



GOVERNMENT OF  
NEWFOUNDLAND AND LABRADOR

Department of Government Services and Lands  
Consumer and Commercial Affairs  
Insurance and Pensions Division

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# Bulletin

## To the Property and Casualty Insurance Industry

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### ADJUSTING ACTIVITIES

It has been brought to our attention that individuals and companies may be carrying out adjusting activities without holding the required licence to do so. **This Bulletin is being issued to make you aware of the requirement to be licensed and that it is a violation of the *Insurance Adjusters, Agents and Brokers Act* for a person to act as or represent or hold out to be an adjuster or adjustment company without holding the required licence.**

### ADJUSTING ACTIVITIES

The *Insurance Adjusters, Agents and Brokers Act* (the Act) provides for the licensing of adjusters and adjustment companies and defines each as follows:

“**adjuster**” means a natural person who

- (i) for compensation or otherwise, directly or indirectly solicits the right to investigate a loss, assess damages, negotiate the settlement of a resultant claim for an insurer, self-insurer, claimant or insured under a contract of insurance or guarantee insurance or assumed liability instead of those contracts,
- (ii) for compensation or otherwise, holds himself or herself out to a claimant or an insured as an adjuster, investigator, consultant or advisor with respect to the settlement of losses or claims referred to in paragraph (i),
- (iii) for compensation or otherwise, in direct contact with a claimant or an insured, holds himself or herself out as an adjuster, assessor, investigator, consultant or advisor with respect to the settlement of losses or claims referred to in paragraph (i), or
- (iv) for compensation or otherwise, in direct contact with a claimant or an insured, investigates a loss, assesses damage, negotiates the settlement for losses or claims referred to in paragraph (i).

**“adjustment company”** means a corporation or partnership licensed to carry on the business of an adjuster.

Any person who is acting as, representing or holding themselves out to be an adjuster or an adjustment company without holding the required licence is operating in contravention of the Act and subject to significant fines.

## **EXEMPTIONS FROM LICENSING**

An insurance company is not required to be licensed as an adjustment company.

Certain persons acting in his or her professional capacity are exempted from the provisions of the Act and regulations. These are:

- a barrister or solicitor who is practising in the province and who is acting in the usual course of his or her profession:
- a liquidator or trustee in bankruptcy, in the performance of his or her duties:
- a testamentary executor, director, trustee or fiduciary, in the performance of his or her duties:
- a person who is employed as an appraiser, engineer or other expert who is employed solely for the purpose of giving expert advice or evidence.

A person adjusting or dealing solely with claims under a contract of aircraft insurance, marine insurance, life insurance or accident & sickness insurance is not required to hold a licence under the Act.

For contracts of automobile, property or liability insurance, a person is exempt from licensing where the total property damage incurred by all parties does not exceed \$1,500 and the claim does not involve

- bodily injury,
- salvage,
- subrogation,
- fraud,
- dispute as to coverage,
- dispute as to liability, or
- breach of contract.

Also, for contracts of automobile insurance the claim cannot involve the total loss of a vehicle.

## **PENALTIES**

A natural person who without a licence acts as or represents or holds himself or herself out to be an adjuster is guilty of an offence under the Act.

A corporation or a partnership who without a licence acts as or represents or holds itself out to be an adjustment company is guilty of an offence under the Act.

Every director or officer of a corporation and every person acting in a similar capacity or performing similar functions in an unincorporated association and every member of a partnership who:

- caused, authorized or permitted or participated in the unlicensed activity; or
- failed to take reasonable care to prevent the happening of the unlicensed activity

is guilty of an offence under the Act.

**Upon conviction, the penalty for a 1<sup>st</sup> offence is a fine of not more than \$100,000. On each subsequent conviction the penalty is a fine of not more than \$200,000. In default of payment a person would spend a period of not more than 6 months in prison.**

## **LICENCE APPLICATIONS**

The application for an adjuster licence is available on our web site, [www.gov.nf.ca/gsl/ip](http://www.gov.nf.ca/gsl/ip) .

Application for an adjustment company licence is available from the Insurance and Pensions Division.

## **QUESTIONS**

Should industry participants have additional questions they may be e-mailed to [info.gsl@gov.nf.ca](mailto:info.gsl@gov.nf.ca), faxed to 709-729-3205 or mailed to the Insurance and Pensions Division.

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