

 <p>BRITISH COLUMBIA COMMUNITY SAFETY UNIT</p>	Reconsideration Policy	
	Last Updated: July 26, 2024  Replacing the Reconsideration Process Policy (August 11, 2021)	Issuing Authority: <b>Director,          CSU</b>

### 1.01 Introduction

Under section 95 of the *Cannabis Control and Licensing Act* (CCLA), a person who is required to pay an administrative monetary penalty (AMP) under a Compliance Order may apply to the Director of the Community Safety Unit (CSU) for a reconsideration of that order. A Compliance Order means an order of the Director imposing an AMP on a person, other than an order based on a signed waiver referred to in section 94(5) of the CCLA.

An Application for Reconsideration will only be accepted if specific requirements in section 95 of the CCLA have been met.

Pursuant to section 95(7) of the CCLA, the acceptance of an Application for Reconsideration by the Director does not result in a stay of the Compliance Order and does not prevent steps from being taken to collect the AMP.

Following a reconsideration hearing, the Director may confirm, vary or rescind the Compliance Order, that is the subject of the reconsideration.

### 1.02 Authority

Pursuant to section 23(3) of the *Interpretation Act*, when the CCLA directs or empowers the Director to do something, the Deputy Director has the same powers, which includes the authority to conduct hearings and make decisions in the reconsideration process.

### **1.03 Deemed Receipt**

Where the Director gives or serves a document to a person, the document is conclusively deemed to be received as follows:

- (a) if the document is left with an individual, on the day it is left,
- (b) if the document is sent by ordinary mail, registered mail or courier, on the fifth day after it is mailed or received by the courier,
- (c) if the document is left in a mailbox or mail slot, on the third day after it is left,
- (d) if the document is attached to a door or other conspicuous place, on the third day after it is attached,
- (e) if the document is sent by email, on the third day after it is sent, and
- (f) if the document is transmitted to a fax number, on the third day after it is transmitted.

[See section 41 of the Cannabis Licensing Regulation]

For the purpose of deadlines under this policy, if the Director gives or serves a document multiple times, whether by different methods of delivery or the same method of delivery, the document is deemed to have been received on the deemed receipt date that occurs first.

### **1.04 CSU Forms and Contact Information**

The CSU's website includes all of the CSU's forms and policies. These documents can also be requested from the CSU. If a person is unable to submit any of the CSU's forms for reason of mental or physical disability, the person should contact the CSU.

The CSU can be contacted by email at [csu@gov.bc.ca](mailto:csu@gov.bc.ca), by fax at 604-591-5611, or by telephone at 604-502-5493 (from within the lower mainland) or 1-855-502-5494 (outside the lower mainland).

All documents submitted to the CSU must be sent either by email to [csu@gov.bc.ca](mailto:csu@gov.bc.ca), by fax to 604-591-5611, or by mail to:

Community Safety Unit  
PO Box 9060  
Stn Main  
Surrey BC V3T 0N4

### **1.05 Representation**

If any person wants to be represented or allow for the disclosure of their personal information to a third party, that person must submit a completed and signed Authorization of Representative (Individual) form or Authorization of Representative (Organization) form to the CSU.

An organization (e.g. a corporation, partnership, or society) must submit a completed and signed form to the CSU that is signed by a person who has the legal authority to bind the organization.

### **1.06 Grounds for Reconsideration**

Pursuant to section 95(3) and (4) of the CCLA, a reconsideration is a review on the record and may be based only on one or more of the following grounds:

- new evidence, if the Director is satisfied that the new evidence:
  - is substantial and material to the reconsideration, and
  - did not exist when the Compliance Order was made, or did exist at that time but was not discovered and could not, through the exercise of reasonable diligence, have been discovered;
- a failure to observe the rules of procedural fairness; or
- an error of law other than an error of law respecting any constitutional question, including but not limited to, a constitutional question that requires notice to be given under section 8 of the *Constitutional Question Act*.

Pursuant to section 95.1 of the CCLA, in reconsidering a Compliance Order, the Director does not have jurisdiction over any constitutional question, including but not limited to, a constitutional question that requires notice to be given under section 8 of the *Constitutional Question Act*.

