

1980

c 298 Motor Vehicle Accident Claims Act

Ontario

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CHAPTER 298

Motor Vehicle Accident Claims Act

1. In this Act,

Interpre-
tation

- (a) "Director" means the Director of the Motor Vehicle Accident Claims Fund appointed for the purposes of this Act;
- (b) "driver's licence" means a driver's licence issued under the *Highway Traffic Act*; R.S.O. 1980,
c. 198
- (c) "Fund" means the Motor Vehicle Accident Claims Fund;
- (d) "insured motor vehicle" means a motor vehicle,
 - (i) that is insured under a motor vehicle liability policy in accordance with the *Insurance Act*, R.S.O. 1980,
c. 218 or
 - (ii) in respect of which there is on deposit with the Registrar money, securities or a bond in an amount equal to the minimum limit of liability prescribed under section 219 of the *Insurance Act*, or
 - (iii) in respect of which the owner is exempt from the payment of registration fees under the regulations made under the *Highway Traffic Act*, or
 - (iv) that is registered under the *Highway Traffic Act* in the name of a municipality;
- (e) "licence" means a driver's licence issued under the *Highway Traffic Act*;
- (f) "Minister" means the Minister of Consumer and Commercial Relations;
- (g) "Ministry" means the Ministry of Consumer and Commercial Relations;

R.S.O. 1980,
c. 198

- (h) "permit" means an owner's permit issued under the *Highway Traffic Act*;
- (i) "Registrar" means the Registrar of Motor Vehicles;
- (j) "Superintendent" means the Superintendent of Insurance;
- (k) "uninsured motor vehicle" means a motor vehicle that is not an insured motor vehicle. R.S.O. 1970, c. 281, s. 1; 1972, c. 1, s. 46 (2); 1973, c. 13, s. 1, *revised*.

Fund
established

2.—(1) There shall be a fund to be known as the Motor Vehicle Accident Claims Fund into which shall be paid the fees paid under this section. R.S.O. 1970, c. 281, s. 2 (1).

Fee on
issue or
renewal of
licence

(2) Upon the issue or renewal of a driver's licence, there shall be paid to the Fund by the person to whom the licence or renewal is issued such fee as may be prescribed by the Lieutenant Governor in Council. R.S.O. 1970, c. 281, s. 2 (4), *revised*.

Fund may be
subsidized

(3) The Lieutenant Governor in Council, having regard to the condition of the Fund and the amount paid out of the Fund during any period, may direct payment out of the Consolidated Revenue Fund of such an amount as may be considered necessary or advisable to subsidize the Fund.

Interest
credited
to Fund

(4) Interest shall be credited to the Fund out of the Consolidated Revenue Fund at a rate to be determined by the Lieutenant Governor in Council, and such interest shall be made up at the close of each fiscal year upon the balance in the Fund at the end of the previous calendar year.

Administra-
tion
expenses

(5) The Lieutenant Governor in Council in each year shall authorize the payment out of the Fund to the Consolidated Revenue Fund of an amount for the payment of expenses in connection with the administration of the Fund. R.S.O. 1970, c. 281, s. 2 (6-8).

Superinten-
dent deemed
agent for
service re
uninsured
vehicles

3. The Superintendent shall be deemed to be an agent of the owner and of the operator of every uninsured motor vehicle for service of notice or process in an action in Ontario arising out of the use or operation in Ontario of the uninsured motor vehicle, and, where such an action is commenced,

- (a) a notice or process shall be served on the Superintendent by leaving a copy thereof with or at the office of the Superintendent; and

- (b) a copy of the notice or process shall be sent forthwith by the Director by registered mail to the defendant at his last address as recorded with the Ministry of Transportation and Communications. 1973, c. 13, s. 3.

4.—(1) Where the death of or personal injury to or loss of or damage to property of any person is occasioned in Ontario by an uninsured motor vehicle, any person who would have a cause of action against the owner or driver of such uninsured motor vehicle in respect of such death, personal injury, loss or property damage, except a person entitled to make an application under subsection 6 (1), may make application, in a form prescribed by the Minister, for payment out of the Fund of the damages in respect of such death, personal injury, loss or property damage, provided that only that amount by which the judgment exceeds \$100 is payable out of the Fund. R.S.O. 1970, c. 281, s. 5 (1); 1979, c. 87, s. 17 (3).

