

Superintendent of Insurance

Interpretation Bulletin

Bulletin Number:	02-2021
Title:	Submitting Notices of Appeal of Insurance Council Decisions
Date:	February 2021

Purpose

The purpose of this Interpretation Bulletin (“**Bulletin**”) is to provide clarification to insurance agents, brokers, independent adjusters and any person holding or applying for a certificate of authority under the *Insurance Act* (Alberta) (“**Act**”) of the procedures for appealing the decision of an insurance council pursuant to section 482 of the Act.

A person adversely affected by the decision of an insurance council (the “**Appellant**”) has the ability to appeal the outcome of that decision to the Insurance Councils Appeal Board. In order to have their appeal heard, an Appellant must submit a Notice of Appeal to the Superintendent of Insurance (“**Superintendent**”) in accordance with the requirements established in section 16 of the *Insurance Councils Regulation* (“**ICR**”).

This Bulletin describes the process the Superintendent will follow when reviewing Notices of Appeal for timeliness and completeness. In particular, it outlines how the Superintendent shall interpret the beginning and end of the appeal period described in section 16(1) of the ICR, and how the Superintendent will assess Notices of Appeal that are not in full compliance with the requirements set out in section 16(2) of the ICR.

The Superintendent advises persons who are adversely affected by a decision of an insurance council, and who wish to appeal the insurance council’s decision, to closely review the contents of this Bulletin.

This Bulletin is issued by the Superintendent, in collaboration with the AIC, pursuant to section 792.1 of the Act, and is effective immediately.

Any questions with respect to this Bulletin may be directed to the Superintendent’s office using the contact information provided on the last page of this Bulletin.

For more information, visit insurance.alberta.ca



Determining if a Notice of Appeal is Complete and Timely

The Superintendent shall follow the guidelines outlined below to determine if a Notice of Appeal is compliant with the requirements in the ICR.

1. Appellants Must Submit a Notice of Appeal to the Superintendent Within 30 Days After Delivery of the Decision

A person who is adversely affected by a decision of an insurance council may appeal the decision by submitting a Notice of Appeal to the Superintendent within 30 days after the council has mailed the written notice of decision to that person. Subject to the *Interpretation Act* (“IA”), the appeal period shall expire upon the close of business hours (4:30 p.m. Alberta time) on the thirtieth (30th) calendar day following delivery of the written notice of decision (the “**deadline**”).

The Superintendent shall interpret the word “mailed” as it is used in section 16(1) of the ICR to mean “mailed and delivered”, so that all persons have at least 30 calendar days following delivery of the written notice of decision in which to submit a Notice of Appeal.

- a) If the AIC uses a process server or trackable recorded mail to deliver a written notice of decision, and can track and verify the date of delivery or attempted delivery, the following procedures for calculating time shall be followed:

If the AIC sends the notice of decision by way of a process server, the Superintendent shall use the declaration of service, attestation document, or affidavit of service, as applicable, to determine the date of delivery.

When the notice of decision is sent using trackable recorded mail, the Superintendent shall use the letter tracking information and the notification of delivery by the letter carrier, as applicable, to determine the date of delivery. Letter tracking data showing that the parcel was “delivered” or “available for pickup”, shall be presumed as verification of delivery, unless proven to the contrary.

The 30-day appeal period will begin on the calendar day following the day the written notice of decision is delivered to the person, pursuant to sections 16(1) of the ICR and 22(7) of the IA.

- b) If the AIC uses regular mail to deliver a written notice of decision, and is unable to track and verify the exact date of delivery, the following procedures for calculating time shall be followed:

If the written notice of decision is mailed to an address in Alberta using regular mail, delivery of the decision to the Appellant shall be presumed to be 7 calendar days from the date of mailing, pursuant to section 23(1)(a) of the IA. The 30 day appeal period will begin upon the expiry of the 7 day period, pursuant to sections 16(1) of the ICR and 22(7) of the IA.

