

HEARING PANEL RULES & PROCEDURES

HEARINGS BEFORE A PANEL OF THE BOARD OF
ALBERTA GAMING, LIQUOR AND CANNABIS COMMISSION

Hearing Panel Office
50 Corriveau Avenue, St. Albert, AB T8N 3T5
TEL: 780-447-8605 | FAX: 780-447-8916 | EMAIL: hearings@aglc.ca

For more information please contact:

HEARING PANEL OFFICE
50 Corriveau Avenue
St. Albert AB T8N 3T5

TEL: 780-447-8605

FAX: 780-447-8916

EMAIL: hearings@aglc.ca

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DEFINITIONS

1. In these Rules,

Act	means the <i>Alberta Gaming, Liquor and Cannabis Act</i>
AGLC	means Alberta Gaming, Liquor and Cannabis Commission
Applicant	means the person who applies for a Hearing under these Rules or a representative of that person
Board	means the Board of the Directors of AGLC
Chair	means the Chair of the Board
Documents only	means a Hearing held on the basis of the Record provided to the Hearing Panel Office by AGLC in respect of a matter, written submissions, and any other written evidence as may be agreed to by the parties
Hearing Panel	means a panel of the Board designated by the Chair to conduct Hearings
Hearing Panel Office	means the office responsible for administrative matters related to Hearings, liaison with the parties and support for the Hearing Panel
Participant or Party	means the Applicant and/or AGLC (including the Regulatory Services Division or any other division of AGLC responsible for the decision at issue in the Hearing)
Person	includes a corporation and the heirs, executors, administrators or other legal representatives of a person
Record	means the information that the Regulatory Services Division is required to provide to the Hearing Panel Office under these Rules and includes the decision in issue and the records and information in AGLC's possession related to that issue
Representative	means a person who is appointed and authorized to act as the representative of a party or participant
Rules	includes the definitions and prescribed forms

2. Words in these Rules have the same meaning as in the *Act*, unless the word is otherwise defined in these Rules.

Part 1: Fundamental Rules

Division 1: Purpose, Application and Jurisdiction

What is the purpose of the Rules?

- 1.1. The purpose of these rules is to establish a timely, fair and independent process for Hearings before a Hearing Panel.

What legislation governs a Hearing Panel?

- 1.2. A Hearing Panel is required to follow the *Alberta Gaming, Liquor and Cannabis Act* and the Regulation made under that Act.

Conflict between rules and the Act or Regulation

- 1.3. If any of these Rules conflict or are inconsistent with the Act or Regulation, the Act or Regulation prevail to the extent of the conflict or inconsistency.

Who can apply for a Hearing before a Hearing Panel?

- 1.4. Section 94 of the Act sets out the right to a Hearing:

94(1) A licensee or registrant may apply to the board for a Hearing if any of the following has occurred without a Hearing in respect of that licensee or registrant:

- (a) the board has made an order under section 91, 91.1(2) or 92;*
 - (a.1) the chief executive officer has, pursuant to a delegation made under section 91(2.1), imposed a fine under section 91(2)(c);*
 - (b) the board has imposed conditions on the licence under section 38(3), 61(3) or 90.07(3);*
 - (c) the board has imposed conditions on the registration under the regulations.*
- (2) A person who is refused a licence or registration by the board without a Hearing may apply to the board for a Hearing.*
 - (3) A person whose liquor, cannabis, containers, gaming terminals or gaming supplies have been seized under section 95, 95.1 or 106 may apply to the board for a Hearing.*

Division 2: Representatives

Right to be represented

- 1.5. (1) A participant has the right to be represented by another person before a Hearing Panel.
- (2) When a participant retains a representative for a Hearing, an authorization for representation in the prescribed form must be sent to the Hearing Panel Office.
- (3) The authorization for representation must:
 - (a) be dated and signed by the participant;
 - (b) appoint and authorize the representative to act on behalf of the participant; and
 - (c) include contact information for the representative.

Notice to a representative

- 1.6. A notice given to a representative by the Hearing Panel or by a participant is notice to the participant for whom the representative acts. The notice remains effective unless it is revoked pursuant to Rule 1.7.

Representative ceasing to act

- 1.7. If a representative no longer acts for a participant, the participant or the representative must promptly send a written notice to the Hearing Panel Office.

