

Notice regarding the coming into effect on January 15, 2025, of amendments to endorsement Q.E.F. No. 43 (A to F) – Change to indemnity and to endorsement Q.E.F. No. 4-43 (A to F) – Change to indemnity

Under section 71 of the *Insurers Act*, CQLR, c. A-32.1, the form and terms of insurance policies relating to the ownership or use of motor vehicles are determined by the Autorité des marchés financiers (the “AMF”). The same is true for any riders (“endorsements”) that may be attached to those policies.

This notice sets out the amendments made to the following forms:

- Q.E.F. No. 43 (A to F) – Change to indemnity (Section B)
- Q.E.F. No. 4-43 (A to F) – Change to indemnity (Section B)

1- Q.E.F. No. 43 (A to F) and Q.E.F. No. 4-43 (A to F)

Options 43A and 4-43A – Partial loss – New parts

The AMF wishes to clarify its expectations of insurers regarding the calculation of the value of damage to an insured vehicle where the designated insured holds a Q.E.F. No. 43, "Option 43A – Partial loss – New parts" or a Q.E.F. 4-43A, "Option 4-43 – Partial loss – New parts".

Insurers must calculate the value of damage for the repair of the insured vehicle on the basis of the cost of new original equipment manufacturer parts, not on the basis of the actual cash value as specified in Article 2.1 of the section "Reporting a loss and submitting a claim" of the Q.P.F. No. 1 – Owners' Form and Q.P.F. No. 4 – Garage Form.

However, it has come to the AMF's attention that this rule is not always followed. Some insurers calculate the value of damage for the repair of the insured vehicle without considering the fact that the designated insured holds Option 43A or 4-43A. As a consequence, the estimate of the value of damage is lower than what it would have been if the insurer had taken the option into account, with the result that, in some cases, the vehicle is repaired instead of declared a total loss or a total constructive loss.

This deprives insureds of the benefit of receiving an indemnity under the coverage they hold (i.e., Option 43E or 4-43E) and contravenes the insurer's contractual obligations and its obligation to treat clients fairly.

Option 43E – Total loss – Replacement cost

In an ever-changing automobile market, vehicle models, specifications, equipment and accessories are constantly being modified, making it increasingly difficult for insureds to receive an indemnity based on the coverage they are holding when their vehicle is deemed a total loss or a total constructive loss.

In view of this, the AMF, in collaboration with the Groupement des assureurs automobiles, has developed a solution to facilitate the settlement of claims when an insured holds Option 43E.

Accordingly, the first two indemnity options under Option 43E will continue to apply (i.e., replacement of the specified vehicle by a new vehicle and replacement of the specified vehicle by a used vehicle or by a new vehicle other than as in the first indemnity option).

However, the AMF is amending the third indemnity option (i.e., non-replacement of specified vehicle).

Specifically, the value of damage will henceforth have to be equal to the "marked-up price paid" (i.e., the price paid for the specified vehicle by the named insured who is the actual owner of the vehicle, plus an annually compounded percentage calculated in proportion to the number of days elapsed between the date of the vehicle purchase contract and the date of the total loss.

By choosing this indemnity option, insureds will be able to benefit from the full value of the coverage under Option 43E even if they elect not to replace their vehicle.

Which of three indemnity options to choose is entirely up to the insured's discretion.

The AMF also wishes to remind insurers that, as clarified in a [notice](#) published by the AMF on June 7, 2012,¹ the price paid (or "purchase price", in the 2012 notice) is the price charged by the dealer for the vehicle, as indicated in the purchase contract, long-term lease or contract of leasing, including its equipment and accessories only. Consequently, the price paid used to calculate the "marked-up price paid" in Option 43E must not include, if applicable, the outstanding balance (i.e., the financing) related to the damaged vehicle or the vehicle accepted as a trade-in, as the case may be.

Therefore, the third indemnity option under Option 43E "3. *Non-replacement of specified vehicle*" is amended as follows:

"3. Marked-up price paid

The **named insured** may request to receive an indemnity in cash. In this case, the value of **damage** will be equal to the price paid for the specified vehicle by the **named insured** who is the actual owner, increased by an annually compounded percentage, calculated in proportion to the number of days elapsed between the date of the vehicle purchase contract and the date of the total loss or total constructive loss.

Price paid: price charged for the specified vehicle as indicated in the purchase contract, long-term lease or contract of leasing, including its equipment and accessories only.

The percentage to be used to calculate the marked-up price paid must correspond to the [consumer price index \(CPI\) for the automobile sector](#), as published by the Institut de la statistique du Québec. If the CPI for the year of the loss is unknown, the CPI from the previous year must be used."

The same amendment has been made to endorsement Q.E.F. No. 4-43 (A to F) – Change to indemnity (Section B) with respect to Option 4-43E – Total loss – Replacement cost.

The following is an example of a calculation using the CPI:

Year	Annual CPI automobile sector (%)
2016	3.8
2017	1.8
2018	1.2
2019	2.8
2020	2.2
2021	4.6
2022	6.8
2023	3.0

Date of purchase contract: July 1, 2020

¹ Notice regarding Q.P.F. No. 5 – Complementary Insurance for Damage Caused to Insured Vehicle Form – Replacement Insurance, June 7, 2012.

Date of total loss: September 1, 2023

To calculate the value of damage, the insurer will have to mark up the price paid for the specified vehicle using the following percentages:

- 2.2% for the last six months of 2020
- 4.6% for 2021
- 6.8% for 2022
- 3.0% for the first eight months of 2023

2 – Effective date of these amendments

The amendments made to the following forms are effective as of January 15, 2025:

- Q.E.F. No. 43 (A to F) – Change to indemnity (Section B)
- Q.E.F. No. 4-43 (A to F) – Change to indemnity (Section B)

Insurers will have to apply the revised forms to insurance contracts taken out before and after January 15, 2025, until they have delivered the new versions of the forms to the insureds.

These amended forms are available on the AMF website at www.lautorite.qc.ca, under Professionals/Insurers/Automobile insurance/AMF approved forms.

Further information

Further information is available from the AMF Information Centre:

Québec City: 418-525-0337

Montréal: 514-395-0337

Toll-free: 1-877-395-0337

www.lautorite.qc.ca

November 28, 2024