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No. A-03/05

Property & Casualty

– Auto

Excluded Driver Endorsements (OPCF 28A and O.E.F. 78A)

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 changes to the Excluded Driver Endorsements: Ontario Policy Change Form OPCF 28A, and Ontario Endorsement Form O.E.F. 78A. These changes apply to all policies issued or renewed on or after June 1, 2005.

Excluded Driver Endorsements

Under s. 249 of the *Insurance Act*, a named insured may stipulate by endorsement that any person named in the endorsement is an excluded driver under the automobile insurance policy. The offering of the excluded driver endorsement is mandatory and not optional.

The OPCF 28A and O.E.F. 78A are the endorsements approved for use in accordance with s. 249. The OPCF 28A is for use in conjunction with the OAP 1 (standard automobile owner's policy); the O.E.F. 78A is for use in conjunction with the O.A.P. 4 (standard garage automobile policy).

Revisions to the Endorsement Forms

The Excluded Driver Endorsements have been revised to include strengthened wording to deter excluded drivers from driving the specified vehicles. In particular, the revised endorsements require the excluded driver and named insured to promise that the excluded driver will not drive the specified vehicle, and include warnings and notifications regarding the coverage limitations and other consequences of driving despite having signed the endorsement. The revised OPCF 28A and O.E.F. 78A are attached to this Bulletin, and are to be used in conjunction with policies issued or renewed on or after June 1, 2005.

Underwriting Rules

As noted above, under s. 249 of the *Insurance Act* all insurers must provide the OPCF 28A and O.E.F. 78A if requested by the named insured, with no underwriting restrictions. Insurers need to review their underwriting rules to ensure that they comply with s. 249, include no underwriting restrictions for the OPCF 28A and O.E.F. 78A, and re-file as appropriate.

Where an excluded driver has driven the vehicle he or she is excluded from, an insurer may be able to cancel or not renew the policy based on material misrepresentation, or breach of contract assuming that an appropriate underwriting rule has been filed.

Attached to this Bulletin is an endorsement filing package in respect of the OPCF 28A. As the OPCF 28A is to be available without restriction across all categories, insurers that write contracts of automobile insurance on the OAP 1 on a non-fleet basis for any category of automobile insurance are required to submit the completed filing to FSCO by April 15, 2005.

Contact

If you have any questions regarding this Bulletin, please contact your designated rate analyst in the Automobile Insurance Services Branch at FSCO.

Bryan P. Davies

Chief Executive Officer and Superintendent of Financial Services

March 24, 2005

Attachments:

- OPCF 28A
- O.E.F. 78A
- Endorsement Filing Guidelines
- Appendix A
- Appendix B
- Appendix C

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Toronto, ON M2N 6L9
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(416) 250-7250

OPCF 28A
Excluded Driver

Issued to	Effective Date of Change Year Month Day / /	Policy Number

WARNING - BY SIGNING THIS FORM YOU AGREE THAT IF THE EXCLUDED DRIVER DRIVES ANY AUTOMOBILE DESCRIBED BELOW:

- **THIS POLICY WILL NOT PROVIDE THE INSURANCE REQUIRED BY LAW;**
- **THIS POLICY WILL NOT PROVIDE COVERAGE FOR DAMAGE OR INJURIES CAUSED BY THE EXCLUDED DRIVER; AND**
- **BOTH THE AUTOMOBILE OWNER AND THE EXCLUDED DRIVER MAY BE PERSONALLY RESPONSIBLE FOR DAMAGE OR INJURIES CAUSED BY THE EXCLUDED DRIVER.**

Please sign and return this form. Keep a copy for your records.

1. **Purpose of This Change** - This change is part of the policy. Except for certain Accident Benefits, it excludes all coverage when the person (the “Excluded Driver”) named in paragraph 3 below drives the automobile(s) described in paragraph 2 below.

2. **Exclusions from Coverage** - Except for certain Accident Benefits under Section 4 of the policy, we will not provide coverage while the Excluded Driver is driving the automobile(s) listed below, as well as any temporary substitute automobile and any newly acquired automobile as defined in the policy.

Automobile #	Model Year	Trade Name (Make)	Serial # /VIN

3. **Acknowledgement of Excluded Driver** - I promise that I will not drive the automobile(s) described in paragraph 2 above. I understand that if I do,
   - there is no coverage under the policy for:
     - property damage and bodily injury,
     - damage to the automobile(s), and
     - most Accident Benefits;
   - I may be charged with driving without insurance;
   - I may be held personally liable for injuries or damage caused by me;
   - the policy may be cancelled; and
   - in future, I may have more difficulty finding car insurance and it will likely cost more.

