

BILL

No. 47 of 1998

An Act to amend *The Saskatchewan Insurance Act*

(Assented to _____, 1998)

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

Short title

1 This Act may be cited as *The Saskatchewan Insurance Amendment Act, 1998*.

R.S.S. 1978, c.S-26 amended

2 *The Saskatchewan Insurance Act* is amended in the manner set forth in this Act.

New section 3.1

3 **The following section is added after section 3:**

“Information or material

3.1(1) At any time, the superintendent may direct a person to provide the superintendent with any information or material the superintendent reasonably requires for the purposes of this Act and the regulations.

(2) The superintendent may determine a reasonable time within which a person shall provide the information or materials directed to be provided pursuant to subsection (1)”.

New sections 6.1 and 6.2

4 **The following sections are added after section 6:**

“Actions on behalf of consumers

6.1(1) The superintendent may do any of the things mentioned in subsection (2) if:

(a) the superintendent is satisfied that, with respect to a transaction involving the products or services of an insurer, agent or adjuster, a consumer has:

- (i) a cause of action;
- (ii) a defence to an action;
- (iii) grounds for setting aside a default judgment; or
- (iv) grounds to appeal or contest a judgment;

(b) the superintendent considers that the conduct of the insurer, agent, or adjuster involved or any of its agents or representatives was misleading, unconscionable or deceptive; and

(c) the superintendent obtains the written consent of the consumer and the consent of the minister.

(2) In the circumstances mentioned in subsection (1), the superintendent, on behalf of a consumer, may, with a view to enforcing or protecting the consumer's rights respecting a contravention or suspected contravention of this Act or the regulations:

- (a) institute or assume the conduct of any proceedings; or
- (b) defend any proceedings.

(3) With respect to proceedings mentioned in subsection (2):

- (a) the superintendent, on behalf of the consumer, has the same rights in and control over the proceedings that the consumer has, including the right to settle all or part of any action;
- (b) the superintendent may conduct the proceedings in any manner that the superintendent considers appropriate, without being required to consult the consumer or obtain any additional consents;
- (c) any money, other than costs, recovered by the superintendent is the property of the consumer and shall be paid to the consumer;
- (d) in the case of costs awarded against:
 - (i) the insurer, agent or adjuster, the costs are the property of the superintendent and shall be paid to the superintendent; or
 - (ii) the consumer or the superintendent, the superintendent shall pay the costs.

(4) If a party to proceedings mentioned in this section files a counterclaim and the counterclaim is not related to the proceedings, the court, on the application of the superintendent:

- (a) shall order that the counterclaim be heard separately and that the consumer be made a party to the counterclaim in the consumer's own right; and
- (b) may make any other order respecting the counterclaim that the court considers appropriate.

“Right to receive notices

6.2(1) Unless exempted from doing so in the regulations, no provincial insurer shall fail to immediately inform the superintendent in writing of any action or proceeding brought with respect to the provincial insurer.

(2) The superintendent is entitled to appear and to be heard, in person or by counsel, in any action or proceeding mentioned in subsection (1).

(3) No provincial insurer shall fail to provide the superintendent with a copy of any order or judgment of the court within one day after the order or judgment is made”.

New sections 10.1 to 10.4

5 The following sections are added after section 10:

“Restrictions on access to records

10.1(1) Notwithstanding *The Freedom of Information and Protection of Privacy Act*, any information submitted or provided to the superintendent or obtained by an audit, examination, investigation or inspection pursuant to this Act is not open to inspection or available for access except by:

- (a) those members of the public service of Saskatchewan employed in the office of the superintendent whose responsibilities require them to inspect or allow them to have access to the information; or
- (b) those persons who are authorized in writing by the superintendent to inspect or to have access to the information.

(2) Unless authorized by this Act or by any other law or with the consent of the person to whom any information relates, no member of the public service of Saskatchewan employed in the office of the superintendent and no person authorized by the superintendent to inspect or have access to the information shall:

- (a) communicate or allow to be communicated any information obtained pursuant to this Act to any person who is not legally entitled to the information; or
- (b) allow any person who is not legally entitled to the information obtained pursuant to this Act to inspect or have access to it.

(3) Notwithstanding subsections (1) and (2), the superintendent may authorize the release of, inspection of or access to, the information mentioned in those subsections to or by any person employed by a government or regulatory authority inside or outside Canada or to a compensation association where:

- (a) the information will be used solely for the purpose of administering or enforcing an Act or law of Saskatchewan, of Canada, or of another jurisdiction inside or outside Canada;
- (b) the release, inspection or access is pursuant to an agreement made pursuant to section 10.2; or
- (c) the superintendent believes that it is in the public interest to allow the release, inspection or access.

(4) Notwithstanding subsections (1) and (2), the superintendent may authorize the release of, inspection of or access to, the information mentioned in those subsections to or by a law enforcement agency or investigative body inside or outside Canada where:

- (a) the information will be used solely for the purpose of enforcing an Act or law of Saskatchewan, of Canada or of another jurisdiction inside or outside Canada;
- (b) the release, inspection or access is pursuant to an agreement made pursuant to section 10.2; or
- (c) the superintendent believes that it is in the public interest to allow the release, inspection or access.

(5) Notwithstanding subsections (1) and (2), the superintendent may authorize the release of, inspection of or access to, the information mentioned in those subsections to or by an insurance council, or its employees, or an equivalent body in another jurisdiction, or its employees, where:

- (a) the information will be used solely for the purpose of administering or enforcing this Act or any Act or law of another jurisdiction similar to this Act;
- (b) the release, inspection or access is pursuant to an agreement made pursuant to section 10.2; or
- (c) the superintendent believes that it is in the public interest to allow the release, inspection or access.

(6) No person to whom information is provided pursuant to this section is compellable to give evidence concerning that information unless:

- (a) the person to whom the information relates consents; or
- (b) a court orders the evidence to be given.

(7) On an application for an order pursuant to clause (6)(b):

- (a) the superintendent and the person to whom the information relates are entitled to appear before the court and to make submissions; and
- (b) the person seeking the order compelling the evidence has the onus of showing why it is in the public interest that the order be made.

“Agreements with other jurisdictions

10.2 Subject to the approval of the Lieutenant Governor in Council, the superintendent may enter into an agreement with any other government, regulatory authority, compensation association, law enforcement agency, investigative body, insurance council or person inside or outside Canada:

- (a) for the purpose of administering or enforcing this Act or any Act or law of the other jurisdiction that is similar to this Act, including an agreement authorizing the superintendent to perform responsibilities and exercise powers on behalf of the other government, regulatory authority, compensation association, law enforcement agency, investigative body, insurance council or person and authorizing the other government, regulatory authority, compensation association, law enforcement agency, investigative body, insurance council or person to perform responsibilities and exercise powers on behalf of the superintendent; or
- (b) for any other purpose that the superintendent believes is in the public interest.

