

THE NEWFOUNDLAND AND LABRADOR GAZETTE

EXTRAORDINARY

Part I

PUBLISHED BY AUTHORITY

ST. JOHN'S, SUNDAY, AUGUST 1, 2004

AUTOMOBILE INSURANCE ACT

STANDARD AUTOMOBILE POLICY CHANGES

Pursuant to subsection 4. (1) of the *Automobile Insurance Act*, R.S.N.L. 1990, as amended, the following changes to the S.P.F. No. 1, Standard Automobile Policy (Owner's Form) as published in Part I of *The Newfoundland and Labrador Gazette* on June 30, 1994 are hereby approved for use in the Province effective August 1, 2004.

WINSTON MORRIS
Superintendent of Insurance

1. Under SECTION A - THIRD PARTY LIABILITY, under The insurer shall not be liable under this Section,
 - delete the "." at the end of paragraph (h) and add "; or", and
 - add after paragraph (h) the following:
 - (i) for any liability arising from the use or operation of the automobile by an excluded driver.
2. Under (3) EXCLUSIONS of the SPECIAL PROVISIONS, DEFINITIONS AND EXCLUSIONS OF SECTION B,
 - (a) delete the word "or" at the end of paragraph (a) (ii),
 - (b) delete the "." at the end of paragraph (a) (iii) and add "; or", and
 - (c) add after paragraph a (iii) the following:

(iv) resulting from the use or operation of the automobile by an excluded driver.

3. Under EXCLUSIONS of SECTION C - LOSS OF OR DAMAGE TO INSURED AUTOMOBILE, under The insurer shall not be liable,

- add after paragraph (1) (h) the following:

(i) where the automobile is being used or operated by an excluded driver; or

4. Under LIMITS AND EXCLUSIONS of SECTION D - UNINSURED AUTOMOBILE AND UNIDENTIFIED AUTOMOBILE COVERAGE,

(a) delete the word "and" at the end of paragraph 3. (1) (g),

(b) delete the "." at the end of paragraph 3. (1) (h) and add "; or", and

(c) add after paragraph 3. (1) (h) the following:

(i) for loss or damage that occurs while the insured automobile is being used or operated by an excluded driver.

5. Under the GENERAL PROVISION, DEFINITIONS AND EXCLUSIONS section of the policy, add the following:

3.1 EXCLUDED DRIVER DEFINED

In this Policy the words "excluded driver" mean a person who is named in an endorsement to the Policy, which endorsement eliminates coverage under the Policy while the named person drives or operates an automobile identified in the endorsement including any temporary substitute automobile or any newly acquired automobile.



THE NEWFOUNDLAND AND LABRADOR GAZETTE

EXTRAORDINARY

Part II

PUBLISHED BY AUTHORITY

ST. JOHN'S, SUNDAY, AUGUST 1, 2004

**NEWFOUNDLAND AND LABRADOR
REGULATIONS**

79/04

80/04

81/04

82/04

83/04

ST. JOHN'S, SUNDAY, AUGUST 1, 2004



**NEWFOUNDLAND AND LABRADOR
REGULATION 79/04**

Proclamation bringing Act into force
under
*Automobile Insurance (Amendment) Act,
Insurance Companies (Amendment) Act
and Highway Traffic (Amendment) Act*

(O.C. 2004-294)

(Filed July 28, 2004)

*ELIZABETH THE SECOND, by the Grace of God of the
United Kingdom, Canada and Her Other Realms and Territories
QUEEN, Head of the Commonwealth, Defender of the Faith.*

EDWARD ROBERTS
Lieutenant Governor

JOHN CUMMINGS
Deputy Minister of Justice

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING;

A PROCLAMATION

WHEREAS in and by section 25 of *An Act to Amend the Automobile Insurance Act*, the *Insurance Companies Act* and the *Highway Traffic Act* to Effect Certain Reforms Respecting Automobile Insurance, S.N.L. 2004 c.27 (the "Act") it is provided that the Act shall come into force on a day to be fixed by Proclamation of Our Lieutenant Governor in Council;

AND WHEREAS it is deemed it expedient that the Act shall now come into force.

NOW KNOW YE, THAT WE, by and with the advice of Our Executive Council of Our Province of Newfoundland and Labrador, do by this our Proclamation declare and direct that *An Act to Amend the Automobile Insurance Act*, the *Insurance Companies Act* and the *Highway Traffic Act* to Effect Certain Reforms Respecting Automobile Insurance, S.N.L. 2004 c. 27, shall come into force on August 1, 2004.

OF ALL WHICH OUR LOVING SUBJECTS AND ALL OTHERS whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Great Seal of Newfoundland and Labrador to be hereunto affixed.

WITNESS: Our trusty and well-beloved the
Honourable Edward Roberts, one of Her

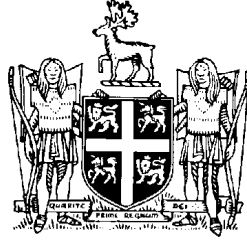
ST. JOHN'S, SUNDAY, AUGUST 1, 2004

Majesty's Counsel learned in the law,
Lieutenant Governor in and for Our
Province of Newfoundland and Labrador.

