

RSNL1990 CHAPTER C-39
CROP INSURANCE ACT

Amended:

1991 c18 s1; 1996 cR-10.1 s22; 1997 c13 s12; 2001 cN-3.1 s2;
2004 c47 s12; 2006 c40 s21; 2011 c20 ss1&2

CHAPTER C-39

**AN ACT RESPECTING THE NEWFOUNDLAND AND LABRADOR CROP INSURANCE
AGENCY**
2001 cN-3.1 s2

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Short title

1. This Act may be cited as the Crop Insurance Act.

1973 No78 s1

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Definitions

2. In this Act

- (a) "agency" means the Newfoundland and Labrador Crop Insurance Agency continued under section 3;
- (b) "auditor general" means the auditor general of the province;
- (c) "contract" means a contract of insurance issued under the plan;
- (d) "crop year" means the period from April 1 in a year to March 31 in the next year;
- (e) "fund" means The Newfoundland and Labrador Crop Insurance Fund referred to in section 12;
- (f) "insurable crop" means an agricultural crop designated as an insurable crop by the regulations;
- (g) "insurance" means crop insurance provided by contract under this Act;
- (h) "insured person" means a person who has entered into a contract;
- (i) "minister" means the minister appointed under the Executive Council Act to administer this Act;
- (j) "plan" means a plan of crop insurance established by this Act and the regulations; and
- (k) "qualified person" means a person who is growing an insurable crop for sale on 1 or more acres of land in the province.

1973 No78 s2; 1979 c49 Sch B; 1989 c18 Sch B; 2001 cN-3.1 s2; 2006 c40 s21

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Creation of agency

3. (1) The corporation known as the Newfoundland and Labrador Crop Insurance agency established to carry out a crop insurance plan under the direction, supervision and control of the minister is continued.

(2) The membership of the agency shall consist of not less than 3 and not more than 7 members to be appointed by the Lieutenant-Governor in Council.

(3) The Lieutenant-Governor in Council shall designate 1 of the members of the agency to be chairperson and another to be vice-chairperson of the agency.

(4) Members of the agency shall hold office at the pleasure of the Lieutenant-Governor in Council.

(5) Three members of the agency, 1 of whom shall be the chairperson or the vice-chairperson, shall constitute a quorum.

(6) Where at a meeting of the agency, there is an equality of votes, the chairperson or vice-chairperson presiding at the meeting shall have a 2nd or a casting vote.

(7) Where a vacancy occurs in the membership of the agency because of death, resignation or illness of a member, the Lieutenant-Governor in Council may appoint a person to replace him or her.

(8) Notwithstanding the Legislative Disabilities Act, where a member of the House of Assembly is or becomes a member of the agency, his or her seat does not become vacant by reason only of the appointment and acceptance of remuneration as a member of the agency.

(9) A member of the agency shall be paid the salary, travelling expenses or other remuneration that the Lieutenant-Governor in Council may determine.

(10) The agency, subject to the approval of the minister, may employ officers, inspectors, clerks, agency representatives or other persons who are considered to be necessary and may pay those employees the salaries, travelling expenses and other remuneration that the Lieutenant-Governor in Council may determine.

1973 No78 s4; 2001 cN-3.1 s2

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Appointment of managing director

4. (1) The Lieutenant-Governor in Council shall appoint a managing director of the agency and shall establish the terms and conditions of the employment, the salary, travelling expenses, and other remuneration of the managing director.

(2) The managing director shall be the chief executive and administrative officer of the agency, and subject to control by the agency, shall be responsible for the management and direction of the agency, the day to day administration of its affairs and shall have general supervision and authority over its employees.

1973 No78 s5

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Use of seal

5. (1) The agency shall have a common seal and the application of it shall be certified by the chairperson or vice-chairperson of the agency.

(2) A contract or instrument which, if entered into or executed by a person not being a corporation, would not be required to be under seal, may be entered into or executed on behalf of the agency by a person generally or specially authorized by it for that purpose.

(3) A document purporting to be a document executed or issued under the seal of the agency or on behalf of the agency shall, until the contrary is proved, be considered to be a document so executed or issued.

1973 No78 s6

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Status of agency

6. (1) The agency is, for the purposes of this Act, an agent of the Crown under the control and direction of the minister and may exercise its powers under this Act only as an agent of the Crown.

(2) The agency may, on behalf of the Crown, enter into contracts or other agreements and acquire and dispose of and otherwise deal with property in the name of the agency.