Application for payment out of Fund where person has cause of action

(2) Upon receipt of an application under subsection (1), the Minister shall, by registered mail, forward a notice of the application for payment out of the Fund to the owner and the driver of the uninsured motor vehicle against whom liability for the damages occasioned by the operation of the uninsured motor vehicle is alleged, to their last addresses as recorded with the Ministry of Transportation and Communication. R.S.O. 1970, c. 281, s. 5 (2); 1973, c. 13, s. 4 (1).

Notice to owner and driver

(3) The Minister may, in respect of an application made under subsection (1), make payment out of the Fund, subject to section 21, of an amount that he considers proper in all the circumstances if,

Payment out of Fund authorized

- (a) the applicant executes a release under seal of all claims arising out of the motor vehicle accident that occasioned the damages to be paid out of the Fund; and
- (b) subject to clause (c), the owner and driver of the uninsured motor vehicle, against whom liability for the damages occasioned by the operation of the motor vehicle is alleged, execute a consent to the payment of the sum for damages out of the Fund and also execute under seal an undertaking to repay to the Fund the amount to be paid from the Fund; or
- (c) the person to whom a notice is sent in accordance with subsection (2) does not reply within thirty days of the date upon which the notice was sent either,

(i) by mail, or

(ii) by attending in person at the place named in the notice,

and disputes his liability to the person making application under subsection (1).

Rights of insured to which insurer subrogated
R.S.O. 1980, c. 218

(4) The release executed under clause (3) (a) does not affect the rights of recovery of an insured against any person to which an insurer becomes subrogated under section 213 of the *Insurance Act*.

Minister subrogated to rights of applicant

(5) Where an amount is paid out of the Fund under subsection (3), the Minister is subrogated to the rights of the person to whom such amount is paid and the Minister may maintain an action in his name or in the name of such person against any other person or persons responsible for the use or operation of the uninsured motor vehicle. R.S.O. 1970, c. 281, s. 5 (3-5).

Suspension of licence

(6) Where payment is made under subsection (3), the driver's licence of the person to whom notice was forwarded under subsection (2) shall be forthwith suspended by the Registrar and shall not be reinstated and no further licence or renewal shall be issued until such person has,

(a) repaid in full to the Fund the amount paid out; or

(b) commenced instalment repayments in accordance with an undertaking referred to in clause (3) (b) or the regulations made under section 9. 1973, c. 13, s. 4 (2).

Suspension on default of payment

(7) Where a person who has commenced repayment of the amount paid out of the Fund on the undertaking referred to in clause (3) (b) or by the payment of instalments in accordance with the regulations under section 9 is in default in any payment for a period of ten days, the Registrar upon receiving notice of such default from the Director shall forthwith suspend the driver's licence of such person. R.S.O. 1970, c. 281, s. 5 (7); 1973, c. 13, s. 4 (3).

Application for payment of judgment

5.—(1) Subject to section 6, where a person recovers in any court in Ontario a judgment for damages on account of injury to or the death of any person or loss of or damage to property occasioned in Ontario by a motor vehicle owned or operated by the judgment debtor within Ontario, upon the

determination of all proceedings, including appeals, he may make application, in the form prescribed by the Lieutenant Governor in Council, for and the Minister shall pay the amount of the judgment or of the unsatisfied portion thereof out of the Fund, provided that, in respect of a judgment for loss of or damage to property, only that amount by which the judgment exceeds \$100 is payable out of the Fund. R.S.O. 1970, c. 281, s. 6 (1); 1979, c. 87, s. 17 (4).

(2) Where an application is made to the Minister under subsection (1), the Minister at any time within thirty days of the receipt of the application or within such further time as may be allowed upon application to a judge of the Supreme Court give written notice to the applicant of any objection to payment of the judgment or part of the judgment, and, where the Minister gives the notice, the applicant may apply by way of originating notice to a judge of the Supreme Court for a finding or determination in respect of any matter in connection with the application for payment out of the Fund.

