



LIQUOR AND
CANNABIS
REGULATION
BRANCH

HEARING RULES

Updated July 2023

Table of Contents

| | |
|---|----|
| Rule 1. Purpose | 3 |
| Rule 2. Application | 3 |
| Rule 3. Definitions | 3 |
| Rule 4. Extension or Reduction of Time Limits | 5 |
| Rule 5. Representation | 5 |
| PART A: Licensing and Compliance Hearings | 5 |
| Rule 6. Purpose of Hearings | 5 |
| Rule 7. Hearing Format | 5 |
| Rule 8. Rescheduling or Extending Time Limits for Submissions | 6 |
| Rule 9. Oral Submissions Procedure | 6 |
| Rule 10. Adjourning Oral Submissions | 7 |
| PART B: Enforcement Hearings | 7 |
| Rule 11. Purpose of Enforcement Hearings | 7 |
| Rule 12. Waiver | 8 |
| Rule 13. Hearing Format | 8 |
| Rule 14. Rescheduling before the Hearing Date | 8 |
| Rule 15. Pre-hearing Disclosure | 8 |
| Rule 16. Pre-hearing Conference (PHC) | 9 |
| Rule 17. Oral Hearing Procedures | 10 |
| Rule 18. Adjourning Oral Hearings | 10 |

Rule 1. Purpose

The purposes of these Rules are to:

1. assist parties in understanding the Branch’s hearing processes;
2. ensure a consistent approach in the conduct of hearings; and
3. ensure the timely, fair, and efficient adjudication of licensing, compliance, and enforcement actions.

Rule 2. Application

These Rules replace the previous Enforcement Hearing Rules and apply to all hearings commenced before, on or after the date these Rules are implemented.

Rule 3. Definitions

In these Rules:

“Act” means, as applicable, the *Liquor Control and Licensing Act* (LCLA) or the *Cannabis Control and Licensing Act* (CCLA);

“applicant” means a person who applies to the Branch for the a) issuance, renewal, transfer or amendment of a licence or permit, or b) issuance or amendment of an authorization;

“Branch” means the Liquor and Cannabis Regulation Branch;

“branch advocate” means the person appointed by the general manager to disclose the Branch’s evidence and present it in enforcement hearings;

“contravention” means an act or omission that is contrary to the provisions of the Acts, Regulations or terms and conditions of a licence or permit;

“decision-maker” means the general manager or any person to whom the general manager has delegated their powers and duties under the Acts for the purposes of conducting hearings and adjudicating licensing, compliance and enforcement actions;

“enforcement action” means determining under section 38 or 39 of the CCLA, or section 51, 52 or 53 of the LCLA, whether a licensee has contravened the Act, Regulations or terms and conditions of their licence or permit;

“enforcement order” means an order imposing a penalty under the Act issued after a finding of a contravention;

"expert evidence" or "expert report" means evidence expressing an opinion based on a person’s education, training or experience;

“hearing” means a compliance hearing, enforcement hearing or licensing hearing;

- “compliance hearing” means determining whether to a) cancel, suspend or order the transfer of a licence or part of a licence under section 37 of the CCLA or section 49 of the LCLA, as applicable or b) cancel a permit or an authorization under section 50 of the LCLA;
- “enforcement hearing” means determining under section 38 or 39 of the CCLA, or section 51, 52 or 53 of the LCLA, whether a licensee has contravened the Act, Regulations or terms and conditions of their licence or permit;
- “licensing hearing” means determining whether to a) issue, renew, transfer or amend a licence or permit, b) issue or amend an authorization, or c) impose or amend terms and conditions on a licence, permit, endorsement or authorization under Part 5 of the LCLA or Part 4, Divisions 1 and 2 of the CCLA, as applicable.

