



Vehicle Sales Authority
of British Columbia

Registrar of Motor Dealer's
RULES OF PRACTICE AND PROCEDURE
September 21, 2020

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INTRODUCTION

Section 7.1 of the *Motor Dealer Act* has conferred on the Registrar certain powers under the *Administrative Tribunals Act*. One of those powers is to make Rules respecting practice and procedure to facilitate the just and timely resolution of the matters before the Registrar. Pursuant to that authority, the following Rules of Practice and Procedures are made.

These Rules must be read together with:

- a) The *Motor Dealer Act* and its regulations;
- b) BPCPA and its regulations; and
- c) Sections 11, 14(a) and (c), 15, 18, 28, 29, 31, 33, 34(3) and 34(4). 35, 36, 37, 39, 40(5), 41, 46, 46.3, 48, 49, 57 and 61 of the *Administrative Tribunals Act*.

Signed 21st day of September 2020.

"original is signed"

Ian Christman, JD
Registrar of Motor Dealers

DEFINITIONS

In these Rules:

“ATA” means the *Administrative Tribunals Act*, S.B.C. 2004, c. 45.

“application” has the same meaning as in the ATA and includes filing:

- (a) a complaint against a licensee or unlicensed person for a breach of the MDA or the BPCPA, or
- (b) a request for reconsideration.

“applicant” has the same meaning as in the ATA and includes an applicant who files an “application” but does not include the Registrar and his or her delegates.

“BLR” means the *Broker Licensing Regulation*, B.C. Reg. 201/2017.

“BPCPA” means the *Business Practices and Consumer Protection Act*, S.B.C., 2004 c. 2.

“compensation fund application” means an application by a compensation fund applicant under Part 2 of the MDA and the *Motor Dealer Customer Compensation Fund Regulation*, B.C. Reg. 102/95.

“compensation fund applicant” means a person who has made a compensation fund application.

“determination” means

- (a) for a licensee or unlicensed person, a decision
 - (i) imposing a compliance order,
 - (ii) imposing an administrative penalty,
 - (iii) to refuse a licence,
 - (iv) to suspend a licence,
 - (v) to revoke a licence,
 - (vi) to impose or alter terms, conditions or restrictions of a licence, and
- (b) for a complainant, an order that they pay costs as their complaint was found to be frivolous or vexatious.

“Licence” means a

- (a) motor dealer registration under the MDA,



- (b) broker-agent licence under the BLR,
- (c) broker-agent representative licence under the BLR,
- (d) salesperson licence under the SLR,
- (e) wholesaler licence under the WLR, and
- (f) wholesaler representative authorization under the WLR.

“**Licensee**” means a person who holds a Licence.

“**MDA**” means the *Motor Dealer Act*, RSBC 1996 c. 316.

“**party or parties**” includes a Licensee, an unlicensed person, an intervener and the VSA where the VSA is a complainant but does not include the Registrar or his or her delegates.

“**redact**” means to black out or remove words from a document as required by the *Freedom of Information and Protection of Privacy Act* of B.C. R.S.B.C. 1996, c. 165.

“**Registrar**” means the Registrar of Motor Dealers or the Registrar’s delegate as defined in section 1(1) of the MDA.

“**SLR**” means the *Salesperson Licensing Regulation*, B.C. Reg. 202/2017.

“**VSA**” means the Motor Dealer Council of British Columbia *dba* the Motor Vehicle Sales Authority of British Columbia.

“**WLR**” means the *Wholesaler Licensing Regulation*, B.C. Reg. 203/2017.

PART 1 – HOW THE RULES ARE APPLIED

Rule 1 – Applying the Rules

- 1) These Rules of Practice and Procedure (the “Rules”) replace the Registrar’s Rules of Practice and Procedure dated March 1, 2016 and come into effect on September 21, 2020 and applies to all proceedings in progress on that date.
- 2) These Rules apply to all parties and, unless the Registrar decides otherwise, all parties must comply with these Rules.
- 3) These Rules are to be read as in addition to, and not limiting, the authority and powers of the Registrar under the legislation and his or her common law powers to ensure a fair process.



Rule 2 – Conflict with the Legislation

- 1) If any of the Rules conflict with the ATA, MDA, the BPCPA or their regulations, the ATA, MDA, the BPCPA or their regulations will apply.

Commentary	
Rule 2	This reflects section 11(1) of the ATA that any prescribed and applicable processes in the ATA, MDA and the BPCPA prevail over the Registrar’s Rules.

Rule 3 – Consequences of not following the Rules.

- 1) If a party does not follow these Rules, a decision, order, or any direction regarding procedure, the Registrar may take appropriate actions, including:
 - a) Requiring that the failure be remedied,
 - b) Scheduling a hearing,
 - c) Making a decision based on the information it has, with or without giving the parties an opportunity to make submissions,
 - d) Waiving the non-compliance,
 - e) Adjourning or dismissing the application, and
 - f) any other action to obtain compliance authorized by the MDA or the BPCPA.