(3) Notwithstanding that the agency is an agent of the Crown, it may enter into contracts with the Crown and appoint agents to act on its behalf for any purpose and on the conditions that it considers necessary.

(4) Property of the agency is the property of the Crown and title to it shall be vested in the name of the agency.

(5) A member of the agency or a person employed by the agency does not become, because of the employment only, an officer or servant of the Crown.

1973 No78 s7

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Actions

7. Actions, suits or other legal proceedings in respect of a right or obligation acquired or incurred by the agency may be brought by or against the agency in the name of the agency in a court as if the agency were not an agent of the Crown.

1973 No78 s8

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Powers, functions and duties of agency

8. (1) Included in the agency's powers, functions and duties, shall be power to

(a) administer plans of crop insurance established under this Act or the regulations;

(b) fix by order and publish in the Gazette a final date in each year for the receipt of applications for insurance under a plan;

(c) conduct surveys and research programs relating to insurance and obtain statistics for the purposes of the agency;

(d) evaluate and determine crop losses and pay claims under a plan;

(e) enter into agreements with or retain persons for the soliciting and receiving of applications for insurance, the collecting of premiums and the adjusting of claims under plans for and on behalf of the agency, and the doing of other things on its behalf that the agency considers necessary;

(f) reinsure with another insurer the risk or a portion of it under a contract;

(g) require an applicant for crop insurance or an insured person to provide the information, statements and reports that the agency may require;

(h) exercise the powers and perform the duties that are conferred or imposed upon it under this or another Act;

(i) perform the other functions and discharge the other duties that are assigned to it by the Lieutenant-Governor in Council; and

(j) make the orders and directions that are necessary to enforce the observance of the Act, the regulations or a plan.

(2) An order and direction of the agency made under this section may be made with retroactive effect.

1973 No78 s9

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Regulations of agency

9. (1) Subject to the approval of the Lieutenant-Governor in Council, the agency may make regulations

(a) establishing, amending and revoking voluntary plans for the insurance within the province of insurable crops;

(b) governing the terms and conditions of insurance under a plan;

(c) designating perils for the purposes of a plan;

(d) determining coverage and establishing values with respect to insurable crops for the purposes of a plan;

(e) fixing premium rates and providing for the payment and collection of premiums in respect of a plan;

(f) prescribing forms and terms of contracts and applications for a contract and providing for their use, and requiring information given in a form to be verified by statutory declaration;

(g) requiring applicants for insurance and insured persons to provide the information, statements and reports that are prescribed;

(h) designating insurable persons for the purposes of a plan;

(i) establishing the level of coverage in relation to average crop yield; and

(j) prescribing the method of notification and the form in which proof of crop loss shall be given and the information and details to be provided.

(2) Regulations establishing or amending a plan may provide for 1 or more insurable crops and may apply to all of the province or to an area or location within the province.

1973 No78 s10

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Appeal board

10. (1) The minister may appoint an appeal board consisting of 3 persons, one of whom shall be designated as chairperson.

(2) At least one of the persons appointed under subsection (1) shall be a person who is or who has been engaged in the production of an insurable crop.

(3) Persons appointed under subsection (1) shall hold office at the pleasure of the minister.

(4) Each member of the appeal board has, in relation to the hearing and determination of a matter, all the powers that are or may be conferred upon a commissioner under the Public Inquiries Act .

(5) Subject to the approval of the minister, the members of the appeal board shall make rules of procedure to govern hearings of the appeal board.

1996 cR-10.1 s22; 1997 c13 s12

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Appeals

10.1 (1) An insured person may file an appeal in respect of

(a) an act of the agency, its officers or agents, within 14 days of the disputed act; and

(b) a finding, order or decision of the agency, its officers or agents, within 14 days of receiving notice of the finding, order or decision.

(2) An appeal is filed under subsection (1) by serving the chairperson of the appeal board and the chairperson of the agency with a statement setting out in writing the grounds for the appeal.

(3) The chairperson of the agency shall respond to an appeal filed under subsection (1) by serving a written response on the chairperson of the appeal board and on the appellant within 14 days of receiving the appeal.

(4) A decision of a majority of the members of the appeal board is final and binding.

1996 cR-10.1 s22; 1997 c13 s12; 2004 c47 s12; 2011 c20 s1

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Voluntary arbitration

10.2 (1) An insured person who files an appeal under section 10.1 and the chairperson of the agency may agree to resolve the dispute by voluntary arbitration on those terms as are agreed by the parties.

(2) Where an agreement under subsection (1) provides that no appeal from the arbitration may be made to the appeal board, that provision is valid and the decision of the arbitration is final and binding.