“licensee” means a person who holds a licence, their representative, a person who holds a permit and a former or deemed licensee;

“Notice of Determination” means an order issued after a determination is made in a licensing or compliance hearing;

“Notice of Enforcement Action” or “NOEA” means the notice served on a licensee under section 38(7) of the CCLA or under section 51(7) of the LCLA, describing the alleged contravention of the Act, Regulations or terms and conditions of a licence and the proposed enforcement action;

“opportunity to be heard” or “OTBH” means a letter sent from the decision-maker to a licensee or applicant as part of the hearing process requesting a response to allegations or concerns before a licensing or compliance decision is made;

“parties” mean the Branch and the licensee or applicant in the hearing process;

“registrar” means the person to whom the general manager has delegated their powers and duties under the Acts for the purpose of administering pre- and post-hearing proceedings;

“Regulation” means, as applicable, the *Liquor Control and Licensing Regulation*, the *Cannabis Licensing Regulation* or the *Cannabis Control Regulation*;

“Rules” means these hearing rules;

“waiver” or “Waiver Notice” means a waiver described in section 38(8) of the CCLA or section 51(8) of the LCLA, by which the licensee expressly and irrevocably:

- admits to the contravention;
- accepts the penalty proposed in the NOEA;
- waives the opportunity for a hearing on the matter;
- agrees that the finding of contravention and the penalty will form part of their compliance history.

Rule 4. Extension or Reduction of Time Limits

At any time, the decision-maker or the registrar, as applicable, may extend or reduce the time limit for an application or the performance of any obligation under these Rules as long as they do not alter any time limits set out in the Acts or Regulations.

Rule 5. Representation

1. In the hearing process, the licensee or the applicant may be self-represented or represented by any person who has written authority to act for the licensee or the applicant, including a lawyer.
2. The licensee or applicant must provide advance written notice to the decision-maker or registrar, as applicable, if they will be represented by another person in the hearing process.

PART A: Licensing and Compliance Hearings

Rule 6. Purpose of Hearings

1. A licensing hearing is conducted under Part 5 of the LCLA or Part 4, Divisions 1 and 2 of the CCLA, as applicable. The purpose of a licensing hearing is to determine whether to issue, renew, amend or transfer a licence or permit, or to impose terms and conditions on a licence or permit in response to a concern identified by the decision-maker.
2. A compliance hearing is conducted under section 49 or 50 of the LCLA or section 37 of the CCLA, as applicable. The purpose of a compliance hearing is to determine whether to cancel, suspend or order the transfer of a licence or part of a licence or to cancel a permit or an authorization in response to a concern identified by the decision-maker.

Rule 7. Hearing Format

1. Hearings under this Part are show cause hearings. This means the licensee or applicant bears the onus of satisfying the decision-maker that the latter should not take a proposed action. The decision-maker will outline the basis for considering the proposed action in the OTBH that is sent to the licensee or applicant. In showing cause, the licensee or applicant must produce any supporting evidence they wish the decision-maker to consider.
2. A show cause hearing will normally be conducted by way of written submissions.
3. All show cause hearings on the part of applicants for a new licence must be conducted by way of written submissions.
4. The decision-maker must conduct show cause hearings on the part of licensees by way of written submissions unless the decision-maker determines that oral submissions are necessary to ensure the licensee is not prejudiced. In determining

whether oral submissions are necessary, the decision-maker may consider whether a licensee's mental or physical disability prevents them from making written submissions.

5. A licensee must request a hearing be conducted by way of oral submissions at the earliest opportunity and provide supporting evidence to demonstrate that a hearing conducted by way of written submissions would prejudice them.
6. The decision-maker or the registrar will set time limits for written submissions or a date for oral submissions, as applicable. The decision-maker or the registrar will make reasonable efforts to accommodate the parties' scheduling requirements.

Rule 8. Rescheduling or Extending Time Limits for Submissions

1. The decision-maker may extend time limits for written submissions or reschedule a hearing by way of oral submissions on their own initiative, or in exceptional circumstances at the request of a licensee or applicant.
2. If a licensee or applicant requests to extend time limits or reschedule a hearing, they must apply to the decision-maker by letter sent by mail or email at the earliest opportunity and explain the reason for the request (and provide supporting evidence as required). The decision to extend time limits or reschedule a hearing is at the sole discretion of the decision-maker.