Name of Excluded Driver: ______________________________ Driver's Licence # ________________________________

Signature of Excluded Driver	Date

4. **Acknowledgement of Named Insured(s**) - I promise that I will not permit the Excluded Driver to drive the automobile(s) described in paragraph 2 above. I understand that if I do,
   - there is no coverage under the policy for:
     - property damage and bodily injury,
     - damage to the automobile(s), and
     - most Accident Benefits;
   - I may be charged with permitting the automobile to be driven without insurance;
   - I may be held personally liable for injuries or damage caused by the Excluded Driver;
   - the policy may be cancelled; and
   - in future, I may have more difficulty finding car insurance and it will likely cost more.

Signature of Named Insured(s)	Date

All other terms and conditions of the policy remain the same.

O.E.F. 78A
EXCLUDED DRIVER ENDORSEMENT
(for Ontario Garage Automobile Policy O.A.P. 4)

Issued to	Effective Date of Change Year / Month / Day	Policy Number
	/ /	

WARNING - BY SIGNING THIS FORM YOU AGREE THAT IF THE EXCLUDED DRIVER DRIVES ANY AUTOMOBILE DEFINED IN THE POLICY:

- **THIS POLICY WILL NOT PROVIDE THE INSURANCE REQUIRED BY LAW;**
- **THIS POLICY WILL NOT PROVIDE COVERAGE FOR DAMAGE OR INJURIES CAUSED BY THE EXCLUDED DRIVER; AND**
- **BOTH THE AUTOMOBILE OWNER AND THE EXCLUDED DRIVER MAY BE PERSONALLY RESPONSIBLE FOR DAMAGE OR INJURIES CAUSED BY THE EXCLUDED DRIVER.**

Please sign and return this form. Keep a copy for your records.

1. Except for those Accident Benefits required to be paid as outlined in Section 2 of the Policy, it is agreed that all insurance provided by this Policy is eliminated while ___________________________________drives any of the automobile(s) defined in the Policy.
   Excluded Driver

2. **Acknowledgement of Excluded Driver** - I promise that I will not drive any of the automobile(s) defined in the Policy. I understand that if I do,
   - there is no coverage under the Policy for:
     - property damage and bodily injury,
     - damage to the automobile(s), and
     - most Accident Benefits;
   - I may be charged with driving without insurance;
   - I may be held personally liable for injuries or damage caused by me;
   - the policy may be cancelled; and
   - in future, I may have more difficulty finding car insurance and it will likely cost more.

Name of Excluded Driver: ________________________________Driver's Licence # __________________________________

Signature of Excluded Driver	Date

3. **Acknowledgement of Named Insured(s)** - I promise that I will not permit the Excluded Driver to drive any of the automobile(s) defined in the Policy. I understand that if I do,
   - there is no coverage under the Policy for:
     - property damage and bodily injury,
     - damage to the automobile(s), and
     - most Accident Benefits;
   - I may be charged with permitting the automobile to be driven without insurance;
   - I may be held personally liable for injuries or damage caused by the Excluded Driver;
   - the policy may be cancelled; and
   - in future, I may have more difficulty finding car insurance and it will likely cost more.

Signature of Named Insured(s)	Date

All other terms and conditions of the Policy remain the same.

FINANCIAL SERVICES COMMISSION OF ONTARIO
Filing Guidelines for Proposed Revisions to Endorsements
Automobile Insurance Forms, Underwriting Rules and Rates

A. ENDORSEMENT FORMS

Standard endorsement (policy change) forms have been approved by the Superintendent and released through Superintendent's bulletins to the industry. Policy change forms to Ontario Automobile Policy (OAP 1) are designated by a series of OPCF numbers. Any endorsement form to OAP 1 that is not a standard form must be filed and approved by the Superintendent in accordance with Section 227 of the *Insurance Act* (the *"Act"*), R.S.O. 1990, Chap. I.8, as amended.

When submitting a non-standard endorsement form for approval, the insurer should:

- Provide the proposed effective date of the form.
- Provide a description of the form and whether it replaces an existing approved form.
- Identify how the coverage differs, if applicable, from a standard approved endorsement form.

Each proposed non-standard endorsement form should:

- Have a title and number ("OPCF" should not be used).
- Describe clearly the coverage that is being provided or amended from the standard policy form.
- Clearly set out any exclusions.
- Require a signature of the applicant where coverage is reduced from the standard policy form.

