

**SASKATCHEWAN REGULATIONS 32/2010***The Saskatchewan Insurance Act*

## Section 467

Order in Council 191/2010, dated March 31, 2010

(Filed April 1, 2010)

**Title**

1 These regulations may be cited as *The Saskatchewan Insurance Amendment Regulations, 2010*.

**R.R.S. c.S-26 Reg 8, new Part IV.1**

2 The following Part is added after Part IV of *The Saskatchewan Insurance Regulations, 2003*:

**"PART IV.1****Exemptions from Act for Restricted Licensees****"Interpretation of Part****15.1 In this Part:**

- (a) 'business day' means a day other than a Saturday, Sunday or holiday;
- (b) 'cargo type insurance' means insurance covering goods in transit;

(c) **'creditor's disability insurance'** means a group insurance policy, or a creditor's group insurance policy, that will pay all or part of the amount of a debt of a debtor to the creditor insured under the policy, in the event of bodily injury to, or an illness or disability of:

- (i) if the debtor is an individual, the debtor or the spouse of the debtor;
- (ii) an individual who is a guarantor of all or part of the debt;
- (iii) if the debtor is a corporation, any director or officer of the corporation; or
- (iv) if the debtor is an entity other than an individual or a corporation, an individual who is essential to the ability of the debtor to meet the debtor's financial obligations;

(d) **'creditor's life insurance'** means a group insurance policy, or a creditor's group insurance policy, that will pay to a creditor insured under the policy all or part of the amount of a debt of a debtor or, if the debt is with respect to a small business or a farm, fishery or ranch, all or part of the amount of the credit limit of a line of credit, in the event of the death of:

- (i) if the debtor is an individual, the debtor or the spouse of the debtor;
- (ii) an individual who is a guarantor of all or part of the debt;
- (iii) if the debtor is a corporation, any director or officer of the corporation; or
- (iv) if the debtor is an entity other than an individual or a corporation, an individual who is essential to the ability of the debtor to meet the debtor's financial obligations;

(e) **'creditor's loss of employment insurance'** means a policy of an insurer that will pay, without any individual assessment of risk, all or part of the amount of a debt of a debtor to the creditor insured under the policy in the event that:

- (i) if the debtor is an individual, the debtor becomes involuntarily unemployed; or
- (ii) an individual who is a guarantor of all or part of the debt becomes involuntarily unemployed;

(f) **'creditor's vehicle inventory insurance'** means insurance against direct and accidental loss or damage to vehicles that are held in stock for display and sale purposes by a debtor of a creditor, if some or all of those vehicles have been financed by the creditor;

(g) **'deposit-taking institution'** means:

- (i) a bank;
- (ii) a credit union;
- (iii) a trust corporation that holds a valid licence issued pursuant to *The Trust and Loan Corporations Act, 1997*;

(h) **'equipment warranty insurance'** means the subclass of boiler and machinery insurance that provides insurance against loss of or damage to a motor vehicle, or recreational, marine, farm implement or construction equipment, arising from its mechanical failure, but does not include automobile insurance or insurance incidental to automobile insurance;

(i) **'export credit insurance'** means a policy of an insurer that provides insurance to an exporter of goods or services against a loss incurred by the exporter due to a non-payment for exported goods or services;

(j) **'financial institution'** means:

(i) a bank or a credit union;

(ii) an entity licensed pursuant to *The Trust and Loan Corporations Act, 1997* or an entity incorporated, continued or licensed pursuant to a similar Act of Parliament or of any province or territory of Canada;

(iii) an entity licensed to transact insurance pursuant to the Act or an entity incorporated, continued or licensed pursuant to a similar Act of Parliament or of any province or territory of Canada;

(iv) a cooperative credit society within the meaning of the *Cooperative Credit Associations Act* (Canada) that is incorporated, continued or regulated by or pursuant to an Act or an Act of any province or territory of Canada;

(v) an association incorporated or continued pursuant to the *Cooperative Credit Associations Act* (Canada);

(vi) an entity that is incorporated, continued or licensed pursuant to an Act of Parliament or of any province or territory that is primarily engaged in dealing in securities, including portfolio management and investment counselling;

(vii) a foreign financial institution;

(k) **'financing corporation'** means a financing corporation, as defined in *The Trust and Loan Corporations Act, 1997*, that holds a valid licence issued pursuant to *The Trust and Loan Corporations Act, 1997* but does not include a person carrying on the business of advancing money if the money being advanced:

(i) is in an amount of \$1,500 or less;