Information to other Participants

- 1.8. The Hearing Panel Office will inform other participants that a representative has been appointed and, if applicable, that the representative has ceased to act.

Division 3: Hearing Panel and Communication with the Hearing Panel

Composition of the Hearing Panel

- 1.9.1 Under Section 11 of the *Act*, the Chair of the Board of Directors of AGLC may designate any two or more members of the Board, which may include the Chair but may not include the Chief Executive Officer, to sit as a panel of the Board to conduct any Hearing or inquiry that the Board may conduct.
- 1.9.2 If the Chair is not a member of the Hearing Panel, the Chair must designate one of the members of the Panel to preside over the Panel.
- 1.9.3 A quorum of a Hearing Panel is two members.

General Authority of a Hearing Panel

- 1.10.1 In exercising its jurisdiction under the *Act*, a Hearing Panel may, with respect to a particular Hearing, do any or all of the following:
 - (a) Issue general or specific practice or procedural directions about the Hearing at any time, with or without conditions;
 - (b) Direct that an action be taken by any participant within a specified time;
 - (c) Correct an obvious slip, typographical error, error of calculation, misstatement or technical error or omission by a participant in any proceeding or document provided to the Hearing Panel without first giving notice to the participant.
- 1.10.2 In exercising its jurisdiction under the *Act*, a Hearing Panel may make any order or give any direction that the circumstances warrant, including, for example, making any or all of the following decisions (subject to other rules):
 - (a) deciding whether to extend the time to apply for a Hearing;
 - (b) determining an issue related to the scheduling of a Hearing;
 - (c) directing the type and place of a Hearing;
 - (d) adjourning a Hearing to a new date and time or cancelling a Hearing;
 - (e) directing a time, before the Hearing, by which a participant must:
 - (i) identify their witnesses;
 - (ii) provide copies of documentary evidence;
 - (f) determining an issue relating to the evidence of witnesses;
 - (g) ruling on the admissibility and relevance of evidence;
 - (h) requiring written submissions to be filed and setting dates by which submissions and any replies must be received;
 - (i) imposing terms and conditions and time limits on any order or direction;
 - (j) deciding whether to dismiss for delay;
 - (k) deciding whether to dismiss due to failure to attend a Hearing;

- (l) deciding whether an Application for Hearing should be deemed to have been withdrawn or abandoned;
- (m) deciding whether to reinstate an Application for Hearing.

1.10.3 The Hearing Panel may exercise its authority on application of a participant or on its own initiative.

Type of Hearing

- 1.11 In the ordinary course, Hearings are conducted in person in St. Albert or Calgary; however, a Hearing Panel may, upon application by a participant:
- (a) Order that a specific Hearing be conducted in person in a different location;
 - (b) Conduct an oral Hearing including the use of electronic technology, such as videoconference or teleconference, to facilitate participation;
 - (c) Conduct a documents only process.

Communication with the Hearing Panel

- 1.12 All communication by a participant with the Hearing Panel before or after a Hearing about matters related to the Hearing must be through the Hearing Panel Office.

Part 2: Applying for a Hearing

Division 1: How to Apply for a Hearing

Beginning the Process

- 2.1 To apply for a Hearing, the person who has the right to apply for a Hearing (“the Applicant”) must send an Application for Hearing in the prescribed form to the Hearing Panel Office.

Application for Hearing

- 2.2 An Application for Hearing must contain all of the information required by the prescribed form and must be signed by the Applicant or the Applicant’s representative and dated.

Deadline for Application for Hearing to be received

- 2.3 An Application for Hearing must be sent to the Hearing Panel Office within 30 days after notice of the matter in respect of which a Hearing is requested was received unless the time limit is extended by a Hearing Panel.

Extension of Time to send Application for Hearing

- 2.4.1 If more than 30 days after notice of the matter in respect of which a Hearing is requested was received has elapsed, an Applicant may apply to a Hearing Panel for an extension of time.
- 2.4.2 The application for an extension of time must include a brief explanation of the reasons why the Application for Hearing was not sent within the 30 day time period.

Problems with an Application for Hearing

- 2.5.1 An Application for Hearing is incomplete if it:
- (a) does not include all of the information required by the prescribed form;
 - (b) is inaccurate or incorrect;
 - (c) is not received within the time required.
- 2.5.2 If the Application for Hearing is incomplete but can be corrected, the Hearing Panel Office must contact the Applicant to advise how to correct it.
- 2.5.3 The Hearing Panel Office may refuse to schedule a matter for Hearing unless the Application for Hearing is corrected or resubmitted.