“Appointment of representatives

10.3(1) The superintendent may appoint any person to carry out any responsibility imposed on the superintendent pursuant to this Act or to exercise any power conferred on the superintendent pursuant to this Act.

(2) The exercise of any of the superintendent’s powers or the carrying out of any of the superintendent’s responsibilities by a person to whom they are delegated is deemed to be the exercise or the carrying out by the superintendent.

“Experts

10.4(1) The superintendent may retain any person the superintendent considers to be an expert in a field of knowledge to assist the superintendent in carrying out the superintendent’s responsibilities or in exercising the superintendent’s powers pursuant to this Act.

(2) The superintendent may apply to the court for an order directing any insurer to pay the costs, fees and expenses of an expert retained pursuant to subsection (1).

(3) On an application pursuant to subsection (2), the court may make any order respecting the payment of costs, fees and expenses that the court considers appropriate”.

Section 18 amended

6 Section 18 is amended by adding “the person appointed attorney of the insurer by a power of attorney filed pursuant to section 37.1, or, where no appointment of an attorney is then in effect, upon” after “served upon”.

New section 24

7 Section 24 is repealed and the following substituted:

“Right of appeal

24(1) Any person who is directly affected by an order or decision of the superintendent pursuant to this Act, other than an order or decision of the superintendent pursuant to subsection 466.1(7.11), (7.3) or (7.9), may appeal the order or decision to the court on a question of law only.

(2) An appeal pursuant to subsection (1) is to be commenced within 30 days after the decision or order was made by:

- (a) filing a notice of appeal with the court; and
- (b) at the time of filing a notice of appeal pursuant to clause (a), serving a copy of the notice of appeal on the superintendent.

(3) An appeal does not stay the superintendent’s order or decision unless the court orders otherwise.

(4) On an appeal, the court may do all or any of the following:

- (a) uphold the superintendent’s order or decision;
- (b) overturn the superintendent’s order or decision;
- (c) refer the matter back to the superintendent for further consideration;
- (d) make any order as to costs that the court considers appropriate.

(5) Except where otherwise specifically provided, every order or decision of the superintendent is final, and no order or decision of the superintendent shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari*, mandamus or any other process or proceeding in any court”.

New section 37.1

8 The following section is added after section 37:**“Power of attorney**

37.1(1) Every licensed insurer that has its head office outside of Saskatchewan shall file with the superintendent an executed copy of a power of attorney appointing a person or persons resident in Saskatchewan to act as the insurer’s attorney for the purposes of receiving:

(a) service of process in all actions and proceedings against the insurer in Saskatchewan for any liability incurred by the insurer in Saskatchewan; and

(b) all notices from the superintendent.

(2) The power of attorney must declare that service of process or notices mentioned in subsection (1) on the person or persons appointed attorney is legal and binding on the insurer.

(3) A copy, certified by the superintendent, of a power of attorney filed with the superintendent is admissible in evidence as conclusive proof, without proof of the office or signature of the superintendent, of the authority of the person or persons named in the power of attorney to act as the insurer’s attorney for the purposes mentioned in subsection (1).

(4) Where the insurer changes its attorney, it shall, within seven days of the appointment, comply with subsection (1).

(5) After the power of attorney is filed, any process in any action or proceeding against the insurer for liability incurred in Saskatchewan may be validly served on the insurer or its attorney, but nothing in this section renders invalid service in any other modes in which the insurer may be lawfully served”.

New section 45.1

9 The following section is added after section 45:**“Insurer to notify superintendent of certain actions**

45.1 No licenced insurer transacting insurance in a foreign jurisdiction shall fail to immediately notify the superintendent in writing of:

(a) the suspension, cancellation or amendment of its authority to do business in any jurisdiction where it carries on business as an insurer; or

(b) the imposition of any terms or conditions on, or the variation or modification of any terms or conditions imposed on, its authority to do business in any jurisdiction where it carries on business as a insurer”.

New section 82.1

10 The following section is added after section 82:**“Records**

82.1 Every provincial insurer shall maintain, in Saskatchewan or in any other location that the superintendent may approve, records of any type that may be prescribed in the regulations”.

1998

SASKATCHEWAN INSURANCE

Section 86 amended

11 Subsection 86(1) is repealed and the following substituted:

“(1) Every licensed insurer shall:

(a) prepare annually and deliver to the superintendent, on or before the last day of February in each year, a statement of the condition of the affairs of the insurer for the year that ended, at the election of the company as stated in its bylaws:

(i) on the 31st day of October preceding the delivery of the statement; or

(ii) on the 31st day of December preceding the delivery of the statement; and

(b) prepare and deliver to the superintendent when required by the superintendent an interim statement for the period specified by the superintendent containing any information the superintendent or the minister considers necessary to assess the insurer's condition of affairs.

“(1.1) A statement of the condition of the affairs of an insurer pursuant to clause (1)(a) must be in a form approved by the superintendent and must set out:

(a) the assets, liabilities, revenues and expenses of the insurer for the year;

(b) particulars of the business done by the insurer in Saskatchewan during the year; and

(c) any other information that the superintendent or minister considers necessary to assess an insurer's condition of affairs.

“(1.2) A statement of the condition of the affairs of an insurer pursuant to clause (1)(a) must be accompanied by a report of an auditor prepared in the manner required by the superintendent”.

New section 94.1

12 The following section is added after section 94:**“Reports**

94.1(1) Every licensed insurer shall prepare and deliver to the superintendent a report in any form and containing any information that may be prescribed in the regulations.

(2) A report mentioned in subsection (1) is to be submitted to the superintendent within the time required by the superintendent”.

Section 109 amended

13 Section 109 is amended by striking out “Where there” and substituting “Subject to section 109.1, where there”.

New section 109.1

14 The following section is added after section 109:**“Relief from forfeiture on surety bond**

109.1 Failure to provide notice of a claim within the time required by a surety bond constitutes, in the absence of evidence to the contrary, non-compliance and not imperfect compliance for the purposes of relief against forfeiture or avoidance as described in section 109”.

New section 118

15 Section 118 is repealed and the following substituted:**“Insurance clauses in financing agreements**

118(1) Where a contract of insurance is given as security to a lender, or where the contract of insurance given as security is about to expire, a term in the agreement between the lender and the borrower requiring the borrower to insure is sufficiently satisfied, except as to amount, by the borrower's production of a subsisting policy of insurance issued by an insurer licensed in Saskatchewan, whether or not a specific insurer is named in the agreement.

(2) No person shall, directly or indirectly, require, as a condition precedent to any financing agreement or as a condition prerequisite for the renewal or extension of any financing agreement, that the borrower must negotiate, take out or pay the premium for a policy of insurance with a specified insurer or with any one or more of a designated group of the insurers licensed in Saskatchewan.

