
group certificate

- 80.(1) In the case of a contract of group insurance, an insurer shall issue, for delivery by the insured to each group life insured, a certificate or other document in which are set forth the following particulars:
- (a) the name of the insurer and an identification of the contract;
 - (b) the amount or the method of determining the amount of insurance on the group life insured and on any person dependent upon or related to him; and
 - (c) the circumstances in which the insurance terminates and the rights, if any, upon such termination, of the group life

insured or of any person whose life is insured under the contract as a person dependent upon or related to him.

Conditions Governing Formation of Contract

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|--------|---|----------------------------|
| 81.(1) | Subject to subsection (2), where at the time a contract would otherwise take effect the insured has no insurable interest, the contract is void. | Insurable Interest |
| (2) | A contract is not void for lack of insurable interest,
(a) if it is a contract of group insurance;
or
(b) if the person whose life is insured has consented in writing to the insurance being placed on his life. | Exceptions |
| (3) | Where the person whose life is insured is under the age of sixteen years, consent to insurance being placed on his life may be given by one of his parents or by a person standing in <i>loco parentis</i> to him. | Consent of minor |
| 82.(1) | Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and in the life of
(a) his child or grandchild;
(b) his spouse;
(c) any person upon whom he is wholly or in part dependent for or from whom he is receiving support or education; | Insurable interest defined |

- (d) his employee; and
- (e) any person in the duration of whose life he has a pecuniary interest.

Contract taking effect

83.(1)

Subject to any provision to the contrary in the application or the policy, a contract does not take effect unless,

- (a) the policy is delivered to an insured, his assign or agent or to a beneficiary;
- (b) the payment of the first premium is made to the insurer or its authorized agent; and
- (c) no change has taken place in the insurability of the life to be insured between the time the application was completed and the time the policy was delivered.

Delivery to agent

(2)

Where a policy is issued on the terms applied for and is delivered to an agent of the insurer for unconditional delivery to a person referred to in paragraph (1)(a), it shall be deemed but not to the prejudice of the insured to have been delivered to the insured.

(3)

Notwithstanding subsection (1), where an insured dies after payment of the first premium but before delivery of the policy, the policy shall be deemed to be in effect if full information on the life to be insured has been supplied and on the basis of this information a prudent insurer would have issued the policy.

Default in paying premium

84.(1)

Where a cheque or other bill of exchange, or a promissory note or other written promise to pay, is given for the whole or part of a

premium and payment is not made according to its tenor, the premium or part thereof shall be deemed not to have been paid.

- (2) Where a remittance for or on account of a premium is sent in a registered letter to an insurer and is received by it, the remittance shall be deemed to have been received at the time of the registration of the letter.

Payment by registered mail

- 85.(1) Except in the case of group insurance, an assignee of a contract, a beneficiary or a person acting on behalf of one of them or of the insured may pay any premium that the insured is entitled to pay.

Who may pay premium

- (2) Where a premium other than the initial premium is not paid at the time it is due, the premium may be paid within a period of grace of,
 - (a) thirty days or, in the case of an industrial contract, twenty-eight days from and excluding the day on which the premium is due; or
 - (b) the number of days, if any, specified in the contract for payment of an overdue premium,
 whichever is the longer period.

Period of grace

- (3) Where the happening of the event upon which the insurance money becomes payable occurs during the period of grace and before the overdue premium is paid, the contract shall be deemed to be in effect as if the premium had been paid at the time it was due, but the

Contract in force during grace

amount of the premium, together with interest at the rate specified in the contract, but not exceeding six percent per annum, and the balance, if any, of the current year's premium, may be deducted from the insurance money.

Duty to disclose

86.(1) An applicant for insurance and a person whose life is to be insured shall each disclose to the insurer in the application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other.

Failure to disclose

(2) Subject to section 87, a failure to disclose or a misrepresentation of such a fact renders the contract voidable by the insurer.

Exceptions

87.(1) This section does not apply to a misstatement of age or to disability insurance.

Incontestability

(2) Subject to subsection (3), where a contract has been in effect for two years during the lifetime of the person whose life is insured, a failure to disclose or a misrepresentation of a fact required to be disclosed by section 86 does not, in the absence of fraud, render the contract voidable.

Incontestability in group insurance

(3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact in respect of a person whose life is insured under the contract does not render the contract voidable, but, if evidence

of insurability is specifically requested by the insurer, the insurance in respect of that person is voidable by the insurer unless it has been in effect for two years during the lifetime of that person, in which event it is not, in the absence of fraud, voidable.

- 88.(1) Where an insurer fails to disclose or misrepresents a fact material to the insurance, the contract is voidable by the insured but in the absence of fraud the contract is not by reason of such failure or misrepresentation voidable after the contract has been in effect for two years. Non-disclosure of insurer
- 89.(1) This section does not apply to a contract of group insurance or of creditor's group insurance. Exceptions
- (2) Subject to subsection (3), where the age of a person whose life is insured is misstated to the insurer, the insurance money provided by the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age.
- (3) Where a contract limits the insurable age and the correct age of the person whose life is insured at the date of the application exceeds the age so limited, the contract is, during the lifetime of that person but not later than five years from the date the contract takes effect, voidable by the insurer within sixty days after it discovers the error. Limitation of insurable age

- Misstatement of age in group insurance 90.(1) In the case of a contract of group insurance or of creditor's group insurance, misstatement to the insurer of the age of a person whose life is insured does not of itself render the contract voidable and the provisions, if any, of the contract with respect to age or misstatement of age apply.
- Effect of suicide 91.(1) Where a contract contains an undertaking express or implied that insurance money will be paid if a person whose life is insured commits suicide, the undertaking is lawful and enforceable.
- Suicide and reinstatement (2) Where a contract provides that in case a person whose life is insured commits suicide within a certain period of time the contract is void or the amount payable under it is reduced, if the contract lapses and is subsequently reinstated on one or more occasions, the period of time commences to run from the date of the latest reinstatement.
- Exceptions 92.(1) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.
- Reinstatement (2) Where a contract lapses and the insured within two years applies for reinstatement of the contract, if within that time he
- (a) pays the overdue premiums and other indebtedness under the contract to the insurer, together with interest at the rate specified in the contract, but not exceeding six percent per

annum, compounded annually; and

- (b) produces
 - (1) evidence satisfactory to the insurer of the good health, and
 - (ii) other evidence satisfactory to the insurer of the insurability of the person whose life was insured,

the insurer shall reinstate the contract.

- (3) Subsection (2) does not apply where the cash surrender value has been paid or an option of taking paid-up or extended insurance has been exercised.
- (4) Sections 86 and 87 apply *mutatis mutandis* to reinstatement of a contract.

Exceptions

Designation of Beneficiaries

- 93.(1) An insured may in a contract or by a declaration designate his personal representative or a beneficiary to receive insurance money.
- (2) Subject to section 94, the insured may from time to time alter or revoke the designation by a declaration.
- (3) A designation in favour of the "heirs", "next of kin", or "estate" of the insured, or the use of words of like import in a designation, shall be deemed to be a designation of the personal representative of the insured.
- 94.(1) An insured may in a contract or by a declaration other than a declaration that is part of a will, filed with the insurer at its head

Designation of beneficiary

Change in designation

Meaning of "heirs", etc.

Designation of beneficiary irrevocably

or principal office in Canada during the lifetime of the person whose life is insured, designate a beneficiary irrevocably, and in that event the insured, while the beneficiary is living, may not alter or revoke the designation without the consent of the beneficiary and the insurance money is not subject to the control of the insured or of his creditors and does not form part of his estate.

Attempted designation

(2) Where the insured purports to designate a beneficiary irrevocably in a will or in a declaration that is not filed as provided in subsection (1), the designation has the same effect as if the insured had not purported to make it irrevocable.

Designation in invalid will

95.(1) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will.

Priorities

(2) Notwithstanding the *Wills Ordinance*, a designation in a will is of no effect against a designation made later than the making of the will.

Revocation

(3) Where a designation is contained in a will, if subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.

(4) Where a designation is contained in an instrument that purports to be a will, if subsequently

the instrument if valid as a will would be revoked by operation of law or otherwise, the designation is thereby revoked.

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| 96.(1) | An insured may in a contract or by a declaration appoint a trustee for a beneficiary and may alter or revoke the appointment by a declaration. | Trustees for beneficiary |
| (2) | A payment made by an insurer to a trustee for a beneficiary discharges the insurer to the extent of the payment. | Payment to trustee |
| 97.(1) | Where a beneficiary predeceases the person whose life is insured, and no disposition of the share of the deceased beneficiary in the insurance money is provided in the contract or by a declaration, the share is payable, | Beneficiary predeceasing life insured |
| (a) | to the surviving beneficiary; | |
| (b) | if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or | |
| (c) | if there is no surviving beneficiary, to the insured or his personal representative. | |
| (2) | Where two or more beneficiaries are designated otherwise than alternatively, but no division of the insurance money is made, the insurance money is payable to them in equal shares. | Several beneficiaries |
| 98.(1) | A beneficiary may enforce for his own benefit, and a trustee appointed pursuant to section 95 may enforce as trustee, the payment of insurance | Right to use |

money made payable to him in the contract or by a declaration and in accordance with the provisions thereof, but the insurer may set up any defence that it could have set up against the insured or his personal representative.

Insurance money free from creditors

99.(1) Where a beneficiary is designated, the insurance money, from the time of the happening of the event upon which the insurance money becomes payable, is not part of the estate of the insured and is not subject to the claims of the creditors of the insured.

Contract exempt from seizure

(2) While a designation in favour of a spouse, child, grandchild or parent of a person whose life is insured, or any of them, is in effect, the rights and interests of the insured in the insurance money and in the contract are exempt from execution or seizure.

Dealings with Contract During Lifetime of Insured

Insured dealing with contract

100.(1) Where a beneficiary,
 (a) is not designated irrevocably; or
 (b) is designated irrevocably but has attained the age of nineteen years and consents, the insured may assign, exercise rights under or in respect of, surrender or otherwise deal with the contract as provided therein or in this Part or as may be agreed upon with the insurer.

Insured entitled to dividends

101.(1) Notwithstanding the designation of a beneficiary irrevocably, the insured is entitled while

living, to the dividends or bonuses declared on a contract, unless the contract otherwise provides.

- (2) Unless the insured otherwise directs, the insurer may apply the dividends or bonuses declared on the contract for the purpose of keeping the contract in force.

102.(1) Notwithstanding the *Wills Ordinance*, where in a contract or in an agreement in writing between an insurer and an insured it is provided that a person named in the contract or in the agreement has, upon the death of the insured, the rights and interests of the insured in the contract,

Transfer of
ownership

- (a) the rights and interests of the insured in the contract do not, upon the death of the insured, form part of his estate; and
- (b) upon the death of the insured, the person named in the contract or in the agreement has the rights and interests given to the insured by the contract and by this Part and shall be deemed to be the insured.

- (2) Where the contract or agreement provides that two or more persons named in the contract or in the agreement shall, upon the death of the insured, have successively, on the death of each of them, the rights and interests of the insured in the contract, this section applies successively, *mutatis mutandis* to each of such persons and to his rights and interests in the contract.

Successive
owners

- Savings**
- (3) Notwithstanding any nomination made pursuant to this section, the insured may, prior to his death, assign, exercise rights under or in respect of, surrender or otherwise deal with the contract as if the nomination had not been made, and may alter or revoke the nomination by agreement in writing with the insurer.
- Interest of assignee**
- 103.(1) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada, he has priority of interest as against,
- (a) an assignee other than one who gave notice earlier in like manner; and
- (b) a beneficiary other than one designated irrevocably as provided in section 94 prior to the time the assignee gave notice to the insurer of the assignment in the manner prescribed in this subsection.
- Effect on beneficiary's rights**
- (2) Where a contract is assigned as security, the rights of a beneficiary under the contract are affected only to the extent necessary to give effect to the rights and interests of the assignee.
- Assignee deemed to be insured**
- (3) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given to the insured by the contract and by this Part and shall be deemed to be the insured.
- Prohibition against assignment**
- (4) A provision in a contract to the effect that the rights or interests of the insured, or in

the case of group insurance, the group life insured, are not assignable is valid.

104.(1) A group life insured may in his own name enforce a right given to him under a contract, subject to any defence available to the insurer against him or against the insured.

Group life insured, enforcing rights

Minors

105.(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of nineteen years,
(a) to make an enforceable contract; and
(b) in respect of a contract.

Capacity of minors

106.(1) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of nineteen years to receive insurance money payable to him and to give a discharge therefor.

Capacity of minor beneficiary

Proceedings under Contract

107.(1) Where an insurer receives sufficient evidence of,
(a) the happening of the event upon which insurance money becomes payable;
(b) the age of the person whose life is insured;
(c) the right of the claimant to receive payment; and
(d) the name and age of the beneficiary, if there is a beneficiary,
it shall, within thirty days after receiving the evidence, pay the insurance money to the person

Proof of claim

entitled thereto.

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|-------------------------------|---------|---|
| Place of payment | 108.(1) | Subject to subsection (4), insurance money is payable in the Territory. |
| Dollars | (2) | Unless a contract otherwise provides, a reference in a contract to dollars means Canadian dollars. |
| Payment outside the Territory | (3) | Where a person entitled to receive insurance money is not domiciled in the Territory, the insurer may pay the insurance money to that person or to any other person who is entitled to receive it on his behalf by the law of the domicile of the payee. |
| Exception for group insurance | (4) | In the case of a contract of group insurance, insurance money is payable in the province or territory of Canada in which the group life insured was resident at the time he became insured. |
| Action in the Territory | 109.(1) | Notwithstanding where a contract was made, an action on it may be brought in a court by a resident of the Territory if the insurer was authorized to transact insurance in the Territory at the time the contract was made or at the time the action is brought. |
| Limitation of action | 110.(1) | Subject to subsection (2), an action or proceeding against an insurer for the recovery of insurance money shall not be commenced more than two years after the furnishing of the evidence required by section 107 or more than six years after the happening of the |

event upon which the insurance money becomes payable, whichever period first expires.

(2)	Where a declaration has been made under section 112, an action or proceeding to which reference is made in subsection (1) shall not be commenced more than two years after the date of the declaration.	Exception
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111.(1)	Until an insurer receives at its head or principal office in Canada an instrument or an order of a court affecting the right to receive insurance money, or a notarial copy, or a copy verified by statutory declaration, of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there was no such instrument or order.	Documents affecting title
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(2)	Subsection (1) does not affect the rights or interests of any person other than the insurer.	Saving
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112.(1)	Where an insurer admits the validity of the insurance but does not admit the sufficiency of the evidence required by section 107 and there is no other question in issue except a question under section 114, the insurer or the claimant may, before or after action is brought and upon at least thirty days' notice, apply to the Court for a declaration as to the sufficiency of the evidence furnished, and the Court may make the declaration or may direct what further evidence shall be furnished and on the furnishing thereof may make the declaration or, in special circum-	Declaration as to sufficiency of proof
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stances, may dispense with further evidence.

Declaration as to pre- sumption of death	113.(1)	Where a claimant alleges that the person whose life is insured should be presumed to be dead by reason of his not having been heard of for seven years and there is no other question in issue except a question under section 114, the insurer or the claimant may, before or after action is brought and upon at least thirty days' notice, apply to the Court for a declaration as to presumption of the death and the Court may make the declaration.
Court may make order	114.(1)	Upon making a declaration under section 112 or 113, the Court may make such order respecting the payment of the insurance money and respecting costs as it deems just and subject to section 116, a declaration or direction or order made under this subsection is binding upon the applicant and upon all persons to whom notice of the application has been given.
Payment under order	(2)	A payment made under an order made under subsection (1) discharges the insurer to the extent of the amount paid.
Stay of proceedings	115.(1)	Unless the Court otherwise orders, an application made under section 112 or 113 operates as a stay of any pending action with respect to the insurance money.
Appeal	116.(1)	An appeal lies to the Court of Appeal from any declaration, direction or order made under section 112, section 113, or subsection 114(1).
Power of Court	117.(1)	Where the Court finds that the evidence furnished

under section 107 is not sufficient or that a presumption of death is not established, it may order that the matters in issue be decided in an action brought or to be brought or may make such other order as it deems just respecting further evidence to be furnished by the claimant, publication of advertisements, further inquiry or any other matter or respecting costs.

- 118.(1) Where an insurer admits liability for insurance money and it appears to the insurer that,
- (a) there are adverse claimants; or
 - (b) the whereabouts of a person entitled is unknown; or
 - (c) there is no person capable of giving and authorized to give a valid discharge therefor, who is willing to do so,
- the insurer may, at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, apply to the Court *ex parte* for an order for payment of the money into court, and the Court may upon such notice, if any, as it thinks necessary make an order accordingly.

Payment
into Court

- 119.(1) Unless a contract or a declaration otherwise provides, where the person whose life is insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 97(1) as if the beneficiary had predeceased the person whose life is insured.

Simultaneous
deaths

Insurance
money payable
in instalments

120.(1) Subject to subsections (2) and (3), where insurance money is payable in instalments and a contract or an instrument signed by the insured and delivered to the insurer, provides that a beneficiary has not the right to commute the instalments or to alienate or assign his interest therein, the insurer shall not, unless the insured subsequently directs otherwise in writing, commute the instalments or pay them to any person other than the beneficiary, and the instalments are not in the hands of the insurer, subject to any legal process except an action to recover the value of necessaries supplied to the beneficiary or his infant children.

Commutation
by beneficiary

(2) A Court may, upon the application of a beneficiary and upon at least ten days' notice, declare that in view of special circumstances,
(a) the insurer may, with the consent of the beneficiary, commute instalments of insurance money; or
(b) the beneficiary may alienate or assign his interest in the insurance money.

Commutation
after death
of beneficiary

(3) After the death of the beneficiary, his personal representative may, with the consent of the insurer, commute any instalments of insurance money payable to the beneficiary.

Interpretation

(4) In this section, "instalments" includes insurance money held by the insurer under section 121.

- 121.(1) An insurer may hold insurance money,
 - (a) subject to the order of an insured or a beneficiary; or
 - (b) upon trusts or other agreements for the benefit of the insured or the beneficiary,
 as provided in the contract, by an agreement in writing to which it is a party, or by a declaration, with interest at a rate agreed upon therein or, where no rate is agreed upon, at the rate declared from time to time by the insurer in respect of insurance money so held by it.

Insurer holding insurance money

- (2) The insurer is not bound to hold insurance money as provided in subsection (1) under the terms of a declaration to which it has not agreed in writing.

Exception

- 122.(1) Where an insurer does not within thirty days after receipt of the evidence required by section 107 pay the insurance money to some person competent to receive it or into court, the court may, upon application of any person, order that the insurance money or any part thereof be paid into court, or may make such other order as to the distribution of the money as it deems just, and payment made in accordance with the order discharges the insurer to the extent of the amount paid.

Court may order payment

- 123.(1) The court may fix without taxation the costs incurred in connection with an application

Costs

or order made under section 119 or 123, and may order them to be paid out of the insurance money or by the insurer or the applicant or otherwise as it deems just.

Where beneficiary minor

124.(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a discharge therefor, who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable pay the money, less the applicable costs mentioned in subsection (3) into court to the credit of the minor.

Costs

(2) The insurer may retain out of the insurance money for costs incurred upon payment into court under subsection (1) the sum of ten dollars where the amount does not exceed one thousand dollars, and the sum of fifteen dollars in other cases, and payment of the remainder of the money into court discharges the insurer.

Procedure

(3) No order is necessary for payment into court under subsection (1), but the proper officer of the court shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and, upon such payment being made, the insurer shall forthwith notify the Public Administrator and deliver to him a copy of the affidavit.

125.(1) Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid.

Beneficiary under disability

Miscellaneous Provisions

126.(1) No officer, agent or employee of an insurer and no person soliciting insurance, whether or not he is an agent of the insurer, shall, to the prejudice of the insured, be deemed to be the agent of the insured in respect of any question arising out of a contract.

Presumption against agency

127.(1) An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money.

Insurer giving information

PART VI

AUTOMOBILE INSURANCE

128.(1) In this Part

(a) "contract" means a contract of automobile insurance;

(b) "insured" means a person insured by a contract whether named or not and includes any person who is stated in a contract to be entitled to benefits payable under the insurance mentioned in section 159, subsection 160(1) or

Interpretation

subsection 161(1) whether described therein as an insured person or not.

Application of part

129.(1) This Part applies to contracts providing automobile insurance made or renewed in the Territory on or after the coming into force of this section.

(2) Part V of the *Insurance Ordinance* as it existed immediately before the coming into force of this section continues to apply to contracts of automobile insurance made before that day until the contract expires or is cancelled or renewed.

Exception

(3) This Part does not apply to contracts insuring only against

- (a) loss of or damage to an automobile while in or on described premises;
- (b) loss of or damage to property carried in or upon an automobile; or
- (c) liability for loss of or damage to property carried in or upon an automobile.

(4) This Part does not apply to a contract providing insurance in respect of an automobile not required to be registered under the *Motor Vehicles Ordinance* unless it is insured under a contract evidenced by a form of policy approved under this Part.

(5) This Part does not apply to a contract insuring solely the interest of a person who has a lien upon, or has as security legal title

to, an automobile and who does not have possession of the automobile.

Approval of Forms

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| 130.(1) | No insurer shall use a form of application, policy, endorsement or renewal or continuation certificate in respect of automobile insurance other than a form approved by the Superintendent. | Approval of forms by Superintendent |
| (2) | An insurer may require additional information in an approved application form, but such additional information does not constitute part of the application for the purposes of section 133. | Insurer requiring additional information |
| (3) | Where, in the opinion of the Superintendent, any provision of this Part, including any statutory condition, is wholly or partly inappropriate to the requirements of a contract or is inapplicable by reason of the requirements of any Ordinance, he may approve a form of policy, or part thereof, or endorsement evidencing a contract sufficient or appropriate to insure the risks required or proposed to be insured, and the contract evidenced by the policy or endorsement in the form so approved is effective and binding according to its terms notwithstanding that those terms are inconsistent with, vary, omit or add to any provision or condition of this Part. | Approval of policies in special cases |
| (4) | Except as to matters mentioned in section 143, the Superintendent may, if he considers it to be in the public interest, approve a form of motor vehicle liability policy or endorsement thereto that extends the insurance beyond that prescribed in that part. | Approval of extensions |

Standard owner's policy

(5) The Superintendent may approve a form of owner's policy containing insuring agreements and provisions in conformity with this Part for use by insurers in general and which, for the purposes of section 132 shall be the standard owner's policy.

Revocation of approval

(6) The Superintendent may revoke an approval given under this section, and, upon notification of the revocation in writing, no insurer shall thereafter use or deliver a form that contravenes the notification.

Reason for decision

(7) The Superintendent shall, on request of any interested insurer, specify in writing his reasons for granting, refusing or revoking an approval of a form.

(8) An insurer that issues or delivers an owner's policy in the Territory, or any renewal thereof, or any evidence of the continuation of the policy, shall issue to the insured a card evidencing the insurance, and the card shall be in a form approved by the Superintendent.

Application and Policy

Persons forbidden to act as agent

131.(1) No person carrying on the business of financing the sale or purchase of automobiles and no automobile dealer, insurance agent or broker and no officer or employee of such a person, dealer, agent or broker shall act as the agent of an applicant for the purpose of signing

an application for automobile insurance.

- 132.(1) A copy of the written application, signed by the insured or his agent, or, if no signed application is made, a copy of the purported application, or a copy of such part of the application or purported application as is material to the contract, shall be embodied in, endorsed upon or attached to the policy when issued by the insurer. **Copy of application in policy**

- (2) If no signed written application is received by the insurer prior to the issue of the policy, the insurer shall deliver or mail to the insured named in the policy, or to the agent for delivery or mailing to the insured, a form of application to be completed and signed by the insured and returned to the insurer. **Policy issued where no signed application**

- (3) Subject to subsection (5), the insurer shall deliver or mail to the insured named in the policy, or to the agent for delivery or mailing to the insured, the policy or a true copy thereof and every endorsement or other amendment to the contract. **Insured entitled to copy**

- (4) Where a written application signed by the insured or his agent is made for a contract, the policy evidencing the contract shall be deemed to be in accordance with the application unless the insurer points out in writing to the insured named in the policy in what respect the policy differs from the application, and, in that event, the insured shall be deemed to

have accepted the policy unless within two weeks from the receipt of the notification he informs the insurer in writing that he rejects the policy.

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| Certificate of policy | (5) | Where an insurer adopts the standard owner's policy it may, instead of issuing the policy, issue a certificate in a form approved by the Superintendent which when issued is of the same force and effect as if it was in fact the standard owner's policy, subject to the limits and coverages shown thereon by the insurer and any endorsements issued concurrently therewith or subsequent thereto but at the request of an insured at any time, the insurer shall provide a copy of the standard owner's policy wording as approved by the Superintendent. |
| Application | (6) | Where a certificate is issued under subsection (5), subsection (8) of this section, and section 157 apply <i>mutatis mutandis</i> . |
| Proof of term of policy | (7) | Where an insurer issues a certificate under subsection (5), proof of the terms of the policy may be given by production of a copy of the form of standard owner's policy approved by the Superintendent. |
| Endorsement on forms | (8) | Upon every application form and policy, there shall be printed or stamped in conspicuous type a copy of subsection 133(1). |
| Misrepresentation or violation of conditions renders claim invalid | 133.(1) | Where,
(a) an applicant for a contract, |

- (i) gives false particulars of the described automobile to be insured to the prejudice of the insurer, or
 - (ii) knowingly misrepresents or fails to disclose in the application any fact required to be stated therein;
 - (b) the insured contravenes a term of the contract or commits a fraud; or
 - (c) the insured wilfully makes a false statement in respect of a claim under the contract,
a claim by the insured is invalid and the right of the insured to recover indemnity is forfeited.
- (2) No statement of the applicant shall be used in defence of a claim under the contract unless it is contained in the signed written application therefor or, where no signed written application is made, in the purported application, or part thereof, that is embodied in, endorsed upon or attached to the policy. Use of application as defence
- (3) No statement contained in a purported copy of the application, or part thereof, other than a statement describing the risk and the extent of the insurance, shall be used in defence of a claim under the contract unless the insurer proves that the applicant made the statement attributed to him in the purported application, or part thereof.

- Statutory Conditions 134. (1) Subject to subsection 130 (3), section 135 and section 157;
- (a) the conditions set forth in this section are statutory conditions and shall be deemed to be part of every contract and shall be printed in every policy with the heading "Statutory Conditions"; and
- (b) no variation or omission or addition to a statutory condition is binding on the insured.

- Interpretation (2) In this section, "policy" does not include an interim receipt or binder.

STATUTORY CONDITIONS

In these Statutory Conditions, unless the context otherwise requires, the word "insured" means a person insured by this contract whether named or not.

- Material change in risk 1. (1) The insured named in this contract shall promptly notify the insurer or its local agent in writing of any change in the risk, material to the contract and within his knowledge.
- (2) Without restricting the generality of the foregoing, the words "change in the risk material to the contract" include:
- (a) any change in the insurable interest of the insured named in this contract in the automobile by sale, assignment or otherwise, except through change of title by succession, death or proceedings under the *Bankruptcy Act (Canada)* and in respect of insurance against loss of or damage to the automobile,
- (b) any mortgage, lien or encumbrance effecting the automobile after the application for this contract;
- (c) any other insurance of the same interest, whether valid or not, covering loss or damage insured by this contract or any portion thereof.

- 2. (1) The insured shall not drive or operate the automobile,
 - (a) unless he is for the time being either authorized by law or qualified to drive or operate the automobile; or
 - (b) while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
 - (c) while he is under the age of sixteen years or under such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or
 - (d) for any illicit or prohibited trade or transportation; or
 - (e) in any race or speed test.
- (2) The insured shall not permit, suffer, allow or connive at the use of the automobile;
 - (a) by any person,
 - (i) unless that person is for the time being either authorized by law or qualified to drive or operate the automobile, or
 - (ii) while that person is under the age of sixteen years or under

Prohibited use by insured

Prohibited use by others

such other age as is prescribed by the law of the province in which he resides at the time this contract is made as being the minimum age at which a licence or permit to drive an automobile may be issued to him; or

- (b) by any person who is a member of the household of the insured while his licence to drive or operate an automobile is suspended or while his right to obtain a licence is suspended or while he is prohibited under order of any court from driving or operating an automobile; or
- (c) for any illicit or prohibited trade or transportation or
- (d) in any race or speed test.

Requirements where loss or damage to persons or property

- 3. (1) The insured shall,
 - (a) promptly give to the insurer written notice, with available particulars, of any accident involving loss or damage to persons or property and of any claim made on account of the accident;
 - (b) verify by statutory declaration, if required by the insurer, that the claim arose out of the use or operation of the automobile and that the person operating or responsible for the operation of the automobile at the time of the accident is a person insured under this contract; and
 - (c) forward immediately to the insurer every letter, document, advice

or writ received by him from
or on behalf of the claimant.

- (2) The insured shall not,
 - (a) voluntarily assume any liability
or settle any claim except at
his own cost; or
 - (b) interfere in any negotiations
for settlement or in any legal
proceeding.
- (3) The insured shall, whenever requested
by the insurer, aid in securing information
and evidence and the attendance of any witness
and shall co-operate with the insurer, except
in a pecuniary way, in the defence of any action
or proceeding or in the prosecution of any appeal.

- 4. (1) Where loss of or damage to the automobile
occurs, the insured shall, if the loss
or damage is covered by this contract,
 - (a) promptly give notice thereof
in writing to the insurer with
the fullest information obtain-
able at the time;
 - (b) at the expense of the insurer,
and as far as reasonably possible,
protect the automobile from fur-
ther loss or damage;
and
 - (c) deliver to the insurer within
ninety days after the date of the
loss or damage a statutory declara-
tion stating, to the best of his

Requirements
where loss or
damage to
automobile

knowledge and belief, the place, time, cause and amount of the loss or damage, the interest of the insured and of all others therein, the encumbrances thereon, all other insurance, whether valid or not, covering the automobile and that the loss or damage did not occur through any wilful act or neglect, procurement, means or connivance of the insured.

- (2) Any further loss or damage accruing to the automobile directly or indirectly from a failure to protect it as required under subcondition (1) of this condition is not recoverable under this contract.
- (3) No repairs, other than those that are immediately necessary for the protection of the automobile from further loss or damage, shall be undertaken and no physical evidence of the loss or damage shall be removed,
 - (a) without the written consent of the insurer; or
 - (b) until the insurer has had a reasonable time to make the examination for which provision is made in statutory condition 5.
- (4) The insured shall submit to examination under oath and shall produce for examination at such reasonable place and time as is designated

Examination
of insured

by the insurer or its representative all documents in his possession or control that relate to the matters in question, and he shall permit extracts and copies thereof to be made.

- (5) The insurer shall not be liable for more than the actual cash value of the automobile at the time any loss or damage occurs, and the loss or damage shall be ascertained or estimated according to that actual cash value with proper deduction for depreciation, however caused, and shall not exceed the amount that it would cost to repair or replace the automobile, or any part thereof, with material of like kind and quality, but, if any part of the automobile is obsolete and out of stock, the liability of the insurer in respect thereof shall be limited to the value of that part at the time of loss or damage, not exceeding the maker's latest list price.
- (6) Except where an appraisal has been made, the insurer, instead of making payment, may, within a reasonable time, repair, rebuild or replace the property damaged or lost with other of like kind and quality if, within seven days after the receipt of the proof of loss, it gives written notice of its intention to do so.
- (7) There shall be no abandonment of the automobile to the insurer without the insurer's consent. If the insurer exercises the option

Insurer liable
for cash value
of automobile

Repair or
replacement

No abandonment;
salvage

to replace the automobile or pays the actual cash value of the automobile, the salvage, if any, shall vest in the insurer.

In case of disagreement

- (8) In the event of disagreement as to the nature and extent of the repairs and replacements required, or as to their adequacy, if effected, or as to the amount payable in respect of any loss or damage, those questions shall be determined by appraisal as provided under the *Insurance Ordinance* before there can be recovery under this contract, whether the right to recover on the contract is disputed or not, and independently of all other questions. There shall be no right to an appraisal until a specific demand therefor is made in writing and until after proof of loss has been delivered.

Inspection of automobile

5. (1) The insured shall permit the insurer at all reasonable times to inspect the automobile and its equipment.

Time and Manner of payment of insurance money

6. (1) The insurer shall pay the insurance money for which it is liable under this contract within sixty days after the proof of loss has been received by it or, where an appraisal is made under subcondition (8) of statutory condition 4, within fifteen days after the award is rendered by the appraisers.

When action may be brought

- (2) The insured shall not bring an action to recover the amount of a claim under this contract unless the requirements of statutory conditions 3 and 4 are complied with nor until the

amount of the loss has been ascertained as there-
in provided or by a judgment against the insured
after trial of the issue or by agreement between
the parties with the written consent of the in-
surer.

- (3) Every action or proceeding against the insurer Limitation
under this contract in respect of loss or
damage to the automobile or in respect of
loss or damage to persons or property shall
be commenced within two years from the time
when the loss or damage was sustained and not
afterwards.

- 7. (1) Notice of claim may be given and proof of Who may give
claim may be made by the agent of the insured notice and
named in this contract in case of absence proof of
or inability of the insured to give the notice claim
or to make the proof, such absence or inability
being satisfactorily accounted for or, in
the like case or if the insured refuses to
do so, by a person to whom any part of the insurance
money is payable.

- 8. (1) This contract may be terminated, Termination
 - (a) by the insurer giving to the insured
fifteen days' notice of termination
by registered mail or five days'
written notice of termination personally
delivered;
 - (b) by the insured at any time on request.

- (2) Where this contract is terminated by the
insurer,

- (a) the insurer shall refund the excess of premium actually paid by the insured over the pro rata premium for the expired time, but in no event shall the pro rata premium for the expired time be deemed to be less than any minimum retained premium specified;
and
 - (b) the refund shall accompany the notice unless the premium is subject to adjustment or determination as to the amount, in which case the refund shall be made as soon as practicable.
- (3) Where this contract is terminated by the insured, the insurer shall refund as soon as practicable the excess of premium actually paid by the insured over the short rate premium for the expired time, but in no event shall the short rate premium for the expired time be deemed to be less than any minimum retained premium specified.
- (4) The refund may be made by money, postal or express company money order or cheque payable at par.
- (5) The fifteen days mentioned in clause (a) of subcondition (1) of this condition commences to run on the day following the receipt of the registered letter at the post office to which it is addressed.

9. (1) Any written notice to the insurer may be delivered at, or sent by registered mail to, the chief agency or head office of the insurer in the Territory. Written notice may be given to the insured named in this contract by letter personally delivered to him or by registered mail addressed to him at his latest postal address as notified to the insurer. In this condition, the expression "registered" means registered in or outside Canada. Notice
- 135.(1) Except as otherwise provided in the contract, the statutory conditions set forth in section 134 do not apply to insurance coming within section 159, 160 or 161. Exceptions respecting statutory conditions
- (2) Where a contract does not insure against liability for loss or damage to persons and property, statutory condition 3 in section 134 is not a part of the policy and may be omitted from the printing of the conditions in the policy. Idem
- (3) Where a contract does not insure against loss of or damage to the automobile, statutory condition 4 in section 134 is not a part of the policy and may be omitted from the printing of the conditions in the policy. Idem
- Motor Vehicle Liability Policies
- 136.(1) Every contract evidenced by an owner's policy insures the person named therein and every other person who with his consent personally drives an automobile owned by the insured named in the contract and within the description Coverage of owner's policy specific automobile

or definition thereof in the contract against liability imposed by law upon the insured named in the contract or that other person for loss or damage,

- (a) arising from the ownership, use or operation of any such automobile; and
- (b) resulting from bodily injury to or the death of any person and damage to property.

Idem, other automobile

- (2) Where the contract evidenced by an owner's policy also provides insurance against liability in respect of an automobile not owned by the insured named in the contract, an insurer may stipulate in the contract that the insurance is restricted to such persons as are specified in the contract.

Death of person named in owner's policy

- (3) Where the insured named in an owner's policy dies, the following persons shall be deemed to be the insured under the policy:
 - (a) the spouse of the deceased insured if residing in the same dwelling premises at the time of his death; and
 - (b) in respect of the described automobile, a newly-acquired automobile that was acquired by the deceased insured prior to his death and a temporary substitute automobile, all as defined by the policy,
 - (i) any person having proper temporary custody thereof until grant of probate or administration to the personal representative of the deceased insured,

(ii) the personal representative
of the deceased insured.

137. (1) Every contract evidenced by a non-owner's policy insures the person named therein and such other person, if any, as is specified in the policy against liability imposed by law upon the insured named in the contract or that other person for loss or damage,
- (a) arising from the use or operation of an automobile within the definition thereof in the policy, other than an automobile owned by him or registered in his name; and
 - (b) resulting from bodily injury to or the death of any person and damage to property.
138. (1) For the purposes of this Part, a person shall not be deemed to be the owner of an automobile for the reason only that he has a lien on the automobile or has legal title to the automobile as security.
139. (1) Insurance under sections 136 and 137 applies to the ownership, use or operation of the insured automobile within Canada and the United States of America and upon a vessel plying between ports of those countries.
140. (1) Any person insured by but not named in a contract to which section 136 or 137 applies may recover indemnity in the same manner and to the same extent as if named therein as the insured,

Coverage of
non-owner's
policy

Persons deemed
not owners

Territorial
limits

Rights of
unnamed
insurer

and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

- 141.(1) Every contract evidenced by a motor vehicle liability policy shall provide that, where a person insured by the contract is involved in an accident resulting from the ownership, use or operation of an automobile in respect of which insurance is provided under the contract and resulting in loss or damage to persons or property, the insurer shall,
- (a) upon receipt of notice of loss or damage caused to persons or property, make such investigations, conduct such negotiations with the claimant and effect such settlement of any resulting claims as are deemed expedient by the insurer;
 - (b) defend in the name and on behalf of the insured and at the cost of the insurer any civil action that is at any time brought against the insured on account of loss or damage to persons or property;
 - (c) pay all costs taxed against the insured in any civil action defended by the insurer and any interest accruing after entry of judgment upon that part of the judgment that is within the limits of the insurer's liability; and
 - (d) where the injury is to a person, reimburse the insured for outlay for such

**Additional
agreements**

medical aid as is immediately necessary at the time.

Liability
from owner-
ship

142.(1) Liability arising from contamination of property carried in an automobile shall not be deemed to be liability arising from the ownership, use or operation of such automobile.

Exceptions
from
liability

143.(1) The insurer is not liable under a contract evidenced by a motor vehicle liability policy for any liability,

- (a) imposed by any workmen's compensation law upon any person insured by the contract;
- (b) resulting from bodily injury to or the death of,
 - (i) the daughter, son, wife or husband of any person insured by the contract while being carried in or upon or entering or getting on to or alighting from the automobile, or
 - (ii) any person insured by the contract;
- or
- (c) resulting from bodily injury to or the death of any employee of any person insured by the contract while engaged in the operation or repair of the automobile.

Exceptions
from lia-
bility

144.(1) The insurer may provide under a contract evidenced by a motor vehicle liability policy, in either or both of the following cases, that it shall not be liable,

- (a) to indemnify any person engaged in the business of selling, repairing, maintaining, servicing, storing or parking automobiles for any loss or damage sustained while engaged in the use or operation of or

while working upon the automobile in the course of that business unless the person is the owner of the automobile or is his employee;

- (b) for loss of or damage to property carried in or upon the automobile or to any property owned or rented or in the care, custody or control of the insured.

145. (1) Subject to the limitations and exclusions of the endorsement, the insurer may provide by endorsement to a contract evidenced by a motor vehicle liability policy that it shall not be liable for loss or damage resulting from the ownership, use or operation of any machinery or apparatus, including its equipment, mounted on or attached to the automobile while such automobile is at the site of the use or operation of that machinery or apparatus.

Exceptions
from
liability

146. (1) The insurer may provide under a contract evidenced by a motor vehicle liability policy, in one or more of the following cases, that it shall not be liable while,

Exceptions
from liability

- (a) the automobile is rented or leased to another person;
- (b) the automobile is used to carry explosives or to carry radioactive material for research, education, development or industrial purposes or for purposes incidental thereto;
- (c) the automobile is used as a taxi-cab, public omnibus, livery, jitney or sight-seeing conveyance or for carrying passengers for compensation or hire;

- (d) where the insured vehicle is an automobile, other than a trailer, it is used for towing a trailer owned by the insured unless like indemnity is also provided by the insurer in respect of the trailer;
- (e) where the insured vehicle is a trailer, it is towed by an automobile owned by the insured unless like indemnity is also provided by the insurer in respect of the automobile.

Interpretation

- (2) In paragraph (1)(b), "radioactive material" means,
 - (a) spent nuclear fuel rods that have been exposed to radiation in a nuclear reactor;
 - (b) radioactive waste material;
 - (c) unused enriched nuclear fuel rods; or
 - (d) any other radioactive material of such quantity and quality as to be harmful to persons or property if its container were destroyed or damaged.

Exception

- (3) Paragraph (1)(a) does not include the use by an employee of his automobile on the business of his employer and for which he is paid.

Certain rules
excepted

- (4) Paragraph (1)(c) does not include,
 - (a) the use by a person of his automobile for the carriage of another person in return for the former's carriage

in the automobile of the latter;

- (b) the occasional and infrequent use by a person of his automobile for the carriage of another person who shares the cost of the trip;
- (c) the use by a person of his automobile for the carriage of a temporary or permanent domestic servant of the insured or his spouse; or
- (d) the use by a person of his automobile for the carriage of a client or customer or a prospective client or customer; and
- (e) the occasional and infrequent use by the insured of his automobile for the transportation of school children to or from school or school activities conducted within an educational program.

147.(1) Every contract evidenced by a motor vehicle liability policy insures, in respect of any one accident, to the limit of not less than fifty thousand dollars, 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.

Minimum liability under policy

(2) The contract shall be interpreted to mean that where, by reason of any one accident, liability results from bodily injury or death and from loss of or damage to property,

Priorities

- (a) claims against the insured arising out of bodily injury or death have priority to the extent of forty-five thousand dollars over claims arising out of loss of or damage to property; and
- (b) claims against the insured arising out of loss of or damage to property have priority to the extent of five thousand dollars over claims arising out of bodily injury or death.

Minimum limits where separate limits designated

- (3) The insurer may, instead of specifying a limit in the policy for an inclusive amount, specify a limit of liability of at least fifty thousand dollars, exclusive of interest and costs, against liability resulting from bodily injury to or the death of one or more persons and a limit of liability of at least fifty thousand dollars, exclusive of interest and costs, against liability for loss of or damage to property.

Variation of limits

- (4) Nothing in this Part precludes an insurer, with respect to a limit or limits in excess of those specified in subsection (1) or (3) from increasing or reducing the limit or limits specified in the contract with respect to the use or operation of the automobile by a named person, but no reduction is effective for a limit less than that required under subsection (1) or (3).

Stipulation in motor vehicle liability policy

- 148.(1) Every motor vehicle liability policy issued in the Territory shall provide that, in the case of liability arising out of the ownership,

use or operation of the automobile in any province of Canada,

- (a) the insurer shall be liable up to the minimum limit prescribed for that province if those limits are higher than the limits prescribed by the policy;
- (b) the insurer shall not set up any defence to a claim that might not be set up if the policy were a motor vehicle liability policy issued in that province; and
- (c) the insured, by acceptance of the policy, constitutes and appoints the insurer his irrevocable attorney to appear and defend in any province of Canada in which an action is brought against the insured arising out of the ownership, use or operation of the automobile.

(2) A provision in a motor vehicle liability policy in accordance with paragraph (1)(c) is binding on the insured.

Power of attorney binding

149.(1) Nothing in this Part precludes an insurer from providing insurance under a contract evidenced by a motor vehicle liability policy restricted to a limit in excess of that provided by another designated contract evidenced by a motor vehicle liability policy, whether the designated contract is a first loss insurance or an excess insurance.

Excess insurance

(2) Where the contract designated as the excess contract terminates or is terminated, the excess

Termination of excess insurance

contract is also automatically terminated.

Agreement for
partial payment
of claim by
insured

150.(1) Nothing in this Part precludes an insurer from entering into an agreement with its insured under a contract evidenced by a motor vehicle liability policy providing that the insured will reimburse the insurer in an agreed amount in respect of any claim by or judgment in favour of a third party against the insured, and the agreement may be enforced against the insured according to its tenor.

Interpretation

151.(1) In this section, "nuclear energy hazard" means the radioactive, toxic, explosive or other hazardous properties of prescribed substances under the *Atomic Energy Control Act (Canada)*.

Liability when
nuclear energy
contract also
in force

(2) Where an insured is covered, whether named therein or not, under a contract evidenced by a motor vehicle liability policy for loss or damage resulting from bodily injury to or the death of any person or damage to property arising directly or indirectly out of a nuclear energy hazard and is also covered, whether named therein or not, against such loss or damage under a contract evidenced by a policy of nuclear energy hazard liability insurance issued by a group of insurers and in force at the time of the event giving rise to the loss or damage,

(a) the motor vehicle liability insurance is excess to the nuclear energy hazard liability insurance, and the insurer

under the contract of motor vehicle liability insurance is not liable to pay beyond the minimum limits prescribed by section 146, and

(b) the unnamed insured under the contract of nuclear energy liability insurance may, in respect of such loss or damage, recover indemnity under that contract in the same manner and to the same extent as if named therein as the insured, and for that purpose he shall be deemed to be a party to the contract and to have given consideration therefor.

(3) For the purpose of this section, a contract of nuclear energy hazard liability insurance shall be deemed to be in force at the time of the event giving rise to the loss or damage, notwithstanding that the limits of liability thereunder have been exhausted.

When contract deemed in force

152.(1) Where an insurer makes a payment on behalf of an insured under a contract evidenced by a motor vehicle liability policy to a person who is or alleges himself to be entitled to recover from the insured covered by the policy, the payment constitutes, to the extent of the payment, a release by the person or his personal representative of any claim that the person or his personal representative or any person claiming through or under him or by virtue of the *Fatal Accidents Ordinance* may have against the insured and the insurer.

Advance payments and release by claimant

- Idem (2) Nothing in this section precludes the insurer making the payment from demanding, as a condition precedent to such payment, a release from the person or his personal representative or any other person to the extent of such payment.
- Payment to be taken into account (3) Where the person commences an action, the court shall adjudicate upon the matter first without reference to the payment but in giving judgment the payment shall be taken into account and the person shall only be entitled to judgment for the net amount, if any.
- Intention (4) The intention of this section is to permit payments to a claimant without prejudice to the defendant or his insurer, either as an admission of liability or otherwise, and the fact of any payment shall not be disclosed to the judge or jury until after judgment but before formal entry thereof.
- Defence where more than one contract 153.(1) Where a person is insured under more than one contract evidenced by a motor vehicle liability policy, whether the insurance is first loss insurance or excess, and a question arises under paragraph 141(b) between an insurer and the insured or between the insurers as to which insurer shall undertake the obligation to defend in the name and on behalf of the insured, whether or not any insurer denies liability under its contract, the insured or any insurer may apply to the Supreme Court, and the Court shall give such directions as may appear proper with respect to the performance of the obligation.