Acknowledgement of Complete Application for Hearing

- 2.6 If an Application for Hearing is complete, the Hearing Panel Office will acknowledge receipt.

Division 2: Next Steps

Notice to Parties

- 2.7 When the Hearing Panel Office acknowledges receipt of an Application for Hearing, it must send a copy of the Application to the Regulatory Services Division of the AGLC.

Provision of Record

- 2.8 Upon receipt of the Application for Hearing, the Regulatory Services Division must provide copies of the decision and all records or information related to the decision (“the Record”) to the Hearing Panel Office within 10 days or such longer period of time as may be directed by a Hearing Panel.

Division 3: Withdrawal of an Application for Hearing

Withdrawal of an Application for Hearing

- 2.9 At any time before a decision is signed, the Applicant may withdraw an Application for Hearing by sending a notice of withdrawal to the Hearing Panel Office.

Deemed withdrawal of an Application for Hearing

- 2.10.1 If an Applicant fails to respond to communications from the Hearing Panel Office or fails to appear for a scheduled Hearing, a Hearing Panel may, on its own initiative or on application by another participant, determine whether the Application for Hearing should be deemed to have been withdrawn or abandoned.
- 2.10.2 If an Application for Hearing has been deemed to have been withdrawn or abandoned, an Applicant may apply in writing to have it reinstated.
- 2.10.3 The application for reinstatement must include a brief explanation of the reasons why the Applicant failed to respond to communications or to appear for a scheduled Hearing.

Part 3: Getting Ready For the Hearing

Scheduling the Hearing

3.1 The Hearing Panel Office must schedule a date, time and place for the Hearing within the time period established by the *Act*.

Pre-Hearing information

3.2 The Hearing Panel Office will:

- (a) Send notice of the date, time and place of the Hearing to the participants as soon as it has been scheduled;
- (b) Send to every participant a dated letter enclosing:
 - (i) the Record received from the Regulatory Services Division related to the decision or matter to be addressed at the Hearing;
 - (ii) a requirement to provide copies of additional documents that may be referred to in the Hearing and the names of all observers or witnesses who will be attending the Hearing.

Disclosure

3.3 As soon as possible, and in any event, no later than 10 calendar days before the scheduled Hearing date or within such other time as may be allowed by a Hearing Panel under Rule 1.10.2(e), each participant must send to the Hearing Panel Office:

- (a) copies of any additional documents that the participant intends to refer to at the Hearing that are not contained in the Record;
- (b) the names of all observers or witnesses who will be attending the Hearing.

Pre-Hearing Conference

3.4.1 On its own initiative or on application by a participant, a Hearing Panel may require the participants to attend a pre-Hearing conference to discuss procedural or substantive issues relating to the Hearing.

3.4.2 Matters which may be addressed at a pre-Hearing conference include, but are not limited to, the following and a Hearing Panel may make an appropriate order or direction under Rule 1.10:

- (a) identification of the issues;
- (b) identification of facts that are not in dispute;
- (c) time frames for production of evidence;
- (d) procedural issues, including the type and length of Hearing
- (e) jurisdictional issues, including whether the Applicant is a person who has the right to apply for a Hearing and whether the circumstances described in section 94 of the *Act* have occurred.

Preliminary Issues

3.5.1 A participant may send a written request to the Hearing Panel Office to have a preliminary issue determined before the Hearing.

3.5.2 Upon receipt of a written request, the Hearing Panel Office must send to every participant:

- (a) a copy of the written request; and
- (b) notice of the date, time and place of the Hearing of the preliminary issue.

Application to re-schedule a Hearing

3.6 A written request to reschedule a Hearing must be sent to the Hearing Panel Office.

Notice of Hearing

3.7 Before the Hearing, the Hearing Panel Office will send to every participant a dated Notice of Hearing that includes the following information, as necessary:

- (a) confirmation of the Hearing date, time and place;
- (b) the type of Hearing;
- (c) the issues;
- (d) the participants;
- (e) any other material related to the Hearing that the Hearing Panel Office considers appropriate.

Hearing File

3.8 The Hearing Panel Office will prepare a Hearing File which will contain the Application for Hearing, the Authorization for Representation (if any), the Notice of Hearing and the Record. The Hearing File will be provided to the Hearing Panel in advance of the Hearing.

