

Royal Gazette

Prince Edward Island

Postage paid in cash at First Class Rates

PUBLISHED BY AUTHORITY

VOL. CXLI – NO. 7

Charlottetown, Prince Edward Island, February 14, 2015

**CANADA
PROVINCE OF PRINCE EDWARD ISLAND
IN THE SUPREME COURT - ESTATES DIVISION**

TAKE NOTICE that all persons indebted to the following estates must make payment to the personal representative of the estates noted below, and that all persons having any demands upon the following estates must present such demands to the representative within six months of the date of the advertisement:

Estate of: Date of the Advertisement	Personal Representative: Executor/Executrix (Ex) Administrator/Administratrix (Ad)	Place of Payment
GAUDET, Marion Elvina (also known as Marion Gaudet) Summerside Prince Co., PE February 7, 2015 (6-19)	Derrill Gaudet Linda Brighty (EX.)	Key Murray Law 494 Granville Street Summerside, PE
HAYES, Edith Tyne Valley Prince Co., PE February 7, 2015 (6-19)	Arlene Hayes (EX.)	Cox & Palmer 250 Water Street Summerside, PE
FRIZZELL, Gary Leigh Stratford Queens Co., PE January 31, 2015 (5-18)	Bernadette Marie Praught (EX.)	Carr, Stevenson and MacKay 65 Queen Street Charlottetown, PE
JOHNSTONE, Archibald Hynd Kensington Prince Co., PE January 31, 2015 (5-18)	Ernest Dean Johnstone Ronald William Johnstone (EX.)	Donald Schurman 155A Arcona Street Summerside, PE
LONGAPHEE, Mary “Stella” Little Harbour Kings Co., PE January 31, 2015 (5-18)	Barbara Ann (Longaphee) MacLellan (EX.)	Allen J. MacPhee Law Corporation 106 Main Street Souris, PE

*Indicates date of first publication in the Royal Gazette.
This is the **official** version of the Royal Gazette. The electronic version may be viewed at:
<http://www.gov.pe.ca/royalgazette>

be provided for the business activities specified in clauses (a) to (c) or for any other business activity excluded by the Corporation or the Minister.

SECTION 7 provides for the content of the annual audit report to be prepared by the Chief Executive Officer for the purposes of subsection 12(2) of the Act.

SECTION 8 provides that in the event of default in the obligations owed by any person to the Corporation, the Corporation may take steps to enforce the performance of the obligations and to realize on any security held by the Corporation in accordance with the policies and procedures adopted by the Board.

SECTION 9 revokes the *Innovation PEI Act* General Regulations (EC562/09).

SECTION 10 provides for the commencement of these regulations.

Certified a true copy,
Stephen C. MacLean
Clerk of the Executive Council

EC2015-41

**INSURANCE ACT
AUTOMOBILE INSURANCE FAULT DETERMINATION
REGULATIONS**

(Approved by His Honour the Lieutenant Governor in Council dated February 4, 2015.)

Pursuant to section 254.4 of the *Insurance Act* R.S.P.E.I. 1988, Cap. I-4, Council made the following regulations:

Interpretation and Application

1. In these regulations

- | | |
|--|--|
| <p>(a) “Act” means the <i>Insurance Act</i> R.S.P.E.I. 1988, Cap. I-4;</p> <p>(b) “centre line” means any of the following:</p> <p style="padding-left: 20px;">(i) a single or double, solid or broken line marked in the middle of the roadway,</p> <p style="padding-left: 20px;">(ii) for a roadway without a line marked in the middle,</p> <p style="padding-left: 40px;">(A) if the roadway is unobstructed, the middle of the roadway measured from the curbs, or in the absence of curbs, from the edges of the roadway,</p> | <p>Definitions</p> <p>Act</p> <p>centre line</p> |
|--|--|