- (2) On an application under subsection (1), the only parties entitled to notice thereof and to be heard thereon are the insured and his insurers, and no material or evidence used or taken upon such an application is admissible upon the trial of an action brought against the insured for loss or damage to persons or property arising out of the use or operation of the automobile in respect of which the insurance is provided. Hearing

- (3) An order under subsection (1) does not affect the rights and obligations of the insurers in respect of payment of an indemnity under their respective policies. Order

- (4) Where indemnity is provided to the insured under two or more contracts and one or more of them are excess insurance, the insurers shall, as between themselves, contribute to the payment of expenses, costs and reimbursement for which provision is made in section 141 in accordance with their respective liabilities for damages awarded against the insured. Contribution

- 154.(1) Any person who has a claim against an insured for which indemnity is provided by a contract evidenced by a motor vehicle liability policy, notwithstanding that such person is not a party to the contract, may, upon recovering a judgment therefor in any province of Canada against the insured, have the insurance money payable under the contract applied in or towards satisfaction of his judgment and of any other judgments or claims against the insured covered Application of insurance money under motor vehicle liability policy

by the contract and may, on behalf of himself and all persons having such judgments or claims, maintain an action against the insurer to have the insurance money so applied.

Limitation

(2) No action shall be brought against an insurer under subsection (1) after the expiration of one year from the final determination of the action against the insured, including appeals if any.

Other
creditors
excluded

(3) A creditor of the insured is not entitled to share in the insurance money payable under any contract unless his claim is one for which indemnity is provided for by that contract.

Insurer
absolutely
liable

(4) The right of a person who is entitled under subsection (1) to have insurance money applied upon his judgment or claim is not prejudiced by,

(a) an assignment, waiver, surrender, cancellation or discharge of the contract, or of any interest therein or of the proceeds thereof, made by the insured after the happening of the event giving rise to a claim under the contract;

(b) any act or default of the insured before or after that event in contravention of this Part or of the terms of the contract;

or

(c) any contravention of the Criminal Code (Canada) or a statute of any province of Canada or of any state or the District of Columbia of the United States of America

by the owner or driver of the automobile,

and nothing mentioned in paragraph (a), (b) or (c) is available to the insurer as a defence in an action brought under subsection (1).

- (5) It is not a defence to an action under this section that an instrument issued as a motor vehicle liability policy by a person engaged in the business of an insurer and alleged by a party to the action to be such a policy is not a motor vehicle liability policy, and this section applies *mutatis mutandis* to the instrument. Section applicable to purported policy
- (6) The insurer may require any other insurers liable to indemnify the insured in whole or in part in respect of judgments or claims to which reference is made in subsection (1) to be made parties to the action and contribute according to their respective liabilities, whether the contribution is rateable or by way of first loss or excess insurance, as the case may be, and the insured shall on demand furnish the insurer with particulars of all insurance covering the subject matter of the contract. Contribution among insurers
- (7) Where any person has recovered a judgment against the insured and is entitled to bring action under subsection (1) and the insurer admits liability to pay the insurance money under the contract and the insurer considers that,
(a) there are or may be other claimants; or
(b) there is no person capable of giving and authorized to give a valid discharge for payment who is willing to do so, Payment into court

the insurer may apply to the court *ex parte* for an order for payment of the money into court, and the court may, upon such notice, if any, as it thinks necessary, make an order accordingly.

Effect of
Order

- (8) The receipt of the proper officer of the court is sufficient discharge to the insurer for the insurance money paid into court under subsection (7), and the insurance money shall be dealt with as the court may order upon application of any person interested therein.

Defence re
excess limits
relating to
section 147
coverage

- (9) Notwithstanding anything contained therein to the contrary, every contract evidenced by a motor vehicle liability policy shall, for the purposes of this section, be deemed to provide all the types of coverage mentioned in section 146, but the insurer is not liable to a claimant with respect to such coverage in excess of the limits mentioned in section 147.

Defence where
coverage under
sections 144,
145

- (10) Where one or more contracts provide for coverage of a type mentioned in section 144 or 145, except as provided in subsection (12), the insurer may,
- (a) with respect to that type of coverage; and
 - (b) as against a claimant,
- avail itself of any defence that it is entitled to set up against the insured, notwithstanding subsection (4).

Defence where
excess limits

- (11) Where one or more contracts provide for coverage in excess of the limits mentioned in section 147, except as provided in subsection (12), the insurer may,

- (a) with respect to the coverage in excess of those limits; and
 - (b) as against a claimant,
- avail itself of any defence that it is entitled to set up against the insured, notwithstanding subsection (4).
- (12) Where a contract provides coverage of the type mentioned in paragraph 145 (1)(a) in respect of an automobile operated in the business of carrying passengers for compensation or hire and insured for that purpose, the insurer may,
- (a) with respect to that type of coverage; and
 - (b) as against a claimant,
- only avail himself of a defence that it is entitled to set up against the insured in respect of that part of the coverage, if any, that exceeds,
- (c) the limits mentioned in section 148; or
 - (d) the minimum limits required for that type of coverage by or under any other Ordinance;
- whichever is the greater.
- (13) The insured shall reimburse the insurer upon demand in the amount that the insurer has paid by reason of this section and that it would not otherwise be liable to pay.
- (14) Where an insurer denies liability under a contract evidenced by a motor vehicle liability policy, it shall, upon application to the court,

Defence where vehicle used in business of carrying passengers

Insurer's liability to reimburse insurer

Insurer may be made third party

be made a third party in any action to which the insured is a party and in which a claim is made against the insured by any party to the action in which it is or might be asserted that indemnity is provided by the contract, whether or not the insured enters an appearance or defence in the action.

Rights of insurer (15) Upon being made a third party, the insurer may

- (a) contest the liability of the insured to any party claiming against the insured;
- (b) contest the amount of any claim made against the insured;
- (c) deliver any pleadings in respect of the claim of any party claiming against the insured;
- (d) have production and discovery from any party adverse in interest; and
- (e) examine and cross-examine witnesses at the trial,

to the same extent as if it were a defendant in the action.

Idem (16) An insurer may avail itself of subsection (15) notwithstanding that another insurer is defending in the name and on behalf of the insured an action to which its insured is a party.

Insured to give notice of action 155.(1) Every insured against whom an action is commenced for damages occasioned by an automobile shall give notice thereof in writing to the insurer within five days after service of every notice or process in the action.

- (2) Every insured against whom an action is commenced for damages occasioned by an automobile shall, upon recovery of a judgment against the insured, disclose to a judgment creditor entitled to the benefit of any motor vehicle liability policy particulars of such contract within ten days after written demand therefor.

Insured to disclose insurance

Physical Damage Cover

- 156.(1) Subject to subsection 130(1), the insurer may provide in a contract such exclusions and limitations, in respect of loss of or damage to or the loss of use of the automobile, as it considers necessary.

Stipulations in physical damage cover

- 157.(1) A contract or part of a contract providing insurance against loss of or damage to an automobile and the loss of use thereof may contain a clause to the effect that, in the event of loss, the insurer shall pay only,
 - (a) an agreed portion of any loss that may be sustained;
 - or
 - (b) the amount of the loss after deduction of a sum specified in the policy,
 and in either case not exceeding the amount of the insurance.

Partial payment of loss clause

- (2) Where a clause is inserted in accordance with subsection (1), there shall be printed or stamped upon the face of the policy in conspicuous type the words: "This policy contains a partial payment of loss clause."

Stamping required

Claims to be
adjusted with
insured

158.(1) Where a claim is made under any contract other than a contract evidenced by a motor vehicle liability policy, the insurer shall, notwithstanding any agreement, adjust the amount of the claim with the insured named in the contract as well as with any person having an interest indicated in the contract.

Exception

(2) Where notice is given or proof of loss is made by a person other than the insured, because the insured cannot be located or neglects or refuses or is unable to give notice and makes claim under statutory conditions 4 and 7 in section 134, the insurer may, notwithstanding subsection (1) but in any event not earlier than sixty days from delivery of the proof required under clause (c) of sub-condition 1 of the said statutory condition 4, adjust and pay the claim to the other person having an interest indicated in the contract.

Limited Accident Insurances

Uninsured
motorist cover

159.(1) Where an insurer provides in a contract insurance against loss resulting from bodily injury to or the death of a person insured arising out of an accident involving an automobile where,
(a) there is legal liability of another person for the injury or death; and
(b) the other person has no insurance against his liability therefor or that person cannot be identified,
that insurance applies only in respect of

- (c) any person who sustains bodily injury or death while driving, being carried in or upon or entering or getting on to or alighting from the described automobile in respect of which automobile liability insurance, is provided under the contract; and
- (d) the insured named in the contract and his or her spouse and any dependent relative residing in the same dwelling premises as the insured named in the contract who sustains bodily injury or death while driving, being carried in or upon or entering or getting on to or alighting from or as a result of being struck by any other automobile that is defined in the contract for the purposes of that insurance.

159.(2) The insurance mentioned in subsection (1) does not apply in respect of a person specified therein who has a right of recovery under an unsatisfied judgment fund or a similar fund in any province or Territory of Canada or of any state or the District of Columbia of the United States of America. Limitation

160.(1) Every contract evidenced by a motor vehicle liability policy shall provide the benefits set forth in subsection (1) of the Schedule subject to the limits, terms and conditions set forth in the Schedule. Medical and funeral benefits

(2) Where an insurer makes a payment under a contract of insurance referred to in subsection (1), the payment constitutes, to the extent of such payment, a release by the insured person or his Release by claimant

personal representatives of any claim that the insured person or any person claiming through or under him or by virtue of the *Fatal Accidents Ordinance* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection (1), but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person.

First loss
and excess
insurance

- (3) The insurance mentioned in subsection (1) is a first loss insurance and any other automobile insurance of the same type available to the injured person or in respect of a deceased person in excess insurance only.

Excess
insurance

- (4) The insurance mentioned in subsection (1) is excess insurance to any other insurance not being automobile insurance of the same type indemnifying the injured person or in respect of a deceased person for the expenses.

Idem

- (5) The insurance mentioned in subsection (1) is excess insurance to any other insurance indemnifying the injured person or in respect of a deceased person for the expenses.
- (6) All contracts evidenced by motor vehicle liability policies made or renewed before and subsisting on the coming into force of this section shall be deemed to contain the benefits, limits, terms and conditions set forth in the Schedule,

but in respect only of motor vehicle accidents occurring on or after that date.

- 161.(1) Every contract evidenced by a motor vehicle liability policy shall provide the death and total disability benefits set forth in subsection (2) of the Schedule in the terms, conditions, provisions and exclusions and subject to the limits as set forth in the Schedule. Death and disability benefits
- (2) Where an insurer makes a payment under a contract of insurance to which subsection (1) refers, the payment constitutes, to the extent of such payment, a release by the insured person or his personal representatives of any claim that the insured person or his personal representatives or any person claiming through or under him or by virtue of the *Fatal Accidents Ordinance* may have against the insurer and any other person who may be liable to the insured person or his personal representatives if that other person is insured under a contract of the same type as is specified in subsection (1), but nothing in this subsection precludes an insurer from demanding, as a condition precedent to payment, a release to the extent of the payment from the person insured or his personal representatives or any other person. Release by claimant
- (3) All contracts evidenced by motor vehicle liability policies made or renewed before and subsisting on the coming into force of this section shall be deemed to contain the benefits, limits, terms and conditions set forth in the Schedule.

but in respect only of motor vehicle accidents occurring on or after that date.

Demand for particulars of insurance

- 162.(1) Where a person is injured or killed in an accident in the Territory involving an automobile, that person or his personal representative may serve,
- (a) a demand by registered mail on the owner of the automobile; or
 - (b) a demand by registered mail on the insurer of the owner of the automobile, requiring the owner or insured, as the case may be, to state in writing to the person making the demand whether or not that owner has insurance of the type mentioned in sections 160 and 161, or either of them, and, where the demand is made under paragraph (a), requiring the owner, if he has such insurance, to state the name of the insurer.

Offence

- (2) An owner or insurer who does not, within ten days after receiving a demand made under subsection (1) comply with the demand is guilty of an offence.

Rights of unnamed insured

- 163.(1) Any person insured by but not named in a contract to which section 159, 160 or 161 applies may recover under the contract in the same manner and to the same extent as if named therein as the insured, and for that purpose shall be deemed to be a party to the contract and to have given consideration therefor.

- 164.(1) Where a person entitled to benefits provided by insurance under section 160 and section 161 or either of them, First liability
- (a) is an occupant of a motor vehicle involved in an accident, the insurer of the owner of the motor vehicle shall, in the first instance, be liable for payment of the benefits provided by the insurance; or
 - (b) is a pedestrian and is struck by a motor vehicle, the insurer of the owner of the motor vehicle shall, in the first instance, be liable for the payment of the benefits provided by the insurance.
- (2) Nothing in this section affects the operation of subsections 160 (2) to (5) and subsection 161 (2).
- 165.(1) Where an insurer admits liability for insurance money payable under sections 159, 160 or 161 and it appears that, Payment into court
- (a) there are adverse claimants,
 - (b) the whereabouts of an insured person entitled is unknown, or
 - (c) there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so,
- the insurer may, at any time after thirty days after the date upon which the insurance money becomes payable, apply to the Court *ex parte* for an order for payment of the money into court,

and the court may upon such notice, if any, as it thinks necessary make an order accordingly.

(2) The receipt of the proper officer of the court is sufficient discharge to the insurer for the insurance money paid into court, and the insurance money shall be dealt with as the court orders.

Limitation of action

166.(1) Every action or proceeding against an insurer under a contract in respect of insurance provided under sections 159, 160 or 161 shall be commenced within the limitation period specified in the contract, but in no event shall the limitation period be less than two years after the happening of the accident.

Claimant's obligation to inform

167.(1) Where any person makes a claim for damages in respect of bodily injury or death sustained by the person or any other person while driving or being carried in or upon or entering or getting onto or alighting from or as a result of being struck by an automobile, he shall furnish the person against whom the claim is made full particulars of all insurance available to the claimant under contracts falling within the scope of sections 160 or 161.

Release by claimant of benefits under Schedule

(2) Where a claimant is entitled to the benefit of insurance as provided in the Schedule, this, to the extent of payments made or available to the claimant thereunder, constitutes a release by the claimant of any claim against

the person liable to the claimant or his insurer.

- 168.(1) Subject to subsection 130 (1), an insurer may in a policy,
 - (a) provide insurance that is less extensive in scope than the insurance mentioned in section 159; and
 - (b) provide the terms of the contract that relate to the insurance mentioned in section 159.

Terms of certain insurances

Other Insurance

- 169.(1) Subject to section 151, insurance under a contract evidenced by a valid owner's policy is in respect of liability arising from or occurring in connection with the ownership, use or operation of an automobile owned by the insured named in the contract and within the description or definition thereof in the policy, a first loss insurance and insurance attaching under any other valid motor vehicle liability policy is excess insurance only.
- (2) Subject to sections 151, 160 and 161 and to subsection (1) of this section, if the insured named in a contract has or places any other valid insurance, whether against liability for the ownership, use or operation of or against loss of or damage to an automobile or otherwise, of his interest in the subject matter of the contract or any part thereof, the insurer is liable only for its rateable proportion of

Other insurance

Idem

any liability, expense, loss or damage.

Rateable
proportion
defined

- (3) "Rateable proportion" as used in subsection (2) means,
- (a) if there are two insurers liable and each has the same policy limits, each of the insurers shall share equally in any liability, expense, loss or damage;
 - (b) if there are two insurers liable with different policy limits, the insurers shall share equally up to the limit of the smaller policy limit;
 - (c) if there are more than two insurers liable, paragraphs (a) and (b) apply *mutatis mutandis*.

Subrogation

Subrogation

- 170.(1) An insurer who makes any payment or assumes liability therefor under a contract is subrogated to all rights or recovery of the insured against any person and may bring action in the name of the insured to enforce those rights.

Pro-rating
recovery

- (2) Where the net amount recovered whether by action or settlement is, after deduction of the costs of the recovery, not sufficient to provide complete indemnity for the loss or damage suffered, the amount remaining shall be divided between the insurer and the insured in the proportion in which the loss or damage has been borne by them.

- (3) Where the interest of an insured in any recovery is limited to the amount provided under a clause in the contract to which section 157 applies, the insurer shall have control of the action. Action when S.158 applies
- (4) Where the interest of an insured in any recovery exceeds that referred to in subsection (3) and the insured and the insurer cannot agree as to,
- (a) the solicitors to be instructed to bring the action in the name of the insured;
 - (b) the conduct and carriage of the action or any matters pertaining thereto;
 - (c) any offer of settlement or the apportionment thereof, whether action has been commenced or not;
 - (d) the acceptance of any money paid into court or the apportionment thereof;
 - (e) the apportionment of costs; or
 - (f) the launching or prosecution of an appeal,
- either party may apply to the court for the determination of the matters in question, and the court shall make such order as it considers reasonable having regard to the interests of the insured and the insurer in any recovery in the action or proposed action or in any offer of settlement.
- (5) On an application under subsection (4) the only parties entitled to notice and to be heard thereon are the insured and the insurer, and no material or evidence used or taken upon the application is admissible upon the trial of an action brought by or against the insured or the insurer. Idem

Concurrence
in settlement
or release

- (6) A settlement or release given before or after an action is brought does not bar the rights of the insured or the insurer, as the case may be, unless they have concurred therein.

PART VII

ACCIDENT AND SICKNESS INSURANCE

Interpretation

171.(1)

In this Part

"application"

- (a) "application" means a written application for insurance or for the reinstatement of insurance;

"beneficiary"

- (b) "beneficiary" means a person designated or appointed in a contract or by a declaration, other than the insured or his personal representative, to whom or for whose benefit insurance money payable in the event of death by accident is to be paid;

"blanket insurance"

- (c) "blanket insurance" means that class of group insurance that covers loss arising from specific hazards incident to or defined by reference to a particular activity or activities;

"contract"

- (d) "contract" means a contract of insurance;

"creditor's group insurance"

- (e) "creditor's group insurance" means insurance effected by a creditor whereby the lives or well-being, or the lives and well-being, of a number of his debtors are insured severally under a single contract;

"declaration"

- (f) "declaration" means an instrument signed by the insured,

- (i) with respect to which an endorsement is made on the policy, or
 - (ii) that identifies the contract, or
 - (iii) that describes the insurance or insurance fund or a part thereof, in which he designates or alters or revokes the designation of his personal representative or a beneficiary as one to whom or for whose benefit shall be paid the insurance money that is payable in the event of death by accident;
- (g) "family insurance" means insurance whereby the lives or well-being, or the lives and well-being, of the insured and one or more persons related to him by blood, marriage or adoption are insured under a single contract between an insurer and the insured; "family insurance"
- (h) "group insurance" means insurance other than creditor's group insurance and family insurance, whereby the lives or well-being, or the lives and well-being, of a number of persons are insured severally under a single contract between an insurer and an employer or other person; "group insurance"
- (i) "group person insured" means a person who is insured under a contract of group insurance and upon whom a right is conferred by the contract, but does not include a person who is insured thereunder as a person dependent upon or related to him; "group person insured"

- "instrument" (j) "instrument" includes a will;
- "insurance" (k) "insurance" means accident insurance, sickness insurance, or accident insurance and sickness insurance;
- "insured" (l) "insured",
- (i) in the case of group insurance means, in the provisions of this Part relating to the designation of beneficiaries or of personal representatives as recipients of insurance money and their rights and status, the group person insured, and
- (ii) in all other cases means the person who makes a contract with an insurer;
- "person insured" (m) "person insured" means a person in respect of an accident to whom, or in respect of whose sickness, insurance money is payable under a contract, but does not include a group person insured;
- "will" (n) "will" includes a codicil.
- Application of Part 172.(1) Notwithstanding any agreement, condition or stipulation to the contrary, this Part applies to contracts made in the Territory on or after the coming into force of this section.
- Idem (2) In the case of contracts made before and in effect on the coming into force of this section,
- (a) this section and sections 171, 173, 174, 183, 186, 187, 188, 192 and sections 194 to 210 in this Part apply; and
- (b) sections 143 to 147, 153 and 153 (c) of the *Insurance Ordinance*, as it existed

immediately before the coming into force of this section, continue to apply.

- | | | |
|---------|--|--------------------|
| (3) | This Part does not apply to, | Exceptions |
| | (a) accidental death insurance; or | |
| | (b) creditor's group insurance; or | |
| | (c) disability insurance; or | |
| | (d) insurance provided under sections 159, 160 and 161. | |
| 173.(1) | In the case of a contract of group insurance made with an insurer authorized to transact insurance in the Territory at the time the contract was made, this Part applies in determining, | Group Insurance |
| | (a) the rights and status of beneficiaries and personal representatives as recipients of insurance money, if the group person insured was resident in the Territory at the time he became insured; | |
| | and | |
| | (b) the rights and obligations of the group person insured if he was resident in the Territory at the time he became insured. | |
| 174.(1) | An insurer entering into a contract shall issue a policy. | Issue of policy |
| 175.(1) | This section does not apply to, | Exceptions |
| | (a) a contract of group insurance; or | |
| | (b) a contract made by a fraternal society. | |
| (2) | An insurer shall set forth the following particulars in the policy: | Contents of policy |

- (a) the name or a sufficient description of the insured and of the person insured;
- (b) the amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable;
- (c) the amount or the method of determining the amount of the premium and the period of grace, if any, within which it may be paid;
- (d) the conditions upon which the contract may be reinstated if it lapses;
- (e) the term of the insurance or the method of determining the day upon which the insurance commences and terminates.

Confinement clauses void

176.(1) Where a contract of accident insurance or sickness insurance issued on or after the coming into force of this section includes a provision that a benefit is payable to an insured on account of his disability and payment is conditional on the confinement of the insured, the provision does not bind the insured.

Contents of group policy

177.(1) In the case of a contract of group insurance, an insurer shall set forth the following particulars in the policy:

- (a) the name or a sufficient description of the insured;
- (b) the method of determining the group persons insured and the persons insured;
- (c) the amount or the method of determining the amount of the insurance money payable and the conditions under which it becomes payable;

- (d) the period of grace, if any, within which the premium may be paid;
- (e) the term of the insurance or the method of determining the day upon which the insurance commences and terminates.

178.(1) Where a contract of group accident and sickness insurance, or a benefit provision therein, is terminated the insurer continues to be liable to pay to or in respect of any group person insured under the contract benefits under the contract relating to,

- (a) loss of income because of disability;
- or
- (b) death; or
- (c) dismemberment,

arising from an accident or sickness that occurred before the termination of the contract or benefit provision as though the contract or benefit provision had remained in full force and effect; but the insurer is not liable to pay a benefit for loss of income because of disability in respect of the recurrence of disability arising from an accident or sickness that occurred before the termination of the contract or benefit provision if the recurrence occurs after the termination of the contract or benefit provision and after a period of ninety days, or such longer period as is provided in the contract, during which the group person insured was not disabled.

(2) Where a contract of group accident and sickness insurance (herein referred to as the "replacing contract") is entered into within thirty-one days of the termination of another contract of group

Continuation of accident and sickness insurance where contract terminated

Preservation of rights where contract replaced

accident and sickness insurance (herein referred to as the "other contract") and insures the same group or a part of the group insured under the other contract,

- (a) the replacing contract shall provide or shall be deemed to provide that any person who was insured under the other contract at the time of its termination is insured under the replacing contract from and after the termination of the other contract if;
 - (i) the insurance on that person under the other contract terminated solely by reason of the termination of the other contract, and
 - (ii) the person is a member of a class eligible for insurance under the replacing contract;
- (b) every person who was insured under the other contract and who is insured under the replacing contract is entitled to receive credit for satisfaction of any deductible earned before the effective date of the replacing contract; and
- (c) no person who was insured under the other contract shall be excluded from eligibility under the replacing contract solely because of not being actively at work on the effective date of the replacing contract.

Contents of group certificate

179.(1) Except as provided in subsection (2), in the case of a contract of group insurance an insurer shall issue for delivery by the insured to each group

person insured a certificate or other document in which are set forth the following particulars:

- (a) the name of the insurer and a sufficient identification of the contract;
- (b) the amount or the method of determining the amount of insurance on the group person insured and on any person insured;
- (c) the circumstances under which the insurance terminates, and the rights, if any, upon such termination of the group person insured and of any person insured.

(2) This section does not apply to a contract of blanket insurance or to a contract of group insurance of a non-renewable type issued for a term of six months or less. Exception

180.(1) Subject to section 181 and except as otherwise provided in this section, the insurer shall set forth in the policy every exception or reduction affecting the amount payable under the contract, either in the provision affected by the exception or reduction, or under a heading such as "Exceptions or Reductions". Exceptions or reduction

(2) Where the exception or reduction affects only one provision in the policy it shall be set forth in that provision. Idem

(3) Where the exception or reduction is contained in an endorsement, insertion or rider, the endorsement, insertion or rider shall, unless it affects all amounts payable under the contract, make reference to the provisions in the policy affected by the exception or reduction. Idem

- (4) The exception or reduction mentioned in section 193 need not be set forth in the policy.
- (5) This section does not apply to a contract made by a fraternal society.

Statutory conditions

181.(1) Subject to section 182, the conditions set forth in this section shall be deemed to be part of every contract other than a contract of group insurance, and shall be printed on or attached to the policy forming part of such contract with the heading "Statutory Conditions".

STATUTORY CONDITIONS

The contract

1. (1) The application, this policy, any document attached to this policy when issued, and any amendment to the contract agreed upon in writing after the policy is issued, constitute the entire contract, and no agent has authority to change the contract or waive any of its provision.

Waiver

(2) The insurer shall be deemed not to have waived any condition of this contract, either in whole or in part, unless the waiver is clearly expressed in writing signed by the insurer.

Copy of application

(3) The insurer shall, upon request, furnish to the insured or to a claimant under the contract a copy of the application.

Material facts

2. No statement made by the insured or person insured at the time of application for this contract shall be used in defence of a claim under or to avoid this contract unless it is contained in the application or any other written statements or

answers furnished as evidence of insurability.

3. (1) If after the contract is issued the person insured engages for compensation in an occupation that is classified by the insurer as more hazardous than that stated in this contract, the liability under this contract is limited to the amount that the premium paid would have purchased for the more hazardous occupation according to the limits, classification of risks and premium rates in use by the insurer at the time the person insured engaged in the more hazardous occupation.

Changes in occupation

(2) If the person insured changes his occupation from that stated in this contract to an occupation classified by the insurer as less hazardous and the insurer is so advised in writing, the insurer shall either,

(a) reduce the premium rate; or

(b) issue a policy for the unexpired term of this contract at the lower rate of premium applicable to the less hazardous occupation,

according to the limits, classification of risks, and premium rates used by the insurer at the date of receipt of advice of the change in occupation, and shall refund to the insured the amount by which the unearned premium on this contract exceeds the premium at the lower rate for the unexpired term.

4. Where the benefits for loss of time payable hereunder, either alone or together with benefits for loss of time under another contract, including a contract of group accident insurance or group sickness insurance or of both and a life insurance

Relation of earnings to insurance

contract providing disability insurance, exceed the money value of the time of the person insured, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts and the excess premium, if any, paid by the insured shall be returned to him by the insurer.

Termination
by insured

5. The insured may terminate this contract at any time by giving written notice of termination to the insurer by registered mail to its head office or chief agency in the Territory, or by delivery thereof to an authorized agent of the insurer in the Territory, and the insurer shall upon surrender of this policy refund the amount of premium paid in excess of the short rate premium calculated to the date of receipt of such notice according to the table in use by the insurer at the time of termination.

Termination
by insurer:

6.(1) The insurer may terminate this contract at any time by giving written notice of termination to the insured and by refunding currently with the giving of notice the amount of premium paid in excess of the pro rata premium for the expired time.

(2) The notice of termination may be delivered to the insured or it may be sent by registered mail to the latest address of the insured on the records of the insurer.

(3) Where the notice of termination is delivered to the insured, fifteen days' notice of termination

shall be given; where it is mailed to the insured, ten days' notice of termination shall be given, and the ten days shall begin on the day following the date of mailing of notice.

7. (1) The insured or a person insured, or a beneficiary entitled to make a claim, or the agent of any of them, shall,

Notice and
proof of claim

(a) give written notice of claim to the insurer,

(i) by delivery thereof, or by sending it by registered mail to the head office or chief agency of the insurer in the Territory, or

(ii) by delivery thereof to an authorized agent of the insurer in the Territory,

not later than thirty days from the date a claim arises under the contract on account of an accident, sickness or disability;

(b) within ninety days from the date a claim arises under the contract on account of an accident, sickness or disability, furnish to the insurer such proof as is reasonably possible in the circumstances of the happening of the accident or the commencement of the sickness or disability, and the loss occasioned thereby, the right of the claimant to receive payment, his age, and the age of the beneficiary if relevant; and

(c) if so required by the insurer, furnish a satisfactory certificate as to the cause or nature of the accident, sickness or disability for which claim

may be made under the contract
and as to the duration of such
disability.

Failure to
give notice
of proof

(2) Failure to give notice of claim or furnish proof of claim within the time prescribed by this statutory condition does not invalidate the claim if the notice or proof is given or furnished as soon as reasonably possible, and in no event later than one year from the date of the accident or the date a claim arises under the contract on account of sickness or disability if it is shown that it was not reasonably possible to give notice or furnish proof within the time so prescribed.

Insurer to
furnish forms
for proof of
claim

8. The insurer shall furnish forms for proof of claim within fifteen days after receiving notice of claim, but where the claimant has not received the forms within that time he may submit his proof of claim in the form of a written statement of the cause or nature of the accident, sickness or disability giving rise to the claim and of the extent of the loss.

Rights of
examination

9. As a condition precedent to recovery of insurance moneys under this contract,

- (a) the claimant shall afford to the insurer an opportunity to examine the person of the person insured when and so often as it reasonably requires while the claim hereunder is pending; and
- (b) in the case of death of the person insured the insurer may require an autopsy subject to any law of the applicable jurisdiction relating to autopsies.

10. All moneys payable under this contract, other than benefits for loss of time, shall be paid by the insurer within sixty days after it has received proof of claim.

When moneys payable other than for loss of time

11. The initial benefits for loss of time shall be paid by the insurer within thirty days after it has received proof of claim, and payment shall be made thereafter in accordance with the terms of the contract but not less frequently than once in each succeeding sixty days while the insurer remains liable for the payments if the person insured when required to do so furnishes before payment proof of continuing disability.

When loss of time benefits payable

12. An action or proceeding against the insurer for the recovery of a claim under this contract shall not be commenced more than two years after the date the insurance money became payable or would have become payable if it had been a valid claim.

Limitation of actions

182.(1) Where a statutory condition is not applicable to the benefits provided by the contract it may be omitted from the policy or varied so that it will be applicable.

Omission or variation of conditions

(2) Statutory conditions 3, 4 and 9 may be omitted from the policy if the contract does not contain any provisions respecting the matters dealt with therein.

Idem

(3) Statutory conditions 5 and 6 shall be omitted from the policy if the contract does not provide

Idem

that it may be terminated by the insurer prior to the expiry of any period for which a premium has been accepted.

- Idem (4) Statutory conditions, 3, 4, 5, 6 and 9, and subject to the restriction in subsection (5), statutory condition 7, may be varied but, if by reason of the variation the contract is less favourable to the insured, a person insured or a beneficiary than it would be if the condition had not been varied, the condition shall be deemed to be included in the policy in the form in which it appears in section 181.
- Idem (5) Clauses (a) and (b) of paragraph (1) of statutory condition 7 may not be varied in policies providing benefits for loss of time.
- Idem (6) Statutory conditions 10 and 11 may be varied by shortening the periods of time prescribed therein, and statutory condition 12 may be varied by lengthening the period of time prescribed therein.
- Idem (7) The title of a statutory condition shall be reproduced in the policy along with the statutory condition, but the number of a statutory condition may be omitted.
- Contract by fraternal society (8) In the case of a contract made by a fraternal society,
(a) the following provisions shall be printed on every policy in substitution for paragraph (1) of statutory condition 1:

1. (1) This policy, the Ordinance or instrument of incorporation of the society, its constitution, by-laws and rules, and the amendments made from time to time to any of them, the application for the contract and the medical statement of the applicant, constitute the entire contract, and no agent has authority to change the contract or waive any of its provisions,
and
(b) statutory condition 5 shall not be printed on the policy.
- 183.(1) In the case of a policy of accident insurance of a non-renewable type issued for a term of six months or less or in relation to a ticket of travel, the statutory conditions need not be printed on or attached to the policy if the policy contains the following notice printed in conspicuous type:
"Notwithstanding any other provision herein contained, this contract is subject to the statutory conditions in the *Insurance Ordinance* respecting contracts of accident insurance."
- 184.(1) Where a policy evidencing a contract or a certificate evidencing the renewal of a contract is delivered to the insured and the initial premium or in the case of a renewal certificate the renewal premium therefor has not been fully paid,
(a) the contract or the renewal thereof evidenced by the certificate is as binding on the insurer as if such pre-
- The contract
- Notice of statutory condition
- Termination for non-payment of initial or renewal premium

mium had been paid although delivered by an officer or an agent of the insurer who did not have authority to deliver it; and

- (b) the contract may be terminated for the non-payment of the premium by the insurer upon ten days' notice of termination given in writing to the insured and mailed postage prepaid and registered to the latest address of the insured on the records of the insurer and the ten days shall begin on the day following the date of mailing such notice.

Exception (2) This section does not apply to a contract of group insurance or to a contract made by a fraternal society.

Right where premium unpaid 185.(1) An insurer may,

- (a) deduct unpaid premiums from an account that it is liable to pay under a contract; or
- (b) sue the insured for unpaid premiums.

Where cheque or note for premium not paid (2) Where a cheque or other bill of exchange or a promissory note or other written promise to pay is given for the whole or part of a premium and payment is not made according to its tenor, the premium or part thereof shall be deemed never to have been paid.

Exception (3) Paragraph (1)(a) does not apply to a contract of group insurance.

- (4) This section does not apply to a contract made by a fraternal society.

- 186.(1) Without restricting the meaning of the expression "insurable interest", a person has an insurable interest in his own life and well-being and in the life and well-being of,
 - (a) his child or grandchild;
 - (b) his spouse;
 - (c) any person upon whom he is wholly or in part dependent for, or from whom he is receiving, support or education;
 - (d) his officer or employee; and
 - (e) any person in whom he has a pecuniary interest.

- 187.(1) Subject to subsection (2) where at the time a contract would otherwise take effect the insured has no insurable interest, the contract is void.

- (2) A contract is not void for lack of insurable interest,
 - (a) if it is a contract of group insurance; or
 - (b) if the person insured has consented in writing to the insurance.

- (3) Where the person insured is under the age of sixteen years, consent to the insurance may be given by one of his parents or by a person standing in *loco parentis* to him.

Insurable interest

Lack of insurable interest

Exceptions

Consent of minors

Policies on Lives of Minors

Capacity of minors 188.(1) Except in respect of his rights as beneficiary, a minor who has attained the age of sixteen years has the capacity of a person of the age of nineteen years,

- (a) to make an enforceable contract; and
- (b) in respect of a contract.

Capacity of minor beneficiary (2) A beneficiary who has attained the age of eighteen years has the capacity of a person of the age of nineteen years to receive insurance money payable to him and to give a valid discharge therefor.

Misrepresentation and Non-Disclosure

Duty to disclose 189.(1) An applicant for insurance on his own behalf and on behalf of each person to be insured, and each person to be insured, shall disclose to the insurer in any application, on a medical examination, if any, and in any written statements or answers furnished as evidence of insurability, every fact within his knowledge that is material to the insurance and is not so disclosed by the other.

Failure to disclose (2) Subject to sections 190 to 193, a failure to disclose or misrepresentation of such fact renders a contract voidable by the insurer.

Group insurance failure to disclose (3) In the case of a contract of group insurance, a failure to disclose or a misrepresentation of such a fact with respect to a group person insured or person insured under the contract

does not render the contract voidable, but if evidence of insurability is specifically requested by the insurer, the insurance in respect of such a person is, subject to section 198, voidable by the insurer.

190.(1) Subject to section 193 and except as provided in subsection (2),

Incontestability

(a) where a contract, including renewals thereof, except a contract of group insurance, has been in effect continuously for two years with respect to a person insured, a failure to disclose or a misrepresentation of a fact with respect to that person required by section 189 to be disclosed does not, except in the case of fraud, render the contract voidable;

(b) where a contract of a group insurance, including renewals thereof, has been in effect continuously for two years with respect to a group person insured or a person insured, a failure to disclose or a misrepresentation of a fact with respect to that group person insured or person insured required by section 189 to be disclosed does not, except in the case of fraud, render the contract voidable with respect to that group person insured or person insured.

(2) Where a claim arises from a loss incurred or a

Exception

disability beginning before a contract, including renewals thereof, has been in force for two years with respect to the person in respect of whom the claim is made, subsection (1) does not apply to that claim.

Application of
incontestability
to reinstatement

191.(1) Sections 189 and 190 apply *mutatis mutandis* to a failure at the time of reinstatement of a contract to disclose a misrepresentation at that time, and the period of two years to which reference is made in section 189 commences to run in respect of a reinstatement from the date of reinstatement.

Pre-existing
conditions

192.(1) Where a contract contains a general exception or reduction with respect to pre-existing disease or physical conditions and the person insured or group person insured suffers or has suffered from a disease or physical condition that existed before the date the contract came into force with respect to that person and the disease or physical condition is not by name or specific description excluded from the insurance respecting that person,

- (a) the prior existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part for a loss incurred or a disability beginning after the contract, including renewals thereof, has been in force continuously for two years immediately prior to the date of loss

incurred or commencement of disability with respect to that person; and

- (b) the existence of the disease or physical condition is not, except in the case of fraud, available as a defence against liability in whole or in part if the disease or physical condition was disclosed in the application for the contract

- 193.(1) Subject to subsections (2) and (3), if the age of the person insured has been misstated to the insurer then, at the option of the insurer, either
 - (a) the benefits payable under the contract shall be increased or decreased to the amount that would have been provided for the same premium at the correct age; or
 - (b) the premium may be adjusted in accordance with the correct age as of the date the person insured became insured.

Misstatement of age

- (2) In the case of a contract of group insurance, if there is a misstatement to the insurer of the age of a group person insured or person insured, the provisions, if any, of the contract with respect to age or misstatement of age shall apply.

Misstatement of age in group insurance

- (3) Where the age of a person affects the commencement or termination of the insurance, the true age governs.

True age governs

Beneficiaries

- 194.(1) Unless otherwise provided in the policy, an insured may in a contract or by a declaration desi-

Designation of beneficiary

gnate his personal representative or a beneficiary to receive insurance money payable in the event of death by accident and may from time to time alter or revoke the designation by declaration.

Designation
in invalid will

- (2) A designation in an instrument purporting to be a will is not ineffective by reason only of the fact that the instrument is invalid as a will or that the designation is invalid as a bequest under the will.

Priorities

- (3) A designation in a will is of no effect against a designation made later than the making of the will.

Revocation

- (4) If a designation is contained in a will and subsequently the will is revoked by operation of law or otherwise, the designation is thereby revoked.

Idem

- (5) If a designation is contained in an instrument that purports to be a will and subsequently the instrument, if it had been valid as a will would have been revoked by operation of law or otherwise, the designation is thereby revoked.

Meaning of
"heirs", etc.

- 195.(1) A designation in favour of the "heirs", "next-of-kin" or "estate", or the use of words of like import in a designation shall be deemed to be a designation of the personal representative.

Death of
beneficiary

- (2) Where a beneficiary predeceases the person insured or group person insured, as the case may be, and no disposition of the share of the deceased bene-

beneficiary in the insurance money is provided in the contract or by declaration, the share is payable

- (a) to the surviving beneficiary; or
- (b) if there is more than one surviving beneficiary, to the surviving beneficiaries in equal shares; or
- (c) if there is no surviving beneficiary, to the insured or group person insured, as the case may be, or his personal representative.

(3) A beneficiary designated under section 193 may upon the death by accident of the person insured or group person insured enforce for his own benefit, and a trustee appointed pursuant to section 196 may enforce as trustee, the payment of insurance money payable to him, and the payment to the beneficiary or trustee discharges the insurer to the extent of the amount paid, but the insurer may set up any defence that it could have set up against the insured or his personal representative.

196.(1) An insured may in contract or by a declaration appoint a trustee for a beneficiary, and may alter or revoke the appointment by a declaration.

Trustee for beneficiary

197.(1) Until an insurer receives at its head or principal office in Canada an instrument or an order of any court of competent jurisdiction affecting the right to receive insurance money, or a notarial copy or a copy verified by statutory declaration.

Documents affecting title

of any such instrument or order, it may make payment of the insurance money and shall be as fully discharged to the extent of the amount paid as if there was no such instrument or order.

- Saving (2) Subsection (1) does not affect the rights or interests of any person other than the insurer.
- Interest of assignee (3) Where an assignee of a contract gives notice in writing of the assignment to the insurer at its head or principal office in Canada he has priority of interest as against,
(a) any assignee other than one who gave notice earlier in like manner; and
(b) a beneficiary.
- Assignee deemed to be insured (4) Where a contract is assigned unconditionally and otherwise than as security, the assignee has all the rights and interests given by the contract and by this Part to the insured, and shall be deemed to be the insured.
- Prohibition against assignment (5) A provision in a contract to the effect that the rights or interests of the insured, or in the case of a contract of group insurance the group person insured, are not assignable is valid.
- Insurance money free from creditors 198.(1) Where a beneficiary is designated, any insurance money payable to him is not, from the time of the happening of the event upon which it becomes payable, part of the estate of the insured and is not subject to the claims of the creditors of the insured.

- (2) While there is in effect a designation of beneficiary in favour of any one or more of a spouse, child, grandchild or parent of the person insured or group person insured, the rights and interests of the insured in the insurance money and in the contract so far as either relate to the accidental death benefits are exempt from execution or seizure. **Contract exempt from seizure**
- 199.(1) A group person insured may, in his own name, enforce a right given by a contract to him, or to a person insured thereunder as a person dependent upon or related to him, subject to any defence available to the insurer against him or such person insured or against the insured. **Group person insured enforcing rights**
- 200.(1) Unless a contract or a declaration otherwise provides, where a person insured or group person insured and a beneficiary die at the same time or in circumstances rendering it uncertain which of them survived the other, the insurance money is payable in accordance with subsection 196 (2) as if the beneficiary had predeceased the person insured or group person insured. **Simultaneous deaths**
- 201.(1) Where the insurer admits liability for the insurance money or any part thereof and it appears to the insurer that,
- (a) there are adverse claimants; or
 - (b) the whereabouts of the person entitled is unknown; or
 - (c) there is no person capable of giving or authorized to give a valid discharge
- Payment into court**

therefor who is willing to do so, the insurer may apply *ex parte* to the court for an order for payment of money into court, and the court may upon such notice, if any, as it deems necessary, make an order accordingly.

Costs of proceedings

(2) The court may fix without taxation the costs incurred upon or in connection with any application or order made under subsection (1), and may order the costs to be paid out of the insurance money or by the insurer or otherwise as it deems just.

Discharge of insurer

(3) A payment made pursuant to an order under subsection (1) discharges the insurer to the extent of the payment.

202.(1) Where an insurer admits liability for insurance money payable to a minor and there is no person capable of giving and authorized to give a valid discharge therefor who is willing to do so, the insurer may at any time after thirty days from the date of the happening of the event upon which the insurance money becomes payable, pay the money less the applicable costs mentioned in subsection (2) into court to the credit of the minor.

Costs

(2) The insurer may retain, out of the insurance money for costs incurred upon payment into court under subsection (1), the sum of ten dollars where the amount does not exceed one thousand dollars, and the sum of fifteen dollars in other cases, and payment of the remainder of the money into court discharges the insurer.

- (3) No order is necessary for payment into court under subsection (1), but the accountant or other proper officer of the court shall receive the money upon the insurer filing with him an affidavit showing the amount payable and the name, date of birth and residence of the minor, and upon such payment being made the insurer shall forthwith notify the Public Administrator and deliver to him a copy of the affidavit.

Procedure

- 203.(1) Where it appears that a representative of a beneficiary who is under disability may under the law of the domicile of the beneficiary accept payments on behalf of the beneficiary, the insurer may make payment to the representative and any such payment discharges the insurer to the extent of the amount paid.

Beneficiary under disability

- 204.(1) Notwithstanding that insurance money is payable to a person, the insurer may if the contract so provides, but subject always to the rights of an assignee, pay an amount not exceeding two thousand dollars to,

 - (a) a relative by blood or connection by marriage of a person insured or the group person insured; or
 - (b) any person appearing to the insurer to be equitably entitled thereto by reason of having incurred expense for the maintenance, medical attendance or burial of a person insured or the group person insured, or to have a claim against the estate of a person insured

Payments not exceeding \$2,000

or the group person insured in relation thereto,

and any such payment discharges the insurer to the extent of the amount paid.

Place of payment

205.(1) Subject to subsection (2), insurance money is payable in the Territory.

(2) In the case of a contract of group insurance, money is payable in the Province of Canada in which the group person insured was resident at the time he became insured.

Dollars

(3) Unless a contract otherwise provides, a reference therein to dollars means Canadian dollars whether the contract by its terms provides for payment in Canada or elsewhere.

Payment outside the Territory

(4) Where a person entitled to receive insurance money is not domiciled in the Territory, the insurer may pay the insurance money to that person or to any person who is entitled to receive it on his behalf by the law of the domicile of the payee and any such payment discharges the insurer to the extent of the amount paid.

Payment to personal representative

(5) Where insurance money is by the contract payable to a person who has died or to his personal representative and such deceased person was not at the date of his death domiciled in the Territory, the insurer may pay the insurance money to the personal representative of such person appointed under the law of his domicile, and any such payment discharges the insurer to the extent of the amount paid.

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| 206.(1) | Regardless of the place where a contract was made, a claimant who is a resident of the Territory may bring an action in the Territory if the insurer was authorized to transact insurance in the Territory at the time the contract was made or at the time the action is brought. | Action in the Territory |
| 207.(1) | An insurer does not incur any liability for any default, error or omission in giving or withholding information as to any notice or instrument that it has received and that affects the insurance money. | Insurer giving information |
| 208.(1) | The insurer shall not in the policy give undue prominence to any provision or statutory condition as compared to other provisions or statutory conditions, unless the effect of that provision or statutory condition is to increase the premium or decrease the benefits otherwise provided for in the policy. | Under prominence |
| 209.(1) | Where there has been imperfect compliance with a statutory condition as to any matter or thing to be done or omitted by the insured, person insured or claimant with respect to the loss insured against and a consequent forfeiture or avoidance of the insurance in whole or in part, and any court before which a question relating thereto is tried deems it inequitable that the insurance should be forfeited or avoided on that ground, the court may relieve against the forfeiture or avoidance on such terms as it deems just. | Relief from forfeiture |

Presumption
against agency 210.(1) No officer, agent, employee or servant of the insurer, and no person soliciting insurance, whether or not he is an agent of the insurer, shall to the prejudice of the insured, person insured or group person insured, be deemed to be the agent of the insured or of the person insured or group person insured in respect of any question arising out of the contract.

