



Tribunals Ontario

Licence Appeal Tribunal

Rules of Practice

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TABLE OF CONTENTS

Contents	Page
1. DEFINITIONS	1
2. GENERAL	2
3. TRIBUNAL PROCEEDINGS	3
4. SERVICE AND FILING.....	5
5. TIME	7
6. DISCLOSURE	7
7. ACCESS TO TRIBUNAL HEARING AND RECORD	10
8. NOTICE OF CONSTITUTIONAL QUESTION	10
9. PRE-HEARINGS	10
10. FORMAT OF HEARINGS.....	12
11. MOTIONS	13
12. ADJOURNMENTS.....	13
13. REVIEW OF A DECISION	14
14. COSTS	14

1. DEFINITIONS

In these Rules,

Appeal means a written request for a hearing to review a decision or proposal made under a statute that gives the Tribunal authority to hear the appeal.

Appellant means a person who has filed an appeal with the Tribunal.

Certificate of Service means the form used to confirm the manner and time of delivery of a document.

Day means a calendar day.

Document includes information recorded or stored by any means.

Hearing means a hearing before the Tribunal in which a party has the opportunity to participate and includes an in-person, written and electronic hearing.

Holiday means Saturday, Sunday or other day on which the Tribunal is closed for business.

Motion means a request for an order or decision from the Tribunal.

Objector means a resident of a municipality, a group of residents, or a residents' association, or a municipality participating in public interest hearing under the *Liquor Licence Act*.

Particulars mean specific facts that clarify an allegation or provide additional information about a person's statement.

Party means a person, association or corporation, who has the right to participate in a proceeding.

Pre-hearing means a meeting of the parties before the hearing to consider or resolve issues and procedures about the hearing.

Proceeding means the entire Tribunal process from the filing of a notice of appeal to when the matter is finally resolved or decided.

Representative means a person who acts for a party in a proceeding.

Rules mean the Tribunal's Rules of Practice made under authority of the *Statutory Powers Procedure Act* or the *Licence Appeal Tribunal Act, 1999*.

Summons means an order issued by the Tribunal requiring a person to attend a hearing to give evidence and bring documents or things to the hearing.

Tribunal means the Licence Appeal Tribunal.

2. GENERAL

Interpretation

2.1 The Tribunal's Rules will be interpreted to:

- (a) promote the fair and efficient resolution of disputes;
- (b) allow parties to participate effectively in the process, whether they have a representative or are self-represented;
- (c) ensure that procedures, orders and directions are proportional to the importance and complexity of the issues.

Tribunal Powers

2.2 The Tribunal may exercise its powers on its own initiative or at the request of a party.

2.3 The Tribunal may vary or decide not to apply a Rule or procedure on its own initiative or at the request of a party.

2.4 The Tribunal may issue Practice Directions to provide further information about the Tribunal's practices or procedures.

Appeals

2.5 The Tribunal may decide not to process an appeal unless,

- (a) the required documents are complete;
- (b) the fee required for processing an appeal is paid;
- (c) documents are received before the expiry of the time period required in accordance with these Rules.

2.6 The Tribunal will notify the party who filed an appeal if any of the above requirements are not met, and give the party a reasonable opportunity to comply with the requirements.

- 2.7** The Tribunal may dismiss an appeal without a hearing if it finds:
- (a) it is frivolous, vexatious or is commenced in bad faith;
 - (b) it relates to matters that are outside the Tribunal's jurisdiction;
 - (c) any of the statutory requirements for bringing the appeal have not been met; or
 - (d) the party filing the appeal has abandoned the proceeding.
- 2.8** Before dismissing an appeal under this Rule, the Tribunal will give the parties notice of its intention to dismiss.
- 2.9** The notice of intention to dismiss an appeal under this Rule will set out the reasons for the intended dismissal and inform the parties of their right to make written submissions to the Tribunal within the time specified in the notice, which shall be at least 10 days.
- 2.10** The Tribunal may find that a party has abandoned the proceeding and, subject to Rule 2.8, dismiss the matter and order costs as provided by Rule 14.
- 2.11** Where notice of a pre-hearing or hearing has been given to any person and that person fails to attend or leaves before the end of the pre-hearing or hearing, that person is not entitled to any further notice in the proceeding.

3. TRIBUNAL PROCEEDINGS

Communications with the Tribunal and other parties

- 3.1** A person shall communicate with the Tribunal in English or French.
- 3.2** All written communications with the Tribunal, other than a request for summons, must be copied to the other parties.
- 3.3** A party or a party's representative must notify the Tribunal and the other parties or their representatives, in writing, as soon as possible of any change in their contact information.