AT OUR GOVERNMENT HOUSE in Our City of St. John's
this 28th day of July, in the year of Our Lord two
thousand and four and in the fifty-
third year of Our Reign.

BY COMMAND,

JACK BYRNE
Registrar General



**NEWFOUNDLAND AND LABRADOR
REGULATION 80/04**

*Automobile Insurance Prohibited Underwriting
Regulations*
under the
Insurance Companies Act
(O.C. 2004-297)

(Filed July 28, 2004)

Under the authority of paragraph 107(e.1) of the *Insurance Companies Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, July 28, 2004.

Robert C. Thompson
Clerk of the Executive Council

REGULATIONS

Analysis

- | | |
|--|---|
| 1. Short title | 4. Prohibition - risk classification system |
| 2. Definitions | 5. Commencement |
| 3. Prohibition: Refusal to provide insurance | |

Short title **1.** These regulations may be cited as *Automobile Insurance Prohibited Underwriting Regulations*.

Definitions **2.** In these regulations

(a) "Act" means the *Insurance Companies Act*; and

(b) "minister" means the minister appointed under the *Executive Council Act* to administer the Act.

Prohibition: Re-
fusal to provide
insurance

3. (1) For the purpose of subsection 96.1(2) of the Act, an insurer shall not decline to issue, terminate or refuse to renew a contract or refuse to provide or continue a coverage or endorsement on one or more of the following grounds:

- (a) the insured, the applicant or another person who is or would be an insured under the contract
 - (i) had an accident in the past, or claimed in the past under a contract as a result of an accident, for which the insured, applicant or other person was not at fault,
 - (ii) has enquired as to coverage under a contract or has advised of an accident for which indemnity or coverage is provided for under a contract, and no payment was made to indemnify an insured or to an insured under the contract,
 - (iii) failed to make a payment to an insurer or a payment was returned to the insurer dishonored, other than the first payment due on a contract, if the missed payment or dishonored payment was replaced within 30 days of the date on which it was originally due,
 - (iv) has been declined insurance or refused a renewal of insurance by an insurer,
 - (v) has a lapse in coverage for a period of less than 24 months, unless the lapse resulted directly or indirectly from
 - (A) termination of a contract for failure to pay premiums due under a contract,
 - (B) termination of a contract for failing to disclose a conviction or claim and the conviction or claim would likely have led to a higher premium being charged, or

- (C) suspension of the person's drivers licence for an offence related to the use or operation of an automobile,
- (vi) does not have another insurance policy of any kind with the insurer or its affiliates or that he or she refused to consider or purchase another insurance policy from the insurer or its affiliates, or
- (vii) is or has been insured through the Facility Association;
- (b) the age of the vehicle, except that an inspection satisfactory to the insurer may be required once the vehicle is 8 years old, provided that the inspection requirements are set out in writing by the insurer and given to the applicant for a contract; and
- (c) another ground approved by the minister.

(2) For the purpose of this section, section 7 of the *Corporations Act* applies, with the necessary changes, to the determination of whether there is an affiliation between 2 or more insurers.

Prohibition - risk
classification
system

4. (1) For the purpose of paragraph 96.2(3)(d), an insurer shall not use one or more of the following elements in its risk classification system:

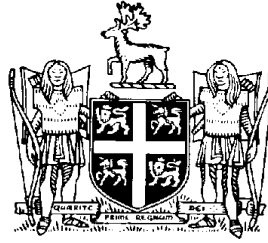
- (a) an accident or a claim resulting from an accident for which the insured was not at fault;
- (b) an inquiry by an insured as to coverage under a contract, or any advice of an accident by an insured for which indemnity or coverage is provided for under a contract, where no payment was made to indemnify an insured or to an insured under a contract;
- (c) failure by the insured to make a payment to an insurer, or a payment being returned to an insurer dishonored, other than the first payment due on a contract, if the missed payment or dishonored payment was replaced within 30 days of the date on which it was originally due;

- (d) the insured was declined insurance or refused a renewal of insurance by an insurer;
- (e) the insured has a lapse in coverage under a contract for a period of less than 24 months, unless the lapse resulted directly or indirectly from
 - (i) termination of a contract for failure to pay premiums due under a contract,
 - (ii) termination of a contract for failing to disclose a conviction or claim and the conviction or claim would likely have led to a higher premium being charged, or
 - (iii) suspension of the person's drivers licence for an offence related to the use or operation of an automobile; and
- (f) another element approved by the minister.

Commencement

5. These regulations shall come into force on August 1, 2004.

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**NEWFOUNDLAND AND LABRADOR
REGULATION 81/04**

Automobile Insurance Regulations
under the
Automobile Insurance Act
(O.C. 2004-296)

(Filed July 28, 2004)

Under the authority of paragraphs 60(1)(g.1) and (g.2) of the *Automobile Insurance Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, July 28, 2004.