	(B) if a portion of the roadway is obstructed by parked automobiles, snowbanks or other objects blocking traffic along the edge or edges of the roadway and two-way traffic past the obstructions is still possible without difficulty, the middle of the unobstructed portion of the roadway,
	(iii) for a roadway with more lanes available for traffic in one direction than the other direction, the line dividing the lanes for traffic in different directions;
chain reaction	(c) “chain reaction” means a series of successive impacts among three or more automobiles travelling in the same direction one behind the other in the same lane;
collision	(d) “collision” means (i) impact between two or more automobiles or parts of automobiles being detached without the involvement of the insured, or (ii) impact between an automobile and the load of another automobile;
controlled access highway	(e) “controlled access highway” means a highway designated as a controlled access highway under the <i>Highway Traffic Act</i> R.S.P.E.I. 1988, Cap. H-5;
damage	(f) “damage” means any of the following: (i) damage caused to an insured automobile, (ii) loss of use of an insured automobile, (iii) loss of or damage to property owned by an insured while being transported in an insured automobile;
highway	(g) “highway” means highway as defined in the <i>Highway Traffic Act</i> ;
intersection	(h) “intersection” means the area enclosed within the lateral boundary lines of two or more roadways, or two or more lanes in a parking lot, that join one another at an angle, and lines drawn at right angles across each of the roadways, or lanes in the parking lot, from the points where the lateral boundary lines intersect;
private road or driveway	(i) “private road or driveway” means a road or driveway not open to the use of the public for purposes of vehicular traffic;
roadway	(j) “roadway” means that portion of a highway ordinarily used for vehicular travel, exclusive of the shoulder unless the shoulder is paved;
traffic signal	(k) “traffic signal” means a manually, electrically or mechanically operated device by which traffic is alternately directed to stop and to proceed.
Application of regulations	2. (1) Except as provided in subsection (2), these regulations apply to all automobiles.

(2) These regulations do not apply to an automobile exempted from registration under the *Highway Traffic Act*, unless the automobile is insured by a motor vehicle liability policy. *Idem*

(3) References in these regulations to “automobile A”, “automobile B” and “automobile C” are for ease of reference to the automobiles that may be involved in an incident and have no meaning other than as labels applied to distinguish between the automobiles. Interpretation

(4) The diagrams in these regulations are merely illustrative of the situations described. Diagrams illustrative

3. An insurer shall determine the degree of fault of an insured for loss or damage arising directly or indirectly from the use or operation of an automobile in accordance with these regulations. Degree of fault determined in accordance with regulations

4. The degree to which an insured is at fault in an incident shall be determined without reference to any of the following: Factors not included in degree of fault

- (a) the circumstances in which the incident occurs, including weather conditions, road conditions, visibility or the actions of pedestrians;
- (b) where the point of contact between the insured’s automobile and any other automobile involved in the incident is located on the insured’s automobile.

5. (1) Except as provided in subsection (2), if more than one provision of these regulations applies to an insured, the provision that attributes the least degree of fault to the insured is the one that shall apply. If more than one provision of these regulations applies

(2) If two provisions of these regulations apply to an incident involving two automobiles and an insured would be 100 per cent at fault under one provision and not at fault under the other, the insured shall be determined to be 50 per cent at fault for the incident. Exception

6. (1) If an incident is not described in any of the provisions of these regulations, the degree to which an insured is at fault shall be determined in accordance with the ordinary rules of law. Ordinary rules of law

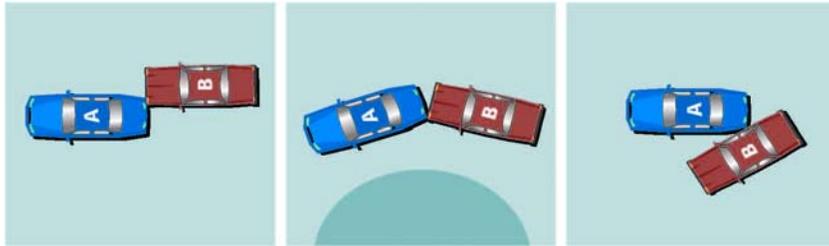
(2) If there is not enough information about an incident to determine the degree to which an insured is at fault, the degree of fault shall be determined in accordance with the ordinary rules of law unless these regulations require otherwise. *Idem*

Fault Determination

7. (1) This section applies to an incident in which automobile A is struck from the rear by automobile B, and both automobiles are travelling in the same direction and in the same lane. Automobiles travelling in the same direction and lane

- Automobile stopped or moving forward
- (2) If automobile A is stopped or is in forward motion when the incident occurs, then:
- the driver of automobile A is not at fault for the incident;
 - the driver of automobile B is 100% at fault for the incident.

Diagram 7.2



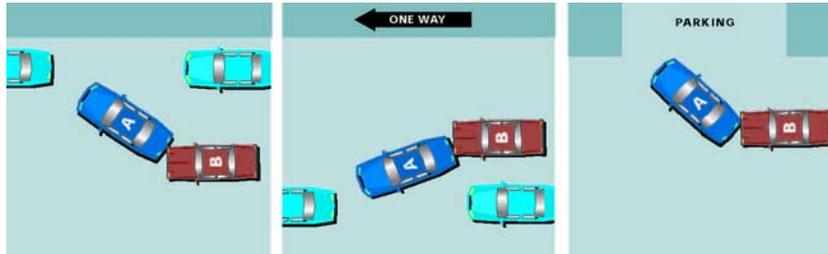
- Automobile turning
- (3) If the incident occurs when automobile A is turning, either to the right or to the left, in order to enter a side road, private road or driveway, then:
- the driver of automobile A is not at fault for the incident;
 - the driver of automobile B is 100% at fault for the incident.