Rule 9. Oral Submissions Procedure

1. This Rule applies to oral submissions whether conducted in person or by videoconference.
2. Oral submissions will normally be conducted by videoconference.
3. Oral submissions will normally consist of the licensee or their representative making submissions to the decision-maker. The decision-maker may ask questions as necessary. The decision-maker has discretion to provide for a different process when necessary to ensure no prejudice arises, however the licensee is not permitted to cross examine any person.
4. Unless authorized by the decision-maker, the licensee must not forward or share the invitation or hyperlink sent to them for the hearing by videoconference. A person participating in or attending a hearing by videoconference must comply with the directions relating to videoconference proceedings provided by the registrar before the hearing or as set by the decision-maker at the hearing.
5. If the licensee or applicant does not attend the hearing when they had notice of the hearing, the decision-maker may decide the matter on the basis of the information available to them.
6. Hearings by way of oral submissions must not be recorded.
7. The decision-maker may establish their own practices and procedures for the

conduct of the hearing by way of oral submissions and may:

- a. proceed in the absence of the licensee or in the absence of any submissions from the licensee when they had notice of the hearing, but failed to attend;
- b. ask questions to clarify issues or facts;
- c. place time limitations on the submissions;
- d. limit the number of persons making submissions on behalf of or in support of the licensee;
- e. adjourn the hearing;
- f. issue orders to ensure an orderly and efficient conduct of hearing, including limiting the number of observers or excluding other non-party attendees.

Rule 10. Adjourning Oral Submissions

1. Once a hearing by way of oral submissions has commenced, the decision-maker may adjourn the hearing on their own initiative or at the request of the licensee in exceptional circumstances.
2. In determining whether to grant an adjournment the decision-maker may consider, but is not limited to, the following factors:
 - a. technical difficulties during a videoconference;
 - b. the reasons for the request and any objections by a party to the adjournment;
 - c. the number of rescheduled hearings and adjournments that have already been granted;
 - d. whether the adjournment will needlessly delay or impede the conduct of the hearing;
 - e. whether the purpose for which adjournment is sought will contribute to the resolution of the matter;
 - f. whether the adjournment is required to ensure a fair hearing;
 - g. the degree to which the need for the adjournment arises out of intentional actions or the neglect of the licensee;
 - h. matters of public health and safety.

PART B: Enforcement Hearings

Rule 11. Purpose of Enforcement Hearings

An enforcement hearing is conducted under section 51, 52 or 53 of the LCLA or section 38 or 39 of the CCLA, as applicable. The purpose of an enforcement hearing is to adjudicate an enforcement action to determine whether a licensee has contravened the Act, Regulations or terms and conditions of their licence or permit and, if so, the penalty that will be imposed.

Rule 12. Waiver

1. The licensee may sign a waiver at any time from receipt of the NOEA until the time the hearing is set to begin.
2. The licensee may waive the opportunity for an enforcement hearing for one or more of the contraventions alleged in the NOEA. The enforcement hearing will continue for any contraventions that have not been waived.

Rule 13. Hearing Format

1. The decision-maker must conduct hearings in writing unless they determine that an oral hearing is necessary.
2. In determining whether an oral hearing is necessary, the decision-maker may consider:
 - whether conducting the hearing in writing will prejudice the licensee;
 - the complexity or nature of the legal or factual issues;
 - any other factors the decision-maker considers appropriate.
3. To request an oral hearing, a party must indicate the reasons for their request at, or before, the Pre-hearing Conference (see Rule 16 below).
4. The decision-maker or the registrar will set time limits for written submissions or a date for an oral hearing, as applicable. The decision-maker or the registrar will make reasonable efforts to accommodate the parties' scheduling requirements.

Rule 14. Rescheduling before the Hearing Date

1. The registrar may extend time limits for written submissions or reschedule an oral hearing on their own initiative, or in exceptional circumstances at the request of a party.
2. If a party requests to reschedule the hearing, they must apply to the registrar by letter sent by mail or email, which must be received by the registrar at least 14 days before the hearing, indicating why they are asking to have the hearing rescheduled. The registrar will only reschedule if there are exceptional circumstances.
3. If a hearing is rescheduled, the registrar may make directions respecting further rescheduling, production of documents or expert reports, or other matters which may assist with the timely, fair, and efficient conduct of the hearing.

Rule 15. Pre-hearing Disclosure

1. Subject to section 4 of this Rule, the branch advocate and the licensee must exchange copies of anything they intend to rely on as evidence at the hearing at least 14 days before the hearing, unless the registrar orders otherwise.

