



Automobile Insurance Changes *Minor Injury Cap*

April 28, 2010

Proposed amendments to the Insurance Act and related regulatory changes will replace the existing minor injury cap on pain and suffering awards for injuries resulting from automobile accidents with measures that balance concerns raised about the fairness with the need for affordable, stable premiums for all Nova Scotia drivers.

The legislative amendments being introduced and the related regulatory changes will reform the existing cap by:

- amending the definition of “minor injury” to mean strains, sprains, and whiplash-associated disorders, mirroring the definition already in place in Alberta;
- increasing the pain and suffering award limit to \$7,500;
- indexing the limit to inflation; and
- enabling the introduction of optional full tort coverage at a later date.

These proposed amendments and regulatory changes focus only on reforms to the cap on pain and suffering awards for minor injuries. Further changes to Nova Scotia’s insurance regime may be considered under the broader insurance review planned for 2010-2011.

The following provides an overview of what will be achieved in legislation through the amendments being introduced and the proposed regulations which have been drafted to support these changes.

Insurance Act Amendments

Legislative amendments introduced to the Insurance Act will change the definition of minor injury, establish the date the amendments take effect and enable the related regulatory changes.

Minor Injury Definition

The existing minor injury definition is complex, difficult to interpret, and captures a wide range of injuries. These amendments restrict the meaning of minor injury to fewer types of injuries. The definition of minor injury in the new legislation is very similar to the minor injury definition in Alberta, which has been in place since October 2004. Minor injuries as defined in this bill are limited to strains, sprains and whiplash associated disorders. These terms are defined in the proposed regulations.

Effective Date

Legislative amendments and accompanying regulatory changes will apply to accidents occurring on or after April 28, 2010. An exception to this is the introduction of optional full tort coverage, which will require additional time to complete. The amendments and regulatory changes will come into force on July 1, 2010 to allow insurance companies time to make necessary system changes.

Regulatory Changes

Optional Full Tort Insurance Coverage

Legislative amendments introduced to the Insurance Act require insurers to provide consumers with the option to purchase insurance coverage excluding them from limits on pain and suffering awards should they be injured in an automobile accident. This provides consumers with the choice to accept a higher premium in exchange for full tort access.

This option is unique in Canada for provinces with competitive, tort-based auto insurance systems. The legislative amendments will enable the introduction of this new insurance product but implementation requires additional time to complete. The question of how to regulate the pricing of the full-tort option will be included in the government's broader review of automobile insurance, which is scheduled to take place during this fiscal year.

Regulatory changes are needed to support these legislative amendments. A draft of the planned regulatory changes will be introduced with the bill. The following highlights some of the planned regulatory changes.

Increase Cap Limit to \$7,500

Regulatory changes will address concerns about insufficient compensation by tripling the limit for compensation for minor injuries, and replacing the "minor injury" definition. Retaining a limit on pain and suffering awards for minor injuries will provide stability by preventing rapid escalation of pain and suffering award costs in the future. It will contribute to keeping insurance coverage affordable and available to Nova Scotia drivers.

Index Limit to Inflation

Indexing the limit for compensation for minor injuries to inflation will ensure that compensation increases keep pace with cost of living increases. Regulatory changes will establish this annual indexing. Each year the Office of the Superintendent of Insurance will post the new indexed limit.

Definition of Terms

The proposed regulations will define terms associated with the cap, including strain, sprain and whiplash-associated disorder.