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Bulletin

No. A-06/02

Property & Casualty

- Auto

Changes to automobile insurance system and elimination of mandatory pre-insurance inspections

To the attention of all insurance companies licensed

to transact automobile insurance in Ontario

The purpose of this bulletin is to inform insurers of recent changes to the automobile insurance system that have been passed and of the elimination of mandatory inspections of private passengerautomobiles.

Changes to the automobile insurance system

On December 9, 2002, the Legislature passed *Keeping the Promise for a Strong Economy Act(Budget Measures), 2002* which introduces reforms to the current auto insurance system through amendments to the *Insurance Act*, the *Motor Vehicle Accident Claims Act* and the *Compulsory Automobile Insurance Act*. Highlights of these changes include:

- expansion of access to tort for excess health care expenses for not at-fault insureds who meet the “serious and permanent” verbal threshold;
- elimination of the deductible on tort awards for non-pecuniary losses over $100,000 (or $50,000 for *Family Law Act* awards);

- requirement for the Motor Vehicle Accident Claims Fund to pay statutory accident benefits owing by an insurer where the insurer is subject to a winding-up order with the ability to assess classes of insurers to reimburse the Fund;
- clarification that uninsured automobile coverage is limited to Canada, the U.S. and other designated jurisdictions;
- specifying that employers and others who are liable for actions of a protected defendant do not have a liability greater than that of the protected defendant;
- protection for Designated Assessment Centres assessors from lawsuits if assessment was done while acting in good faith;
- clarification that payment for loss of income or earning capacity, including CPP, can be deducted from tort awards;
- restrictions for participation by non-lawyers in the Dispute Resolution process unless they are in compliance with the regulations and restrictions for non-lawyers dealing with accident benefit claimants except if they are in compliance with regulations;
- provision for arbitrators to award expenses against insurers, insureds or their representatives;
- authorization for the Superintendent to issue guidelines relating to treatment, goods and services associated with medical and rehabilitation benefits under the Statutory Accident Benefits Schedule;
- provision that structured settlements and periodic payments by an insurer should not be grossed-up in a tort award; and,
- requirement for the Superintendent to conduct a review of the auto insurance provisions of the *Insurance Act* at least every 5 years.

Legislative provisions dealing with the MVACF and with winding up orders came into effect on December 9, 2002, with Royal Assent. Other reforms and regulation changes, apart from changes to vehicle inspection requirements, are expected to come into force in 2003. Additional bulletins will be issued on implementing the changes.

Pre-insurance inspection

Mandatory inspection provisions were established on January 1, 1997 pursuant to *Ontario Regulation 66*4, made under section 232.1 of the *Insurance Act.* All insurance companies have been required to inspect private passenger automobiles unless exempted by regulation. As well, with Bulletin No. A- 2/97, requirements were established to monitor inspection activities of automobile insurers.

With the introduction of *Ontario Regulation 391/02*, which came into effect on December 20, 2002, the mandatory insurance inspection provisions are eliminated. Insurers now have the discretion to request an inspection of a vehicle.

Insurers are no longer required to file with the Financial Services Commission of Ontario (FSCO) pre-insurance inspection monitoring reports.

Insurers will need to review their underwriting rules filed with FSCO for reference to pre-insurance inspections. Insurers who wish to continue to inspect vehicles will need to file conditions under which they would deny physical damage coverage. Insurers should file new underwriting rules with FSCO by January 31, 2003.

Insurers should review their rating and underwriting manuals to determine if reference is made to preinsurance inspections and make appropriate changes to the manuals.

Corresponding changes to the OAP1 and OAF1 will be introduced along with all other policy and form changes resulting from the current auto insurance reform process.

Insurers who opt to inspect

1. The insurer must file with FSCO underwriting rules and comply with the requirements in Section 238 of the *Insurance Act*. The rule must outline the circumstances under which physical damage coverage could be denied. Such circumstances may include:

   a) failure by the insured to have the vehicle inspected when required by the insurer;

   b) conditions revealed by the completed inspection that affect the risk.

2. The inspection must be conducted at no cost to the owner or lessee of the automobile.

3. The inspection must be conducted at a place and time that is reasonably convenient to the owner or lessee of the automobile.

4. On request, the insurer shall provide the owner or lessee of the automobile with copies of the information

recorded at the inspection.

5. Insurers should communicate to their staff, agents/brokers, adjusters and consumers the requirements for inspection.

Contact

Should you have any inquiries regarding underwriting rules, please contact your rate analyst in the Automobile Insurance Division at FSCO.

Bryan Davies

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Superintendent of Financial Services

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