(ii) is for a term of 62 days or less; and

(iii) is in exchange for a post-dated cheque, a pre-authorized debit or a future payment of a similar nature, but not for any guarantee, suretyship, overdraft protection or security on property and not through a margin loan, pawnbroking, a line of credit or a credit card;

- (l) **'foreign financial institution'** means an entity that:
- (i) is engaged in the business of banking or in the trust, loan or insurance business, the business of a cooperative credit society or the business of dealing in securities or is otherwise engaged primarily in the business of providing financial services; and
  - (ii) is not incorporated or continued pursuant to an Act of Parliament or of any province or territory of Canada;
- (m) **'highway transport vehicle'** means a truck, power unit or semi-trailer as defined in *The Traffic Safety Act*;
- (n) **'highway transport vehicle gap insurance'** means insurance respecting a highway transport vehicle that:
- (i) is paid to a creditor under the loan being used to finance the purchase of the highway transport vehicle on the primary insurer's determination that the highway transport vehicle is a total loss or total write-off; and
  - (ii) is calculated as the difference between:
    - (A) the amount outstanding on a loan used to finance the purchase of a highway transport vehicle; and
    - (B) the value of the highway transport vehicle as assessed by the primary insurer of the debtor;
- (o) **'highway transport vehicle payment insurance'** means insurance respecting a highway transport vehicle that:
- (i) is obtained from an insurer;
  - (ii) is paid to a purchaser or lessor of a highway transport vehicle on a determination by the primary insurer of the highway transport vehicle that the highway transport vehicle is a total loss or total write-off; and
  - (iii) is calculated as the value of the initial payment made by the purchaser or lessor of the highway transport vehicle to the highway transport vehicle dealer at the time of:
    - (A) entering into the purchase agreement respecting the highway transport vehicle; or
    - (B) entering into the lease of the highway transport vehicle;
- (p) **'line of credit'** means a commitment on the part of a financial institution to lend to a debtor, without a predetermined repayment schedule, one or more amounts, where the aggregate amount outstanding does not exceed a predetermined credit limit;
- (q) **'mortgage broker'** means a mortgage broker, as defined in *The Mortgage Brokers Act*, that holds a valid licence issued pursuant to that Act;

- (r) **'mortgage insurance'** means an insurance policy that provides insurance to the mortgagee against loss caused by a default on the part of a debtor who is an individual under a loan from the mortgagee that is secured by a mortgage on real property or on an interest in real property;
- (s) **'personal life insurance'** means a group insurance policy that provides insurance to an individual:
- (i) whereby the insurer undertakes to pay one or more sums of money in the event of bodily injury to, or the death of, that individual caused by an accident; or
  - (ii) whereby the insurer undertakes to pay a certain sum for each day that the individual is hospitalized in the event of:
    - (A) bodily injury to that individual caused by an accident; or
    - (B) an illness or disability of that individual;
- (t) **'restricted licence'** means a restricted licence that is issued pursuant to this Part;
- (u) **'restricted licensee'** means a person or partnership that holds a valid restricted licence;
- (v) **'small business'** means a business that:
- (i) in the case of a corporation, is a small business corporation within the meaning of subsection 248(1) of the *Income Tax Act* (Canada); or
  - (ii) in the case of a business that is not a corporation, would, if incorporated, be a small business corporation within the meaning of subsection 248(1) of the *Income Tax Act* (Canada);
- (w) **'travel insurance'** means:
- (i) a policy of an insurer that provides insurance to an individual with respect to a trip by the individual away from the place where the individual ordinarily resides, without any individual assessment of risk, against:
    - (A) loss that results from the cancellation or interruption of the trip;
    - (B) loss of, or damage to, personal property that occurs while on the trip; or
    - (C) loss that is caused by the delayed arrival of personal baggage while on the trip; or
  - (ii) a group insurance policy that provides insurance to an individual with respect to a trip by the individual away from the province or territory in which the individual ordinarily resides:
    - (A) against expenses incurred while on the trip that result from an illness or disability of the individual that occurs on the trip;

(B) against expenses incurred while on the trip that result from bodily injury to, or the death of, the individual caused by an accident while on the trip;

(C) whereby the insurance company undertakes to pay one or more sums of money in the event of an illness or the disability of the individual that occurs on the trip, or of bodily injury to, or the death of, the individual that is caused by an accident while on the trip;

(D) against expenses incurred by the individual for dental care necessitated by an accident while on the trip; or

(E) in the event that the individual dies while on the trip, against expenses incurred for the return of that individual's remains to the place where the individual was ordinarily resident before death, or for travel expenses incurred by a relative of that individual who must travel to identify that individual's remains.

