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## STATEMENT

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Ministry of Attorney General

### **Further transparency on regulations planned for ICBC reforms**

VICTORIA – Attorney General David Eby has issued the following statement on regulations planned for ICBC reforms:

“On April 23, our government took action to create a more sustainable auto insurance system with the first reading of Bills 20 and 22, the Insurance (Vehicle) Amendment Act, 2018, and the Civil Resolution Tribunal Amendment Act, 2018. This was an important first step in returning ICBC to financial stability and, at the same time, providing much-needed increases to the care available to anyone injured in a car crash.

“In addition to the comprehensive legislative package we have introduced, many of the details of the changes will be established by regulation, once consultation with the medical community is complete. In the meantime, we are committed to being as transparent as possible with British Columbians about our plans for the content of the regulations.

“As announced in February, we’re shifting the focus away from maximizing payouts to a care-based insurance system – where taking care of people injured in a crash is the top priority. We’re significantly increasing ICBC’s accident benefits – benefits which have been frozen in time for more than 25 years. With our planned changes, ICBC’s accident benefits will be, by far, the most generous of tort systems across Canada.

“Also announced in February is the introduction of a \$5,500 limit on pain and suffering payouts for minor injuries. The amendments to the Insurance (Vehicle) Act include the foundation for the new legal definition for what constitutes a minor injury in B.C. This definition, and the terms used in it, will be further refined in regulation.

“We intend for B.C.’s minor injury definition to be clear and comprehensive. That’s why there is more detail on the ‘minor injury’ definition in B.C.’s legislation than is the case in Alberta, Nova Scotia or New Brunswick, where similar limits on pain and suffering awards for minor injuries are in place by regulation.

“However, just as the case is in other jurisdictions, it is essential that there is flexibility to adjust the particulars of the changes over time. This can best be done through regulation and will ensure that the changes achieve the intended balance of fairness, increased care and fiscal responsibility.

“In my continued effort to be as transparent as possible, I want to provide British Columbians with more detail of what we anticipate to be included within the supporting regulatory framework.

“Our intention remains the same as we announced in February. If, after 12 months, a

customer's injury continues to have a significant impact on their life, the injury would no longer be considered minor. This is true for any form of physical or mental injury sustained in a crash.

"We intend that regulations will further define a serious impairment as one which is not expected to improve, and results in a substantially compromised ability to perform essential tasks, such as being able to work or go to school.

"Based on ongoing consultation with the medical community by ICBC and government, and analysis of the experience in other jurisdictions that have a limit on pain and suffering awards for minor injuries, we anticipate that the regulations will include temporomandibular joint disorder (TMJ) – pain in your jaw joint and in the muscles that control jaw movement – as well as the more minor whiplash associated disorders (WAD) 1 and 2 in the definition. The most serious of whiplash-associated disorders will not be included in the definition, nor will third-degree sprains, strains, broken bones or brain injuries.

"We are also working in consultation with the medical community to refine and narrow the scope of mental-health conditions, which are listed in the legislative definition of minor injury. As with other minor injuries, if the mental health condition results in a serious impairment over 12 months, it will not be considered a minor injury.

"B.C. has the opportunity to learn from other provinces which have already made these changes. We know other jurisdictions have experienced increased reports of conditions not included in their minor injury definition, such as TMJ and chronic pain. Increased self-reporting of these minor injuries, which do not have a serious impairment, erodes the minor injury definition and reduces the costs savings, which are needed in order to increase accident benefits.

"ICBC will continue to rely on a medical professional to determine the diagnosis for a customer's injuries, and this will determine whether the injury meets the minor injury definition. Customers will choose their treating medical professional, not ICBC. Protocols for treating minor injuries and fees for treatments are still undergoing consultation with health-care professionals, and the regulations will reflect input from the medical community.

"A new, independent, and straightforward dispute resolution process for customers with injuries is being established. The amendments to the Civil Resolution Tribunal Act expand the Civil Resolution Tribunal's (CRT) scope to include making decisions on the classification of an injury as a minor injury, entitlement to accident benefits and decisions around who is at-fault in the crash, and settlement amounts for all motor vehicle injury claims below a threshold. Our intention is to establish this threshold in regulation as one not exceeding \$50,000.

"The \$5,500 limit on pain and suffering payouts for minor injuries will be introduced by regulation. Payments for pain and suffering are entirely separate from compensation for any medical care and wage losses.

"For all injuries, regardless of severity, ICBC will be paying more for customers' medical care and wage loss as a result of the significant increases to accident benefits that will also be specified in regulation. As announced, the intention is that the available medical and rehabilitation benefits will be increased to \$300,000 for accidents occurring on or after Jan. 1, 2018. Wage replacement benefits will increase to \$740 per week, and household support benefits to \$280 per week, effective April 1, 2019. We will also increase funeral expenses to

\$7,500 and survivor benefits up to \$30,000, effective April 1, 2019.

“Also very significant is that the regulations will set a fair market rate for the cost of treatments the customer needs to get better after a crash.

“B.C. is the last province in Canada to introduce some form of restriction on pain and suffering payouts for minor injuries, and, as has been the case in other provinces, this limit will increase over time, indexed to inflation and the cost of living.

“By introducing a limit on payouts for pain and suffering for minor injuries, along with the other changes, ICBC will save more than \$1 billion annually – helping put money back into the treatment and recovery for people injured in car crashes.

“These changes will truly have a dramatic impact in making the injured customer ICBC’s top priority, and in helping those injured in a crash recover more quickly.”

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