(3) The lender is to be named in the policy produced pursuant to subsection (1) as payee by assignment, endorsement or otherwise, and the lender may require the insurer to attach an endorsement to the policy evidencing that:

(a) no act or default of the insured before or after the production of the policy in violation of the law or of the terms of the policy prejudices the right of the lender to recover its interest under the policy or is available to the insurer as a defence to any action by the lender; and

(b) where the insurer pays to the lender any sum for loss under the policy and claims that as to the insured no liability exists, the insurer:

(i) is at once legally subrogated to all rights of the lender under the financing agreement for the balance of money owing to the extent of that payment; or

(ii) may, at its option, pay to the lender the whole amount owing to the lender under the financing agreement and receive a full assignment and transfer of the financing agreement and any securities held as collateral to that agreement.

(4) Nothing in clause (3)(b) is to be construed so as to impair the rights of the lender to recover in priority the full amount of its claim.

(5) The lender may take out or pay the premium for the policy of insurance or renewal to the amount agreed with any insurer licensed in Saskatchewan where the borrower:

(a) has not placed the insurance that was agreed to be given as security in the financing agreement and has not lodged the policy with the lender within the agreed time; or

(b) in the case of a subsisting policy, has not renewed the policy or has not substituted another policy and lodged it with the lender at least 10 days before the expiry date of the subsisting policy in accordance with this section.

(6) Where the lender has placed the contract of insurance in accordance with this section, the lender shall immediately provide to the borrower a copy of that contract of insurance.

1998

SASKATCHEWAN INSURANCE

(7) This section has effect notwithstanding any agreement, condition or stipulation to the contrary”.

New section 120.1

16 The following section is added after section 120:

“Conditional transactions prohibited

120.1(1) No insurer, agent or adjuster, and no representative of any of them, acting in an insurance transaction shall require as a condition of any transaction that a person who receives a product or service under the transaction must transact additional or other business with the insurer, agent or adjuster, or a representative of any of them, unless allowed pursuant to the regulations or authorized by the superintendent.

(2) No insurer, agent or adjuster acting in the transaction of insurance shall participate as a party to a transaction that is conditional on the sale of another product or service”.

Section 122 amended

17 Subsection 122(1) is repealed and the following substituted:

“(1) Where a judgment has been granted against a person with respect to liability against which the person is insured and the judgment has not been satisfied, the judgment creditor may recover, by action against the insurer, the lesser of:

- (a) the unpaid amount of the judgment; and
- (b) the amount that the insurer would have been liable under the policy to pay to the insured had the insured satisfied the judgment.

“(1.1) The insurer has any defense against the claim of a judgment creditor made pursuant to subsection (1) that the insurer would have had against the insured had the insured satisfied the judgment”.

Section 129 amended

18 Section 129 is amended by adding “ or in bold type at least 12 points in size” after “red ink”.

Section 213 amended

19 Subsection 213(2) is amended by striking out “in conspicuous type” and substituting “in bold type at least 12 points in size”.

Section 273 amended

20 The following clause is added after clause 273(3)(b):

“(b.1) the details respecting any other insurance that the applicant has or may acquire with respect to the crops and location to be insured”.

Section 279 amended

21(1) Subsection 279(1) is amended by striking out “the fifteenth day of September” and substituting “October 1”.

(2) Subsection 279(3) is amended by adding “agreed to at the time the endorsement is made” after “premium”.

Section 280 amended

22 Subsection 280(1) is amended by adding “or in bold type at least 12 points in size” after “red ink”.

Section 335 amended

23 Section 335 is amended by adding “or in bold type at least 12 points in size” after “red ink”.

Section 338 amended

24 Clause 338(a) is repealed and the following substituted:

“(a) ‘actuary’ means a Fellow of the Canadian Institute of Actuaries”.

Section 391 amended

25 Subsection 391(2) is amended by striking out “and liable on summary conviction to a fine of not less than \$50 nor more than \$500”.

Section 415 amended

26 Subsection 415(3) is repealed and the following substituted:

“(3) A liquidator refusing or neglecting to furnish information required pursuant to this section is guilty of an offence and, in addition to any other penalty that may be imposed, may be dismissed or removed by the court”.

Section 425 amended

27(1) Section 425 is amended by renumbering it as subsection 425(1).

(2) The following subsections are added after subsection 425(1):

“(2) The superintendent may refuse to grant a licence if the applicant has not paid in full any fees or costs associated with a hearing or investigation into the conduct of the applicant.

“(3) The superintendent may refuse to grant a licence if the applicant has not paid in full any fines or penalties assessed pursuant to this Act or the regulations”.

New section 430

28 Section 430 is repealed and the following substituted:

“Expiration of licence

430(1) Subject to subsection (2), a licence expires on the date prescribed in the regulations unless it is sooner suspended or cancelled in accordance with this Act.

(2) If authorized pursuant to the regulations, a licence continues in force indefinitely unless it is suspended or cancelled in accordance with this Act”.

Section 432 amended

29 Subsection 432(1) is repealed and the following substituted:

“(1) When an agent ceases to be an agent of the insurer or general agent named in the agent’s licence, the insurer or general agent shall immediately provide to the superintendent a written notice of the cessation setting out the reasons for the cessation.

“(1.1) The licence of an agent who has ceased to be an agent of the insurer or general agent named in the agent’s licence is suspended from the day on which the superintendent receives the notice mentioned in subsection (1)”.

Section 433 amended

30 The following subsections are added after subsection 433(2):

“(3) The superintendent may refuse to reinstate a licence if the applicant has not paid in full any fees or costs associated with a hearing or investigation into the conduct of the applicant.

“(4) The superintendent may refuse to reinstate a licence if the applicant has not paid in full any fines or penalties assessed pursuant to this Act or the regulations”.

Section 436 amended

31 The following subsections are added after subsection 436(2):

“(3) The superintendent may refuse to reinstate a licence if the applicant has not paid in full any fees or costs associated with a hearing or investigation into the conduct of the applicant.

“(4) The superintendent may refuse to reinstate a licence if the applicant has not paid in full any fines or penalties assessed pursuant to this Act or the regulations”.

Section 439 amended

32 Clause 439(d) is amended by striking out “, by anything done or omitted in connection with the business for which the licence was granted”.

New section 446.1

33 The following section is added after section 446:

“Information held in confidence

446.1(1) In this section, ‘licensee’ means a person who holds a licence pursuant to this Act and includes a person who held a licence pursuant to this Act at the time the person received any information described in subsection (3).

(2) Where a licensee receives information described in subsection (3) from a consumer for the purposes of an insurance transaction, the licensee shall not, unless authorized pursuant to the regulations:

(a) communicate any of the information to another person, including a subsidiary or associated company of the licensee, except as is necessary in the performance of a duty to the consumer arising out of that transaction or a similar transaction between the licensee and the consumer; or

(b) use the information for a purpose other than the purposes of that transaction or of a similar transaction between the licensee and the consumer.

