



**Internal Review Procedures
(Reconsideration and Administrative Review Hearings)**

May 1, 2009

Horse Racing

**Ministry of Housing and Social Development
Gaming Policy and Enforcement Branch**

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Amendments

(changes since the May 10, 2007 version)

May 1, 2009 Revision

STAGES OF INTERNAL REVIEW	<ul style="list-style-type: none"> Amended procedures to reflect the dissolution of the industry panel known as the "Reconsiderations Panel" in favour of reinstating the previous process.
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November 1, 2008 Revision

INTERNAL REVIEW PROCEDURES	<ul style="list-style-type: none"> Procedures respecting horse racing have been removed and are now in a separate document. Amended the procedures to reflect the creation of an industry panel hereafter known as the "Reconsideration Panel." The Reconsideration Panel hears reconsiderations and submits recommendations to the Executive Director of Racing.
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November 1, 2007 Revision

STAGES OF INTERNAL REVIEW	<ul style="list-style-type: none"> Decisions respecting the eligibility of a horse in a given race are eligible for reconsideration, but cannot be sent for an administrative review hearing.
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Amendments

(changes since the May 1, 2004 version)

August 2, 2005 Clarifications

INTRODUCTION	<ul style="list-style-type: none"> Clarified that in the case of horse racing, affected persons or organizations will receive a ruling from the Racing Division outlining the reasons for the decision.
STAGES OF INTERNAL REVIEW	<ul style="list-style-type: none"> Clarified that in the case of horse racing, disqualification in a race is not eligible for reconsideration or an administrative review hearing.
RECONSIDERATION INFORMATION	<ul style="list-style-type: none"> Clarified that in the case of horse racing, the applicant must indicate whether he/she wants the finding reviewed, the penalty reviewed, or both. Clarified that in the case of horse racing, the applicant must indicate whether he/she is requesting a stay of the imposed penalty. Clarified that new witnesses may only be heard at the reconsideration stage at the discretion of the Executive Director of Racing. The time period within which the Executive Director of Racing must send the written decision to the affected organization or individual has been extended to 60 days from the date the written request for Reconsideration was received (formerly 30 days).
ADMINISTRATIVE REVIEW HEARING	<ul style="list-style-type: none"> Clarified that in the case of horse racing, the applicant must indicate whether he/she is requesting a stay of the decision made by the Executive Director of Racing. A

INFORMATION	stay at this level is at the discretion of the General Manager.
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Amendments

(changes since the August 19, 2002 version)

May 10, 2004 Clarifications

INTRODUCTION	<ul style="list-style-type: none"> • Clarified the delegation of decision-making authority. • Clarified affected persons or organizations will receive a letter outlining the reasons for the decision. • Clarified that a panel conducts Administrative Review Hearings.
STAGES OF INTERNAL REVIEW	<ul style="list-style-type: none"> • Clarified the difference between a Reconsideration and an Administrative Review Hearing. • Clarified that only one reconsideration may be requested per application. • Clarified what the panelists can review. • Clarified decisions respecting the denial, non-renewal or cancellation of gaming worker registration due to withdrawal of an offer of employment by the employer, or termination of employment by the employer can not be sent for Reconsideration or to an Administrative Review Hearing.
RECONSIDERATION INFORMATION	<ul style="list-style-type: none"> • Clarified when a Reconsideration may be requested. • Clarified what new or additional information can be submitted for the Reconsideration process through a new question.
ADMINISTRATIVE REVIEW HEARING INFORMATION	<ul style="list-style-type: none"> • Clarified requests for an Administrative Review Hearing must be made in writing to the Deputy General Manager of the Gaming Policy and Enforcement Branch. • Clarified when proceedings are audio or video taped, transcribed or otherwise recorded, and how applicants can access those records. • Clarified the appointment and role of the Registrar. • Clarified the General Manager will decide whether to refund the application fee when a Review Hearing is dismissed or otherwise not held. • Clarified that the Registrar must receive the required information no later than five days before the start of the Hearing. • Clarified what new or additional information can be submitted for the Review Hearing process. • Clarified that the Review panel may vary the Review Hearing proceedings in order to ensure fairness to all parties.