Representation

- 3.4** A party may be self-represented, represented by a person licensed by the Law Society of Upper Canada or by a person authorized to provide legal services in accordance with the *Law Society Act* and its regulations and by-laws.

- 3.5** The Tribunal may require that a representative complete a Declaration of Representative, serve it upon the other parties and file it with the Tribunal.
- 3.6** A representative who ceases to represent a party in a proceeding before the Tribunal must notify the Tribunal and all parties of the change in status, in writing, as soon as possible.

Accommodation of Human Rights Code Needs

- 3.7** Parties, representatives and witnesses are entitled to accommodation of Code-related needs by the Tribunal and should notify the Tribunal as soon as possible if accommodation is required.

Summons

- 3.8** The Tribunal may issue a summons on its own initiative or at the request of a party.
- 3.9** A person requesting a summons must file a Request for Summons with the Tribunal. The Request shall provide a brief explanation of the information the witness is expected to give at the hearing.
- 3.10** Service of a summons and payment of attendance money is the responsibility of the party that obtained the summons. Attendance money is to be calculated in accordance with the Rules of Civil Procedure of the Superior Court of Justice.

Application to Remove Liquor Licence Conditions (Liquor Licence Act)

- 3.11** A Licensee may file an application to the Tribunal for the removal of one or more conditions on a liquor sales licence under section 14(2) of the *Liquor Licence Act* by completing the Tribunal's Application to Remove Conditions from a Liquor Licence and submitting it together with the prescribed filing fee and any other documentation that the Licensee considers necessary and appropriate to assist the Tribunal in arriving at its decision. The Licensee shall serve the Application on the Registrar of the Alcohol and Gaming Commission of Ontario (the "AGCO") and file it with the Tribunal together with a Certificate of Service.
- 3.12** Within 15 days of receipt of the Application, or within 15 days of the close of the objection period as set out in Rule 3.13, if applicable, the AGCO shall serve on the Licensee and file with the Tribunal, together with a Certificate of Service, reply submissions that set out the AGCO's position, with reasons, with respect to the Licensee's application. The reply submissions will include the original decision, any consents or orders imposing the condition and any

other documents the AGCO considers necessary to assist the Tribunal in arriving at its decision.

- 3.13** If the conditions the Licensee is seeking to remove had been ordered following a public interest meeting as set out in section 9(1) of the *Liquor Licence Act* or a public interest hearing under section 23 of the *Liquor Licence Act*, the Tribunal may require the Licensee to post a placard, setting out information about the application in the form provided by the Tribunal in a prominent place that is visible from the exterior of the premises, for a period of 30 days.
- 3.14** Any person who objects to the removal of a condition for a licence shall serve on the Licensee and the AGCO and file with the Tribunal, together with a Certificate of Service within the time set out in the notice, a signed and dated written submission setting out their name, full mailing address, name of Licensee as written on the notice and detailed reasons for their objection to the removal of the condition.
- 3.15** On receipt of the reply submissions from the AGCO, the Tribunal shall review the application, reply submissions and objections, if any, and may order:
- (a) the removal of the condition;
 - (b) the removal of the condition and replacement with the alternative conditions proposed by the Licensee in the application; or
 - (c) the AGCO to issue a Notice of Proposal to Refuse to Remove a Condition within 15 days of the date of the Tribunal's order.

4. SERVICE AND FILING

- 4.1** Documents must be served in one of the following ways:
- (a) personal delivery;
 - (b) regular, registered or certified mail;
 - (c) fax, but only if the document is less than 30 pages in length or, if longer, with consent of the person or party being served;
 - (d) courier;
 - (e) email, with consent of the person or party being emailed or as directed by the Tribunal; or
 - (f) any other way agreed upon by the parties or directed by the Tribunal.

- 4.2** Where a document is served by a party or sent by the Tribunal, receipt is deemed to have occurred when served or sent by:
- (a) personal delivery, when given to the party;
 - (b) mail, on the fifth day after the postmark date;
 - (c) fax, when the person sending the document receives a fax confirmation receipt, but if the fax confirmation receipt indicates a delivery time after 4:00 p.m. service will be deemed to have occurred the next day that is not a holiday;
 - (d) courier, on the second day after it was given to the courier, not counting any holidays;
 - (e) email, on the day sent, or if sent after 4:00 p.m. service will be deemed to have occurred the next day that is not a holiday,
- 4.3** Rule 4.2 does not apply if the person for whom the document was intended establishes that through absence, accident, illness or other cause beyond that person's control, the document was not received until a later date or not at all.
- 4.4** A notice or document not given in accordance with this Rule shall be deemed to have been validly served if the Tribunal is satisfied that its contents came to the attention of the person to whom it was intended within the required time period.
- 4.5** When a document in a proceeding is served on a person or party, a Certificate of Service setting out the date and method of service must be filed with the Tribunal.