Where Minister objects to payment

(3) The Minister shall not pay out of the Fund any amount in respect of a judgment unless the judgment was given in an action brought against all persons against whom the applicant might reasonably be considered as having a cause of action in respect of the damages in question and prosecuted against every such person to judgment or dismissal. R.S.O. 1970, c. 281, s. 6 (2, 3).

Action against all persons reasonably liable to be sued

6.—(1) Section 5 does not apply in the case of a judgment that has been signed in an action in which,

Application of s. 5

- (a) the defendant did not enter an appearance; or
- (b) the defendant did not file a statement of defence; or
- (c) the defendant did not appear in person or by counsel at the trial; or
- (d) the defendant did not appear in person at an examination for discovery; or
- (e) judgment was signed upon the consent or with the agreement of the defendant,

unless the Minister has been given notice of such failure, consent or agreement and has been afforded an opportunity to take such action as he may consider advisable under subsection (2).

Rights of
Minister

(2) Where the Minister receives notice under subsection (1), he may, if he considers it advisable, enter an appearance within thirty days, file a defence, make payment into court, appear by counsel at the trial or take such other action as he may consider appropriate on behalf and in the name of the defendant, and may thereupon, on behalf and in the name of the defendant, conduct his defence, and may, where he considers it advisable to do so, consent to judgment in such amount as he may consider proper in all the circumstances, and all acts done in accordance therewith shall be deemed to be the acts of such defendant.

Reopening
pleadings

(3) Where pleadings have been noted closed, the Minister may, upon giving notice to the registrar, local registrar or clerk of the court that he intends to defend the action on behalf and in the name of the defendant, reopen the pleadings upon praecipe.

Minor
defendant

(4) Where the defendant is a minor, the Minister may exercise the rights and take the action referred to in subsection (2) in the name of the minor without the appointment of a guardian *ad litem* and may assert a counterclaim on behalf of the minor without a next friend.

Deceased
defendant

(5) Where a deceased person, if living, would be the defendant or the defendant in the action dies and the personal representative, if any, of the deceased person does not defend the action and no administrator *ad litem* is appointed, the Minister may exercise the rights and take the action referred to in subsection (2) in the name of the deceased and may assert a counterclaim on behalf of the estate of the deceased. R.S.O. 1970, c. 281, s. 7.

Assignment
of judgment
to Minister

7.—(1) The Minister shall not pay out of the Fund any sum under section 5 until the judgment creditor assigns the judgment to him. R.S.O. 1970, c. 281, s. 8 (1).

Lodging
assignment
with court

(2) Upon lodging a copy of the assignment of judgment, certified by the Director to be a true copy, with the registrar, local registrar or clerk, as the case may be, of the court in which the judgment was obtained, the Minister shall, to the extent of the amount of the assignment, be deemed to be the judgment creditor. R.S.O. 1970, c. 281, s. 8 (2); 1973, c. 13, s. 5.

Lodging
with
sheriff

(3) Where execution is issued in the name of the judgment creditor and a copy of the assignment of judgment, certified as prescribed in subsection (2), is lodged with the sheriff having the writ of execution, the provisions of subsection (2) apply with necessary modifications. R.S.O. 1970, c. 281, s. 8 (3).

8. Where the Minister pays out of the Fund any amount in satisfaction of a judgment, the driver's licence of the judgment debtor on whose behalf such payment is made shall forthwith be suspended by the Registrar and shall not be reinstated and no further licence or renewal shall be issued until the judgment debtor has,

Suspension
of licence

(a) repaid in full to the Fund the amount paid out; or

(b) commenced instalment repayments in accordance with the regulations made under section 9. 1973, c. 13, s. 6.

9.—(1) The Lieutenant Governor in Council may make regulations providing for the restoration of the drivers' licences and owners' permits of persons indebted to the Fund who are making repayment to the Fund in instalments.