1996 cR-10.1 s22; 2004 c47 s12

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Payment of money

11. All money required by this Act to be paid in respect of premiums under plans shall be paid to the agency.

1973 No78 s13

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Establishment of fund

12. (1) The Newfoundland and Labrador Crop Insurance Fund, which is in the custody and control of the agency on behalf of the Crown, is continued.

(2) The Minister of Finance, with the approval of the Lieutenant-Governor in Council and on the written requisition of the minister, may advance to the agency for use as working capital those sums that may be stated in the requisition, but the total advances made in each financial year under this subsection shall not exceed \$100,000.

(3) From and out of the Consolidated Revenue Fund, with money appropriated for the purpose, the Minister of Finance, on the written requisition of the minister, shall pay to the agency in each year an amount equal to

(a) the amount determined to be the cost to the agency of administering this Act during that year, and for the purpose of the determination, the agency shall not later than December 31 in a financial year, prepare, adopt and submit to the minister a budget containing estimates of all sums required by it during the next financial year for the administration; and

(b) a sum not less than 1/2 of the premiums payable under a contract.

(4) The agency may receive and accept other sums of money that may be paid to it by way of grant, contribution or reimbursement from a source, if it receives the funds to help it in the attainment of its objects or in the proper exercise of its functions or to reimburse it for disbursements made by it or on its behalf.

(5) The agency shall credit to the fund

(a) all money advanced or paid under subsections (2), (3) and (4);

(b) the total of all premiums received from contracts; and

(c) all other amounts received by the agency.

(6) The agency shall deposit and keep all amounts credited to the fund in a Canadian chartered bank.

1973 No78 s14; 2001 cN-3.1 s2; 2011 c20 s2

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Minute books and accounts

13. The agency shall keep regular minutes of all its meetings and shall ensure that complete books of financial and other accounts and records are established and maintained.

1973 No78 s15

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Administration of fund

14. (1) The agency shall administer the fund and pay from it all amounts required to be paid under this Act and the regulations, including expenses of administration, the salaries of the managing director and all other persons employed by the agency or otherwise engaged for the administration of this Act.

(2) Notwithstanding another Act, the money in the fund does not form part of the Consolidated Revenue Fund, and the fund is not a division or part of the Consolidated Revenue Fund, but the money is the property of the Crown.

(3) The agency may, and shall where so directed by the minister, pay to the Minister of Finance for investment on behalf of the agency money in the fund not immediately required for expenditure, and the Minister of Finance may invest the money or part of it by any or all of the methods by which the Consolidated Revenue Fund may be invested.

(4) Money paid to the Minister of Finance for investment under subsection (3) shall form a trust or special fund and interest and earnings on it shall be credited to the account of the agency, and the earnings, or a part of them, shall be paid over to the agency by the Minister of Finance on the request of the agency.

(5) The minister may authorize the Minister of Finance to realize sums invested under subsection (4) and sums so realized shall be paid to the agency for the purposes of the administration of this Act.

1973 No78 s16

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Financial year

15. (1) The financial year of the agency shall correspond to the financial year of the province.

(2) The agency shall, not later than September 30 in each year, prepare and submit to the minister a financial statement setting out the assets and liabilities of the agency and the receipts and expenditures of the agency for the previous financial year, together with a report concerning the work of the agency during the previous financial year, and the statement and report shall be laid before the Legislature within 15 days after they are submitted to the minister if the Legislature is then sitting, and, if not, then within 15 days after the beginning of the next session.

(3) The financial statement referred to in subsection (2) shall be signed by the managing director and 1 other member of the agency and certified by the auditor general and shall have attached to it a report which the auditor general may have made to the agency.

(4) The auditor general shall audit the accounts of the agency and has authority to call for and shall be supplied by the agency with all books and vouchers which he or she considers necessary for this audit.

(5) The Lieutenant-Governor in Council may require the agency to provide those reports or the information respecting the business and operations of the agency, that he or she may direct.

1973 No78 s17

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Agreements with Canada

16. The minister may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with the Government of Canada respecting any or all of the matters provided for in the Crop Insurance Act (Canada).

1973 No78 s18; 1991 c18 s1

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Non-application

17. Without prejudice to all rights, privileges, benefits or exemptions which may be vested by law in the agency because of its being an agent under the control of the Crown, nothing contained in

- (a) the Insurance Adjusters Act;
- (b) the Insurance Companies Act; and
- (c) the Insurance Contracts Act

shall apply to the agency or a matter or thing done under this Act or the regulations.

1973 No78 s19