Filing Documents with the Tribunal

- 4.6** Documents may be filed with the Tribunal by personal delivery, mail, fax, courier, or as directed by the Tribunal.
- 4.7** Documents received after 4:00 p.m. will be deemed to have been received on the next day that is not a holiday.

5. TIME

- 5.1** Where an action is to be done within a specified number of days, the days are counted by excluding the first day and including the last day.
- 5.2** Where the time for doing an act ends on a holiday, the act may be done on the next day that is not a holiday.

6. DISCLOSURE

Order for Particulars

- 6.1** At any time in a proceeding, the Tribunal may order any party to provide such further particulars as the Tribunal considers necessary for a full and satisfactory understanding of the issues in the proceeding.

Character, Conduct or Competence Issue

- 6.2** Where a person wishes to question the good character, conduct or competence of a party in a proceeding, the person shall provide the party with reasonable information about those allegations prior to the hearing.

Disclosure of Documents and Witnesses

- 6.3** A party to a hearing shall, at least 10 days before the hearing:
- (a) disclose to the other parties the existence of every document and anything else the party intends to present as evidence at the hearing;
 - (b) disclose a list of witnesses whom the party may call to give evidence at the hearing; and
 - (c) serve a copy of the documents, numbered consecutively, on the other parties.

Expert Witnesses

- 6.4** For the purpose of this Rule, an expert witness is a person who is qualified to provide professional, scientific or technical information and opinion based on special knowledge through education, training or experience in respect of the matters on which he or she will testify.

- 6.5** Where a party intends to rely on or refer to the evidence of an expert witness, that party shall provide to every other party the following information in writing:
- (a) the name of the expert witness;
 - (b) the qualifications of that expert witness, referring specifically to the education, training and experience relied upon to qualify the expert;
 - (c) a witness statement or written report that sets out the expert's conclusions and the basis for those conclusions on the issues to which the expert will provide evidence to the Tribunal;
 - (d) where the written report exceeds 12 pages, excluding photographs, a summary stating the facts and issues that are admitted and those that are in dispute, and the expert's findings and conclusions; and
 - (e) where that party intends to rely on or refer to the written report or the witness statement at the hearing, a copy of that report or witness statement signed by the expert witness.
- 6.6** The disclosure required by Rule 6.5 shall be made:
- (a) by the party who filed the notice of appeal, at least 30 days before the hearing;
 - (b) by any other party at least 20 days before the hearing; or
 - (c) as ordered by the Tribunal.
- 6.7** A party intending to challenge an expert's qualifications, report or witness statement shall give notice, with reasons, for the challenge to the other parties as soon as possible and no later than 5 days before the hearing, and file a copy with the Tribunal.

Order for Disclosure

- 6.8** The Tribunal may at any stage of the proceeding order a party to:
- (a) disclose to any other party the existence of all documents and things that the party will refer to or present as evidence at the hearing;
 - (b) serve any other party at least 10 days before the hearing or as otherwise ordered by the Tribunal copies of all documents that the party will produce or present as evidence at the hearing;

- (c) make available for inspection anything, subject to conditions established by the Tribunal, that the party will present as evidence at the hearing; and
- (d) disclose any document or thing the Tribunal considers relevant to the issues in dispute.

6.9 If a party fails to comply with these Rules with respect to disclosure or inspection of documents or things, or list of witnesses, that party may not rely on the document or thing as evidence, or call the witnesses to give evidence, without the consent of the Tribunal.

Disclosure in Medical Suspension and Impoundment Appeals (Highway Traffic Act)

6.10 Appeals under the following sections of the *Highway Traffic Act* (“HTA”) are scheduled to be heard within 30 days of receipt of a complete appeal:

- (a) section 50, arising from a decision under section 32(5)(b)(i) or section 47 respecting the suspension or cancellation or change in class of a driver’s licence on the basis of a medical condition or the fitness to drive of the holder of the licence;
- (b) section 50.1 respecting driver’s licence suspensions under section 48.3;
- (c) section 50.2 respecting notices or orders to impound under section 55.1; and
- (d) section 50.3 respecting impoundments and suspensions of commercial motor vehicles or trailers under section 82.1.