Restoration
of licence
on instal-
ment
payments

(2) The regulations shall prescribe the classes of cases to which they apply, and shall provide for the manner of determining the amount of the instalment payments, the time and place of payment and the terms and conditions, including proof of financial responsibility, of the restoration of the licences and permits. R.S.O. 1970, c. 281, s. 10 (1, 2).

Instalment
payments
and condi-
tions of
restoration
of licence

(3) When a person is in default of any such payment for a period of ten days, the Registrar upon receiving notice of such default from the Director shall forthwith suspend the driver's licence and owner's permit or permits of such person. R.S.O. 1970, c. 281, s. 10 (3); 1973, c. 13, s. 7.

Further
suspension

10. Where the death of or personal injury to any person is occasioned in Ontario by a motor vehicle but the identity of the motor vehicle and of the driver and owner thereof cannot be established, any person who would have a cause of action against the owner or driver in respect of such death or personal injury may bring an action against the Superintendent, either alone or as a co-defendant with others alleged to be responsible for the death or personal injury. R.S.O. 1970, c. 281, s. 11; 1973, c. 13, s. 8.

Where
identity
of vehicle
cannot be
established

11. Where an action has been commenced in respect of the death of or injury to any person occasioned in Ontario by a motor vehicle and it is alleged that the death or injury was caused or contributed to by another motor vehicle, the identity of which and the owner and driver thereof cannot be established, the Superintendent may be added as a defendant on the application of any party and shall be added as a defendant on his own application. R.S.O. 1970, c. 281, s. 12; 1973, c. 13, s. 9.

Idem

Non-jury
action

12. When the Superintendent is a party to an action, the action shall be tried by a judge without a jury. R.S.O. 1970, c. 281, s. 13; 1973, c. 13, s. 10.

Where
owner
known but
identity
of driver
cannot be
established

13. When the death of or personal injury to any person is occasioned in Ontario by a motor vehicle at a time when the motor vehicle was without the owner's consent in the possession of some person other than the owner or his chauffeur and the identity of the person in possession of the motor vehicle cannot be established, any person who would have a cause of action against the person in possession of the motor vehicle in respect of such death or injury may bring an action against the Superintendent. R.S.O. 1970, c. 281, s. 14; 1973, c. 13, s. 11.

General
denial

14. In an action against the Superintendent, the Superintendent may deny generally the allegations in respect of the unidentified motor vehicle and unidentified owner and driver thereof and shall not be required to set forth the facts upon which he relies. R.S.O. 1970, c. 281, s. 15; 1973, c. 13, s. 12.

All reason-
able efforts
to ascertain
identity
condition to
granting
judgment

15. In an action against the Superintendent, a judgment against the Superintendent shall not be granted unless the court in which the action is brought is satisfied that all reasonable efforts have been made by the parties, other than the Superintendent, to ascertain the identity of the motor vehicle and of the owner and driver thereof, and that,

- (a) in the case of actions under section 10, the identity of the motor vehicle and of the owner and driver thereof cannot be established; or
- (b) in the case of actions under section 13, the identity of the driver of the motor vehicle that caused the death or injury cannot be established. R.S.O. 1970, c. 281, s. 16; 1973, c. 13, s. 13.

Time limit
for actions
against
Super-
intendent
R.S.O. 1980,
c. 198

16. All actions against the Superintendent may be commenced only within the times limited for actions under section 180 of the *Highway Traffic Act*. R.S.O. 1970, c. 281, s. 17; 1973, c. 13, s. 14.

Payment of
judgment
against
Super-
intendent

17. Where judgment is obtained against the Superintendent, upon the determination of all proceedings, including appeals, the Minister, subject to subsection 21 (6), shall pay out of the Fund to the plaintiff in action the amount of the judgment. R.S.O. 1970, c. 281, s. 18; 1973, c. 13, s. 15.

18.—(1) Where judgment has been obtained against the Superintendent, the Superintendent may at any time thereafter, by originating notice, apply, Order of judge as to owner or driver

- (a) where judgment has been obtained in the Supreme Court, to a judge or local judge thereof;
- (b) where judgment has been obtained in a county or district court, to a judge thereof; and
- (c) where judgment has been obtained in a small claims court of a county or district, to a judge of the county or district court of the county or district,

for an order declaring that any person was, at the time of the accident, the owner or driver of the motor vehicle that occasioned the death or injury in respect of which the judgment was obtained. R.S.O. 1970, c. 281, s. 19 (1); 1973, c. 13, s. 16 (1).