## **1.07 Application Deadline and Extensions**

An Application for Reconsideration with the supporting submissions must be submitted to the CSU within 30 days from the date the person is deemed to have received the Compliance Order.

Pursuant to section 95(6) of the CCLA, the Director may extend the 30-day deadline if the Director is satisfied that:

- (a) special circumstances existed that prevented the applicant from meeting the deadline; and
- (b) an injustice would result if no extension were granted.

To request an extension of the 30-day deadline, a written request must be submitted to the CSU that identifies and describes: (a) the special circumstances that existed, with relevant supporting evidence; and (b) the injustice that would result if the extension were not granted.

The Director will assess the extension request and make a decision as to whether to grant the extension or not. The Director will notify the applicant of their decision. If the Director determines that an extension will not be granted, the Director will provide written reasons to the applicant.

If the CSU receives an incomplete Application for Reconsideration, the CSU may contact the applicant to request that it be completed. The CSU may give the applicant a new deadline for submitting the Application for Reconsideration. If the completed Application for Reconsideration is not returned to the CSU by the new deadline, the Application for Reconsideration will be deemed abandoned.

## **1.08 Application Fee**

Pursuant to section 31 of the Cannabis Control Regulation, the fee for an Application for Reconsideration is \$500 (Application Fee). The Application Fee must be received by the CSU as a part of the Application for Reconsideration.

The CSU will not accept an Application for Reconsideration without payment of the Application Fee. The Application Fee can be paid by credit card, certified cheque, or

money order. Credit card payments can be paid through an Express Pay link on the CSU website. If payment is made by credit card, the applicant must provide proof of payment, consisting of the payment confirmation page the applicant received with the transaction ID number. This proof of payment must be emailed to CSU@gov.bc.ca.

Payment made by certified cheque or money order is payable to the Minister of Finance and mailed c/o Community Safety Unit at the address set out in section 1.04 of this policy.

The Application Fee will only be refunded where the Director's Reconsideration Order rescinds the Compliance Order under section 95(10) of the CCLA.

### **1.09 The Application for Reconsideration**

Pursuant to section 95(5) of the CCLA, the Director must not accept an Application for Reconsideration unless the following requirements are met:

- (a) the application is submitted in the form and manner satisfactory to the Director;
- (b) the application identifies one or more of the grounds for reconsideration, as outlined in section 1.05 of this policy, on which the application is based;
- (c) the application includes a submission setting out the applicant's argument with respect to the grounds for reconsideration identified under paragraph (b); and
- (d) the application is received by the deadline, as outlined in section 1.07 above.

The Director will only accept an Application for Reconsideration that is submitted on the CSU's Application for Reconsideration form with accompanying submissions and the \$500 Application Fee.

The applicant must include all their submissions when submitting the Application for Reconsideration form. The submissions must be in writing.

If the applicant's application is based on "new evidence" the applicant must submit the new evidence along with their written argument for how the documents satisfy the test

for new evidence under section 95(4).

The burden is on the applicant to demonstrate that the Director committed an error of law or failed to observe the rules of procedural fairness or that the Compliance Order should be reconsidered on the basis of new evidence.

The Director will review the Application for Reconsideration and make a decision on whether or not to accept the application. If the Director accepts the Application for Reconsideration, they will provide the applicant with written notice that the application has been accepted.

If an Application for Reconsideration is not accepted, the Director will provide the applicant with written reasons.

### **1.10 Proceedings that Involve Similar Questions**

If two or more reconsideration proceedings before the Director involve the same, similar or related questions, the Director may do one or more of the following:

- (a) combine the proceedings or any part of them,
- (b) decide the proceedings, or any part of the proceedings, at the same time,
- (c) decide the proceedings one after the other,
- (d) pause one or more of the proceedings until after the determination of the other related proceeding, or
- (e) pause any one or more issues arising in any proceeding until after the determination of another issue.

Where the Director has paused one or more proceedings under (d) or one or more issues in a proceeding under (e), and the Director makes a decision that resolves an issue in an ongoing proceeding, the Director may then treat that decision as determinative of the issue in the remaining proceedings.