Diagram 7.3



- Automobile moving into parking place
- (4) If the incident occurs when automobile A is in forward motion and is entering a parking place on either the right or the left side of the road, then:
- the driver of automobile A is not at fault for the incident;
 - the driver of automobile B is 100% at fault for the incident.

Diagram 7.4



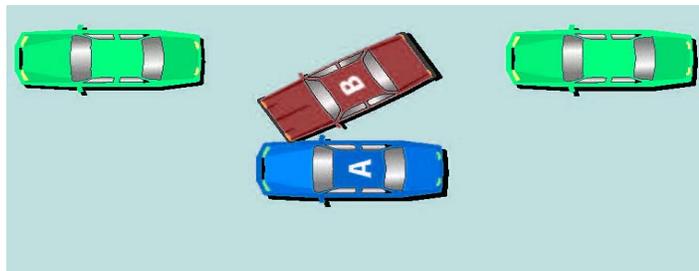
8. (1) This section applies when automobile A collides with automobile B while automobile B is entering a road from a parking place, private road or driveway.

Automobiles entering road from parking place, private road or driveway

(2) If the incident occurs when automobile B is leaving a parking place and automobile A is passing the parking place, then: *Idem*

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

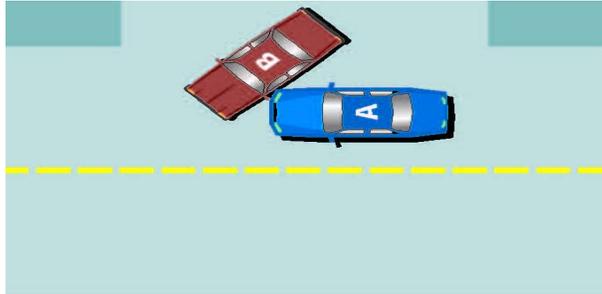
Diagram 8.2



(3) If the incident occurs when automobile B is entering a road from a private road or a driveway and automobile A is passing the private road or driveway, and there are no traffic signals or signs, then: *Idem*

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Diagram 8.3

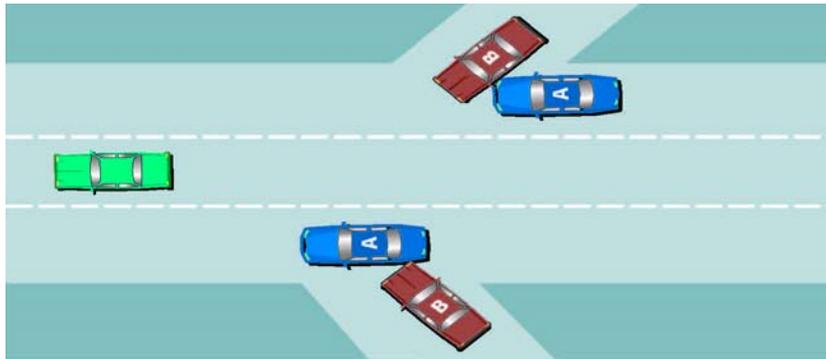


Automobile
entering controlled
access highway

9. If automobile A collides with automobile B on a controlled access highway while automobile B is entering the highway from an entrance lane, then:

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Diagram 9.1



Chain reactions

10. (1) This section applies to chain reactions.

Determination of
fault, rule

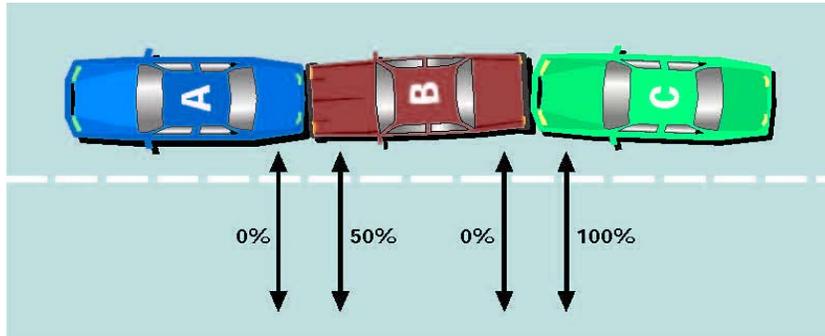
(2) The degree of fault for each collision between two automobiles involved in a chain reaction is determined without reference to any related collisions involving either of the automobiles and another automobile.