- 2) Before dismissing an application for non-compliance with the Rules, the Registrar shall consider the following:
 - a) the reason for the non-compliance,
 - b) the likelihood of harm to any party due to the non-compliance,
 - c) whether there has been any prejudice to a party to prosecute or defend their position due to the non-compliance,
 - d) the public interest in continuing with the application, and
 - e) whether an adjournment or another order may address the non-compliance.



[ATA - ss. 11(2)(t), 14(a) and 18]

Commentary	
Rule 3(1)	Applies section 18 of the ATA giving the Registrar discretion to control their process. It also emphasizes to applicants and parties the importance of moving the process along.
Rule 3(2)	Requires the Registrar to consider certain factors to ensure the exercise of discretion under Rule 3(1) is principled and fair.

PART 2 – GENERAL APPLICATION PROCEDURES

Rule 4 - Withdrawing an Application

- 1) An applicant may withdraw all or part of an application by filing a written notice of withdrawal with the Registrar.
- 2) The notice under subparagraph 1 can be by letter or other written form, and must identify the application and the parties, and be signed, including electronically, by the applicant or its representative.
- 3) If an applicant withdraws an application, it is deemed to be withdrawn, but the Registrar may continue to investigate and take compliance action for an alleged breach of the law.

[ATA – 11(1) and 14(c)]

Commentary	
Rule 4(1) & (2)	Allows a person to withdraw an application and provide notice to all who may be affected.
Rule 4(3)	Recognizes that despite the withdrawal of an application, the Registrar has an overriding duty to the “public interest” to ensure licensees and unlicensed persons are complying with the law administered by the Registrar.

Rule 5 – Combining Applications

- 1) The Registrar, at its discretion, may combine applications, where the applications involve the same or similar questions.
- 2) Before making an order to combine applications, the Registrar will provide the parties with an opportunity to comment on whether they consider it appropriate for the applications to be combined.
- 3) Some factors the Registrar will consider before ordering applications to be combined are:
 - (a) the applications involve similar facts,
 - (b) the applications involve similar issues of law,
 - (c) any cost savings by the combining of applications,
 - (d) the impact on witnesses for combining or not combining the applications, and
 - (e) any prejudice to the parties in combining or not combining the applications.

[ATA – 11(2)(r), 14(a) and 37]

Commentary	
Rule 5(1) & (2)	Allows the Registrar to streamline their process with the resulting savings in time and costs by combining two (2) or more cases may be heard together.
Rule 5(3)	Provides guidance to the Registrar in exercising their discretion under Rule 5(1) & (2) to ensure the rights and concerns of all parties are considered, so as to arrive at a principled and fair decision.

Rule 6 – Amending an Application

- 1) An applicant may amend their application provided that the amendments are made within 30 days of the Registrar receiving the original application.
- 2) Despite Rule 6(1) and subject to any limitations imposed by law, the Registrar may allow an Applicant to amend their Application at any time where it is appropriate and necessary to ensure a fair process and no person would be unduly prejudiced by allowing the amendment.



[ATA - 11(2)(l) and 14(a)]

Commentary	
Rule 6(1)	Allows a person to amend their application if they realize they have new information, or they can make an additional claim. The 30-day limit instills a sense of importance of fully reviewing their application, so the Registrar's process moves along.
Rule 6(2)	Recognizes that information may come to light late in a process and allowing an amendment may be necessary to ensure a fair process and resolution. The provision also provides direction to the Registrar to ensure a balancing of the need for the amendment with the impact that it may have on all persons involved.

Rule 7 – Removing, adding or substituting parties to an Application

- 1) On its own initiative or on the application of a person, the Registrar may remove, add or substitute a person as a party to an application.
- 2) An application to remove, add or substitute a party to an application may be made by delivering a written request to the Registrar that demonstrates the following apply:
 - a) The person to be removed as a party is not, or has ceased to be, a proper or necessary party to the application, or
 - b) The person to be substituted or added as a party is a proper or necessary party to the application to ensure that all matters in the application are effectually adjudicated.
- 3) The Registrar will give the parties an opportunity to be heard before removing, adding or substituting a person as a party to an application.

[ATA - 11(2)(m) and 14(a)]

Commentary	
Rule 7(1)	Allows the Registrar or another party to add another person to a proceeding if information comes to light that they should be a party to the proceeding.



Rule 7(2)	Ensures fairness in the process of adding someone to a proceeding.
Rule 7(3)	Ensures fairness in the process as adding a party is a significant matter.

Rule 8 – Interveners

- 1) A person may apply to participate as an intervener in an application by delivering a written request to the Registrar that demonstrates the following apply:
 - a) The person can bring a valuable contribution or bring a valuable perspective to the application,
 - b) The potential benefits of the intervention outweigh any prejudice to the parties,
 - c) It would be in the public interest to allow the person to intervene,
 - d) Allowing the person to intervene will not cause unfairness, and
 - e) The person has a legal right to intervene.
- 2) The Registrar will give the parties an opportunity to be heard before granting an application to intervene in an application.
- 3) The Registrar may limit or impose terms and conditions on the participation of an intervener and, unless specifically authorized by the Registrar, an intervener may not submit evidence but may make submissions on the interpretation and application of the law.