(3) Subsection (2) applies with respect to:

(a) information directly necessary for the conclusion or performance of the consumer’s insurance transaction or proposed insurance transaction; and

(b) any other information relating to the consumer.

(4) Notwithstanding subsection (2), a licensee may communicate or use the information mentioned in clause (3)(a) or (b) for a purpose other than a purpose connected with that insurance transaction or of performing a duty to the consumer arising out of that insurance transaction or a similar transaction between the licensee and the consumer if:

(a) the consumer:

(i) is informed in writing of the specific purpose for which the information will be communicated or used and to whom the information is to be released;

- (ii) is informed in writing that he or she is not obligated to consent to the communication or use of the information, and that the insurance transaction will not be refused or cancelled because the consumer does not give consent;
 - (iii) is informed in writing that he or she may consent to the communication or use of information mentioned in clause (3)(a), in clause (3)(b) or in both clauses (3)(a) and (3)(b); and
 - (iv) consents to the communication or use of the information for that specific purpose; or
 - (b) the licensee is authorized or required to do so by an Act or regulations or by a court order.
- (5) For the purposes of subclause (4)(a)(iv), a consumer may consent to the communication or use of information mentioned in clause (3)(a), in clause(3)(b) or in both clauses (3)(a) and (3)(b).
- (6) No licensee shall:
- (a) require as a condition of any transaction that a consumer who receives a product or service under the transaction give consent pursuant to subclause (4)(a)(iv);
 - (b) cancel an insurance transaction because a consumer does not give consent pursuant to subclause (4)(a)(iv).
- (7) A consumer's consent pursuant to subclause (4)(a)(iv) is not valid unless the consent:
- (a) is in writing; and
 - (b) specifically states the information to be communicated or used, the purpose of the communication or use and to whom the information is to be released.
- (8) The superintendent may:
- (a) review the manner or form in which written consent pursuant to subclause (4)(a)(iv) is obtained from consumers; and
 - (b) direct the manner or form in which written consents are obtained.
- (9) A copy of any consent executed by the consumer pursuant to subclause (4)(a)(iv) must be provided to the consumer by the licensee at the time the consumer provides the information to that person.
- (10) Notwithstanding subsection (9), if the consumer's consent is not executed at the time that the consumer provides the information to the licensee because the consumer and the licensee are not physically in the presence of each other at the time the consumer provides the information, then before the information is communicated or used for purposes other than the purposes of that transaction or of performing a duty to the consumer arising out of that transaction or a similar transaction between the licensee and the consumer, the licensee must:
- (a) inform the consumer in writing in accordance with subclauses (4)(a)(i) to (iii);

1998

SASKATCHEWAN INSURANCE

(b) obtain the consumer's written consent in accordance with subsection (7); and

(c) provide to the consumer a copy of the consent executed by the consumer”.

Section 452 amended

34(1) Section 452 is amended by renumbering it as subsection 452(1).

(2) The following subsections are added after subsection 452(1):

“(2) The superintendent may refuse to grant a licence if the applicant has not paid in full any fees or costs associated with a hearing or investigation into the conduct of the applicant.

“(3) The superintendent may refuse to grant a licence if the applicant has not paid in full any fines or penalties assessed pursuant to this Act or the regulations”.

New section 456

35 Section 456 is repealed and the following substituted:

“Expiration of licence

456(1) Subject to subsection (2), a licence expires on the date prescribed in the regulations unless it is sooner suspended or cancelled in accordance with this Act.

(2) If authorized pursuant to the regulations, a licence continues in force indefinitely unless it is suspended or cancelled in accordance with this Act”.

Section 458 amended

36 The following subsections are added after subsection 458(2):

“(3) The superintendent may refuse to reinstate a licence if the applicant has not paid in full any fees or costs associated with a hearing or investigation into the conduct of the applicant.

“(4) The superintendent may refuse to reinstate a licence if the applicant has not paid in full any fines or penalties assessed pursuant to this Act or the regulations”.

Section 459 amended

37 Clause 459(c) is amended by striking out “, by anything done or omitted in connection with the business for which the licence was granted”.

Section 466.1 amended

38(1) The following subsections are added after subsection 466.1(2):

“(2.1) A council established pursuant to subsection (2) is a corporation and consists of the members appointed or elected in accordance with the regulations.

“(2.2) A council established pursuant to subsection (2) is not for any of its purposes a representative or an agent of the Crown, and its powers granted by this Act and the regulations are to be exercised in its own right and not as an agent of the Crown”.

(2) Subsection 466.1(4) is amended:**(a) by adding the following clause after clause (b):**

“(b.1) establish, with respect to persons or categories of persons to whom the council has issued a licence, standards of conduct, competence and proficiency and standards of training and education, including additional and continuing training and education requirements”;

(b) by adding the following clause after clause (d):

“(d.1) assess and collect the costs of investigations and hearings conducted by it and suspend licences for the licensee’s failure to pay these costs”; and

(c) by adding the following clause after clause (f):

“(f.1) assess and collect fines to be paid and penalties for late payment of fines and suspend licences for the licensee’s failure to pay fines and penalties assessed”.

(3) The following subsections are added after subsection 466.1(7):

“(7.1) A decision or order made by a council to refuse, reinstate, suspend, cancel or make conditional a licence or to assess a penalty, a fine or costs may be appealed to the superintendent, within 30 days after the decision or order, by:

- (a) an applicant who has been refused a licence pursuant to section 425 or 452;
- (b) an applicant or licensee whose licence is made subject to any limitation or conditions or any new, additional or amended limitations or conditions pursuant to section 429 or 455;
- (c) an applicant who has been refused reinstatement of a licence pursuant to section 433, 436 or 458;
- (d) a licensee whose licence has been suspended or cancelled pursuant to section 439 or 459;
- (e) a person required to pay costs assessed in accordance with regulations made pursuant to clause (4)(d.1) or a fine or penalty assessed in accordance with regulations made pursuant to clause (4)(f.1).

“(7.11) A person mentioned in subsection (7.1) may apply to the superintendent for an extension of the time within which an appeal may be commenced, and the superintendent may, if it is reasonable to do so, make an order extending the time within which an appeal may be commenced.

“(7.2) An appeal pursuant to subsection (7.1) is commenced by:

- (a) serving a notice of appeal on the superintendent; and
- (b) at the time of serving a notice of appeal pursuant to clause (a), serving a copy of the notice of appeal on the council.

“(7.21) A notice of appeal must set out:

- (a) all grounds on which the appeal is based, including:
 - (i) the nature of any error alleged in the council’s decision or order; and

- (ii) the specific grounds on which it is alleged that an error exists;
- (b) in summary form, the material facts on which the appellant relies; and
- (c) an address for the appellant for service of documents relating to the appeal.

“(7.3) Where, in the opinion of the superintendent, a person fails to provide information required pursuant to subsection (7.21), the superintendent may, at any time before determining the appeal, require the person to provide the information within a specified time, and, if the person does not provide the information within that time, the superintendent may dismiss the appeal.