PART VIII

LIVE STOCK INSURANCE

Application
of part 211.(1) This Part applies to live stock insurance and to any insurer carrying on the business of live stock insurance in the Territory.

Property
that may
be insured 212.(1) Every insurer licensed for the transaction of live stock insurance, may within the limits and subject to the conditions prescribed by the licence, insure against loss of live stock, by fire, lightning, accident, disease or other means, except that of design on the part of the insured, or by the invasion of an enemy or by insurrection.

Application
of provisions
as to fire
insurance 213.(1) The following provisions of Part IV apply to live stock insurance contracts:

- (a) the provisions as to the form and contents of the policy, and
- (b) the provisions as to the conditions, including the statutory conditions, except where inapplicable to the nature of the risk.

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| 214.(1) | Contracts of insurance shall not in any case exceed the term of two years. | Term of contract |
| (2) | A contract made for one year or any shorter period may be renewed from time to time at the discretion of the insurer by renewal receipt instead of by policy, on the insured paying the required premium and all payments or renewals must be made, at or before the end of the period for which the policy was granted or renewed, otherwise the policy is void. | |
| (3) | No renewal receipt shall extend the contract beyond two years from the date of the policy. | |

PART IX

FRATERNAL SOCIETIES

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| 215.(1) | No fraternal society shall, without a licence, carry on the business of life insurance in the Territory. | Licencing |
| (2) | The Superintendent may, on such terms and conditions as he considers in the public interest, grant licences to fraternal societies to carry on the business of life insurance in the Territory. | Idem |
| (3) | The following shall be deemed not to be fraternal societies within the meaning of this Part and shall not be required or entitled to be licensed as such: | Societies not deemed to be fraternal societies |
| | (a) a corporation not otherwise provided for in this Ordinance that has by or | |

- under the authority of an Act of Parliament of Canada created a fund for paying a gratuity on the happening of death, sickness, infirmity, casualty, accident, disability or any change of physical or mental condition;
- (b) a corporation not otherwise provided for in this Ordinance that has by or under the authority of an Act of Parliament of Canada an insurance and provident society or association, or an insurance or guarantee fund in connection with the corporation;
- (c) a corporation that undertakes or offers to undertake contracts of insurance other than with its own members exclusively, or for more than five thousand dollars payable on the death of any one member other than a funeral benefit, or any contracts of insurance with its members other than
- (i) life insurance,
 - (ii) contracts for the payment of mortuary or funeral benefits, or
 - (iii) old age insurance;
- (d) a corporation in which the insurance fund is used for the purposes of a mercantile or business enterprise, or for mercantile profit, or a society formed on the lodge system, whose insurance fund is held other than as a trust fund for the members insured;

- (e) a society in which the persons insured do not exercise, either directly or through representatives elected for a term not exceeding four years, effective control over the insurance fund of the society, or in which the officers or other persons having the disposition, control or possession of the insurance fund are elected or appointed for a longer period than four years; and
- (f) any corporation that undertakes contracts of insurance but is not formed exclusively for that purpose and that does not for the purpose of such contracts keep distinct and separate funds, securities, books and vouchers.

PART X

AGENTS, BROKERS AND ADJUSTERS
LICENCES OF INSURANCE AGENTS

216.(1) The Superintendent may issue to any person who has complied with this Ordinance a licence authorizing such person to carry on business as an insurance agent subject to this Ordinance, to the regulations and to the terms of the licence.

Licensing agents

(2) Licences issued under subsection (1) shall be of three classes, that is,

Classes of licences

- (a) licences for life insurance, or life and accident insurance, or life and accident and sickness insurance; or
- (b) licences for accident and sickness insurance; or

(c) licences for all classes of insurance other than life insurance.

Issue of licence

(3) Upon written notice to the Superintendent that a licensed insurer has appointed a person to act as his agent in the Territory and upon due application of such person and payment by him of the prescribed fee, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence and intends to hold himself out publicly and carry on business in good faith as an insurance agent, issue to the applicant a licence that shall state in substance that the holder is, during the term of the licence, authorized to carry on in the Territory the business of an insurance agent.

Notice of appointment of agent

(4) Such notice of appointment by an insurer shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the insurer to act as agent in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving the name, age, residence and present occupation of the applicant and his occupation for the five years next preceding the date of the notice and particulars of any other employment in which he is engaged and such other information as the Superintendent may require.

Limitations of licence

(5) Where the applicant is the appointee of an insurer carrying on in the Territory the business of life insurance or life and accident insurance, or life

and accident and sickness insurance, the licence shall expressly limit the authorization of the agent to the class of insurance for which the insurer is licensed, and, where the applicant is the appointee of an insurer carrying on in the Territory any class or classes of insurance business other than life insurance, the licence shall expressly exclude the business of life insurance, but nothing herein prevents the issue to the same applicant of two licences including all classes of insurance if due application has been made for two licences.

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| (6) | Where the agency, upon notice of which a licence is issued, is terminated, notice in writing shall be forthwith given by the insurer to the Superintendent of the termination with the reason therefor, and thereupon the licence is <i>ipso facto</i> suspended, but it may be revived subject to the approval of the Superintendent upon filing of notice of a new agency appointment and upon payment of the prescribed fee. | Notice of termination of agency |
| (7) | An insurer who fails to notify the Superintendent within thirty days of the termination of an agency appointment as required by subsection (6) is guilty of an offence. | Failure to give notice |
| (8) | A licence issued under this section or section 217 may be revoked by the Superintendent if, after due investigation and a hearing, he determines that the holder of the licence,
(a) has contravened any provision of this Ordinance or the regulations in his | Revocation |

- operations as an insurance agent; or
- (b) has made a material misstatement in the application for the licence; or
- (c) has been guilty of a fraudulent practice; or
- (d) has demonstrated his incompetency or untrustworthiness to transact the insurance agency business for which the licence was granted, by reason of anything done or omitted in or about such business under the authority of the licence; or
- (e) has employed upon salary or otherwise any person whose application for licence as an insurance agent has been refused or whose licence has been revoked or suspended under this Part without having first obtained the written approval of the Superintendent.

Advisory board to hold hearing and report

- (9) In determining the granting or refusal of an application for a licence or renewal of licence, or the revocation of an existing licence under this section or section 217, the Superintendent may, and shall when so requested in writing by the applicant or licensee, appoint an advisory board consisting of,
 - (a) a representative of insurers;
 - (b) a representative of agents; and
 - (c) a representative of the Superintendent,which shall hold a hearing and make a report to the Superintendent with such recommendation as it considers fit.

- (10) The representative of the Superintendent upon the advisory board shall act as chairman and, for the purposes of his duties in connection with the investigation and hearing contemplated by subsection (9), has the same powers as are vested in the Superintendent by section 4. Chairman of board
- (11) A licence issued hereunder expires at such time as the regulations provide unless automatically suspended by notice under subsection (6), or unless revoked or suspended by the Superintendent, but such licence may, in the discretion of the Superintendent, be renewed for a succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he may require, accompanied by a certificate of agency appointment of a licensed insurer and payment of the prescribed fee, without requiring anew the detailed information herein-before specified. Terms and renewal of licence
- (12) The holder of a licence under this section as agent for insurance other than life insurance may, during the term and validity of his licence, act as agent for any licensed insurer within the limits prescribed by his licence, and may act as an insurance broker in dealing with licensed insurers without other or additional licences. Authority of agents
- (13) A life insurance agent may be licensed to act as agent for more than one insurer transacting life insurance, and the name of each insurer shall be specified in the licence, but where such an agent Authority of life insurance agent

is unable to negotiate insurance on behalf of an applicant for insurance with the insurers for which he is the authorized agent, such agent has the right to procure such insurance from another insurer if such other insurer obtains in each case the consent in writing of the insurers for which such agent is the authorized agent, and files a copy of such consent with the Superintendent.

- Collectors (14) A collector of insurance premiums who does not solicit application for or the renewal or continuance of insurance contracts or act or aid in negotiating such contracts or the renewal thereof may carry on such business without a licence therefor if his collection fee does not exceed 5 percent of any amount collected.
- Officers of fraternal societies (15) An officer or a salaried employee of the head office of a duly licensed fraternal society who does not receive commission may, without a licence, solicit insurance contracts on behalf of the society.
- Members of fraternal societies (16) Any member not an officer or salaried employee described in subsection (15) may, without a licence, solicit insurance contracts on behalf of the society unless he devotes or intends to devote more than one-half of his time to soliciting such contracts or has in the previous licence year solicited and procured life insurance contracts on behalf of the society in an amount in excess of twenty thousand dollars.

- (17) Unless the Superintendent otherwise directs, an officer or salaried employee of a licensed insurer who does not receive commissions, may, without a licence, act for such insurer in the negotiation of any contracts of insurance or in the negotiation of the continuance or renewal of any contracts that the insurer may lawfully undertake, but officers or employees whose applications for licences as insurance agents or salesmen have been refused or whose licences have been revoked or suspended may not so act without the written approval of the Superintendent, and, in the cases of insurers authorized to undertake life insurance, only the officers and salaried employees of the head office who do not receive commissions may so act without a licence.
- (18) Notwithstanding anything in this Ordinance, the Superintendent may issue a licence to a transportation company authorizing it, by its employees in the Territory to act as an agent for a licensed insurer with respect to accident insurance and such other classes of insurance as he approves.
- (19) The Commissioner may make regulations,
- (a) prescribing requirements, qualifications and conditions for the granting or renewal of licences;
 - (b) providing for the holding of examinations for applicant for licences or renewals of licences;

Salaried
officials,
etc.,
acting
without
licence

Licensing
of
transportation
companies

Regulations

- (c) classifying applicants for licences and restricting or prohibiting the licensing of any class of applicant;
- (d) prescribing the grounds upon which a licence may be revoked, suspended or not renewed;
- (e) regulating the method of handling premiums collected and requiring and regulating accounts and records to be maintained by agents;
- (f) requiring agents to supply information and make returns to the Superintendent;
- (g) requiring an agent to furnish professional liability policy and a bond or other security and fixing the amounts, forms, requirements and terms thereof;
- (h) prescribing fees and forms and providing for their use; and
- (i) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this section.

Scope of regulations

- (20) Regulations made under subsection (19) are in addition to the provisions of this section notwithstanding that the regulations concern a matter provided for in this section.

Offence

- (21) Every person who acts as an agent without a licence, or while his licence is suspended, is guilty of an offence.

Licences of Insurance Salesmen

Licences of salesmen

- 217.(1) The Superintendent may issue to any person who has complied with this Ordinance a licence authorizing

such person to act as a salesman on behalf of a licenced insurance agent or broker in negotiating contracts of insurance or in the negotiation of the continuance or renewal of any contracts such agent or broker may lawfully undertake.

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| (2) | Licences so issued shall be for any classes of insurance, other than life insurance. | Type of insurance |
| (3) | Upon written notice to the Superintendent that a licenced agent or broker has appointed a person as a salesman to act on his behalf, and upon due application of such person and payment by him of the prescribed fee, the Superintendent shall, if he is satisfied that the applicant is a suitable person to receive a licence, and has not been refused a licence as an insurance agent or broker, or had such a licence suspended or revoked, issue to the applicant a licence stating in substance that the holder is, during the term of the licence, authorized to act in the Territory as a salesman of such agent or broker. | Issue of licence |
| (4) | Such notice of appointment by a licensed agent or broker, other than a life insurance agent, shall be upon a form furnished by the Superintendent and shall state that the appointee has been authorized in writing by the agent or broker to act as a salesman in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a form furnished by the Superintendent giving his name, age, residence, the amount of monthly salary he is to receive for such employment, his present occupation | Form of notice of appointment |

and occupation for the five years next preceding the date of notice, particulars of any other employment in which he is engaged, and such other information as the Superintendent may require.

Licence to
exclude life
insurance

- (5) The licence shall expressly exclude the business of life insurance, but nothing herein prevents the issuance to the same applicant of a licence as a life insurance agent, if due application is made upon written notice of appointment by a licensed insurer.

Notice of
termination
of employment

- (6) Where a licensed salesman ceases to be employed by the appointing agent or broker, notice in writing shall forthwith be given by the agent or broker to the Superintendent of such termination of employment with the reason therefor, and thereupon the licence is *ipso facto* suspended, but such licence may be revived subject to the approval of the Superintendent upon filing a notice of the salesman's appointment by another agent or broker, and upon payment of the prescribed fee.

Failure to
give notice

- (7) An agent or broker who fails to notify the Superintendent within thirty days of the termination of a salesman's appointment as required by subsection (6) is guilty of an offence.

Term and
renewal of
licence

- (8) A licence issued under this section expires on a day fixed by the Superintendent unless automatically suspended by notice under subsection (6) or unless revoked or suspended by the Superintendent, but such licence may, in the discretion of the Superintendent, be renewed for a

succeeding year upon due application upon a form prescribed by the Superintendent giving such information as he may require, accompanied by a certificate of a licensed agent or broker respecting the salesman's appointment, and payment of the prescribed fee, without requiring anew the detailed information herein before specified.

- (9) The holder of a licence issued under this section may, during the term and validity of his licence, act as a salesman only for the agent or broker by whom he is appointed and within the limits of such agent's or broker's licence for classes of insurance other than life insurance. Who salesman may act for
- (10) Every person who acts as a salesman of an insurance agent or broker without a licence, or while his licence is suspended, is guilty of an offence. Offence

Licences of Insurance Brokers

- 218.(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person resident in Canada a licence to act in the Territory as an insurance broker to negotiate, continue or renew contracts of insurance, other than life insurance, or to place risks or effect insurance with any duly licensed insurer or its agent. Licence of insurance brokers
- (2) The applicant for such a licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation at the time of making the application, his occupation for the five years Application

next preceding the date of the application and such other information as the Superintendent may require, and the applicant shall declare that he intends to hold himself out publicly and carry on business in good faith as an insurance broker and he shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in the Territory.

Superintendent
may issue
licence

(3) If the Superintendent is satisfied with the statement and information required by subsection (2), he shall issue the licence applied for, and the licence expires on a date fixed by the Superintendent in each year unless sooner revoked or suspended.

Renewal of
licence

(4) The licence may, in the discretion of the Superintendent, be renewed upon payment of the prescribed fee for each succeeding year without requiring anew the detailed information hereinbefore specified.

Revocation or
suspension of
licence

(5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may, suspend it for a period not exceeding the unexpired term thereof, and may for cause shown and, after a hearing revoke the licence while so suspended, and shall notify the licensee in writing of such revocation or suspension and may publish a notice of such revocation or suspension in such manner as he considers necessary for the protection of the public.

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| (6) | Any person, other than a licensed agent, who acts as an insurance broker without licence or during a suspension of his licence is guilty of an offence. | Offence |
| (7) | Subject to section 220, a broker shall not be presumed to be the agent of the insurer or the agent of the insured by reason of the issue to him of a licence under this section. | Licence not to import agency |
| 219.(1) | In addition to issuing insurance brokers' licences giving full authority to the licensee as set forth in the preceding sections, the Superintendent may issue insurance brokers' licences limiting the authority of the licensee to the extent agreed upon with the applicant and set forth in the licence, but in other respects the granting of such licences and the brokers so licensed are subject to this Ordinance. | Licence may be granted limiting authority of licensee |

Provisions Relating to Agents and Brokers

Generally

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| 220.(1) | An agent or broker shall, for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary. | Agent or broker receiving premiums |
| (2) | This section does not apply to life insurance. | Exception |

Broker's Licenses for Business with

Unlicensed Insurers

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| 220.1 (1) | The Superintendent may upon the payment of the prescribed fee, issue to any suitable person resident in or outside of the Territory a license to act as a special insurance broker to negotiate, continue or renew contracts of insurance in Yukon, other than contracts of life insurance, | ; |
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with insurers not authorized to transact such business in Yukon.

- (2) The applicant for such a license shall file with the Superintendent a written application under oath as prescribed by section 218 (2).
- (3) If the Superintendent is satisfied with the statements and information required by subsection (2), he shall issue the license applied for, and the license expires at such time as the regulations provide unless sooner suspended or revoked.
- (4) The Superintendent may renew a license issued pursuant to this section for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by Section 218.
- (5) A person shall, before receiving such license, execute and deliver to the Superintendent security to the satisfaction of the Superintendent in the sum of not less than \$5,000 that the licensee will faithfully comply with this Ordinance.
- (6) Where sufficient insurance in Yukon cannot be obtained at reasonable rates or on the form of contract required by the insured from insurers licensed to do business in Yukon, the person named in such license may effect insurance with unlicensed insurers, but shall in the case of every insurance effected under this section obtain from the insured a signed and dated statement describing the risk to be insured and

the amount of insurance required and stating that the insurance cannot be obtained in licensed companies and that the application for such insurance at the stated rate of premium was previously made to and refused by named companies licensed in Yukon, and the person named in such license shall, within ten days after the placing of such insurance with unlicensed insurers, submit to the Superintendent a statement setting forth the name of the insured, a description of the risk insured, the full names of the unlicensed insurers, and the amount of insurance placed with each and the rate and amount of premium paid to each.

- (7) Such a licensee shall keep a separate account of insurance effected by him under his license in books in the form prescribed by the Superintendent, which shall be open to inspection by the Superintendent or any officer appointed by him.
- (8) Within ten days after the end of each month every such licensee shall make to the Superintendent a return under oath in the form and manner by him prescribed, containing particulars of all insurances effected under the section by the licensee during such month.
- (9) In respect of all premiums on insurance effected under a license, the licensee shall pay to the Commissioner such taxes as would be payable if such premiums had been received by a licensed insurer, and payment thereof shall accompany the monthly return provided for in subsection 8.
- (10) The licensee is entitled to a release or can-

cellation of his security if all insurances effected by him under this section are no longer in force or have been reinsured.

(11) A licensee under this section shall accept applications for insurance with unlicensed insurers only from the insured or another licensee under this section and shall not receive any such application from, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed under this section and any contract of insurance with an unlicensed insurer made by or through any agent or broker not licensed under this section shall be deemed to be unlawfully made within the meaning of section 222 (1).

(12) The Superintendent may, for cause shown, revoke a licence issued under this section, or may suspend it for a period not exceeding the unexpired term thereof and may for cause shown revoke the licence while so suspended and shall notify the licensee in writing of such revocation or suspension and the cause shown.

(13) A person licensed under this section who contravenes any of its provisions is guilty of an offence and, in addition of any other penalty, shall forfeit his license.

Fraudulent representations

221.(1) An agent or broker who knowingly procures, by fraudulent representations, payment or the obligation for payment of any premium on any insurance policy is guilty of an offence.

222.(1) An agent or broker is personally liable to the insured on all contracts of insurance unlawfully made by or through him directly or indirectly with any insurer not licensed to undertake insurance in the Territory in the same manner as if such agent or broker were the insurer.

Personal liability of agent for unlawful contracts

Licences of Insurance Adjusters

223.(1) The Superintendent may, upon the payment of the prescribed fee, issue to any suitable person a licence to act as an adjuster, but a person licensed as an insurance agent or broker under this Part shall not receive a licence to act as an insurance adjuster.

Licences of insurance adjusters

(2) The applicant for such licence shall file with the Superintendent a written application under oath upon a form provided by the Superintendent in which the applicant shall state his name, age, residence and occupation for the five years next preceding the date of the application and such other information as the Superintendent may require, and the applicant shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in the Territory.

Application to be filed with Superintendent

(3) If the Superintendent is satisfied with the statements and information required, he shall issue the licence, which expires on a day fixed by the Superintendent in each year unless sooner revoked or suspended.

Licence to be in force one year

- Renewal of licence (4) A licence may, in the discretion of the Superintendent and upon payment of the prescribed fee, be renewed for each succeeding year without requiring anew the detailed information hereinbefore specified.
- Revocation or suspension of licence (5) The Superintendent may, for cause shown and after a hearing, revoke the licence, or may suspend it for a period not exceeding the unexpired term thereof, and may, for cause shown and after a hearing, revoke the licence while so suspended, and shall notify the licensee in writing of the revocation or suspension.
- Application of s. 216 (6) The provisions of subsections 216 (8), (9), and (10), with reference to grounds of revocation of licence, to the appointment of an advisory board and to the power of the chairman thereof in the matter of insurance agents' licences, apply *mutatis mutandis* to applicants and licensees under this section, except that a representative of adjusters shall replace a representative of agents on the board.
- Offence (7) A person who acts as an adjuster without such a licence or during a suspension of his licence is guilty of an offence.
- Prohibition against public adjusters of motor accident claims 224.(1) Subject to subsection (2), no person shall, on behalf of himself or another person, directly or indirectly,
 (a) solicit the right to negotiate, or negotiate or attempt to negotiate,

for compensation, the settlement of a claim for loss or damage arising out of a motor vehicle accident resulting from bodily injury to or death of any person or damage to property on behalf of a claimant; or

(b) hold himself out as an adjuster, investigator, consultant or otherwise as an adviser, on behalf of any person having a claim against an insured for which indemnity is provided by a motor vehicle liability policy.

(2) This section does not apply to a barrister or solicitor acting in the usual course of his profession. Exception

Provisions Relating to Agents, Brokers and Adjusters Generally

- 225.(1) A person who, not being duly licensed as an agent, broker or adjuster, represents or holds himself out to the public as being such an agent, broker or adjuster, or as being engaged in the insurance business by means of advertisements, cards, circulars, letterheads, signs, or other methods, or, being duly licensed as such agent, broker or adjuster, advertises as aforesaid or carries on such business in any other name than that stated in the licence, is guilty of an offence. Acting as agent, broker or adjuster without authority
- (2) An agent or broker who acts in negotiating or renewing or continuing a contract of insurance with a licensed insurer, and who receives any Agent to be deemed to hold money in trust for payee under policy

money or substitute for money for payment to a person in respect of the contract of insurance shall be deemed to hold such money in trust for the person entitled thereto, and, if he fails to pay the money over to such person within fifteen days after written demand made upon him therefor, less his commission and any deductions to which he is entitled, such failure is *prima facie* evidence that he has used or applied the money for a purpose other than paying it over to the person entitled.

Agent to be deemed to hold premium in trust for insurer

(3) An agent or broker who acts in negotiating, or renewing or continuing a contract of insurance, other than life insurance, with a licensed insurer, and who receives any money or substitute for money as a premium for such a contract from the insured, shall be deemed to hold such premium in trust for the insurer, and, if he fails to pay the premium over to the insurer within fifteen days after written demand made upon him therefor, less his commission and any deductions to which, by the written consent of the company, he is entitled, such failure is *prima facie* evidence that he has used or applied the premium for a purpose other than paying it over to the insurer.

No compensation to be paid by insurer to person not licenced

226.(1) No insurer, and no officer, employee or agent thereof, and no broker, shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating insurance on lives, property or interests in the Territory, or negotiating the continuance or renewal thereof, or for attempting

so to do, who, at the date thereof, is not a duly licensed insurance agent or broker or a person acting under subsection 216 (17) and whoever knowingly contravenes this subsection is guilty of an offence.

- (2) No insurer, and no officer, employee or agent thereof, and no broker shall directly or indirectly make or attempt to make an agreement as to the premium to be paid for a policy other than as set forth in the policy, or pay, allow or give, or offer or agree to pay, allow or give, a rebate of the whole or part of the premium stipulated by the policy, or any other consideration or thing of value intended to be in the nature of a rebate of premium, to any person insured or applying for insurance in respect of life, person or property in the Territory, and an insurer or other person who contravenes this subsection is guilty of an offence.

Agreement as to premium other than as a policy

- (3) Nothing in this section affects any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or shall be construed so as to prevent an insurer compensating a bona fide salaried employee of its head office or branch office in respect of insurance issued by the employing insurer upon the life of such employee or upon the employee's property or interests in the Territory or so as to require that such employee shall be licensed as an agent under this Ordinance to affect such insurance.

Exceptions

Misleading statements, comparisons or coercion prohibited

- 227.(1) A person licensed as an agent for life insurance who,
- (a) makes a false and misleading statement or representation in the solicitation or registration of insurance; or
 - (b) makes or delivers any incomplete comparison of any policy or contract of insurance with that of any other insurer in the solicitation or registration of insurance; or
 - (c) coerces or proposes, directly or indirectly, to coerce a prospective buyer of life insurance through the influence of a professional or a business relationship or otherwise to give a preference with respect to the policy of life insurance that would not otherwise be given on the effecting of a life insurance contract,
- is guilty of an offence.

Regulations as to replacement

- (2) The Commissioner may make regulations,
- (a) regulating the replacement of an existing life insurance contract by another contract of life insurance;
 - (b) prescribing the duties of insurers and agents in connection with replacement of life insurance contracts.

Return to Superintendent

- 228.(1) Every licensed insurer shall make a return under oath to the Superintendent in such form and at such times as he requires showing all persons, partnerships and corporations to whom it has, within such period as the form of return requires, paid or allowed or agreed to pay or allow, directly

or indirectly, compensation for placing or negotiating insurance on lives, property or interests in the Territory, or negotiating the continuance or renewal thereof, or for attempting to do so.

- 229.(1) If the Superintendent refuses, suspends, or revokes a licence applied for by or issued to a broker, agent or aduster, the Superintendent shall state in writing his reasons therefor and any person who considers himself aggrieved by the decision of the Superintendent may appeal therefrom to the Commissioner by delivering a notice of appeal to the Superintendent setting out in writing the grounds of the appeal within 10 days of the decision. Appeal
- (2) Upon receipt of the appeal the Commissioner shall refer the matter to an appeal board to be established by him and consisting of,
 - (a) a representative of the Commissioner who shall be the chairman;
 - (b) a representative of insurers; and
 - (c) a representative of agents.
 - (3) When an appeal has been taken the decision of the Superintendent shall not take effect until after any hearing and disposition of the appeal.
 - (4) The Board shall consider the matter referred to it and shall, hold a hearing and give the appellant an opportunity to make representation, call evidence, examine any witness or documents produced to the Board and be represented by agent or counsel.
 - (5) The majority of the Board, including the chairman, shall constitute a quorum.
 - (6) The Board may make rules for its own procedure or may adopt any procedural rules established by any predecessor Board.

- (7) In conducting a hearing the Board may act informally and shall not be bound by the rules of evidence customarily used by courts but shall carry on its proceedings with due regard to the rules of natural justice.
- (8) (a) Upon reaching its decision the Board shall notify the Commissioner of the disposition of the appeal and transmit a copy of this decision to the Superintendent and the appellant.

Limited or
conditional
licence

- 230.(1) A licence may be issued to an agent or adjuster subject to such limitations and conditions as the Superintendent may prescribe.

PART XI
UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN THE
BUSINESS OF INSURANCE

Interpretation

- 231.(1) For the purposes of this Part,
- (a) "person" means a person engaged in the business of insurance and includes any individual, corporation, association, partnership, member of the society known as Lloyds, fraternal society, agent, broker or adjuster;
- (b) "unfair or deceptive acts or practices in the business of insurance" includes,
- (i) the commission of any act prohibited under this Ordinance or the regulations;
- (ii) any unfair discrimination between individuals of the same class and of the same expectation of life, in the amount or payment or return of premiums, or rates charged by it for contracts of life insurance or annuity contracts, or in the dividends or other benefits payable thereon or in the terms and conditions thereof,

- (iii) any unfair discrimination in any rate or schedule or rates between risks in the Territory of essentially the same physical hazards in the same territorial classification,
- (iv) any illustration, circular, memorandum or statement that misrepresents, or by omission is so incomplete that it misrepresents, the terms, benefits or advantages of any policy or contract of insurance issued or to be issued,
- (v) any false or misleading statement as to the terms, benefits or advantages of any contract or policy of insurance issued or to be issued,
- (vi) any incomplete comparison of any policy or contract of insurance with that of any other insurer for the purpose of inducing, or intending to induce, an insured to lapse, forfeit or surrender a policy or contract,
- (vii) any payment, allowance or gift, or any offer to pay, allow or give, directly or indirectly, any money or thing of value as an inducement to any prospective insured to insure,
- (viii) any charge by a person for a premium allowance or fee other than as stipulated in a contract of insurance upon which a sales commission is payable to such person, or
- (ix) any consistent practice or conduct that results in unreasonable delay

or resistance to the fair adjustment and settlement of claims.

Prohibition	232.(1)	No person shall engage in any unfair or deceptive act or practice in the business of insurance.
Superintendent may investigate	233.(1)	The Superintendent may examine and investigate the affairs of every person engaged in the business of insurance in the Territory in order to determine whether such person has been, or is, engaged in any unfair or deceptive act or practice.
Order of Superintendent	234.(1)	Where it appears to the Superintendent that any person is engaging in any unfair or deceptive act or practice in the business of insurance, the Superintendent may order that such person cease engaging in his business or any part thereof named in the order, and an order under this subsection may be made subject to such terms and conditions as the Superintendent may specify in the order and the order may be revoked when the Superintendent is satisfied that the unfair and deceptive acts or practices are corrected and not likely to recur.
Hearing	(2)	No order shall be made under subsection (1) without a hearing unless in the opinion of the Superintendent the length of time required for a hearing could be prejudicial to the public interest, in which event a temporary order may be made which shall expire fifteen days from the date of the making thereof or such longer time as is consented to by the person entitled to the hearing.

(3) A notice of every order made under this Part shall be served upon every person named therein and upon such other persons as the Superintendent considers appropriate and thereupon no person shall engage in that part of the business of insurance that is the subject of the order. Service and effect of order

235.(1) Any person who contravenes an order of the Superintendent made under this Part is, in addition to any other consequence or remedy provided by law, guilty of an offence punishable in the same manner as if the person were undertaking insurance or carrying on business in the Territory without holding a licence to do so. Penalty

Repeal

236.(1) The Insurance Ordinance, R.O. 1958, Chapter 57, is repealed. Repeal of R.O. 1958, C.57

(2) Section 141 of the Motor Vehicles Ordinance, is repealed.

Coming Into Force

237.(1) This Ordinance or any provision thereof shall come into force on a day or days to be fixed by order of the Commissioner. Coming into force

SCHEDULEMedical and Funeral Benefits and Accident Benefits
in Motor Vehicle Liability Policies

Accident Benefits Section

The insurer agrees to pay to or with respect to each insured person as defined in this section who sustains bodily injury or death directly and independently of all other causes by an accident arising out of the use or operation of an automobile.

Subsection 1 - Medical Payments and Funeral Benefits

- (1) All reasonable expenses incurred within two years from the date of the accident as a result of such injury for necessary medical, surgical, dental, hospital, professional nursing, and ambulance service and, in addition for such other services and supplies which are, in the opinion of the insured person's attending physician and that of the insurer's medical adviser, essential for the treatment of said person, to the limit of \$2,000.00 per person.
- (2) Funeral services up to the amount of \$500.00 in respect to the death of any one person.

The insurer shall not be liable under this subsection for those portions of such expenses payable or recoverable under any medical, surgical, dental or hospitalization plan or law or, except for similar insurance provided under another automobile insurance contract, under any other insurance contract or certificate issued to or for the benefit of, any insured person.

Subsection 2 - Death and Total Disability
PART I - Death Benefits

- A. Subject to the provisions of Part I, of this Schedule for death, a payment of Principal sum - based on the age and status at the date of the accident of the deceased in a household where spouse or dependents survive - of the following amount:

Age of deceased at date of accident	Status of deceased at date of accident		
	Head of Household	Spouse in Two-parent Households	Dependent Relative
Up to age 4 years	---	---	\$ 500
5 to 9 years	---	---	1,000
10 to 17 years	\$5,000	\$ 2,500	1,500
18 to 64 years	5,000	2,500	1,000
65 to 69 years	3,000	1,500	1,000
70 years and over	2,000	1,000	500

In addition, with respect to death of head of household,

- (a) where there are two or more survivors - being spouse and/or dependent relatives the principal sum payable is increased 20% for each survivor other than the first; and
- (b) where there are one or more survivors, being spouse and/or dependent relatives, 1% of the total principal sum, payable each week for a period of 104 weeks. Any weekly benefit shall terminate upon death of all such survivors.

FOR THE PURPOSES OF THIS PART I

- (1) "head of household" means that member of a household with the largest income in the year preceding the date of the accident;
- (2) "dependent relative" means a person
 - (a) under the age of 19 years for whose support the head of household or the spouse of the head of household (or both of them) is legally liable and who is dependent upon either or both of them for financial support; or
 - (b) 19 years of age or over and residing in the same dwelling premises as the head of household who, because of mental or physical infirmity, is principally dependent upon the head of household or the spouse of the head of household (or both of them) for financial support;
- (3) the total sum payable shall be paid with respect to death of head of household or spouse to the surviving spouse. If there is no surviving spouse in the household, no amount shall be payable unless there are surviving dependent relatives, and in that event the total sum payable shall be divided equally among the surviving dependent relatives;

- (4) the total amount payable with respect to death due to a common disaster of head of household and spouse shall be paid equally to surviving dependent relatives;
- (5) the sum payable with respect to the death of a dependent relative shall be paid to the head of household or, if he does not survive, to the surviving spouse of the head of household but, if neither the head of household nor the spouse survives, no amount is payable;
- (6) amounts payable under this Part I shall be paid only to a person who is alive 60 days after the death of the insured person;
- (7) the amount payable under this Part I for the death of any person shall be reduced by the amount of any payments made to or for such person with respect to the same accident under Part II, Total Disability.

PART II - TOTAL DISABILITY

A weekly benefit for the period during which the injury shall wholly and continuously disable such insured person, provided

- (a) such person was employed at the date of the accident;
- (b) within 60 days from the date of the accident such injury prevents him from performing any and every duty pertaining to his occupation or employment;
- (c) no benefit shall be payable for the first seven days of such disability or for any period in excess of 104 weeks.

Amount of Weekly Benefit - The weekly benefit payable shall be 80 per cent of the average gross weekly earnings, subject to a maximum of \$50.00 per week and a minimum of \$40.00 per week.

The above benefits shall be subject to the terms of clause (3) below. For the purpose of this Part II,

- (1) a wife residing in the same dwelling premises as her husband and not otherwise engaged in occupation or employment for wages or profit, if injured, shall be deemed disabled only if completely incapacitated and unable to perform any of her household duties, and while so incapacitated shall receive \$50.00 per week for not more than 26 weeks.

- (2) a person shall be deemed to be employed
 - (a) if actively engaged in occupation or employment for wages or profit at the date of the accident,
or
 - (b) if 19 years of age or over, so engaged for any six months during the 12 months preceding the date of the accident.

- (3) where the benefits for loss of time payable hereunder, together with benefits for loss of time under another contract, including a contract of group accident insurance and a life insurance contract providing disability insurance, exceed the money value of the time of the insured person, the insurer is liable only for that proportion of the benefits for loss of time stated in this policy that the money value of the time of the person insured bears to the aggregate of the benefits for loss of time payable under all such contracts;

- (4) the disability of the insured person shall be certified by a duly qualified medical practitioner, if so required by the insurer.

Subsection 3 -- SPECIAL PROVISIONS, DEFINITIONS AND EXCLUSIONS OF THIS SECTION

- (1) "Insured Person" Defined - In this section, the words "insured person" mean
 - (a) any person while an occupant of the described automobile or of a newly acquired or temporary substitute automobile as defined in this policy;
 - (b) the insured and, if residing in the same dwelling premises as the insured, his or her spouse and any dependent relative of either while an occupant of any other automobile; provided that
 - (i) the insured is an individual or are husband and wife;
 - (ii) such person is not engaged in the business of selling, repairing, maintaining, servicing, storing or parking automobiles at the time of the accident;
 - (iii) such other automobile is not owned or regularly or frequently used by the insured or by any person or persons residing in the same dwelling premises as the insured;

- (iv) such other automobile is not owned, hired, or leased by an employer of the insured or by an employer of any person or persons residing in the same dwelling premises as the insured;
- (v) such other automobile is not used for carrying passengers for compensation or hire or for commercial delivery;
- (c) in subsection 1 and 2 of this section any person, not the occupant of an automobile or of railway rolling stock that runs on rails, who is struck in Canada, by the described automobile or a newly acquired or temporary substitute automobile as defined in the policy;
- (d) in subsection 1 and 2 of this section the named insured, if an individual and his or her spouse and any dependent relative residing in the same dwelling premises as the named insured, not the occupant of an automobile or of railway rolling stock that runs on rails, who is struck by any other automobile provided that
 - (i) such person is not engaged in the business of selling, repairing, maintaining, servicing, storing, or parking automobiles at the time of the accident;
 - (ii) that automobile is not owned or regularly or frequently used by the insured or by any person or persons residing in the same dwelling premises as the named insured;
 - (iii) that automobile is not owned, hired, or leased by an employer of the insured or by an employer of any person or persons residing in the same dwelling premises as the named insured;
- (e) if the insured is a corporation, unincorporated association, or partnership, or a sole proprietorship, any employee or partner of the insured for whose regular use the automobile is furnished, and his or her spouse and any dependent relative of either, residing in the same dwelling premises as such employee or partner, while an occupant of any other automobiles; and
- (f) in subsections 1 and 2 of this section only, any employee or partner of the insured, for whose regular use the automobile is furnished, and his or her spouse and any dependent relative of either, residing

in the same dwelling premises as such employee or partner, while not the occupant of an automobile or of railway rolling stock that runs on rails, who is struck by any other automobile; provided that in respect of (e) or (f) above,

(i) neither such employee nor partner or his or her spouse is the owner of an automobile;

(ii) such person is not engaged in the business of selling, repairing, maintaining, servicing, storing, or parking automobiles at the time of the accident;

(iii) such other automobile is not owned or regularly or frequently used by the employee or partner, or by any person or persons residing in the same dwelling premises as such employee or partner

(iv) such other automobile is not owned, hired, or leased by the insured or by an employer of any person or persons residing in the same dwelling premises as such employee or partner of the insured

in respect of (e) above only.

(v) such other automobile is not used for carrying passengers for compensation or hire or for commercial delivery.

2. Exclusions - (a) The Insurer shall not be liable under clause (1) of subsection 1, nor under Part II of subsection 2 of this section for bodily injury to any person

(i) resulting from the suicide of such person or attempt thereat, whether sane or insane; or

(ii) who is entitled to receive the benefits of any workmens' compensation law or plan as a result of the accident; or

(iii) where the person at the time of the accident is engaged in a race or speed test; or

(iv) caused directly by sickness or disease; or

(v) who is using the automobile for any illicit or prohibited trade or transportation.

(b) The insurer shall not be liable under Part II of subsection 2 of this section for bodily injury

(i) sustained by any person who is convicted of an offence under section 236 of The Criminal Code (driving with more than 80 milligrams of alcohol in 100 millilitres of blood) or under section 234 of

The Criminal Code (driving while ability to drive impaired by alcohol or a drug) occurring at the time of the accident, or

- (ii) sustained by any person driving the automobile who is under the age prescribed by the law of the jurisdiction in which the accident occurs as being the minimum age at which a licence or permit to drive the automobile may be issued to him; or
- (iii) sustained by any person driving the automobile who is not for the time being either authorized by law or qualified to drive the automobile.

3. Notice and Proof of Claim - The insured person or his agent, or the person otherwise entitled to make claim or his agent, shall

- (a) give written notice of claim to the insurer by delivery thereof or by sending it by registered mail to the chief agency or head office of the insurer in the Territory, not later than 30 days from the date of the accident, or as soon as practicable thereafter;
- (b) within 90 days from the date of the accident for which the claim is made, or as soon as practicable thereafter, furnish to the insurer such proof of claim as is reasonably possible in the circumstances of the happening of the accident and the loss occasioned thereby;
- (c) if so required by the insurer, furnish a certificate as to the cause and nature of the accident for which the claim is made and as to the duration of the disability caused thereby from a duly qualified medical practitioner.

4. Medical Reports - The insurer has the right and the claimant shall afford to a duly qualified medical practitioner named by the insurer an opportunity to examine the person of the insured's person when and as often as it reasonably requires while the claim is pending and also, in the case of the death of the insured person, to make an autopsy subject to the law relating to autopsies.

5. Release - Notwithstanding any release provided for under the relevant sections of the *Insurance Ordinance* of the Territory, the insurer may demand, as a condition precedent to payment of any amount under this section of the

policy, a release in favour of the insured and the insurer from liability to the extent of such payment from the insured person or his personal representative or any other person.

6. When Moneys Payable - (a) all amounts payable under this section other than benefits under Part II of subsection 2 hereof shall be paid by the insurer within 60 days after it has received proof of claim. The initial benefits for loss of time under Part II of subsection 2 hereof shall be paid within 30 days after it has received proof of claim, and payments shall be made thereafter within each 30 day period while the insurer remains liable for payments if the insured person, whenever required to do so, furnishes prior to payment proof of continuing disability.
- (b) No person shall bring an action to recover the amount of a claim under this section unless the requirements of provisions 3 and 4 hereof are complied with, nor until the amount of the loss has been ascertained as provided in this section.
- (c) Every action or proceeding against the insurer for the recovery of a claim under this section shall be commenced within two years from the date on which the cause of action arose and not afterwards.

CHAPTER 2
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

CREDIT UNION ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and
with the advice and consent of the Council of the said
Territory, enacts as follows:

SHORT TITLE

Short Title	1.(1)	This Ordinance may be cited as the <i>Credit Union Ordinance</i> .
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INTERPRETATION

Definitions "associated corporation"	2.(1)	In this Ordinance, "associated corporation" means a corporation, other than a central credit union, of which more than 50 per centum of the outstanding shares that carry an unqualified right to vote for the directors of the corporation are owned beneficially by 2 or more credit unions;
"auditor"		"auditor" means a accountant, any other person approved by the Registrar and includes a partnership or firm of auditors;
"central credit union"		"central credit union" means a credit union in which membership is restricted to credit unions, other corporations, public bodies, the Government of Yukon, the Government of Canada and the Crown in any other right;
"constitution"		"constitution" means the constitution of a credit union;

"credit union" means a credit union, caisse populaire or caisse d'economie, incorporated under this Ordinance or a former *Credit Union Ordinance*.

"credit union"

"crown corporation" includes:

"crown corporation"

(i) a corporation of which all the directors or members of the governing body are appointed by the Commissioner

(ii) a corporation that is accountable directly or through the Commissioner to the Council for the conduct of its affairs;

"debenture" includes an instrument, secured or unsecured, issued by a credit union where the instrument is

"debenture"

(i) in bearer or registered form;

(ii) evidence of an indebtedness or obligation of a credit union; or

(iii) security for the payment of indebtedness or performance of the obligation of a credit union;

but does not include:

(iv) a receipt or other instrument evidencing a deposit or annuity payment or an investment contract, mutual fund certificate, or similar instrument issued pursuant to this Ordinance;

(v) an assignment of book debts within the meaning of the Assignment of *Books Debts Ordinance*;

(vi) a mortgage of land only;

(vii) an instrument charging personal property only and required to be registered under the *Bills of Sale Ordinance*; or

(viii) a bill of exchange or a promissory note under the *Bills of Exchange Act (Canada)*;

"director"	"director" includes every person by whatever name called or howsoever designated who performs the functions of a director, but does not include a member of a credit committee who has not been elected or appointed a director;
"document"	"document" means a written instrument, including a notice, order, certificate, register, letter, report, return, account, summons, or legal process;
"Federal Act"	"Federal Act" means the <i>Co-operative Credit Association Act (Canada)</i> as amended from time to time;
"general manager"	"general manager" means the person appointed or designated by the directors of a credit union as the senior management officer of the credit union, by whatever name or title;
"housing"	"housing" means accommodation of all kinds suitable for human habitation or capable of being made suitable for human habitation and includes land, improvements, and space appropriate for human habitation and structures, buildings, or land and personal property that are directly or indirectly related to the accommodation or its use;
"loan"	"loan" means a loan made by a credit union;
"member"	"member" means a member of a credit union;
"net earnings"	"net earnings" means the excess of revenue over expenditure after deducting provision for income taxes for the fiscal period;

<p>"net share capital" means the amount of the remainder obtained by subtracting the amount owing to a credit union on loans made by it for the purchase of shares of the credit union from the total amount of paid-up share capital of the credit union;</p>	<p>"net share capital"</p>
<p>"office" means a place of business of a credit union at which the credit union receives money for investment in shares of or on deposit with the credit union or at which it makes loans to its members;</p>	<p>"office"</p>
<p>"officer" includes a president, vice-president, treasurer, secretary, general manager, assistant manager, credit officer, an employee of a credit union who has authority to approve loans, and an employee of a credit union who reports directly to the directors;</p>	<p>"officer"</p>
<p>"public body" means:</p> <p>(i) a municipality as defined in the <i>Municipal Ordinance</i>,</p> <p>(ii) a Crown Corporation,</p> <p>(iii) a board, commission or authority which by or under an Ordinance is designated as a public body for purposes of this Ordinance.</p>	<p>"public body"</p>
<p>"registrar" means the Registrar of Credit Unions;</p>	<p>"registrar"</p>
<p>"resident" includes:</p> <p>(i) a corporation which maintains a registered office in the Territory,</p> <p>(ii) a person employed in the Territory with a permanent residence either in the Territory or in any other province of Canada;</p>	<p>"resident"</p>
<p>"rules" means the rules of a Credit union providing for the governing of its affairs, whether as originally framed or as altered, under this Ordinance;</p>	<p>"rules"</p>

"special
resolution"

"special resolution" means

- (i) a resolution, of which notice has been given specifying the intention to propose the resolution as a special resolution, passed by a majority of not less than two thirds of the members of a credit union, who present in person or where permitted by this Ordinance are represented by persons present and being entitled to vote at a general meeting of the credit union, vote on the resolution; or
- (ii) a resolution, notice of which has been duly given, approved by written affirmative vote of not less than two thirds of the members of a credit union who vote within the time and in the manner prescribed in the regulations or who cast a written vote in the manner and within the time prescribed in the notice the time being not less than the number of days required for the calling of a general meeting;

"subsidiary
corporation"

"subsidiary corporation" means a corporation, other than a central credit union, that is:

- (i) controlled by a credit union;
- (ii) controlled by a credit union and one or more corporations each of which other corporation is controlled by the credit union; or
- (iii) controlled by a credit union and one or more subsidiaries of the credit union,

as determined under section 2;

"trust funds" means all money, property, and security received or held by a credit union as trustee or as agent.

2. A corporation is deemed to be controlled by a credit union or other corporation where,

- (a) shares of the corporation carrying more than 50 per centum of the votes are owned by the credit union or other corporation;
- (b) the votes carried by the shares of the corporation owned by the credit union or other corporation if exercised are sufficient to elect a majority of the directors; or
- (c) the by-laws of the corporation provide or the corporation agrees in writing that a majority of the board of directors must be nominees of the credit union or the other corporation.