[ATA – 11(1); 11(2)(a) & (m), 33]

Commentary	The VSA administers the BPCPA and so does Consumer Protection BC. Consumer Protection BC may wish to make submissions on the interpretation of the BPCPA at a Registrar’s hearing. Further, as the Registrar is competent to hear constitutional questions, interested parties, including the Attorney General of B.C., may wish to make submissions.
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Rule 8(1)	Provides guidance to the Registrar when exercising their discretion to ensure an intervener will add value to the proceeding and not unnecessarily interfere with the proceeding or the rights of the parties.
Rule 8(2)	Ensures fairness in the process.
Rule 8(3)	Works in conjunction with section 8(1) to ensure the participation of an intervener is beneficial to the process and only to the extent necessary to provide that benefit. This also helps to control the cost of the proceedings.

Rule 9 – Dismissing an Application

- 1) The Registrar may reject an application if it is clear:
 - a) that the Registrar does not have jurisdiction over
 - (i) the parties,
 - (ii) the subject matter of the application,
 - (iii) the remedy sought,
 - b) that the application is frivolous or vexatious,
 - c) that the application is an abuse of process, or
 - d) that the principles of *res judicata* or *functus officio* apply to the application.

- 2) If an application is rejected, the Registrar will inform the parties in writing, with reasons.

- 3) If it is unclear whether the application should be rejected, the Registrar will give the applicant an opportunity to make written submissions and may provide the other parties with an opportunity to provide a written response.

[ATA – 11(1) and 31]

Commentary	
Rule 9(1)	The Registrar must be satisfied that an application and any available evidence provides reasonable grounds for the Registrar to exercise his or her statutory powers and authority.



Rule 9(2)	Ensures any decision to reject an application is documented, fair and can be reviewed.
Rule 9(3)	If jurisdiction is questionable, the parties are given a right to be heard before any final decision is made.

PART 3 – CONSUMER COMPLAINT APPLICATIONS

Rule 10 – How to make a Consumer Complaint Application

- 2) An applicant may make a formal complaint about a licensee by completing Form 8 which must:
 - a) be in writing,
 - b) contain the applicant’s name, address, telephone number and email address, and those of the applicant’s lawyer or agent if the applicant has a lawyer, agent or a representative,
 - c) indicate the address to which all official letters and documents are to be sent, and a fax number or email address if available;
 - d) identify the reasons for the application,
 - e) be signed, including electronically, by the applicant or the applicant’s lawyer, agent or representative, and
 - f) contain any other information required by the application.
- 3) An applicant who has a complaint about a licensee may submit a complaint application in person, by mail, by fax, by electronic mail or other electronic means approved by the Registrar.
- 4) If an Applicant does not complete an application in Form 8 in its entirety, the Registrar may apply Rule 3.
- 5) Where an Applicant will have a lawyer, agent or representative act for them during an application, the Applicant must also complete a Consent to Disclose Personal Information in Form 9.

[ATA – 11(1), 11(2)(i) and (j); MDA - 25]



Commentary	
Rule 10(1) & (2)	Establishes the form for making a complaint and requires information necessary to communicate with the applicant.
Rule 10(3)	Completing the application in its entirety is necessary so the Registrar can establish jurisdiction over the application.
Rule 10(4)	Protects the rights of individuals by ensuring any person acting on their behalf has their express consent or is appointed by law.

Rule 11 – Registrar to serve Notice of a Consumer Complaint Application

- 1) Subject to Rule 11(2) and (3), where a complaint is received against a Licensee, the Registrar will provide a copy of the Notice of Complaint to the licensee indicating the substance of the complaint and provide a copy of the Applicant’s completed Form 8.

- 2) Despite Rule 11(1), the Registrar may redact information from the Form 8 before providing it to a licensee where:
 - a) it reveals personal information not already in the possession of the Licensee, unless the applicant has consented to the disclosure,
 - b) revealing the information would be an unreasonable invasion of personal privacy,
 - c) there is no need to reveal the personal information in order for the Licensee to respond, and
 - d) revealing the personal information is not necessary to ensure the fair resolution of the Application.

- 3) Despite Rule 11(1), the Registrar may refuse providing a copy of the complaint form if it is necessary to protect the integrity of an investigation, so long as the licensee is made aware that there is an investigation and the nature of the allegations against the licensee.

[ATA – 11(1) and 11(2)(k)]



Commentary	
Rule 11(1)	The Registrar will control this process in order to review the Complaint and review it for any privacy concerns before disclosing it to a Licensee.
Rule 11(2)	Balances the privacy rights of individuals with the requirements of a fair process and the ability of a Licensee to respond to any allegations and the evidence in support of those allegations.
Rule 11(3)	This Rule recognizes that in some investigation, it is necessary to first gather information from a licensee before the entire evidence from the complainant is provided to the licensee. There remains a duty to advise the licensee that they are being investigated and why, before they are obligated to provide information and records.