“(7.31) Within seven days after receiving the notice of appeal, the superintendent shall fix a date for the appeal.

“(7.4) Immediately after receiving a notice of appeal pursuant to subsection (7.2), the council shall provide to the superintendent a copy of:

- (a) any information, evidence or material the council relied on or considered in making the decision or order that is the subject of the notice of appeal;
- (b) the transcript of the hearing conducted by the council respecting the decision or order that is the subject of the notice of appeal; and
- (c) the decision or order that is the subject of the notice of appeal and any reasons for the decision or order provided to the appellant by the council.

“(7.41) The council shall provide to the appellant or the appellant’s counsel or representative a copy of the documents provided to the superintendent pursuant to subsection (7.4) where the appellant or the appellant’s counsel or representative pays to the council the reasonable costs of making and providing a copy.

“(7.5) Subject to subsection (7.51), the superintendent shall determine the appeal on the basis of:

- (a) the materials provided pursuant to subsection (7.4);
- (b) the notice of appeal; and
- (c) any information provided pursuant to subsection (7.3).

“(7.51) Where the appellant or the appellant’s counsel presents further evidence during the hearing of an appeal:

- (a) the superintendent may, in appropriate circumstances:
 - (i) consider the further evidence;
 - (ii) exclude the further evidence;
 - (iii) direct a new hearing by the council on the basis of the further evidence and the materials mentioned in subsection (7.4); or
 - (iv) direct further inquiries by the council; and
- (b) the council may request that the superintendent exclude the evidence and the superintendent may, in appropriate circumstances, do any of the things mentioned in subclauses (a)(i) to (iv).

“(7.6) On an appeal pursuant to this section, the superintendent may:

- (a) dismiss the appeal;
- (b) allow the appeal;
- (c) direct a new hearing or further inquiries by the council;
- (d) vary the order of the council;
- (e) substitute his or her own decision for the decision of the council;
- (f) order the council to issue or reinstate a licence;
- (g) vary any terms imposed by the council on the appellant’s licence; or
- (h) make any order as to costs that the superintendent considers appropriate.

“(7.7) The council is entitled to be heard, by counsel or otherwise at the council’s own expense, at a hearing of an appeal and on an application pursuant to subsection (7.9).

“(7.8) The superintendent shall provide the appellant and the council with a decision, in writing, including the reasons for the decision.

“(7.9) The commencement of an appeal pursuant to this section does not stay the effect of the decision or order appealed from, but, on five days’ notice to the council, the appellant may apply to the superintendent for a stay of the decision or order pending the disposition of the appeal”.

(4) Subsection 466.1(8) is repealed and the following substituted:

“(8) Notwithstanding subsection (6), the superintendent may review any bylaw, rule, regulation or amendment made by a council on the superintendent’s own initiative or at the request of a person who, in the superintendent’s opinion, has an interest in the review.

“(8.1) Subject to subsections (7.1) and (8), the superintendent may review any decision made by a council that relates to the exercise of powers, functions and responsibilities delegated to the council or prescribed by the regulations on the superintendent’s own initiative or at the request of a person who, in the superintendent’s opinion, has an interest that justifies a review”.

(5) Subsection 466.1(9) is repealed and the following substituted:

“(9) A decision of the superintendent as a result of an appeal pursuant to subsection (7.1) or a review pursuant to subsection (8.1) may be appealed to the court, and section 24 applies, with any necessary modifications, to that appeal”.

Section 467 amended

39 Section 467 is amended:

(a) by adding the following clause after clause (a):

“(a.1) defining, enlarging or restricting the meaning of any word or phrase used in this Act but not defined in this Act”;

(b) by repealing clause (d) and substituting the following:

“(d) exempting any person or insurer, or any classes of persons or insurers, from all or part of this Act, and prescribing terms and conditions with which the exempted person, insurer, or class of persons or insurers, must comply”;

(c) by adding the following clauses after clause (n):

“(n.1) for the purposes of sections 430 and 456:

(i) prescribing an expiry date for licences and, if required, prescribing different expiry dates for different classes of licences;

(ii) allowing a licence or class of licences to continue in force indefinitely, unless sooner suspended or cancelled;

“(n.2) regarding the collection, retention, use or disclosure of consumer information by insurers, agents or adjusters;

“(n.3) requiring insurers, agents or adjusters to establish procedures regarding the collection, retention, use or disclosure of information about their consumers or any class of consumers”; **and**

(d) by adding the following clauses after clause (o):

“(p) respecting the records to be maintained by insurers for the purposes of section 82.1, including prescribing the length of time that those records must be maintained by insurers;

“(q) prescribing the information to be contained in and the form of reports for the purposes of section 94.1”.

New Parts XIX and XX

40 Part XIX of the Act is repealed and the following substituted:

**“PART XIX
Inspections, Investigations and Enforcement**

**“DIVISION 1
Interpretation of Part**

“Interpretation of Part

468 In this Part:

(a) **‘Act’** includes the regulations and any orders or directions of the superintendent issued pursuant to this Act;

(b) **‘property’** includes computer hardware;

(c) **‘records’** includes any information that is recorded or stored in any medium or by means of any device, including a computer or electronic media.

**“DIVISION 2
Audits, Examinations, Inspections and Investigations**

“General powers

469(1) Subject to subsection (2), for the purpose of ensuring that any person governed by this Act is complying with this Act, the superintendent may do all or any of the following:

- (a) enter at any reasonable time and inspect any commercial premises used by the person;
- (b) enter at any reasonable time premises containing any records or property required to be kept pursuant to this Act or related to the affairs of the person and inspect those records or that property;
- (c) require the person and any agent, representative, director, officer or employee of the person to provide the superintendent with all reasonable assistance;
- (d) make any inquiries of a person mentioned in clause (c);
- (e) require any person mentioned in clause (c) to attend at a place and time prescribed by the superintendent;
- (f) where the superintendent is unable to make a satisfactory copy and after giving a receipt, remove any records or property and retain the records or property for any time the superintendent considers appropriate.

(2) The superintendent shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant obtained pursuant to section 472.

(3) The superintendent may serve a written demand on any person, including a trustee or a director, officer or employee of a body corporate, requiring that person to produce any records or property required to be kept pursuant to this Act or related to the affairs of a person governed by this Act.

(4) No person on whom a written demand is served pursuant to this section shall fail to produce the records or property mentioned in the written demand within the time specified in the written demand.

(5) No person shall withhold, destroy, alter, conceal or refuse to produce any records or property that the superintendent reasonably requires for the purposes of an audit, examination, investigation or inspection pursuant to this Act.

(6) If the superintendent demands any records or property pursuant to this section, the superintendent may examine the records or property and make copies of the records in accordance with section 473.

(7) For the purposes of producing a readable record from a computer system used by a person on whom a written demand is made pursuant to subsection (3), the superintendent may use any computer hardware or software belonging to or used by that person.