Internal Review Procedures

(Reconsideration and Administrative Review Hearings)

1. INTRODUCTION

The General Manager of the Gaming Policy and Enforcement Branch (the Branch) is empowered, under the *Gaming Control Act*, to make certain decisions in respect to gaming in British Columbia. In some cases, the General Manager has delegated decision-making authority to specific staff in the Gaming Policy and Enforcement Branch (the Branch). When Branch staff makes a decision that may be contrary to the interests of a particular party, the affected party may ask for a review.

In all such instances, the affected person or organization will receive a written ruling from the Racing Division. At that time, they may request a Reconsideration (appeal) of the decision. Reconsiderations are heard by the Executive Director of Racing at the Gaming Policy and Enforcement Branch.

If the Reconsideration decision is unsatisfactory to the party, where permitted, they may request an Administrative Review Hearing. There is a \$500.00 application fee for an Administrative Review Hearing, which may be waived by the General Manager in extenuating circumstances. A panel of one or more persons will conduct the hearing and make recommendations to the General Manager. After reviewing the recommendations, the General Manager will either uphold or vary the decision. If the party is successful in having the decision overturned or varied, the \$500.00 fee will be returned to the applicant.

In general, these decisions relate to horse racing licences, fines or suspensions imposed on participants in the horse racing industry.

2. STAGES OF INTERNAL REVIEW

What are the stages of internal review?

The first stage in the Review process is Reconsideration by the Executive Director of Racing. The second stage in this process is an Administrative Review Hearing.

What is the difference between a Reconsideration and an Administrative Review Hearing?

Reconsideration is a comprehensive review of the original staff decision, conducted by the Executive Director of Racing, to ensure the stated policies, guidelines, rules, and conditions were applied fairly and the decision properly made. The Executive Director of Racing will conduct a meeting to hear the information from the affected licensee(s) and the information from Racing Division staff responsible for the ruling. Only one Reconsideration may be requested per application.

Should the Executive Director of Racing uphold or vary the original decision, an individual or organization may, where permitted, request a further review at an Administrative Review Hearing.

An Administrative Review Hearing is an independent review panel adjudicated by one or more persons. Panelists review the original decision, if upheld, or the subsequent decision, if varied by the Executive Director of Racing at the Reconsideration stage. After a hearing is held, the panel will provide a written recommendation to the General Manager of the Gaming Policy and Enforcement Branch.

The General Manager makes the final determination to uphold or overturn the original decision.

What decisions can be sent for Reconsideration and, if warranted, to an Administrative Review Hearing?

Decision	Reconsideration Process	Administrative Review Hearing
Denial, non-renewal, cancellation, suspension or imposition of conditions on a horse racing licence or registration	Yes	Yes
Fines of \$500.00 or less	Yes	No
Fines over \$500.00	Yes	Yes
Race day suspensions of 4 days or fewer	Yes	No
Race day suspensions of 5 days or more	Yes	Yes
Calendar day suspensions of 14 days or fewer	Yes	No
Calendar day suspensions of 15 days or more	Yes	Yes
Ineligibility for a race	Yes	No
Disqualification in a race	No	No

3. RECONSIDERATION INFORMATION

When to request a Reconsideration?

If you disagree with the written decision of Branch staff with regard to your horse racing ruling or registration/licence application, you may request Reconsideration of that decision. Only one Reconsideration may be requested per application.

How to request a Reconsideration?

The request for Reconsideration must be made in writing to the Executive Director of Racing, Gaming Policy and Enforcement Branch. Your request must be received by the Branch within 30 days from the date you were notified of the original decision.

What does the Executive Director of Racing (GPEB) do with this request?

The Executive Director of Racing (GPEB) will hold a meeting to hear evidence from the applicant and Racing Division staff. The Executive Director of Racing will then issue a ruling either upholding or varying the original decision made by Racing Division staff. The written decision will be forwarded to the appellant within 60 days from the filing of the request for Reconsideration, unless there are extenuating circumstances.