Rule 12 – Response to a Notice of Consumer Complaint Application

- 1) A licensee who receives a Notice of Complaint must provide a Response in Form 10 within ten (10) business days of receiving the Notice of Complaint.
- 2) If a licensee does not return a Response in Form 10 within ten business (10) days, the Registrar may apply Rule 3.

[ATA – 11(1), 11(2)(k) and (g)]

Commentary	
Rule 12(1)	Provides the Licensee an opportunity to respond to a complaint and be heard. Time limit is imposed to move the process forward.
Rule 12(2)	The Registrar may take enforcement action against any non-compliance with Rule 12(1).

Rule 13 – VSA to serve Response to the Applicant

- 1) Subject to 13(4) and (5), The Registrar will serve a copy of the completed Response provided by a Licensee to the Applicant.
- 2) An Applicant who receives a Licensee Response under Rule 13(1) may provide a written reply or comments by way of letter, electronic mail, or

other electronic means approved by the Registrar within 14 days of the VSA sending the response under Rule 13(1).

- 3) If the Applicant does not provide a written reply to a Licensee Response under Rule 13(2), the Registrar may continue to process the Application, and the Registrar may apply Rule 3 if necessary.
- 4) Despite Rule 13(1), the Registrar may redact from a Licensee Response information provided in confidence if
 - a) it reveals personal information not already in the possession of the Applicant, and
 - (i) there is no need to reveal the personal information in order for the Applicant to reply,
 - (ii) revealing the personal information would be an unreasonable invasion of privacy, and
 - (iii) revealing the personal information is not necessary for the fair resolution of the Application,
 - b) it reveals financial information of a company and its disclosure is not necessary for the fair resolution of the Application, and
 - c) it reveals information disclosed in error and not related to the Application.
- 5) Despite Rule 13(1), the Registrar may refuse providing a copy of the Response form if it is necessary to protect the integrity of an investigation, so long as the substance of the licensee’s response is provided to the complainant and the complainant is given an opportunity to comment.

[ATA 11(1) and 11(2)(g)]

Commentary	
Rule 13(1)	The Registrar will review a Response to ensure private information is not inappropriately shared.
Rule 13(2)	Gives an Applicant an opportunity to reply to a Licensee’s Response within a time frame.
Rule 13(3)	Provides that the process will continue if no Reply is filed.



Rule 13(4)	Balances the privacy and confidentiality rights of Licensee’s and individuals with the fair resolution of the Application.
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Rule 14 – General power of Registrar to require additional records

- 1) The Registrar may at any time ask for any documents or statements from an applicant, licensee or unlicensed person necessary to investigate and resolve a complaint and may set the time for the applicant, licensee or unlicensed person to comply.

[ATA – 11(2)(c)(d)(g)(h) and (i); MDA – 7(2) and 25; and BPCPA - 151]

Commentary	
Rule 14(1)	The Registrar may always request more information that in the Registrar’s opinion is necessary to complete a review or investigation.

PART 4 – Application for Compensation under the Motor Dealer Customer Compensation Fund Regulation

Rule 15 – Other Rules applicable to this Part

- 1) As may be modified by this Part, Rules 2, 3, 4, 6, and Part 5 (where applicable) apply to compensation fund applications.

Commentary	
Rule 15	The Registrar has authority only over the application and investigation processes regarding compensation fund applications. The Motor Dealer Customer Compensation Fund Board has authority over their hearing and deliberation process and is the adjudicator of compensation fund claims.

Rule 15.1 – How to make a Compensation Fund Claim

- 1) Compensation fund applicants must complete an application in Form 23 in its entirety.



- 2) Where a compensation fund applicant is claiming compensation and paid cash for the motor vehicle transaction in question, they must complete the Cash Payment Affidavit in Form 24.

- 3) The Registrar may require that a compensation fund applicant provide any other information relating to the compensation fund application that is reasonably necessary to investigate and review the compensation fund application.

- 4) If a compensation fund applicant does not complete the Form 23 in its entirety or otherwise comply with Rule 15.1, the Registrar may apply Rule 3, except Rule 3(1)(c) and (d).

[ATA – 11(1), 11(2)(q) - Motor Dealer Customer Compensation Fund Regulation 8]

Commentary	
Rule 15.1(1) & (2)	Establishes the form for making a compensation fund application and requires information necessary to communicate with the compensation fund applicant and establish jurisdiction.
Rule 15.1(3)	More information may be necessary as the review or an investigation unfolds.
Rule 15.1(4)	Keeps the process moving along and allows the Registrar to end the process if the compensation fund applicant does not complete the Form 23 or comply with the Rule.

Rule 16 – Registrar to serve Compensation Fund Application on Licensee

- 1) The Registrar must serve a compensation fund application on the Licensee.

- 2) Before serving the Licensee under Rule 16(1), the Registrar may redact the Form 23 compensation fund application applying Rule 11(2).

- 3) The Registrar may serve the Licensee in accordance with Part 5.