6.11 Disclosure in appeals respecting the suspension or cancellation of a driver’s licence, as set out in Rule 6.10(a), shall be made,

- (a) by the Appellant at least 20 days prior to the hearing; and
- (b) by the Registrar of Motor Vehicles or Minister of Transportation at least 10 days prior to the hearing.

6.12 Disclosure in the HTA appeal types set out in Rule 6.10(b), (c) and (d) shall be made,

- (a) by the Appellant at least 10 days prior to the hearing; and
- (b) by the Registrar of Motor Vehicles or Minister of Transportation at least 5 days prior to the hearing.

7. ACCESS TO TRIBUNAL HEARING AND RECORD

Access to Hearings

- 7.1** Subject to section 9 of the *Statutory Powers Procedure Act*, in-person hearings are open to the public unless the Tribunal orders otherwise.
- 7.2** A party may request that all or part of a hearing be closed to the public.
- 7.3** The Tribunal may make an order to protect the confidentiality of personal or sensitive information as it considers appropriate.

Restricted Access to the Record

- 7.4** A party may request that documents be restricted from access to the public or be available only in the manner permitted by the Tribunal.

8. NOTICE OF CONSTITUTIONAL QUESTION

Where a party intends to question the constitutional validity or applicability of a law, regulation, by-law or rule or where a party claims a remedy under section 24(1) of the *Charter of Rights and Freedoms*, in relation to an act or omission of the Government of Canada or the Government of Ontario, a Notice of Constitutional Question must be served on the Attorneys General of Canada and Ontario and all other parties and filed with the Tribunal as soon as the circumstances requiring the notice become known and, in any event, at least 15 days before the question is argued.

9. PRE-HEARINGS

- 9.1** The Tribunal may on its own initiative, or in response to a party's written request, direct the parties to participate in a pre-hearing conference to consider:
 - (a) the identification of parties and other interested persons, adding parties and the scope of each party's or person's participation at the hearing;
 - (b) facts or evidence that may be agreed upon;
 - (c) the identification and simplification of the issues and whether further particulars are required;

- (d) disclosure and the exchange of documents, including witness statements and expert reports;
- (e) the settlement of any or all of the issues;
- (f) the dates by which any steps in the proceeding are to be taken or begun;
- (g) the estimated length of the hearing, including setting hearing dates; and
- (h) any other matter that may assist in a fair and efficient resolution of the issues in the proceeding.

9.2 The Member assigned to preside at a pre-hearing conference may make such orders as the Member considers proper for the conduct of the proceeding, including adding parties.

9.3 All parties directed by the Tribunal to participate in a pre-hearing shall disclose to the other parties before the pre-hearing all documents or things then available to them, which the parties intend to rely on or refer to as their evidence at the hearing.

9.4 The Member who presides at a pre-hearing conference will not preside at the hearing except with the written consent of the parties.

Confidentiality of pre-hearing

9.5 All settlement discussions in a pre-hearing and the documents put forward solely for the purpose of settlement are confidential. Settlement discussions shall not be communicated to the Member that presides at the hearing or relied on in the hearing before the Tribunal for any purpose.

9.6 Communications made during the pre-hearing are confidential. They shall not be relied on in the hearing or communicated to the Tribunal for any purpose, unless contained in a pre-hearing order or with the parties' consent.

9.7 A pre-hearing is not open to the public unless the Tribunal so directs.

Attendance at pre-hearing

9.8 Parties or their representatives must attend the pre-hearing conference. Where a party does not attend, their representative must have instructions with respect to the issues and the authority to make agreements, including settlement of any issues.

Public Interest Objectors (Liquor Licence Act)

- 9.9** In a public interest proceeding pursuant to the *Liquor Licence Act*, objectors for whom the Tribunal has complete mailing addresses shall be given notice of the pre-hearing.
- 9.10** If an objector does not attend the pre-hearing for which they had notice, and does not have a representative attend on their behalf, the Tribunal may proceed without their participation and a binding settlement may be reached between the parties, or an order may be made that the objector is not entitled to further notice of the proceedings.
- 9.11** Objectors wishing to participate in the hearing shall appoint a representative, with contact information, before or at the pre-hearing.
- 9.12** An individual objector, the representative of a group of objectors, or a municipality may ask to be made a party in a public interest hearing, which request shall be made before or at the pre-hearing.