(8) If the originals of any record are to be removed from a premises, the superintendent shall take all reasonable steps to ensure that a copy of the records is left at the premises to allow business to be carried on.

“Proceedings before superintendent

470(1) For the purpose of ensuring compliance with this Act or of carrying out any proceeding before the superintendent, the superintendent has the same power as is vested in the court:

- (a) to summon and enforce the attendance of witnesses;
- (b) to compel witnesses to give evidence; and
- (c) to compel witnesses to produce records or property.

(2) If a person summoned as a witness pursuant to subsection (1) fails or refuses to attend, answer questions or produce records or property in that person's custody or possession, the failure or refusal makes that person liable, on application to the court by the superintendent, to be committed for contempt by the court in the same manner as if that person were in breach of an order or judgment of the court.

(3) The rules of evidence do not apply to proceedings before the superintendent.

(4) The superintendent may issue orders prescribing the rules, forms and procedures to be followed in proceedings before the superintendent.

(5) A person attending a proceeding before the superintendent may be represented by a lawyer or agent at that person's own expense.

(6) If the superintendent has served on a person a written notice of the time and place for a hearing and that person does not appear at the hearing, the superintendent may proceed with the hearing and make any decision or take any action the superintendent considers appropriate as though that person had appeared.

“Warning

471(1) If, after or during an audit, examination, inspection or investigation of a person, the superintendent suspects that the person may have contravened this Act or may have committed an offence against this Act or any other Act, the superintendent shall inform that person that:

- (a) the superintendent suspects that an offence may have been committed; and
- (b) the person is not obliged to make any written or oral statement and that any statement made by the person may be used against that person in a subsequent proceeding for the offence.

(2) In a warning pursuant to subsection (1), the superintendent shall inform the person of the nature of the alleged offence.

(3) This section does not apply to a contravention that the superintendent considers to be of a minor nature.

“Warrant

472(1) Where a justice of the peace or a judge of the Provincial Court of Saskatchewan is satisfied by information on the oath of the superintendent that there are reasonable grounds to believe that an offence against this Act has occurred and that evidence of that offence is likely to be found or that a person required to produce or provide any record or property refuses or neglects to produce or provide that record or property, the justice of the peace or the judge of the Provincial Court of Saskatchewan may issue a warrant to do all or any of the following:

- (a) enter and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.

(2) With a warrant issued pursuant to subsection (1), the superintendent may:

- (a) enter at any time and search any place or premises named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) open and examine the contents within any trunk, box, bag, parcel, closet, cupboard or other receptacle that the superintendent finds in the place, premises or vehicle;
- (d) require the production of and examine any records or property that the superintendent believes, on reasonable grounds, may contain information related to an offence against this Act;
- (e) remove, for the purpose of making copies, any records examined pursuant to this section; and
- (f) seize and remove from any place, premises or vehicle searched anything that may be evidence of an offence against this Act.

(3) Subject to subsection (4), the superintendent may exercise all or any of the powers mentioned in subsection (2) without a warrant issued pursuant to this section if:

- (a) the conditions for obtaining a warrant exist; and
- (b) the superintendent has reasonable grounds to believe that the delay necessary to obtain a warrant would result:
 - (i) in danger to human life or safety; or
 - (ii) in the loss, removal or destruction of evidence.

(4) The superintendent shall not enter any premises that are a private dwelling without the consent of the occupier or a warrant issued pursuant to this section.

“Copies of documents

473(1) Where any records are examined, removed, produced or provided pursuant to this Part, the superintendent may make copies of those records.

- (2) The superintendent shall:
 - (a) make those copies with reasonable dispatch; and
 - (b) promptly return the originals of the records to:
 - (i) the place from which they were removed; or
 - (ii) any other place agreed to by the superintendent and the person who furnished them or from whom they were seized.
- (3) A record certified by the superintendent to be a copy made pursuant to this Part:
 - (a) is admissible in evidence without proof of the office or signature of the person making the certificate; and
 - (b) has the same probative force as the original record.

“Travel costs

474(1) If the superintendent or any person engaged, appointed or retained by the superintendent for the purpose of assisting the superintendent in carrying out an audit, examination, inspection or investigation is required to travel outside Saskatchewan to conduct an audit, examination, inspection or investigation of a person, the superintendent may direct the person being audited, examined, inspected or investigated to pay all of the reasonable costs associated with the audit, examination, inspection or investigation.

(2) No person shall fail to pay an amount that he, she or it is directed to pay pursuant to subsection (1).

“Receiver or receiver manager

475(1) The superintendent may do any of the things mentioned subsection (2) where any of the following circumstances exists:

- (a) the superintendent is about to commence or has commenced an audit, examination, inspection or investigation;
 - (b) the superintendent has reasonable grounds to believe that a contravention of this Act or any other Act may have been committed;
 - (c) the superintendent believes that it is in the public interest.
- (2) In the circumstances mentioned in subsection (1), the superintendent may do all or any of the following:
- (a) apply to the court to appoint an interim receiver, custodian, receiver manager, trustee or liquidator to manage all or any part of the records or property of a person governed by this Act;
 - (b) order, in writing, a person having on deposit, under control or for safe keeping any funds, securities or other property of any other person to hold those funds, securities or other property;
 - (c) order, in writing, any person to refrain from withdrawing any funds, securities or other property from any other person who has any of those funds, securities or property on deposit, under control or for safe keeping;

(d) order, in writing, any person to hold all funds, securities or other property that belong to other persons and that are in that person's possession or control in trust for any interim receiver, custodian, receiver manager, trustee or liquidator appointed pursuant to:

- (i) the *Bankruptcy and Insolvency Act* (Canada);
- (ii) *The Business Corporations Act*;
- (iii) *The Co-operatives Act, 1996*;
- (iv) the *Insurance Companies Act* (Canada);
- (v) *The Queen's Bench Act*;
- (vi) the *Winding-up Act* (Canada); or
- (vii) this section.

(3) A person who is the subject of an order of the superintendent pursuant to this section may apply to the superintendent for an order of clarification.

(4) As soon as is practicable, and in no case more than 15 days after making an order pursuant to this section, the superintendent shall apply to the court for an order continuing the superintendent's order or for any other order that the court may consider appropriate.

(5) On an application pursuant to clause (2)(a), the court may appoint an interim receiver, custodian, receiver manager, trustee or liquidator of the records or property of the person where the court is satisfied that the appointment of an interim receiver, custodian, receiver manager, trustee or liquidator of all or any part of the records or property of the person is in the best interests of:

- (a) the policy holders of the person;
- (b) the creditors of the person;
- (c) any other persons who have any funds, securities or other property in the possession or under the control of the person; or
- (d) any persons the court considers interested in the matter.

(6) On an *ex parte* application made by the superintendent, the court may make an order pursuant to subsection (5) appointing an interim receiver, custodian, receiver manager, trustee or liquidator for a period not exceeding 15 days.