If the Director decides to take any of the steps described in this section, the Director will notify the affected persons in writing and, as applicable, will set out how any other procedures will be modified accordingly.

### **1.11 Reconsideration Hearing**

Where the Director has accepted an Application for Reconsideration, the Reconsideration Hearing will proceed by a review on the record. Thus, the Director will review what was before the Director at the hearing that resulted in the Compliance Order, as well as the new submissions and correspondence provided in the reconsideration process. Generally, the Director will conduct a Reconsideration Hearing by way of written submissions.

The Director may, on request of a party or as the Director deems appropriate, pause or adjourn the Reconsideration Hearing. The Director will provide the parties with the opportunity to respond to such a request. If the Director declines to pause the hearing, the Director will notify the parties in writing. If the Director pauses the hearing, the Director will inform the parties and, as appropriate, notify them of the date the hearing is resumed.

### **1.12 Application for Oral Hearing**

The Director must conduct hearings by written submission unless the Director decides that an oral hearing is necessary. An applicant to a Reconsideration Hearing may apply for an oral hearing by submitting a completed Application for Oral Hearing form.

Unless extenuating circumstances apply, the Application for Oral Hearing form must be submitted at the same time as the person's Application for Reconsideration.

The Director will review the form and make a decision as to whether or not to grant an oral hearing. As applicable, the Director may invite submissions from the other participant(s). In considering whether an oral hearing is necessary, the Director may consider:

- (a) whether the applicant's mental or physical disability prevents them from making written submissions;
- (b) whether there is a serious issue of credibility, the resolution of which is integral to the decision to be made and which cannot be adequately determined without an oral hearing;
- (c) whether any other circumstances make an oral hearing necessary in the

interests of justice and fairness.

Pursuant to section 97 of the CCLA, there is no right to cross examination at an oral hearing.

If the Director grants the oral hearing, the Director will set the date and time of the oral hearing. The Director will inform the applicant and any other participant(s) of the oral hearing procedures, such as the order of submissions, the deadline to submit evidence, and the time period allotted for oral submissions.

Normally, the oral hearing will be conducted by teleconference. If the applicant or any participant does not attend within 15 minutes, the Director may proceed with the oral hearing in the absence of that participant's oral submissions.

If the Director declines to grant an oral hearing, the Director will notify the applicant in writing with reasons, with a copy to any other participant.

### **1.13 Reconsideration Order**

Pursuant to section 95(10) of the CCLA, the Director may, in a Reconsideration Order, confirm, vary, or rescind the Compliance Order that is subject of the reconsideration.

Pursuant to section 95(11) of the CCLA, the Reconsideration Order must:

- (a) be served on the applicant,
- (b) set out the reasons for making the order, and
- (c) when the order confirms or varies the monetary penalty, set out the amount of the penalty and the date by which the penalty must be paid.

Pursuant to section 95(12) of the CCLA, an AMP confirmed or varied by a Reconsideration Order must be paid within 30 days after the date on which the applicant is deemed to be received the Reconsideration Order, unless the Director has specified a longer period in the Reconsideration Order.

Where the requirement to pay an AMP under a Compliance Order is rescinded or reduced by a Reconsideration Order and payments have been made, the government will provide a refund in accordance with section 95(13) or section 95(14) of the CCLA,



as applicable.

#### **1.14 Interest**

The AMP imposed under a Compliance Order or a Reconsideration Order and any interest on the AMP is a debt to government. Debtors are required to pay interest on their debts pursuant to section 20 of the *Financial Administration Act* (FAA) and section 2 of the Interest on Overdue Accounts Receivable Regulation (IOARR).

Interest on an AMP debt accrues on any unpaid amounts from the day after the Compliance Order's due date until the debt is paid in full. Neither the Application for Reconsideration nor the 30 day payment period for payment of the Reconsideration Order suspend the application of interest to the unpaid AMP debt.

#### **1.15 Judicial Review**

Pursuant to section 126 of the CCLA, an application for judicial review of a decision of the Director must be commenced within 30 days after the date that the applicant is deemed to have received written notice of the Director's decision.