



Alberta Insurance Council

Joanne Abram
Chief Executive Officer

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File No. 20.01

Dennis Gartner
Superintendent of Insurance
Alberta Finance & Enterprise
402 Terrace Building,
9515 - 107 Street
Edmonton, Alberta
T5K 2C3

Dear Sir,

Re: Consultation on Proposed Regulations for the Amended Insurance Act

Thank you for providing the Alberta Insurance Council with the opportunity to offer comment on the proposed regulations.

Our comments are attached.

I would be please to provide any further information you may require or to discuss our comments in greater detail. Please contact me at your convenience.

Yours truly,

J. L. Abram, (Mrs.)
Chief Executive Officer

JLA/dp

Encl.

Alberta Insurance Council
Comments on Proposed Regulations for the Amended Insurance Act

1. Disclosure of Limitation Periods

The proposed regulation would require adjusters to give a claimant notice of the applicable limitation period up to three times. The potential difficulty with this provision would be that it requires adjusters to provide, in essence, legal interpretations or opinions as to when the limitation period commenced. While this might not be difficult in clear cut cases where the date of loss is obvious, subsection 1(a) of the amended Act states that the limitation period does not commence until the insured knew or ought to have known that the loss occurred and this can be very difficult to determine even for lawyers.

6. Disclosure of Compensation and Potential Conflicts of Interest

The proposed regulation requires that group policy holders provide written disclosure of compensation to the group life insured or group person where the insurer pays the group policy holder compensation or commission. The consultation document goes on to say that "[f]or example, if an insurer pays an employer, professional group or alumni association compensation for selling or administering the group insurance contract, then individuals including employees covered by the contract would receive written disclosure regarding the nature and amount of the compensation or commission." (emphasis added)

AIC has two comments. First, it would appear that an alumni association or group that is "selling" coverage would be acting in the capacity of an agent because the activity of "selling" would, presumably, go beyond the mere enrolment or administrative activity. In other words, that compensated sales activity constitutes a "solicitation" under the agent definition and these individuals would have to be licensed. This would be the case whether or not the sales activity relates to group coverage. Therefore, the question arises as to why the regulation would require explicit compensation disclosure here when it is not required in regard to any other types of insurance agent activities. It is true that, while this regulation would be consistent with the CCIR report on managing conflicts, every other segment of the industry manages these conflicts without an explicit regulatory requirement to disclose compensation.

Secondly, it is difficult to determine whether the definition of compensation will only capture commissions and actual money payments to the policy holder rather than a more broadly framed definition that would include commission, rebates or other incentives that might not be actual payments but could create similar conflicts of interest. If it is intended to capture other types of incentives it becomes more difficult for the policy holder to provide accurate disclosure.

7. Administration of Group and Creditor Group Life and Accident & Sickness Insurance

The proposed regulation will prohibit an insurer from using a group policy holder to negotiate or settle a claim under the policy. An adjuster is, pursuant to s. 2(2)(d) of the Act, someone who, for compensation, negotiates or settles a claim under a policy of insurance but does not include "an employee" of the insured. Therefore, any provision that attempts to limit the ability of a group policy holder to act as an adjuster should state that it operates notwithstanding s. 2(2)(d).

8. Cooling Off Period

The proposed regulation will require a right of rescission for accident and sickness which will harmonize with the current practice for life insurance policies. The AIC would recommend that, in addition to the right of rescission, consideration be given to requiring an incontestability provision for all creditor group life and accident and sickness insurance policies. This would provide increased consumer protection and would harmonize these policies with current practices in life insurance.