

## BILL 5 – 2021

### INSURANCE CORPORATION AMENDMENT ACT, 2021

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

*1 Section 41 of the Insurance Corporation Act, R.S.B.C. 1996, c. 228, is repealed.*

*2 The following Parts are added:*

#### PART 3 – FAIRNESS OFFICER

##### Definitions

54 In this Part:

“**complainant**” means a person who makes a fairness complaint under this Part;

“**corporation process**” means a step, or a series of steps, taken by the corporation to carry out a function or capacity, or to exercise a power, described in section 7 (b), (c), (d), (g) or (h);

“**fairness complaint**” means a complaint under this Part by a complainant to the fairness officer in respect of the fairness of a corporation process;

“**fairness officer**” means the fairness officer appointed under section 55;

“**personal information**” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

##### Appointment of fairness officer and staff

- 55
- (1) The Lieutenant Governor in Council may appoint a fairness officer.
  - (2) The fairness officer is to be appointed for a term of 3 years and may be reappointed for additional 3-year terms.
  - (3) Subject to subsection (2), the board may, subject to the approval of the minister, set the terms and conditions of the fairness officer’s appointment, including remuneration.
  - (4) The fairness officer may retain staff necessary to assist the fairness officer in the carrying out of the fairness officer’s powers and duties.

- (5) All necessary expenses required for the fairness officer and the fairness officer's staff must be paid by the corporation in accordance with a budgeting process prescribed by regulation.

**Powers and duties of fairness officer**

- 56** (1) The fairness officer, on a fairness complaint or on the fairness officer's own initiative, may investigate
- (a) a decision or recommendation made,
  - (b) an act done or omitted, or
  - (c) a procedure used
- by the corporation during or with respect to a corporation process that aggrieves or may aggrieve a person.
- (2) In addition to carrying out the power described in subsection (1), the fairness officer
- (a) may make recommendations to the corporation to resolve fairness complaints;
  - (b) may make recommendations about systemic problems with the fairness of corporation processes;
  - (c) may provide advice and assistance to members of the public with respect to corporation processes;
  - (d) has other powers or duties as may be prescribed.

**Restrictions on jurisdiction**

- 57** (1) The fairness officer may not comment on or make recommendations respecting
- (a) an amount payable by the corporation, or
  - (b) the extent, as determined by the corporation, that a person is responsible for an accident.
- (2) Section 56 does not authorize the fairness officer to investigate a fairness complaint in respect of any of the following:
- (a) a matter that is the subject of a proceeding or a decision of a court or tribunal, as defined in section 1 of the *Judicial Review and Procedure Act*;
  - (b) a matter that is or was the subject of arbitration or an arbitral award;
  - (c) a prescribed matter.

**Rules respecting practices and procedures**

- 58** The fairness officer may make rules respecting the practices and procedures to be followed
- (a) by the complainant in the filing or withdrawing of a fairness complaint, or
  - (b) by the complainant, the fairness officer and the corporation in the conduct of an investigation under section 56 (1).

**Report to corporation**

- 59** (1) The fairness officer must submit, on a prescribed basis, a report to the minister and the corporation that includes the following information:
- (a) the number of fairness complaints received;
  - (b) the number of fairness complaints heard by the fairness officer;
  - (c) any other prescribed information.
- (2) As soon as practicable on the receipt of the report submitted under subsection (1), the minister must either, as applicable,
- (a) lay the report before the Legislative Assembly, if it is in session, or
  - (b) file the report with the Clerk of the Legislative Assembly, if the Legislative Assembly is not sitting.

**Publication of information**

- 60** The fairness officer must publish, on a publicly accessible website maintained by or on behalf of the fairness officer,
- (a) the rules made under section 58, and
  - (b) as soon as practicable after the minister has complied with section 59 (2), the report referred to in section 59 (1).

**Corporation report**

- 61** (1) The corporation must, no later than August 31 in each year, submit to the minister an annual report.
- (2) An annual report submitted under subsection (1) must include
- (a) a summary of the corporation's responses in the previous fiscal year to the fairness officer's recommendations, if any, and
  - (b) any other prescribed matter.
- (3) As soon as practicable on the receipt of the report submitted under subsection (1), the minister must either, as applicable,
- (a) lay the report before the Legislative Assembly, if it is in session, or
  - (b) file the report with the Clerk of the Legislative Assembly, if the Legislative Assembly is not sitting.

- (4) The corporation must publish the annual report, as soon as practicable after the minister has complied with subsection (3), on a publicly accessible website maintained by or on behalf of the corporation.

**Personal information**

- 62** (1) For the purpose of carrying out a power or duty under this Part, the fairness officer may collect personal information from the corporation and a complainant, including personal information about an individual other than the complainant.
- (2) For the purpose of subsection (1), the corporation may disclose personal information to the fairness officer.
- (3) Nothing in this section is intended to limit the authority of the fairness officer to collect, use or disclose personal information under the *Freedom of Information and Protection of Privacy Act*.

**Compulsion protection**

- 63** The fairness officer, or a person acting on behalf of or under the direction of the fairness officer, must not be required to testify or produce evidence, in any proceeding, about any of the following in relation to a fairness complaint:
- (a) a decision or recommendation made;
  - (b) an act done or omitted;
  - (c) a procedure undertaken.

**PART 4 – POWER TO MAKE REGULATIONS**

**Power to make regulations**

- 64** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations
- (a) respecting any matter for which regulations are contemplated by this Act,
  - (b) respecting the manner in which records or their contents may be kept by the corporation, and
  - (c) prescribing classes of fairness complaints, or circumstances in relation to fairness complaints, in respect of which the fairness officer has discretion to determine whether or not to conduct an investigation.

**Commencement**

- 3** This Act comes into force by regulation of the Lieutenant Governor in Council.