PART 1
ESTABLISHMENT AND OPERATION OF CREDIT UNIONS
Purposes

- | 3. (1) | The purposes of a credit union are: | Purposes of credit union |
|--------|-------------------------------------|---|
| | (a) | to raise a fund by subscription of and deposits from the members and by other means permitted by this Ordinance; |
| | (b) | to make loans and investments permitted by this Ordinance; |
| | (c) | to provide housing for use in whole or in part by its members; |
| | (d) | to provide safekeeping facilities and services for personal property; |
| | (e) | to provide services for the collection and payment of moneys from and on behalf of its members; |
| | (f) | to maintain, cause to be maintained, or to participate in programs of life insurance, disability insurance, accidental death insurance, sickness and accident insurance, or any combination of them, with respect to moneys invested in, on deposit with, or lent by, a credit union; |
| | (g) | to provide or arrange for annuities, savings plans, mutual funds and similar arrangements for provident and productive purposes for its members and in that connection to receive periodic payments or contributions; |
| | (h) | to issue investment contracts to its members providing for the payments to or to the credit of the holder of the contract of a fixed or determinable amount at maturity and to receive periodic payments or contributions under the contracts; |
| | (i) | to act as trustee for its members, public bodies, the Government of Yukon, the Government of Canada and the Crown in any other right and such other persons or classes of persons as the regulations designate in respect of annuities, plans, funds, contracts, or arrangements under paragraphs (g) and (h) and for such other purposes as the regulations designate; |
| | (j) | to provide such programs and services for its members as in the opinion of the directors may assist the members to meet their financial or social needs; |

- (k) to act as agent for its members, other credit unions, public bodies, the Government of Yukon, the Government of Canada and the Crown in any other right and such other persons or classes of persons as the regulations designate; and
 - (l) to provide such other services and perform such other functions as are permitted by this Ordinance.
- (2) The purposes specified in subsection (1) shall not be limited by reference to or inference from the terms of any other purpose and each purpose may be constituted and pursued separately.
 - (3) A credit union may pursue the purposes in subsection (1), (g), (h), (i), (j) and (k) only in accordance with conditions which may be established or made by the registrar.
 - (4) The registrar may make or establish conditions under subsection (3) of a general and continuing or of a specific and limited nature.
 - (5) A credit union has, for the furtherance of its purposes and the conduct of its affairs, all the capacity, rights, powers, and privileges of a natural person.

Incorporation

Application to incorporate

- 4. (1) Any 25 or more persons may apply to form a credit union by subscribing their names to a constitution prepared in accordance with the regulations and rules providing for the matters referred to in the regulations and by delivering 2 signed copies of the constitution and rules to the registrar with
 - (a) a notice of the proposed situation of its registered office and of every other office where it proposes to conduct its business;
 - (b) a statement of the proposed common bond of the credit union;
 - (c) a list of the persons proposed by the subscribers as the first directors of the credit union; and
 - (d) the proposed name of the credit union.
- 5. (1) Where the constitution and rules appear to him to comply with this Ordinance and the regulations, and if he approves the application, the registrar shall
 - (a) issue under his seal of office a certificate certifying that the credit union has been incorporated; and

- (b) return to the applicants one copy of the constitution and rules certified as having been registered by him.
- (2) The registrar shall not approve any application unless he is satisfied that;
 - (a) the subscribers and proposed directors are residents of the Territory and are qualified to establish and conduct a credit union;
 - (b) the formation of the proposed credit union will be for the convenience and advantage of the members;
 - (c) the proposed credit union will be operated in a manner in which the investments and deposits of members will be safeguarded;
 - (d) the proposed common bond complies with this Ordinance.
- (3) A certificate of incorporation given by the registrar in respect of a credit union, whether before or after the coming into force of this Ordinance, is conclusive proof
 - (a) that the requirements of the Ordinance in respect of incorporation have been complied with, and
 - (b) that the credit union is incorporated according to this Ordinance.
- 6. (1) From the date of the certificate of incorporation the subscribers to the constitution and rules and such other persons as may, from time to time, become members of the credit union are a corporation with the name described in the certificate. Members of corporation
- (2) The constitution and rules bind a credit union and its members to the same extent as if signed and sealed by each member and as if containing covenants on the part of each member, his heirs, executors and administrators to observe all the provisions of the constitution and rules.
- 7. (1) A credit union shall not carry on business outside the Territory. Business outside the Territory
- (2) Notwithstanding subsection (1), a credit union has and shall be deemed to have always had capacity to perfect or register outside the Territory a note, mortgage, lien or other instrument evidencing indebtedness or obligation to the credit union and, for that purpose, to accept powers and rights from a lawful authority outside the Territory.

- (3) Nothing in this section limits the power of a credit union to receive money on deposit or on account of shares or to borrow money as permitted by this Ordinance.
- Registered office 8. (1) A credit union shall, at all times, maintain a registered office in the Territory to which all communications and notices may be addressed.
- (2) The directors of a credit union may change the location of its registered office in the Territory by
- (a) passing a resolution authorizing the change; and
- (b) filing with the registrar a copy of the resolution and 2 copies of the notice of change in the form prescribed by the regulations.
- (3) A change in the location of the registered office of a credit union is not effective until subsection (2) is complied with.
- Name
- Form of name 9. (1) A credit union shall include in its name the words "credit union", "caisse populaire," or "caisse d' economie."
- (2) The name of a credit union is subject to the approval of the registrar.
- (3) The registrar, before approving a name, shall satisfy himself that the name is not likely to deceive or to be confused with the name of any other credit union.
- (4) Unless authorized by the registrar, no person, other than a credit union, shall carry on any business or adopt any name that includes the words "credit union," "caisse populaire," or "caisse d' economie."
- (5) A person who contravenes subsection (4) is guilty of an offence, and each day that the contravention continues is a separate offence.
- Display of name 10.(1) A credit union shall display its name in legible characters in a conspicuous position,
- (a) at every office or place at which it carries on business;
- (b) in all notices and other official publications;
- (c) on all its contracts, business letters, orders for goods, invoices, statements of accounts, receipts, and letters of credit;
- (d) on all bills of exchange, promissory notes, endorsements, cheques and orders for money signed by it or on its behalf; and

- (e) on its common seal.
- 11.(1) A credit union may, by special resolution and with the approval in writing of the registrar, change its name.
- (2) Where a credit union changes its name, the registrar shall issue under his seal of office a certificate that the credit union has changed its name.
- (3) A change of name does not affect any right or obligation of a credit union or render defective any legal proceeding by or against the credit union, and any legal proceeding that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

Rules

- 12.(1) The rules of a credit union shall contain provisions with respect to the several matters prescribed by the regulations, set forth in the order therein specified, as nearly as may be. Content of rules
- (2) The Commissioner may by regulation make rules applicable to all credit unions, unless the regulation provides that any rule is not to apply to a credit union or class or type of credit union.
- (3) The registrar shall give notice of a rule made under subsection (2) to every credit union affected by it, but no pre-existing right or obligation of a credit union is affected by a rule made under subsection (2).
- (4) Subject to this section, a credit union may, by special resolution, alter or add to its rules, but no alteration or new rule shall take effect until the resolution has been filed with the registrar and the registrar has approved the altered or new rule as complying with this Ordinance and the regulations.

- 13.(1) A credit union shall have at its registered office, available to members, Copies of constitution etc.
 - (a) a copy of its constitution and rules;
 - (b) its certificate of incorporation; and
 - (c) any other certificate issued to it by the registrar,

and shall furnish a copy to any member applying for it and paying whatever sum may be prescribed by the directors.

- (2) A credit union that contravenes subsection (1) is guilty of an offence.

Common Bond

- Common bond 14.(1) The common bond of all credit unions under this Ordinance shall be the common bond of membership of those persons who may be served by the offices of the credit union located in the Yukon Territory.
- Termination of qualification 15. No person shall cease to be a member only by reason of ceasing to hold the qualification by which he became eligible to become a member.

Membership

- Minors as members 16.(1) A person under the age of majority may apply and be admitted as a junior member.
- (2) A junior member is subject to all the obligations of and has the rights of a member of the credit union and has the same capacity as if he were an adult and is liable to suit with respect to his membership and any indebtedness or obligation to the credit union notwithstanding the *Age of Majority Ordinance* or the common law, except that he is not entitled to vote, be a director, or be a member of a committee of the credit union.
- Other members 17.(1) Notwithstanding the common bond of the credit union,
- (a) a person from whom a credit union may receive moneys on deposit under subsection 32 (1) (c) and (d),
- (b) a subsidiary corporation, or
- (c) an associated corporation of which a credit union is a shareholder,
- may be admitted to membership, may be represented and may vote at meetings by a person authorized on its behalf and notwithstanding any other Ordinance has all the necessary capacity, is subject to all obligations and has the rights of a member of the credit union.
- No presumption of membership 18.(1) A person shall not be deemed to be a member of a credit union only by reason of being
- (a) a joint owner of a share or deposit; or
- (b) the beneficiary of a share or a deposit.
- Application for membership 19.(1) An application for membership shall be in writing in a form approved by the directors.
- (2) No person shall be admitted to membership unless his application has been approved by the directors or a committee of the directors, or some person designated by the directors.

- (3) A credit union may charge an admission fee and a membership fee but, unless the rules of the credit union otherwise provide, the admission fee shall not exceed \$1 and the membership fee shall not exceed \$1 a year.
- 20.(1) A member may withdraw from membership in a credit union by giving written notice. Withdrawal from membership
- 21.(1) The directors by a resolution adopted by at least three quarters of the directors at a meeting of which notice has been given to consider the resolution may, subject to subsection (3), terminate the membership of a member. Termination of membership
 - (2) Within 7 days after the date on which the resolution referred to in subsection (1) is adopted, the credit union shall notify the person whose membership is terminated in the same manner as provided for the giving of notice of a meeting.
 - (3) A person whose membership is terminated pursuant to subsection (1) may appeal to the registrar within 14 days after the date the notice is given to him under subsection (2) and
 - (a) where no appeal is taken within the 14 days the membership of that person is terminated at the expiry of that period; but
 - (b) where the person appeals within the 14 days, his membership does not terminate until the registrar determines the appeal of the member.
 - (4) A general meeting may, by special resolution, terminate the membership of a member.
 - (5) A person whose membership has been terminated in accordance with this section shall not again be admitted to membership in the credit union except upon a resolution of a general meeting.
- 22.(1) Where a member is the holder of fewer than the number of paid-up shares required by the rules the directors may in their discretion serve upon him notice in writing that he is required within one month from the date of service of the notice to subscribe and pay in full for the required shares, and where the member fails to comply with the requirement, the directors may by resolution terminate the membership of the member and the credit union shall thereupon serve the person whose membership has been terminated with the notice of the termination. Termination for insufficient subscription

- Refund to
ex - member
- 23.(1) A member who withdraws or whose membership is terminated is entitled to a refund of
- (a) the amount paid up on his shares and dividends credited thereon; and
 - (b) the amount of money he has on deposit and interest credited thereon,
- subject to completion of the term of a term deposit, and subject to any lien or charge that the credit union has against the shares, deposits, dividends and interest and the refund discharges the credit union from all further liability.
- Effect of
withdrawal or,
termination
- 24.(1) Subject to subsection 21 (3) a member who withdraws from membership or whose membership is terminated has no further rights in the credit union, but he is not, by reason of the withdrawal or the termination of membership, released from any liability to the credit union existing at the time of withdrawal or termination.
- Liability where
termination
- 25.(1) No director or member of a credit union is, in the absence of bad faith, liable in his personal or official capacity for any loss or damage suffered by a person whose membership has been terminated pursuant to section 21 or 22.
- Loss of office
- 26.(1) Where a member is a director or a member of a committee at the time of withdrawal or termination of membership, the withdrawal or termination constitutes a resignation from his position as a director and a member of the committee.

Records

- Register of
members
- 27.(1) Every credit union shall keep at its registered office or other place approved by the registrar,
- (a) a record showing the name and address of each member;
 - (b) a record showing the respective amounts invested in shares and on deposit, with such other records and information pertaining to members as may be prescribed by the registrar.
- (2) The record required to be kept under subsection (1) (a) constitutes the register of members and their addresses for the purpose of giving any notice and for such other purposes as may be required by the rules of the credit union.
- (3) A record kept under subsection (1) is *prima facie* proof of the facts stated therein.
- (4) A credit union that contravenes subsection (1) is guilty of an offence.

- 28.(1) With the approval of the registrar and upon payment to the credit union of such amount as the registrar may specify, a member may, for the purpose of requisitioning a meeting, demand and is entitled on reasonable notice either
- (a) to examine the non-financial records of the credit union showing membership and membership addresses; or
- (b) to receive a list of the names and addresses of the members of the credit union, and, except as provided in subsection (2) the credit union shall elect whether the member shall examine the records or receive a list.
- (2) Where the non-financial records of the credit union showing membership and membership addresses are recorded by a system of mechanical or electronic data processing or any other information storage device that requires processing before the information recorded therein is in intelligible form, a member making a demand pursuant to subsection (1) is entitled to receive, at the office of the credit union at which the demand is made and within a reasonable time of the demand, a list of the names and addresses of the members of the credit union.
- 29.(1) Registers or records that are required by this Ordinance to be prepared and maintained by or on behalf of a credit union may be in bound or looseleaf form, or entered or recorded by any system of mechanical or electronic processing, or by any other information storage device from which the credit union is capable of reproducing, within a reasonable time, any required information in intelligible form.
- (2) Minutes that are required by this Ordinance to be kept by a credit union shall be kept in a bound or looseleaf book.
- Shares and Deposits
- 30.(1) The capital of a credit union shall consist of an unlimited number of shares having a denomination of \$1 each and may be of one or more classes with special rights or restrictions attached thereto.
- (2) The rules of the credit union may provide the number of shares for which a member is required to subscribe and pay.

Examination
of recordsForm of
records

Shares

- (3) Shares of a credit union are personal property.
 - (4) Except as permitted by this Ordinance, shares in a credit union may be held only by members.
 - (5) Subject to the rules and upon the approval of the directors, shares in a credit union may be assigned or transferred to any person who is a member of the credit union.
 - (6) A credit union may redeem its shares.
 - (7) A credit union is not required to issue share certificates.
 - (8) A credit union may pay dividends on shares from time to time as may be declared by the directors.
 - (9) No dividend shall be paid on shares except in proportion to the amount paid up thereon.
 - (10) No member is liable in respect of an amount unpaid on his shares.
- Conversion of existing shares 31. Upon this section coming into force, each fully paid share of a credit union issued under the former Ordinance and having a denomination of \$5 is converted into one fully paid share having a denomination of \$1 for each \$1 that has been paid on it and a part payment remaining on a share having a denomination of \$5 is a part payment on an additional share having a denomination of \$1.
- Deposits 32.(1) Except as permitted by this Ordinance, a credit union may receive money on deposit only from, or on behalf of,
- (a) its members;
 - (b) the Government of Canada;
 - (c) the Government of Yukon;
 - (d) a public body;
 - (e) any 2 or more members jointly on behalf of an unincorporated association or partnership where the directors of the credit union are satisfied that a majority of the members of the association or partnership are persons who are eligible or may qualify for membership in the credit union under this Ordinance;
 - (f) a member acting as trustee, whether for a named beneficiary or otherwise;
 - (g) a member in joint ownership with another person;
 - (h) a person, including the credit union, acting as trustee or agent as permitted by this Ordinance; and
 - (i) any other class of persons designated by the regulations;

and may allow interest on deposits at a rate and in the manner prescribed by the directors.

- (2) A deposit permitted pursuant to subsection (1) (e) may be recorded in the books of the credit union in the name of the unincorporated association or partnership and the credit union is not obliged
- (a) to see to the application of the money so deposited or any interest on it, whether or not it has notice of any trust; or
 - (b) to determine the powers of the members, the association or the partnership, and the association or partnership or a member of the association or partnership is not entitled by reason of that membership to notice of, to be represented at, or to vote at meetings of the credit union.
- (3) The claims of depositors shall rank equally with the claims of ordinary unsecured creditors against the assets of the credit union.
- (4) To the extent it is within the jurisdiction of the Commissioner in Council, a person from whom the credit union receives deposits under subsection (1) (c), (d), (e), and (f) has all the necessary capacity and is subject to this Ordinance with respect to the deposits.

- 33.(1) A credit union,
- (a) may, without the authority of any other person, receive moneys on account of shares or on deposit from a member, whatever his age or status and whether or not he is capable at law of entering into ordinary contracts and
 - (b) may, from time to time, pay any of the moneys invested in shares or on deposit and any of the dividends or interest thereon to the order of the member.
- (2) A credit union may receive money for investment in shares from
- (a) a member acting as trustee, whether for a named beneficiary or otherwise;
 - (b) a member in joint ownership with another person;
 - (c) a person, including the credit union, acting as trustee or agent as permitted by this Ordinance; and

Receipt of money for shares or deposit.

- (d) the Government of Canada, the Government of Yukon, the Crown in any other right, a public body and persons or classes of persons designated by the regulations.
- Discharge of credit union 34.(1) In the absence of written notice to the credit union to the contrary from a member, a joint owner of that member's share or deposit, or the survivor of them, payment by the credit union to or to the order of the member, the joint owner, or the survivor of them, of moneys invested in shares or on deposit discharges the credit union from any further liability and the credit union is not bound to see to the application of any money so paid.
- (2) Shares and deposits owned jointly may be charged specifically to secure
- (a) a loan made by the credit union to; or
- (b) an obligation to the credit union of, one or more of the joint owners only with the written consent of all joint owners.
- Shares in trust 35.(1) Unless the instrument of trust permits, deposits with a credit union held by a trustee in trust for a named beneficiary, or otherwise, may not be charged to secure a loan or obligation.
- (2) Except where the credit union is the trustee, a credit union is not bound to see to the execution of a trust, whether express, implied, or constructive, to which shares or deposits are subject.
- Lien on shares 36.(1) Notwithstanding anything in this Ordinance, a credit union has a lien or charge on the shares, deposits and interest of a member or other person to whose credit shares or deposits stand on the records of the credit union, together with dividends and interest thereon, for any indebtedness due or accruing due to it by the member or other person, or for any obligation in respect of the indebtedness, and the shares and deposits may not be redeemed or withdrawn unless the credit union consents.
- (2) A credit union may apply the shares and deposits and dividends and interest thereon on which it has a lien or charge to any indebtedness in default, or to any obligation in respect of the indebtedness, without notice to any person, and the exercise of the lien by application of the shares, deposits, dividends, and interest does not constitute a realization of security within the meaning of any other Ordinance.

- (3) For the purposes of subsection (2), indebtedness shall be deemed to be in default where
- (a) an amount of the principal or interest is not paid on the due date; or
 - (b) there has been a failure to observe or perform any obligation relating to the indebtedness.
- (4) A credit union shall not exercise a lien created by this section by application of shares, deposits, dividends, and interest
- (a) where the shares, deposits, dividends, and interest are owned jointly, unless all the joint owners are indebted in respect of the indebtedness that is in default; or
 - (b) where the shares, deposits, dividends, and interest are held by a trustee with respect to indebtedness of
 - (1) the trustee, unless the trustee would have been permitted to charge them as security for the indebtedness; or
 - (11) a beneficiary, unless the beneficiary or the trustee would have been permitted to charge them for the indebtedness.
- (5) A person,
- (a) to the extent he may charge his deposits and interest thereon for indebtedness to the credit union; and
 - (b) subject to the approval of the registrar, may waive in writing a right to set off with respect to the deposits.
- (6) The approval of the registrar referred to in subsection (5) is not required with respect to deposits with a central credit union and interest thereon.
- (7) Unless the credit union approves, shares of the credit union may not be set off against claims made by the credit union in respect of indebtedness to it.
- 37.(1) Where
- (a) the ownership of shares of, or deposits with, a credit union is claimed in an action or proceeding, to which the credit union is a party; or
 - (b) an injunction or order has been made by a court of competent jurisdiction requiring
- Payment under
court order

the credit union to pay the money invested in shares or on deposit to some person or to the Court, upon payment of the money invested in shares or on deposit to the person specified in the order or to the Court, the credit union is discharged from any further liability with respect to the money.

Payment on
members death

- 38.(1) A credit union may, where a member dies,
- (a) pay an amount owing to the deceased member for his shares and deposits to the executor or trustee named in the will of the deceased member, notwithstanding that the executor or trustee has not received letters probate; or
 - (b) pay an amount owing to the deceased member for his shares and deposits to the declarant upon receiving a statutory declaration stating
 - (i) the date of the death of the member;
 - (ii) that the member died without leaving a will naming an executor or trustee;
 - (iii) that no personal representative has been appointed for the estate of the deceased member; and
 - (iv) that the declarant is the spouse, parent or child of the deceased member and is entitled to receive the amount.
- (2) A payment under subsection (1) shall not exceed an amount to be prescribed.
- (3) A payment by a credit union in accordance with this section is a valid and effectual discharge of the credit union with respect to a demand by a person against the credit union as to the amount so paid.

Unclaimed
money

- 39.(1) Where a claim may be made against a credit union in respect of a bill of exchange, draft, or other instrument that has been certified or accepted by the credit union, or in respect of moneys invested in shares of or deposited with a credit union and the person entitled to receive a statement of account with respect to the claim has not requested or acknowledged a statement of account for a period of 10 years calculated

- (a) from the date on which the last transaction between the credit union and the claimant took place with respect to the claim; or
 - (b) in the case of a deposit made for a fixed term, from the date on which the term expired; or
 - (c) in the case of a bill of exchange, draft, or other instrument, from the date on which the bill of exchange, draft, or instrument was accepted or certified, the credit union shall pay over to the registrar, on a day to be fixed by him, the amount of the bill of exchange, the amount invested in shares; or the amount on deposit, together with any dividends or interest credited on account thereof, and the payment discharges the credit union from all liability with respect to the moneys so paid.
- (2) Subject to the provisions of this Ordinance, where payment has been made to the registrar pursuant to subsection (1) with respect to a debt or instrument, the registrar, if payment is demanded or the instrument is presented to him by the person who, but for subsection (1), would be entitled to receive payment of the debt or instrument, is liable to pay an amount equal to the amount so paid to it.
- (3) The registrar shall pay such interest on money received by him under subsection (1) for the period, not exceeding 20 years from the day on which the payment was received by him until the date of payment to the claimant, at such rate and computed in such manner as may be prescribed if interest was payable in accordance with the terms of the debt or instrument.
- (4) The registrar shall maintain a record of all moneys received by him pursuant to subsection (1).
- (5) The registrar, upon being satisfied that a person is entitled to receive money that has been paid to the registrar pursuant to subsection (1), shall pay the amount thereof together with accrued interest, if any, and the payment discharges him from all liability with respect thereto.

- (6) Any moneys paid to the registrar pursuant to subsection (1) which have not been claimed according to the provisions of this section, within 20 years of the date of which the payment was received by him, shall be transferred to and become part of the Yukon Consolidated Revenue Fund.

No obligation

40.

A credit union is not obliged to receive money from any person whether for investment in shares or on deposit.

No obligation

Authority or direction by member

41.

An authority or direction given to a credit union by a member continues until

Authority or direction by member

(a) the member revokes the authority or direction; or

(b) the credit union receives notice of the member's death,

and no liability attaches to a credit union for payment, or refusal of payment, pursuant to his authority or direction, of money standing to the credit of the member.

Borrowing

Power to borrow

42.(1)

A credit union may borrow money upon such terms and conditions as to interest, time, repayment and security, including security by way of a mortgage, assignment, pledge, hypothecation, or charge upon its real or personal property or the issue of debentures, as the directors determine.

Power to borrow

- (2) Nothing in this section limits the amount that may be received by a credit union on deposit under this Ordinance.
- (3) The directors of a credit union may authorize the borrowing of money for purposes of the credit union, but at no time shall the indebtedness of the credit union for moneys so borrowed exceed one half of the aggregate of
- (a) the net share capital of;
- (b) the total deposits with; and
- (c) the retained earnings of the credit union.
- (4) A resolution of the directors authorizing the borrowing of money that would result in the outstanding indebtedness of the credit union for moneys borrowed pursuant thereto exceeding one quarter of the aggregate of
- (a) the net share capital of;
- (b) total deposits with; and
- (c) the retained earnings of the credit union
- is not effective unless confirmed by special resolution.

- (5) A special resolution required under subsection (4) may be modified at a meeting of the credit union at which it is considered by reducing the total amount to be borrowed.
- (6) A resolution authorizing the borrowing of money by a credit union continues in effect until amended by a further special resolution unless a time is specified in the resolution limiting the time during which the authority may be exercised.
- (7) The registrar may exempt a credit union from subsections (3) and (4) upon such terms and conditions as he may determine and the credit union may, subject to those terms and conditions borrow such amounts as the directors authorize by resolution.
43. (1) Sections 102 to 117 of the *Companies Ordinance* apply, with the necessary changes and so far as they are applicable, to a mortgage or debenture created or issued by a credit union. Companies Ordinance
- (2) Subsection (1) does not apply to a mortgage or debenture created or issued by a credit union before the coming into force of this Ordinance, but notwithstanding any limitation as to time, a credit union may register a mortgage or a debenture created by it before the coming into force of this Ordinance and thereupon those subsections apply to the mortgage or the debenture.

Loans

44. (1) Subject to the regulations, a credit union may lend money to Power to lend
- (a) its members;
- (b) the Government of Canada and the Government of Yukon;
- (c) a public body; and
- (d) any other class of person designated by the regulations.
- (2) The directors shall determine the terms and conditions of loans as to interest and other charges, term, repayment, and any security.
45. (1) The directors of a credit union may appoint
- (a) one or more credit committees; and
- (b) one or more credit officers who must be employees of the credit union.

Prohibited
loans and
guarantees

- (2) The directors may prescribe the duties of a credit committee and a credit officer, but a credit officer who is not the general manager of a credit union shall report to the directors through the general manager.
- (3) The directors may delegate the power to lend money and their powers under subsection 44(1) to a credit committee or a credit officer, subject to any conditions the directors may impose.
46. (1) Except on terms and conditions approved by the registrar
- (a) no credit union shall lend money to a person serving the credit union as its auditor or solicitor, to a public servant concerned by his duties with the affairs of the credit union, and
- (b) no credit union, other than a central credit union, shall lend money to a person
- (1) that is a corporation; or
- (1i) to be used, directly or indirectly for a business purpose
- in an amount exceeding the value of the unencumbered shares and moneys of that person on deposit with the credit union.
- (2) Except on terms and conditions approved by the registrar, no credit union, other than a central credit union, shall guarantee or become surety for the obligation of, indemnify, or endorse for accommodation the note of any person, except that a credit union upon resolution of the directors may
- (a) guarantee or become surety or indemnitor for the obligation of; or
- (b) endorse for accommodation the note of a subsidiary corporation or associated corporation, and the amount so guaranteed, accommodated, or for which the credit union is surety or indemnitor constitutes a part of the indebtedness of the credit union as if for moneys borrowed for the purpose of subsection 42 (3) and (4).
- (3) Except on terms and conditions approved by the registrar no credit union, other than a central credit union, shall

- (a) lend money to; or
 - (b) guarantee, become surety or indemnitor for the obligation of; or
 - (c) endorse for accommodation the note of a subsidiary corporation or associated corporation, if the aggregate amount loaned, guaranteed and accommodated and for which the credit union is surety or indemnitor, together with any amount invested by the credit union in the shares, debentures, bonds, or other evidence of indebtedness of subsidiary corporations and associated corporations, would exceed 10 per centum or the greater amount approved under subsection 51 (2), of the moneys invested in shares of and on deposit with the credit union, excluding deposits that are withdrawable by bill of exchange.
- (4) A central credit union upon resolution of its directors may guarantee the obligations of
- (a) a member; or
 - (b) a corporation with which the central credit union has business dealings; or
 - (c) a corporation of which the central credit union holds shares or debt obligations,
- without regard to the limitations in subsections (2) and (3).
- (5) Unless the registrar approves, no credit union, other than a central credit union, shall make a loan that does not have definitive provisions for repayment which
- (a) will result in the principal and interest being fully repaid within 25 years or such longer time as the regulations prescribe; and
 - (b) require payment by
 - (i) equal blended instalments on account of principal and interest; or
 - (ii) equal instalments on account of principal, together with interest on the outstanding balance of principal and interest, which instalments must be repayable at least annually and must be in amounts sufficient to repay the principal together with interest thereon within the time prescribed by this Ordinance.

- (6) Neither the credit committee nor an officer of a credit union shall authorize a loan to
 - (a) a director, officer, member of the credit union; or
 - (b) an employee of a subsidiary corporation; or
 - (c) an employee of a central credit union; or
 - (d) an employee of a subsidiary corporation of a credit union,

where the portion of the loan not secured by shares of, or deposits in, the credit union would exceed \$3,000. without the approval of a majority of the credit committee or, if there is no credit committee, a committee appointed by the directors for that purpose;

and

- (e) where the application for the loan is made by a member of the credit committee, the application shall not be considered or acted upon or the loan approved by the credit committee at a meeting at which he is present; and
- (f) where the loan is granted by the credit committee, the details of it and the security obtained for it shall be reported on in writing to the meeting of the directors following the approval of the loan.

- (7) Nothing in this section invalidates a loan made prior to this section coming into force.

Prohibited transaction

- 47. (1) No credit union shall
 - (a) lend money to; or
 - (b) guarantee, become surety or indemnitor for the obligation of; or
 - (c) endorse for accommodation the note of a person after the credit union has been notified by the registrar that it may not do so by reason of having failed to comply with subsections (1) and (2) unless the registrar approves or withdraws the notice.

Unauthorized loan

- 48. (1) In addition to any other penalty under this Ordinance,
 - (a) a person who directly or indirectly receives a loan knowing that it is contrary to this ordinance, or the rules of the credit union, or not in accordance with, or made without, any approval required under this ordinance; and

- (b) a treasurer, credit officer, director, or member of a credit committee who participates in making or renegotiating a loan knowing that it is contrary to this Ordinance, or the rules of the credit union, or not in accordance with, or made without, any approval required under this Ordinance

is guilty of an offence, and they are jointly and severally liable to the credit union for the loan and interest agreed to be paid on it, and the amount of the loan and interest, together with costs, may be recovered forthwith by the credit union or by a member of the credit union on behalf of the credit union by civil action.

- (2) A loan described in subsection (1) is due and payable forthwith and the security therefor enforceable notwithstanding any instrument to the contrary.

Patronage Dividends

- 49. (1) A credit union may pay an allocation to a person
 - (a) in respect of his borrowing in the year, on the terms that he is entitled to or will receive payment thereof, computed at a rate or rates in relation to

Patronage dividends

- (i) the amount of interest payable by the person on money borrowed from the credit union; or
- (ii) the amount of money borrowed by the person from the credit union,

and the rate or rates shall be the same, as the rate or rates at which amounts were similarly credited in the year to other persons who paid interest to or borrowed money from the credit union with appropriate differences for different types or purposes of borrowings, security and rates of interest payable thereon in the year; and

- (b) in respect of his money on deposit in the year, on the terms that he is entitled to or will receive payment thereon, computed at a rate or rates in relation to
 - (i) the amount of interest payable to the person on money on deposit; or
 - (ii) the amount of money on deposit by the person,

and the rate or rates shall be the same as rates at

which amounts were similarly credited in the year to other persons to whom interest was payable or with money on deposit with the credit union, with appropriate differences for different types or terms of deposits and rates of interest payable thereon in the year.

Insurance

Insurance

50. (1) The directors of a credit union may determine from time to time whether and in what manner and to what extent the credit union will make or participate in or continue to make or participate in contracts of insurance for all or any persons or classes of persons in relation to the amounts invested in shares of the credit union or deposited with the credit union or on loan from the credit union, but no determination shall remove or discontinue a benefit of any insurance with respect to a loan existing at the time of the determination without the written consent of the insured.
- (2) Upon publication in the manner prescribed by the rules of the credit union, a determination of the directors under subsection (1) is binding on every member of the credit union and every person having an interest in the shares, deposits, or loans.
- (3) Notwithstanding anything in this Ordinance, a credit union may make a reasonable additional charge, whether by way of interest, fee, or otherwise with respect to any loan in respect of which any insurance exists.
- (4) The registrar may exempt a credit union, in whole or in part from subsections (1) and (2) where a determination relates to
- (a) a sale and purchase under section 107 or
 - (b) an amalgamation under section 113 whether the determination is made prior to or subsequent to the sale or amalgamation.

Investments

Power to invest

51. (1) Subject to the regulations, a credit union may invest its funds other than trust funds,
- (a) in shares of a central credit union;
 - (b) by way of deposit in a central credit union or chartered bank;
 - (c) in bonds, debentures, or other evidence of indebtedness of a central credit union;
 - (d) in bonds, debentures, or other evidence of indebtedness of the Government of Canada, or a province or bonds, debentures and other evidence of indebtedness, the principal and interest of which are guaranteed by the Government of Canada or a province:

- (e) in bonds, debentures, or other evidence of indebtedness of a public body;
- (f) upon such conditions as the registrar may determine in
 - (i) indebtedness secured by mortgages of land or interest in land, including leasehold of land, in addition to mortgages described in subsection (l) (j) or (k);
 - (ii) registered agreements for sale of land or interests in land, including leaseholds of land;
 - (iii) bills of sale as defined in the *Bill of Sale Ordinance*;
 - (iv) instruments evidencing a conditional sale within the meaning of the *Conditional Sale Ordinance*;
 - (v) assignments of book debts as defined in the *Assignment of Book Debts Ordinance*;
- (g) in the shares, bonds, debentures, or other evidence of indebtedness of one or more subsidiary corporations or associated corporations, the business of which is restricted to
 - (i) developing, owning, operating, managing, maintaining, or otherwise providing housing, by whatever means, alone or with another person, for use in whole or in part by members of the credit union, or by members of a credit union which is a shareholder of the subsidiary corporation or associated corporation;
 - (ii) the ownership and management of land, including leaseholds of land for use in whole or in part for conducting the business of the credit union or of the credit unions that are shareholders of the subsidiary corporation or associated corporation;
 - (iii) providing services to the credit union or the members of the credit union, or to credit unions or members of a credit union which is a shareholder of the subsidiary corporation or associated corporation;

- (iv) any other business approved by the registrar;
 - (h) in housing, alone or with any other person for use, in whole or in part, by the members of the credit union;
 - (i) in land, including leaseholds of land, alone or with any other person, for use, in whole or in part, for conducting the business of the credit union;
 - (j) in mortgages of land or interests in land, including leaseholds of land, the repayment of the principal and interest of which is, in whole or in part, insured under a policy of insurance approved by the registrar;
 - (k) upon the approval of the registrar, in loans made by another credit union secured by mortgages of land or interests in land, including leaseholds of land;
 - (l) in such other investments as may be prescribed; and
 - (m) where an investment is made pursuant to paragraphs (a) to (l), in any security or evidence of indebtedness collateral to that investment.
- (2) The aggregate of the amounts
- (a) invested under subsection (1) (g) to (l), and
 - (b) loaned, guaranteed, or accommodated or for which the credit union is surety or indemnitor,
- shall, at the time of the investment, not exceed;
- (c) 10 per centum or a higher percentage that the members of the credit union, by a special resolution, authorize and the registrar approves, of the moneys invested in shares of and on deposit with the credit union, excluding deposits that are withdrawable by bill of exchange.
- (3) A credit union shall not make an investment except an investment permitted under subsection (1) (a) to (d), or such other investment as the Registrar may permit when it is not permitted to lend money under section 46.

Trust fund

52. (1) All trust funds shall at all times be kept in separate accounts, and so marked in the books of the credit union for each particular estate, trust, or agency
- (a) as to be always distinguishable from any other in the registers and books of account kept by the credit union; and

Trust fund

- (b) that every investment of trust funds can be readily identified at any time by any person.
- (2) At no time shall trust funds form part of or be mixed with the general assets of the credit union, except that the credit union may invest trust funds belonging to two or more estates, trusts, or agencies in a general trust fund in the name of the credit union.
- (3) All deposits by a credit union of trust funds shall be deposited as trust funds to its credit as trustee.
- (4) No trust funds received or held by a credit union may be taken, attached, or seized for the debts or obligations of the credit union.
- (5) A credit union may invest trust funds
 - (a) in such securities as are directed by the terms of the trust or agency; or
 - (b) in default of a direction, in securities that are authorized by the terms of the trust or agency or in which trustees may by law invest trust moneys.
- (6) Notwithstanding any other Ordinance or rule of law where a credit union pays the same rate of return on trust funds as it pays on other funds invested on similar terms and conditions and
 - (a) where prior to the coming into force of this subsection a credit union was acting as trustee or agent for a person and was directed or authorized by the terms of the trust or agency to invest the trust funds in deposits, shares, or evidence of indebtedness of a credit union, or was by law permitted to so invest the funds, or
 - (b) where after the coming into force of this subsection a credit union becomes a trustee or agent for a person and is directed or authorized by the terms of the trust or agency or otherwise in writing, to so invest fundsthe credit union may invest the trust funds in its own deposits, shares and evidence of indebtedness, and the credit union is not required to account for any greater return on the funds than the rate paid on the other funds invested on similar terms and conditions.
- (7) The credit union may manage, sell, or dispose of trust funds as the terms of the trust or agency direct, or in the absence of direction, as the

directors may see fit.

- (8) Nothing in this section prevents a credit union from continuing to hold securities which form part of any trust funds coming into its hands, and it may hold those securities subject to the trust and legal obligations attached thereto; but when any such security is realized the proceeds shall only be invested in accordance with subsections (5) or (6).

Common trust fund

- 53. (1) In this section "common trust fund" means a fund maintained by a credit union in which moneys belonging to various estates and trusts in its care are combined for the purpose of facilitating investment.
- (2) Notwithstanding this or any other Ordinance, a credit union may, unless the trust instrument otherwise directs, invest trust moneys in one or more common trust funds of the credit union, and where trust money is held by the credit union as co-trustee, the investment thereof in a common trust fund may be made by the credit union with the consent of its co-trustees whether the co-trustees are individuals or corporations.
- (3) Notwithstanding this or any other Ordinance or law, a credit union maintaining a common trust fund shall within 18 months after the fund is established, and annually thereafter, cause an audit of the fund to be made by a person qualified to be an auditor of the credit union and shall file a copy of the report of the audit with the registrar.
- (4) The Commissioner may make regulations with respect to
 - (a) the establishment and operation of a common trust fund and a general trust fund; and
 - (b) the investment of trust money.

Contravention of s. 51, 52 or 53

- 54. (1) A credit union that makes an investment contrary to or not authorized by section 51, 52, or 53, or the regulations, is guilty of an offence,
- (2) The registrar may direct the credit

- union to dispose of and realize, within the time specified by him, investments made contrary to or not authorized by section 51, 52, or 53 or the regulations.
- (3) Nothing in this section affects an investment authorized by the former Ordinance and made prior to the coming into force of this Ordinance.
55. (1) Subject to subsections (2), (4), and (5), Disposal of a credit union may sell, assign, transfer, Property lease, or otherwise dispose of real or personal property that it owns or in which it has an interest and may, as part of the consideration, accept a mortgage or charge against the property or any other property, real or personal, to secure the payment of the balance of the purchase price and interest.
- (2) A credit union may sell, assign, or transfer, and may permit a subsidiary corporation and an associated corporation to sell, assign, or transfer
- (a) a loan or interest in a loan made by a credit union; or
 - (b) an investment or an interest in an investment acquired under subsection 51 (1) (f); or
 - (c) an agreement for sale of land where a credit union is the vendor, and any security therefor only to
 - (d) an associated corporation; or
 - (e) a subsidiary corporation; or
 - (f) another credit union; or
 - (g) the Government of Canada, the Government of Yukon, a Crown corporation, or an agent of the crown; or
 - (h) an indemnitor, guarantor, or endorser who repays indebtedness with respect to the loan or the security; or
 - (i) a person approved by the registrar, or
 - (j) a person designated by the Commissioner.
- (3) Nothing in subsection (2) limits the power of a credit union to
- (a) dispose of any security taken as consideration under subsection (1); or
 - (b) make or permit a sale, assignment, or transfer by way of security only.
- (4) A sale, assignment, or transfer other than by way of security only, that would

constitute a sale, assignment, or transfer of the whole or substantially the whole of the assets of a credit union shall, unless the registrar waives the necessity therefor, be first approved by a special resolution.

Directors

Directors

56. (1) The first directors of a credit union shall hold office until the first general meeting, and thereafter the directors shall be appointed in accordance with the rules.
- (2) A credit union shall have at least 5 directors.
- (3) Only a member of the credit union is eligible to be appointed as a director of a credit union.
- (4) A director ceases to hold office
- (a) if he ceases to be a member of the credit union; or
 - (b) if he is not, or ceases to be, eligible to be insured as required under this Ordinance; or
 - (c) for such other reasons as the rules may specify.
- (5) A change of directors of a credit union is not effective until the registrar has accepted for filing a notice of the change of directors in the form prescribed by him.
- (6) The acts of a director or an officer are valid notwithstanding any defect that may afterwards be discovered in his appointment or qualifications.
- (7) The rules may provide for the election of directors to represent a geographic area or class of members specified by the rules and may provide for election of a director by members within the geographic area or class.
- (8) No auditor or solicitor of a credit union, public servant concerned by his duties with the affairs of a credit union, and no corporation, shall be a director or officer of a credit union.

Duties of directors

- 57: (1) Subject to this Ordinance, the regulations and rules, the directors shall manage or

supervise the management of the credit union and may exercise all the powers of the credit union.

- (2) The directors may fix fees for services rendered by the credit union.
- (3) The directors may appoint from their number a committee of directors and delegate to the committee any of the powers of the directors but no committee shall be delegated authority,
 - (a) to submit to the members any question or matter requiring the approval of the members;
 - (b) to fill a vacancy among the directors or the committee;
 - (c) to declare dividends; or
 - (d) to approve a financial statement requiring to be sent to or placed before the members.
- (4) Subject to the rules of a credit union,
 - (a) a majority of the number of directors constitute a quorum of a meeting of directors; and
 - (b) a majority of committee of directors constitutes a quorum of a meeting of that committee.

- 58. (1) Every meeting of directors shall be held in the Yukon.
- (2) Where all the directors consent, a meeting of directors or of a committee of directors may be held by means of telephone or other communications facilities that permit all persons to participate in the meeting, and a person so participating shall be deemed for the purposes of this Ordinance to be present at that meeting.
- (3) A meeting held in accordance with subsection (2) shall be deemed to be held in compliance with subsection (1) if a majority of the directors participating in the meeting are within Yukon at the time of the meeting.
- (4) Unless this Ordinance or the rules require an actual meeting, a resolution of the directors may be passed without a meeting if all the directors consent to the resolution in writing and the consent is filed with the minutes of proceedings of the directors.

Meetings of directors

- 59. (1) The remuneration of directors and members of committees in connection with the business of the credit union and attendance at meetings shall

Remuneration of directors, committee members

be fixed from time to time by the members by resolution in general meeting and the resolution remains in force until varied or rescinded.

- (2) Directors and members of committees may be reimbursed for expenses incurred by reason of the performance of their duties and functions as directors or committee members.
- (3) A director or member of a committee who prior to this Ordinance coming into force received remuneration or payment in connection with the performance of his duties as a director or committee member is not liable to account therefor unless the amount of remuneration was, in the opinion of the registrar, unreasonable.
- (4) A credit union may purchase and maintain insurance for the benefit of any director, member of a committee, officer, or employee against any liability incurred by him while serving the credit union, an associated corporation, or a subsidiary corporation as a director, member of a committee, officer, or employee.

Indemnification
of directors
and officers

- 60. (1) Except in respect to an action by or on behalf of the credit union to procure a judgment in its favour, a credit union may indemnify
 - (a) a director or officer of the credit union;
 - (b) a former director or officer of the credit union;
 - (c) a person who acts or acted at the request of the credit union as a director or officer of a corporation of which it is or was a member or creditor,
 against all costs, charges, and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him in respect of any civil, criminal, or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of the credit union or corporation, if

- (d) the director or officer acted honestly and in good faith with a view to the best interests of the credit union; and
 - (e) in the case of a criminal or administrative action or proceeding that is enforced by a monetary penalty, he has reasonable grounds for believing that his conduct was lawful.
- (2) A credit union may with the approval of a court indemnify a person referred to in subsection (1) in respect of an action by or on behalf of the credit union to procure a judgment in its favour, to which he is made a party by reason of being or having been a director or an officer of the credit union, against all costs, charges and expenses reasonably incurred by him in connection with such action if he fulfils the conditions set out in subsection (1) (d) and (e).
- (3) Notwithstanding anything in this section, a credit union shall indemnify a person referred to in subsection (1) who has been substantially successful in the defence of a civil, criminal, or administrative action or proceeding to which he is made a party by reason of being or having been a director or officer of the credit union against all costs, charges, and expenses reasonably incurred by him in respect of the action or proceeding.
- (4) A credit union, or a person referred to in subsection (1), may apply to a court for an order approving an indemnity under this section and the court may so order and make any further order it thinks fit.
- (5) An applicant under subsection (4) shall give the registrar not less than 14 days' notice of the application and the registrar is entitled to appear and be heard in person or by counsel.
- (6) Upon an application under subsection (4), the court may order notice to be given to any interested person and that person is entitled to appear and be heard in person or by counsel.
61. (1) Every director, member of a committee, or employee of a credit union having knowledge that the credit union
- (a) is about to enter or has entered into a contract or transaction; or
 - (b) is about to make or has made a loan shall disclose to the directors any personal interest, direct or indirect, that he has

Conflict of
interest

in the contract, transaction, or loan and shall refrain from voting upon or otherwise approving the contract, transaction, or loan.

- (2) A person referred to in subsection (1) shall pay to the credit union any profit made as a consequence of a contract, transaction, or loan entered into, performed, or made unless
 - (a) he discloses his interest prior to the contract, transaction, or loan being entered into, performed, or made and complies with subsection (1); or
 - (b) where he was unaware of the contract, transaction, or loan at the time it was entered into, performed, or made by the credit union,
 - (i) he discloses his interest forthwith after the relevant facts come to his knowledge and the directors approve the contract, transaction, or loan by a vote in which the person does not participate; or
 - (ii) the contract, transaction, or loan was reasonable and fair to the credit union at the time it was entered into, performed, or made and after disclosure of his interest the contract, transaction, or loan is approved by resolution at a general meeting of the credit union.
 - (3) A person who contravenes subsection (1) is guilty of an offence.
 - (4) This section does not apply to a loan, no portion of which, not secured by shares of, or deposits in, the credit union would exceed an amount to be prescribed.
62. (1) The directors shall cause minutes to be kept
- (a) of all appointments of officers and committee members made by them;
 - (b) of the names of the directors present at each meeting of directors; and
 - (c) of all resolutions and proceedings at all meetings of the credit union or the directors.
- (2) Each committee of the credit union shall cause minutes to be kept
- (a) of the names of the committee members present at each meeting of the committee, and
 - (b) of all proceedings and resolutions of the committee.