If the written notice of decision is mailed to an address outside of Alberta using regular mail, the 30 day appeal period shall begin 14 calendar days from the date of mailing, pursuant to section 23(1)(b) of the IA. The 30 day appeal period will begin upon the expiry of the 14 day period, pursuant to sections 16(1) of the ICR and 22(7) of the IA.

- c) Where a written notice of a council's decision cannot be delivered using the methods described above, the 30-day right of appeal period shall commence on the day following the date the decision is published on the AIC's website.

Only compliance decisions, arising from alleged violations of the Act or its regulations, will be published on the AIC's website. Licensing decisions, which relate to applications, retentions, or renewals of certificates of authority, will be communicated through personal delivery or mail, as described above.

- d) If the 30 day appeal period ends on a day on which the Superintendent's office is not open for business (e.g., holidays, weekends), the deadline to submit a Notice of Appeal shall be the end of the business day on the next day that the Superintendent's office is open.

Appeal period deadlines that fall on days when the Superintendent's office is not open, and therefore unable to receive submission of a Notice of Appeal, will be extended to the next business day, pursuant to section 22(2) of the IA.

The AIC shall determine the appropriate means of delivery for a written notice of decision. The AIC reserves the right to use other methods of service where appropriate and reasonable. For example, alternative delivery methods may be used during a pandemic.

2. An Appellant Is Responsible for Providing Accurate Contact Information to the AIC

It is the responsibility of an Appellant to ensure that their contact information in the AIC's database is up to date and accurate. This database is synched with the Canadian Insurance Participant Registry (the "**Registry**"). The written notice of decision will be delivered to the Appellant's address listed in the Registry. Failure to maintain accurate address information may result in the delivery of the decision to an incorrect or out of date address.

The 30 day appeal period will begin to run from the date of delivery of the written notice of decision to the Appellant's address. It is the responsibility of a certificate holder to maintain up to date contact information (email, telephone, business and personal addresses) with the AIC.

The Appellant's failure to keep his or her contact information current within the Registry, pick-up their mail in a timely fashion, or otherwise accept delivery of the decision may adversely impact an Appellant's ability to appeal the decision.

3. Notices of Appeal Must be Received by the End of Business Day on the 30th Day after Delivery

The AIC and the Superintendent shall exchange information regarding the date of delivery of a written notice of decision, including affidavits of service and letter tracking data, to confirm the beginning and end dates of the appeal period.

4. Notices of Appeal Must be Compliant With all Requirements Contained in the Regulation

If a Notice of Appeal is received in time, the Superintendent shall review the Appellant's submissions and confirm completeness of the Notice of Appeal. As per section 16(2) of the ICR, the Notice of Appeal must contain the following:

- a. a copy of the written notice of the decision being appealed;
- b. a description of the relief requested by the Appellant;
- c. the signature of the Appellant or the Appellant's lawyer;
- d. an address for service in Alberta for the Appellant;
- e. an appeal fee of \$200 payable to the President of Treasury Board and Minister of Finance.

Please note: To align with current Government of Alberta banking preferences, the Superintendent encourages applicants to make the \$200 appeal fee payable to the **"Government of Alberta"** instead of the **"President of Treasury Board and Minister of Finance."** However, an appeal fee payable to either of the above will be accepted by the Superintendent and will satisfy the requirement set out in the ICR.

The Superintendent shall accept Notices of Appeal submitted via mail, courier or email, with some limitations, depending on payment method. For example, an emailed copy of a cheque is not a valid payment method. The appeal fee may be paid by certified or personal cheque, money order, or electronic fund transfer (EFT). To pay by EFT, email tbf.insurance@gov.ab.ca to request EFT instructions.

If a Notice of Appeal is not complete, the Superintendent will make reasonable attempts to contact the Appellant in writing or by phone to advise what is missing, and the deadline to submit the completed package.

