

Enforcement and Administration Regulation Consultation Paper

Introduction

Treasury Board and Finance (the department) is reviewing the [Enforcement and Administration Regulation](#) (Regulation) of the [Insurance Act](#) (Act).

Purpose

The purpose of this consultation paper is to seek comments and feedback from stakeholders, and to provide an opportunity to identify other issues for consideration.

Summary of the Regulation

Under Section 790 of the Act, the Superintendent of Insurance (Superintendent) has the authority to issue administrative penalties for contraventions of the Act and its related regulations. The purpose of the regulation is to set out such matters as:

- The information that must be contained in a notice of an administrative penalty;
- The factors the Superintendent must consider when determining the amount of an administrative penalty; and
- The sections of various regulations that constitute an offence when they are not complied with.

Items for consideration

The department has identified a number of items for consideration, listed below. These items have been identified with consumer protection in mind. Applicable excerpts from regulations are provided in the Appendix. Please inform the department of any comments you have on these items.

1. Updating the Regulation's Schedule to include three new items as being subject to administrative penalties.
 - a) Failure to provide written notice of the dispute resolution process
 - Sections 5.2(2) and 5.2(3) of the Fair Practices Regulation state that in the event of a dispute between the insurer and the insured, an insurer must provide written notice of the dispute resolution process to the insured within a certain period of time.
 - Making these sections subject to administrative penalty helps to ensure insurers are making consumers aware of, and may easily refer to, the dispute resolution process.
 - b) Statutory Conditions to be printed verbatim in every automobile or property policy
 - This proposed addition would accompany a proposed section to the Fair Practices Regulation, making non-inclusion of the full text of Statutory Conditions subject to administrative penalty.

- This proposal would reinforce Sections 540 and 556 of the Act, which provide the text that is to be printed in a policy under the heading of Statutory Conditions.
- The intent is to ensure insurers are providing the full text of relevant Statutory Conditions to an insured when a policy is undertaken.
- c) Failure to pay Section B total disability benefits, pursuant to requirements of the Automobile Accident Insurance Benefits Regulation
 - Section B total disability benefits ensure Albertans disabled by automobile collisions have access to expenses for daily living.
 - If adopted, this would codify the importance placed on these benefits for consumers, as enumerated in Superintendent Bulletin 04-2015 (attached as Appendix 2).

Stakeholder comments and feedback

Those interested are invited to submit comments and feedback on this consultation paper. Stakeholders are encouraged to identify any other issues the department should consider while reviewing the Regulation.

If you are identifying a new issue, please consider the following:

- Rationale for the identified issue;
- Evidence to support the identified issue, including what other jurisdictions are doing (if applicable); and
- Solution to the identified issue, including what implementation could look like.

Please note that all submissions will be subject to the [Freedom of Information and Protection of Privacy Act](#) (FOIP). All information received, including the names of stakeholders consulted in this process and any comments received about the Regulation, may be used or disclosed in the future in accordance with FOIP. Comments will not be publicly attributed to the stakeholder without consent.

Interested stakeholders are invited to submit their comments and feedback to Debbie Manning (debbie.manning@gov.ab.ca or 780-638-4590) by February 2, 2018.

Thank you for your time and comments!

Appendix 1

Excerpt from the Enforcement and Administration Regulation

Schedule

Regulatory Provisions in Respect of Which an Administrative Penalty is Payable

- 1 Provincial Companies Regulation
- sections 2, 3, 4, 5, 6, 7(1) and 14(2) and (3).
 - 2 Replacement of Life Insurance Contracts Regulation
- sections 2, 8 and 10.
 - 3 Insurance Agents and Adjusters Regulation
- sections 15(3), 18(2) and 28.
 - 4 Fair Practices Regulation (AR 128/2001)
- sections 2, 3 and 5(3).
 - 5 Repealed AR 99/2006 s3.
 - 6 Automobile Insurance Premiums Regulation
- sections 2, 3, 4, 5, 6, 8, 11(1) and 12.
AR 129/2001 Sched.;382/2003;124/2004;99/2006;117/2014
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Excerpt from the Fair Practices Regulation

Notice of dispute resolution process

- 5.2 (1)** In this section, “dispute resolution process” means the dispute resolution process described in section 519 of the Act.
- (2)** An insurer must give written notice to the insured of the dispute resolution process
- (a) within 10 days after the insurer determines that a dispute has arisen between the insurer and the insured about a matter under Statutory Condition 11 set out in section 540, or Statutory Condition 4(9) set out in section 556, of the Act, or
 - (b) within 70 days after the insured has submitted a proof of loss, if the insurer has not yet made a decision as to the validity or the amount payable in respect of the claim.
- (3)** A written notice referred to in subsection (2) must include a copy of section 519 of the Act.

AR 145/2011 s4;183/2011

Appendix 2

BULLETIN NUMBER: 04-2015
TITLE: Automobile Insurance - Total Disability Benefits
DATE: December 2015

PURPOSE:

This Bulletin is being issued to advise automobile insurers that I consider failing to provide automobile insurance total disability benefits in accordance with the provisions of legislation, automobile insurance policy forms and interpretation Bulletins to be an unfair act or practice.

BACKGROUND:

One of the major objectives and coverages of the Insurance Act (Act), the Automobile Accident Insurance Benefits Regulations (AAIB) and automobile insurance policy forms is income replacement for those that are disabled as the result of injuries sustained in automobile accidents. Under automobile insurance, income replacement is provided as a total disability benefit, which enables claimants to pay for the necessities of life, and mitigate the financial consequences of accidents. Given the impact on claimants, I consider not paying total disability benefits as prescribed to be a serious matter.

INTERPRETATION:

In accordance with my delegated authority under Section 791(2) of the Act and pursuant to Section 792(1) of the Act I have determined that failing to pay automobile accident insurance total disability benefits as prescribed by the Act, the AAIB and automobile insurance policy forms is an unfair act, or practice. An unfair act or practice is prohibited by Section 509(1) (c) of the Act. Non-compliance with Section 509 of the Act is an offence under Section 780 (d) of the Act, for which an administrative penalty may be assessed pursuant to Section 789 of the Act. An administrative penalty of up to \$25,000.00 may be assessed for each occurrence in which an offence is committed.

I strongly encourage insurers to ensure that all of their applicable staff are aware of this Bulletin.

If you have questions regarding this Bulletin please contact our office at TBF.insurance@gov.ab.ca or (780) 427-8322 (toll-free in Alberta by first dialing 310-0000).

[ORIGINAL SIGNED]

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