

Automobile Accident Minor Injury Regulations

Citation

- 1 These regulations may be cited as the *Automobile Accident Minor Injury Regulations*.

Definitions

- 2 (1) In these regulations,

“Act” means the *Insurance Act*;

“minor injury amount” means the total amount recoverable under Section 7 as damages for non-monetary loss for all minor injuries sustained by a claimant as a result of an accident;

- (2) In Section 113E of the Act and these regulations,

“serious impairment”, in respect of a claimant, means an impairment of a physical or cognitive function that meets all of the following:

- (i) the impairment results in a substantial inability to perform any or all of the following:
- (ii)
 - (A) the essential tasks of the claimant’s regular employment, occupation or profession, despite reasonable efforts to accommodate the claimant’s impairment and the claimant’s reasonable efforts to use the accommodation to allow the claimant to continue the claimant’s employment, occupation or profession,
 - (B) the essential tasks of the claimant’s training or education in a program or course that the claimant was enrolled in or had been accepted for enrolment in at the time of the accident, despite reasonable efforts to accommodate the claimant’s impairment and the claimant’s reasonable efforts to use the accommodation to allow the claimant to continue the claimant’s training or education,
 - (C) the normal activities of the claimant’s daily living,
- (iii) the impairment has been ongoing since the accident, and
- (iv) the function impaired is expected not to improve substantially;

“sprain” means an injury to one or more tendons, to one or more ligaments, or to both tendons and ligaments;

“strain” means an injury to one or more muscles;

“whiplash-associated disorder injury” or “WAD injury” means a whiplash-associated disorder other than one that exhibits one or all of the following:

- (i) neurological signs that are objective, demonstrable, definable and clinically relevant;
- (ii) a fracture to the spine or a dislocation of the spine:

Injuries must be assessed separately

- 3 If a claimant sustains more than one injury as a result of an accident, each injury must be assessed separately to determine whether the injury is or is not a minor injury.

Injury must be primary contributing factor

- 4 For a sprain, strain or WAD injury to be considered to have resulted in a serious impairment, the sprain, strain or WAD injury must be the primary factor contributing to the impairment.

Determination of minor injury

- 5 (1) The determination as to whether an injury sustained by a claimant as a result of an accident is or is not a minor injury must be based on the following:
- (a) a determination as to whether the injury is a sprain, strain or WAD injury; and
 - (b) if the injury is determined to be a sprain, strain or WAD injury, a determination as to whether the sprain, strain or WAD injury results in a serious impairment.
- (2) For the purpose of clause (1)(b), the determination as to whether a sprain, strain or WAD injury results in a serious impairment must take all of the following into account
- (a) the claimant’s pre-existing medical history;
 - (b) the matters referred to in subclause (i) of the definition of “serious impairment” in subsection 2(2) that relate to the claimant.

Treatment not followed

6 (1) If

- (a) a claimant sustains a sprain, strain or WAD injury as a result of an accident,
 - (b) the claimant has, without reasonable excuse, not sought and complied with all reasonable treatment recommendations of a medical practitioner trained and experienced in the assessment and treatment of the personal injuries, and
 - (c) the sprain, strain or WAD injury results in a serious impairment, the sprain, strain or WAD injury is a minor injury unless the claimant establishes that the sprain, strain or WAD injury would have resulted in a serious impairment even if the claimant had sought and complied with reasonable treatment recommendations of a medical practitioner trained and experienced in the assessment and treatment of the personal injuries.
- (2) Subsection (1) does not apply to a claimant who is a person described in provision (3) under the heading "Subsection 3 – Special Provisions, Definitions and Exclusions of this Section" in the *Automobile Insurance Contract Mandatory Conditions Regulations*.

Damages recoverable for non-monetary loss for minor injuries

- 7 (1) In this Section, "Nova Scotia CPI" means the all-items Consumer Price Index for Nova Scotia, not seasonally-adjusted, published by Statistics Canada.
- (2) Except as provided in this Section and clause 8(2)(a), for the purposes of subsection 113E(3) of the Act, the total amount recoverable as damages for non-monetary loss for all minor injuries sustained by a claimant as a result of an accident is \$7,500.
- (3) For 2011 and subsequent calendar years, the minor injury amount is increased annually, effective on and after January 1, by an amount equal to
- (a) the minor injury amount for the previous calendar year, multiplied by
 - (b) the annual average percentage change for the Nova Scotia CPI, published by Statistics Canada.
- (4) If the annual change is a negative number, that negative number must be treated as if it were zero.

- (5) The minor injury amount for a calendar year after 2010 applies only in respect of accidents that occur during that calendar year.
- (6) For 2011 and subsequent years, the Superintendent must publish the minor injury amount for the calendar year by January 31 in a form and manner that ensures that the information is accessible to the public.

Damages recoverable for non-monetary loss for minor and non-minor injuries

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- (1) In this Section, "non-minor injury" means an injury other than a minor injury.
 - (2) If a claimant sustains one or more minor injuries and one or more non-minor injuries as a result of an accident, the assessment of damages for non-monetary loss for all injuries sustained by the claimant is subject to the following rules:
 - (a) if the non-minor injury or injuries, when assessed separately from the minor injury or injuries, would result in an award for non-monetary loss of not more than the minor injury amount, the total amount recoverable as damages for non-monetary loss for all injuries sustained by the claimant shall not exceed the minor injury amount;
 - (b) if the non-minor injury or injuries, when assessed separately from the minor injury or injuries, would result in an award for non-monetary loss of more than the minor injury amount, the total amount recoverable as damages for non-monetary loss for all injuries sustained by the claimant must be calculated as the total of all of the following:
 - (i) the amount of damages assessed for non-monetary loss for the non-minor injury or injuries,
 - (ii) subject to Section 7, the amount of damages assessed for non-monetary loss for the minor injury or injuries.