

HAIL & CROP INSURANCE APPEAL COMMITTEE

What is the purpose of the Appeal Committee?

An Appeal Committee hears an appeal by an Insured who challenges a decision made by AFSC. An Insured has the right to appeal any decision of AFSC which involves:

- The interpretation of the Contract of Insurance or any related document,
- The interpretation of the Agriculture Financial Services Regulation as it relates to the Contract of Insurance, or
- The rights or obligations of the Insured and AFSC to the Contract of Insurance.

What authority does the Appeal Committee have?

Appeal Committees are created under Section 10 of the *Agriculture Financial Services Act*. The decision of an Appeal Committee is final and binding on both the Insured and AFSC Insured subject to:

- Section 10(6) of the Act which states that if the AFSC Board considers that the Appeal Committee has not properly applied a relevant policy of the AFSC Board or the provisions of the Act or Regulation, the AFSC Board may direct the Appeal Committee to rehear the matter.
- Either the Insured or AFSC initiating a judicial review on a question of law or jurisdiction.

What is the composition of the Appeal Committee?

An Appeal Committee is an independent panel of farmers and/or business people (selected from across Alberta) and at least one AFSC Board member (legislative requirement).

An Appeal Committee normally consists of three people, that is, two farmer and/or business members and one AFSC Board member. The AFSC Board member is designated as the Chair.

Depending on the dollar amount and the complexity of the issue, the Appeal Committee may be made up of three farmer and/or business people and two AFSC Board members.

A representative from the Farmers' Advocate Office acts as Secretary for the Appeal Committee.

What are the responsibilities and duties of the Chair and Secretary?

The Chair presides over the hearing and after consultation with the other Appeal Committee members outlines specific procedures and conduct at the hearing.

The Secretary selects the farmer and/or business members of the Appeal Committee.

Potential Appeal Committee members must declare if they are in a conflict of interest with either the Insured or AFSC. The Appeal Committee members are selected to ensure the committee is as impartial as possible.

The Secretary is responsible for all administrative aspects of the appeal, including coordination of the appeal date, time and location of the hearing, distribution of the agenda and relevant information, recording the minutes of the hearing and the preparation and distribution of the Appeal Committee decision.

What type of operating guidelines does the Appeal Committee follow?

Subject to the Act, an Appeal Committee operates within its own rules of procedure. The following are some guidelines the Appeal Committee uses in the appeal process.

- Principles of fairness prevail.
- Strict legal rules of evidence need not be followed.
- The policies of AFSC must be observed and adhered to.
- Both the Insured and AFSC must provide the Secretary, at least 14 calendar days prior to the appeal hearing date, with copies of all written or physical evidence to be presented to the Appeal Committee. The Secretary will forward the evidence to the Appeal Committee members and the other party.
- Any written or physical information received after the 14 calendar days will only be allowed as evidence with the approval of the Appeal Committee.
- Either party may use experts and witnesses. The Insured and AFSC must provide the Secretary with a list of experts and witnesses, and copies of their reports (if any), at least 14 calendar days prior to the hearing date. The Secretary will forward the names and reports to the Appeal Committee members and the other party.

- Either party may choose to retain a lawyer. Any party intending to retain a lawyer must give notice to the Secretary at least 14 calendar days before the hearing. The Appeal Committee may also choose to retain a lawyer. If one party gives notice that they are bringing a lawyer to the appeal, the other party is given sufficient time to make arrangements to retain legal counsel should they so choose. This may require rescheduling the appeal.
- Experts and witnesses may only be present during the hearing while they are giving evidence, unless otherwise approved by the Appeal Committee.
- Direct questioning or cross-examination of a party by the other party is not allowed other than through the Chair or indirectly in their rebuttal.
- The Appeal Committee attempts to come to a consensus on the decision; however voting will be used if necessary. The Chair only votes in the event of a tie.
- Both AFSC and the Insured are responsible for their own costs, regardless of the decision of the Appeal Committee (e.g., expert and legal fees).

What are the time lines during the appeal hearing?

- Insured, experts and witnesses present their information - 1 hour
- AFSC, experts and witnesses present their information - 1 hour
- Insured summary and rebuttal - 15 minutes
- AFSC summary and rebuttal - 15 minutes
- Insured final rebuttal, if desired - 15 minutes

The Appeal Committee has the discretion to reduce or extend the times.

When is an Appeal Committee decision made?

- After the Chair closes the hearing, the Appeal Committee continues in private to make a decision.
- The only people allowed at the decision-making session are the Appeal Committee members, the Secretary (to record the decision and reasons for the decision) and, if in attendance, the lawyer advising the Appeal Committee (to answer any legal questions raised by the Appeal Committee).
- While the Appeal Committee usually makes their decision the same day, they have the option of reconvening at a later date to make the decision. Should this happen, all Appeal Committee members must attend.
- The Appeal Committee will, in writing, inform both the Insured and AFSC of the decision within approximately 30 days from the date of the appeal.

What if AFSC or the Insured disagree with the decision of the Appeal Committee?

Subject to Section 10(6) of the Act, the decision of the Appeal Committee is final and binding on both the Insured and AFSC. However, if the Insured or AFSC believes that the Appeal Committee:

- Made an error of law (the Appeal Committee made a legal error such as failing to interpret the law correctly or not following the principles of natural justice or fairness), or
- Made an error of jurisdiction (the Appeal Committee went beyond its legal authority and made a decision it did not have the legal ability to make)

The Insured or AFSC may initiate an application to the courts for judicial review. If either the Insured or AFSC seeks a judicial review, they will need to clearly show that the Appeal Committee made an error of law or jurisdiction.

How do I initiate an appeal?

Complete a Notice of Appeal form (available from your local AFSC Office or online at www.afsc.ca) and mail or deliver the notice and a \$300 appeal fee to your local AFSC Office. The \$300 appeal fee will be refunded if the Appeal Committee decides in your favour.