



Priority Cheat Sheet: Leased or Rented Vehicles

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A. Loss or Damage Arising Before March 1, 2011

The following priority rule, as set out in Section 596(1) of the *Insurance Act*, applies to accidents involving leased or rented vehicles that occurred prior to March 1, 2011:

- **First Loss Insurance:** motor vehicle liability insurance evidenced by a valid “owner’s policy” (defined in s.1(pp) of the *Insurance Act*).
- **Excess Insurance:** insurance attaching under any other valid motor vehicle liability policy.

This first loss policy will provide coverage up to its limits; if the claim exceeds the limits of the first loss policy, the excess insurer will be required to provide coverage.

Practically speaking, the policy held by the owner of a leased or rented vehicle is required to respond, to the extent of its policy limit, to any claims against a person who drives that vehicle with the owner’s consent.

B. Loss or Damage Arising on or after March 1, 2011

Section 7.1 of the *Miscellaneous Provisions Regulation* reverses the above priority rules with respect to accidents involving leased or rented vehicles occurring on or after March 1, 2011. The reversed priority rules are as follows:

- **Excess Insurance:** insurance placed by the owner of the leased or rented vehicle.
- **First Loss Insurance:** any other motor vehicle liability insurance to which the driver of the leased or rented vehicle is entitled. If more than one such policy applies, the order in which the insurers must provide coverage is as follows:
 1. A contract under which the driver is a partner, officer or employee of an insured named in a S.P.F. No. 6 Standard Non-Owned Automobile Policy;
 2. A contract under which the rentee or lessee is a named insured;
 3. A contract in which the driver is a named insured;
 4. A contract in which the driver is a spouse or independent partner of a named insured, and resides with that person; and
 5. A contract in which the driver is an unnamed insured.

In effect, the policy placed by the owner of the leased or rented vehicle is excess to all these other policies and will only serve as first loss insurance if there is no other coverage. The owner's policy will, however, face exposure if the limits of the responding drivers' policies are exceeded.

Important Notes:

- The owner's policy remains first loss insurance, and must initially respond, until the driver's insurer acknowledges in writing that it is responding to the claim on the driver's behalf. A driver's insurer that is required to respond but fails to do so must indemnify the responding owner's insurer.
- The reversed priority rules only apply to third party liability claims.