- (3) The directors shall cause true accounts to be kept
- (a) of all sums of money received and expended and the matter in respect of which the receipt and expenditure takes place; and
 - (b) of the assets and liabilities of the credit union.
- (4) A credit union shall keep its minute books and books of account at the registered office of the credit union, or such other place as the registrar approves.
- (5) A person who contravenes this section is guilty of an offence.
63. (1) Every director of a credit union, in exercising his powers and performing his function, shall
- (a) act honestly and in good faith and in the best interests of the credit union; and
 - (b) exercise the care, diligence and skill of a reasonably prudent person.
- (2) The provisions of this section are in addition to, and not in derogation of, any enactment or rule of law or equity relating to the duties or liabilities of directors of a corporation.
64. (1) The provisions of a contract, the constitution, or the rules, or the circumstances of his appointment do not relieve a director from the duty to act in accordance with this Ordinance and the regulations, or from any liability that by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty, or breach of trust, of which he may be guilty in relation to the credit union.

Director's conduct

Duty not relieved

Management

65. (1) Except upon terms and conditions approved by the registrar no credit union may make, enter into, or participate in a management contract, plan, or scheme except with
- (a) a central credit union, or an association or Co-operative Credit Society defined in, and an association which holds a certificate granted under the *Federal Tax*; or
 - (b) another credit union approved by the registrar; or
 - (c) a natural person whereby that person provides only his own personal services as treasurer or general manager.
- (2) Except upon terms and conditions approved by the registrar, no credit union shall make, enter,

Management contract, etc.

or participate in an employment or management contract, plan, or scheme under which the remuneration of a person is based in whole or in part

- (a) on the gross income, or the gross interest income, of the credit union;
- (b) upon an increase in the assets of the credit union;
- (c) upon an increase in deposits and shares;
- (d) on a combination of gross income, gross interest income, shares, deposits, or assets, or increases thereof; or
- (e) on any other variable basis.

(3) No credit union shall make, enter, or participate in an employment or management contract, plan, or scheme with a person that is for a duration greater than two years or such longer time as the registrar approves.

(4) A person who contravenes this section is guilty of an offence.

Cancellation
of management
contract

66. (1) The registrar may set aside an employment or management contract, plan, or scheme made, entered into, or participated in by a credit union where

- (a) the credit union is declared subject to the supervision of the registrar; or
- (b) the credit union resolves to go into voluntary liquidation.

(2) Where a person who has an employment or management contract, plan, or scheme with a credit union disobeys an order of the registrar or wilfully exercises his powers contrary to this Ordinance, the registrar may set aside the contract, plan, or scheme, and suspend or discharge the person.

(3) Where the registrar sets aside a contract, plan, or scheme under subsection (1) or (2), the registrar as the case may be, shall give notice in writing of his action to the person and the credit union.

(4) The registrar, by notice to the person and the credit union, may set aside an employment or management contract, plan, or scheme between a person and a credit union.

No damages

67. (1) No person has a claim for damages against the credit union, the registrar, or the Commissioner by reason of an employment or management contract, plan, or scheme with a credit union being set aside or the person being suspended or discharged under section 66.

68. (1) A person affected by the registrar exercising a power under section 66 may, within 15 days of receipt of notice of the exercise of the power, appeal the action of the registrar to the Commissioner, and the Commissioner may modify, confirm, or set aside the decision of the registrar.
- (2) Where the Commissioner modifies or confirms the decision of the registrar, the Commissioner shall determine what amount of money may be recovered by the credit union from a person whose employment or management contract, plan, or scheme has been set aside or modified.
- (3) The Commissioner may extend the time for appeal for a period not exceeding 30 days after the receipt of the notice of the exercise of a power under section 66 .
- (4) The decision of the Commissioner is final and is not subject to appeal.

Right of
appeal

Audit

69. (1) A credit union shall have an auditor.
- (2) The first auditor of a credit union shall be appointed by the members at the first general meeting.
- (3) A credit union shall at each annual general meeting, appoint an auditor to hold office until the close of the next annual general meeting and, if, at that meeting, an appointment is not made, the auditor in office continues as auditor until a successor is appointed.
- (4) The directors may fill a casual vacancy in the office of auditor.
- (5) Where a vacancy occurs in the office of auditor and if the directors fail to fill the vacancy within 30 days, the registrar shall appoint an auditor for the credit union.
- (6) The credit union shall give notice in writing to an auditor of his appointment within 14 days of his appointment.
70. (1) No person shall be the auditor of a credit union if he is not independent of the credit union, its associated corporations and subsidiary corporations, and the directors and officers of them.
- (2) For the purposes of this section, independence is a question of fact, but
- (a) a person is not independent who is a director, officer, or employee of the

Auditor
required

Independence
of auditor

- credit union or of an associated corporation or subsidiary corporation, or who is a partner, employer, or employee of that director, officer, or employee, or who is a member of the immediate family of that director, officer, or employee;
- (b) a person is not independent who is appointed a trustee of the estate of the credit union under the *Bankruptcy Act (Canada)* or who is a partner, employer, or employee of that trustee, or who is a member of the immediate family of that trustee; and
- (c) a person shall not be deemed not to be independent by reason only of being a member or having money invested in shares of or on deposit with a credit union.
- (3) For the purpose of this section,
- (a) the immediate family of a person referred to means
- (i) a spouse, parent, or child of that person; or
- (ii) a relative of
- (a) that person; or
- (b) the spouse of that person who resides with that person, and,
- (b) a partner of the person referred to means a person with whom he carries on in partnership the profession of public accounting.
- (4) Notwithstanding subsection (5), where a person is, at the coming into force of this section, the auditor of a credit union and is disqualified under this Ordinance, he may continue to act as auditor until the next annual general meeting of the credit union is held, but he shall disclose in his report required by section 73 the circumstances that, but for this subsection, disqualify him to act as auditor.
- (5) An auditor of a credit union shall within 60 days after he becomes aware that his appointment as auditor contravenes this section, either
- (a) eliminate the circumstances that cause him to be in contravention; or
- (b) resign as auditor,
- and if he fails to eliminate the circumstances or to resign, the directors or the registrar may remove him as auditor.

71. (1) The remuneration of an auditor shall be fixed
- (a) by the members at each annual general meeting; or
- (b) by the directors, if authorized to do so by the meeting,
- but the remuneration of an auditor appointed to fill a casual vacancy may be fixed by the directors.
72. (1) Within 14 days of an appointment of an auditor and within 14 days of a change of auditor, the credit union shall file with the registrar a notice of the appointment in the form prescribed by the registrar and such information with respect thereto as the registrar requires.
- (2) A credit union that contravenes this section is guilty of an offence.
73. (1) The auditor shall make such examination as will enable him to report to the members as required under this section.
- (2) The auditor shall make a report to the members of the credit union on the financial statements placed before the credit union in general meeting during his term in office and shall state in his report whether, in his opinion,
- (a) the financial statements present fairly the financial position of the credit union and the results of its operations for the period under review;
- (b) the financial statements are in accordance with generally accepted accounting principles applied on a basis consistent with that of the preceding period; and
- (c) the procedures adopted by the credit union are adequate for the safety of its creditors and members and whether the credit union is in sound financial condition.
- (3) Where a financial statement contains a statement of changes in net assets or a statement of changes in financial position, the auditor shall state in his report whether, in his opinion, the statement of changes in net assets or the statement of changes in financial position presents that information fairly.
- (4) The auditor shall state in his report as of the date of the financial statement
- (a) the total of all loans outstanding to directors, officers, employees and members of a committee of the credit union; and
- (b) that loans made by the credit union to

Remuneration
of auditorNotice to
registrarAnnual report
by auditor

every director, officer, employee, or member of a committee of the credit union that are more than one month in arrears were granted in accordance with this Ordinance and are fully secured as required by this Ordinance; but if the auditor is unwilling or unable to so state, then each such loan shall be reported in the auditor's certificate.

- (5) Where financial statements are presented in accordance with section 82 (1), the auditor shall state in his report whether, in his opinion, due provision has been made for minority interests.
- (6) Where financial statements are presented in accordance with subsection 82 (2), the auditor shall state in his report whether, in his opinion, the information given therein pursuant to subsection 82 (2) is satisfactory.
- Qualified opinion 74. (1) Where the report of the auditors under section 73 does not contain the unqualified opinion required by that section, the auditor shall state in his report the reason why.
- Consideration of report 75. (1) The directors of a credit union
 (a) may, at any time; and
 (b) shall, at the request of the auditor of the credit union, call a general meeting to consider a report made by the auditor as to any matter arising out of the financial affairs of the credit union.
- Additional information 76. (1) The auditor of a credit union shall submit to the registrar such additional information relating to the financial affairs and operations of the credit union as the registrar requests.
 (2) The registrar, shall within 15 days of receipt of the information requested under subsection (1) communicate the information to the directors of the credit union.
- Access to records 77. (1) The auditor of a credit union is entitled to access at all times to all the records, books, documents, accounts, and vouchers of the credit union and may require from the directors, officers, and employees of the credit union all information and explanations, in his opinion, necessary for the purpose of his duties as auditor.

78. (1) The auditor of a credit union
- (a) is entitled to attend any general meeting of the credit union and to receive every notice and other communication relating to the meeting that a member is entitled to receive; and
 - (b) is entitled to be heard at any general meeting that he attends on any part of the business of the meeting that concerns him as auditor, or that concerns the financial statements of the credit union.
79. (1) An oral or written statement or report made under this Ordinance by the auditor or former auditor of a credit union has qualified privilege.
80. (1) The registrar may, at the expense of a credit union, appoint an auditor to audit the financial statements and accounts of the credit union and may require such reports from him as he considers necessary.
- (2) An auditor appointed under subsection (1) has all the powers and rights conferred on an auditor of a credit union and has the duties directed by the registrar and shall give his report to the registrar.
81. (1) Before a financial statement of a credit union is issued, published, or circulated, it shall be first approved by the directors, with the approval evidenced by the signatures of 2 directors.
- (2) A financial statement issued, published, or circulated by a credit union
- (a) shall, if it is to be presented to an annual general meeting of its members, have attached to it the auditor's report prescribed by this Ordinance;
 - (b) shall have attached to it every auditor's report made in respect to it, and
 - (c) shall not, unless it has been audited and the auditor's report has been made on it, purport to be an audited financial statement.
- (3) A credit union that issues, publishes, or circulates a financial statement that does not comply with this section is guilty of an offence.
82. (1) A credit union may include in the financial statement to be submitted at an annual general meeting a statement of the assets and liabilities and income and expense of one or more of its subsidiary corporations, making due provision for minority interests, and indicating herein that

Right to attend meetings

Qualified privilege

Registrar may direct an audit

Approval of financial statement

Consolidated report

it is presented in consolidated form.

- (2) Where the assets and liabilities and income and expense of one or more subsidiary corporations of a credit union are not included in the financial statement of the credit union the financial statement of the credit union shall include
- (a) the reason why the assets and liabilities and income and expense of the subsidiary corporation or subsidiary corporations are not included;
 - (b) where there is only one subsidiary corporation, the amount of the credit union's proportion of the profit or loss of the subsidiary corporation for the financial period coinciding with or ending in the financial period of the credit union, or, where there is more than one subsidiary corporation, the amount of the credit union's proportion of the aggregate profits less losses, or losses less profits, of every subsidiary corporation for the respective financial periods coinciding with or ending in the financial period of the credit union;
 - (c) the amount included as income from the subsidiary corporations in the statement of profit and loss of the credit union and the amount included as a provision for the loss or losses of the subsidiary corporations;
 - (d) where there is only one subsidiary corporation the amount of the credit union's proportion of the undistributed profits of the subsidiary corporation earned since the acquisition of the shares of the subsidiary corporation by the credit union to the extent that that amount has not been taken into the accounts of the credit union;
 - (e) where there is more than one subsidiary corporation, the amount of the credit union's proportion of the aggregate undistributed profits of the subsidiary corporations earned since the acquisition of their shares by the credit union less its proportion of the losses, if any, suffered by any subsidiary corporation since the

acquisition of its shares, to the extent that that amount has not been taken into the accounts of the credit union; and

(f) any qualifications contained in the report of the auditor of any subsidiary corporation on its financial statement for the financial period to which the report relates, and any note or reference contained in that financial statement to call attention to a matter that, apart from the note or reference, would properly have been referred to in the qualification, in so far as the matter that is the subject of the qualification or note is not provided for by the credit union's financial statement and is material to its members.

(3) Where the directors of the credit union do not, for any reason, obtain the information required under subsection (2), the directors who sign the financial statement of the credit union shall so report in writing to the credit union giving their reasons, and their report shall be included in the financial statement of the credit union.

(4) Where, in the opinion of the auditor of the credit union, adequate provision has not been made in the financial statement of the credit union

(a) where there is only one subsidiary corporation, for the credit union's proportion of the loss of the subsidiary corporation suffered since the acquisition of its shares by the credit union; or

(b) where there is more than one subsidiary corporation, for the credit union's proportion of the aggregate losses suffered by the subsidiary corporations since the acquisition of their shares by the credit union

in excess of the credit union's proportion of the undistributed profits, if any, earned by any of the subsidiary corporations since the acquisition, the auditor shall state in his report the additional amount that in his opinion is necessary to make full provision for the credit union's proportion of the loss.

83. (1) A subsidiary corporation shall have the same financial year end as a credit union of which

Subsidiary
corporation

it is a subsidiary corporation unless another financial year end is approved by the registrar.

- (2) A financial statement of a credit union shall include
- (a) the name of every subsidiary corporation, designating in a distinctive manner those accounts that are consolidated in the financial statement; and
 - (b) where the financial year of a subsidiary corporation does not coincide with that of the credit union, the date of the financial year end of the subsidiary corporation and the reason the financial years do not coincide.
- Financial statement regulations 84. (1) The Commissioner may prescribe the form and contents of financial statements.
- (2) A credit union that contravenes the regulations made under subsection (1) is guilty of an offence.
- Quarterly financial statement 85. (1) A credit union shall, within 30 days of each quarter of the financial year of the credit union, file with the registrar, in the form prescribed, a report on the affairs of the credit union.
- (2) The registrar may extend the time for filing a report under subsection (1).
- Financial year-end 86. (1) The financial year end of a credit union shall be either March 31, June 30, September 30, or December 31 in each year, as the rules of the credit union provide, but if the rules do not otherwise provide then the financial year end is December 31.
- Voting
- Voting 87. (1) No person shall cast more than one vote on a resolution or with respect to an election, except in the case of
- (a) an equality of votes, whether on a show of hands, poll, or written vote, the chairman of the meeting has a deciding or second vote; or
 - (b) a central credit union that adopts a proportional delegate or voting rule pursuant to section 127.
- (2) Subject to subsection (1), a member that is a corporation may be represented at a meeting and may vote by its authorized representative

if written authorization so authorizing a representative duly executed on behalf of the corporation has been deposited with the credit union.

88. (1) No member may vote by proxy. No proxy vote
89. (1) The rules of a credit union may provide for voting by written vote in an election, on a resolution, or as to any other matter. Form of vote

General Meetings

90. (1) The first general meeting of a credit union shall be held within 3 months after the date of incorporation and thereafter an annual general meeting shall be held in each calendar year not later than 120 days after the end of the financial year of the credit union. First general meeting
- (2) Notwithstanding subsection (1), the registrar may authorize the holding of a general meeting required by this section within such extended period as he designates and the authorization may be continuing where he so orders.
91. (1) The rules of a credit union may provide for semi-annual or other periodical meetings. Frequency of meetings
- (2) The rules of a credit union may provide for the credit union to hold a general meeting of members whether annual, semi-annual, periodical, or special by holding 2 or more meetings of members at different times and places, which meetings shall together constitute a single meeting, and
- (a) the total of the votes cast at the meetings shall be counted after the last of the meetings has been held to ascertain whether a resolution, including a special resolution, submitted to the meeting has been adopted or rejected; and
- (b) a resolution shall be deemed to have been passed by the required majority if submitted to all the meetings and if the total of the votes cast in favor of the resolution at the meetings constitutes the required majority of the total votes cast as if it had been effectively done at a single meeting.
- (3) Where a credit union has adopted a rule under subsection (2), every notice convening meetings pursuant to that rule shall state, in addition to any other information required to be contained in it, that the meeting is being held pursuant to the rule.

- Special general meeting 92. (1) The directors may, in their discretion, and shall, upon a written requisition setting forth the object of the meeting
- (a) signed by not less than one twentieth in number of the members or 100 members, whichever is the lesser; and
 - (b) deposited at the registered office,
- call a special general meeting, and if the directors do not call the meeting within 14 days after the deposit of the requisition, the members making the requisition may themselves convene a meeting.
- Notice of general meeting 93. (1) The directors shall give 14 days' notice of every general meeting and every special resolution
- (a) to every member of the credit union; and
 - (b) to the registrar
- unless the rules of the credit union prescribe a longer period of notice, in which case a notice in accordance with the rules shall be given.
- (2) A notice of a general meeting shall specify the place, the day and the hour of the meeting and, in the case of special business, shall specify the general nature of the business.
- Meetings in Yukon 94. (1) Every general meeting of the credit union shall be held in Yukon.
- Statement and reports tabled 95. (1) At an annual general meeting the directors shall place before the credit union
- (a) the audited financial statement of the credit union which shall include the balance sheet of the credit union signed on behalf of the board of directors by 2 directors, a statement of revenue and expenditures of the credit union and such other statements and reports as are referred to in the report of the auditor;
 - (b) a report of the directors of the credit union; and
 - (c) other information as the rules of the credit union require.
- (2) The balance sheet and statement of revenue and expenditure referred to in subsection (1), shall

- be made up to the last day of the immediately preceding financial year.
- (3) Copies of the balance sheet, statements and reports referred to in subsection (1) shall be made available free of charge to every member
- (a) attending the annual general meeting of the credit union; and
 - (b) at each office of the credit union during normal business hours.
96. (1) A credit union shall file with the registrar
- (a) not less than 14 days before an annual general meeting, copies of the statements and reports referred to in section 95 (1); and
 - (b) within 14 days after an annual general meeting, a report of the apportionment of the net earnings for the immediately preceding fiscal year.
- (2) The registrar may extend the time for filing with him.
97. (1) A credit union shall file with the registrar, in duplicate, every special resolution passed by its members, and the registrar shall register one copy and return the other copy certified as having been filed.
98. (1) A notice, return, report, or resolution required to be filed with the registrar shall be signed by an officer of the credit union.
99. (1) Where an omission, defect, error, or irregularity has occurred in the conduct of the business or affairs of a credit union whereby
- (a) a breach of any provision of this Ordinance has occurred;
 - (b) there has been a default in compliance with the constitution or rules of the credit union; or
 - (c) proceedings at or in connection with any general meeting, or meeting of the directors of the credit union, or any assembly purporting to be such a meeting having been rendered ineffective,
- notwithstanding anything in this Ordinance, the registrar, or upon a reference by the registrar, the Court

Copies to registrar

Special resolutions

Documents signed by officer

Illegal acts

- (d) may, either of his or its own motion or on the application of an interested person, make an order to rectify or cause to be rectified or to negate or modify or cause to be modified the consequences in law of the omission, defect, error, or irregularity, or to validate any act, matter, or thing rendered or alleged to have been rendered invalid by or as a result of the omission, defect, error, or irregularity, and may give such ancillary or consequential directions as it considers necessary; but
 - (e) shall, before making an order, consider its effect on the credit union and its directors, officers, members and creditors.
- (2) An order made under subsection (1) does not prejudice the rights of a third party who has acquired those rights for valuable consideration without notice of the omission, defect, error, or irregularity cured by the order.

Reserves

Retained earnings

100. (1) For the purposes of calculating its retained earnings required under subsection (2) a credit union shall reduce its retained earnings by
- (a) an amount equal to the reduction in value, as may be prescribed of
 - (i) loans in default;
 - (ii) property held for resale; and
 - (iii) investments acquired under section 51 (1) (f);
 - (b) an amount equal to the deficit incurred by subsidiary corporations and associated corporations or such part of the deficit as represents the ratio of the common shares of the subsidiary corporations or associated corporations owned by the credit union to all of the issued and outstanding common shares of the subsidiary corporations or associated corporations, the deficit to be based on the net realizable value of the assets of the subsidiary corporations or associated corporations; and
 - (c) an amount equal to the difference between the cost and the market value of all other

investments of the credit union as permitted under section 51 where the market value is less than the cost thereof;

but nothing in this subsection requires a credit union to state in its financial statements the amount of any reduction required to be made under this subsection.

- (2) The retained earnings of a credit union shall be an amount equal to two and one quarter per centum of the amount outstanding on loans of the credit union after the reductions required in subsection (1), but a credit union is not required to maintain retained earnings with respect to
 - (a) a loan made to the Government of Canada or Government of Yukon or a municipality, or a loan guaranteed by any of them; or
 - (b) a loan, or any part of a loan, that is fully secured by a specific charge on shares of or deposits with the credit union.
- (3) Until a credit union has the retained earnings required under this section, the credit union shall, before the payment of dividends each year, transfer to its retained earnings the lesser of
 - (a) the amount necessary to bring the retained earnings of the credit union up to the amount that is required under this section; or
 - (b) an amount equal to one half of one per centum of the amount outstanding on loans except those loans on which it is not required to maintain retained earnings.
- (4) The amount of the retained earnings required to be maintained by a credit union shall be calculated as at the financial year end of the credit union.
- (5) The registrar may excuse a credit union from compliance in whole or in part with subsections (1), (2), and (3) upon terms and conditions prescribed.
- (6) A loan or investment shall not be written off without the approval of the board of directors.
- (7) The retained earnings exceeding the amount required under subsection (2), or such lesser amount as may be prescribed under subsection (5), may be used for payment of dividends, charitable donations and the general purposes of the credit union.

Deposit and
investments

- (8) Upon this section coming into force, the guarantee reserve maintained by a credit union under the former Ordinance shall form a part of the retained earnings of the credit union.
- (9) The directors may establish such other reserves as they consider necessary or advisable.
- (10) This section does not apply to a central credit union.
101. (1) Subject to subsection (2), a credit union, other than a central credit union, shall maintain deposits and investments of the type specified in subsection (3) to an amount of not less than 10 per centum or such greater percentage as the registrar may order not exceeding 12 per centum of the aggregate of its net share capital and the moneys deposited with it and the outstanding amount of moneys borrowed by it pursuant to section 42.
- (2) Except where an order has been made under subsection (1), the registrar on the application of a credit union, may reduce the percentage of deposits and investments required to be maintained by the credit union under subsection (1) to an amount of not less than 8 per centum of the aggregate mentioned in subsection (1) upon such terms and conditions as the registrar determines.
- (3) The types of deposits and investments referred to in subsection (1) are as follows:
- (a) deposits by the credit union on a demand basis with a central credit union or a chartered bank;
 - (b) unpledged term deposits by the credit union with a central credit union or with a chartered bank;
 - (c) unpledged shares of a central credit union, an association or Co-operative defined in, and an association which holds a certificate granted under the *Federal Act* except shares of a central credit union designated by its rules as not qualifying for the purpose;
 - (d) unpledged investments by the credit union in bonds, debentures, or other evidence of indebtedness of the Government of Canada or the Government of the Yukon

or bonds, debentures, and other evidence of indebtedness the principal and interest whereof are guaranteed by the Government of Canada or the Government of the Yukon but no bond, debenture, or other evidence of indebtedness mentioned in this paragraph that is guaranteed by the Government of Canada or the Government of Yukon qualifies if it

- (i) is taken by a credit union as security for a loan; or
 - (ii) is not an investment in which the credit union is permitted to invest under section 51 (1) (e);
 - (e) other investments authorized by the regulations.
- (4) Not less than 10 per centum of the amount required to be maintained on deposit or invested under subsection (1) or (2) shall be maintained on deposit by the credit union on a demand basis.
- (5) The Commissioner may prescribe the proportion of the deposits and investments that are required to be maintained under subsection (1) or (2) which must be maintained in deposits or investments with a central credit union, an association or co-operative defined in, and an association which holds a certificate granted under the *Federal Act* except shares of a central credit union designated by its rules as not qualifying for the purpose.
- (6) In determining the amount required to be maintained under subsection (1) or (2), investments shall be valued at market value, and in determining market value reliance may be place on published market quotations.

Dissolution and Winding-up

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|----------|---|----------------------|
| 102. (1) | Where a credit union has fewer than 25 members, or on other sufficient cause being shown, and upon such conditions and subject to such provisions as he considers proper, the Commissioner may cancel the incorporation of a credit union and declare the credit union to be dissolved. | Dissolution |
| 103. (1) | Upon the liquidation or dissolution of a credit union, | Surplus to Territory |

any surplus, either in money or in other assets, .
after

- (a) paying all debts of the credit union, including the costs of liquidation;
- (b) repaying deposits with the credit union and all interest accrued thereon;
- (c) paying the amount paid on shares in the credit union; and
- (d) paying a dividend at a rate not exceeding 8 per centum a year on the paid-up share capital for the current fiscal year, or any part thereof, to the members on record as of the date of the resolution determining to liquidate as the resolution provides,

shall be transferred and become part of the Yukon Consolidated Revenue Fund.

- (2) Subsection (1) does not apply to an amalgamation under section 113 or to a credit union that sells all of its assets under section 107 or to a credit union all of the shares of which have been purchased under section 108.

Winding-up
provisions of
companies Ord.

- 104. (1) The provisions of the *Companies Ordinance* relating to the winding-up of companies apply, *mutatis mutandis*, to a credit union subject to the following:

- (a) A reference to the registrar shall be deemed to be a reference to the Registrar of Credit Unions.
- (b) A resolution of a credit union to go into voluntary liquidation shall have no effect unless
 - (i) notice of intention to call the meeting to consider voluntary liquidation and of the special resolution to be considered there at has been served by registered post on the registrar at least 21 days before the meeting is called, unless the registrar, in writing, agrees to shorter notice; and
 - (ii) proof of service of the notice is filed with the registrar together with a certified copy of the special resolution to go into voluntary liquidation,

and the voluntary liquidation shall commence upon the filing of the proof of service and certified copy of the special resolution with the registrar;

- (c) A person designated by the registrar shall be appointed and act as liquidator of a credit union in voluntary liquidation, and
 - (i) he shall, not more than 14 days after the final winding-up, publish in a local newspaper in the area in which the registered office of the credit union is situated a notice that the affairs of the credit union have been wound up; and
 - (ii) he shall file with the registrar his report showing how the winding-up has been conducted and the property of the credit union disposed of and a copy of the newspaper containing the notice;
- (d) The registrar, if satisfied that the winding-up is properly completed, shall publish notice in the Gazette that the credit union has been wound up and upon the publication the credit union is deemed to be dissolved;
- (e) The Court may, on the application of the liquidator or any other person who appears to the Court to be interested, make an order deferring the date on which the dissolution of the credit union is to take effect for such time as the Court thinks fit;
- (f) Where an order is made by the Court deferring the date on which the dissolution of the credit union is to take effect, the liquidator or other person on whose application the order is made shall, within 7 days after the making of the order, file with the registrar a certified copy of the order;
- (g) The registrar may, from time to time, examine the books, records, and affairs of any credit union in voluntary liquidation;
- (h) Where the registrar is of the opinion that a liquidation is being carried on in

an unsafe or unauthorized manner or is being unduly delayed, he may, by writing addressed to the liquidator, remove him from office;

- (i) Where a vacancy occurs by death, resignation, removal, or otherwise in the office of the liquidator in a voluntary liquidation, the registrar may fill the vacancy;
- (j) Notice of every appointment and every change of liquidator shall be filed with the registrar and published by him in the Gazette;
- (k) Where, prior to the date on which the credit union is deemed to be dissolved, the Court finds that a person has not been paid money to which he was entitled upon liquidation of the credit union, any surplus assets of the credit union that have been transferred or vested in the Government of Yukon and any moneys realized therefrom shall be transferred or paid by the Government of Yukon as directed by the Court;
- (l) A liquidator of a credit union may, in consideration of financial assistance by the Government of Yukon to the credit union, transfer and assign all of any assets of the credit union, including a chose in action, to the Government of Yukon;
- (m) The liquidator of a credit union in voluntary liquidation may, with the approval of a meeting of the members,
 - (i) sell all or any part of the assets of the credit union upon complying with section 106; or
 - (ii) sell all of the shares of the credit union upon complying with section 107;and that section applies to the sale except that the liquidator may exercise all of the powers of the directors and officers under it;
- (n) Upon a Credit Union being dissolved pursuant to this Ordinance, the liquidator is, by that fact, discharged, and the registrar may affix the corporate seal of the credit union to and execute any formal documents required,
 - (i) to evidence the passing and vesting of the property of the credit union; or
 - (ii) to evidence satisfaction of a claim

or discharge or release of a security that was satisfied prior to the dissolution notwithstanding that the credit union has been dissolved.

105. (1) Where by agreement with a credit union the Government of Yukon assumes all of the liabilities of the credit union, then Voluntary dissolution
- (a) after publication of a notice of the assumption in the Gazette; and
- (b) after written notice to all members of the credit union, mailed by ordinary post to their addresses appearing on register of members,
- the Government of Yukon is entitled to all of the assets of the credit union and is subrogated to all of its rights which vest in the Government of Yukon forthwith without the necessity for any further act of deed.
- (2) Upon the Commissioner giving to the registrar a certificate stating that the Government of Yukon, pursuant to subsection (1), has
- (a) assumed all of the liabilities of a credit union;
- (b) published a notice in the Gazette; and
- (c) given written notice to the members of the credit union,
- the registrar shall cancel the incorporation of the credit union and fix a date on which the credit union shall be dissolved, but the registrar may affix the corporate seal of the credit union to and execute any formal documents thereafter required to evidence the passing and vesting of the property and rights of the credit union to the Government of Yukon or to evidence satisfaction of a claim or discharge or release of a security that was satisfied prior to the dissolution, notwithstanding the dissolution of the credit union.
- (3) A creditor of the credit union may enforce his claim against the fund by action brought against the Government of Yukon, if the action is commenced within 6 months after the publication

in the Gazette of the notice referred to in subsection (1).

Purchase and Amalgamation

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| Purchase of assets | <p>106. (1) A credit union may</p> <ul style="list-style-type: none"> (a) sell all or any part of its assets to another credit union; or (b) purchase all or any part of the assets of another credit union in accordance with this section and section 108. <p>(2) A credit union, that purchases assets pursuant to subsection (1), may</p> <ul style="list-style-type: none"> (a) assume, as part of the purchase price, any or all of the liabilities of the selling credit union; and (b) pay the balance in cash or by the issue of shares to the persons who are holders of shares of the selling credit union, whether or not those persons are members of the purchasing credit union. <p>(3) Where the selling credit union has disposed of all its assets under agreement pursuant to subsection (1), it shall cease to carry on business on the effective date of the agreement, and the credit union is thereupon dissolved and</p> <ul style="list-style-type: none"> (a) all property and rights of the dissolved credit union are transferred to and vested in the purchasing credit union without any further act or deed; (b) the purchasing credit union is liable for all the debts and obligations of the dissolved credit union; and (c) the rights of creditors of the dissolved credit union are enforceable against the purchasing credit union. |
| Purchase of shares | <p>107. (1) A credit union may purchase all, but not a part only, of the issued and outstanding shares of another credit union in accordance with this section and section 111.</p> <p>(2) A credit union, that purchases shares pursuant to subsection (1), may pay for them by the issue of shares of the purchasing credit union to the persons from whom the shares of the other credit union are acquired, whether or not those persons</p> |

- are members of the purchasing credit union.
- (3) Where a credit union purchases all of the shares of another credit union pursuant to subsection (1), the assets of the credit union whose shares were so purchased pass to and vest in the purchasing credit union without the need for any further act or deed forthwith after the effective date of the agreement, and the selling credit union shall cease to carry on business and it is dissolved upon the passing and vesting of the assets, and
- (a) the purchasing credit union is liable for all the debts and obligations of the dissolved credit union; and
- (b) the rights of creditors of the dissolved credit union are enforceable against the purchasing credit union.
108. (1) The purchasing credit union shall enter into an agreement Procedure
on
purchase
- (a) with the credit union whose assets it proposed to buy; or
- (b) with the credit union whose shares it proposes to purchase; containing the terms and conditions of the sale, and within one month after the agreement is signed shall file a copy with the registrar for his approval.
- (2) Where the agreement is approved by the registrar,
- (a) the selling credit union; or
- (b) the credit union whose shares are to be purchased,
- shall submit it to its members for approval by special resolution.
- (3) Where an agreement is approved by a special resolution, the secretary of the credit union shall
- (a) certify on the agreement that it has been so approved; and
- (b) forward a copy of the agreement so certified to the registrar,
- and the agreement is binding upon the credit union and all the members of the credit union.
- (4) Where the registrar is satisfied that a sale and purchase does not constitute the sale of the whole or substantially the whole of the assets

of the selling credit union and it is not contrary to the interests of the selling credit union and the purchasing credit union,

- (a) he may waive compliance with subsections (2) and (3) in whole or in part upon such conditions as he may impose; and
- (b) subject to any conditions he imposes; the agreement is binding upon the credit unions on the date of the waiver.

Effective date

109. (1) A sale pursuant to an agreement under section 106 or 107 shall be deemed to have been completed on the effective date of the agreement without the necessity for any further instrument, and on the effective date of the agreement each person who receives or is entitled to receive shares of the purchasing credit union pursuant to the agreement becomes a member of the purchasing credit union unless the agreement otherwise provides or until that member is terminated in accordance with the rules of the purchasing union or the agreement.

- (2) Where the agreement does not specify an effective date or specifies an effective date prior to the date of the agreement the registrar may fix or vary the effective date.

Use of corporate seal by registrar

110. (1) The registrar may affix the corporate seal of a credit union that is dissolved under section 106 or 107 and execute any formal documents thereafter required

- (a) to evidence the passing and vesting of property and titles of the dissolved credit union to and in the purchasing credit union; or
- (b) to evidence satisfaction of any claim or discharge or release of any security that was satisfied prior to the dissolution of the dissolved credit union.

Title to land

111. (1) Upon a purchasing credit union filing under the *Land Titles Act* a copy of the agreement approved by the registrar under section 108, the Land Titles Registrar shall, register in the name of the purchasing credit union any estate or interest of the dissolved credit union in any land registered under the *Land Titles Act*.

112. (1) Two or more credit unions, in this section called "amalgamating credit unions," may amalgamate and continue as an amalgamated credit union by each amalgamating credit union passing a special resolution,
- (a) authorizing its directors, or some of them, to subscribe, jointly with the directors, or some of the directors of the other credit union to
 - (i) a constitution, in the prescribed form; and
 - (ii) rules of the proposed amalgamated credit union,and to deliver to the registrar the constitution, rules and any other information required by section 4; and
 - (b) authorizing its directors to enter into an agreement which has been approved first by the registrar containing the terms and conditions of the amalgamation,
- and obtaining the approval of the registrar under subsection (3).
- (2) With the approval of the registrar and instead of passing a special resolution under subsection (1) an amalgamating credit union may, by resolution of its directors, authorize its directors, or some of them, to carry out the matters referred to in subsection (1) (a) and (b) but where an amalgamating credit union proceeds under this subsection, it shall give notice of the proposed amalgamation to each of its members within 7 days of the adoption of the resolution of the directors, or such longer time as the registrar permits.
- (3) Upon receiving certified copies of
- (a) the special resolution passed by each amalgamating credit union; or
 - (b) where permitted under subsection (2), the resolution of directors,
- together with the constitution, rules, agreement and other information referred to in subsection (1), and if he approves the proposed amalgamation, the registrar shall issue under his seal of office a certificate of amalgamation certifying that the amalgamated credit union has complied with this section.
- (4) Where amalgamating credit union has proceeded

under subsection (2), the registrar shall not issue a certificate of amalgamation

- (a) until 14 days after the last notice required under subsection (2) has been given; or
- (b) where he receives written objection to the amalgamation signed by not less than one twentieth in number of the members or 100 members, whichever is the lesser, of the credit union within the 14 day period.

Effect of
Amalgamation

113. (1) Upon the issue of a certificate of amalgamation, the amalgamating credit unions become amalgamated and shall be continued as the amalgamated credit union.
- (2) Upon the issue of a certificate of amalgamation each member of the amalgamating credit unions becomes a member of the amalgamated credit union until his membership is terminated in accordance with this Ordinance and the rules of the amalgamated credit union.
- (3) The rules adopted by the subscribers to the constitution of the amalgamated credit union are the rules of the amalgamated credit union until the rules are amended in accordance with this Ordinance.
- (4) Upon the issue of a certificate of amalgamation, all property and rights of each amalgamating credit union are transferred to and vested in the amalgamated credit union without any further act or deed, and
- (a) the amalgamated credit union is liable for all debts and obligations of each amalgamating credit union; and
 - (b) the rights of creditors of each amalgamating credit union continue and are enforceable against the amalgamated credit union.

Title to
land

114. (1) Upon the amalgamated credit union filing under the *Land Titles Act* a copy of the certificate of amalgamation certified by the registrar, the Land Titles Registrar shall, register in the name of the amalgamated credit union any estate or interest of each amalgamating credit union in any land registered under the *Land Titles Act*.

Miscellaneous

115. (1) Where an action could be brought against a person by a credit union or by the directors or the members of the credit union for any loss or damage suffered by or any accounting due to the credit union by reason of the negligence of or failure to comply with this Ordinance or the regulations, or conditions imposed thereunder, and
- (a) where the action has not been brought, the registrar may, without leave, bring and maintain the action; or
- (b) where the action has been brought, the registrar may apply to the Court to be added as a plaintiff and to be given the conduct of the action,
- and any money recovered by the registrar shall be held for the benefit of the credit union.
116. (1) A document may be served on a credit union by
- (a) leaving it at, or mailing it by registered post addressed to, the registered office of the credit union; or
- (b) by personally serving an officer, receiver-manager, administrator, or liquidator of the credit union.
117. (1) A notice to a member may be given
- (a) by delivering it to him personally; or
- (b) by mailing it, postage prepaid, addressed to the member at the address of the member in the register of members maintained by the credit union and shall be deemed to be received by the member upon the day following the day on which the notice is mailed; or
- (c) where no mail service is available, by advertising on 2 separate occasions not less than 5 days apart, inclusive of the day of publication, in a newspaper circulating in the area in which the credit union carries on its operations, and shall be deemed to be received by the member upon the day upon which the last publication is made.

Action by
registrar
for
credit union

Service of
documents

Notice to
members

- (2) Where notice has been given in accordance with this section to the members generally,
- (a) an accidental omission of a credit union to give notice of a general meeting or special resolution to a member; or
 - (b) the non-receipt of the notice by a member does not invalidate the meeting or resolution to which the notice relates or any resolution, action, or proceeding at the meeting.
- Application of other legislation 118. (1) Except as provided in this Ordinance, the *Companies Ordinance*, the *Consumer Protection Ordinance*, and the *Securities Ordinance* do not apply to a credit union or to a central credit union.

Part 2

CENTRAL CREDIT UNIONS

- Application of part 119. (1) This Part applies only to a central credit union.
- Incorporation of central credit union 120. (1) A central credit union shall be incorporated in the same manner as a credit union with such variations as may be prescribed, except that the constitution and rules shall be subscribed to by representatives of not less than 3 credit unions proposing to form the central credit union.
- (2) A certificate of incorporation issued by the registrar in respect of a central credit union, whether before or after the coming into force of this Ordinance, is conclusive proof that the central credit union is incorporated according to this Ordinance.
- Powers under federal Act 121. (1) A central credit union may accept and exercise all rights, powers, privileges and immunities conferred on it by the *Federal Act*.
- (2) A restriction, limitation, or regulation imposed on a central credit union under this Ordinance that is inconsistent with, restrictive of, or repugnant to a right, power, privilege, or immunity conferred on it by the *Federal Act*, does not apply to the central credit union and nothing in this Ordinance shall be construed as a restriction or limitation of the exercise of any right, power, privilege, or immunity conferred by the .

- (3) Regulations may provide that any provisions of sections 1 to 118 inclusive do not apply to central credit unions.
122. (1) A central credit union may become a member of, buy shares in, deposit with, or borrow money from Powers
- (a) a central credit union;
- (b) a co-operative credit society and an association, as defined in the *Federal Act* and
- (c) any like institution incorporated under the laws of Canada or any province.
- (2) The limitation in section 7 does not apply to a central credit union that has exercised its powers under subsection (1) and has become a member or shareholder of an association under the *Federal Act* and been granted a certificate authorizing it to carry on business under the *Federal Act*.
123. (1) A central credit union may act as agent or sub-agent for primary or secondary distribution of bonds, debentures, or other evidences of indebtedness of or guaranteed by the Government of Canada or any province and for that purpose trade in the bonds, debentures, or other evidences of indebtedness to the extent necessary. Agent for bond sales
124. (1) A central credit union may make a loan to Loans to members
- (a) a member; and
- (b) an employee of a member of the central credit union at the request of a member of the central credit union.
125. (1) A central credit union may Other services
- (a) provide services to or for its members that, in the opinion of the directors of the central credit union, are incidental or conducive to the sound operation or to the attaining of the purposes of its members;
- (b) without restricting the generality of its right to pursue any of its purposes, pursue any of the purposes in paragraphs 3 (1) (c), (e), (g), (h), and (l) for the benefit of its employees and the members and employees of its members;

- (c) exercise any of its powers as principal, or as agent for its members; and
 - (d) provide such other services as may be authorized by the regulations.
- Director and committee member qualifications
126. (1) No person may be or continue as a director of a central credit union or a member of a credit committee of a central credit union unless he is a member of a member of the central credit union.
- (2) Subsections 56 (3) and (4) (a) do not apply to a central credit union.
- Rules
127. (1) The rules of a central credit union may provide
- (a) for the method of appointment or election of directors, including election or appointment
 - (i) to represent a geographic area or a class of members;
 - (ii) by members within a geographic area or class; and
 - (iii) by proportional voting;
 - (b) for a system of attendance at meetings and for voting by delegates, including provision for delegate attendance and voting determined on a proportional basis; and
 - (c) for non-voting members, but the number of non-voting members shall not exceed the number of voting members.
- PART 3
- Supervision
- Supervision of credit union
128. (1) Where
- (a) a credit union is unable to pay a dividend, or
 - (b) the retained earnings of a credit union, after subtracting therefrom any reduction in value required by section 100 (1), are less than an amount equal to 1 per centum of the sum outstanding at the end of the preceding fiscal year on loans, except those loans on which it is not required to maintain retained earnings; or
 - (c) a credit union fails to comply forthwith with an order under section 136 (1); or
 - (d) in the opinion of the registrar, a credit union is conducting its affairs in a manner that is financially unsound or for any other reason the

- credit union ought to be subject to the supervision of the registrar, the registrar, may by giving notice in writing to the credit union, declare the credit union to be subject to supervision by the registrar.
129. Where the registrar declares a credit union to be subject to supervision, the credit union remains subject to supervision by the registrar until
- Duration of supervision
- (a) the credit union applies, in writing, to the registrar to be released from supervision, stating reasons in support of its application, and the registrar approves the application;
 - (b) the credit union is liquidated or dissolved; or
 - (c) the registrar, by notice to the credit union, releases the credit union from his supervision.
130. (1) Where a credit union is subject to the supervision of the registrar, he may
- Supervision powers
- (a) directly or through his agents, inspect the affairs of the credit union and make inquiries from its officers, members, and employees;
 - (b) order an audit of the affairs of the credit union by an auditor approved by the registrar at the expense of the credit union;
 - (c) require the credit union to correct any practices that in the opinion of the registrar are contributing to the financial difficulties suffered by the credit union or are likely to contribute to the unsound conduct of its affairs;
 - (d) order a credit union and its directors, committee members, officers and employees to refrain from exercising, in whole or in part, such of the powers of the credit union or of its directors, committee members, officers and employees, or any of them, as may be specified in the order, unless approved by the registrar or his authorized agent;

- (e) order the credit union not to declare or pay a dividend or to restrict the amount of dividend to be paid to a rate or an amount fixed by the registrar;
- (f) appoint an administrator of the credit union, at the expense of the credit union, and terminate the appointment;
- (g) direct the credit union to amalgamate with another credit union, or to sell to another credit union all or part of its assets and liabilities or direct that the credit union be liquidated; and
- (h) establish guidelines for the operation of the credit union.

(2) A credit union may appeal to the Commissioner any order under subsection (1) (d) within 15 days after the order has been served upon the credit union or upon a director, committee member, officer, or employee who considers himself aggrieved thereby, and subsections 136 (4), (5), and (6) apply, with the necessary changes and so far as is applicable, to the appeal.

Administrator's powers

131. (1)

- Where the registrar appoints an administrator of a credit union, the administrator
- (a) has the power to carry on, manage, and conduct the operations of the credit union and in the name of the credit union to preserve, maintain, realize, dispose of and add to the property of the credit union, to receive the income and revenues of the credit union and to exercise all the powers of the credit union and of the directors, officers, credit officers, and credit committees;
 - (b) has the power to exclude the directors of the credit union and its officers, committee members, employees, servants, and agents from the property and business of the credit union; and
 - (c) shall report regularly to the registrar.

Administrator

132. (1)

An administrator appointed by the registrar shall, upon his discharge, fully account to the registrar for his administration of the credit union.

- (2) Unless the registrar otherwise orders within 30 days after the accounting, the administrator is, upon completion of the accounting, released from all claims by
 - (a) the credit union or a member; or
 - (b) a person claiming under the credit union or a member, other than claims arising out of fraud or dishonesty.

PART 4

Office of the Registrar

- 133. (1) A Registrar and a Deputy Registrar of Credit Unions shall be appointed by the Commissioner. Registrar
- (2) A Deputy Registrar shall have all the functions and powers of the Registrar in the absence of the Registrar or his inability to act.
- 134. (1) The registrar shall once in each year, and may at any time when in his opinion it is necessary or expedient, visit and examine, personally or by an officer authorized by him, every credit union and its subsidiaries and on every examination, investigation shall be made Inspection of credit unions
 - (a) of the credit union's books, accounts, assets, securities, documents and affairs; and
 - (b) of the condition and resources of the credit union generally;

and upon the examination, inquiries may be made of any of its officers, members and employees.
- (2) Instead of conducting the annual inspection and examination in the manner provided in subsection (1), the registrar may, personally or by an agent authorized by him, inspect the credit union and its subsidiaries by examining the audited financial statement filed with him and may require the auditor to give him a supplementary report and furnish additional information and explanations.
- (3) After each annual inspection the registrar shall forthwith furnish the credit union with a certificate signed by him stating the fact that the annual inspection has been completed.
- (4) The Registrar shall furnish annually to the Commissioner a written inspection report signed by him stating the fact that the annual inspection has been carried out and also stating his findings of such an inspection.
- 135. (1) The registrar may address Inquiry by registrar
 - (a) to a credit union or its subsidiaries or an officer or employee of the credit

- (b) union or its subsidiaries; or to any person whose name appears upon the books or records of a credit union as a member, depositor, or borrower, any inquiry connected with the affairs of the credit union or its subsidiaries and every credit union or subsidiary or person so addressed shall reply promptly to the inquiry and, if so required, in writing.