Dismissal for Delay

3.9.1 If:

- (a) an Application for Hearing cannot be processed because an error, inaccuracy or deficiency has not been corrected, or there is some other non-compliance with the Act, Regulation or these Rules and 6 months have passed from the date the Hearing Panel Office notified the Applicant of the error, inaccuracy, deficiency or non-compliance, or
- (b) a Hearing date has not been scheduled, or has been delayed, or a scheduled Hearing date has been cancelled and a Hearing date is not rescheduled, and 6 months have passed since the delay or cancellation,

A Hearing Panel must, if it intends to consider dismissing for delay give notice to the participants of its intention and may request oral or written submissions, or both, from the participants.

3.9.2 After considering the circumstances and any submissions received, a Hearing Panel may do all or any of the following:

- (a) extend a period or state a period for an action to be taken;
- (b) issue directions;
- (c) schedule a peremptory Hearing date;
- (d) dismiss for delay in proceeding.

Part 4: The Hearing and Decision

Division 1: The Hearing

Private Hearings and observers

4.1.1 All Hearings of a Hearing Panel must be conducted in private, unless the Hearing Panel otherwise directs.

4.1.2 The Hearing Panel may permit a person to observe a Hearing on any conditions that it considers appropriate.

Recording the Hearing

4.2 The Hearing will be recorded by the Hearing Panel Office.

Use of Cell Phones and Recording Devices

4.3.1 The use of cell phones or recording devices inside the hearing room without the prior consent of the Hearing Panel is strictly prohibited. No person shall use or operate any cell phone or electronic recording device of any description inside the hearing room without the consent of the Hearing Panel.

4.3.2 Any person found to be in possession of a cell phone or electronic recording device without authorization may be removed from the hearing room and/or asked to destroy or hand over all copies of any recordings of the proceedings that were made.

Respectful proceedings

4.4.1 The Presiding Member of a Hearing Panel has the authority to control proceedings to ensure that a Hearing is conducted in a manner that is respectful of all participants, the Hearing Panel members and Hearing Panel Office staff.

4.4.2 A disruptive, disrespectful or threatening person may be ordered by the Presiding Member to leave the Hearing room or to be removed from the Hearing room.

Exclusion of witnesses

4.5.1 Other than participants in a Hearing who may or may not be witnesses, a Hearing Panel may exclude other witnesses from the Hearing room except when they give their evidence.

4.5.2 A Hearing Panel may require a participant to give evidence before any other witnesses are called to give evidence on behalf of that participant.

4.5.3 Except with the consent of the Hearing Panel, there must be no communication with an excluded witness about evidence given at the proceeding during their absence until the witness has finished giving evidence.

Non-attendance at a Hearing

4.6.1 If a participant does not attend a scheduled Hearing, the Hearing Panel may make any direction it considers appropriate including:

- (a) hear the matter in the absence of the participant;
- (b) decide to hear the matter on the basis of the documents before it;
- (c) consider the matter to have been abandoned and dismiss on that basis;
- (d) adjourn the matter to a later date, subject to any conditions it may impose.

4.6.2 A participant who has been given notice of a Hearing and fails to attend is presumed to have waived their right to receive and respond to evidence or submissions presented at or after the Hearing.

Matters a Hearing Panel must consider

- 4.7.1 A Hearing Panel must consider all relevant evidence submitted by a participant in accordance with these Rules.
- 4.7.2 A Hearing Panel may admit any evidence, including hearsay evidence, which it considers to be relevant, whether or not a court would admit the same evidence. However, a Hearing Panel may decide not to admit evidence that it considers to be repetitive, not relevant or that serves no purpose.

Form of evidence

- 4.8 In addition to the Hearing File, a Hearing Panel may consider evidence in any one or more or in any combination of the following forms:
- (a) in writing;
 - (b) by affidavit or affirmation;
 - (c) orally, in person or by telephone, videoconference or other electronic means;
 - (d) any other manner it considers appropriate.

Evidence need not be under oath or affirmation

- 4.9 A witness need not give evidence under oath or affirmation unless the Hearing Panel so requires.

Agreed Statement of Facts

- 4.10 A Hearing Panel may accept a statement of facts agreed to by the participants without proof or evidence of the facts stated.