- 4) Despite Rule 16(3), if the Licensee is out of business and their current address is unknown, the Registrar may serve the Licensee at their last known address, or the last known records office if the Licensee is a corporation.



- 5) A Licensee must provide a written response (“Licensee Response”), by letter or by email, to a compensation fund application served under this Rule within ten (10) business days of the date of the Notice letter.
- 6) If a Licensee does not respond within the time required under Rule 16(5), the Registrar may continue with the compensation fund application process.

[ATA – 11(2)(c)(d)(g)(h) and (i); MDA – 30; and Motor Dealer Customer Compensation Fund Regulation - 8]

Commentary	
Rule 16(1)	The Registrar will serve a compensation fund application on the Licensee.
Rule 16(2)	Allows private information to be removed so long as it does not interfere with the fair resolution of the compensation fund application.
Rule 16(3) & (4)	Sets out how service may occur and incorporates Section 30 of the Motor Dealer Act.
Rule 16(5)	Time limit for a Licensee’s response is the same as a response to a complaint under Rule 12.
Rule 16(6)	Ensures the process moves along.

Rule 17 – Registrar to serve Licensee Response on Applicant

- 1) If a Licensee has provided a response under Rule 16, the Registrar must provide a copy of the Licensee Response to the compensation fund applicant.
- 2) Despite Rule 17(1), the Registrar may redact a Licensee Response applying Rule 13(4).
- 3) A compensation fund applicant may provide comments or a Reply to a Licensee Response made under this Rule, in writing by email or letter, within 14 days of the Notice letter.
- 4) If a compensation fund applicant does not provide a Reply to a Licensee Response within the time required, the Registrar may process the Application without further submissions from the Applicant.

[ATA - 11(1) and 11(2)(g)]

Commentary	
Rule 17(1)	The Registrar will serve a Licensee Response on the compensation fund applicant, so they may comment to ensure a fair process.
Rule 17(2)	Allows private information to be removed so long as it does not interfere with the fair resolution of the compensation fund application.
Rule 17(3) & (4)	Sets out how a compensation fund applicant may Reply and the time to do so. If there is no Reply, the process will move ahead.

PART 5 – SERVICE OF NOTICES, DOCUMENTS OR ORDERS

Rule 18 – How to file documents

- 1) A party may file documents by ordinary mail, certified or registered mail, courier, fax, hand delivery, electronic mail or any other electronic manner approved by the Registrar.
- 2) A document that is delivered by fax must include a cover page with sufficient information to identify the sender, recipient, number of pages sent, date and time of transmission, and a telephone number to call if there are transmission problems.

[ATA – 11(2)(d)]

Commentary	
Rule 18	Allows filing by various means and requires properly identifying documents, so they are not mixed up with unrelated documents.

Rule 19 – Address for delivery

- 1) Every party must provide written notice to the Registrar of their address for delivery.



- 2) If a lawyer, agent or authorized representative represents a party, they must provide written notice to the Registrar of their address for delivery.
- 3) Subject to Rule 19(4), if a party provides the Registrar with a fax number or electronic mail address, that party must accept delivery of documents by that method.
- 4) If a party informs the Registrar that an electronic mail address should not be used to provide documents to that party, then the party also may not communicate using that electronic mail address.
- 5) A party or a party’s lawyer, agent or authorized representative must immediately provide written notice to the Registrar of a change in their address for delivery.
- 6) If the Registrar or another party delivers a communication to a party’s address for delivery, that party is deemed to have notice of the communication.

[ATA – 11(2)(i) and (j); MDA - 30]

Commentary	
Rule 19	Ensures the Registrar knows where to send communications and favours electronic communication (emails) wherever possible.

Rule 20 – Filing documents

- 1) A file number will be assigned to every Application. After a file number has been assigned, a party must include the file number on all documents and correspondence sent to the Registrar.
- 2) A party or any other person must include the following information when filing any document:
 - a) Name of the applicant and respondent in the application;
 - b) Name of the person filing the document and, if applicable, his/her lawyer, agent or authorized representative’s name;



- c) Mailing address, telephone number, and if available, an e-mail address and facsimile number of the person filing the document or his/her lawyer, agent or authorized representative; and
 - d) The file number, if available.
- 3) Unless the Registrar orders otherwise, when filing a document with the Registrar, the filing party will serve a copy of the document on the other parties involved with the Application.
- 4) In refusing the disclosure of a document under Rule 20(3), the Registrar will consider:
- a) The need to ensure fairness in the Application process,
 - b) Any prejudice if disclosure of records is not provided,
 - c) Any privacy or confidentiality concerns in granting disclosure, and
 - d) Whether disclosure will facilitate the speedy, cost-effective and fair resolution of the Application.

[ATA – 11(2)(e), (f) and(h)]

Commentary	
Rule 20(1) & (2)	Aids in organizing records in an Application.
Rule 20(3)	This promotes fairness of the process while giving the Registrar discretion to refuse disclosure where warranted.
Rule 20(4)	Provides factors for the Registrar to consider in making a fair and principled decision under Rule 20(3).

