

Insurance Act

ONTARIO REGULATION 7/00 UNFAIR OR DECEPTIVE ACTS OR PRACTICES

Consolidation Period: From September 1, 2010 to the [e-Laws currency date](#).

Last amendment: O. Reg. 37/10.

This is the English version of a bilingual regulation.

0.1 In this Regulation,

“affiliated insurer” means an insurer that is considered to be affiliated with another insurer under subsection 414 (3) of the Act; (“assureur du même groupe”)

“credit information” means information about a person’s creditworthiness, including the person’s credit score, credit-based insurance score, credit rating and information about or derived in whole or in part from his or her occupation, previous places of residence, number of dependants, educational or professional qualifications, current or previous places of employment, estimated income, outstanding debt obligations, past debt payment history, cost of living obligations and assets; (“information de crédit”)

“declination grounds” means the grounds on which an insurer is authorized under the Act to decline to issue or to terminate or refuse to renew a contract of automobile insurance or to refuse to provide or continue a coverage or endorsement; (“motifs de refus”)

“prohibited factor” means,

- (a) any reason or consideration that, under section 5 of Regulation 664 of the Revised Regulations of Ontario, 1990 (Automobile Insurance), made under the Act, insurers are prohibited from using in the manner described in that section,
- (b) any fact or factor that, under section 16 of Regulation 664 of the Revised Regulations of Ontario, 1990, insurers are prohibited from using as elements of a risk classification system, and
- (c) any other factor that is an estimate of, a surrogate for or analogous to a prohibited factor referred to in clause (a) or (b); (“critère interdit”)

“prohibited manner” means a manner that is subjective or arbitrary or that bears little or no relationship to the risk to be borne by the insurer. (“manière interdite”) O. Reg. 37/10, s. 1.

1. For the purposes of the definition of “unfair or deceptive act or practice” in section 438 of the Act, each of the following actions is prescribed as an unfair or deceptive act or practice:

1. The commission of any act prohibited under the Act or the regulations.
2. Any unfair discrimination between individuals of the same class and of the same expectation of life, in the amount or payment or return of premiums, or rates charged for contracts of life insurance or annuity contracts, or in the dividends or other benefits payable on such contracts or in the terms and conditions of such contracts.
3. Any unfair discrimination in any rate or schedule of rates between risks in Ontario of essentially the same physical hazards in the same territorial classification.
4. Any illustration, circular, memorandum or statement that misrepresents, or by omission is so incomplete that it misrepresents, terms, benefits or advantages of any policy or contract of insurance issued or to be issued.
5. Any false or misleading statement as to the terms, benefits or advantages of any contract or policy of insurance issued or to be issued.
6. Any incomplete comparison of any policy or contract of insurance with that of any other insurer for the purpose of inducing or intending to induce an insured to lapse, forfeit or surrender a policy or contract.
7. Any payment, allowance or gift or any offer to pay, allow or give, directly or indirectly, any money or thing of value as an inducement to any prospective insured to insure.
8. Any charge by a person for a premium allowance or fee other than as stipulated in a contract of insurance upon which a sales commission is payable to the person.
9. Any conduct resulting in unreasonable delay in, or resistance to, the fair adjustment and settlement of claims.