Questioning by a Hearing Panel

- 4.11 A Hearing Panel may question a witness at a Hearing.

Adjournment during Hearing

- 4.12 During a Hearing, the Hearing Panel may adjourn at any time and reschedule the Hearing to a new date, time or location or until conditions specified by the Hearing Panel are met.

Argument and written submissions

- 4.13.1 After the participants have had an opportunity to present evidence, the Hearing Panel will give each participant an opportunity to make a final argument.
- 4.13.2 At any time before a decision is issued, the Hearing Panel may require participants to submit written argument on any issue and if it does so, must direct the order and timing of the submission of written argument and rebuttal argument.
- 4.13.3 A participant should include in their final arguments the specific remedy, direction or decision they want the Hearing Panel to make.

Division 2: Hearing Panel Decisions

Who makes the decision?

4.14.1 Only the members of a Hearing Panel that hear or consider a matter may decide that matter.

4.14.2 The decision must be in writing and must:

- (a) include findings of fact on which the decision is based;
- (b) state the conclusion reached;
- (c) give reasons for the decision.

What decisions can a Hearing Panel make?

4.15 Under Section 94(7) of the Act, a Hearing Panel may:

- (a) *confirm the original order or decision,*
- (b) *replace the order or decision with another order or decision made in accordance with the authority for the order or decision,*
- (c) *cancel the original order or decision, or*
- (d) *in the case of a Hearing applied for under subsection (3), confirm the seizure and declare the goods forfeited to the Commission or direct that any or all of the seized goods be returned.*

Signing the decision

4.16 A decision of a Hearing Panel must be signed on behalf of the Panel by the member designated by the Chair to preside over the Panel or, in that person's absence, by another member of the Hearing Panel.

Effective date of the decision

4.17 The decision of a Hearing Panel is the decision of the Board of Directors of the AGLC and is effective on and after the date the decision is signed.

Notification and distribution of the decision

4.18.1 The decision of a Hearing Panel must be sent to the participants.

4.18.2 The decision or a version of it, modified to protect confidentiality or privacy, must be placed on the AGLC website unless the Hearing Panel decides that to do so would be inappropriate or unnecessary in the circumstances.

Technical errors and omissions

4.19.1 Subject to Rule 4.19, after a decision has been signed, the Hearing Panel has no further authority to review and change that decision other than to correct:

- (a) obvious slips and typographical errors;
- (b) errors of calculation;
- (c) misstatements and technical errors; or
- (d) omissions in the decision.

4.19.2 These corrections may be made without notice to the participants.

Clarification

4.20 At the request of a participant, a Hearing Panel may clarify any directions given in respect of a decision.

Part 5: Technical Rules

Receipt of documents by Hearing Panel Office

5.1.1 A document may be sent to the Hearing Panel Office by:

- (a) ordinary, registered, or double registered mail;
- (b) fax;
- (c) personal delivery, courier or messenger; or
- (d) email.

5.1.2 A person sending a document to the Hearing Panel Office must include their name, address, email address, telephone and fax numbers and the licence, registration or Hearing file number to which the document relates.

Sending documents

5.2.1 A document permitted or required to be sent by the Hearing Panel Office under these rules may be:

- (a) sent by ordinary, registered or double registered mail;
- (b) sent by fax;
- (c) delivered personally or by a courier or messenger;
- (d) sent by e-mail;
- (e) sent by any other means approved by a Hearing Panel.

5.2.2 If sending or giving a document by a method described in Rule 5.2.1 above is impracticable or impossible, a Hearing Panel may give directions for substitutional service or dispense with sending the document as it considers appropriate.

Presumption that documents sent are received

5.3 A document that is permitted or required by these rules to be sent or given to a person is presumed to have been received if:

- (a) it is sent by a method described in Rule 5.2 above and
- (b) it is sent to the last known postal address, fax number or email address provided by that person.

Change of address

5.4 A participant must send a written notice to the Hearing Panel Office of any change of postal address, telephone or fax numbers or email address.

Interpretation Act

5.5 The *Interpretation Act* applies to these Rules.

Coming into force and amendments

5.6.1 These rules come into force on April 1, 2019.

5.6.2 The following is a list of amendments made to the Hearing Panel Rules and Procedures, after the coming into force date:

Date	Amendment
June 24, 2020	Added Section 4.3 – Use of Cell Phones and Recording Devices