**“Application for restricted licence**

**15.11(1)** The following may apply to the superintendent for a restricted licence:

- (a) a deposit-taking institution;
- (b) a financing corporation;
- (c) a mortgage broker;
- (d) an operator of any of the following:
  - (i) a travel agency;
  - (ii) an automobile dealership, a marine dealership, a recreational vehicle dealership, a farm implement dealership or a construction equipment dealership;
  - (iii) a customs brokerage;
  - (iv) a freight-forwarding business;
- (e) a transportation company;
- (f) an agent of a business or operator mentioned in clauses (a) to (e) who is engaged by that business or operator through an agency contract that, in the opinion of the superintendent, provides adequate authority for the agent to meet the obligations of a restricted licensee on behalf of the business or operator.

(2) Every application for a restricted licence for a class of insurance must include a written recommendation recommending the issuance of the restricted licence from an insurer that:

- (a) is licensed to undertake that class of insurance; and
- (b) has entered into an agency contract with the applicant.

(3) In its application for a restricted licence, an applicant must designate an individual to be responsible for receiving notices and other documents pursuant to the Act.

(4) Subsection 423(1) of the Act does not apply to an application for a restricted licence.

**“Issuance and terms and conditions of restricted licence**

**15.2(1)** On receipt of an application pursuant to section 15.11, the superintendent may issue the restricted licence that is the subject of the application if the superintendent is satisfied that:

- (a) the application complies with this Part;
- (b) the applicant has paid the fee required by section 15.7; and
- (c) the applicant meets the requirements and satisfies the criteria for the licence set out in the Act and has otherwise complied with the Act.

(2) The superintendent may specify:

- (a) subject to subsection (3), the classes or types of insurance with respect to which a restricted licensee may act or offer to act as an insurance agent; and
- (b) categories of business activities with respect to which a restricted licensee may or may not act or offer to act as an insurance agent.

(3) The following are the classes or types of insurance with respect to which the superintendent may authorize a restricted licensee to act or offer to act as an insurance agent:

- (a) cargo type insurance;
- (b) creditor’s disability insurance;
- (c) creditor’s life insurance;
- (d) creditor’s loss of employment insurance;
- (e) creditor’s vehicle inventory insurance;
- (f) equipment warranty insurance;
- (g) export credit insurance;
- (h) highway transport vehicle gap insurance;
- (i) highway transport vehicle payment insurance;
- (j) mortgage insurance;
- (k) personal life insurance;
- (l) travel insurance;
- (m) any other class or type of insurance that, in the opinion of the superintendent, is similar to or contains significant features of any of the classes or types of insurance mentioned in clauses (a) to (l).

(4) Subject to any terms and conditions imposed on a restricted licence, a restricted licensee's restricted licence authorizes the restricted licensee and the restricted licensee's employees to act or offer to act as an insurance agent with respect to the class or type of insurance that:

- (a) is specified in the restricted licence; and
- (b) is offered by the restricted licensee in the course of the conduct by the restricted licensee of the business activity specified in the restricted licence.

(5) No restricted licensee shall fail to comply with the provisions of this Part.

**“Certain provisions of Act not to apply**

15.21(1) Sections 416 and 417 and subsections 422(3) and (4) of the Act do not apply to an individual who is acting in the course of his or her employment with a restricted licensee.

(2) Section 418 of the Act does not apply to a restricted licensee.

(3) Section 438 of the Act does not apply to insurance with respect to which a restricted licence may be issued.

**“Procedures to ensure employees are knowledgeable**

15.3(1) Every restricted licensee shall:

- (a) establish reasonable procedures to ensure that its employees who are soliciting, negotiating or effecting insurance for the restricted licensee are knowledgeable about the insurance being solicited, negotiated or effected; and
- (b) ensure that the procedures established pursuant to clause (a) are being used.

(2) Every insurer on whose behalf the restricted licensee is offering insurance shall:

- (a) establish reasonable procedures to ensure that employees of the restricted licensee who are soliciting, negotiating or effecting insurance for the restricted licensee are knowledgeable about the insurance being solicited, negotiated or effected; and
- (b) ensure that the procedures established pursuant to clause (a) are being used.