(7) An interim receiver, custodian, receiver manager, trustee or liquidator of the property appointed pursuant to this section:

- (a) is the interim receiver, custodian, receiver manager, trustee or liquidator of all or any part of the property belonging to the person or held by the person on behalf of or in trust for any other person; and
- (b) when directed by the court, has authority to wind up or manage the business and affairs of the person and has all the powers necessary or incidental to that function.

(8) An order made by the court pursuant to this section may be varied or discharged on an application to the court made on notice to all parties the court considers interested in the matter.

(9) A person against whom an order is made pursuant to this section shall pay any costs associated with carrying out or administering the order.

“DIVISION 3 Offences, Penalties and Enforcement

“Offences and penalties

475.1(1) Every person who contravenes any provision of this Act is guilty of an offence.

(2) Every person who makes a false or misleading statement in any application or in any proceeding or in response to any audit, examination, inspection or investigation is guilty of an offence.

(3) Every person who solicits insurance on behalf of an unlicensed insurer is guilty of an offence.

(4) Every person who is guilty of an offence is liable on summary conviction to:

(a) in the case of an individual, a fine not exceeding \$500,000, to imprisonment for a term not exceeding 12 months or to both;

(b) in the case of a corporation, a fine not exceeding \$1,000,000.

(5) If a corporation commits an offence pursuant to this Act, any officer or director of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable on summary conviction to the penalties mentioned in this section whether or not the corporation has been prosecuted or convicted.

“Special penalties

475.11(1) An insurer or general agent who defaults in making, delivering or filing a report, return or statement required pursuant to this Act is liable to a penalty of \$500 plus \$10 for each day or part of a day after the first 10 days during which the default continues.

(2) Every insurer and every general agent is, after the end of each calendar year, liable to a penalty of \$250 with respect to each unlicensed agent from which he, she or it accepted an application for insurance, or to whom he, she or it transmitted a policy of insurance during that calendar year.

(3) On receipt of a notice from the superintendent demanding payment of a penalty pursuant to this section, the insurer or general agent shall immediately pay the penalty to the superintendent.

(4) A penalty payable pursuant to this section is a debt due to and recoverable by the Crown in right of Saskatchewan and may be recovered in the manner authorized by *The Financial Administration Act, 1993* or in any other manner authorized by law.

“Compliance orders and restitution

475.2(1) Where the court convicts a person of an offence, the court may, in addition to any penalty it may impose, do all or any of the following:

(a) order that person to comply with the provision of this Act with respect to which that person was convicted;

(b) if the court is satisfied that the convicted person has acquired any monetary benefits or that monetary benefits have accrued to the convicted person or to an associate of the convicted person:

- (i) order the convicted person to pay an additional fine in an amount equal to the amount of the monetary benefits;
- (ii) order the convicted person to pay compensation or make restitution to any person to whom the monetary benefits should be paid.

(2) In subsection (1), ‘**associate**’ means associate as defined in *The Business Corporations Act*.

“Limitation on prosecution

475.21 No prosecution for a contravention of this Act is to be commenced more than three years from the date that the facts on which the alleged contravention is based first came to the knowledge of the superintendent.

“Administrative penalties

475.3(1) If the superintendent is satisfied that a person has contravened a provision of this Act, the superintendent may make an order imposing all or any of the following penalties:

- (a) an administrative penalty of up to \$100,000;
- (b) a private or public reprimand;
- (c) that the person pay the cost, to a maximum of \$100,000, of producing material specified by the superintendent to promote education or knowledge in areas related to consumers and activities of insurers.

(2) The superintendent may make an order pursuant to this section notwithstanding the imposition of any other penalty on the person or the making of any other order by the superintendent related to the same matter.

(3) No penalty is to be assessed by the superintendent more than three years after the date the facts on which the alleged contravention is based first came to the knowledge of the superintendent.

(4) Before assessing a penalty against a person, the superintendent shall cause written notice to be served on the person:

- (a) setting out the facts and circumstances that, in the superintendent’s opinion, render the person liable to a penalty;
- (b) specifying the amount of the penalty that the superintendent considers appropriate in the circumstances; and
- (c) informing the person of his, her or its right to make representations to the superintendent.

(5) If a person is served with a written notice pursuant to this section, that person may, within 30 days after receiving the notice, make representations to the superintendent respecting whether a penalty should be assessed and the amount of any penalty.

- (6) After considering any representations, the superintendent may:
 - (a) assess a penalty and set a date by which the penalty is to be paid in full; or
 - (b) determine that no penalty should be assessed.
- (7) The superintendent shall serve written notice of his or her order on the person.
- (8) Any penalty imposed pursuant to this section is a debt due to and recoverable by the Crown in right of Saskatchewan.
- (9) After the time for filing an appeal of the superintendent's order pursuant to this section has passed and if there is no appeal or if an appeal has been made but dismissed, the superintendent may file a certificate with the court certifying the amount of the penalty imposed pursuant to this section.
- (10) A certificate filed with the court pursuant to subsection (9) has the same force and effect as if it were a judgment of that court for the recovery of a debt in the amount specified in the certificate, together with the costs of filing.

“Power of superintendent to order compliance

- 475.31(1)** The superintendent may issue an order pursuant to subsection (2) if the superintendent is satisfied that it is in the public interest or that any of the following matters exists:
- (a) a person is not complying with this Act;
 - (b) a person's activities or failure or neglect to undertake any activities will result in that person not complying with this Act;
 - (c) a person's activities or failure or neglect to undertake any activities may harm the interests of consumers.
- (2) In any of the circumstances mentioned in subsection (1), the superintendent may order a person to do all or any of the following:
- (a) cease doing an act or to cease failing or neglecting to do an act;
 - (b) comply with this Act;
 - (c) do or refrain from doing any other thing that the superintendent considers necessary.
- (3) The superintendent shall not issue an order pursuant to this section without giving the person an opportunity to be heard.
- (4) Notwithstanding subsection (3), if the superintendent considers it necessary to protect the public interest, the superintendent may immediately issue an order pursuant to this section without giving the person an opportunity to be heard, but shall give the person an opportunity to be heard within 15 days after the date on which the superintendent issued the order.

“Power of court to order compliance

475.4(1) If the superintendent is of the opinion that a person has failed to comply with this Act, the superintendent may apply to the court for all or any of the following:

- (a) an order directing the person to comply with this Act or restraining that person from contravening this Act;
- (b) an order directing the directors and officers of a body corporate to comply with this Act or restraining those directors and officers from contravening this Act;
- (c) any other order, relief or remedy that the superintendent may request.

(2) On an application pursuant to subsection (1), the court may make any order that the court considers necessary.

“Costs

475.41(1) In this section, **‘proceeding’** includes an audit, examination, inspection or investigation pursuant to this Act.