All automobiles in
motion

(3) If all automobiles involved in a chain reaction are in motion and automobile A is the leading automobile, automobile B is second and automobile C is the third automobile, then:

- (a) in the collision between automobiles A and B,
 - (i) the driver of automobile A is not at fault for the incident,
 - (ii) the driver of automobile B is 50% at fault for the incident;
 and
- (b) in the collision between automobiles B and C,
 - (i) the driver of automobile B is not at fault for the incident,
 - (ii) the driver of automobile C is 100% at fault for the incident.

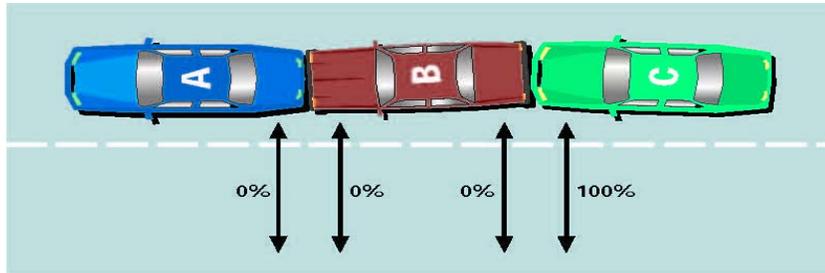
Diagram 10.3



(4) If only automobile C in a chain reaction is in motion when the incident occurs, then: One automobile in motion

- (a) in the collision between automobiles A and B, neither driver is at fault for the incident; and
- (b) in the collision between automobiles B and C,
 - (i) the driver of automobile B is not at fault for the incident,
 - (ii) the driver of automobile C is 100% at fault for the incident.

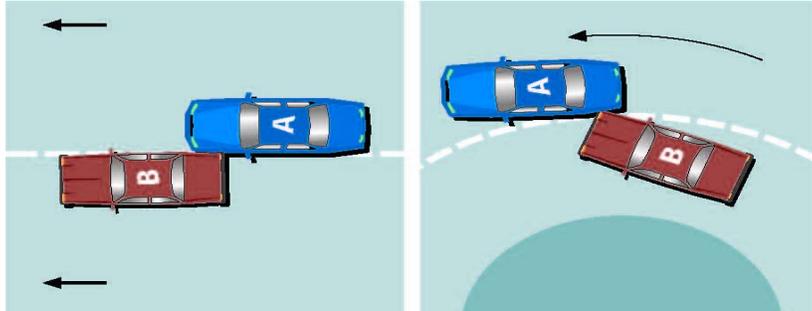
Diagram 10.4



11. (1) This section applies to an incident in which automobile A collides with automobile B, and both automobiles are travelling in the same direction and in adjacent lanes. Rules for automobiles travelling in the same direction in adjacent lane

(2) If neither automobile A nor automobile B changes lanes, and both automobiles are on or over the centre line when the incident occurs, then the driver of each automobile is 50% at fault for the incident. No change of lane

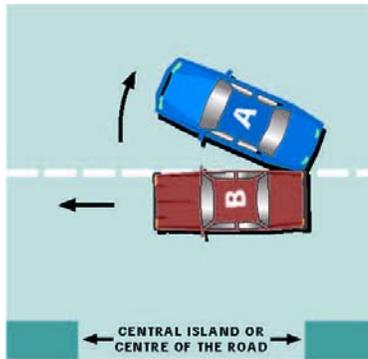
Diagram 11.2 (sideswipe)



Location not determined

(3) If the location on the road of automobiles A and B when the incident occurs cannot be determined, then the driver of each automobile is 50% at fault for the incident.

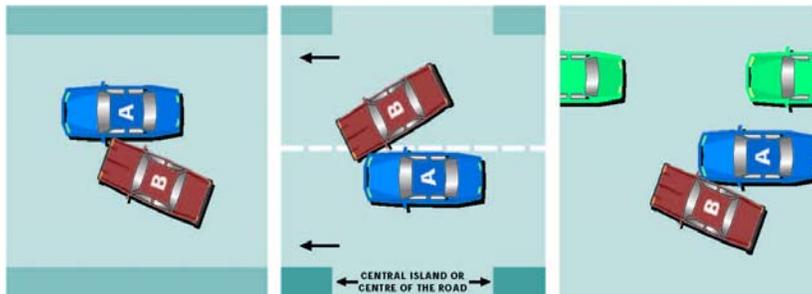
Diagram 11.3 (sideswipe)



Changing lanes

(4) If the incident occurs when automobile B is changing lanes, then:
 (a) the driver of automobile A is not at fault for the incident;
 (b) the driver of automobile B is 100% at fault for the incident.

