GUIDELINE FOR APPEALING AN INDUSTRY COUNCIL DECISION

Alberta Insurance Council

This guideline contains basic procedural information for appealing an Industry Council Decision and does not constitute independent legal advice.

The Alberta Insurance Council strongly advises that you obtain independent legal advice when appealing a Council Decision.

Table of contents

Introduction

Receiving a decision from the General Insurance Council, the Life Insurance Council, or the Insurance Adjusters' Council (collectively the "Industry Councils") can seem daunting. Affected individuals who have received an Industry Council Decision may appeal the decision to the Insurance Councils Appeal Board of Alberta (ICAB). This guideline provides an overview of the procedures to appeal a decision of the Industry Councils before ICAB. While this guideline provides valuable procedural information, it is not a substitute for legal advice.

About the Alberta Insurance Council

The Alberta Insurance Council (AIC) is the industry-funded regulator that licenses and oversees insurance agents, brokers, and independent adjusters in Alberta. The AIC derives its authority from delegations granted by the President of Treasury Board and Minister of Finance, and in accordance with the *Insurance Act*, RSA 2000, c I-3 and its Regulations. The AIC provides investigative and administrative services to the Industry Councils.

Do I need legal advice?

This guideline does not replace legal advice from a lawyer. The AIC strongly recommends that you obtain independent legal advice to assist you if you decide to file a Notice of Appeal.

Whether you are addressing an alleged violation of the *Insurance Act* or are advocating for your eligibility for a license, you have the right to defend your position. If you choose to represent yourself in an appeal, you are responsible for stating your legal arguments before ICAB.

Neither the AIC nor ICAB represent your interests on appeal. You must either advocate for yourself or retain legal counsel to advocate on your behalf.

Industry Council Decisions

The industry-specific councils are regulatory bodies that license and oversee the classes of insurance delegated to them through Ministerial Directive. The Industry Councils govern the following classes of insurance:

- **Insurance Adjusters' Council** – oversees independent adjuster certificates of authority.
- **Life Insurance Council** – oversees life insurance agent, accident and sickness insurance agent, restricted life insurance agent, and restricted accident and sickness insurance agent certificates of authority.
- **General Insurance Council** – oversees general insurance agent and restricted general insurance agent certificates of authority.

The AIC operates as the administrative arm to these Industry Councils and supports them in acting within their delegated authority. Under the authority delegated by the Ministerial Directive for the Appointment of Examiners, the AIC may appoint staff to investigate complaints and compel responses from individuals. The AIC's findings are compiled and presented to the Industry Councils to aid them in their decision-making process. AIC staff then carry out the instructions of the Industry Councils.

Only the Industry Councils can make disciplinary and eligibility decisions for the classes of insurance they oversee. **The decisions of the Industry Councils will always be provided to the individual that is affected by the decision.**

Important to note:

- The AIC carries out the directions of the Industry Councils.
- AIC staff do not have the ability to levy sanctions or approve or deny the issuance, retention, renewal, or reinstatement of insurance licenses.
- AIC staff gather evidence and information to support the Industry Councils in their decision-making process.
- AIC employees are guided by the AIC's consumer-protection mandate.
- The AIC does not have the authority to and will not intervene in or amend Industry Council decisions.

Updated profile information

It is a license holder's responsibility to maintain up-to-date contact information within CIPR (Canadian Insurance Participant Registry) and the AIC Portal. The AIC will contact you regarding Industry Council Decisions, and to connect with you regarding matters on appeal using the contact information in these accounts.

To update or change your profile information, please log into both the CIPR website and the AIC Portal. For help with updating your profile information, visit the AIC FAQ page.

Crucial information you must keep up to date:

1. Your business address
2. Your personal address
3. Your personal telephone number(s)
4. Your personal email address(es)
5. Your business telephone number(s)
6. Your business email address(es)
7. Any name changes to your legal name

Have you had a change in circumstance?

If you intend to file a Notice of Appeal and have received a decision that contains outdated information or information that no longer applies to your current circumstances, please immediately contact the AIC's General Counsel & Corporate Secretary, Alec Silenzi, at asilenzi@abcouncil.ab.ca and advise of the following:

- Your case number, as noted in the top left corner of the decision
- Your first and last name
- Your CIPR number
- The change in circumstance since the date the decision was made

Examples of a change in circumstance(s) include:

- Your sponsor has withdrawn sponsorship.
- Your sponsoring agency/insurer is no longer operating.
- You have been terminated by your agency/sponsor.
- You have discontinued your sole proprietorship.
- You have left your position with your agency/sponsor.
- You have attempted to transfer your license to a new agency/sponsor.

If there have been no changes to your current circumstances, you can file a Notice of Appeal through the normal process.

Deadlines

There are critical deadlines that must be followed when filing a Notice of Appeal. We recommend that you seek legal advice to assist you in adhering to the appropriate deadlines or contact the Office of the Superintendent of Insurance regarding your appeal.