(2) Upon the making of an order declaring that any person was the owner or driver of a motor vehicle, Owner or driver defendant in action

- (a) such person shall for the purpose of this Act be deemed to be the defendant in the action in which judgment was given against the Superintendent, and the judgment against the Superintendent shall be deemed to be a judgment against such person; and
- (b) the Minister shall be deemed to have a judgment against such person for the amount of all moneys paid out of the Fund in respect of the judgment and accordingly has all the rights of a judgment creditor, including the right to recover any moneys that would have been payable in respect of the death or injury under any policy of insurance that was in force at the time of the accident. R.S.O. 1970, c. 281, s. 19 (2); 1973, c. 13, s. 16 (2).

19. In an action brought against the Superintendent, the Superintendent is not personally liable to satisfy a judgment obtained in the action. R.S.O. 1970, c. 281, s. 20; 1973, c. 13, s. 17. Superintendent not personally liable

20. No payment shall be made out of the Fund in respect of a claim or judgment for damages or in respect of a judgment against the Superintendent of an amount paid or payable by an insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount sought to be paid out Payments in relation to amounts payable by insurer, etc., prohibited R.S.O. 1980, c. 198

R.S.O. 1980,
c. 198

of the Fund shall be sought in lieu of making a claim or receiving a payment that is payable by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance, and no amount so sought shall be sought for payment to an insurer to reimburse or otherwise indemnify the insurer in respect of any amount paid or payable by the insurer by reason of the existence of a policy of insurance within the meaning of the *Insurance Act*, other than a policy of life insurance. R.S.O. 1970, c. 281, s. 21; 1973, c. 13, s. 18.

Limits
payable
from Fund

21.—(1) In respect of any application under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$200,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$10,000, but in any event the Minister shall not pay out of the Fund more than a total of \$10,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident.

Idem

(2) In respect of any application under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of March, 1981, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$100,000, exclusive of costs, for all damages on account of injury or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident. 1980, c. 56, s. 1 (1).

Idem

(3) In respect of any application under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$50,000, exclusive of costs, for all damages on account of injury

or death to one or more persons, or loss of or damage to property occasioned in Ontario by any one uninsured motor vehicle and arising out of any one accident, provided that any claims arising out of any loss of or damage to property shall have priority over any claims arising out of any bodily injury or death to the extent of \$5,000, but in any event the Minister shall not pay out of the Fund more than a total of \$5,000 in respect of all claims arising out of the loss of or damage to property occasioned by any one uninsured vehicle and arising out of any one accident. 1976, c. 76, s. 1 (1); 1980, c. 56, s. 1 (2).

(4) In respect of applications under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, and subject to subsection (7), the Minister shall not pay out of the Fund more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons, death of one or more persons, loss of property and damage to property arising out of any one accident, and, where in any one accident damages result from bodily injury or death and loss of or damage to property, the claims arising out of such loss of or damage to property have priority over claims arising out of such bodily injury or death to the extent of \$5,000, and in any event the Minister shall not pay out of the Fund more than a total amount of \$5,000 in respect of all claims arising out of loss of or damage to property in any one accident.

(5) In respect of applications under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, the Minister shall not pay out of the Fund,

- (a) more than \$10,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
- (b) more than \$2,000, exclusive of costs, for loss of or damage to property resulting from any one accident.

(6) In respect of applications under section 4 or 5 for payment of damages arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, the Minister shall not pay out of the Fund,

- (a) more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; and
- (b) more than \$1,000, exclusive of costs, for loss of or damage to property resulting from any one accident. R.S.O. 1970, c. 281, s. 22 (2-4).