Rule 21 – Delivering communications to Applicants

- 1) Communication may be delivered to an applicant by:
- a) Mailing it to the applicant’s address for delivery by regular or registered mail,



- b) Delivering it by hand, courier or process server to the applicant’s address for delivery, or
- c) Faxing it to the applicant’s fax address for delivery.

2) Communications may be delivered to an applicant by e-mail if requested by the applicant, and/or it is the most efficient and effective method of delivery.

[ATA – 11(2)(e), (f) and(h)]

Commentary	
Rule 21(1) & (2)	The Registrar may communicate with an applicant in various ways while favouring e-mail due to cost savings and speed.

Rule 22 – Service of Hearing Documents

- 1) A Hearing Notice, an Order or other documents related to a hearing may be served by:
 - a) leaving a copy with the person,
 - b) leaving a copy with an agent of the person,
 - c) sending a copy by ordinary mail to the address at which the person carries on business,
 - d) sending a copy by registered mail addressed to the person to whom delivery or service is required at the person’s last known address,
 - e) sending a copy by electronic mail,
 - f) leaving a copy in a mail box or mail slot at the address at which a person carries on business,
 - g) attaching a copy to a door or other conspicuous place at the address at which the person carries on business,
 - h) transmitting a copy to a facsimile number that the person has provided as an address for service, or
 - i) by a method of delivery authorized by the MDA and the BPCPA.
- 2) Any document served in accordance with Rule 22(1) is deemed to be received as follows:



- a) if sent by ordinary mail, on the fifth (5th) day after it was sent,
 - b) if sent by registered mail, by electronic mail, or by facsimile, on the third (3rd) day after it was sent or transmitted,
 - c) if sent by leaving it in a mail box or mail slot, on the third (3rd) day after it was attached,
 - d) if sent by attaching it to a conspicuous place or to a door, on the third (3rd) day after it was attached, or
 - e) as deemed by the MDA or the BPCPA if served in conformity with the legislation.
- 3) A person who has been deemed to have received service under Rule 22(2) may show with evidence, that they did not receive the documents as a result of events not within their control and while they were acting in good faith. For example:
- a) unavoidable absence,
 - b) accident,
 - c) illness,
 - d) sent or delivered to the wrong address, or
 - e) other causes.
- 4) If the Registrar is satisfied that a Hearing Notice or any other document or Order has been served in accordance with this Rule, the Registrar may:
- (a) apply Rule 3, or
 - (b) proceed with any hearing in the absence of the licensee or the applicant.
- [ATA – 11(2)(e), (f) and(h); MDA – 6(3), 30 and 30.1; SL Reg. 7(e); and BPCPA – 183 and 184]

Commentary	
Rule 22(1)	The ways to provide service in this Sub-Rule are taken from Sections 183 of the <i>Business Practices and Consumer Protection Act</i> and Sub-section 30(1) of the <i>Motor Dealer Act</i> .



Rule 22(2)	The deemed delivery dates are taken from Sections 184 of the BPCPA and sub-section 30(2) of the MDA.
Rule 22(3)	Allows a person to show they did not receive a document due to factors not within their control. This is taken from Section 30(2) of the MDA.
Rule 22(4)	Allows the continuation of the process so that a person cannot stop the process by refusing service.

PART 6 – PRE-HEARING PROCEDURES

Rule 23 – Compelling disclosure of Records

- 1) Upon a written request, a Licensee must provide to the Registrar or a person authorized by the Registrar any information related to an application within 10 days of the date of the written request.
- 2) The Registrar may issue to any person a Production Order in Form 14(b) where the Registrar is satisfied that:
 - a) there are reasonable grounds to believe that records are in the custody or control of the person,
 - b) the records sought are relevant to a hearing, an application or an investigation of a complaint, and
 - c) there is no other means to obtain the records.
- 3) A person seeking the production of records held by another person may apply to the Registrar for a Production Order using Form 14(a), and which:
 - a) meets the requirements of Rule 23(2),
 - b) identifies the person requesting the production of records, and
 - c) attaches any documents to support the request.
- 4) A person who does not comply with a Production Order may be held in contempt upon application to the B.C. Supreme Court.
- 5) It is a condition of a Licence for a Licensee to comply with a Production Order. Any Licensee who does not comply with a Production order may:



- a) be held in contempt upon application to the B.C. Supreme Court,
- b) may be subject to an Administrative Penalty, and
- c) may have their licence suspended or cancelled.

[ATA – 11(2)(c); MDA – 7, 25; BPCPA – 150 to 151 and 164]

Commentary	
Rule 23(1)	This language is from section 25(1) of the MDA requiring licensees to produce records.
Rule 23(2)	Identifies the Registrar’s considerations in issuing a Production Order.
Rule 23(3)	Sets out how someone who is a part of an application can request the Registrar order production of relevant records.
Rule 23(4) & (5)	Identifies the consequences of none compliance and is consistent with the authority in the MDA and the BPCPA.