A non-standard endorsement form must be approved prior to submitting the filing for proposed revisions to endorsement rules and rates.

B. UNDERWRITING RULES FOR ENDORSEMENTS

Section 238 of the *Act* outlines the requirements for filing underwriting rules. For coverages, other than endorsements, refer to the *Section 238 Guidelines for Filing Underwriting Rules* that were issued in July 2003. Insurers should complete *Appendix A* when changing underwriting rules for any endorsement. The standard endorsements are listed first. Any non-standard endorsement should be listed separately on page A3 of *Appendix A*.

Also, an official who has knowledge of the insurer's underwriting rules is required to sign *Appendix C*, circle the appropriate paragraph and file it with the underwriting rules.

C. RATES FOR ENDORSEMENTS

OPCF 44R written on OAP 1 for private passenger automobiles is subject to a prior approval process as set out in the *Section 410 Filing Guidelines*. Any changes to OPCF 44R rates should be submitted with an insurer's private passenger automobile insurance rate filing.

The rates for all other endorsements are subject to a file and use process under Section 413. The proposed OPCF 44R rates on categories other than private passenger auto should be submitted with the insurer's Section 413 filing. For other endorsement rate changes, the guidelines for filing rate changes are set out below.

All information and data used to support any endorsement rate changes must be documented. Insurers should complete and file *Appendix B* when changing any endorsement rate.

Also, an official who has knowledge of the insurer's endorsement rates is required to sign *Appendix C*, circle the appropriate paragraph and file it with the endorsement rates.

D. PROPOSED MANUAL PAGES

When filing for changes to endorsement rates or rules, please provide the draft of the revised rate manual pages, reflecting the changes, if available. Please note that the insurer is required to file with FSCO its rate manual, containing the revised rates and underwriting rules for endorsements within 30 days of the approval.

Company Name: ______________________________

Group Name: ______________________________

Category of Insurance:* ______________________________

SUMMARY SHEET OF UNDERWRITING RULES FOR ENDORSEMENTS

Instructions: Indicate with an **X** which column is applicable for each of the OPCFs and non-standard endorsements. If the OPCF is offered on a selective basis, i.e., column C applies, please attach the underwriting rules. The excluded driver endorsement (OPCF 28A) is an endorsement required to be offered under legislation.

*This summary can be used for a specific category or grouping of categories. It should be filled out for all categories of insurance written by the insurer.

Ontario Policy Change Form (OPCF) Number and Title		(A) Not Offered	(B) Offered to all individuals (No underwriting restrictions)	(C) Offered on a selective basis (Attach rules)
2	Providing coverage when named persons drive other automobiles			
3	Drive government automobiles			
4A	Permission to carry explosives			
4B	Permission to carry radioactive materials			
5	Permission to rent or lease automobiles and extending coverage to the specified lessee(s)			
5C	Permission to rent or lease (unspecified lessees - short term leases only)			
5D	Conversion coverage (rented or leased automobiles)			
6A	Permission to carry paying passengers			
6B	School bus			
6C	Public passenger vehicles			
6D	Driver training school			
6F	Public passenger vehicles - combined limits			
7	Separate limits (liability)			

Ontario Policy Change Form (OPCF) Number and Title		(A) Not Offered	(B) Offered to all individuals (No underwriting restrictions)	(C) Offered on a selective basis (Attach rules)
8	Property damage reimbursement			
9	Marine use excluded (amphibious automobiles)			
13C	Restricting glass coverage			
16	Suspension of coverage			
17	Reinstatement of coverage			
19	Limiting the amount paid for loss or damage coverages			
19A	Agreed value of automobiles			
20	Coverage for transportation replacement			
21A	Monthly reporting basis fleet (applicable to Ontario licensed vehicles)			
21B	Blanket fleet coverage for Ontario licensed automobiles			
22	Damage to property of passengers			
23A	Lienholder protection			
23B	Mortgage (broad form)			
24	Fire apparatus			
25A	Alteration			
27	Liability for damage to non-owned automobile(s) and providing other coverages when insured persons drive other automobiles			
27B	Business operations - liability for damage to non-owned automobile(s) in your care, custody or control			
28	Reducing coverage for named persons			
28A	Excluded driver		X	
29	Additional coverage for named person(s)			
30	Removing coverage for attached machinery			