**“Conditions to be followed when providing insurance**

15.4(1) When a restricted licensee receives an application for insurance coverage, the restricted licensee shall:

- (a) provide to the person who applies for insurance coverage all of the following:
  - (i) a summary of the terms, including limitations and restrictions, of the insurance offered;
  - (ii) a summary of the circumstances under which the insurance commences or terminates and the procedures to follow in making a claim;

- (b) notify the applicant that, on approval of the application:
    - (i) documentation describing the insurance coverage and the insurance policy will be sent to the applicant; or
    - (ii) in the case of a contract of group insurance, a certificate will be sent to the applicant; and
  - (c) ensure that a person applying for insurance coverage is informed that the person is contracting, or is considered to be contracting, with an insurer and not with the restricted licensee.
- (2) When a person applies to a restricted licensee for creditor's disability insurance, creditor's life insurance, creditor's loss of employment insurance or mortgage insurance, the restricted licensee shall:
- (a) provide to the applicant:
    - (i) a statement that sets out the right to rescind the insurance contract and to obtain a full refund of the premium; and
    - (ii) if the duration of the insurance is for a period less than the term of the amortization period of any related loan or if the amount of the insurance is less than the indebtedness, a statement to that effect; and
  - (b) inform the applicant of all of the following:
    - (i) that the insured may contact the insurer for further information or clarification;
    - (ii) the name of the insurer that is providing the insurance;
    - (iii) how the insurer mentioned in subclause (ii) may be contacted.
- (3) The insurer on whose behalf the restricted licensee is soliciting, negotiating or effecting insurance shall ensure that:
- (a) procedures are established to effect the requirements of this section; and
  - (b) the procedures established pursuant to clause (a) are being used.
- (4) If a restricted licensee or an employee of a restricted licensee receives any compensation, inducement or benefit from an insurer, directly or indirectly, for selling insurance, the restricted licensee must disclose that fact to any person who is considering obtaining insurance from that restricted licensee.
- (5) Within 20 business days after the insurance coverage comes into force, the restricted licensee shall ensure that the following is provided to the applicant for the insurance coverage:
- (a) written documentation that:
    - (i) evidences the insurance coverage; and
    - (ii) sets out the information required to be disclosed by clause (1)(c);
  - (b) written documentation describing the insurance coverage and the insurance policy or, in the case of group insurance, a certificate.

(6) A person who buys life insurance through a restricted licensee may rescind the insurance contract on or before the expiry of seven business days, or any longer period specified in the policy or certificate, after the date on which the person received the policy or certificate.

(7) A person who rescinds an insurance contract in accordance with subsection (6) is entitled to receive a refund from the insurer of the whole premium that has been paid.

**“Restrictions on use of personal information received as part of an insurance transaction**

**15.5(1) No restricted licensee shall:**

(a) use personal information given by an applicant for insurance coverage or an insured unless it is used for the purpose for which it is given and the applicant for insurance coverage or the insured signs a consent that meets the requirements of subsection (2); or

(b) subject to subsection (4), release the information described in clause (a) to a person who is not an employee of the restricted licensee unless the applicant for insurance coverage or the insured signs a consent that meets the requirements of subsection (3).

(2) The restricted licensee shall identify the consent to the applicant for insurance coverage or the insured as a consent for the purposes of clause (1)(a), and the consent must specifically identify the purpose for which the information may be used by the restricted licensee.

(3) The restricted licensee shall identify the consent to the applicant for insurance coverage or the insured as a consent for the purposes of clause (1)(b), and the consent must specifically identify:

(a) the information to be released;

(b) to whom the information is to be released; and

(c) the purpose for which the released information may be used.

(4) Clause (1)(b) does not apply if the personal information:

(a) is released to another person as required by law; or

(b) is released to the insurer on whose behalf the restricted licensee is transacting insurance.

**“Separate insurance required for other financial services**

**15.6(1) If a restricted licensee offers financial services in addition to insurance coverage and has errors and omissions insurance respecting the other financial services, the errors and omissions insurance policy respecting the activities conducted by the restricted licensee must be structured to cover errors and omissions in connection with the activities associated with the insurance-related activities carried on by the restricted licensee pursuant to this Part.**

(2) The errors and omissions insurance respecting the other financial services and the errors and omissions insurance respecting insurance-related activities mentioned in subsection (1) may be provided within one policy of insurance.

**“Annual fee payable**

15.7(1) Every restricted licensee shall pay to the superintendent, on or before the anniversary date of the issuance of the restricted licence, an annual fee respecting the restricted licensee's restricted licence in accordance with the following Table 1:

Number of employees of restricted licensee			Fee
1	to	4	\$ 150
5	to	10	225
11	to	15	375
16	to	20	500
21	to	99	700
100	to	249	1500
250	to	499	3000
500	or more		5500.

(2) If a restricted licensee fails to pay the annual fee as required by this section, the restricted licensee's restricted licence is suspended until the fee is paid”.

**Coming into force**

3 These regulations come into force on September 1, 2010.