(2) Subject to the regulations and after conducting a proceeding respecting a person, the superintendent may, after giving the person an opportunity to be heard, order the person to pay the costs of or related to the proceeding if the superintendent is satisfied that the person whose affairs were the subject of the proceeding has not complied with a provision of this Act.

(3) For the purposes of subsection (2), the costs that the superintendent may order the person to pay include all or any of the following:

- (a) costs incurred with respect to services provided by a person engaged, appointed or retained by the superintendent for the purposes of the proceeding;
- (b) costs of obtaining a warrant;
- (c) costs of matters preliminary to the proceeding;
- (d) costs for time spent by the superintendent, by any members of the public service of Saskatchewan employed in the office of the superintendent or by any persons engaged, appointed or retained by the superintendent;
- (e) fees paid to a witness;
- (f) costs of legal services provided to the superintendent.

(4) Where a person is convicted of an offence pursuant to this Act, the superintendent may, after giving the person an opportunity to be heard, order the person to pay, subject to the regulations, the costs of any investigation carried out with respect to that offence, including any costs incurred with respect to either or both of the following:

- (a) the provision of services by persons engaged, appointed or retained by the superintendent;
- (b) the appearance of any witnesses.

- (5) The superintendent may file a certificate with the court certifying the amount of the costs that the person is required to pay pursuant to subsections (2) to (4).
- (6) A certificate filed pursuant to subsection (5) with the court has the same force and effect as if it were a judgment of that court for the recovery of a debt in the amount specified in the certificate, together with the costs of filing.
- (7) *The Queen's Bench Rules* respecting costs and the taxation of costs do not apply to costs mentioned in this section.
- (8) No provision of this Act is to be interpreted as precluding the court from ordering costs payable to the superintendent.
- (9) If costs are awarded to the superintendent in any proceeding, the court shall award a counsel fee to the superintendent, notwithstanding that the superintendent was represented by a member of the public service of Saskatchewan.

“PART XX General Provisions

“Power of superintendent to review, rescind, amend or vary orders

475.5(1) On the request of any person directly affected by an order of the superintendent or on the superintendent's own initiative, the superintendent may review any order made by the superintendent, and, if the superintendent considers that it would not be prejudicial to the public interest, the superintendent may rescind or amend the order or make additional orders for the purpose of:

- (a) correcting the original order;
- (b) ensuring compliance with the original order;
- (c) dealing with any material change in circumstances since the original order was issued; or
- (d) interpreting the original order.

(2) Before rescinding or amending an order or making an additional order pursuant to subsection (1), the superintendent shall serve a written notice on persons directly affected by the original order and on any other persons the superintendent considers interested in the original order.

“Defamation

475.51(1) No person, including the superintendent, an employee in the office of the superintendent, an insurance council or a member of an insurance council, is liable in any action for defamation based on any act done or omitted to be done, or any statement made or information provided, by that person in the carrying out of that person's responsibilities pursuant to this Act.

(2) No person is liable in any action for defamation based on any statement made or information provided by the person to the superintendent, an insurance council or any person who is authorized or required to do any matter or thing by this Act.

“Immunity

475.6(1) No action or other proceeding lies or shall be instituted against:

- (a) the Crown in right of Saskatchewan, the minister, the superintendent or any member of the public service of Saskatchewan employed in the office of the superintendent;
- (b) any representative of the superintendent;
- (c) any person engaged, appointed or retained by the superintendent to make or conduct any audit, examination, inspection or investigation or to do any other thing pursuant to this Act; or
- (d) an insurance council, any member of an insurance council or any person acting under the authority of a council;

where the person mentioned in clause (a), (b), (c) or (d) is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused, permitted or authorized to be done, attempted to be done or omitted to be done pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any responsibility imposed by this Act or the regulations.

(2) Subject to subsection (1), no person has any rights or remedies and no action or other proceeding lies or shall be instituted against any other person with respect to any act or omission of that other person done or omitted in compliance with and not in contravention of this Act, the regulations or any direction, decision, order, ruling or other requirement made or given pursuant to this Act or the regulations.

(3) A decision made by the superintendent in the exercise of a discretionary power given pursuant to this Act to do or not to do a thing does not constitute negligence.

“Superintendent and others not compellable to give evidence

475.7 Except in the case of a prosecution respecting a contravention of this Act, the superintendent, any member of the public service employed in the office of the superintendent, any representative of the superintendent, any person engaged, appointed or retained by the superintendent to make or conduct any audit, examination, inspection or investigation or to do any other thing pursuant to this Act, and any member or employee of an insurance council are not compellable to give evidence in a court or in a proceeding of a judicial nature to which the superintendent is not a party concerning any information obtained by them or that came to their attention in the exercise of the powers, carrying out of the responsibilities or carrying out of the functions of the superintendent pursuant to this Act.

“Certificate of superintendent

475.8 A certificate of the superintendent certifying all or any of the following facts is admissible in evidence as proof, in the absence of evidence to the contrary, of the facts stated in the certificate without proof of the signature or official position of the person purporting to have signed the certificate:

- (a) that a person named in the certificate was or was not licensed;
- (b) that a licence was issued to a person on a date set out in the certificate;

- (c) that the licence of a person was suspended or cancelled;
- (d) that a licence issued to a person was made subject to terms and conditions.

“Service

475.9(1) Any notice or other document that is required to be served pursuant to this Act or in any proceeding or matter under the jurisdiction of the superintendent may be served:

- (a) by personal service made:
 - (i) in the case of an individual, on that individual;
 - (ii) in the case of a partnership, on any partner; or
 - (iii) in the case of a corporation, on any officer or director of the corporation;
 - (b) by registered or certified mail addressed to the last address of the person to be served known to the superintendent;
 - (c) by any other means prescribed in the regulations;
 - (d) in any case where the superintendent is satisfied that it is not practicable to effect service by any of the means mentioned in clauses (a) to (c), by any method that the superintendent may direct; or
 - (e) in the case of a notice to the public, or to persons who are too numerous to be served individually, by publishing the notice in any manner that the superintendent may direct.
- (2) A notice or document sent by registered mail is deemed to have been served on the seventh day following the date of its mailing unless the person to whom it was mailed establishes that, through no fault of his, her or its own, the person did not receive the notice or document or received it at a later date.
- (3) A notice or document sent by certified mail is deemed to have been served on the date on which it reached the premises to which it is addressed.
- (4) Service of a notice or document by any means prescribed in the regulations is to be proved in the manner prescribed in the regulations.
- (5) A notice or other document required to be served on the superintendent may be served:
- (a) by leaving it at the office of the superintendent;
 - (b) by registered or certified mail addressed to the address of the office of the superintendent;
 - (c) by any other means prescribed in the regulations.
- (6) Any person entitled to be served with a notice or a document may at any time waive, in writing, service of the notice or document.
- (7) For the purposes of this Act, service of a notice or document may be proved by the oral testimony or affidavit of the person who served the notice or document”.

Coming into force

41 This Act comes into force on proclamation.