The process of appeal

As disclosed in all Council Decisions, the *Insurance Act* and its Regulations outline all the requirements of the process of appeal. The AIC encourages you to consult with independent legal counsel to fully understand the process of appeal. A generalized overview is as follows:

Process of appeal:

1. The Industry Council makes a decision. The individual or business has 30 days from when the Industry Council has mailed the decision to appeal.
2. The appellant must submit a Notice of Appeal to the Office of the Superintendent of Insurance (Superintendent) within those 30 days.
3. The Superintendent will review the Notice of Appeal. If the notice is approved, the Superintendent will notify the appellant and the AIC of the appeal and appoint members of the Insurance Councils Appeal Board (ICAB) to hear the appeal.
4. The ICAB Chair sets a hearing date within no more than 60 days of the Superintendent receiving the Notice of Appeal. All parties may provide written submissions, no later than seven days before the hearing date, along with notice of any in-person witnesses.
5. All parties attend the hearing on the date set by the ICAB Chair. The duration of a hearing will depend on the type and complexity of the matter.
6. Following the hearing, ICAB has 30 days to render a decision that may alter, confirm, or overturn the decision by the Industry Council.
7. A copy of the final decision is mailed to the appellant, the AIC, and the Superintendent.
8. If the decision relates to a disciplinary matter, the final decision is posted to the AIC website. Decisions related to licensing matters are not posted.

**This process of appeal serves as a general outline of the appeal process. For more information, please refer to the Insurance Councils Regulation*.

If the appeal involves the suspension or cancellation of a license or the issuance of a penalty, these decisions are suspended until ICAB has made its final decision on the appeal.

The appellant may still appeal the decision of ICAB to the Court of King's Bench by filing an application in that Court within 30 days of ICAB having mailed its decision to the appellant. For more information on this process, please refer to section 26 of the Insurance Councils Regulation, AR 126/2001.

How to submit an appeal

Your Notice of Appeal must contain the following:

- A copy of the notice of the decision being appealed.
- A description of the requested outcome by the appellant.
- The signature of the appellant or the appellant's lawyer.
- An Alberta address for the appellant.
- An appeal fee of $200, payable to the President of Treasury Board and Minister of Finance.

To connect with the Office of the Superintendent of Insurance of Alberta directly, please visit their website.

Who adjudicates the appeal?

ICAB will adjudicate (or “hear”) your appeal. ICAB is an independent body, separate from the Industry Councils, and provides an impartial review of your appeal. The hearing with ICAB is the last step in the appeal process before ICAB makes their decision.

Insurance Councils Appeal Board

ICAB is comprised of up to 15 members, who are either industry-elected or government-appointed. Appeals are heard by a panel of three members, selected by the Superintendent. Two of the panel members have extensive insurance experience, and the third, who chairs the panel, is a member of the public, typically with a background in law.

To ensure impartiality, any member with a personal or professional interest in the appeal is prohibited from participating in the panel for your appeal.

A list of current Appeal Board members can be found on the AIC website.

What is ICAB deciding?

ICAB will conduct a new hearing. During this hearing, ICAB has the authority to confirm, reverse, or vary the decision of the Industry Council.

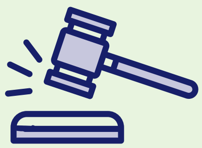
Industry Council Decision
Decision provided by the LIC, GIC or IAC.

Notice of Appeal
You file an appeal of this decision with the Office of the Superintendent of Insurance.

Insurance Councils Appeal Board
A hearing proceeds before the ICAB.

Who is present during an appeal hearing?

ICAB conducts live hearings, which allows ICAB to question the appellant, witnesses, and the lawyer(s) present. The following is a list of people that will or may be present during your appeal hearing:



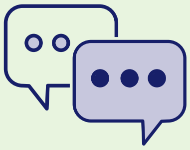
Chairperson of the ICAB Panel:
Chairs the appeal hearing, manages the flow of proceedings, and addresses matters of law and order.

Appeal Panel Members:
Industry professionals elected by their fellow license holders. Members will collaborate with the Chairperson to reach an outcome of the appeal.

Court Reporter:
Transcribes the appeal hearing, swears in witnesses and appellants under oath or affirmation, and produces transcripts.

Lawyers:
Two lawyers may be present: one who will advocate on behalf of the Industry Council, and one that may represent you, the appellant, should you choose to retain legal counsel.

Appellant:
You, the party that filed the appeal of the Industry Council Decision.



Witnesses:
Parties that lawyers or appellants may call to support their position.

Order of proceedings

After filing an appeal with the Office of the Superintendent of Insurance, the Chairperson from ICAB will contact both the AIC legal team and you (or your legal counsel) to set a date for the appeal hearing.

The Chairperson will then provide you or your legal counsel with information as it relates to the process of the appeal hearing and the expectations placed on all parties. The details of when and where the hearing will be held will also be communicated, along with any deadlines for filing written materials or producing a witness list.

If you wish to engage with ICAB during the process of appeal, you must include the AIC legal team on all communications. If you retain legal counsel, ICAB and the AIC legal team will engage with your legal counsel directly.

Conclusion

If you have any questions regarding this Guideline for Appealing an Industry Council Decision, please obtain independent legal advice to better interpret the appeals process and understand your legal rights.

If you only require administrative information or wish to communicate a change in your circumstances after receiving a decision of the Industry Councils, please contact:

Alec Silenzi, General Counsel & Corporate Secretary, Alberta Insurance Council, at asilenzi@abcouncil.ab.ca.

Please note: The AIC will not provide you with legal advice.

Published 2026.

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