10. FORMAT OF HEARINGS

- 10.1** The Tribunal may hold an in-person, electronic or written hearing or a combination of any of these formats as it determines appropriate.
- 10.2** The Tribunal may direct that all or part of a hearing be in writing unless a party satisfies the Tribunal there is good reason not to hold a written hearing.
- 10.3** The Tribunal may direct that all or part of a hearing be held as an electronic hearing unless a party satisfies the Tribunal that it is likely to cause the party significant prejudice.
- 10.4** A party may not object to a written or electronic hearing where the only purpose of the hearing is to deal with procedural matters.
- 10.5** Where a party wishes to object to the format of the hearing, the party shall file an objection with the Tribunal and serve it upon the other parties within 10 days of receiving the notice of hearing. The other parties shall have 7 days to respond to the objection.
- 10.6** Where the Tribunal directs a hearing to be in writing, it will set out the process for the presentation of evidence and submissions.

11. MOTIONS

11.1 A notice of motion shall set out:

- (a) the decision or order requested;
- (b) the grounds to be argued, including a reference to any statutory provision, rule or case law relied on;
- (c) the evidence in support of the motion; and
- (d) the proposed format of the motion: in-person, in writing or electronic.

11.2 A notice of motion, with all supporting materials, shall be served on all parties and filed with the Tribunal, with a Certificate of Service, at least seven days before the motion is to be considered. The motion may be considered on the date scheduled for the pre-hearing, the hearing or on a date set by the Tribunal.

11.3 A responding party shall serve any materials it intends to rely on in response to the motion to all parties and file them, with a Certificate of Service, with the Tribunal at least two days before the motion is to be considered.

12. ADJOURNMENTS

12.1 A request for an adjournment of a motion, pre-hearing or hearing must be in writing, be served on the other parties and shall include:

- (a) the reason for the request;
- (b) written agreement to the adjournment from the other parties or their representatives, if given; and
- (c) at least three alternative hearing dates that are within 90 days of the hearing date to be adjourned.

12.2 If a party does not agree to the adjournment request, it shall provide the Tribunal and the party requesting the adjournment, its reasons for opposing the adjournment, in writing, as soon as possible after receipt of the adjournment request.

12.3 The parties may be required to attend before the Tribunal in person or by other means to deal with the adjournment request.

- 12.4** Rules 12.1 to 12.3 do not prevent a party from requesting an adjournment at a motion, pre-hearing or hearing. The Tribunal may consider whether an adjournment is necessary to permit an adequate motion, pre-hearing or hearing to be held, and may impose such conditions as it considers appropriate, including an order for costs under Rule 14.
- 12.5** In determining whether or not to adjourn a motion, pre-hearing or hearing, the Tribunal may consider any relevant factors which may include:
- (a) the reason for the request;
 - (b) prejudice a party may suffer if the request is refused or granted;
 - (c) the amount of notice given by the requesting party to the other parties and the Tribunal;
 - (d) any agreement to the adjournment request by the other parties;
 - (e) the length of the adjournment;
 - (f) previous delays and requests for adjournments;
 - (g) the public interest in the timely conduct of proceedings;
 - (h) the conditions imposed by the Tribunal on any previous adjournment request.

13. REVIEW OF A DECISION

- 13.1** The Tribunal may at any time correct a typographical error, an error of calculation or similar error in its order or decision.
- 13.2** The Tribunal may at any time clarify an order or decision that contains a misstatement or ambiguity, which is not substantive and does not change the order or decision.

14. COSTS

- 14.1** Where a party believes that another party in the proceeding has acted unreasonably, frivolously, vexatiously or in bad faith, that party may make a request to the Tribunal for costs, which shall be made with notice to the other parties.

- 14.2** A request for costs may be made orally at a motion, pre-hearing or hearing, or in a written submission to the Tribunal at any time before the decision or order is released.
- 14.3** The Tribunal will not award costs, whether requested by a party or on its own initiative, without giving the parties an opportunity to make submissions.
- 14.4** A representative's conduct on behalf of a party may be deemed to be the conduct of a party for the purposes of this Rule.
- 14.5** A request for costs shall set out the reasons for the request and the particulars of the other party's conduct that is alleged to be unreasonable, frivolous, vexatious or in bad faith, such as:
- (a) failing to attend a hearing, pre-hearing or motion, or to send a representative without notifying the Tribunal and other parties;
 - (b) failing to comply in a timely manner with the Tribunal's direction or order, or with the party's or representative's undertaking, that results in prejudice or delay to another party;
 - (c) failing to comply in a timely manner with the disclosure requirements in the Rules; or
 - (d) knowingly presenting false or misleading evidence.
- 14.6** The amount of costs shall not exceed \$500 for each half-day of attendance at a motion, pre-hearing or hearing, and shall not exceed \$1000 for each full day of attendance at a motion, pre-hearing or hearing.