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No. A-4/03

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Implementing Bill 198: New and Amending Regulations

To the attention of all insurance companies licensed to

transact automobile insurance in Ontario

With this Bulletin, the Financial Services Commission of Ontario (FSCO) is highlighting, for your reference, the changes to the *Statutory Accidents Benefits Schedule - Accidents on or After November 1, 1996* and other regulations following the enactment of Bill 198, the *Keeping the Promise for a Strong Economy Act (Budget Measures)*, 2002.

The Bill received Royal Assent on December 9th, 2002, as announced in Bulletin No. A- 06/02. Provisions of the Act dealing with the Motor Vehicle Accident Claims Fund and winding up orders became effective upon Royal Assent. The remaining auto insurance provisions of the Act, with the exception of sections 120, 121 and 122, have now been proclaimed and come into force **October 1, 2003**. Section 120 may be enacted in the future following the upcoming additional government consultations on further potential auto insurance reforms.

Over the coming months FSCO will be providing additional information to industry stakeholders including new and revised accident benefits claims forms, auto policy and endorsement forms, underwriting rules, designated assessment centres and matters relating to Statutory Accident Benefits Schedule representatives (i.e. paralegals).

The following is a list of the amended regulations and a brief description of the changes as well as effective dates.

1. **Statutory Accident Benefits Schedule - (O. Reg. 403/96 amended by O. Reg 281/03)**

   The changes to the Statutory Accident Benefits Schedule (SABS) include the following:

   expansion of the definition of catastrophic impairment; introduction of the Pre- approved Framework (PAF) guidelines for treatment of whiplash and related minor injuries; changes to circumstances in which medical assessments will require the prior approval of insurers; introduction of time-lines for designated assessment centre reports; and increased claimant accountability- for example, requiring the claimant to sign a treatment plan. Changes that affect benefit entitlement will apply to accidents that occur on or after October 1, 2003. All other changes to the SABS are effective October 1, 2003, regardless of the date of occurrence of the accident.

2. **Automobile Insurance (O. Reg. 664 amended by O. Reg 275/03)**

   Changes to this regulation include: clarifying the definition of "fleet" for insurance

   purposes; restricting the settlement of SABS claims for future benefits until after one year from the accident; limiting the criteria to be taken into account by arbitrators in determining whether to award arbitration expenses; permitting consolidation of arbitration proceedings at FSCO without consent of the parties; clarifying the group insurance provisions and adding consumer disclosure requirements; and setting out requirements for SABS representatives (paralegals) who provide representation in SABS claims. The regulation changes are effective on October 1, 2003 with the exception of the regulations dealing with SABS representatives which are effective on November 1, 2003.

3. **Unfair or Deceptive Acts or Practices (O. Reg. 7/00 amended by O. Reg 278/03)**

   The regulation changes expand the list of conduct that is considered an unfair or deceptive act or practice under the Insurance Act to include the following: using forms not approved by the Superintendent; examinations under oath that do not comply with the Act or regulations; demanding, accepting or paying referral fees in SABS claims; charging amounts for goods and services under the SABS which are not provided or which unreasonably exceed amounts charged to others for similar services; and failure to disclose a conflict of interest under the SABS. Other practices are prohibited by SABS Representatives: contingency fee arrangements; demanding accepting or paying referral fees; conduct inconsistent with a Code of Conduct issued by the Superintendent; and failure to disclose conflicts of interest. The regulation changes are effective November 1, 2003.

4. **Statutory Conditions - Automobile Insurance (O. Reg. 777/93/ amended by O. Reg 277/03)**

   Changes to this regulation include: clarifying the use of original and non-original parts in vehicle repairs; clarifying the application of the deductible; and providing for a dispute resolution process for resolution of disputes over physical damage claims. The regulation changes apply to all contacts of automobile insurance in force on October 1, 2003.

5. **Uninsured Automobile Coverage (O. Reg. 676/ amended by O. Reg 276/03)**

   The regulation repeals a provision governing the deduction of other insurance from uninsured motorist coverage limits. The change reflects case law. The regulation change became effective upon filing on July 2, 2003.

6. **Motor Vehicle Accident Claims Act (O. Reg 279/03 and 280/03)**

   Two new regulations are added to the Motor Vehicle Accident Claims Act. The first is a new regulation to assess insurers to recover the costs of the Motor Vehicle Accident Claims Fund where it steps in to ensure the flow of benefits to an injured individual in the event of an insurer insolvency. The second regulation sets out information claimants are required to provide when making a claim against the Fund. The regulation changes became effective upon filing on July 2, 2003.

Publication

These regulations were filed on July 2, 2003 and will be published in the July 19, 2003 edition of The Ontario Gazette. They can be downloaded from the Ontario e-Laws website, at: http://www.e-laws.gov.on.ca

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