Diagram 11.4 (sideswipe)

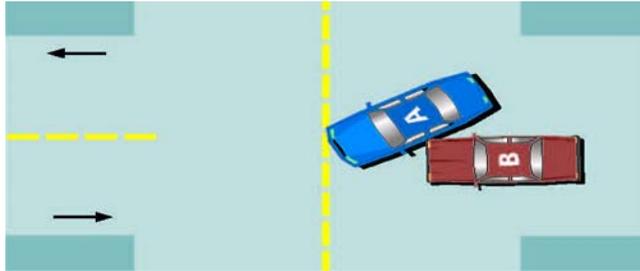


Left turn, intersection

(5) If the incident occurs when automobile A is turning left at an intersection and automobile B is overtaking automobile A to pass it, then:
 (a) the driver of automobile A is not at fault for the incident;

- (b) the driver of automobile B is 100% at fault for the incident.

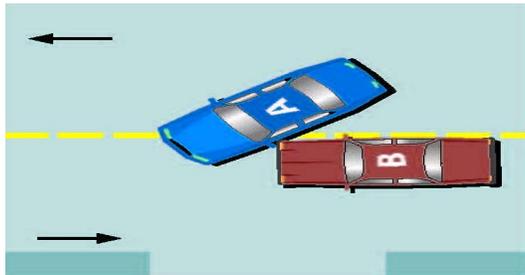
Diagram 11.5



(6) If the incident occurs when automobile A is turning left at a private road or a driveway and automobile B is overtaking automobile A to pass it, then: Left turn, driveway

- (a) the driver of automobile A is 75% at fault for the incident;
 (b) the driver of automobile B is 25% at fault for the incident.

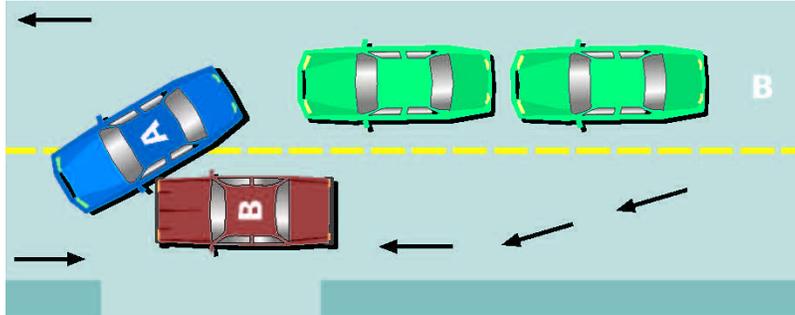
Diagram 11.6



(7) If the incident occurs when automobile A is turning left at a private road or a driveway and automobile B is passing one or more automobiles stopped behind automobile A, then: Idem

- (a) the driver of automobile A is not at fault for the incident;
 (b) the driver of automobile B is 100% at fault for the incident.

Diagram 11.7



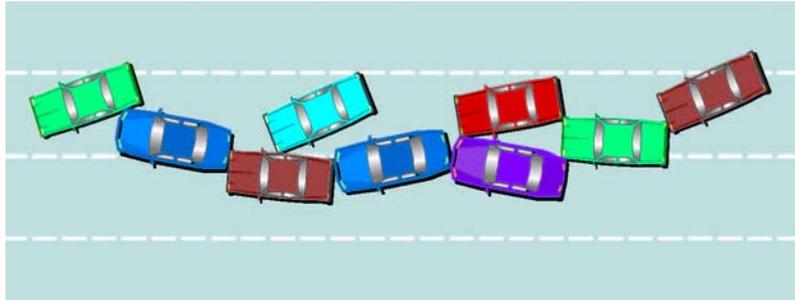
Pile-ups

12. (1) This section applies to pile-ups; that is, incidents involving a series of impacts among three or more automobiles travelling in the same direction and in adjacent lanes.

Each driver at fault

(2) For each collision between two automobiles involved in a pile-up, the driver of each automobile is 50% at fault for the incident.