Rule 24 –Pre-Hearing Conference

- 1) The Registrar may issue a written notice directing the parties and any interveners to participate in one or more pre-hearing conferences.
- 2) A party to an application may ask the Registrar to convene a pre-hearing conference in order to:
 - a) seek directions on pre-hearing and the hearing processes,
 - b) seek an order regarding production of documents,
 - c) address any issues regarding witnesses,
 - d) clarify any issues or questions of law, or
 - e) address any matter that will promote the speedy, just and cost-effective resolution of the Application.
- 3) A notice of pre-hearing conference will set out:



- a) The date, time, location or phone number for the pre-hearing conference, and
 - b) The conference agenda.
- 4) If a party fails to participate in a pre-hearing conference without satisfactory advance explanation to the Registrar, the conference may proceed in that party's absence.
- 5) A conference report will be issued recording the orders, directions, agreements and undertakings made at the pre-hearing conference.

[ATA – 11(2)(a)]

Commentary	Pre-Hearing conferences are useful to streamline hearings, especially where the issues and the evidence are complex.
Rule 24(1)	General power for the Registrar to convene a pre-hearing conference.
Rule 24(2)	The parties involved may ask for a pre-hearing conference to deal with the defined subjects.
Rule 24(3)	Ensures the purpose of the pre-hearing conference is communicated to ensure fairness.
Rule 24(4)	Allows a pre-hearing conference to move ahead if a party does not attend without advising why they will be absent.
Rule 24(5)	This provision is to ensure all parties are aware of the outcome of the pre-hearing conference to ensure fairness.

PART 7 – DISPUTE RESOLUTION PROCEDURES

Rule 25 – Dispute Resolution Process

- 1) At any time during the application process, a party may apply to have the VSA conduct a dispute resolution process to explore the potential for settlement of all or part of an application.



- 2) A party may, at a pre-hearing conference, request that a dispute resolution process be conducted. If the parties agree to such a request, subparagraphs 3 and 4 of this Rule do not apply.
- 3) If a party wishes to apply for a dispute resolution process other than in a pre-hearing conference, an application under subparagraph 1 of this Rule must:
 - a) be made to the Registrar in writing,
 - b) specify what issues are proposed for the process and the reasons why the party believes that to be appropriate in the circumstances, and
 - c) be copied to the other parties to which the process applies, who within 15 days of receiving a copy of the request, may make written submissions to the Registrar in support of the dispute resolution process or objecting to the process with reasons for their objections.
- 4) The Registrar may not order the parties participate in a dispute resolution process where a party objects under sub-rule 25(3)(c).
- 5) Where a dispute resolution process is to proceed, the Registrar will advise whether the process will be conducted by a staff person or another person and where necessary, establish Terms of Reference.
- 6) Before commencing a dispute resolution process, the Registrar or the person responsible for the process will confirm agreement on procedural issues necessary for an effective process such as:
 - a) confirming the purpose of the process and the specific issue(s) to be addressed,
 - b) determining who will be present for and represent the parties, and the extent of the representative's authority to enter into a binding agreement,
 - c) determining whether written submissions will be used,
 - d) determining whether any third parties will be involved in the process,
 - e) the process for confirming in writing any resulting agreement,



- f) the process for seeking a consent order, if applicable, and
 - g) when and how the dispute settlement process may be terminated.
- 7) The Registrar on their own motion may require the parties to an application submit to a dispute resolution process.
- 8) A resolution arrived at under this Rule does not prevent the Registrar from investigating and taking compliance action for a breach of the law.
- 9) Section 29 of the ATA applies to this Rule.

[ATA – 11(2)(b), 28 & 29]

Commentary	Settlement of an application may be an appropriate, timely and cost-effective means to deal with a dispute. However, the resolution of any regulatory issues may favour a more formal hearing process before the Registrar.
Rule 25(1)	Allows any person to ask for a dispute resolution process.
Rule 25(2)	Allows a pre-hearing conference to be converted to a dispute resolution process if it will facilitate the resolution of issues.
Rule 25(3)	Details how to apply for a dispute resolution process and ensures all parties are informed and can make submissions on the request.
Rule 25(4) & (5)	Identifies who will conduct the dispute resolution process and how it will proceed.
Rule 25(6)	Identifies those items requiring agreement on the process to be followed.
Rule 25(7)	This recognizes that the Registrar is required to administer the law in the public’s interest, and not just the interest of the individual complainant /applicant.
Rule 25(8)	Section 29 of the ATA applies which provides a measure of confidentiality over what is said and any documents prepared and used specifically for the dispute resolution process.

PART 8 - COMPELLING WITNESSES AND ORDERING DISCLOSURE

Rule 26 – Order to Attend / Summons



- 1) At any time before or during an application, the Registrar may make an order requiring a person:
 - a) to participate in a telephone conference call or an in-person hearing to give evidence that is admissible and relevant to the application, or
 - b) to produce for the Registrar, or a party, a document or other thing in the person’s possession or control, as specified by the Registrar, that is admissible and relevant to an issue in the application.