Is there a cost to request a Reconsideration?

There is no charge to request a Reconsideration.

What information should the request for Reconsideration contain?

Your written request must specifically state why the Reconsideration is warranted and must clearly state:

- The name, address and telephone number of the party requesting Reconsideration;
- A mailing address, if different from above;
- The decision for which the Reconsideration is being sought (and the date, if known);
- The date the decision was received;
- Whether you want the finding reviewed, the penalty reviewed, or both; and

- Whether you are requesting a stay of the imposed penalty. Stays are issued at the discretion of the Executive Director of Racing.

Can new or additional information be submitted for the Reconsideration process?

New or additional information, including new witnesses, will not be accepted, except at the discretion of the Executive Director of Racing. For example, a document that introduces brand new information to an application, essentially creating a new or different application, would generally not be permitted for a Reconsideration.

If the original decision is upheld by the Executive Director of Racing following the Reconsideration, are there further ways to have the decision reviewed?

In some instances, a decision following the Reconsideration may be further reviewed. This involves an Administrative Review Hearing, where an independent Review panel (adjudicated by one or more persons) hears evidence and provides a written recommendation to the General Manager, Gaming Policy and Enforcement Branch. The General Manager makes the final decision to uphold or overturn the original decision.

The only decisions that may be heard at an Administrative Review Hearing, as described in the table above, are those concerning:

- Horse racing licences;
- Certain fines or penalties levied against participants in the horse racing industry; and
- Administrative fines or penalties levied against a registrant.

All decisions of the Branch are subject to Judicial Review, should the affected party wish to have the decision reviewed by the Courts.

4. ADMINISTRATIVE REVIEW HEARING INFORMATION

When to request an Administrative Review Hearing?

- If the Executive Director of Racing has made a Reconsideration decision that you disagree with;
- It was a Reconsideration of a horse racing registration or licence, or specific fines or penalties (as outlined in the tables above), and;
- You have received written notification of this decision from the Executive Director of Racing.

If the above criteria have been met, you may wish to begin the Administrative Review Hearing process.

How to request an Administrative Review Hearing?

The request for an Administrative Review Hearing must be made in writing to the Deputy General Manager, Gaming Policy and Enforcement Branch. Your request must be received within 30 days of when you were notified of the reconsidered decision.

What should your request for an Administrative Review Hearing include?

Your request must clearly state why the Review Hearing is warranted.

Your written request must also include the following information:

- The name, address and telephone number of the party requesting the Hearing;
- A mailing address, if different from above;
- The action, order, or decision for which the Hearing is being sought (and the date, if known); and
- The date when the action, order, or decision was received.

You must state whether you are requesting a stay of the decision made by the Executive Director of Racing. A stay at this level is at the discretion of the General Manager.

Is there a cost to request an Administrative Review Hearing?

An application fee of \$500.00 is required in order for an Administrative Review Hearing to proceed. This fee is refunded if an original decision, fine or penalty is overturned or varied.

Who conducts the Administrative Review Hearing?

A Review panel consists of one or more members appointed by the General Manager. Panel members are independent of the Branch, and have no prior knowledge of the specific issues pertaining to the Review Hearing. A Registrar will be appointed to coordinate the hearing and ensure information is shared with all parties.

What is the role of the Registrar?

The Registrar is responsible for scheduling hearings, ensuring all relevant documents and materials are received and distributed to appropriate parties, and creating the official hearing record. The Registrar may place restrictions on the introduction of new information, and works closely with the Review Panel to ensure established policies and procedures are followed.

The Registrar will assist with any inquiries regarding the Review Hearing process.

How are you notified of the Hearing?

Applicants will be given reasonable notice of the Administrative Review Hearing. Hearings will be scheduled at the earliest opportunity, upon receipt of written request.

The notice of Review Hearing includes:

- The time, date and place of the Review Hearing;
- The action, order, or decision concerned; and
- Reference to the Review Hearing procedural rules.

