

Decision



Effective Date: January 1, 2021

Identifier: No. AU0129DEC

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Updated: December 18, 2020

The descriptions of the following sections in the 2021 Automobile Insurance Indexation Amounts Guidance have been updated on December 18, 2020, to correct errors in reference to the sections:

- Section 15(5) of the *Statutory Accident Benefits Schedule - Accidents after December 31, 1993 and before November 1, 1996* (1993 SABS)
- Section 47(4) of the 1993 SABS
- Section 50(6) of the 1993 SABS

2021 Automobile Insurance Indexation Amounts Guidance (updated December 18, 2020)

Purpose

This guidance publishes amounts related to auto insurance claims that are subject to indexation under the Insurance Act (“the Act”) and its regulations.

Scope

This guidance affects auto insurance claims that are subject to indexation under the Act and its regulations.

Rationale and background

The Act requires the Financial Services Regulatory Authority (“FSRA”)¹ to publish annually the indexation percentage that applies to:

- Deductible amounts for determining non-pecuniary tort awards arising from the use or operation of an automobile on or after November 1, 1996; and
- Monetary amounts set out in the Statutory Accident Benefits Schedule – Accidents after December 31, 1993 and before November 1, 1996 (“1993 SABS”).

The Act also requires FSRA to publish annually:

- Revised monetary amounts set out in the 1993 SABS;
- Revised deductible amounts for determining non-pecuniary tort awards arising from the use or operation of an automobile after December 31, 1993 and before November 1, 1996; and
- Revised monetary thresholds for non-pecuniary tort awards arising from the use or operation of an automobile on or after November 1, 1996.

In addition, FSRA also publishes certain related amounts and percentages as a service to stakeholders, including:

- Revised deductible amounts for determining non-pecuniary tort awards arising from the use or operation of an automobile on or after November 1, 1996;
- Indexation percentage for the Statutory Accident Benefits Schedule – Effective September 1, 2010 (“2010 SABS”); and

¹ Pursuant to Sections 267.2 (1), 267.5 (8.5), 268.1 (1), and 268.1 (3) of the Insurance Act, the Chief Executive Officer of FSRA (“CEO”) is required to publish certain indexation percentages, revised monetary amounts, revised deductible amounts, and revised monetary thresholds relating to non-pecuniary tort awards and the Statutory Accident Benefits Schedule – Accidents after December 31, 1993 and before November 1, 1996. However, for the purposes of this Decision Guidance, all references to these publishing obligations will be to FSRA.

- Indexation percentage for the Statutory Accident Benefits Schedule – Accidents on or After November 1, 1996 (“1996 SABS”)

Legislative requirements

Legal requirements for publishing amounts

Subsection 267.2 (1) of the Act requires FSRA to publish revised deductible amounts for non-pecuniary tort awards arising from the use or operation of an automobile after December 31, 1993 and before November 1, 1996, on the FSRA website, before the 1st day of January in each year after 1994.

Subsection 267.5 (8.5) of the Act requires FSRA to publish revised monetary thresholds for non-pecuniary tort awards arising from the use or operation of an automobile on or after November 1, 1996, on the FSRA website, effective the 1st day of January of each year after 2015.

Subsection 268.1 (1) of the Act requires FSRA to publish annually on the FSRA website the indexation percentage for the purposes of non-pecuniary tort awards and the 1993 SABS, before the 1st day of January of each year after 1994.

Subsection 268.1 (3) of the Act requires FSRA to publish annually on the FSRA website the revised monetary amounts set out in the 1993 SABS, before the 1st day of January of each year after 1994.

Legal Requirements for Determining Indexation Percentage

Subsection 268.1 (2) of the Act states that the indexation percentage shall be the percentage change in the Consumer Price Index for Canada (All Items), as published by Statistics Canada under the authority of the Statistics Act (Canada), for the period from September in the year immediately preceding the previous year to September of the previous year.

Summary of decision

The 2021 indexation percentage is 0.5%. This indexation percentage applies to:

- monetary thresholds and deductibles for determining non-pecuniary tort awards under the Insurance Act and O. Reg. 461/96 (Court Proceedings for Automobile Accidents that Occur on or after November 1, 1996)
- amounts that are required to be indexed pursuant to the:
- 2010 SABS;
- 1996 SABS; and,
- 1993 SABS.

Specific revised amounts based on the indexation percentage are set out in Appendix 1 (monetary thresholds and deductibles for determining non-pecuniary tort awards) and Appendix 2 (“1993 SABS”) to this decision.

Effective date and future review

This decision becomes effective on **1/1/2021** and will be reviewed no later than **12/31/2021**.

About this guidance

This document is consistent with [FSRA's Guidance Framework](#). As a Decision, it describes FSRA's rationale for a regulatory decision of precedential value for other parties not involved in the specific matter. Regulatory decisions described in Decision guidance are made based on FSRA's legal authority and are not informal responses to specific inquiries

Appendices and reference

Appendices

- **Appendix 1:** 2021 Monetary Thresholds and Deductibles for Non-Pecuniary Tort Awards under the Insurance Act and O. Reg. 461/96 (Court Proceedings for Automobile Accidents that Occur on or after November 1, 1996)
- **Appendix 2:** 2021 Indexation Percentage, Revised Deductibles and Monetary Amounts for Automobile Insurance under the Insurance Act and the “1993 SABS”.
- **Appendix 3:** Associated Documents

References

- [Optional Indexation Benefits Guideline](#) - The purpose of the Optional Indexation Benefit Guideline is to set out the procedures and formulas for indexation as referred to in section 29 of the 1996 SABS.