10. Making the issuance or variation of a policy of automobile insurance conditional on the insured having or purchasing another insurance policy.
 11. When rating a person or a vehicle as an insurance risk for the purpose of determining the premium payable for a policy of automobile insurance, misclassifying the person or vehicle under the risk classification system used by the insurer or that the insurer is required by law to use.
 12. The use of a document in place of a form approved for use by the Superintendent, unless none of the deviations in the document from the approved form affects the substance or is calculated to mislead.
 13. Any examination or purported examination under oath that does not comply with the requirements under the Act or the regulations. O. Reg. 7/00, s. 1; O. Reg. 278/03, s. 1.
2. (1) For the purposes of the definition of “unfair or deceptive act or practice” in section 438 of the Act, an action described in this section by an insurer, by an officer, employee or agent of an insurer or by a broker is prescribed as an unfair or deceptive act or practice:
1. When such a person makes or attempts to make, directly or indirectly, an agreement with a person insured or applying for insurance in respect of life, person or property in Ontario as to the premium to be paid for a policy that is different from the premium set out in the policy.
 2. When such a person pays, allows or gives, directly or indirectly, a rebate of all or part of the premium stipulated by a policy to a person insured or applying for insurance in respect of life, person or property in Ontario, or offers or agrees to do so.
 3. When such a person pays, allows or gives, directly or indirectly, any consideration or thing of value that is intended to be in the nature of a rebate of the premium, stipulated by a policy to a person insured or applying for insurance in respect of life, person or property in Ontario, or offers or agrees to do so.
 4. When such a person uses credit information or a prohibited factor,
 - i. in processing or otherwise responding to requests for quotations for automobile insurance,
 - ii. in processing or otherwise responding to requests for applications to apply for automobile insurance,
 - iii. in processing or otherwise responding to completed and signed applications for automobile insurance,
 - iv. in processing offers to renew existing contracts of automobile insurance, or
 - v. in connection with any other matter relating to quotations for automobile insurance, applications for automobile insurance or renewals of existing contracts of automobile insurance.
 5. When such a person applies any information or other factor in a prohibited manner on receiving a request for a quotation for automobile insurance, a request for an application to apply for automobile insurance, an application for automobile insurance or in connection with an offer to renew an existing contract of automobile insurance.
 6. When such a person requires someone to consent or to obtain the consent of another person to the collection, use or disclosure of any credit information as a condition for providing a quotation for automobile insurance or an offer to renew an existing contract of automobile insurance.
 7. When such a person collects, uses or discloses any credit information about someone in any manner in connection with automobile insurance, other than,
 - i. for the limited purposes, if any, described in the form of application for insurance approved by the Superintendent under subsection 227 (1) of the Act, or
 - ii. in accordance with the consent obtained in compliance with the *Personal Information Protection and Electronic Documents Act* (Canada) of the person to whom the information relates.
 8. When, in connection with a request for a quotation for automobile insurance or an application for automobile insurance made to an affiliated insurer, or an offer by an affiliated insurer to renew an existing contract of automobile insurance, such a person fails to provide the lowest rate available from the insurer or any of the insurers with which it is affiliated in accordance with,
 - i. their declination grounds, and
 - ii. their rates and risk classification systems as approved under the Act or the *Automobile Insurance Rate Stabilization Act, 2003*. O. Reg. 7/00, s. 2; O. Reg. 37/10, s. 2 (1).
- (2) The reference to the “lowest rate available” in paragraph 8 of subsection (1) is a reference to the lowest rate available having regard to all of the circumstances, including the means of distribution through which the request, application or offer is made. O. Reg. 37/10, s. 2 (2).
3. (1) For the purposes of the definition of “unfair or deceptive acts or practices” in section 438 of the Act, each act and omission listed in subsection (2) is prescribed as an unfair or deceptive act or practice if it is committed by or on behalf of a

person with the expectation that a benefit will be received that is funded, directly or indirectly, out of the proceeds of insurance. O. Reg. 278/03, s. 2.

(2) The following are the acts and omissions listed for the purposes of subsection (1):