Who may be a party to a Review Hearing?

Any person or party considered appropriate by the General Manager or the Administrative Review Hearing panel may be a party to a hearing.

At the Review Hearing, a party may:

- Present arguments and submissions;
- Be represented by counsel or an agent;
- Call and examine witnesses; and
- Cross-examine witnesses.

The Review Hearing may be adjourned from time to time as required, and as directed by the panel.

Can an Administrative Review Hearing be held in-camera (privately)?

Yes, but only when the Review Panel considers the subject matter sensitive enough to warrant a private hearing. The decision of the Review Panel will be public record and evidence presented may become part of that record.

Will the proceedings be audio or video taped, transcribed, or otherwise recorded?

The Branch is not obligated to record the proceedings of a Reconsideration or an Administrative Review Hearing, but in some cases may choose to do so. The applicant may request that an official record be made at his or her own cost. The Registrar must be given notice of such a request in advance of the hearing date. The final decision as to the recording of the proceedings will be made by the panel Chair.

What happens if a party to a Review Hearing does not appear?

The Review panel may proceed in their absence. The applicant may not be entitled to further notice of the proceedings or another Review Hearing. The \$500.00 application fee may not be refunded.

When is a Review Hearing not held?

If all parties to the Review Hearing agree, the hearing may be dismissed, adjourned, withdrawn or conducted in a modified form at the discretion of the panel. The application fee may not be refunded. The General Manager will decide whether to refund the application fee.

What do I need to prepare for a review hearing?

At the request of the Review Panel, both the applicant and Branch staff are required to submit the following information:

- A list of attending representatives;
- The documents intended to be relied upon in the hearing; and
- An outline of intended submissions.

This information must be received by the Registrar **no later than five days** before the start of the hearing and will be shared with the Review Panel and all parties.

Can new or additional information be submitted for the review hearing process?

Generally speaking, new information will not be accepted, except in special circumstances.

New information would include, for example, a document that introduces brand new information to the application, essentially creating a new or different application.

Additional, or clarifying information, may be accepted. This could include documents that support previously submitted information.

New or additional information will be considered at the discretion of the panel Chair.

What is the order of proceedings?

Review hearings will generally proceed as follows (the order may vary as directed by the review panel):

- Introductions and an opening statement by the Review Panel Chair to clarify issues and procedures;
- Presentation of the Branch staff position;
- Questions by the applicant and review panel with regard to the Branch staff presentation;
- Presentation of applicant position;
- Questions by the Branch staff and review panel with regard to the presentation of the applicant;
- Summation of evidence and argument of the Branch staff;
- Summation of evidence and argument of the applicant;
- Closing remarks by the Review Panel Chair.

The Review Panel may ask questions and examine or cross-examine witnesses during the hearing, and may allow the parties an opportunity to reply to other parties' arguments. The Review Panel may vary these procedures in order to ensure fairness to all parties concerned.

5. THE FINAL DECISION**How are parties informed of the decision?**

The Review Panel will forward a written recommendation to the General Manager.

The recommendation of the review panel and the final decision of the General Manager will be mailed or delivered to all parties to the review hearing within 60 days.

If the original decision is upheld following an administrative review hearing, are there further ways to have the decision reviewed?

Judicial review of a decision may be pursued.

6. CONTACT INFORMATION

Questions about the internal review process (including reconsideration and administrative review hearings) may be directed to the Gaming Policy and Enforcement Branch.

Policy, Responsible Gambling and Business Services Division

Gaming Policy and Enforcement Branch

910 Government Street, 3rd Floor

PO Box 9311 STN PROV GOVT

Victoria BC V8W 9N1

Telephone: 250 387-5311 (Victoria)

Facsimile: 250 356-8149 (Victoria)

Or e-mail: Gaming.Branch@gov.bc.ca

Enquiry BC (toll-free access)

Dial 1-800-663-7867 and ask to be connected directly to 250 387-5311.

Lower Mainland residents please call 604 660-2421 and ask to be connected directly to 250 387-5311.