Appendix 1

2021 Monetary thresholds and deductibles for non-pecuniary tort awards under the insurance act and O. Reg. 461/96 (court proceedings for automobile accidents that occur on or after November 1, 1996)

Monetary Thresholds in the case of damages for non-pecuniary loss from January 1, 2021 until December 31, 2021

Section reference in the Insurance Act	Description	Amount 2020	Amount 2021
267.5 (8.3)	Damages for non-pecuniary loss other than those under section 61 (2) (e) of the Family Law Act	\$131,854.01	\$132,513.28

Section reference in the Insurance Act	Description	Amount 2020	Amount 2021
267.5 (8.4)	Damages for non-pecuniary loss under section 61 (2) (e) of the Family Law Act	\$65,926.46	\$66,256.09

Deductible Amounts in the case of damages from January 1, 2021 until December 31, 2021

Section reference in Court Proceedings for Automobile Accidents That Occur on or after November 1, 1996 (O. Reg. 461/96)	Description	Amount 2020	Amount 2021
5.1 (1)	Deductible for damages for non-pecuniary loss other than those under section 61 (2) (e) of the Family Law Act	\$39,556.53	\$39,754.31
5.1 (2)	Deductible for damages for non-pecuniary loss under section 61 (2) (e) of the Family Law Act	\$19,778.27	\$19,877.16

Appendix 2

2021 Revised deductibles and monetary amounts for automobile insurance under the insurance act and the statutory accident benefits schedule - accidents after December 31, 1993 and before November 1, 1996 (1993 SABS)

Deductible Amounts

Section reference in the Insurance Act	Description	Amount 2020	Amount 2021
267.1 (8) 3 i	Deductible for damages for non-pecuniary loss other than those under section 61 (2) (e) of the Family Law Act	\$15,913.83	\$15,993.40
267.1 (8) 3 ii	Deductible for damages for non-pecuniary loss under section 61 (2) (e) of the Family Law Act	\$7,956.94	\$7,996.72

Monetary Amounts

Section reference in the 1993 SABS	Description	Amount 2020	Amount 2021
10 (9)	maximum weekly income replacement benefit **	\$1,605.87	\$1,613.90

Section reference in the 1993 SABS	Description	Amount 2020	Amount 2021
15 (5)	Average Weekly Earnings for Ontario	\$1,038.39	\$1,150.10
16 (1) (a)	lump sum benefit for each year of elementary school	\$3,211.67	\$3,227.73
16 (1) (b)	lump sum benefit for each year of secondary school**	\$6,423.35	\$6,455.47
	lump sum benefit for each semester of secondary school**	\$3,211.67	\$3,227.73
16 (1) (c)	lump sum benefit for each year of post-secondary school**	\$12,846.73	\$12,910.96
	lump sum benefit for each semester of post-secondary school**	\$6,423.35	\$6,455.47
18 (5)	weekly caregiver benefit for first person who meets qualifications	\$401.45	\$403.46
	weekly caregiver benefit for each additional person who meets qualifications	\$80.23	\$80.63

Section reference in the 1993 SABS	Description	Amount 2020	Amount 2021
28 (4)	maximum weekly loss of earning capacity benefit	\$1,605.87	\$1,613.90
32 (5)	maximum sum of weekly loss of earning capacity benefit and weekly supplement	\$1,605.87	\$1,613.90
46 (1)	maximum limit on supplementary medical benefits and rehabilitation benefits**	\$1,605,838.23	\$1,613,867.42
47 (4)	maximum monthly attendant care benefit (all insureds, subject to subsections 47 (5) to (7))	\$4,817.52	\$4,841.61
47 (5)	maximum monthly attendant care benefit (certain prescribed catastrophic injuries)	\$9,635.03	\$9,683.21
47 (6)	maximum monthly attendant care benefit (multiple injuries including a prescribed catastrophic injury)	\$16,058.37	\$16,138.66

Section reference in the 1993 SABS	Description	Amount 2020	Amount 2021
47 (7)	maximum monthly attendant care benefit (severe brain injuries that cause violent behaviour)	\$16,058.37	\$16,138.66
50 (6)	hourly rate for Level 1 attendant care (when using Form 1)	\$14.05	\$14.12
	hourly rate for Level 3 attendant care (when using Form 1)	\$22.47	\$22.58
51 (1) (b)	death benefit to spouse where insured did not meet any of the qualifications for the weekly income replacement benefits	\$80,291.89	\$80,693.35
51 (4) (a)	death benefit to dependant	\$16,058.37	\$16,138.66
51 (4) (b)	death benefit to former spouse	\$16,058.37	\$16,138.66
51 (5)	death benefit where insured was a dependent	\$16,058.37	\$16,138.66

Section reference in the 1993 SABS	Description	Amount 2020	Amount 2021
51 (8)	minimum death benefit to spouse (or dependants, where no benefit is payable to spouse)	\$80,291.89	\$80,693.35
	maximum death benefit to spouse (or dependants, where no benefit is payable to spouse)	\$321,167.64	\$322,773.48
52 (2)	maximum funeral benefit	\$9,635.03	\$9,683.21
54 (4)	maximum weekly dependent care expenses for first dependant	\$120.43	\$121.03
	maximum weekly dependent care expenses for each additional dependant	\$40.16	\$40.36
54 (5)	maximum total weekly dependent care expenses	\$240.87	\$242.07

Appendix 3 Associated documents

The following table provides a quick reference to previously issued Automobile Insurance Indexation Amounts Guidance since this Decision Guidance was launched.

Document Effective Period	Guidance
January 1, 2020	<u>2020 Automobile Insurance Indexation Amounts</u>