Diagram 12.2

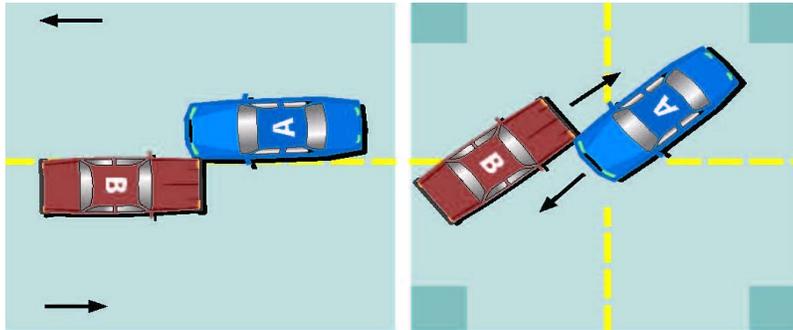
Automobiles
travelling in
opposite directions

13. (1) This section applies to an incident in which automobile A collides with automobile B, and the automobiles are travelling in opposite directions and in adjacent lanes.

Over centre line

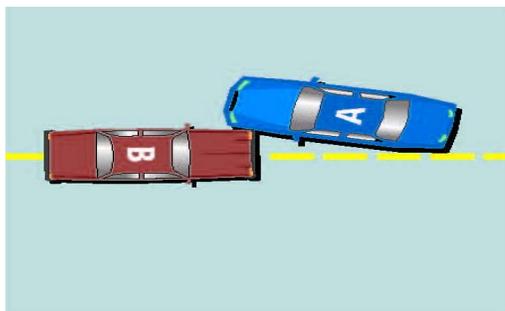
(2) If neither automobile A nor automobile B changes lanes and both automobiles are on or over the centre line when the incident occurs, then the driver of each automobile is 50% at fault for the incident.

Diagram 13.2 (sideswipe)



(3) If the location on the road of automobiles A and B when the incident occurs cannot be determined, then the driver of each automobile is 50% at fault for the incident. Location not determined

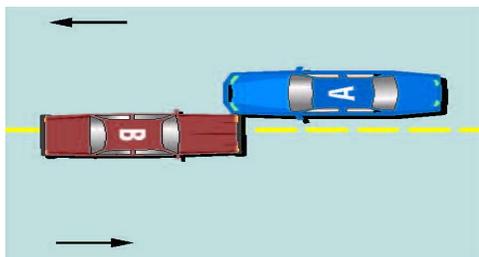
Diagram 13.3 (sideswipe)



(4) If only automobile B is over the centre line of the road when the incident occurs, then: One automobile over centre line

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

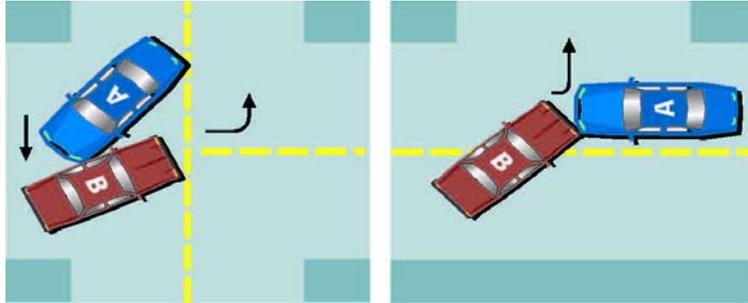
Diagram 13.4



(5) If the incident occurs when automobile B turns left into the path of automobile A, then: One automobile turning left

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Diagram 13.5

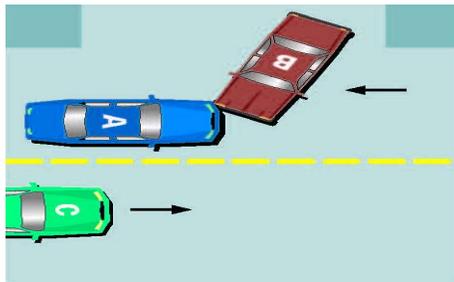


Entering traffic

(6) If automobile B is leaving a parking place or is entering the road from a private road or driveway and automobile A is overtaking to pass another automobile when the incident occurs, then:

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Diagram 13.6



Automobiles in intersection without traffic signals or signs

14. (1) This section applies to an incident in which automobile A collides with automobile B at an intersection that does not have traffic signals or traffic signs.

Idem

- (2) If automobile A enters the intersection before automobile B, then:
- (a) the driver of automobile A is not at fault for the incident;
 - (b) the driver of automobile B is 100% at fault for the incident.

Automobile at right not at fault

(3) If automobiles A and B enter the intersection at the same time and automobile A is to the right of automobile B when in the intersection, then:

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Determination not possible

(4) If it cannot be determined whether automobile A or B entered the intersection first, then the driver of each automobile is 50% at fault for the incident.