Idem

(7) Subject to subsection (8), the Minister shall not pay out of the Fund in respect of judgments against the Superintendent for damages,

- (a) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of March, 1981, more than \$200,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (b) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1977, and before the 1st day of January, 1981, more than \$100,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (c) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of September, 1969, and before the 1st day of January, 1977, more than \$50,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons occasioned by any one uninsured motor vehicle and arising out of any one accident; or
- (d) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of October, 1962, and before the 1st day of September, 1969, more than the total amount of \$35,000, exclusive of costs, for all damages on account of injury to one or more persons and the death of one or more persons arising out of any one accident; or
- (e) arising out of motor vehicle accidents occurring in Ontario on or after the 1st day of January, 1958, and before the 1st day of October, 1962, more than \$10,000, exclusive of costs, on account of injury to or

the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$20,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident; or

(f) arising out of motor vehicle accidents occurring in Ontario after the 1st day of July, 1947, and before the 1st day of January, 1958, more than \$5,000, exclusive of costs, on account of injury to or the death of one person, and, subject to such limit for any one person so injured or killed, not more than \$10,000, exclusive of costs, on account of injury to or the death of two or more persons in any one accident. R.S.O. 1970, c. 281, s. 22 (5); 1973, c. 13, s. 19; 1976, c. 76, s. 1 (2); 1980, c. 56, s. 1 (3, 4).

(8) Where any amount is recovered from any other source in partial discharge of the judgment debt, the maximum amount prescribed in this section shall be reduced by the amount so paid, and any amount paid out of the Fund in excess of the amount authorized by this section may be recovered by action brought by the Minister. Partial discharge of judgment debt

(9) The Minister shall not pay out of the Fund any amount for interest on a judgment or interest on costs. R.S.O. 1970, c. 281, s. 22 (6, 7). Interest

22.—(1) In this section, “residence” shall be determined as of the date of the motor vehicle accident as a result of which the damages are claimed. Interpretation

(2) The Minister shall not pay out of the Fund any amount in favour of a person who ordinarily resides outside of Ontario unless such person resides in a jurisdiction in which recourse of a substantially similar character to that provided by this Act is afforded to residents of Ontario, provided that no payment shall include an amount that would not be payable by the law of the jurisdiction in which such person resides. R.S.O. 1970, c. 281, s. 23. Payments to non-residents

23.—(1) The Minister shall pay out of the Fund costs of an action but not more than the actual disbursements and fees as awarded in the judgment as between the parties to the action. Costs

(2) Where, by reason of an action having been maintained in part by an insurer, an application under this section is for payment out of the Fund of only part of the amount of the judgment obtained in the action, the Minister shall not pay out of the Fund more than that part of the costs of the action as Idem

awarded in the judgment as between parties to the action that bears the same proportion to the whole of such costs as the total amount of the judgment, less the amount of the insurer's interest in the judgment, bears to the total amount of the judgment.

Solicitor's
fee

(3) Where a solicitor has completed the application referred to in subsection 5 (1) and the assignment of judgment and has issued execution and filed it with the sheriff, he is entitled to a fee of \$30 out of the Fund, and such fee includes disbursements.

Direction
of Minister
for payment
of solicitor's
fee

(4) If the Minister is satisfied that it is not feasible to issue and file execution as required under subsection (3), he may waive such requirements, and in such case the solicitor is entitled to the fee under subsection (3). R.S.O. 1970, c. 281, s. 24.

Bill of
costs to be
taxed and
filed

24.—(1) No money shall be paid out of the Fund under or in respect of an order or judgment until the bill or bills of costs of the barrister or solicitor acting or who acted for the applicant in the application or action that resulted in the order or judgment, as taxed on a solicitor and client basis, is filed with the Minister.

Fees
limited to
taxed costs

(2) No amount shall be charged or received either directly or indirectly for legal services in connection with any application or action referred to in subsection (1), other than the amounts as taxed on a solicitor and client basis in the bill or bills of costs.

No order
required

(3) No order is required to tax such a bill. R.S.O. 1970, c. 281, s. 25.

Practice
and
procedure

25. The practice and procedure of the Supreme Court or the court in which the application or action is brought, including the right of appeal and the practice and procedure relating to appeals, apply to an application or action brought under this Act. R.S.O. 1970, c. 281, s. 26.