Robert C. Thompson
Clerk of the Executive Council

REGULATIONS

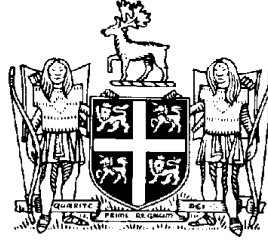
Analysis

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|-----------------------|---------------------------------------|
| 1. Short title | 5. Net loss of earning capacity |
| 2. Definitions | 6. Deductible on non-pecuniary damage |
| 3. Application | |
| 4. Net loss of income | |

- | | |
|-------------|---|
| Short title | 1. These regulations may be cited as <i>Automobile Insurance Regulations</i> . |
| Definitions | 2. In these regulations, "Act means the <i>Automobile Insurance Act</i> . |
| Application | 3. These regulations apply to an action arising from the use or operation of an automobile on or after August 1, 2004. |

- Net loss of income **4.** For the purpose of paragraph 26.4(1)(a) of the Act, net loss of income means total income lost less the following:
- (a) the premium otherwise payable on that income under the *Employment Insurance Act* (Canada);
 - (b) the contribution otherwise payable on that income under the Canada Pension Plan (Canada); and
 - (c) the income tax otherwise payable on that income under the *Income Tax Act* (Canada) and the *Income Tax Act, 2000*.
- Net loss of earning capacity **5.** For the purpose of paragraph 26.4(1)(b) of the Act, net loss of earning capacity means total loss of earning capacity or loss of future income less the following:
- (a) the premium otherwise payable on that income under the *Employment Insurance Act* (Canada);
 - (b) the contribution otherwise payable on that income under the Canada Pension Plan (Canada); and
 - (c) the income tax otherwise payable on that income under the *Income Tax Act* (Canada) and the *Income Tax Act, 2000*.
- Deductible on non-pecuniary damage **6.** For the purpose of section 39.1 of the Act, the amount by which the damages to which a plaintiff is entitled in relation to each cause of action for non-pecuniary loss or damage shall be reduced is \$2,500.

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**NEWFOUNDLAND AND LABRADOR
REGULATION 82/04**

*Uninsured Automobile and Unidentified Automobile
Coverage Regulations (Amendment)*
under the
Automobile Insurance Act
(O.C. 2004-295)

(Filed July 28, 2004)

Under the authority of subsection 33(4) of the *Automobile Insurance Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, July 28, 2004.

Robert C. Thompson
Clerk of the Executive Council

REGULATION

Analysis

- | | |
|---------------------------------------|-----------------|
| 1. Sch Amdt.
Limits and exclusions | 2. Commencement |
|---------------------------------------|-----------------|

CNLR 985/96

1. Subsection 3(1) of the Schedule to the *Uninsured Automobile and Unidentified Automobile Coverage Regulations* is amended

- (a) by striking out the word "and" at the end of paragraph (g);**

(b) by striking out the period at the end of paragraph (h) and substituting a semicolon and the word "or"; and

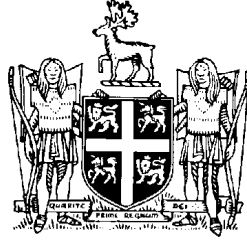
(c) by adding immediately after paragraph (h) the following:

(i) for loss or damage that occurs while the insured automobile is being used or operated by an excluded driver.

Commencement

2. These regulations come into force on August 1, 2004.

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**NEWFOUNDLAND AND LABRADOR
REGULATION 83/04**

Insurance Premiums Interest Rates Regulations
under the
Automobile Insurance Act

(July 28, 2004)

Under the authority of subsection 6.3(2) of the *Automobile Insurance Act*, the minister makes the following regulations.

Dated at St. John's, July 28, 2004.

Dianne Whalen
Minister of Government Services

REGULATIONS

Analysis

1. Short title
2. Definitions
3. Application of rates

Short title

1. These regulations may be cited as *Insurance Premiums Interest Rates Regulations*.

Definitions

2. Where an insured pays a premium required under an automobile insurance contract in equal monthly instalments, an insurer shall not charge a rate of interest exceeding

- (a) 3% of the total premium payable under the contract if the term of the contract is 12 months or more;

(b) 1.5% of the total premium payable under the contract if the term of the contract is 6 months or more but less than 12 months; and

(c) 0.5% of the total premium payable under the contract if the term of the contract is less than 6 months.

Application of rates

3. The interest rates set out in section 2 apply to contracts of automobile insurance renewed or entered into after August 1, 2004.

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PART I

Automobile Insurance Act — Notice 1

PART II

CONTINUING INDEX OF SUBORDINATE LEGISLATION

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Automobile Insurance Prohibited Underwriting Regulations	80/04	new	Extra. Aug. 01/04 p. 5
Automobile Insurance Act			
Automobile Insurance Regulations	81/04	new	Extra. Aug. 01/04 p. 9
Uninsured Automobile and Unidentified Automobile Coverage Regulations (Amendment)	82/04	Amends CNLR 985/96 Sch. Amdt.	Extra. Aug. 01/04 p. 11
Insurance Premiums Interest Rates Regulations	83/04	new	Extra. Aug. 01/04 p. 13