Automobiles at intersection with traffic signs

15. (1) This section applies to an incident in which automobile A collides with automobile B at an intersection with traffic signs.

(2) If the incident occurs when the driver of automobile B fails to obey a stop sign, yield sign or a similar sign or flares or other signals on the ground, then:

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

Failure to obey sign

(3) If the driver of each automobile fails to obey a stop sign, the driver of each automobile is 50% at fault for the incident.

Both drivers fail to obey sign

(4) If it cannot be determined who failed to obey a stop sign, then the driver of each automobile is 50% at fault for the incident.

Determination not possible

(5) If automobile A arrives at an all-way stop intersection first and stops, then:

Collision after stop

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

(6) If both automobiles arrive at an all-way stop intersection at the same time and stop, with automobile A to the right of automobile B, then:

Idem

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

(7) If it cannot be determined who arrived at an all-way stop intersection first, then the driver of each automobile is 50% at fault for the incident.

Determination not possible

16. (1) This section applies to an incident in which automobile A collides with automobile B at an intersection with traffic signals.

Automobiles at intersection with traffic signals

(2) If the driver of automobile B fails to obey a traffic signal, then:

Failure to obey traffic signal

- (a) the driver of automobile A is not at fault for the incident;
- (b) the driver of automobile B is 100% at fault for the incident.

(3) If it cannot be determined whether the driver of either automobile failed to obey a traffic signal, then the driver of each automobile is 50% at fault for the incident.

Determination not possible

(4) If the traffic signals at an intersection are inoperative, then the degree to which each of the drivers is at fault is determined in accordance with these regulations as if the intersection were an all-way stop intersection.

Inoperative signal

17. (1) The following definitions apply in this section:

Definitions

(a) “feeder lane” means a road in a parking lot other than a thoroughfare;

feeder lane

(b) “thoroughfare” means a main road for passage into, through or out of a parking lot.

thoroughfare

(2) This section applies to an incident in which automobile A collides with automobile B in a parking lot.

Collisions in parking lots

Rules for thoroughfare	(3) The degree to which a driver is at fault in an incident that occurs on a thoroughfare is determined in accordance with these regulations as if the thoroughfare were a roadway.
Driver fails to yield, feeder lane	(4) If the incident occurs when automobile A is leaving a feeder lane and fails to yield the right of way to automobile B on a thoroughfare, then: <ul style="list-style-type: none"> (a) the driver of automobile A is 100% at fault for the incident; (b) the driver of automobile B is not at fault for the incident.
<i>Idem</i> , parking space	(5) If the incident occurs when automobile A is leaving a parking space and fails to yield the right of way to automobile B on a feeder lane or a thoroughfare, then: <ul style="list-style-type: none"> (a) the driver of automobile A is 100% at fault for the incident; (b) the driver of automobile B is not at fault for the incident.
Automobiles that are parked	18. (1) Except as provided in subsection (2), if automobile A is parked when automobile B collides with it, then: <ul style="list-style-type: none"> (a) the driver of automobile A is not at fault for the incident; (b) the driver of automobile B is 100% at fault for the incident.
Exception	(2) If automobile A is illegally parked, stopped or standing when automobile B collides with it and the incident occurs outside a city, town, village or rural community, then: <ul style="list-style-type: none"> (a) the driver of automobile A is 100% at fault for the incident; (b) the driver of automobile B is not at fault for the incident.
Driver fails to obey specified sign or direction	19. The driver of automobile A is 100% at fault and the driver of automobile B is not at fault for an incident in which automobile A collides with automobile B when the driver of automobile A fails to obey any of the following: <ul style="list-style-type: none"> (a) a peace officer's direction; (b) a "do not enter" sign; (c) a prohibited passing sign; (d) a prohibited turn sign.
Backing up, making U-turn or opening door	20. The driver of automobile A is 100% at fault and the driver of automobile B is not at fault for an incident that occurs when: <ul style="list-style-type: none"> (a) automobile A is backing up; (b) automobile A is making a U-turn; or (c) the driver of, or a passenger in, automobile A opens the automobile door or leaves the door open.
Driver charged with a driving offence	21. (1) For the purposes of these regulations, any one of the following that occurs as a result of an incident constitutes a driving offence: <ul style="list-style-type: none"> (a) a driver is charged with operating an automobile while the driver's ability to operate the automobile was impaired by alcohol or a drug; (b) a driver is charged with driving while the driver's blood alcohol level exceeded the limits permitted by law;

- (c) a driver is charged with an indictable offence related to the operation of an automobile;
- (d) a driver is asked to provide a breath sample and the driver is charged with failing or refusing to provide the sample;
- (e) a driver is charged with exceeding the speed limit by 25 or more kilometres per hour.