Registrar's powers

136. (1) Where it appears to the registrar from an examination made, or from any information or report received by him respecting a credit union, that a credit union
- (a) has failed to comply with any provision of this Ordinance;
 - (b) is conducting business in an unsafe or unauthorized manner;
 - (c) has failed to meet its obligations; or
 - (d) has refused to submit its books, accounts, securities, documents, or business for examination by him; or
 - (e) has prevented or obstructed an examination,
- he shall, by order under his hand addressed to and served on the credit union, direct the credit union to comply with this Ordinance and discontinue any unsafe or unauthorized practice, and shall send a copy of the order to the Commissioner.
- (2) Where, in the opinion of the registrar, the credit union does not comply forthwith with an order under subsection (1), he may order the credit union to be subject to his supervision.
- (3) A credit union that considers itself aggrieved by an order of the registrar made under this section may appeal therefrom to the Commissioner within 30 days of the notice of decision.
- (4) Where there is an appeal, the registrar shall certify to the Commissioner the decision appealed from, his reasons for it, and the documents, information, and material he has before him in making his decision.

- (5) The Commissioner may sustain, vary, or set aside the decision of the registrar, refer the matter back to him for reconsideration, or make the order which he thinks ought to have been made.
- (6) A credit union that fails to comply with a direction or order given or made under this section is guilty of an offence.
137. (1) Each credit union, other than a central credit union, shall pay to the registrar each year the fees prescribed by the regulations. Fees
138. (1) Subject to the *Income Tax Act (Canada)* the registrar may authorize a credit union, on the authority of its board of directors, to destroy old books, records, vouchers, bills of exchange, applications for loans, evidences of indebtedness or security, and other documents approved by the registrar. Destruction of records
- (2) A copy of extract from a document kept and filed or registered at the office of the registrar, certified to be a true copy under the hand and seal of the registrar, is admissible in evidence as proof of the original document, and it is not necessary to prove the handwriting, seal of office, or official position of the person certifying the copy or extract.
139. An approval, consent, order, or condition to be given or made by the registrar under this Ordinance may be given or made on a general and continuing basis and shall be valid and effective until revoked, amended or varied. Continuing approval

PART 5

GENERAL

140. (1) The Commissioner may make regulations providing for the carrying into effect of the purposes and provisions of this Ordinance, and without limiting the foregoing the Commissioner may make regulations,
- (a) defining, for the purposes of this Ordinance and the regulations, any words or expressions not defined in the Ordinance;
- (b) prescribing additional purposes of a credit union;
- (c) designating additional persons from whom a credit union may receive deposits, to whom it may make loans and to whom

- it may dispose of any loan together with the security therefor;
- (d) defining when a deposit is withdrawable or when a loan is repayable on demand;
 - (e) fixing the notice which is required to withdraw money on deposit with or invested in shares of a credit union;
 - (f) designating additional investments that a credit union is permitted to make;
 - (g) prescribing forms for the purpose of this Ordinance and the regulations and providing for their use;
 - (h) facilitating the carrying out of any sale and purchase under section 107 or 108.
 - (i) providing for the dissolution of a credit union;
 - (j) designating any class or type of credit union or member;
 - (k) respecting information required to be furnished or contained in any forms or reports;
 - (l) respecting any matters necessary or advisable for carrying out the intent and purposes of this Ordinance.

Canada Deposit
Insurance
Corporation

141. (1)

A credit union

- (a) may apply to and enter into any agreement with the Canada Deposit Insurance Corporation, the Government of Canada, or an agent of the Canada Deposit Insurance Corporation or of the Government of Canada to obtain loans or other financial assistance or policies of insurance;
- (b) may act as agent of the Canada Deposit Insurance Corporation; and
- (c) may accept all rights, powers, privileges, and immunities that may be conferred upon a central credit union pursuant to the *Canada Deposit Insurance Corporation Act* as amended from time to time.

142. (1) A person who makes or assists in making a statement in any document required to be made by or for the purposes of this Ordinance or the regulations False or misleading statements
- (a) that, at the time and in the light of the circumstances under which it was made, is false or misleading in respect of any material fact; or
- (b) that omits to state any material fact, the omission of which makes the statement false or misleading,
- is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000 or imprisonment for a term of not more than one year, or to both fine and imprisonment.
- (2) No person is guilty of an offence under subsection (1) who did not know that the statement was false or misleading and, with the exercise of reasonable diligence, could not have known that the statement was false or misleading.
143. (1) Where a credit union is guilty of an offence under this Ordinance, every director or officer of the credit union who authorized, permitted, or acquiesced in the offence is guilty of an offence and is liable on summary conviction to a fine of not more than \$2,000. Liability of directors
144. (1) Except where otherwise provided in this Ordinance, every person guilty of an offence under this Ordinance is liable on summary conviction to a fine of not less than \$50 and not more than \$2,000. General Penalty
- (2) No proceeding, conviction, or penalty for an offence under this Ordinance relieves any person from any other liability.
145. (1) Except where otherwise provided in this Ordinance, every information in respect of an offence against this Ordinance shall be laid within 24 months after the time when the subject matter of the proceedings arose. Time limit
146. (1) A person Offences
- (a) who neglects or refuses
- (i) to be examined;
- (ii) to answer an inquiry;
- (iii) to file a report or statement required to be filed, under this Ordinance; or
- (b) who fails to comply with an order or requirement of the registrar;

Extra-provincial
credit unions

147. (1)

- (c) who makes an answer that is untrue in any particular; or
- (d) who neglects or refuses to produce or submit the books, accounts, securities, documents, or records of his affairs for examination or inspection when required so to do under this Ordinance, is guilty of an offence.

A corporation that

- (a) is incorporated or registered under an Act of Canada or another province; and
- (b) in the opinion of the registrar carries on, substantially on a co-operative basis, operations substantially the same as those carried on by a credit union,

may, in the discretion of the registrar, be registered under this Ordinance for the purpose of

- (c) perfecting or registering pursuant to an Ordinance, a note, mortgage, lien, or other instrument evidencing indebtedness or an obligation to the corporation; or
- (d) maintaining an action, suit, or proceeding, where registration is required for that purpose.

(2) The registrar, upon registration of a corporation under subsection (1), shall issue a certificate stating that the corporation has been registered under this section and may, at the expense of the corporation, publish notice of the registration in the Gazette.

(3) Registration of a corporation under this section does not authorize the corporation to carry on any business in the Territory except as expressly provided in this section.

Validity
of loans

148. (1)

Notwithstanding anything in this Ordinance or a former *Credit Unions Ordinance* or a rule or regulation made there-under or any offence committed under this Ordinance, no loan made contrary to any of those Ordinances or rules or regulations shall be interpreted as having been or as being void, and a person who heretofore has borrowed or hereafter borrows any moneys from a credit union and any party to any instrument evidencing

- or securing it is liable to repay to the credit union the moneys so borrowed in accordance with the terms of the instrument and any security given therefor shall be construed as having been and as being valid and enforceable from the date of its execution and delivery.
149. (1) In determining any appeal under sections 21 (3), 68, 130 (2) and 136 (3) the Commissioner may, and shall when so requested in writing by the appellant, appoint an advisory board consisting of;
- (a) a representative of the appellant
 - (b) a representative of the registrar
 - (c) a Chairman
- which shall hold a hearing and make a report to the Commissioner with such recommendations as it considers fit.
- (2) The advisory board shall, for the purposes of their duties in connection with the investigation and hearing into the appeal have the powers under section 5 and 6 of the *Public Inquiries Ordinance*.
150. (1) For the purposes of sections 150 to 157, "board" means a Mutual Aid Board appointed pursuant to this Ordinance or a stabilization board, "fund" means the stabilization fund established pursuant to section 152, "stabilization board" means a Board by whatever name known appointed pursuant to an act of a province for the purpose of operating a stabilization or mutual aid fund.
- (2) The *Securities Ordinance*; *Companies Ordinance*, and *Insurance Ordinance* shall not apply to the Mutual Aid Board or stabilization board.
151. (1) The Commissioner may enter into an agreement with a stabilization board for the purpose of carrying out the provisions of sections 152 to 156.
- (2) Where the Commissioner enters into an agreement with a stabilization board pursuant to this section, the stabilization board shall be entitled to exercise all of the powers of a Mutual Aid Board under sections 152 to 156 and of the Registrar under Part 3 of this Ordinance.
152. (1) The Commissioner may establish a Mutual Aid Board.
- (2) The Mutual Aid Board shall consist of not more than three members who shall hold office at the pleasure of the Commissioner.
- (3) The board is a body corporate with the capacity of

a natural person.

- (4) There shall be a fund called the stabilization fund which shall be operated by the board subject to the direction of the Commissioner.
- (5) The board may adopt by-laws for its procedures and the operation of the fund.
- (6) The fund shall include all assets, of whatsoever nature or kind including all monies thereafter assessed or collected as fees or otherwise raised, borrowed, or received by the board, except as otherwise provided by this Ordinance.
- (7) The board shall pay from the fund all lawful claims on the fund and all expenses incurred in the operations of the fund and of the board.
- (8) The fund is subject to all liabilities created by the board against it under this Ordinance or any former Ordinance.
- (9) The Board shall determine whether and to what extent and in what manner it will receive representations, submissions or grant hearings prior to giving or making any approval, consent, order, condition or declaration to be given or made by the board under this Ordinance but nothing in this section shall require the board to receive representations, submissions or grant hearings.
- (10) The board may grant financial assistance from the fund to assist or enable a credit union to meet maturing deposits, debt obligations and applications for repayment of money invested in shares of a credit union.
- (11) Where the board grants financial assistance under subsection (10) the board may,
 - (a) require the credit union to whom the assistance is granted to assign any or all of its assets to the board, subject to prior claims or charges thereon other than claims in respect of a share of or a deposit with the credit union,
 - (b) impose terms and conditions for repayment of and payment of interest on any money advanced to or on behalf of the credit union pursuant to this section and as to any other matter that the board may deem fit,
 - (c) appoint an administrator who may at the discretion of the board be an employee of the credit union or any other person designated by the board.

- (12) Where the board appoints an administrator of a credit union, the administrator shall:
 - (a) have power to carry on and manage the operations of the credit union,
 - (b) exercise all the powers of the credit union, its directors, committees, and officers,
 - (c) report to the board as the board may direct.
 - (13) An administrator appointed by the board shall, upon his discharge, fully account to the board for his administration of the credit union.
 - (14) Unless the board otherwise orders within 30 days after the accounting, the administrator is, upon completion of the accounting, released from all claims other than claims arising out of fraud or dishonesty by the credit union or a member or a person claiming under the credit union or a member.
 - (15) Where a credit union becomes entitled to the benefit of the fund, it shall have the capacity to perform and shall perform all obligations, terms or conditions imposed upon it by the board.
 - (16) The Board shall annually, after the end of its year, prepare a report showing the revenues, expenditures and activities during its last year, together with
 - (a) an audited financial statement, and
 - (b) such other information as the Commissioner may require.
 - (17) The Commissioner shall table a copy of the report at the next ensuing Session of the Council.
153. (1) The board may, in each year, make an assessment against a credit union of a sum, not exceeding one-fifth of one per centum of the net share capital of, and money on deposit with, the credit union on the preceding December 31, as the board determines.
- (2) The board may waive in whole or in part an assessment upon such grounds as in its opinion are proper.
 - (3) An assessment required to be paid by a credit union pursuant to this section may be charge as an expense of the credit union.
154. (1) The board may, from time to time, borrow such sums of money as the board requires and may from time to time issue debentures which shall bear interest at such rate as may be determined by the board.
- (2) The board may redeem debentures prior to as well as at maturity and, may issue other debentures in their place.

155. (1) The board may invest its monies, including money in the fund:
- (a) in investments authorized for trustees under the *Trustee Ordinance*,
 - (b) in shares of the central credit union, and
 - (c) by deposit in a central credit union or a chartered bank.
- (2) All property forming part of the fund shall be held in the name of the board, and all contracts made by the board in pursuance of its powers, shall be held for the benefit of the fund and form part of the fund, and all liabilities thereunder shall be chargeable to and secured by the fund.
- (3) All actions based on claims against the fund or to enforce any charge secured by the fund may be brought against the board in its own name.
- (4) The board may bring in its own name any action or proceeding against any credit union or other person that, in its opinion, is necessary or desirable to enforce the powers of the board or for the safety or benefit of the fund.
156. (1) The board may issue to each credit union a mark, sign, or device, designating coverage under the fund, which may be displayed at the office of the credit union and reproduced on any of its stationery or advertising.
- (2) A person who by any written or oral representation advertises or holds out,
- (a) a corporation or firm, other than a credit union; or
 - (b) the shares of or deposits with a corporation or firm, other than a credit union,
- as being guaranteed or otherwise insured or approved for guarantee or insurance under this Ordinance, is guilty of an offence.
- (3) A credit union that makes a written or oral representation that it or its shares or deposits or monies invested in or deposited with it are guaranteed or insured under this Ordinance otherwise than by the use of marks, signs, advertisements, or other devices,
- (a) authorized by the board; and
 - (b) used in the manner and on the occasion prescribed by the board;
- is guilty of an offence.
- (4) A person who is guilty of an offence under this section is liable, on summary conviction, to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or both.
157. (1) The Commissioner may fix the remuneration to be paid to the members of the Mutual Aid Board or to a stabilization

board.

- (2) No action shall be brought against any person who acts as a member of the Mutual Aid Board or a stabilization board for anything done by him or it in good faith in the performance of his or its duties.
- 158. (1) The *Credit Union Ordinance*, R. O. 1958, chapter C-21, is repealed. Repeal
- 159. (1) This Ordinance or any portion hereof shall come into force on day or days as may be fixed by the Commissioner. Coming into force

CHAPTER 3
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

ELECTORAL DISTRICT BOUNDARIES COMMISSION ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by
and with the advice and consent of the Council of the
said Territory, enacts as follows:

SHORT TITLE

Short title 1. (1) This Ordinance may be cited as the *Electoral
District Boundaries Commission Ordinance*.

INTERPRETATION

Definitions 2. (1) In this Ordinance:
"Chairman" means the Chairman of the Electoral
District Boundaries Commission appointed
pursuant to section 4;

"Commission" means the Electoral District
Boundaries Commission established pursuant
to section 3;

"Electoral District" means any place or
area entitled to representation on the
Council of the Yukon Territory;

"Judge" means a Judge of a superior provincial
or magistrate's court;

"Speaker" means the Speaker of the Council and
includes any person designated by the Council
to perform the duties of the Speaker.

Establishment
of Commission 3. (1) The Commissioner shall by proclamation
establish an Electoral District Boundaries
Commission for the Territory.

Membership 4. (1) The Commission shall consist of a Chair-
man and two members.

- (2) The Chairman of the Commission shall be a Judge; and the other members shall be appointed by the Commissioner on the recommendation of the Council.
5. (1) No person is eligible to be a member of the Commission while he is a member of the Senate, the House of Commons, the Council, the council of a municipality or the Board of Trustees of a Local Improvement District. Ineligibility
6. (1) The Commission shall appoint one of its members to act as Chairman in the event of the absence or incapacity of the Chairman or if the office of Chairman is vacant. Acting
Chairman
- (2) At all meetings of the Commission, two members of the Commission constitute a quorum. Quorum
- (3) A vacancy in the membership of the Commission or in the office of Chairman does not impair the right of the remaining members to act, but where any such vacancy occurs it shall be filled within seven days by appointment in accordance with section 4. Vacancy
- (4) Notwithstanding subsection (3), where the Chairman is unable to act he may appoint another judge to act in his stead and such other judge shall have all the powers and duties of the Chairman other than the power of appointment mentioned in this subsection. Replacement
of Chairman
7. (1) The Commission shall meet as soon as may be after it has been established. First meeting
8. (1) The Commission may be called together at any time by the Chairman for the purpose of carrying out its functions. Calling of
meetings

- (2) The Commission may meet at any time on its own motion to perform any of its functions or duties.
- Remuneration 9. (1) The members of the Commission, other than the Chairman, shall be paid such remuneration as the Commissioner may prescribe.
- Expenses of members (2) The members of the Commission shall be paid such transportation, accommodation and living expenses in connection with their duties while away from their ordinary place of residence as the Commissioner may prescribe.
- Preparation of report 10. (1) Upon its establishment, the Commission shall proceed to prepare a report setting forth its recommendations concerning the division of the Territory into electoral districts, its recommendations concerning the representation of such districts, its recommendations concerning the description of the boundaries and the name of each such district.
- Notice of hearings 11. (1) As soon as practicable, the Commission shall give public notice throughout the Territory of its intention to hold hearings and receive representations in respect of the division of the Territory into electoral districts.
- Map of proposed Electoral Districts (2) The Commission shall publish by advertisement in one or more newspapers circulating in the Territory, a map or drawing prepared by the Commission showing the proposed division of the Territory into electoral districts and indicating the name to be given to each electoral district, the representation to be given to each such district, together with a schedule setting forth the proposed boundaries of each electoral district and requesting representations from interested persons.

12. (1) The Commission may, in the performance of its duties, sit at such times and places in the Territory as it deems necessary for the hearing of representation. **Meetings as required**
13. (1) In recommending the representation to be given to electoral districts, the Commission shall allot not less than one half of the members of the Council to the electoral districts in that portion of the Territory lying outside the City of Whitehorse. **Restriction on allotment**
14. (1) The Commission may include in an electoral district in the City of Whitehorse, any area outside the City of Whitehorse which is contiguous to the boundaries of that part of the electoral district within the City of Whitehorse where it appears to the Commission necessary or desirable to do so. **Areas contiguous to Whitehorse**
15. (1) The purpose of the Commission is to recommend the division of the Territory into 16 Electoral Districts, and for the purpose of making recommendations shall take into consideration:
- (a) geographic considerations, including in particular the sparsity, density or relative rate of growth of population of any region of the Territory, the accessibility of any such region and the size or shape thereof;
 - (b) any special community or diversity of interests of the inhabitants of various regions of the Territory;
 - (c) the means of communication between various parts of the Territory,
- and all other similar and relevant factors. **Items to consider**
16. (1) The Commissioner shall appoint a person to act as Secretary of the Commission. **Secretary**

- Experts
- (2) Upon being requested by the Chairman so to do, the Commissioner may, from time to time, appoint one or more persons having special knowledge to assist the Commission in carrying out its functions.
- (3) A person appointed pursuant to this section shall be paid such remuneration as the Commissioner may prescribe.
- Proceedings to be recorded
17. (1) The Commission shall record its proceedings and the Chairmah shall be responsible for the custody and care of all records and documents belonging or pertaining to the Commission.
- Investigations for Commission
18. (1) The Commission may authorize a member or any other person to investigate and report on any question or matter arising in connection with the business of the Commission.
- (2) A person authorized pursuant to this section has all the powers of the Commission for the purpose of taking evidence or acquiring the necessary information for his report.
- Rules
19. (1) The Commission may make rules for regulating its proceedings and for the conduct of its business.
- Powers of Commission
20. (1) In performing its duties, the Commission has all the powers of a Board of Inquiry appointed under the *Public Inquiries Ordinance*.
- Completion of Report
21. (1) The Commission shall complete its report prior to the first of November 1977.
- Report filed with Speaker
- (2) The Commission shall forthwith after completion of its report:
- (a) file its report with the Speaker; and
- (b) transmit its records and documents to the Speaker after delivering its report to him.

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| (3) | Copies of the report filed with the Speaker shall be made available to the public at the offices of the Territorial Secretary and the Territorial Agents for inspection during office hours. | Report available to public |
| (4) | The Clerk of the Council shall transmit copies of the report to each member of the Council. | Copies for Council Members |
| (5) | The Speaker shall, after receiving the report of the Commission, forthwith lay the report before the Council if the Council is sitting, or if the Council is not sitting then within five days after the opening of the next session. | Report laid before Council |
| 22. (1) | If the Council by resolution approves or approves with alterations, the proposals of the Commission, the Commissioner shall prepare a Bill to carry out the provisions of the resolution and the Bill shall be introduced to Council at the same session at which the resolution is made. | Bill to be prepared |
| 23. (1) | This Ordinance or any portion thereof shall come into force upon day or days as proclaimed by the Commissioner. | Coming into force. |

CHAPTER 4
ORDINANCE OF THE YUKON TERRITORY
1977 (First Session)

GENERAL DEVELOPMENT AGREEMENT ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with
the advice and consent of the Council of the said Territory
enacts as follows:

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| Citation | 1. (1) This Ordinance may be cited as the <i>General Development Agreement Ordinance</i> . |
| Agreement | 2. (1) The Commissioner is authorized to enter into, execute and carry out on behalf of the Government of the Territory an agreement with Canada providing for:

(a) joint Federal-Territorial economic and socio-economic planning and development of the Yukon Territory,

(b) the making of subsidiary agreements by the Government of the Territory and the Government of Canada to implement programs for the development of the Territory;

(c) such other terms and conditions as may be agreed upon by the Commissioner. |
| Coming into force | 3. (1) This Ordinance comes into force upon assent. |

CHAPTER 5
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

REAL ESTATE AGENTS' LICENSING ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE

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| 1. (1) This Ordinance may be cited as the <i>Real Estate Agents' Licensing Ordinance</i> . | Short Title |
|--|-------------|

INTERPRETATION

- | | |
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| 2. (1) In this Ordinance,

"agent" means a real estate agent and includes a person who holds himself out as a real estate agent and any person who, for another or others, for compensation, gain or reward, or hope or promise thereof, trades in real estate either alone or through one or more officials or salesmen;

"business" means an undertaking carried on for the purpose of gain or profit and includes any interest in such an undertaking;

"continuous use" means the right to possession for a period of time which is greater than seven consecutive days but less than 12 consecutive months;

"licence" means licence under this Ordinance;

"licensed person" means a person who is the holder of a licence issued by the Superintendent under this Ordinance and includes a representative designated under section 7;

"official" means president, vice-president, secretary, treasurer, managing director, general manager, department manager, branch office manager and each person acting in a similar capacity whether so designated or not; | Definitions

"agent"

"business"

"continuous use"

"licence"

"licensed person"

;"official" |
|--|---|

"person"	"person" includes a partnership, association or corporation;
"property user's"	"property user's licence" means a licence permitting the residential use of furnished real property under which the licensee may have residential use of that property or any substituted property, for two or more periods of continuous use, at least one period of which commences in a year subsequent to the year in which the first period of continuous use commences; and requiring the licensee to pay during or prior to the year in which any period of continuous use commences a consideration for the residential use of that property or any substituted property for any period of continuous use commencing in any subsequent year;
"real estate"	"real estate" means any real property, leasehold property or property user's licence and includes any business, whether with or without premises, and the fixtures, stock in trade, goods or chattels in connection with the operation of the business;
"salesman"	"salesman" means a real estate salesman, and includes a person employed, appointed or authorized by a real estate agent to trade in real estate;
"Superintendent"	"Superintendent" means the Superintendent of Real Estate Agents and includes the Deputy Superintendent of Real Estate Agents;
"trade"	"trade" means a transaction in a real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise and includes any offer or attempt to list real estate for the purpose of such transaction and any act, advertisement, conduct or negotiation directly or indirectly in furtherance of such a transaction, offer or attempt and the verb "trade" has a corresponding meaning.

- (2) For the purpose of this Ordinance, a property user's licence is deemed to be located where the furnished real property in respect of which the licence is granted is located.
3. (1) This Ordinance, except sections 37 to 49 does not apply to
- Application of Ordinance
- a) any assignee, custodian, liquidator, receiver, trustee or other person acting as directed by the provisions of a statute or under the order of a Court, or to an administrator of an estate or any executor or trustee selling under the terms of a will, marriage settlement or deed of trust, or
 - b) any trust or insurance company, any bank or credit union trading in real estate owned and administered by it.
 - c) a person
 - i) who acquires real estate or any interest therein,
 - ii) who disposes of real estate owned by him or in which he has a substantial interest,
 - iii) who is an official or employee of a person engaged in so acquiring or disposing of real estate, or
 - d) any barrister or solicitor enrolled pursuant to the *Legal Profession Ordinance* and any person employed by him where the trade is made in the course of and as part of a solicitor's trade.
4. (1) No person shall
- Trading in real estate
- a) trade in real estate unless he is licensed as an agent or as a salesman of a licensed agent, or
 - b) act as an official of or on behalf of an agent that is a partnership or corporation in connection with a trade in real estate by that agent,

unless he is licensed as a salesman of that agent or that agent has designated him as its representative under section 7.

- (2) A change in the membership of a partnership shall be deemed to create a new partnership and to extinguish an existing licence.
- (3) No person who is not the holder of a subsisting licence under this Ordinance shall act or directly or indirectly hold himself out as an agent or salesman in Yukon.

Licensing
of salesman

- 5. (1) A salesman may only be licensed where he is the salesman of a licensed agent.
- (2) Each application for a licence of a salesman shall have attached thereto in a form approved by the Superintendent
 - a) a recommendation of the applicant, made by or on behalf of a licensed agent, and
 - b) a declaration that the applicant, if granted a licence, is to act as a salesman employed by and representing the agent making the declaration or on whose behalf the declaration is made.
- (3) The licence shall be inscribed with the name of the agent as principal of the licensee.
- (4) Upon a salesman ceasing to be employed with a licensed agent the licence of the salesman is cancelled.

Eligibility
for licence

- 6. (1) An agent is not eligible to be licensed or to hold a licence unless he maintains an office for the conduct of his business in Yukon.

Application
by
corporation

- 7. (1) A partnership or corporation
 - a) may apply for and obtain a licence in the name of the firm, partnership or corporation, and
 - b) shall designate one individual who shall act as its or their representative.

(3) A notice of every order made under this Part shall be served upon every person named therein and upon such other persons as the Superintendent considers appropriate and thereupon no person shall engage in that part of the business of insurance that is the subject of the order.

Service and effect of order

235.(1) Any person who contravenes an order of the Superintendent made under this Part is, in addition to any other consequence or remedy provided by law, guilty of an offence punishable in the same manner as if the person were undertaking insurance or carrying on business in the Territory without holding a licence to do so.

Penalty

Repeal

236.(1) The Insurance Ordinance, R.O. 1958, Chapter 57, is repealed.

Repeal of R.O. 1958, C.57

(2) Section 141 of the Motor Vehicles Ordinance, is repealed.

Coming Into Force

237.(1) This Ordinance or any provision thereof shall come into force on a day or days to be fixed by order of the Commissioner.

Coming into force

SCHEDULEMedical and Funeral Benefits and Accident Benefits
in Motor Vehicle Liability Policies

Accident Benefits Section

The insurer agrees to pay to or with respect to each insured person as defined in this section who sustains bodily injury or death directly and independently of all other causes by an accident arising out of the use or operation of an automobile.

Subsection 1 - Medical Payments and Funeral Benefits

- (1) All reasonable expenses incurred within two years from the date of the accident as a result of such injury for necessary medical, surgical, dental, hospital, professional nursing, and ambulance service and, in addition for such other services and supplies which are, in the opinion of the insured person's attending physician and that of the insurer's medical adviser, essential for the treatment of said person, to the limit of \$2,000.00 per person.
- (2) Funeral services up to the amount of \$500.00 in respect to the death of any one person.

The insurer shall not be liable under this subsection for those portions of such expenses payable or recoverable under any medical, surgical, dental or hospitalization plan or law or, except for similar insurance provided under another automobile insurance contract, under any other insurance contract or certificate issued to or for the benefit of, any insured person.

Subsection 2 - Death and Total Disability
PART I - Death Benefits

- A. Subject to the provisions of Part I, of this Schedule for death, a payment of Principal sum - based on the age and status at the date of the accident of the deceased in a household where spouse or dependents survive - of the following amount:

- (7) Where a person's licence has been cancelled under subsection (4) and that person applies for a new licence, that person is not eligible to be issued a new licence until 12 months have elapsed from the date of the cancellation.
- (8) The Superintendent shall immediately notify the applicant or licensed person, in writing, of his reasons for refusing to issue a license or for suspending or cancelling an existing license.
9. (1) A person Appeal
- a) who has been refused a licence under section 8, or
 - b) whose licence has been cancelled or suspended under section 8;
- may appeal the refusal, cancellation or suspension, as the case may be, to the Commissioner.
- (2) A person who wishes to appeal the decision of the Superintendent under this section shall, within 30 days of the date that person was served with the notification that he was refused a licence or that his licence was cancelled or suspended, serve the Commissioner with a notice of appeal.
- (3) Upon being served with a notice of appeal under subsection (2), the Commissioner shall, within 30 days of being served with the notice of appeal, appoint an appeal board to hear the appeal.
- (4) Where an appeal board is appointed under subsection (3), the Commissioner may, from time to time, prescribe the time within which the appeal board shall hear the appeal and render a decision.
- (5) Upon hearing an appeal under this section, the appeal board may confirm the decision of the Superintendent, order that the licence be issued, remove or vary the suspension or reinstate the cancelled licence.

- (6) An appeal board appointed under this section shall consist of
 - a) a chairman who shall not be the Superintendent or his representative or a person licensed under this Ordinance, and
 - b) two other persons, one of whom shall be chosen from amongst a list of at least four names submitted by the Yukon Real Estate Association.

Documents to accompany application for licence

- 10. (1) Where a person makes application for a licence under section 8, he shall provide the Superintendent with
 - a) a complete application in the prescribed form,
 - b) in the case of a person applying to be licensed as an agent, the bond prescribed for that class of licence except where that person has previously filed with the Superintendent a bond which remains in full force and effect,
 - c) the prescribed fee, and
 - d) the address of the office in Yukon out of which he will conduct his business of trading in real estate.
- (2) The Superintendent may from time to time require
 - a) that further information be submitted by an applicant or a licensed person within a time specified by the Superintendent, and
 - b) verification by affidavit or otherwise of any information then or previously submitted.

- 11. (1) A document or other notice under this Ordinance may be served on a licensed person by leaving it at or by sending it by registered post to the address provided by the licensed person pursuant to section 10 or section 12. Service of notice

- 12. (1) A licensed agent shall immediately notify the Superintendent in writing of Notice of changes
 - a) a change in the address of his business office;
 - b) the commencement of employment of each salesman employed by him;
 - c) the termination of employment of any salesman employed by him;
 - d) a change in the chartered bank, trust company or credit union in which that agent maintains a trust account;
 - e) a change in the partners where that agent is a partnership;
 - f) a change in the officers or directors of a corporation where that agent is a corporation;
 - g) a change of the designated representative where that agent is a partnership or corporation.

- (2) A licensee who ceases to carry on the business of a real estate agent shall immediately notify the Superintendent in writing and shall return his licence with the notice.

BONDING

- 13. (1) Where an agent who is a principal under a bond mentioned in section 10 has a judgment obtained against him, his designated representative or a salesman employed by him which Forfeiture of bond
 - a) is based on a finding of fraud or breach of trust in respect of a trade in real estate,

- b) has become final by reason of lapse of time or of being confirmed by the highest Court to which that judgment may be appealed, and
- c) if not satisfied within 30 days of the date that it becomes final,

the bond is forfeited upon the Superintendent notifying the surety in writing that the judgment remains unsatisfied 30 days after the date that it becomes final.

(2) Where a bond is forfeited under subsection (1), the surety shall pay to the Commissioner,

- a) the amount of the judgment in respect of which the bond was forfeited within 60 days of the date that the bond was forfeited, and
- b) the amount of any other judgment obtained against that agent who was the principal under that bond, his designated representative or a salesman employed by him which
 - i) is based on a finding of fraud or breach of trust in respect of a trade in real estate,
 - ii) has, within two years of the date that the bond was forfeited, become final by reason of lapse of time or of being confirmed by the highest Court to which the judgment may be appealed, and
 - iii) remains unsatisfied 30 days after the judgment became final,

within 60 days of being notified in writing by the Superintendent that the judgment has become final.

- (3) Where the Commissioner receives money under subsection (2), he shall pay that money into the Court in trust for those persons who obtained judgments referred to in subsection (2) and upon receiving all the money payable under subsection (2) the Court shall, after two years have expired from the date the bond was forfeited, pay out that money to those persons who obtained those judgments.
- (4) Where
- a) the total amount paid to the Commissioner by the surety under subsection (2) is less than the face value of the bond forfeited under subsection (1),
 - b) within two years of the date that the bond was forfeited, an action is commenced against that agent, who was the principal under that bond, his designated representative or a salesman employed by him alleging fraud or breach of trust in respect of a trade in real estate, and
 - c) judgment is obtained in that action against that agent, his designated representative or a salesman employed by him which
 - i) is based on a finding of fraud or breach of trust in respect of a trade in real estate,
 - ii) has become final by reason of lapse of time or of being confirmed by the highest Court to which the judgment may be appealed, and
 - iii) remains unsatisfied 30 days after the judgment became final,
- a surety shall pay to the Commissioner the amount of the judgment within 60 days of being notified in writing by the Superintendent that the judgment has become final.

- (5) Where the Commissioner receives money under subsection (4), he shall pay that money into the Court in trust for those persons who obtained judgments referred to in subsection (4) and upon receiving all the money payable under subsection (4) the Court shall after determining to its satisfaction that those actions referred to in subsection (4) that were commenced have been concluded, pay out that money to those persons who obtained judgments.
- (6) Where the amount of money paid into Court under subsection (3) is insufficient to satisfy the judgments referred to in subsection (2), the Court shall pay out the money on a *pro rata* basis.
- (7) Where the amount of money paid into Court under subsection (5) is insufficient to satisfy the judgments referred to in subsection (4), the Court shall pay out the money on a *pro rata* basis.
- (8) Notwithstanding any other provisions of this Ordinance the total liability of a surety under a bond shall not exceed the face value of that bond.

Termination
of bond

- 14. (1) A licence issued to an agent under this Ordinance terminates upon the bond provided by that agent to the Superintendent under this Ordinance being
 - a) forfeited, or
 - b) terminated unless prior to that bond being terminated that agent provides the Superintendent with a bond to replace the bond being terminated.

INVESTIGATION AND ACTION BY SUPERINTENDENT

Investigation

- 15. (1) The Superintendent, an inspector, or any person authorized by the Superintendent may, on complaint of a person interested,
 - a) investigate and inquire into
 - 1) any matter concerning the due administration of this Ordinance, or

- ii) the circumstances surrounding a transaction or matter or thing done by an agent or salesman whether licensed or not licensed,
 - b) for the purpose of such an investigation, inquire into and examine the business affairs of the person in respect of whom the investigation is being made, and
 - c) examine and inquire into
 - i) books, papers, documents, correspondence, communications, negotiations, transactions, investigations, loans, borrowings and payments to, by, on behalf of, in relation to or connected with the person in respect of whom the investigation is being made and
 - ii) property, assets or things owned, acquired or alienated in whole or in part by such person or by a person acting on behalf of or as agent for such person.
- (2) A person in respect of whom the investigation is made shall make prompt and explicit answers to such inquiries.
16. (1) The Superintendent or a person authorized by him may at reasonable times demand the production of and inspect
- a) all or any of the books mentioned in section 15, and
 - b) all or any documents relating to a trade in real estate effected by any agent or salesman.
- (2) A person who has the custody, possession or control of the books or documents referred to in subsection (1) shall produce and permit the inspection of them by the Superintendent or person authorized by him.

Production of documents

- (3) A person who contravenes subsection (2) by refusal or neglect to produce or permit the inspection of books or documents is guilty of an offence.
- (4) Where an investigation is being carried on under section 15, the Superintendent or the person making the investigation may seize and take possession of documents, books, papers, correspondence, communications or records of the person the business affairs of whom are being investigated.

Suspension of licence

- 17. (1) Where a licensed agent is being investigated under section 15 and the Superintendent is of the opinion that the agent may have misappropriated funds which that agent holds in trust, the Superintendent may by order suspend the licence of that agent.

Security

- 18. (1) Where a licence of an agent expires or has been cancelled or suspended the Superintendent may order the chartered bank, trust company or credit union

- a) with which the person being investigated maintains a trust account, or

- b) with which are deposited any funds or securities considered by the Superintendent or the person making the investigation to have been deposited in connection with any trade in real estate in respect of which the investigation is being made,

to hold the funds or securities, as the case may be, until the Superintendent in writing either revokes the order or consents to release any particular fund or security or portion of a fund or security from the order.

19. (1) Any person aggrieved by an order of the Superintendent made pursuant to section 17 or 18 may, within 30 days thereof, appeal to the Court by way of originating notice.
- (2) The Court may confirm or revoke the order of the Superintendent or make such other order as it considers proper.
20. (1) Where
- a) pursuant to section 15, an investigation is about to commence, is taking place or has been completed,
 - b) the Superintendent has made an order under section 17 or 18, or
 - c) criminal proceedings or proceedings in respect of a contravention of this Ordinance have been instituted against a licensed person that, in the opinion of the Superintendent, are related to trust funds or the use of trust funds,
- the Superintendent may apply to the Court by way of originating notice for the appointment of a receiver or a receiver and manager or a trustee to hold or manage, as the case may be, all or part of the property of the licensed person.
21. (1) In addition to the powers contained in sections 15 and 16, the Superintendent, inspector or other person conducting an investigation under section 15 has all the powers of a board appointed under *The Public Inquiries Ordinance*.

Appeal

Appointment
of receiver
or manager

General powers
of registrar

AGENT'S ACCOUNTS

22. (1) An agent shall keep proper books and accounts of his trades in real estate, and enter in his books and accounts in respect of each trade

Books of
agent

- a) the nature of the trade,
 - b) a description of the real estate involved sufficient to identify it,
 - c) the true consideration for the trade,
 - d) the names of the parties to the trade,
 - e) the amount of deposit received and a record of the disbursement thereof, and
 - f) the amount of his commission or other remuneration and the name of the party paying it.
- (2) Every agent shall
- a) keep a trust ledger in which he shall maintain a separate record for each person on whose behalf he is acting of all
 - i) money that he receives in trust,
 - ii) money that he holds in trust, and
 - iii) disbursements he makes from money he receives or holds in trust,in respect of a trade in real estate for that person,
 - b) forthwith deposit all money he receives in trust in respect of a trade in real estate into an account
 - i) maintained in a chartered bank, trust company, credit union, and
 - ii) which is kept in the name of the agent and designated as a trust,
 - c) keep money he receives or holds in trust in respect of a trade in real estate separate from money which belongs to the agent, and

- d) only disburse money he receives or holds in trust in respect of a trade in real estate in accordance with the terms of the trust governing the use of that money.
 - e) clearly mark all cheques drawn on the trust account.
- (3) All money deposited under subsection (2) (b), shall be kept on deposit in Yukon.
- (4) An agent shall submit to the Superintendent before the 31st day of March in each year a report by the agent's auditors in the prescribed form,
- a) stating that the agent has kept proper books and accounts of his trades in real estate,
 - b) stating that the auditor has examined the balance due to clients in trust for the 12 month fiscal period ending no later than January 1st of that year and found them in agreement with the accounting records of the agent,
 - c) stating that the moneys on deposit held in trust for clients has been verified by personal inspection or by certificates obtained from the bank, trust company or credit union with which the deposit account is maintained,
 - d) stating the amount due to clients in trust as reflected by the records of the agent, for the 12 month fiscal period ending no later than January 1st. of that year,
 - e) stating that the auditor has done a sufficient review of the trust account transactions of the agent for the 12 month fiscal period ending no later than January 1st. of that year, to satisfy himself that the trust moneys held for clients are kept separate and apart from moneys belonging to the agent, and,

- f) stating that after due consideration the auditor has formed an independent opinion as to the position of the trust moneys held for clients, and to the best of his information the trust moneys held for clients are maintained in a separate trust account and are not less than the amount of trust moneys received in respect of which there is an undischarged trust obligation.
- (5) Notwithstanding any other law, an agent shall preserve his books and accounts of his trades in real estate and his accounting records
 - a) for a period of not less than three years after the books, accounts or records came into existence, or
 - b) for such longer period as the Superintendent directs.
 - (6) Every agent shall instruct the bank, trust company or credit union in which he maintains a client's or trust account pursuant to this section to remit the interest earned thereon to the Commissioner for deposit to the Yukon Consolidated Revenue Fund.
 - (7) Nothing in this section affects any arrangement made between a real estate agent, and his client to deposit money received from or on behalf of the client or to which the client is entitled in a separate account for the client at interest, which interest shall be the property of the client.
- Unlicensed agent 23. (1) No action shall be brought for commission or for remuneration for services in connection with a trade in real estate unless at the time of rendering the services the person bringing the action was licensed as an agent or exempt from the licensing provisions of this Ordinance.

- (2) The Court may stay an action referred to in subsection (1) at any time on summary application.
24. (1) No action shall be brought to charge a person by commission or otherwise for services rendered in connection with the sale of land, tenements or hereditaments, or any interest therein, unless
- a) the contract upon which recovery is sought in the action or some note or memorandum thereof is in writing signed by the party to be charged or by his agent lawfully authorized in writing signed by the party to be charged or by his agent lawfully authorized in writing, or
 - b) the person sought to be charged
 - i) has as a result of the services of an agent employed by him for the purpose effected a sale or lease of lands, tenements and hereditaments or any interest therein, and
 - ii) has either executed a transfer or lease signed by all other necessary parties and delivered it to the purchaser, or has executed an agreement of sale of lands, tenements and hereditaments or an interest therein, signed by all necessary parties, entitling the purchaser to possession of the lands, tenements and hereditaments or any interest therein, as specified in the agreement, and has delivered the agreement to the purchaser.

Recovery of
commission

REGULATION OF TRADING

Representations by agents or salesmen

25. (1) A licensed person shall not,
- a) subject to section 26, make a representation to a vendor that he or another person on his behalf will pay to the vendor of real estate within a fixed or determinable period of time, a fixed or determinable amount of money, or
 - b) subject to section 27 make a representation to a person that he or another person will
 - i) obtain a mortgage, lease or loan, or
 - ii) have the term of a mortgage or lease altered, or
 - iii) assume or assign a mortgage or an agreement for sale.

Guaranteed sale agreements

26. (1) In this section, "guaranteed sale agreement" means an agreement in writing whereby a licensed agent or other person on behalf of or to the benefit of a licensed agent undertakes to pay to the vendor of real estate within a fixed or determinable period of time a fixed or determinable amount of money in respect of that vendor's real estate.
- (2) Every licensed agent who enters into a guaranteed sale agreement or has another person enter into a guaranteed sale agreement on behalf of or to the benefit of that licensed agent, shall maintain a separate trust account in a chartered bank, trust company or credit union in which money payable under this section shall be deposited.

- (3) Where a guaranteed sale agreement is entered into by a licensed agent or other person on behalf of or to the benefit of a licensed agent, that agent shall deposit into the trust account maintained under subsection (2) not less than 5 *per centum* of the total amount that may be payable under the guaranteed sale agreement.
- (4) Where money is deposited under subsection (3), it shall be held in trust for the vendor and shall be
 - a) paid to the vendor or to such other person as that vendor directs as part of the total amount payable under the guaranteed sale agreement,
 - b) forfeited to the vendor where he is not paid in accordance with the guaranteed sale agreement, or
 - c) returned to the agent where, pursuant to the terms of the guaranteed sale agreement, there is no longer any money payable to the vendor under that guaranteed sale agreement.
- (5) Any money deposited under subsection (3) shall remain on deposit in Yukon until it is paid out under subsection (4).
- (6) Where a deposit is forfeited under subsection (4) (b),
 - a) a forfeiture shall not prejudice any action that the vendor may have against the agent or other parties to the guaranteed sale agreement, and
 - b) the moneys forfeited may be applied toward any sums which that vendor may be entitled to receive as damages arising out of the non-performance of the guaranteed sale agreement.
- (7) Where a licensed agent or other person who entered into a guaranteed sale agreement with a vendor purchases the vendor's real estate pursuant to that sale agreement, no commission shall be payable to that licensed agent or other person by that vendor in respect of that trade.

- (8) A licensed salesman or a designated representative shall not enter into a guaranteed sales agreement except in the course of his employment on behalf of the agent by whom that licensed salesman or designated representative is employed.
- Undertaking by agent 27. (1) An agent may undertake to
- a) obtain a mortgage, lease or loan, or
 - b) have a term of a mortgage or lease altered, or
 - c) assume or assign a mortgage or an agreement for sale,
- if the undertaking is set forth in writing and a copy of that undertaking is delivered to the person to whom the undertaking is made.
- Advertising 28. (1) When advertising to purchase, sell, exchange, or lease any real estate whatsoever a licensed person shall clearly indicate
- a) that he is the party advertising, and
 - b) that he is a licensed person.
- (2) A reference to the name of a salesman in the advertisement of an agent referred to in subsection (1) shall clearly indicate that the real estate agent is the employer of the salesman.
- Use of name 29. (1) A licensed person shall not trade in real estate
- a) as an agent or salesman in any other name than that which appears on his licence;
 - b) on behalf of himself or another person without disclosing to the parties he is dealing with that he is licensed under this Ordinance;

- c) on behalf of another licensed person without disclosing to the parties he is dealing with that he and that other licensed person are licensed under this Ordinance.
- 30. (1) No agent shall
 - a) employ, permit or engage the salesman of another agent or an unlicensed salesman to trade in real estate, or
 - b) pay commission or other remuneration to such a salesman.

Employment of
salesman of
another agent
- 31. (1) A licensed agent shall not pay a commission or other fee for services rendered in connection with a trade in real estate except to a licensed salesman employed by him or to an agent who is licensed pursuant to this Ordinance or comparable legislation in another jurisdiction.

Commission
- 32. (1) No agent or salesman shall purchase for himself either directly or indirectly real estate listed with him for sale, nor shall he acquire any interest therein either directly or indirectly, unless he has clearly disclosed in writing to the listing owner complete details of any negotiations for the sale of the said property to another person.

Purchase
by agent
- 33. (1) No salesman
 - a) shall trade in real estate on behalf of an agent other than the agent who, according to the records of the Superintendent, is his employer, or
 - b) is entitled to or may accept a commission or other remuneration for trading in real estate from a person except the agent who is licensed as his employer.

Duties of
salesman

Commission

34. (1) No agent or salesman
- a) shall request or enter into an arrangement for the payment to him of commission or other remuneration based on the difference between the price at which real estate is listed for sale and the actual sale price thereof, or
 - b) may retain a commission or other remuneration computed on a basis referred to in paragraph (a).
- (2) Commission or other remuneration payable to an agent in respect of the sale of real estate shall be on an agreed amount or percentage of the sale price.
- (3) Where no agreement as to the amount of commission has been entered into, the rate of commission or other basis or amount of remuneration shall not exceed 5 *per centum* of the sale price.