1. Charging an amount in consideration for the provision of goods or services to or for the benefit of a person who claims statutory accident benefits or who otherwise claims payment under a contract of insurance, if the goods or services are not provided.
2. Soliciting or demanding a referral fee, directly or indirectly, by or from a person who provides goods or services to or for the benefit of a person who claims statutory accident benefits or who otherwise claims payment under a contract of insurance.
3. Acceptance of a referral fee, directly or indirectly, by or from a person who provides goods or services to or for the benefit of a person who claims statutory accident benefits or who otherwise claims payment under a contract of insurance.
4. The payment of a referral fee, directly or indirectly, to or by a person who provides goods or services to or for the benefit of a person who claims statutory accident benefits or who otherwise claims payment under a contract of insurance.
5. Charging an amount in consideration for the provision of goods or services to or for the benefit of a person who claims statutory accident benefits or who otherwise claims payment under a contract of insurance, where the amount charged unreasonably exceeds the amount charged to other persons for similar goods or services.
6. The failure to disclose a conflict of interest to a person who claims statutory accident benefits or to an insurer, as required under the *Statutory Accident Benefits Schedule*. O. Reg. 278/03, s. 2; O. Reg. 547/05, s. 1 (1).

(3) For the purposes of paragraphs 1 to 5 of subsection (2), a person who provides goods or services includes,

- (a) a person who provides towing services or who owns or operates a tow truck;
- (b) a person engaged in the provision of vehicle repair services; and
- (c) a person engaged in the provision of automobile storage services. O. Reg. 547/05, s. 1 (2).

(4) For the purposes of paragraphs 1 to 5 of subsection (2), a person who provides goods or services does not include a person who, pursuant to the *Law Society Act*,

- (a) is authorized to practise law in Ontario as a barrister and solicitor; or
- (b) is authorized to provide legal services in Ontario other than as a barrister and solicitor. O. Reg. 61/08, s. 1.

4. REVOKED: O. Reg. 61/08, s. 2.

5. For the purposes of the definition of “unfair or deceptive acts or practices” in section 438 of the Act, each of the following actions, if done on or after March 1, 2006, is prescribed as an unfair or deceptive act or practice in relation to a claim for statutory accident benefits under the *Statutory Accident Benefits Schedule — Accidents on or after November 1, 1996* (in this section referred to as the *Schedule*):

1. The failure or refusal of an insurer without reasonable cause to pay a claim for goods or services or for the cost of an assessment within the time prescribed for payment in the *Schedule*.
2. The determination by an insurer that a person is not entitled to a statutory accident benefit or that a person does not have a catastrophic impairment if,
 - i. the insurer makes the determination before obtaining a report of an examination in respect of the person under section 42 of the *Schedule*, and
 - ii. the *Schedule* does not authorize the insurer to make the determination without having obtained the report.
3. The making of a statement by or on behalf of an insurer for the purposes of an adjustment or settlement of a claim if the insurer knows or ought to know that the statement misrepresents or unfairly presents the findings or conclusions of a person who conducted an examination under section 42 of the *Schedule*.
4. A requirement by an insurer that an insured person attend for an examination under section 42 of the *Schedule* conducted by a person whom the insurer knows or ought to know is not reasonably qualified by training or experience to conduct the examination.
5. A requirement by an insurer that an insured person attend for an examination under section 42 of the *Schedule* that the insurer knows or ought to know is not reasonably required for the purposes authorized under the *Schedule*.
6. The failure of an insurer to obtain the written and signed consent of an insured person in the approved form before a pre-claim examination under section 32.1 of the *Schedule* is conducted in respect of the insured person. O. Reg. 547/05, s. 2.

6. For the purposes of the definition of “unfair or deceptive acts or practices” in section 438 of the Act, each of the following actions is prescribed as an unfair or deceptive act or practice in relation to a claim for statutory accident benefits under the *Statutory Accident Benefits Schedule — Effective September 1, 2010*, made under the Act (in this section referred to as the *Schedule*):

1. The failure or refusal of an insurer without reasonable cause to pay a claim for goods or services or for the cost of an assessment within the time prescribed for payment in the *Schedule*.
2. The making of a statement by or on behalf of an insurer for the purposes of an adjustment or settlement of a claim if the insurer knows or ought to know that the statement misrepresents or unfairly presents the findings or conclusions of a person who conducted an examination under section 44 of the *Schedule*. O. Reg. 37/10, s. 3.

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[Back to top](#)