2. The branch advocate and the licensee must exchange their witness lists containing the names of their witnesses, roles or positions and summaries of anticipated evidence at least 14 days before the hearing, unless the registrar orders otherwise.
3. The branch advocate and the licensee must exchange copies of any expert reports that they intend to submit as evidence at the hearing, at least 21 days before the hearing, unless the registrar otherwise orders. If either the branch advocate or the licensee intends to call an expert witness without a report, they must produce to the other party a written statement of the opinion to be given, the facts upon which the opinion is based and the qualifications of the expert witness at least 21 days before the hearing, unless the registrar otherwise orders.
4. All of the disclosure and evidence referred to in this Rule must be provided by mail, courier, email or secure file transfer and received at the addressee's address for delivery as required under the Act or Regulations, or as directed by the registrar.

Rule 16. Pre-hearing Conference (PHC)

1. The registrar may set guidelines or directions for the timely, fair and efficient conduct of a hearing, including conducting a PHC.
2. A PHC will normally be conducted by telephone or videoconference.
3. Inspectors and investigators involved in the file may attend the PHC.
4. At a PHC, the registrar may:
 - a. provide information to the parties regarding the hearing process;
 - b. assist in clarifying, identifying, and narrowing the issues in dispute;
 - c. discuss the evidence (including witnesses) that will be presented at the hearing;
 - d. set out the requirements for the pre-hearing disclosure of evidence, including expert evidence and agreed statement of facts, if any, between the parties;
 - e. discuss and set locations, dates and time for the hearing, and in doing so may consider witness' availability;
 - f. issue summons for witnesses, if required;
 - g. set deadlines and directions in case of written submissions;
 - h. determine if a party or a witness requires any services to attend the hearing, such as for example, access for persons with disabilities, interpretive services, or services for the deaf;
 - i. impose time limitations and direct production of documents, expert reports, agreed statement of facts, written submissions or any other processes necessary for the fair and efficient management of the hearing;
 - j. set directions for the use of videoconference at a hearing;
 - k. set out procedures to ensure a timely, fair, and efficient hearing.
5. By letter sent by mail or email the registrar will report the results of the PHC

to the parties, including a summary of the issues in dispute and any orders or directions from the registrar made during the PHC.

Rule 17. Oral Hearing Procedures

1. This Rule applies to oral hearings whether conducted in person or by videoconference.
2. Oral hearings will normally be conducted by videoconference.
3. Unless authorized by the registrar, a person who receives an invitation or hyperlink for a hearing by videoconference must not forward or share the invitation or hyperlink. A person participating in or attending a hearing by videoconference must comply with the directions relating to videoconference proceedings provided by the registrar before the hearing or as set by the decision-maker at the hearing.
4. If the licensee does not attend the hearing, the decision-maker may proceed or adjourn the hearing to a later date.
5. Oral hearings must not be recorded.
6. The decision-maker may establish their own practices and procedures for the conduct of the oral hearing and may:
 - a. determine the procedures for the hearing;
 - b. make determinations regarding the admissibility of evidence;
 - c. require the production of evidence;
 - d. proceed in the absence of the licensee or a witness or in the absence of any submissions from the licensee when they had notice of the hearing;
 - e. ask questions to clarify issues or facts;
 - f. place time limitations on the examination or cross-examination of witnesses or presentation of opening or closing submissions;
 - g. require presentation of written submissions;
 - h. issue orders to ensure an orderly and efficient conduct of hearing, including limiting the number of observers or excluding witnesses or other non-party attendees.

Rule 18. Adjourning Oral Hearings

1. Once an oral hearing has commenced, the decision-maker may adjourn the hearing on their own initiative or at the request of a party in exceptional circumstances.
2. In determining whether to grant an adjournment the decision-maker may consider, but is not limited to, the following factors:
 - a. technical difficulties during a videoconference;
 - b. the reasons for the request and any objections by a party to the adjournment;
 - c. the number of rescheduled hearings and adjournments that have already been

- granted;
- d. whether the adjournment will needlessly delay or impede the conduct of the hearing;
 - e. whether the purpose for which adjournment is sought will contribute to the resolution of the matter;
 - f. whether the adjournment is required to ensure a fair hearing;
 - g. the degree to which the need for the adjournment arises out of intentional actions or the neglect of the party;
 - h. matters of public health and safety.