- 34.1 (1) An agreement purporting to be or being an exclusive listing of real estate for sale, exchange, lease, or rental is not valid unless it is in writing.

Agreement
to list
real estate

35. (1) Where an agreement to list real estate with an agent for the purpose of a trade is in writing, a true copy of that agreement shall be delivered by that agent as soon as practicable to the owner of that real estate or to the person entering that agreement on behalf of that owner.
- (2) An agreement under subsection (1) is void if it
- a) provides for more than one date upon which it expires, or
 - b) does not specify a date on which it expires, or
 - c) does not provide for the amount of or the rate of commission payable in respect of the trade, or
 - d) does not provide for the terms or conditions upon which the commission is payable in respect of the trade.

36. (1) Where a licensed person receives an offer or an acceptance of an offer in writing from a party to a trade in real estate, he shall, as soon as practicable,
- a) provide that party with a true copy of that offer or acceptance, and
 - b) deliver a true copy of that offer or acceptance to the other parties to that trade.

Copy of offer or acceptance of offer

TRADING IN SUBDIVISION LOTS OUTSIDE YUKON

37. (1) A person shall not, directly or indirectly, trade in real estate that is located outside of Yukon unless
- a) that trade takes place through an agent licensed under this Ordinance, and
 - b) that person has
 - i) received written authorization under section 38 from the Superintendent to trade in that real estate, or
 - ii) filed a prospectus with the Superintendent and been issued a certificate of acceptance under section 44 in respect of that prospectus.
- (2) Subsection (1) does not apply in respect of an isolated trade in real estate where that trade is not part of continued successive transactions of a like nature.
- (3) Notwithstanding subsection (1) (a) where a person is trading in real estate that is located outside of Yukon at the time this section comes into force, he shall not be required to trade through an agent licensed under this Ordinance or file a prospectus until January 1, 1978.
- (4) A person shall not make any representation, written or oral, that the Superintendent has passed upon

Prospectus

Exemption
from filing
prospectus

- a) financial standing, fitness or conduct of any person in connection with the filed prospectus, or
 - b) the merits of the prospectus.
38. (1) Where a person wishes to be given written authorization to trade in real estate without filing a prospectus, he shall
- a) make application to the Superintendent and
 - b) provide such information as the Superintendent requires.
- (2) Where the Superintendent is satisfied that a trade may take place without the necessity of a prospectus being filed, he may give written authorization for that trade to take place.
- (3) The Superintendent may at any time cancel a written authorization and require that a prospectus be filed in respect of a trade.
- (4) Upon the Superintendent giving written authorization under this section, sections 39, 40, 42, 44, 45, 47, do not apply in respect of the trade during the period that the written authorization is in force.
39. (1) A person shall not, either as a vendor or as an agent or salesman, enter into or negotiate any contract in respect of a trade in real estate which is located outside of Yukon unless
- a) a copy of the prospectus referred to in section 37 has been delivered to the prospective purchaser, tenant or licensee, as the case may be, and
 - b) the prospective purchaser, tenant or licensee has in writing acknowledged receipt of a copy of the prospectus and that he has been afforded the opportunity to read it.

- (2) Every acknowledgment referred to in subsection (1) shall be retained by the vendor or agent and be available for inspection by the Superintendent for a period of not less than three years.
 - (3) Where a purchaser, tenant or licensee has entered into a contract to which subsection (1) applies, he may rescind the contract
 - a) within 30 days of entering into the contract, or
 - b) if subsection (1) has not been complied with.
 - (4) Where subsection (1) has not been complied with, the contract is unenforceable by the vendor or his agent and any money paid under the contract shall be returned to the purchaser, tenant or licensee at the option of the purchaser, tenant or licensee.
 - (5) In an action for rescission under subsection (3) (a) the onus of proving compliance with subsection (1) rests upon the vendor.
 - (6) The right of rescission provided in this section is in addition to any other rights that the purchaser or tenant may have in respect of the contract.
40. (1) Each prospectus submitted to the Superintendent for filing shall be accompanied by
- a) an affidavit of the owner of the subdivision or, where the owner is a corporation, any three directors thereof, as to the correctness of every matter of fact stated in the prospectus,
 - b) a copy of every plan referred to in the prospectus,

Contents of
prospectus

- c) a copy of every form of contract referred to in the prospectus,
- d) such documents as the Superintendent may require to support any statement of fact, proposal or estimate set out in the prospectus,
- e) a performance bond, surety bond or such other security as the Superintendent may require,
- f) such financial particulars of the Owner as the Superintendent may require, and
- g) the prescribed fees.

Financial statements with prospectus

- 41. (1) The Superintendent may require that a prospectus filed under section 37 contain
 - a) an audited financial statement of the owner for the last fiscal year and reported upon by the owner's auditor, and
 - b) current unaudited financial statements dated not more than 90 days prior to the date of the acceptance of the prospectus by the Superintendent where the audited financial statements are dated more than 120 days prior to the date that the prospectus was submitted to the Superintendent for filing.
- (2) The financial statements shall be in a form acceptable to the Superintendent and shall contain such information as the Superintendent may require.

Refusal of prospectus

- 42. (1) The Superintendent shall not grant a certificate of acceptance where it appears that
 - a) the prospectus contains any statement, promise or forecast that is misleading false or deceptive, or has the effect of concealing material facts,
 - b) adequate provision has not been made for the protection of deposits or other funds of purchasers or for assurance of title or other interest contracted for,

- c) the prospectus fails to comply in any substantial respect with any of the requirements prescribed, or
 - d) the requirements of section 40 have not been complied with in any substantial respect.
43. (1) The Superintendent may, before giving written authorization or issuing a certificate of acceptance, make such inquiries as he considers necessary, including
- a) an examination of the real estate and any of the surrounding circumstances, and
 - b) the obtaining of reports from public authorities or others in the jurisdiction in which the real estate is located.
- (2) The reasonable and proper costs of any such inquiry or report shall be borne by the person who wishes the written authorization or on whose behalf the prospectus was filed or submitted for filing.
44. (1) The Superintendent shall grant the certificate of acceptance where the requirements of sections 40 to 43 and the regulations have been complied with and in his opinion the action is in the public interest, but the Superintendent shall not refuse to grant the certificate without giving the person on whose behalf the prospectus was filed an opportunity to be heard.
45. (1) Where it appears to the Superintendent, subsequent to the filing of a prospectus and the granting of a certificate of acceptance therefor, that any of the conditions referred to in section 42 exist or where in his opinion such action is necessary in the public interest, the Superintendent may, after giving the
- Inquiry by
superintendent
- Acceptance of
prospectus
- Order to
cease trading

person on whose behalf the prospectus was filed an opportunity to be heard, cancel the certificate of acceptance and order that all trading in the real estate to which the prospectus refers shall cease forthwith.

- Appeal 46. (1) A decision of the Superintendent refusing to grant or cancelling a certificate of acceptance may be appealed to the Commissioner and the provisions of section 9 shall apply *mutatis mutandis*.
- Amended or new prospectus 47. (1) If a change occurs with regard to any of the matters set out in any prospectus
- a) that would have the effect of rendering a statement in the prospectus false or misleading, or
 - b) that brings into being a fact or proposal that should have been disclosed in the prospectus if the fact or proposal had existed at the time of filing,
- the persons who filed the prospectus shall, within 30 days of the change occurring, notify the Superintendent in writing of the change and shall file a copy of the prospectus with the changes incorporated in it.
- (2) Where the trading referred to in section 37 is still in progress 12 months from the date of the filing of the last prospectus, a new prospectus shall be filed with the Superintendent within 30 days from the expiration of such 12 month period.
- (3) Sections 37 to 46 apply to an amended prospectus or a new prospectus filed under this section.
- Regulations 48. (1) The Commissioner may make regulations prescribing the information to be contained in a prospectus required to be filed under section 37 or 47.

49. (1) A person who contravenes section 37, 39 or 47 is guilty of an offence and liable on summary conviction
- Offences and penalties
- a) in the case of a person other than a corporation, to a fine of not more than \$2,000. or to imprisonment for a term of not more than one year or to both, or
 - b) in the case of a corporation, to a fine of not more than \$25,000.
- (2) No proceedings shall be instituted under this section except with the consent of the Commissioner.

OFFENCES, ETC.

50. (1) A person who
- Offences and penalties
- a) contravenes a provision of this Ordinance or of a regulation, or
 - b) omits, refuses or neglects to fulfil, perform, observe or carry out a duty or obligation created or imposed by this Ordinance or a regulation,
- is guilty of an offence and liable on summary conviction for each offence to a fine of not more than \$500.
- (2) Where a person is convicted
- a) of trading in real estate without being licensed contrary to section 4 (1), or
 - b) of employing a salesman who is not licensed, contrary to section 30, he shall, notwithstanding that a fine has been imposed upon him, return to any person on whose behalf he acted in respect of a trade while not being licensed or while employing a salesman who was not licensed any commission or other remuneration he or that salesman received from that person in respect of that trade.

- Burden of proof 51. (1) In a prosecution under this Ordinance, where the accused pleads that at the time of the act or omission complained of he was the holder of a licence, the burden of proof is on the accused.
- Commencement of prosecution 52. (1) A prosecution under this Ordinance may be commenced within two years from the date on which the offence is alleged to have been committed, but not thereafter.
- Proceedings 53. (1) No person has a claim for damages against the Superintendent or the Commissioner for anything done or to be done in the performance or supposed performance of his duties under this Ordinance.
(2) The Superintendent may bring an action and institute proceedings in his name of office,
a) for the enforcement of this Ordinance
b) for the recovery of fees and fines payable under this Ordinance.
- Statement as evidence 54. (1) A statement as to the licensing or non-licensing of a person under this Ordinance, purporting to be certified by the Superintendent is, without proof of the office or signature of the person certifying, receivable in evidence so far as relevant for all purposes in any action, proceeding or prosecution.
- Staff 55. (1) A Superintendent of Real Estate, a Deputy Superintendent of Real Estate and inspectors shall be appointed by the Commissioner. A Deputy Superintendent has all the duties and powers of the Superintendent in the absence of the Superintendent or his inability to act.

REGULATIONS

56. (1) For the purpose of carrying into effect the provisions of this Ordinance according to the true intent and meaning thereof; the Commissioner may make such regulations, as he deems necessary, not inconsistent with the spirit of this Ordinance, and without restricting the generality of the foregoing;
- a) prescribing the amount and form of bonds to be furnished under this Ordinance;
 - b) prescribing
 - i) the fees payable on applications for licences, and
 - ii) any other fees in connection with the administration of this Ordinance;
 - c) prescribing forms;
 - d) prescribing the practise and procedure upon an investigation under sections 15 to 21;
 - e) providing for the qualifications required of applicants for licences; and
57. (1) This Ordinance or any portion thereof shall come into force on such day or days as may be fixed by the Commissioner.

Regulations

Coming into force

CHAPTER 6
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

RECREATION DEVELOPMENT ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory by and with
the advice and consent of the Council of the said Territory,
enacts as follows:

Short Title	1.(1)	This Ordinance may be cited as the <i>Recreation Development Ordinance</i> .
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INTERPRETATION

recreation services	2.(1)	In this Ordinance: "recreation services" means the planned use of community resources to satisfy the needs or interests of citizens during their leisure: "local authority" means the council of a municipality or the board of trustees of a local improvement dis- trict or a community organization appointed by the Commissioner pursuant to section 7.
local authority		
Powers of Commissioner	3.(1)	The Commissioner shall permit and encourage orderly development of recreation activities for the benefit of the people of the Territory and for that purpose may, (a) initiate and develop policies, programs and measures for the orderly development of recreation in the Territory; (b) enter into agreements with local authorities and organizations; (c) make grants or contributions or enter into cost sharing agreements with local auth- orities and organizations. (d) make such regulations as he deems neces- sary in order to carry into effect the provisions of this Ordinance according to the true intent and meaning thereof.
Director of Recreation	4.(1)	The Commissioner shall assign a member of the public service to administer this Ordinance who shall be known as the Director of Recreation.

- 5.(1) There shall be a committee called the Yukon Recreation Advisory Committee to be appointed by the Commissioner upon the advice of the members of the Territorial Council who shall each be entitled to nominate one member.
- (2) The Commissioner may in respect of the Territory appoint advisory boards or committees to carry out such duties subject to such conditions as may be prescribed. **Advisory Board**
- (3) The members of a board or committee appointed pursuant to subsection (1) may be paid such remuneration and such travel or other expenses incurred in connection with their duties as may be fixed by the Commissioner.
- (4) The Commissioner may, subject to such conditions as may be prescribed and upon the advice of the Yukon Recreation Advisory Committee, make grants to a recreation or cultural association which is the governing body of a recognized recreation or cultural activity for the purposes of:
- (a) administration of that association;
 - (b) conducting a Yukon championship or equivalent;
 - (c) travel for extra-territorial competition;
 - (d) a special project that is of territorial or regional significance.
- 6.(1) A local authority may by by-law; **Recreation Board**
- (a) establish a Recreation Board;
 - (b) fix the number of members of the Board and prescribe the qualifications, terms of office and the manner in which the local authority shall appoint the members to the Board and their successors;
 - (c) empower the Board to organize and conduct a recreation program;
 - (d) empower the Board to make such expenditures on behalf of the local authority as may be authorized by the by-law.
- (2) A Parks and Recreation Commission established by a municipality pursuant to section 102 of the *Municipal Ordinance* may by by-law be deemed to be a Recreation Board established pursuant to subsection (1).
- 7.(1) Where a local authority so requests, the Commissioner may, by order and subject to such conditions as he may prescribe, appoint a community organization to be a local authority for the purpose of this Ordinance. **Community organization to act as Recreation Board**

- (2) Where the Commissioner has made an order pursuant to subsection 7(1) the Community organization appointed as a local authority,
 - (a) has all the powers of a local authority set out in this Ordinance except the powers established pursuant to section 6,
 - (b) may organize and conduct a recreation program,
 - (c) may make such expenditures as are necessary for carrying out the program.

- Agreements between local authorities

 - 8.(1) A local authority may enter into an agreement with other local authorities or organizations for the purpose of providing shared recreation services and may expend monies in accordance with the provisions of any such agreement.

- Organization to be eligible

 - 9.(1) In order to be eligible under section 3, 7 or 8, a community organization or an organization must be registered under the *Societies Ordinance* or *Companies Ordinance*.
 - 10.(1) Subject to the Regulations the Commissioner may enter into an agreement with the approved community organization representative of an area,
 - (a) not within a municipality or local improvement district, and
 - (b) in which are located a school or community hall or other adequate facilities, for carrying out programs established pursuant to this Ordinance.
 - (2) The Commissioner may do such things as he deems necessary to carry out an agreement entered into pursuant to subsection (1).

- Regulations

 - 11.(1) The Commissioner may subject to such conditions as he may prescribe make an annual recreation assistance grant payable in installments to a local authority or an approved community organization.
 - 12.(1) The Commissioner may, subject to such conditions as he may prescribe, make a single incorporation grant to a local authority or an approved community organization.
 - 13.(1) The Commissioner may, subject to such conditions as he may prescribe, make an annual equipment grant to a local authority or approved community organization for the purpose of acquiring small items of capital equipment for general use.

- Coming into force

 - 14.(1) This Ordinance shall come into force upon assent.

CHAPTER 7
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

STABILIZATION FUND LOAN ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE

- | | | |
|--------|--|--------------------------|
| 1. (1) | This Ordinance may be cited as the <i>Stabilization Fund Loan Ordinance</i> . | Short Title |
| 2. (1) | The Commissioner may on behalf of the Territory make agreements with | Loan to Mutual Aid Board |
| | a) the Mutual Aid Board or stabilization board; and | |
| | b) a Central Credit Union | |
| | and pursuant to such agreements may lend or guarantee payment of a sum or sums not exceeding \$400,000. in aggregate to the Mutual Aid Board, a stabilization board or a Central Credit Union. | |
| 3. (1) | Every loan pursuant to section 2 shall be secured by a debenture. | |
| 3. (2) | Every debenture to borrow money shall, by its terms | Conditions of loan |
| | a) fix the amount of the loan and the rate or rates of interest payable thereon and the places and the times when the interest and the principal shall be payable; | |
| | b) provide that the loan and interest thereon shall be paid in lawful money of Canada; and | |

c) generally be in such form and contain such further provisions as may be required by the Commissioner.

4. (1) Any loan agreement made pursuant to this Ordinance shall be valid and binding upon the parties to the agreement, notwithstanding any insufficiency in the form or substance of any agreement.

Coming into
force

5. (1) This Ordinance shall come into force on such day as may be fixed by the Commissioner

CHAPTER 8
ORDINANCE OF THE YUKON TERRITORY
1977 (First Session)

AN ORDINANCE TO AMEND THE COMMUNITY ASSISTANCE ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of Council of the said Territory, enacts as follows:

1. The *Community Assistance Ordinance* is amended by adding thereto the following new section:

COMMUNITY TELEVISION

- "75. (1) The Commissioner may pay the cost of a community television system in any district or unorganized area not already served by a television system.
- (2) An application for television service shall be made in writing on the prescribed form by an approved community organization representative of the area to be served by the television system.
- (3) It shall be a condition of payment by the Commissioner of the cost of a community television system that the project is approved by a majority of the persons resident in the area.
- (4) It shall be a condition of a payment pursuant to subsection (1) that the applicant must obtain all operating licences for the television system.
- (5) The community organization shall provide shelter of required size, electricity and heat, antenna foundations and assistance in installation of antenna and other equipment

in accordance with specifications and direction from the project manager.

- (6) The community organization must contribute a sum of \$750.00 to the installation cost and \$1,000.00 per annum to the operation and maintenance cost.
- (7) Where the organization fails to pay the costs mentioned in subsection (6) the Commissioner may pay on behalf of the organization an amount equal to the costs and recover such amount together with any accrued interest thereon by levying an annual mill rate on the assessment of every property in the area sufficient to recover such amount.
- (8) Television service shall be provided by the most economic means available."

2. The said Ordinance is further amended by repealing Section 45(4).

CHAPTER 9
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

AN ORDINANCE TO AMEND THE ELECTIONS ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. Section 16 is repealed and the following section substituted therefor:

"16(1) In addition to the amounts provided in Section 15, there shall be paid to each member of the Council appointed to the Advisory Committee on Finance or to the Executive Committee or to both Committees by the Commissioner on the recommendation of the Council, a salary calculated at the rate of fourteen thousand two hundred and twelve dollars per annum, out of monies appropriated for that purpose by the Commissioner in Council."

2. Section 19 is repealed and the following section substituted therefor:

"19. (1) A member of the Council who is absent from his normal place of residence in order to attend

- (a) a session of the Council, or
- (b) a meeting of a committee of the Council, or
- (c) a meeting called by the Speaker or the Clerk of the Council, shall

- i) be reimbursed for his actual expenditure for meals, accommodation and sundry living expenses up to a maximum of \$45 for each day in respect of the period from April 1st, 1976, to March 31st, 1977, and
 - ii) be reimbursed for his actual expenditure for accommodation and sundry living expense and receive an allowance for meals at the rate in force at the time for members of the public service, in respect of the period after March 31st, 1977.

- (2) The payments provided in subsection (1) shall be made out of monies appropriated for the purpose by the Commissioner in Council.

- (3) A member shall be paid a travel allowance for travel incurred to attend the session or meeting at the rate in force at the time for members of the public service.

- (4) The reimbursement and allowances described in subsections (1), (2) and (3) shall be payable in respect of the time of attendance at the session or meeting and the time necessarily spent in travel to and from the session or meeting.

- (5) For the purposes of this section, members of the Advisory Committee on Finance and the Executive Committee shall be deemed to reside at the seat of Government.

3. This Ordinance shall be deemed to have come into force on April 1st. 1976.

CHAPTER 10
ORDINANCE OF THE YUKON TERRITORY
1977 (First Session)

AN ORDINANCE TO AMEND THE LIQUOR TAX ORDINANCE

(Assented to March 30, 1977)

The Commissioner of the Yukon Territory, by
and with the advice and consent of the Council of the said
Territory, enacts as follows:

1. Section 4 of the said Ordinance is repealed and the following substituted therefor:
 - "4. (1) The Corporation shall transfer the amount of liquor tax revenue monthly from the Liquor Corporation Account of the Yukon Consolidated Revenue Fund to the General Account of the Fund, and adjust the amount to be transferred in the final month of each fiscal year so that the total amount to be transferred in each fiscal year shall equal the liquor tax revenue of that fiscal year as established by audit.
 - (2) The Corporation shall account in respect of the tax to the Territorial Treasurer as required."
2. The Liquor Tax Ordinance is amended by repealing Sections 5 and 6 and substituting the following therefor:
 - "5. This Ordinance shall come into force on the first day of April, 1977."

CHAPTER 11
ORDINANCE OF THE YUKON TERRITORY
1977 (First Session)

AN ORDINANCE TO AMEND THE LOCAL IMPROVEMENT DISTRICT ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. *The Local Improvement District Ordinance* is amended by adding to section 2 the following definitions:

"Board" or "Board of Trustees" means the Board of Trustees of a District.

"Chairman" means the member of the Board designated to be Chairman pursuant to section 10.

"Elector" means a person qualified to vote pursuant to section 6.

"Voter" means an elector.

2. *The Local Improvement District Ordinance* is amended by repealing section 4 thereof and substituting the following therefor:

"4. (1) An order establishing a Local Improvement District shall specify
 - (a) the name and boundaries of the District;
 - (b) the time and manner of electing the first Board;
 - (c) the term of office of the first elected or appointed Board;
 - (d) the returning officer or provisions for returning officer, at the first election;
 - (e) the polling places at the first election;
 - (f) any dates to be observed initially in place of statutory dates;
 - (g) such other provisions and conditions as the Commissioner may deem necessary."

3. The Local Improvement District Ordinance is amended by repealing section 6 and substituting the following therefor:

- "6. (1) Each District shall have a Board of Trustees consisting of five Trustees.
- (2) Subject to this Ordinance the members of the Board shall hold office from twelve o'clock noon on the first Monday after the first day of January following their election or from the time of their swearing in, whichever is later, until twelve o'clock noon of the first Monday after the first day of January 2 years later or until their successors are sworn in.
- (3) Every elected member of the Board shall be elected from the District at large.
- (4) Elections shall be conducted in the manner established pursuant to this Ordinance.
- (5) To become eligible to become a Trustee, a person must be, on the day of nomination
 - (a) of the full age of nineteen years;
 - (b) a Canadian citizen;
 - (c) a resident of the District for 12 consecutive months; and
 - (d) eligible to vote as an elector for the election in which he is nominated.
- (6) Every person is entitled to vote at an election who
 - (a) is a Canadian citizen;
 - (b) has attained the age of nineteen years on the day of election; and
 - (c) has established residence and resided in the district for one year prior to the day of election."

4. The Local Improvement District Ordinance is amended by repealing section 7 and substituting the following therefore:

- "7. (1) Every person elected or appointed as a trustee shall before assuming office take and subscribe to the following oath:
 "I,Trustee elect for the Local Improvement District ofdo swear (or affirm) that I am a Canadian citizen; that I am not in any way disqualified from holding the office of trustee; that I have not by myself or any other person knowingly employed any bribery, corruption or intimidation to gain my election or appointment; that I will not allow any private interest to influence my conduct in public matters. So Help me God."

5. *The Local Improvement District Ordinance* is amended by repealing paragraph 7. 1 (1) (d) and substituting the following therefor:

"7.1(1)(d) ceases to be a Canadian citizen."

6. *The Local Improvement District Ordinance* is amended by repealing section 8 thereof and substituting the following therefor:

- "8. (1) The Chairman shall preside over all meetings of the Board.
- (2) The Board, may, from time to time appoint from among its members an Acting Chairman who shall, in the absence, illness or inability of the Chairman to act and perform all the duties of the Chairman.
- (3) At all meetings of the Board the presiding officer shall maintain order and decorum and decide all questions of order subject to appeal to the Board as a whole.
- (4) The Chairman shall, subject to the approval of the Board:
- (a) be active in causing the laws governing the district to be duly executed;
 - (b) communicate to the Board all pertinent information respecting the government of the District;
 - (c) direct all administrative officers and employees of the District in the conduct of their work and direct the management of the business and affairs of the District;
 - (d) suspend where necessary, an administrative officer or employee of the District and may cause administrative officers and employees to be prosecuted or disciplined for any negligence, carelessness or violation of duty on their part."

7. *The Local Improvement District Ordinance* is amended by repealing section 10 and substituting the following therefor:

- "10. (1) The Board of Trustees shall meet openly at least once a month and no person shall be excluded from any open meeting except for improper conduct.
- (2) The Board of Trustees, at its first meeting in each year and at its first meeting after a vacancy occurs in the office of chairman, shall designate one of its members to be chairman of the Board.
- (3) The Chairman shall vote on any matter coming before the Board of Trustees and any question on which there is an equality of votes shall be deemed to be defeated.

- (4) Adequate records shall be maintained of all business transacted during a meeting of the Board of Trustees and Board minutes shall be made available for viewing by the public during reasonable office hours.
- (5) The Board of Trustees may from time to time
 - (a) appoint a secretary, a manager and such other officers and employees as in their discretion they may consider necessary to operate and maintain local improvements and to keep the records of the district; and
 - (b) subject to the approval of the Commissioner, fix the salaries or wages of the persons so appointed.
- (6) The Board of Trustees shall hold its first meeting not later than the 30th of January of the year following the election.
- (7) Three members of the Board constitutes a quorum and at all meetings of the Board a quorum is required but a vacancy in the membership does not impair the right of the remaining members to act.
- (8) All acts authorized or required to be done by the Board shall be done or decided by a majority of the members of the Board present and entitled to vote.
- (9) Every officer appointed by the Board shall before entering into his duties take and subscribe to the following oath:

"I,..... do swear (or affirm) that I will truly, faithfully, impartially, and to the best of my knowledge and ability, execute the office of to which I have been appointed for the Local Improvement District of, and that I have not received any payment or reward or promise or such for the exercise of any partiality, neglect or other undue exercise of the said office. So Help Me God."
- (10) The Board of Trustees may, by resolution, approve the payment of an annual allowance to each trustee that shall not exceed three hundred and sixty dollars per year."

8. *The Local Improvement District Ordinance* is amended by repealing section 13 (1) (a) thereof and substituting the following therefor:

"13 (1) (a) adopting provisions and procedures for the conduct of elections of Boards not inconsistent with this Ordinance."

9. Section 15.10 of *The Local Improvement District Ordinance* is amended by adding thereto the following new subsection:
- "15.10 (2) Where the Commissioner provides for an election pursuant to subsection (1) he shall
- (a) designate the polling place;
 - (b) set the date to be observed in place of the statutory dates;
 - (c) appoint the returning officer;
 - (d) determine the term of office of the Board."
10. *The Local Improvement District Ordinance* is amended by adding thereto the following new sections:
- "21 (1) Any qualified elector can sign the nomination paper of a candidate.
- 22 (1) The Board may by by-law
- (a) divide the District into polling divisions;
 - (b) establish a polling place in a hospital, in a home for the aged or in any similar institution situated in the District or direct the returning officer to do so.
- (2) Where by by-law a polling place is established pursuant to paragraph (1) (b), the returning officer may establish a portable polling booth for the convenience of aged or infirm persons.
- (3) Where a polling place is established in any institution, the residents of the institution who are qualified to vote in any polling division in the District, may cast their votes in that division or in the institution.
- (4) Where reference is made to a polling division in this Ordinance, the reference means the whole District in the case where no polling division has been established.
23. (1) A submission or referendum may be held at the same time as an election.

24. (1) Subject to this Ordinance, the Board may by by-law adopt any rules of procedure concerning a submission or referendum as are deemed by the Board to be necessary.
- (2) Where a submission or referendum is held at the same time as an election, the ballot paper used therein shall not be the same in size and colour as that used for an election.
25. (1) Section 26 applies only to voters who have reason to believe that they will be necessarily absent from the District on election day.
26. (1) For the purpose of enabling every voter to vote at an election, the Board may direct the returning officer to establish an advance polling place.
- (2) Notice of an advance poll shall be given in the form and the manner provided in section 64.
27. (1) Except as provided in this Ordinance, the poll to be held at every advance polling place shall be conducted in the same manner provided by this Ordinance for the conduct of other polls in an election.
28. (1) The poll at each advance polling place established shall be open between such hours and on such day or days as the Board may determine.
29. (1) Every person applying to vote at an advance polling Place, before being permitted to do so, shall be required by the returning officer in charge of the poll to make and sign the declaration in the pre-scribed form which shall be kept by the deputy returning officer with the other records of the poll.
- (2) A person signing the declaration knowing that a statement therein is false commits an offence and is liable on summary conviction to a fine not less than twenty-five dollars and not exceeding one hundred dollars.

30. (1) The poll clerk at each advance polling place shall record in the poll book in the column headed "remarks", after the name of each person who votes, a notation that the person has signed the declaration referred to in section 29.
31. (1) The deputy returning officer, every candidate and the agent of every candidate may require that a person intending to vote at the advance poll, take any other oath that he may be required to take under this Ordinance, before being handed a ballot.
32. (1) Upon the close of the advance poll each day, the deputy returning officer shall and each candidate or agent present may affix their respective seals to the ballot box in such manner that no ballot can be deposited therein without breaking the seals and the ballot box shall remain sealed until the close of the poll on regular polling day.
33. (1) The deputy returning officer, in the presence of the candidates and the agents who are present, shall at the time the poll closes on regular polling day open the ballot box, count the votes and take all other proceedings provided by this Ordinance for deputy returning officers in connection with the conduct of an election after the close of the poll.
34. (1) The board shall on or before the first Monday of November in each election year and at other times as required appoint a returning officer.
 - (2) Subject to the provisions of this Ordinance, the returning officer shall be responsible for the administration of any election.
 - (3) A returning officer shall not vote at an election until after the votes have been counted, and then only if the votes cast in respect of two or more candidates are equal in number and his vote would break the tie.
 - (4) A returning officer casting his vote pursuant to subsection (3) shall do so in accordance with a lot cast for the purpose.

- (5) Where a District is not divided into polling divisions, the returning officer shall perform the like duties with respect to the whole District as are imposed upon a deputy returning officer in respect of a polling division.

- 35. (1) Where a District is divided into polling divisions, the returning officer shall appoint and swear in deputy returning officers who shall preside at the polling stations if a poll is required, but the returning officer may take charge of any one polling station and perform the same duties therein as are imposed upon a deputy returning officer.

- 36. (1) Each deputy returning officer may appoint and swear in poll clerks who shall
 - (a) perform the duties assigned to them by the deputy returning officer; and
 - (b) have all powers and duties of the deputy returning officer during the absence from duty of the deputy returning officer.

- 37. (1) If a person appointed deputy returning officer or poll clerk dies, neglects or refuses to act as such, then the returning officer shall appoint another person to act in place of such deputy returning officer or poll clerk.

- 38. (1) Any person producing to a deputy returning officer a written authority to represent a candidate as his agent at a polling station, shall be recognized as such by the deputy returning officer.
 - (2) Only the candidate and one agent may be present.

- 39. (1) The returning officer and every deputy returning officer, poll clerk, interpreter, special constable, agent or other person authorized to be present at a polling station shall before exercising any of the functions of such returning officer, deputy returning officer, poll clerk, interpreter, special constable, agent or other person take and subscribe an oath in the prescribed form.

40. (1) The Board shall, by by-law, prescribe the fees that shall be paid to the returning officer and to every deputy returning officer, poll clerk, interpreter and special constable.
41. (1) Where a District is not divided into separate polling divisions, the Secretary-Treasurer shall prepare in each election year a list of electors in which the name of all persons qualified to vote at the next election, so far as is ascertainable, are set out in alphabetical order together with the address of each elector.
- (2) Where a by-election occurs in the period commencing on the 1st day of September in a year in which no election is to be held and the 13th day of September in the following year, the Board shall establish a Board of Revision pursuant to section 46 to revise the list of electors and the provisions of section 46 to 56 shall apply *mutatis mutandis* with such change of dates and times as necessary except that the list of electors used in the previous election shall be deemed to be the preliminary list of electors.
- (3) Where a second or subsequent by-election occurs in the period mentioned in subsection (2), that subsection does not apply if the list has been revised pursuant to subsection (2) within the six months preceding the date of that by-election.
42. (1) Where a District is divided into separate polling divisions, the Secretary-Treasurer shall prepare in each election year a separate preliminary list of electors for each polling division.
43. (1) A preliminary list of electors prepared pursuant to section 42 (1) shall, so far as is ascertainable, set out in alphabetical order the names of all persons qualified to vote at the next election in the polling division in respect of which such list is prepared together with the address of each such elector.

44. (1) The Board may by by-law, passed before the 1st day of June, in any year, provide for a system of enumeration of the names of electors as defined in this Ordinance.

45. (1) The Secretary-Treasurer shall on the second Wednesday of September in each election year post a copy of the preliminary list of electors in the District office, and
 - (a) in at least four conspicuous places in the District if the District is not divided into polling divisions, or
 - (b) in a conspicuous place in each polling division if the District is divided into separate polling divisions,and such copies of the preliminary list of electors shall remain so posted until the sitting of the Board of Revision.

46. (1) The Board shall establish a Board of Revision for the District and shall appoint the members thereof who shall hold office during pleasure, but no member of the Board and no employee of the District shall be a member of the Board of Revision.
 - (2) Not less than three persons shall be appointed as members of the Board of Revision and the Board shall elect one of their members to be chairman of the Board.
 - (3) Every member of the Board of Revision shall, before entering upon his duties take and subscribe the oath or affirmation as set out in the prescribed form.
 - (4) The Board shall, by by-law, prescribe a fee to be paid to members of the Board of Revision, but the fee shall not exceed twenty-five dollars per member for each day the Board sits.

47. (1) The Board of Revision shall be presided over by the Chairman, or in his absence, by a chairman chosen from among the members present.

- (2) The Secretary-Treasurer of the District shall act as the Clerk of the Board of Revision and shall record its proceedings and in his absence, the Board may appoint another person to act as clerk.
 - (3) A majority of the members of the Board of Revision constitutes a quorum of the Board and if a quorum is not present, the Board shall stand adjourned to the next day, not a holiday, and from day to day thereafter until there is a quorum.
 - (4) The Board of Revision shall sit on the last Wednesday in October of each election year, and shall continue to sit from day to day if so required.
48. (1) The Secretary-Treasurer shall, at least forty-eight hours before the day fixed for revision of the preliminary list of electors, deliver to each of the members of the Board of Revision a copy of the preliminary list of electors.
49. (1) Any person who is eligible to vote at an election may apply to the Board of Revision to have the preliminary list of electors revised on the ground that the name of:
- (a) an eligible voter is omitted therefrom;
 - (b) an eligible voter is incorrectly set out therein; or
 - (c) a person not eligible to vote is included therein.
50. (1) Any person eligible to vote at an election who wishes to apply for revision of the preliminary list of electors under section 49 may make such application in person to a Board of Revision while the Board is sitting or may, before the last Wednesday of October, leave with the clerk written notice of his application.
- (2) The notice of application for revision of the preliminary list of electors shall fully set out:
 - (a) the name of the person in respect of whom the application is made;
 - (b) the nature of the revision that is sought;
 - (c) the grounds upon which the application is made; and

- (d) the name, residence and mailing address of the person making the application.
 - (3) The clerk shall give written notice to every person who has given notice of his intention to make an application to the Board of Revision, and to the persons in respect of whom notice of application is made, of the place and time fixed for the sittings of the Board.
51. (1) Notice of the time and place fixed for the sitting of the Board of Revision shall be issued by the clerk at least ten days before the day fixed for the sitting of the Board of Revision and shall be:
- (a) published in a newspaper circulating within the District; and
 - (b) posted in the District office, and
 - (i) in at least four conspicuous places in the District, if the District is not divided into polling divisions; or
 - (ii) in a conspicuous place in each polling division, if the District is divided into polling divisions.
52. (1) The Board of Revision shall hear all applications made pursuant to section 50.
- (2) If in respect of any application the Board of Revision is satisfied that the preliminary list of electors should be corrected, then the Board of Revision shall revise the preliminary list of electors accordingly.
 - (3) Where the name of a person qualified to vote is incorrectly spelled, is duplicated, or where a person is not properly described in the preliminary list of electors, the Board of Revision may correct such spelling, duplication or description notwithstanding the absence of any notice or application required by this Ordinance.

- 53. (1) All corrections and revisions made in the preliminary list of electors by the Board of Revision shall be shown thereon in red ink, and the preliminary list of electors so corrected and revised shall be certified by the Board of Revision as being the revised list of electors for the District.
 - (2) The revised list of electors shall be the list of qualified electors for the elections held in the month of December, and for all subsequent elections until such time as a new revised list of electors is prepared.
- 54. (1) The presiding officer of the Board of Revision shall deliver a copy of the revised list of electors, as certified by the Board, to the clerk and to the returning officer on or before the day after the first Monday in November.
- 55. (1) The clerk shall cause to be printed as many copies of the revised list of electors, with the name of the electors appearing thereon as the returning officer may deem necessary.
- 56. (1) The returning officer shall on the second Monday in November in each election year post a copy of the revised list of electors in the District office, and
 - (a) in at least four conspicuous places in the District if the District is not divided into polling divisions; or
 - (b) in a conspicuous place in each polling division if the District is divided into separate polling divisions,and copies of the revised list of electors shall remain so posted until the day after polling day.
- 57. (1) Nomination day for the offices of Trustees shall be the first Monday in December, and if it is necessary to hold a poll, polling day shall be the second Thursday after nomination day.

58. (1) The Board shall, on or before the first Monday in November in each election year and at such other times as may be required appoint
- (a) the place at which nomination proceedings will be held on nomination day; and
 - (b) the place or places that a poll will be held on polling day, if a poll is required.
59. (1) Notice of the time and places fixed for holding nomination proceedings and a poll, if a poll is required, shall be issued by the returning officer, and such notice shall be in the prescribed form.
- (2) The nomination notice referred to in subsection (1) shall be
- (a) published in a newspaper circulating within the District; and
 - (b) posted in the District office and
 - (i) in at least four conspicuous places in the District if the District is not divided into polling divisions, or
 - (ii) in a conspicuous place in each polling division, if the District is divided into polling divisions,
- by the returning officer at least six days before nomination day.
60. (1) No person shall be nominated as a candidate unless such person
- (a) is qualified to be nominated in accordance with section 6;
 - (b) has been nominated in writing by two other electors ;
 - (c) has delivered or caused to be delivered to the returning officer between the date of the nomination notice and twelve o'clock noon on nomination day, a nomination paper in the prescribed form, together with a declaration administered by the returning officer, Secretary-Treasurer or officers entitled to administer oaths in the prescribed form.

61. (1) A nomination paper shall contain
 - (a) the name, occupation and address of the person being nominated;
 - (b) a statement subscribed to by two electors that to the best of their knowledge the person being nominated is qualified to be nominated;
 - (c) the written consent of the person being nominated.
 - (2) An elector may subscribe as many nomination papers as there are candidates to be elected, but each candidate shall be nominated by a separate nomination paper.
 - (3) The returning officer shall, if request to do so, give a receipt to the person who delivers to him a nomination paper with the accompanying declaration.
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62. (1) The returning officer shall be present between the hours of ten o'clock in the forenoon and twelve o'clock noon on nomination day at the place appointed by the Board for the holding of nomination proceedings, and shall at twelve o'clock noon announce to the electors present the names of all electors who have been nominated as candidates in accordance with the provisions of this Ordinance.
 - (2) The returning officer shall not permit any speeches or interruptions during the nomination proceedings referred to in subsection (1).
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63. (1) At the conclusion of the nomination proceedings
 - (a) if the number of candidates for the vacant offices equals the number of vacancies, the returning officer shall declare those candidates elected;
 - (b) if the number of candidates for the vacant offices exceeds the number of vacancies, the returning officer shall proceed to hold a poll pursuant to this Ordinance;
 - (c) if there is no candidate for the office, or an insufficient number of candidates for the office of Trustee, the returning officer shall declare the duly nominated candidates elected, and call and hold another nomination meeting one week later for the vacant offices.

- (2) If at the end of a second nomination meeting, there are still insufficient candidates for the vacant offices, the returning officer shall apply the provisions of paragraph 1 (c) and so on until either the vacancies have been filled or a total of four unsuccessful nomination meetings have been held, at which time he shall report the matter to the Board.
 - (3) Upon receiving a report from the returning officer pursuant to subsection (2), the Board shall forthwith forward to the Commissioner the names of three qualified persons in respect of each vacancy and the Commissioner may appoint one of these persons to fill each vacancy.
64. (1) The notice of the poll issued by the returning officer shall state
- (a) the name, residence and occupation of each candidate;
 - (b) the time and place at which the poll will be open for the purpose of receiving the votes of the electors.
- (2) The notice of the poll referred to in subsection (1) shall be
- (a) published in a newspaper circulated within the District;
 - (b) posted in the District office and
 - (i) in at least four conspicuous places in the District, if the District is not divided into polling divisions; or
 - (ii) in a conspicuous place in each polling division if the District is divided into polling divisions,
- by the returning officer at least seven days before polling day.
65. (1) At the close of nomination proceedings on nomination day, the returning officer shall, at the request of a candidate or agent, deliver to him a certified list of all candidates.

66. (1) Any candidate may withdraw within twenty-four hours after nomination day, but not afterwards, by giving a written notice to that effect to the returning officer.
- (2) Where, after the withdrawal or death of a candidate there are no more candidates than there are vacancies to be filled, the returning officer shall
 - (a) declare the remaining candidates to be elected and give the names of such elected candidates to the clerk; and
 - (b) give public notice cancelling the notice of election.
67. (1) At least three days before polling day the returning officer shall obtain
 - (a) as many ballot boxes, copies of the revised list of electors and blank poll books as there are polling stations in the District;
 - (b) at least as many ballot papers, of the form required by section 71, as there are electors in the District; and
 - (c) an adequate supply of printed directions for voting and the materials necessary for electors to mark the ballot papers.
68. (1) The returning officer shall furnish to each deputy returning officer, at least two days before polling day,
 - (a) a sufficient number of ballot papers in the form required by section 71, for at least the number of electors of the polling station of the deputy returning officer;
 - (b) a statement showing the number of ballot papers so supplied, with their serial numbers;
 - (c) an adequate supply of printed directions for voting and the materials necessary for the electors to mark the ballot papers;
 - (d) the revised list of electors for use at his polling station;
 - (e) a ballot box;
 - (f) a blank poll book; and
 - (g) the necessary envelopes and such forms and other supplies as may be required by this Ordinance.

- (2) Until the opening of the poll, the deputy returning officer shall keep the blank poll book, list of electors, envelopes, ballot papers and other election supplies locked in the ballot box and shall take every precaution for their safekeeping and to prevent any person from having unlawful access to them.
69. (1) Each ballot box shall be provided with a lock and key and seals and shall be made from some durable material with a slot or narrow opening on the top so constructed that, while the poll is open, the ballot papers may be introduced therein and not withdrawn therefrom unless the ballot box is unlocked and opened.
70. (1) Poll books shall be in the prescribed form.
71. (1) All ballots shall be of the same description and as alike as possible.
 - (2) The ballot of each elector shall be a printed paper as set out in the prescribed form.
 - (3) The ballot papers shall
 - (a) have printed thereon the names, and occupations of the candidates alphabetically arranged in the order of their surnames;
 - (b) be bound in books containing twenty-five, fifty or one hundred ballots as may be most suitable for supplying the polling stations porportionately to the number of voters.
 - (4) Any candidate may, until one hour after the close of nominations,
 - (a) supply in writing to the returning officer any particulars of his address or occupation which he considers to have been insufficiently or inaccurately given in his nomination paper; and
 - (b) direct in writing the returning officer to omit any of his given names from the ballot paper or to indicate the same by initial only;

and the returning officer shall comply with any direction pursuant to paragraphs (a) and (b) and include in the ballot paper any additional or corrected particulars.

- (5) The printer shall, upon delivering the ballot papers to the returning officer, deliver therewith an affidavit, as set out in the prescribed form, setting forth
 - (a) the description of the ballot papers printed by him;
 - (b) the number of ballot papers supplied to the returning officer; and
 - (c) the fact that no other ballot papers have been supplied by him to any other person.

- (6) The ballot papers, envelopes and marking instruments procured for or used in any election shall be and remain the property of the District.

- 72. (1) The returning officer shall provide or cause to be provided a voting compartment in each polling place in which the voters can mark their ballot papers free from observation.

- 73. (1) Any person who publicly campaigns either for himself or on behalf of a candidate in any election on the day preceding polling day or on polling day commits an offence.

- 74. (1) On polling day every deputy returning officer shall
 - (a) open the polling place assigned to him, keep it open and close it at the times and during the hours fixed by by-law of the District;
 - (b) receive in the manner hereinafter prescribed the votes of all electors duly qualified to vote at such polling place.

- 75. (1) During the holding of the poll, no persons may be present in the polling place other than
 - (a) the officers appointed to hold the election;
 - (b) the candidates to be voted for;

- (c) agents, not exceeding one for each candidate;
 - (d) voters in the process of voting; and
 - (e) any special constable, police officer or interpreter.
- (2) The deputy returning officer may order the removal of any person from the polling place who is not entitled to be present or who being so entitled obstructs the voting, and such order shall be executed by a special constable or police officer without the same being in writing and without warrant.
76. (1) Immediately before the commencement of the poll,
- (a) the ballot boxes to be used at each polling station shall be empty; and
 - (b) the deputy returning officer at each polling station shall
 - (i) show the ballot box to be used at the polling station to all persons present so they may see it is empty; and
 - (ii) lock and seal the empty ballot box in a manner that will prevent it being opened without breaking the seal, and forthwith place and keep such ballot box in open view for the receipt of ballot papers.
77. (1) At the opening of the poll, the deputy returning officer shall post in the polling place a list of the names of the candidates for election.
78. (1) The voting at every election shall be by secret ballot.
79. (1) Only persons who are qualified to vote at an election and
- (a) whose names appear on the revised list of electors;
 - (b) who have complied with the requirements of section 6; or
 - (c) who, being challenged, have complied with the requirements of section 80,

may vote at an election.