Ontario Policy Change Form (OPCF) Number and Title		(A) Not Offered	(B) Offered to all individuals (No underwriting restrictions)	(C) Offered on a selective basis (Attach rules)
31	Non-owned equipment			
32	Use of recreational vehicles by unlicensed operators			
35	Coverage for emergency road service			
38	Agreed limit for automobile electronic accessories and equipment			
40	Fire and theft deductible			
43	Removing depreciation deduction			
43A	Removing depreciation deduction for specified lessee(s)			
44R	Family protection coverage			
47	Agreement not to rely on SABS priority of payment rules			

Non-Standard Endorsements Number and Title		Approval date of the form*	(A) Offered to all individuals (No underwriting restrictions)	(B) Offered on a selective basis (Attach rules)

***Please attach a copy of the form.**

Company Name: ____________________

Group Name: ____________________

Category of Insurance:* ____________________

SUMMARY SHEET OF RATES FOR ENDORSEMENTS

Instructions: For each endorsement that is offered by the insurer provide the current rate and the proposed rate. If the endorsement is not offered indicate **N/A**. If the endorsement is offered but there is no charge indicate **$0**.

***** This summary can be used for a specific category or grouping of categories. It should be filled out for all categories of insurance written by the insurer.

Ontario Policy Change Form (OPCF) Number and Title		**(A)** **Current Rate Charged**	**(B)** **Proposed Rate to be Charged**
2	Providing coverage when named persons drive other automobiles		
3	Drive government automobiles		
4A	Permission to carry explosives		
4B	Permission to carry radioactive materials		
5	Permission to rent or lease automobiles and extending coverage to the specified lessee(s)		
5C	Permission to rent or lease (unspecified lessees - short term leases only)		
5D	Conversion coverage (rented or leased automobiles)		
6A	Permission to carry paying passengers		
6B	School bus		
6C	Public passenger vehicles - combined limits		
6D	Driver training school		
6F	Public passenger vehicles		
7	Separate limits (liability)		
8	Property damage reimbursement		
9	Marine use excluded (amphibious automobiles)		

Ontario Policy Change Form (OPCF) Number and Title		**(A)** **Current Rate Charged**	**(B)** **Proposed Rate to be Charged**
13C	Restricting glass coverage		
16	Suspension of coverage		
17	Reinstatement of coverage		
19	Limiting the amount paid for loss or damage coverages		
19A	Agreed value of automobiles		
20	Coverage for transportation replacement		
21A	Monthly reporting basis fleet (applicable to Ontario licensed vehicles)		
21B	Blanket fleet coverage for Ontario-licensed automobiles		
22	Damage to property of passengers		
23A	Lienholder protection		
23B	Mortgage (broad form)		
24	Fire apparatus		
25A	Alteration		
27	Liability for damage to non-owned automobile(s) and providing other coverages when insured persons drive other automobiles		
27B	Business operations - liability for damage to non-owned automobile(s) in your care, custody or control		
28	Reducing coverage for named persons		
28A	Excluded driver		
29	Additional coverage for named person(s)		
30	Removing coverage for attached machinery		
31	Non-owned equipment		
32	Use of recreational vehicles by unlicensed operators		
35	Coverage for emergency road service		
38	Agreed limit for automobile electronic accessories and equipment		

Ontario Policy Change Form (OPCF) Number and Title		(A) Current Rate Charged	(B) Proposed Rate to be Charged
40	Fire and theft deductible		
43	Removing depreciation deduction		
43A	Removing depreciation deduction for specified lessee(s)		
44R	Family protection coverage (Note: OPCF 44R rate changes must be filed using section 412 or 413 filing guidelines.)		
47	Agreement not to rely on SABS priority of payment rules		

Non-Standard Endorsements Number and Title		(A) Current Rate Charged	(B) Proposed Rate to be Charged

Individual to whom questions concerning this filing may be addressed:

Name:

Title: ______________________________

Company: ______________________________

Address: ______________________________

____

____

____

Phone No.: ______________________________

Facsimile No.: ______________________________

E-mail Address: ______________________________

CERTIFICATE OF AN OFFICIAL

I,____________________________, ____
(Name of official) ***(Position held)***

of ____ (the "Insurer")
(*Official Name of Company*)

CERTIFY THAT:

1. I have knowledge of the matters that are the subject of this certificate.

2. The information and each document contained in the filing accompanying this certificate is complete and accurate.

3. The Insurer's grounds for declining to issue, terminating or refusing to renew, or refusing to provide or continue an endorsement are set out in *Appendix A*.

4. The Insurer's rates for endorsements are set out in *Appendix B*.

______________________________ ______________________________
Signature of Official ***Date, Location***