(2) The degree to which an insured is at fault in an incident is determined in accordance with the ordinary rules of law and not in accordance with these regulations if both of the following apply: Exception to these rules

- (a) the driver of automobile A involved in the incident is charged with a driving offence;
- (b) the driver of automobile B is wholly or partly at fault, as otherwise determined under these regulations, for the incident.

22. These regulations come into force on October 1, 2015.

Commencement

EXPLANATORY NOTES

SECTION 1 establishes definitions for the purposes of the regulations.

SECTION 2 provides that the regulations apply to all automobiles except an automobile exempted from registration under the *Highway Traffic Act*, unless that automobile is insured by a motor vehicle liability policy. The section also explains that references in the regulations to “automobile A”, “automobile B” and so on are for ease of reference, and that the diagrams set out in the regulations are for illustrative purposes.

SECTION 3 requires an insurer to determine the degree of fault of an insured for loss or damage arising from the use or operation of an automobile in accordance with the regulations.

SECTION 4 provides that the degree of fault of an insured referred to in section 3 shall be determined without reference to factors such as weather conditions, road conditions, visibility, the actions of pedestrians and other conditions, and the location of the point of contact on the insured’s automobile.

SECTION 5 provides that where more than one provision of the regulations would otherwise apply to an insured, the provision that attributes the least degree of fault is the one that shall apply, except where under one provision the insured would be 100 per cent at fault and under the other the insured would be not at fault. In that case, the insured shall be determined to be 50 per cent at fault.

SECTION 6 provides that, in a situation not described in the regulations, fault shall be determined in accordance with the ordinary rules of law, and where there is not enough information, fault shall be determined in accordance with the ordinary rules of law unless the regulations require otherwise.

SECTION 7 provides the rules for determining fault where one automobile is struck from the rear by another and both are travelling in the same direction and the same lane.

SECTION 8 provides the rules for determining fault where one automobile collides with another while the other automobile is entering a road from a parking place, private road or driveway.

SECTION 9 provides the rule for determining fault where one automobile collides with another on a controlled access highway while the other automobile is entering the highway from an entrance lane.

SECTION 10 provides the rules for determining fault for each collision in a chain reaction.

SECTION 11 provides the rules for determining fault where one automobile collides with another while both are travelling in the same direction and in adjacent lanes.

SECTION 12 provides the rules for determining fault in incidents involving pile-ups; that is, a series of impacts among three or more automobiles travelling in the same direction and in adjacent lanes.

SECTION 13 provides the rules for determining fault where one automobile collides with another while they are travelling in opposite directions and in adjacent lanes.

SECTION 14 provides the rules for determining fault where one automobile collides with another at an intersection that does not have traffic signals or traffic signs.

SECTION 15 provides the rules for determining fault where one automobile collides with another at an intersection that has traffic signs.

SECTION 16 provides the rules for determining fault where one automobile collides with another at an intersection that has traffic signals.

SECTION 17 provides the rules for determining fault where one automobile collides with another in a parking lot.

SECTION 18 provides the rules for determining fault where one automobile collides with another that is parked.

SECTION 19 provides the rules for determining fault where one automobile collides with another having failed to obey a specified sign or a direction of a peace officer.

SECTION 20 provides the rules for determining fault where one automobile collides with another while backing up, making a U-turn or opening the door of the automobile.

SECTION 21 provides that specified charges resulting from an incident constitute driving offences for the purposes of the regulations, and also provides that where the driver of one of the automobiles involved in the incident is charged with a driving offence, and the driver of the other automobile is wholly or partly at fault, as determined under the regulations, the degree of fault of the insured shall be determined in accordance with the ordinary rules of law and not in accordance with the regulations.

SECTION 22 provides for the commencement of the regulations.

Certified a true copy,
Stephen C. MacLean
Clerk of the Executive Council

PART II
REGULATIONS INDEX

Chapter Number	Title	Original Order Reference	Amendment	Authorizing Order and Date	Page
I-2	Innovation PEI Act General Regulations	EC562/09	[rev] [eff] Feb. 14/2015	EC2015-39 (04.02.2015)	10
I-2.2	Innovation PEI Act General Regulations		[new] [eff] Feb. 14/2015	EC2015-39 (04.02.2015)	7-11
I-4	Insurance Act Automobile Insurance Fault Determination Regulations		[new] [eff] Oct. 1/2015	EC2015-41 (04.02.2015)	11-27