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Amendments to Automobile Insurance Legislation and Regulations

Bulletin

No. A-05/15

Property & Casualty

– Auto

To the attention of all insurance companies licensed to transact auto insurance in Ontario

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An order that is made regarding a licence holder reflects a situation at a particular point in time. The status of a licence holder can change. Readers should check the current status of a person's or entity's licence on the [Licensing Link](#) section of FSCO's website. Readers may also wish to contact the person or entity directly to get additional information or clarification about the events that resulted in the order.

These bulletins may include forms that are no longer up-to-date or accurate. Readers should visit the [forms](#) section of the FSCO website, to ensure they are using the most recent version of a FSCO form.

With this bulletin, the Financial Services Commission of Ontario (FSCO) is highlighting a number of recent reforms to automobile insurance legislation and regulations.

These reforms are the result of the announcements made by the government in the 2015 Ontario Budget. They include amendments to the Insurance Act, and to Regulation 664 (Automobile Insurance) and Regulation 461/96 (Court Proceedings For Automobile Accidents That Occur on or After November 1, 1996).

In the upcoming months, FSCO will issue additional bulletins relating to the implementation of other automobile insurance reforms announced in the 2015 Ontario Budget.

The amendments are listed and outlined below:

Ontario Regulation 664 (Automobile Insurance)

This regulation has been amended to require that all insurers offer a discount to policyholders for the use of winter tires. The winter tire discount must be made available for contracts issued

or renewed on or after January 1, 2016, for all eligible private passenger automobile policies. Insurers are encouraged to implement the discount before January 1, 2016, where feasible.

Insurance companies that do not currently offer a winter tire discount must file an application for approval with FSCO no later than August 28, 2015. Insurers should use the Private Passenger Automobile Filing Guidelines - Simplified for these applications and not off-balance this discount.

Insurers are required to have a process in place to notify their policyholders of this new discount.

For inquiries regarding the filing process for this discount, contact your Rate Analyst in the Automobile Insurance Services Branch at FSCO.

Ontario Regulation 461/96 (Court Proceedings For Automobile Accidents That Occur On Or After November 1, 1996)

This regulation has been amended to ensure that the deductible amounts for damages for non-pecuniary loss (pain and suffering) reflect the effects of inflation since 2003.

The regulation amendments include the following:

- The \$30,000 deductible amount prescribed in the case of damages for non-pecuniary loss is adjusted to \$36,540 from August 1, 2015 until December 31, 2015. On January 1, 2016 and every subsequent year, this amount will be revised by adjusting the amount by the indexation percentage published under Insurance Act subsection 268.1 (1) for that year.
- The \$15,000 deductible amount prescribed in the case of damages for non-pecuniary loss under clause 61 (2) (e) of the Family Law Act, is adjusted to \$18,270 from August 1, 2015 until December 31, 2015. On January 1, 2016 and every subsequent year, this amount will be revised by adjusting the amount by the indexation percentage published under Insurance Act subsection 268.1 (1) for that year.

The existing endorsement [Added Coverage To Offset Tort Deductibles (OPCF 48)] to reduce the tort deductible amounts will remain unchanged.

Insurance Act, R.S.O. 1990, c. I.8

The Insurance Act is amended to adjust the monetary thresholds beyond which the tort deductible does not apply to reflect inflation since 2003, and link the monetary thresholds to future changes in inflation.

The legislative amendments include the following:

- The monetary threshold beyond which the new deductible amount of \$36,540 does not apply is adjusted from \$100,000 to \$121,799, in the case of damages for non-pecuniary loss from August 1, 2015 until December 31, 2015. On January 1, 2016 and every subsequent year,

this new threshold amount will be revised by adjusting the amount by the indexation percentage published under subsection 268.1 (1) for that year.

- The monetary threshold beyond which the new deductible amount of \$18,270 does not apply is adjusted from \$50,000 to \$60,899, in the case of damages for non-pecuniary loss under clause 61 (2) (e) of the Family Law Act from August 1, 2015 until December 31, 2015. On January 1, 2016 and every subsequent year, this new threshold amount will be revised by adjusting the amount by the indexation percentage published under subsection 268.1 (1) for that year.
- The Insurance Act has been amended in subsection 267.5 (9) to require that the tort deductible be taken into account when determining a party's entitlement to costs in an action for damages from bodily injury or death arising directly or indirectly from the use or operation of an automobile.

Please ensure that your claims and underwriting staff, and any other staff who may be affected, are informed of these changes. Also ensure that you make any operational changes needed to implement these reforms by the effective date.

Copies of Regulations and Legislation

The Insurance Act and regulations can be downloaded from the e-laws website at www.e-laws.gov.on.ca . The proclamation order for the legislative amendments to the Insurance Act is expected to be published in a future edition of The Ontario Gazette.

Brian Mills
Chief Executive Officer and
Superintendent of Financial Services

July 29, 2015