If the Appellant is unable to submit a Notice of Appeal that fulfills all the requirements set out in section 16(2) of the ICR by the deadline, the Appellant may make a written application for an extension of time to the Superintendent under section 796 of the Act.

A written application for an extension of time must be received by the Superintendent prior to the expiration of the appeal period. Appellants may contact the Superintendent at the addresses listed at the bottom of this Bulletin to make a written request for an extension of time. The Superintendent will consider the nature of the request, the length of the requested extension, and any other relevant circumstances in determining whether an extension of time is justified.

5. Notices of Appeal Are Not “Submitted” Until Received by the Superintendent

The Superintendent will only consider a Notice of Appeal to be “submitted” in accordance with section 16(1) of the ICR upon its receipt by the Superintendent. Notices of Appeal that are not received by the Superintendent prior to the deadline, and for which no extension of time has been granted, will be considered late and rejected. The Superintendent is bound by the legislation and does not have the discretion to waive the requirements in the ICR or extend the deadline after it has passed.

6. Notices of Appeal Must Contain a Valid Form of Payment

The Superintendent will only consider a Notice of Appeal to be complete and submitted in accordance with the ICR if it is received with a valid form of payment of the \$200 appeal fee. If the appeal fee payment is mailed by an Appellant prior to the deadline of the appeal period, but is not received by the Superintendent until after the expiration of the deadline, it will be considered late, and an appeal panel will not be appointed.

A scan or photocopy of a form of payment of the appeal fee (e.g. a scanned copy of a \$200 cheque) is insufficient to meet the requirements in the ICR and will not be accepted as a placeholder for a physical cheque that is received after the appeal period deadline.

If payment is by EFT, be aware that EFTs can take up to three days to show up in the Superintendent’s account. An EFT payment must be received in the Superintendent’s account prior to the deadline of the appeal period.

Appellants are responsible for sending appeal fees with sufficient time to ensure their receipt by the Superintendent prior to the expiration of the appeal period.

An appeal fee rejected by a financial institution as invalid shall not constitute payment of the appeal fee. For example, an appeal fee paid by personal cheque that is returned due to non-sufficient funds (NSF) will not satisfy the requirement in section 16(2)(e) of the ICR. If the appeal fee payment is determined to be invalid, the Notice of Appeal will be considered incomplete and will be rejected.

Appellants will not receive confirmation of the completeness of their Notice of Appeal, and the Superintendent will not proceed with appointing an appeal panel, until the Appellant's payment of the appeal fee clears. It is an Appellant's responsibility to ensure that a valid form of payment for the appeal fee is provided with their Notice of Appeal.

7. Incomplete or Late Notices of Appeal Will be Rejected and the Appeal Fee Returned

If a complete Notice of Appeal is not submitted in time, the Superintendent will return the fee with a letter to the Appellant advising the appeal cannot proceed because the Notice of Appeal was not received in time. The Superintendent will notify the AIC of the Superintendent's decision, and include a scanned copy of the rejected Notice of Appeal for the AIC's records.

8. Summary

The Superintendent intends for this Bulletin to provide Appellants with a clear understanding of how section 16 of the ICR shall be interpreted by the Superintendent.

Notwithstanding any past practice to the contrary, the Superintendent shall henceforth review all Notices of Appeal received by the Superintendent in accordance with the guidelines contained in this Bulletin.

If you have any questions regarding this Bulletin please contact the Superintendent's office at 780-643-2237 or tbf.insurance@gov.ab.ca.

[ORIGINAL SIGNED]

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Superintendent of Insurance

Contact Information and Useful Links

Email:	tbf.insurance@gov.ab.ca
Phone:	780-643-2237
Fax:	780-420-0752
Toll-free in Alberta:	Dial 310-0000, then the number.
Mailing Address:	402 Terrace Building, 9515 – 107 Street Edmonton, AB T5K 2C3
Visit our website:	insurance.alberta.ca

For more information, visit insurance.alberta.ca



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