80. (1) If a person offering to vote at an election is challenged as unqualified by the deputy returning officer or by a candidate, agent or a duly qualified elector, the deputy returning officer shall require the person so offering to vote to take an oath as set out in the prescribed form.
81. (1) A person who is eligible to vote under section 6 but whose name does not appear on the revised list of electors may vote at an election after taking an oath as set out in the prescribed form.
82. (1) Any deputy returning officer appointed to attend at a polling station has the power to receive a declaration or oaths authorized to be asked of and made by electors.
83. (1) An elector is entitled at the same election to one vote for each vacancy.
84. (1) Every employer shall give every employee who is an elector a reasonable time, while the polls are open on polling day at an election, to cast his vote.
- (2) No employer shall make any deduction from the pay of any employee nor impose upon or exact from him any penalty by reason of absence from his work, for the purpose of casting his vote.
- (3) Any employer or other person who directly or indirectly, refuses, or by intimidation, undue influence or in another way interferes with the granting to any elector in his employ of reasonable time for voting commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.
85. (1) The voting procedure at the polling place shall be as follows

- (a) upon a person presenting himself for the purpose of voting, the deputy returning officer shall ascertain that the name of such person is entered or purports to be entered on the revised voters' list at his polling division, and shall cause such person's name to be entered in the proper column in the poll book;
- (b) if such person takes the oath or affirmation prescribed by this Ordinance that he is eligible to vote, the deputy returning officer shall cause to be entered opposite the name of such person in the proper column of the poll book "sworn" or "affirmed", as the case may be;
- (c) where any person required to take the oath or affirmation prescribed by this Ordinance refuses to take the same, the deputy returning officer shall cause to be entered in the proper column of the poll book opposite the name of such person the words "refused to be sworn or affirmed";
- (d) no person who has refused to take the oath or affirmation prescribed by this Ordinance when requested so to do shall receive a ballot paper or be admitted to vote;
- (e) whenever any voter is object to, the deputy returning officer shall cause to be entered in the proper column of the poll book, opposite to the voter's name, the words "objected to" and shall thereto add the name of the candidate or agent by whom the objection is made;
- (f) after the proper entries respecting a person claiming to vote have been made in the poll book in the manner prescribed by this section, and if such person then appears to be entitled to vote, the deputy returning officer shall write his initials on the back of the ballot paper in such a manner that when the ballot paper is folded the initials can be seen without opening it, and deliver the initialed ballot to the person claiming to vote;

- (g) the deputy returning officer either personally or through his poll clerk may, and upon request shall, explain the mode of voting as concisely as possible to any elector presenting himself for a ballot paper;
- (h) the deputy returning officer shall cause to be placed on the voters' list a mark opposite or through the name of every elector receiving a ballot paper;
- (i) each elector receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his ballot paper with the pencil provided for that purpose by placing a mark opposite the name of the candidate or candidates for whom he desires to vote; he shall then fold the ballot paper so as to conceal the names of the candidates and the marks on the face of the paper but so as to expose the initials of the deputy returning officer, and on leaving the compartment shall forthwith and without exposing the face of the ballot papers to anyone or in any manner making known to any person for whom he has voted, shall show the same to the deputy returning officer who shall verify his initials, and then deposit his ballot in the ballot box in the presence of all other persons entitled to be present in the polling place;
- (j) while an elector is in the voting compartment for the purpose of marking his ballot paper, no other person shall, subject to paragraph (k), be allowed
 - (i) in the same compartment; or
 - (ii) to be in any position from which the manner in which the elector marks his ballot paper may be observed;

- (k) if an elector states he is unable to mark his ballot paper, the deputy returning officer shall in the presence of a witness
 - (i) if requested by a candidate or agent, administer to such an elector an oath that he is unable to mark his ballot paper;
 - (ii) mark the ballot paper of such elector as the elector directs and place the marked ballot paper in the ballot box; and
 - (iii) write in the poll book opposite the name of that elector the circumstances under which his ballot paper was marked;

- (l) any elector who has spoiled his ballot paper in marking it and discovers the fact before it has been placed in the ballot box may, upon returning the same to the deputy returning officer and proving the fact to him, obtain another ballot paper and the deputy returning officer shall mark upon the face of the ballot paper so returned the word "cancelled", and all ballot papers so marked shall be retained by the deputy returning officer in an envelope provided for that purpose and by him returned to the returning officer; and

- (m) any elector who has received a ballot paper and who leaves the polling place without delivering the same to the deputy returning officer in the manner provided or after receiving the same, refuses to vote shall forfeit his right to vote at the election then pending and the deputy returning officer shall then make an entry in the poll book opposite the name of such elector in the column for remarks that such person received the ballot paper and did not return the same or that the person returned the ballot paper and declined to vote, in which latter case the deputy returning officer shall mark upon the face of the ballot paper the word "declined", and all ballot papers so marked shall be retained by the deputy returning officer in an envelope provided for that purpose and by him returned to the returning officer.

86. (1) At the close of the poll, the deputy returning officer in each polling place shall seal the ballot boxes so as to prevent the introduction of additional ballot papers.
- (2) Every candidate, returning officer, deputy returning officer, special constable, interpreter, agent or other person in attendance at the polling place with the permission of the deputy returning officer may remain for the counting of the votes and shall maintain and aid in maintaining the secrecy of the voting.
87. (1) As soon as possible after the close of the poll, the deputy returning officer shall open the ballot boxes used at his polling place and
- (a) examine the ballot papers and reject all those on the back of which his initials are not found or on which more votes are given than the elector is entitled to give or on which anything appears by which the voter can be identified;
 - (b) make notice of any objection made by any candidate or his agent to any ballot paper found in the ballot box and decide on any question arising out of the objection;
 - (c) number all such notations of objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed" as the case may be, and his initials;
 - (d) count the votes given for each candidate by the ballot papers not rejected and make a written statement of the number of votes given to each candidate and the number of ballot papers rejected and not counted by him, and such other persons authorized to be present as may desire to sign the same; and
 - (e) certify in writing on the poll book the number of persons who have voted at the polling place at which he is appointed to make up into eight separate packets, sealed with his own seal and the seals of such agents as desire to affix their seals, as follows:
 - (i) the statement of votes for each candidate and of the number of rejected ballot papers;

- (ii) the used ballot papers that have not been objected to and that have been counted;
 - (iii) the ballot papers that have been objected to but have been counted;
 - (iv) the rejected ballot papers;
 - (v) the declined and cancelled ballot papers;
 - (vi) the unused ballot papers;
 - (vii) the spoiled ballot papers;
 - (viii) the copy of the revised list of electors used at the polling place.
- (2) When the provisions of paragraph (1) (e) have been complied with, the deputy returning officer shall
- (a) place the sealed packets marked on the outside with a memorandum designating their respective contents in the ballot box used at his polling station;
 - (b) lock and seal the ballot box with the sealed packets contained therein and attach the key thereto; and
 - (c) forthwith deliver the locked and sealed ballot box with the sealed packets contained therein to the returning officer in accordance with the returning officer's instructions.
- (3) The deputy returning officer shall give to the returning officer, the Secretary-Treasurer and each candidate a certificate as set out in the prescribed form showing the number of votes cast for each candidate and the number of rejected ballot papers at his polling station.
88. (1) On the day following the poll and at a time determined, the returning officer shall receive the ballot boxes used in the election, and shall
- (a) examine the ballot boxes before opening them and make a written declaration as to their condition;
 - (b) examine the statements of votes and add up votes polled for each candidate;
 - (c) prepare a statement of election returns, which statement shall set out the total number of votes received by each candidate;
 - (d) publicly declare
 - (i) the candidate or candidates having the highest number of votes to be duly elected;

(ii) the number of votes given for each of the candidates for the office of trustee;

and

(e) give the Secretary-Treasurer and each candidate a certificate as set out in the prescribed form showing the total number votes cast and the number of rejected ballot papers and post a copy of the certificate in the District office.

89. (1) Every candidate, returning officer, deputy returning officer, special constable, interpreter, agent or other person, with the permission of the deputy returning officer, may remain for the counting of the votes at the polling place and shall maintain and aid in maintaining the secrecy of the voting.
- (2) No candidate, returning officer, deputy returning officer, special constable, interpreter, agent or other person shall
- (a) at the polling place interfere with or attempt to interfere with an elector when marking his ballot paper, or otherwise attempt to obtain information as to the candidate for whom any elector is about to vote or has voted;
 - (b) at any time, communicate any information as to the manner in which any ballot paper has been marked in his presence in the polling place;
 - (c) at any time or place, directly or indirectly, induce or endeavour to induce any voter to show his ballot paper after he has marked it so as to make known to any person the name of the candidate for or against whom he has so cast his vote;
 - (d) at any time, communicate to any person any information obtained at a polling place as to the candidate for whom any elector at such polling place is about to vote or has voted; or

- (e) at the counting of the votes attempt to obtain any information or communicate any information obtained as such counting as to the candidate for whom any vote is given in any particular ballot paper.
- (3) Every person who violates any provision of this section commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty dollars or to imprisonment for a term not exceeding three months or to both fine and imprisonment.
90. (1) The deputy returning officer, poll clerk, candidates and agents, but no other person except with the sanction of the deputy returning officer may be in the polling place during the opening of the ballot boxes and counting of the votes.
91. (1) The returning officer on request of any elector who has been appointed deputy returning officer or poll clerk or constable to attend at any polling place other than the one where he is entitled to vote, shall give to him a certificate that he is entitled to vote at the polling place where he is to be stationed during the polling day.
- (2) On the production of the certificate, the deputy returning officer, poll clerk or constable may vote at the polling place where he is stationed during the polling day, instead of the polling place where he would otherwise have been entitled to vote, and the deputy returning officer shall attach the certificate to the list of electors.
- (3) No certificate entitles the elector to vote at a polling place unless he has been actually engaged as a deputy returning officer, polling clerk, constable, candidate agent or interpreter at that polling place during the whole of the day of polling.

- (4) If a deputy returning officer votes at the polling place to which he has been appointed as such, the poll clerk appointed to act at the polling place, or in the absence of the poll clerk, any elector present, may administer to the deputy returning officer any of the oaths required by law to be taken by voters.
- 92.
- (1) After the election the returning officer shall deliver to the Secretary-Treasurer all ballot boxes, ballot papers, poll books and statements of votes used in the election, and the Secretary-Treasurer shall be responsible for their safe-keeping.
 - (2) The Secretary-Treasurer shall retain for two months all ballot papers, poll books and statements of votes that were delivered to him by the returning officer pursuant to subsection (1), and unless proceedings for a recount or an election petition are pending, destroy the same in the presence of two other persons who shall join with the Secretary-Treasurer in a statutory declaration setting out the time and place that the ballots were destroyed, how destruction was effected, and that destruction took place in the presence of the declarants.
- 93.
- (1) If within five days after the returning officer has declared the result of the poll, any elector applies to a judge showing by affidavit reasonable grounds for holding recount and enters into a recognizance before the judge in the sum of one hundred dollars with two sureties that he will prosecute the application and pay any costs he is adjudged to pay, the judge shall appoint a time and place for the holding of a recount.
 - (2) The time appointed by the judge for the holding of a recount shall be not more than twenty-one days after the day on which the returning officer has declared the result of the poll.
 - (3) Notice of the time and place appointed for the holding of the recount shall be served by the applicant on the returning officer and on each candidate or his agent, at least four days before the time appointed for the holding of the recount.

94. (1) At the time and place appointed for the holding of the recount, the Secretary-Treasurer shall attend before the judge with the ballot boxes, ballot papers and poll books together with all other documents in his possession that are relevant to the recount, and the same shall continue to be in the lawful custody of the Secretary-Treasurer subject to the direction of the judge.
95. (1) The judge shall decide what persons, other than the returning officer, candidates and agents may be present while the recount is taking place.
 - (2) During a recount and during any recess or adjournment of a recount, the judge shall take or cause to be taken every precaution necessary to ensure that the manner in which any elector has voted shall not become known to any person other than those lawfully present during the recount.
96. (1) The judge shall, on the recount, possess the like power and authority as to all matters arising upon the recount as are possessed by him upon a trial of an election petition and in all cases, costs shall be at the discretion of the judge.
97. (1) During a recount, the judge shall proceed as continuously as is possible to count the votes and shall, after hearing such evidence as he deems necessary, determine in a summary manner the result of the election.
98. (1) On completion of the recount, the judge shall inform the returning officer of the result of the poll and the returning officer shall then forthwith publicly proclaim the result of the recount.
 - (2) All reasonable expenses incurred by a judge in performing a recount shall be paid to that judge by the District as part of the expenses of the election.

BY-ELECTION

99. (1) Subject to subsection (2), when a vacancy occurs on the Board the Board shall forthwith appoint a time for holding an election to fill such vacancy.
- (2) If a vacancy occurs within six months before the next regular election, the Board may leave the vacancy unfilled until such election.
100. (1) The election to fill a vacancy on the Board shall be conducted in the same manner as a regular election, except that
- (a) nomination day shall be within thirty days after the date on which the vacancy occurs; and
 - (b) polling day shall be on the ninth day after nomination day.
- (2) Where the by-election occurs in the period mentioned in subsection 99 (1) the nomination day shall be twenty days after the date of the report of the Board of Revision.
- (3) The Trustee elect shall be sworn into office at the next meeting of the Board following the election."

CORRUPT PRACTICES, BRIBERY, PERSONATION, ETC.

101. (1) Every person commits a corrupt practice who
- (a) by himself, or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises, any money or valuable consideration, or gives or procures, or agrees to give or procure, or offers or promises, any office, place or employment to or for any voter, or to or for any person in order to induce any voter to vote or refrain from voting at any election, or who corruptly does any such act on account of such voter having voted or refrained from voting at any such election;

- (b) by himself or any other person on his behalf, makes any gift, loan, offer or agreement to or for any person, in order to induce that person to procure or endeavour to procure the election of any person to serve as a member of the Board or the vote of any voter at any election;
- (c) by reason of any gift, loan, offer, procurement or agreement procures, or engages, promises or endeavours to procure, the election of any person to serve as a member of the Board in any election, or the vote of any voter at any such election;
- (d) advances, pays, or causes to be paid, any money to or to the use of any other person with the intent that such money, or any part thereof, shall be expended in bribery at any election of a person to serve as member of the Board, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any such election;
- (e) before or during any election of a member of a Board, by himself or any other person on his behalf, receives, agrees or contracts for any money, gift loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreement to vote, or refraining or agreeing to refrain from voting, at any such election;
- (f) after any election of a member of a Board, by himself or any other person in his behalf receiving any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting, at any such election;

- (g) by himself or by or with any other person or by any other ways or means in his behalf, at any time, either before or during any District election, gives or procures, or causes to be given or provided, or is accessory to the giving or providing or, pays wholly or in part any expenses incurred for, any meat, drink, refreshment or other provisions, to or for any person in order to be elected, or for being elected or for the purpose of influencing the person to whom such provisions are given or provided, or any other person, to give or refrain from giving his vote at such election;
- (h) during the voting at any District election, personates and falsely assumes to vote in the name of another person whose name appears on the list of electors, whether such other person is living or dead or a fictitious person;
- (i) having already voted at any District election, presents himself again to vote at the same election;
- (j) without due authority supplies any ballot paper to any person;
- (k) fraudulently puts into the ballot box any paper other than a ballot paper that he is authorized to put in;
- (l) fraudulently takes out of the polling place any ballot paper;
- (m) without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballots then in use for the purpose of the election;

- (n) interferes or attempts to interfere with any voter in making his ballot or who marks or causes to be marked a ballot paper so as to defeat the intentions of the voter who at any time communicates any information he may be possessed of as to the candidate for whom any voter has been given or who induces any person to display the ballot paper so as to make known to him or to any other person the manner in which he has voted, or for or against whom he has marked his ballot paper;
- (o) being a duly appointed election officer neglects or refuses to discharge any duty under this Part;
- (p) aids, incites, counsels, facilitates or is otherwise a party to the commission by any person of any of the acts mentioned in this section;
- (q) by himself or by any other person on his behalf, makes use of any force, violence or restraint, or inflicts or threatens the infliction by himself, or by or through any other persons of any injury, damage or loss, or in any manner practices intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting for a candidate at a District election or in any way prevents or otherwise interferes with the free exercise of the franchise of any voter;
- (r) forges, counterfeits, fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer signed thereon;
- (s) not being a person entitled under this Ordinance to be in possession of an official ballot paper or of any ballot paper in his possession;

- (t) being a deputy returning officer fraudulently puts, otherwise than as authorized by this Ordinance, his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election;
- (u) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;
- (v) being authorized by the returning officer to print the ballot papers for an election, prints without authority more ballot papers than he is authorized to print;
- (w) being a deputy returning officer, places upon any ballot paper, except as authorized by this Ordinance, any writing, number or mark with intent that the elector to whom such ballot paper is to be or has been given may be identified thereby; or
- (x) attempts to commit any offence specified in this section.

102. (1) The actual personal expenses of any candidate and bona fide payments for the fair cost of printing the advertising shall be held to be expenses lawfully incurred and the payments thereof shall not be a contravention of the provisions of section 101.

PENALTIES

103. (1) Every person who is convicted of committing a corrupt practice is guilty of an offence and is liable on summary conviction to a fine not exceeding five hundred dollars or imprisonment for a term not exceeding six months or to both fine and imprisonment.

- (2) Every member of a Board who is adjudged guilty of a corrupt practice shall forfeit his seat on the Board and shall be disqualified from being a candidate or elector at any election, for the next succeeding five years and shall continue to be so disqualified until the amount that he has been adjudged to pay has been fully paid and satisfied.
104. (1) All proceedings, other than a petition to contest a District election, against any person for any corrupt practices shall be commenced within two months after the District election at which the offence was committed.
105. (1) The magistrate finding any person guilty of corrupt practice under this Ordinance shall report the same forthwith to the Secretary-Treasurer of each District;
- (2) The Secretary-Treasurer shall enter into a book to be kept for the purpose the names of all persons who have been adjudged guilty of any corrupt practices and of which he has been notified by the magistrate who tried the case.
 - (3) Every person who has been found guilty of a corrupt practice is disqualified from voting at any District election for a period of five years from the time of commission of the offence.

CONTROVERTED ELECTIONS
PETITION AND SECURITY

106. (1) Any election in a District or the right of a person to sit on the Board of a District may be questioned in a election petition on the ground that
- (a) the election is wholly void by reason of corrupt practices or offences committed at the election;
 - (b) the person elected
 - (i) was at the time of the election disqualified;
 - (ii) was not duly elected by a majority of lawful votes;

- (iii) has forfeited his seat on the Board or his right thereto;
or
- (iv) has become disqualified to hold his seat or his seat has become vacant by disqualifications.

(2) An election shall not be questioned on any of the above grounds, except by an election petition.

107. (1) An election petition may be presented either by four or more persons who had a right to vote at an election or by a person who was a candidate at the election.

(2) In the case of a petition alleging that a member of the Board has forfeited his seat on the Board or his right thereto or has become disqualified from holding his seat or that his seat has become vacant by disqualification or otherwise the petition may be presented by four or more persons whose names appear on the last revised list of electors of the District.

108. (1) A person whose election is questioned by an election petition and any returning officer or deputy returning officer of whose conduct a petition complains may be made a respondent to the petition and notice of the petition and a copy of the petition shall be served personally on the respondent within ten days after presentation unless the judge otherwise directs.

(2) Two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time; but the petition shall be deemed to be a separate petition against each respondent.

109. (1) A petition shall be presented to a judge by delivering it at the office of the clerk of the Court.

110. (1) Subject to subsection (2), the petition shall be presented within two months after the day on which the election was held.
- (2) Where a petition complains of the election of a person on the ground of corrupt practices and specifically alleges that a payment of money or other reward has been made or promised since the election by a person elected at the election, or on his account, in pursuance or furtherance of such corrupt practices, it may be presented at any time within two months after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
111. (1) A petitioner shall give such security in such amount, not exceeding two hundred dollars, as the judge directs.

TRIAL

112. (1) An election petition shall be tried in open court.
113. (1) The place of trial shall be within the limits of the District, except that the judge may, on being satisfied that special circumstances exist rendering it desirable that the petition be tried elsewhere, appoint some other convenient place for the trial.
114. (1) The judge may, in his direction, adjourn the trial, from time to time, and from any one place to any other place within the limits of the District where he is sitting.
115. (1) On the trial of a petition, unless the judge otherwise directs, any charge of any corrupt practice or offences shall be gone into, and evidence in relation thereto received.

116. (1) On the trial of a petition complaining of an election and claiming the office for some person, the respondent may give evidence to prove that, that person was not duly elected in the same manner as if he had presented a petition against the election of that person.
117. (1) The trial of a petition shall be proceeded with, notwithstanding that the respondent has ceased to hold the office in respect of which his election is questioned by the petition.

JUDGMENT

118. (1) At the conclusion of the trial, the judge shall determine
- (a) whether the person whose election is complained of or any other person, was duly elected or whether the election was void; or
 - (b) whether any member of the Board has forfeited his seat on the Board or his right thereto, or has become disqualified to hold his seat, or whether his seat has become vacant by disqualification or otherwise,
- and shall forthwith certify in writing his judgment to the Secretary-Treasurer of the District.
119. (1) Where a petition charges that any corrupt practice has been committed at an election, the judge shall, in addition to the certificate of judgment described in section 118 report in writing to the Secretary-Treasurer of the District.
- (a) whether any such corrupt practice or offence has or has not been shown to have been committed by, or with the knowledge and consent of, any candidate at the election and the nature of the corrupt practice or offence;
 - (b) the names of all persons shown at the trial to have been connected or included in any such corrupt practice or offence; and
 - (c) whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election.

120. (1) Where a candidate who has been declared elected is by a decision of the judge declared not to have been duly elected, acts done by him in execution of the office before the time when the certificate or decision is certified to the Secretary-Treasurer of the District shall not be invalidated by reason of the declaration of non-election.

WITHDRAWAL OF PETITION

121. (1) A petition shall not be withdrawn without the leave of the judge on special application made after public notice of the intention to make it has been given in such manner as the judge directs.
122. (1) On the hearing of the application, any person who might have been a petitioner, may apply to be substituted as a petitioner, and the judge may, if he thinks fit, substitute him accordingly.
- (2) Where the proposed withdrawal is, in the opinion of the judge, induced by any corrupt bargain or consideration, he may, by order, direct that the security given on behalf of the original petitioner remain as security for any costs incurred by the substituted petitioner, and that, to the extent of the sum named in the security, the original petitioner and his sureties be liable to pay the costs of the substituted petitioner.
- (3) Where the judge makes no direction as provided in subsection (1), then security to the same amount as is required in the case of a new petition, and subject to the same conditions, shall be given on behalf of the substituted petitioner, before he proceeds with his petition, and within a time, after the order of substitution, to be fixed in such order or otherwise.

123. (1) Except as otherwise provided in this Ordinance, a substituted petitioner shall stand in the same position and be subject to the same liabilities as the original petitioner.

ABATEMENT OF PETITION

124. (1) An election petition shall be abated by the death of a sole petitioner or in the case of several petitioners, by the death of the sole survivor of such petitioners.
125. (1) The abatement of any election petition does not affect the liability of any petitioner, or of any person, to the payment of costs previously incurred.
126. (1) On the abatement of a petition, public notice thereof shall, on the order of a judge, be given by the Secretary-Treasurer of the District at the expense of the District and within the time prescribed therein any person who might have been a petitioner may apply to that judge to be substituted as a petitioner, and the judge may, if he thinks fit, substitute him accordingly.
- (2) Security shall be given on behalf of a petitioner substituted pursuant to subsection (1) as in the case of a new petition.

COSTS

- 127 (1) All costs, charges and expenses of, and incidental to, the presentation of an election petition and the proceedings consequent thereon shall be defrayed by the parties to the petition, or by the District, in such manner and proportion as the judge determines.
- (2) No order for costs or expenses shall be made against a person whose election is questioned who does not actively contest the election petition, and who is found by the judge to be not guilty of any corrupt or improper practice."

- (3) Before any order as to costs is made against a District, a summons to show cause why such an order should not be made shall be served on the Secretary-Treasurer of the District affected, and if such order is made, the District is entitled to notice of the taxation of such costs.
 - (4) An order for costs may be enforced by execution in the manner provided by law.
128. (1) The decision of a judge on any election petition is final and no appeal lies from that decision.
129. (1) Notwithstanding this Ordinance the Board of Trustees of all Local Improvement Districts other than Haines Junction shall continue in office until 12 o'clock noon on Monday, the second day of January 1978, or until their successors are sworn in pursuant to this Ordinance but where any member of the Board of Trustees resigns or dies prior to such day the provisions of the *Local Improvement District Ordinance* shall apply as if this Ordinance had not been enacted.
130. (1) This Ordinance or any portion thereof shall come into force on such day or days as affixed by the Commissioner.

CHAPTER 12
ORDINANCE OF THE YUKON TERRITORY
1977 (First Session)

AN ORDINANCE TO AMEND THE TAXATION ORDINANCE

(Assented to April 28, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. The *Taxation Ordinance* is amended by repealing subsection 19.(1) and substituting the following therefor:
"19.(1) The authority may adopt the whole or any part of the last revised assessment roll as the assessment roll or part thereof, as the case may be, for the following year, but no such assessment roll may be adopted for more than five consecutive years except upon the order of the Commissioner."
2. This Ordinance shall come into force upon assent.

CHAPTER 13
ORDINANCE OF THE YUKON TERRITORY
1977 (First Session)

AN ORDINANCE TO AMEND THE LIQUOR ORDINANCE

(Assented to March 30, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. The *Liquor Ordinance* is amended by repealing section 103 and substituting the following therefor"
 - "103.(1) Except in the case of liquor purchased and consumed in accordance with a licence or permit issued pursuant to this Ordinance no person shall consume liquor in any public place in a municipality or local improvement district in respect of which the Commissioner has made an area enforcement order by reason of this section.
 - (2) For the purposes of this section "public place" does not include:
 - (a) a residence;
 - (b) a public beach, public park or public campground;
 - (c) a garden, terrace or poolside patio of a licensed premises;
 - (d) such other places as may be prescribed.
 - (3) Where the Commissioner receives a resolution duly passed by the Council of a municipality requesting that this section be put into operation in respect of the municipality the Commissioner shall make an order that this section is in force in respect of the municipality.
 - (4) Where the Commissioner receives a resolution of the board of trustees of a local improvement district requesting that this section be put into operation in respect of the

local improvement district, he shall make an order that this section is in force in respect of the local improvement district.

- (5) The Commissioner may revoke an area enforcement order.
- (6) The procedure set out in subsections (4) and (5) shall apply *mutatis mutandis* in respect of a request to revoke an area enforcement order.
- (7) Notwithstanding any other provision of this section an area enforcement order shall continue in force in respect of the place described in the order for a period of not less than two years from the making of the order and where, pursuant to this section, the Commissioner has revoked an area enforcement order no further area enforcement order shall be made in respect of that place for a period of two years from the date of the revocation of the original enforcement order.
- (8) Proof of possession in a public place of a bottle or a can containing liquor which has been opened is *prima facie* evidence of consumption by the person found in possession of liquor in such public place.
- (9) Where one of two or more persons, with the knowledge and consent of the rest, has liquor in his custody or possession, the liquor shall be deemed to be in possession of each and all of them.

2. This Ordinance shall come into force on the 1st day of April, 1977.

CHAPTER 14
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

FINANCIAL AGREEMENT ORDINANCE, 1977

(Assented to March 30, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

1. (1) This Ordinance may be cited as the *Financial Agreement Ordinance, 1977*.
2. (1) In this Ordinance
"agreement" means the agreement entered into pursuant to section 3;

"fiscal year" means the period beginning on and including the first day of April in one year and ending on and including the thirty-first day of March in the next year;

"local administrative district" has the meaning given to it in the agreement.
3. (1) Subject to this Ordinance the Commissioner is authorized to enter into and execute, on behalf of the Government of the Yukon Territory, an agreement which will provide
 - a) that the Government of Canada will pay to the Government of the Yukon Territory,
 - i) as an operating grant for the fiscal year 1977-78 an amount equal to Fifteen Million, Nine Hundred, Fifty-One Thousand Dollars.
 - ii) as a payment in lieu of the Government of the Yukon Territory levying personal and corporate income taxes, an amount equal to Thirteen Million, Three Hundred, Sixty-One Thousand Dollars.

- iii) as a capital grant for the fiscal year 1977-78 an amount equal to Eleven Million, Six Hundred Six Thousand Dollars.
 - b) that in consideration thereof the Government of the Yukon Territory will suspend and refrain and will require local administrative districts in the Territory to suspend and refrain from the imposition, levying and collection of individual income taxes, corporation taxes and corporation income taxes in respect of the period commencing on the first day of January 1977, and ending on the thirty-first day of December 1977.
- 4. (1) The agreement shall also provide
 - a) that the amounts payable by the Government of Canada to the Government of the Yukon Territory shall be paid
 - i) in the case of the amounts described in sub-paragraphs 3. (1) (a) (i) and (ii), in equal instalments in each month in the period from the first day of April 1977 to the thirty-first day of March 1978; and
 - ii) in the case of amounts described in sub-paragraph 3. (1) (a) (iii) in the amounts and at the times fixed in a schedule to be provided by the Territory and agreed to by Canada.
 - b) for such other terms and conditions as may be agreed upon for the purpose of giving effect to this Ordinance.
- 5. (1) The agreement may be varied or amended from time to time, as may be agreed upon with the Government of Canada by the Commissioner.
- 6. (1) No variation or amendment to the agreement made pursuant to section 5 is valid unless it is ratified by the Council.

7. (1) Upon execution of the agreement, any Ordinance of the Territory and any regulations, or by-laws made thereunder, including those of any local administrative district, shall, for the relevant periods provided in the agreement, be deemed to be amended, suspended or inoperative as the case may be to the extent necessary to give effect to the agreement and to permit the Government of the Yukon Territory to fulfill every obligation assumed by it under the agreement.
8. (1) Neither the Commissioner nor any local administrative district shall do any act or exercise any power or collect any tax in contravention of the provisions of this agreement.
9. (1) The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Yukon Territory under the agreement.
10. (1) Sections 7 to 9 shall remain in operation for only so long as is necessary to give effect to the agreement.
11. (1) This Ordinance shall come into force on the day of assent.

CHAPTER 15
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

FIRST APPROPRIATION ORDINANCE, 1977-78

(Assented to March 30, 1977)

Whereas it appears by message from Arthur Pearson, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the public service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending the thirty-first day of March 1978

Therefore, the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- | | | |
|--------|---|----------------------------------|
| 1. (1) | This Ordinance may be cited as the <i>First Appropriation Ordinance, 1977-78</i> . | Short Title |
| 2. (1) | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole, Eighty-Seven Million, Three Hundred Thirty-Nine Thousand, Four Hundred Dollars, for defraying the several charges and expenses of the public service of the Territory for the twelve months ending the thirty-first day of March 1978, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount
Granted |
| 3. (1) | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to
be accounted
for |
| 4. (1) | This Ordinance shall come into force on the day of assent. | Coming into
force |

SCHEDULE "A"

<u>Appropriation or Item</u>	<u>\$ (Dollars)</u>
Administrative Services	2,374,100
Department of Treasury	2,524,700
Department of Education	14,130,790
Department of Territorial Secretary and Registrar General	1,252,300
Department of Health, Welfare and Rehabilitation	14,401,300
Department of Local Government	3,587,700
Department of Tourism, Conservation and Information	3,390,800
Department of Legal Affairs	2,947,200
Department of Highways and Public Works	17,269,400
Yukon Housing Corporation	2,214,100
Project Capital	16,697,100
Loan Capital	5,100,000
Loan Amortization	1,450,000
	<hr/>
TOTAL	<u>\$ 87,339,400</u>

CHAPTER 16
ORDINANCES OF THE YUKON TERRITORY
1977(FIRST SESSION)

SECOND APPROPRIATION ORDINANCE, 1977-78

(Assented to April 28, 1977)

Whereas it appears by message from Arthur Pearson, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the public service of the Yukon Territory and for the purposes relating thereto, for the twelve months ending the thirty-first day of March, 1978.

Therefore, the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- | | | |
|-------|--|----------------------------|
| 1. | This Ordinance may be cited as the <i>Second Appropriation Ordinance, 1977-78.</i> | Short title |
| 2.(1) | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole Three Million, Six Hundred Thousand Dollars for defraying the several charges and expenses of the public service of the Territory for the twelve months ending the thirty-first day of March 1978, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount granted |
| 3.(1) | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be accounted for |

SECOND APPROPRIATION ORDINANCE

SCHEDULE "A"

<u>Appropriation</u>	<u>Amount</u>
Project Capital	<u>\$ 3,600,000</u>

CHAPTER 17
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

THIRD APPROPRIATION ORDINANCE, 1977-78

(Assented to April 28, 1977)

Whereas it appears by message from Arthur Pearson, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the public service of the Yukon Territory and for the purposes relating thereto, for the twelve months ending the thirty-first day of March, 1978.

Therefore, the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

SHORT TITLE

- | | | |
|--------|---|----------------------------|
| 1. (1) | This Ordinance may be cited as the <i>Third Appropriation Ordinance, 1977-78.</i> | Short Title |
| 2. (1) | From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole one hundred dollars for defraying the several charges and expenses of the public service of the Territory for the twelve months ending the thirty-first of March, 1978, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | Amount granted |
| 3. (1) | The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be accounted for |

SCHEDULE "A"

<u>Appropriation</u>	<u>Amount</u>
Loan Capital - Stabilization Fund Loan Ordinance	<u>\$100.</u>

CHAPTER 18
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

SECOND APPROPRIATION ORDINANCE, 1976/77

(Assented to March 30, 1977)

Whereas it appears by message from Arthur Pearson, Esq., Commissioner of the Yukon Territory, and in the estimates accompanying the same that the sums hereinafter mentioned in Schedule "A" of this Ordinance are required to defray certain expenses of the public service of the Yukon Territory and for the purpose relating thereto, for the twelve months ending the thirty-first day of March, 1977.

Therefore, the Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- | | |
|--|----------------------------|
| 1. (1) This Ordinance may be cited as the <i>Second Appropriation Ordinance, 1976/77.</i> | Short Title |
| 2. (1) From and out of the Yukon Consolidated Revenue Fund there may be paid and applied a sum not exceeding in the whole Three Million, Eight Hundred Six Thousand, Nine Hundred and Seventy-Two Dollars for defraying the several charges and expenses of the public service of the Territory for the twelve months ending the thirty-first day of March, 1977, as set forth in Schedule "A" of this Ordinance and such sum shall be applied only in accordance with the Schedule. | |
| 3. (1) The due application of all monies expended pursuant to section 2 shall be accounted for. | Monies to be accounted for |
| 4. (1) This Ordinance shall come into force on the day of assent. | Coming into force |

SCHEDULE "A"

<u>Appropriation or Item</u>	<u>\$ (Dollars)</u>
Administrative Services	212,524
Department of Treasury	584,212
Department of Education	162,939
Department of Territorial Secretary and Registrar General	(67,278)
Department of Health, Welfare and Rehabilitation	797,551
Department of Local Government	(35,736)
Department of Tourism, Conservation and Information	65,868
Department of Legal Affairs	3,423
Department of Highways and Public Works	(299,900)
Yukon Housing Corporation	162,269
Project Capital	2,176,100
Loan Amortization	45,000
	<hr/>
	\$ 3,806,972
	<hr/> <hr/>

CHAPTER 19
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

LOAN AGREEMENT ORDINANCE (1977) NO. 1

(Assented to March 30, 1977)

The Commissioner of the Yukon Territory, by and with the advice and consent of the Council of the said Territory, enacts as follows:

- | | | |
|--------|---|--------------------------------------|
| 1. (1) | This Ordinance may be cited as the <i>Loan Agreement Ordinance (1977) No. 1.</i> | Short Title |
| 2. (1) | The Commissioner may on behalf of the Yukon Territory borrow from the Government of Canada a sum not exceeding Five Million, One Hundred Thousand Dollars for loans to municipalities, to Central Mortgage and Housing Corporation second mortgages, for development of land and to finance community improvements outside municipalities. | Commissioner may borrow |
| 3. (1) | The Commissioner is authorized to enter into and execute on behalf of the Government of the Territory an agreement with the Government of Canada providing for
(a) the repayment to the Government of Canada of the amount borrowed pursuant to section 2;
(b) the payment to the Government of Canada of interest at such a rate as may be agreed upon by the Commissioner on the principal from time to time outstanding on the amount borrowed pursuant to section 2; and
(c) such other terms and condition as may be agreed upon by the Commissioner. | Commissioner may execute agreement |
| 4. (1) | The Commissioner is empowered to do every act and exercise every power for the purpose of implementing every obligation assumed by the Government of the Territory under this agreement. | Commissioner may implement agreement |
| 5. (1) | This Ordinance shall come into force on the day of assent. | Come into force |

CHAPTER 20
ORDINANCES OF THE YUKON TERRITORY
1977 (First Session)

MUNICIPAL GENERAL PURPOSES LOAN ORDINANCE

(Assented to March 30, 1977)

The Commissioner of the Yukon Territory, by and with
the advice and consent of the Council of the said Territory,
enacts as follows:

- | | |
|---|--|
| Short Title | 1. (1) This Ordinance may be cited as the <i>Municipal General Purposes Loan Ordinance</i> . |
| "borrowing by-law" | 2. (1) In this Ordinance
"borrowing by-law" means a by-law mentioned in Section 4;
"council" means the council of a municipality;
"municipality" means a town or city. |
| "Council" | |
| "municipality" | |
| Ordinance one with Municipal Ordinance | (2) This Ordinance shall be construed as one with the <i>Municipal Ordinance</i> , but in case of conflict, the provisions of this Ordinance shall prevail. |
| Commissioner may lend to municipalities | 3. (1) The Commissioner may on behalf of the Territory, lend a sum not exceeding One Million, Three Hundred Fifty Thousand Dollars in the whole to municipalities in the Yukon Territory to enable them to carry on programs of municipal works and for that purpose, the Commissioner may, on behalf of the Territory, enter into agreements with the municipalities. |
| | 4. (1) Subject to this Ordinance, a Council may pass by-laws for the borrowing of money for the purpose mentioned in section 3 but no such by-law shall be valid unless, prior to being finally passed by the council, it has been approved in accordance with the <i>Municipal Ordinance</i> . |

- 5. (1) A borrowing by-law shall set out in detail:
 - a) the amount proposed to be borrowed;
 - b) the purpose for which the expenditure is to be made;
 - c) the term of the loan;
 - d) the rate of interest payable thereon;
 - e) the method of repayment; and
 - f) the amount of the existing debt of the municipality, if any, and how much, if any, of the principal or interest thereof is in arrears.

Form of
by-law

- (2) Every by-law to borrow money shall, by its terms:
 - a) fix the amount of the loan and the rate or rates of interest payable thereon, and the places and the times when the principal and interest shall be payable;
 - b) provide that the loan and interest thereon shall be paid in lawful money of Canada;
 - c) provide for the levy of an annual tax or taxes sufficient to pay the principal and interest of the loan; and
 - d) generally shall be in such form and contain such further provisions as may be required by the Commissioner.

- 6. (1) No money borrowed pursuant to a borrowing by-law shall be used for a purpose other than that stated in the by-law except that if on completion of the work for which the money was borrowed, there remains an unexpended balance, such balance may be used by a municipality
 - a) for the payment of any interest payable in respect of the loan,
 - b) for the repayment of the principal amount of the loan or any portion thereof; or
 - c) for such other purposes and upon such terms and conditions as the council, with the approval of the Commissioner, deems appropriate.

money to be
used for
purpose stated

- 7. (1) A by-law may provide that the loan shall be repaid prior to the due date at the option of a municipality at such time or times as the municipality may find it possible to repay it.

Repayment
prior to due
date

- Redemption (2) Where the loan or any portion thereof is repaid prior to the due date, the repayment shall not affect the validity of any by-law by which taxes have been imposed in respect thereof, the validity of such taxes or the power of the council to continue to collect taxes in respect thereof.
- Agreement binding 8. (1) Any loan agreement made pursuant to this Ordinance shall be valid and binding upon a municipality notwithstanding any insufficiency in the form or substance of the agreement or the by-law if the by-law has been approved in accordance with the *Municipal Ordinance*.
- Special levy where default in debentures 9. (1) If a municipality defaults in payment of the monies owing in respect of a loan made under a by-law passed pursuant to this Ordinance, the council shall forthwith make a special levy against all property in the municipality to raise sufficient funds to pay the arrears owing on the loan.
- Coming into force 10. (1) This Ordinance shall come into force on the day of assent.

TABLE OF ORDINANCES

MARCH, 1977

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCES</u>	<u>AMENDMENTS</u>
A-01	Age of Majority	
A-1	Apprentice Training	
A-2	Arbitration	
A-3	Archives	
A-4	Area Development	
A-5	Assignment of Book Debts	
B-1	Bills of Sale	
B-2	Blasting	
B-3	Brands	
B-3.1	Building Standards	
B-4	Bulk Sales	
B-5	Business Licence	
C-1	Cancer Diagnosis	
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C-3	Change of Name	
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C-5	Chiropractic	
C-6	Choses in Action	
C-7	Citizenship Instruction Agreement	
C-8	Civil Emergency Measures	
C-9	Collection	
C-9.1	Community Assistance	s.75.1 -1976(1st) c.4 repealed s.75.1 - new -1977(1st)c.
C-10	Companies	
C-10.1	Compensation for the Victims	s.23(1)new -1976(1st)c.5
C-11	Conditional Sales	
C-12	Condominium	
C-12.1	Conflict of Laws (Traffic Accidents)	
C-13	Consumers' Protection	

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCES</u>	<u>AMENDMENTS</u>
C-14	Contributory Negligence	
C-15	Controverted Elections	
C-16	Cooperative Associations	
C-17	Cornea Transplant	
C-18	Coroners	
C-19	Corporation Securities Registration	
C-19.1	Corrections	
C-20	Court of Appeal	
C-21	Credit Unions	s.10(4)new -1976(1st)c.6 s.17(1)(d) -1976(1st)c.6 repealed s.17(1)(d)new s.17(1)(i) becomes s.17(1)(j) -1976(1st)c.6 s.17(1)(i) new s.22(1),(4);26(1)(a);34(1), 35, 36, 38, 39, 40, 42 (1), 49(2), 53, 54, & 78.
C-22	Creditors' Relief	
C-23	Curfew	
D-1	Defamation	
D-2	Dental Profession	
D-3	Dependants' Relief	
D-4	Devolution of Real Property	
D-5	Disabled Persons' Allowance	
D-6	Distress	
D-7	Dog	
E-1	Elections	s.16-repealed -1977(1st)c. s.16-new -1977(1st)c. s.19 - repealed -1977(1st)c. s.19 - new -1977(1st)c.
E-1.1	Electoral District Boundaries Commission	new -1977(1st)c.
E-2	Electrical Protection	new -1976(3rd)c.3
E-2.1	Electrical Public Utilities	
E-3	Elevator and Fixed Conveyances	
E-3.1	Emergency Medical Aid	new -1976(3rd)c.1
E-4	Employment Agencies	
E-5	Engineering Profession	
E-6	Evidence	

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCES</u>	<u>AMENDMENTS</u>	
E-7	Exemptions		
E-8	Expropriation		
F-1	Factors		
F-2	Fair Practices		
F-3	Fatal Accidents		
F-4	Financial Administration	new	-1976(3rd)c.4
F-5	Fire Prevention		
F-6	Fitness and Amateur Sport Agreement		
F-7	Flag		
F-8	Floral Emblem		
F-9	Forest Protection		
F-9.1	Fraudulent Preferences and Conveyances		
F-10	Frustrated Contracts		
F-11	Fuel Oil Tax		
F-12	Fur Export		
G-1	Game		
G-2	Goals		
G-3	Garage Keepers' Lien		
G-4	Garnishee		
G-5	Gasoline Handling		
	General Development Agreement	new	-1977(1st)c.
G-5.1	Government Employee Housing Plan		
H-1	Health Care Insurance Plan		
H-1.1	Highways	s.2(1)(i) & (ii) Kilograms s.30 (1)(e) six metres s.30(1)(f) nine metres	1976(3rd.)c.5 -1976(3rd)c.5 -1976(3rd)c.5
H-2	Historic Sites & Monuments		
H-2.1	Home Owners' Grant	new s.4 new	-1976(1st)c.1 -1976(3rd)c.6
H-3	Hospital Insurance Services		
H-4	Hotels and Tourist Establishments		
H-5	Housing		
H-5.1	Housing Corporation		
H-6	Housing Development		
I-1	Immunity of Members	new	-1976(1st)c.2
I-1.1	Institute of Chartered Accountants	new	-1976(3rd)c.2

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCES</u>	<u>AMENDMENTS</u>
	Liquor Tax	s.4 - repealed -1977(1st)c. s.4 - new -1977(1st)c. s.5 & 6 -repealed -1977(1st)c. s.5 - new -1977(1st)c.
L-9	Local Improvement District	s.2 - amended -1977(1st)c s.4 - repealed -1977(1st)c s.4 - new -1977(1st)c s.6 - repealed -1977(1st)c s.6 - new -1977(1st)c s.7 - repealed -1977(1st)c s.7 - new -1977(1st)c s.7.1(1)(d)-repealed-1977(1st)c s.7.1(1)(d)-new -1977(1st)c s.8 - repealed -1977(1st)c s.8 - new -1977(1st)c s.10 - repealed -1977(1st)c s.10 - new -1977(1st)c s.13(1)(a)-repealed-1977(1st)c s.13(1)(a)-new -1977(1st)c s.15.10 (2)-new -1977(1st)c s.21-103 - new -1977(1st)c.
L-10	Lord's Day	
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L-11	Low Cost Housing	
M-1	Magistrate's Court	
M-2	Maintenance	
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M-12	Municipal	
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	Municipal Employees Benefits	
N-1	Newspaper	
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<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCES</u>	<u>AMENDMENTS</u>	
O-1	Old Age Assistance and Blind Persons' Allowance		
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P-1	Partnership		
P-2	Pawnbrokers and Secondhand Dealers		
P-3	Perpetuities		
P-4	Pharmaceutical Chemists		
P-5	Plebiscite		
P-6	Pounds		
P-7	Presumption of Death		
P-8	Public Health		
P-8.1	Public Inquiries		
P-9	Public Printing		
P-10	Public Service		
	Public Service Commission Ordinance	new	-1977(1st)c
P-11	Public Service Staff Relations		
R-	Real Estate Agent Licencing		
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R-2	Reciprocal Enforcement of Maintenance Orders		
R-2.1	Recreation Development		
R-3	Recording of Evidence by Sound Apparatus		
R-4	Regulations		
R-5	Rehabilitation Services		
S-1	Sale of Goods		
S-2	Saw Logs Driving		
S-3	School		
S-4	Scientists and Explorers		
S-5	Securities		
S-6	Social Assistance		

<u>CHAPTER NO.</u>	<u>TITLE OF ORDINANCES</u>	<u>AMENDMENTS</u>
S-7	Societies Society of Industrial Accountants	
S-8	Steam Boilers Students' Financial Assistance	
S-9	Students' Grants	
S-10	Superannuation, Territorial Employees'	
S-10.1	Supreme Court	
S-11	Survivorship	
T-01	Taxation	s.55.(1)new - 1976(1st)c.7 s.55.(1)new - 1976(2nd)c.5 s.19(1)repealed - 1977(1st)c. s.19(1)new - 1977(1st)c.
T-1	Tenants in Common	
T-2	Tobacco Tax	s.4(1) - 1976(1st)c.10
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V-2	Vital Statistics	
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W-5	Workmen's Compensation	
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