[ATA – 11(2)(c), (d), 34(3) and (4); BPCPA - 151]

Commentary	
Rule 26(1)	General power of the Registrar to compel attendance at a hearing and to produce records.

Rule 27 – Applying to compel participation and order disclosure

- 1) A party may apply to the Registrar in writing for an order requiring a person:
 - a) to participate in a telephone conference call or in-person hearing to give evidence that is admissible and relevant to the application, or
 - b) to produce for the Registrar, or a party, a document or other thing in the person’s possession or control as specified by the Registrar that is admissible and relevant to an issue in the application.
- 2) The party applying for an order under Rule 27(1) must serve a copy of the application to the person who is the subject of the requested order along with a copy of Rule 27(3).
- 3) A person who receives a copy of a request under Rule 27(2) has 14 days from receipt of the request to provide written submissions to the Registrar:
 - a) consenting to the order,
 - b) objecting to the order with reasons for the objection, or
 - c) taking no position regarding the granting or not of the order sought.



- 4) The Registrar may not make a decision under this Rule until the Registrar has received a response under Rule 27(3) or the time for a response under Rule 27(3) has expired.

[ATA – 11(2)(c), (d), (g); 34(3) and (4); BPCPA - 151]

Commentary	
Rule 27(1)	How a party may request the attendance of persons at a hearing or to produce records.
Rule 27(2)	This sub-rule ensures fairness of the process by giving the affected party an opportunity to respond to the request.
Rule 27(3)	When and how a party must respond under sub-rule 27(2).
Rule 27(4)	Ensures the Registrar does not make a decision before all parties have had an opportunity to make submission on the requested order.

Rule 28 – Amending or cancelling a Summons to a Witness

- 1) A witness who is summoned or ordered to produce records may apply to amend the terms of, or cancel, the summons by delivering a written request to the Registrar that explains the reason(s) the summons or order should be cancelled or its terms should be amended.
- 2) An application to amend the terms of, or to cancel, a summons to a witness or order to produce records must also be delivered to the person summoning the witness or requesting the production of records.
- 3) Except in extenuating circumstances, the person summoning the witness will have an opportunity to be heard before amending the terms of, or cancelling, a summons to a witness.

[ATA – 11(2)(c), (d), (w), 34(3) and (4); BPCPA - 151]

Commentary	Allows revisiting an order made under Rule 27 as circumstances unfold. As records are searched, it may become necessary to modify an order. A witness may become unavailable and an order under Rule 27 needs to be amended.
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Rule 28(1)	How a party may apply to amend an order made under Rule 27.
Rule 28(2)	Ensures the initial requesting party is informed of the request.
Rule 28(3)	All persons are to be heard to ensure fairness except where extenuating circumstances exist.

PART 9 – HEARING PROCEDURES

Rule 29 – When a Hearing will be held

- 1) In order to ensure uniform and continued compliance, the Registrar may direct issues involving licensees, unlicensed persons and applicants of complaints to a Hearing where
 - a) there has been a violation of the MDA or BPCPA or their regulations,
 - b) the past or present conduct of a Licensee or unlicensed person may be of concern to the public interest,
 - c) a claim has been paid out of the Fund involving the conduct of a Licensee, or
 - d) generally, the public interest may require a review of a Licensee.

- 2) A Hearing will be arranged for a Licensee or applicant of a complaint where the Registrar proposes to
 - a) refuse to register or renew a registration or licence,
 - b) issue a compliance order or administrative penalty, or
 - c) suspend or cancel a registration or licence.

[ATA – 11(1); MDA – 6 & 8.1; BPCPA – 155, 164-166; SL Reg. 7]

Commentary	
Rule 29(1)	This covers the Registrar’s legal jurisdiction to review licensees.
Rule 29(2)	This is required by the legislation.



Rule 30 – Written Hearings Preferred

- 1) Hearings will be by way of written submissions unless the Registrar orders an oral hearing under Rule 30.3.

Commentary	
Rule 30.1	Written hearings are preferred because of the time and costs associated with oral hearings.

Rule 30.1 – Written Hearings with a consumer complainant

- 1) Unless ordered otherwise by the Registrar, the process and time frame for providing written submissions and evidence in a written hearing involving a consumer complainant is as follows:
 - (a) The VSA shall first serve a copy of its written submissions and any evidence on all the parties and any consumer complainant and file a copy with the Registrar.
 - (b) Once the consumer complainant is served under 30.1(1)(a), they will have 21 days from the date served by the VSA to serve any written submissions and any additional evidence on the VSA, on any other party, and file a copy with the Registrar.
 - (c) Once the party or parties who are the subject of the hearing are served under 30.1(1)(a) and (b), they will have 21 days to serve their written submissions and any evidence on any other parties, the complainant, the VSA and file a copy with the Registrar.
 - (d) If a consumer complainant fails to serve any submissions or evidence under 30.1(1)(b), the party or parties who are the subject of the hearing, will have 42 days after being served by the VSA under 30.1(1)(a) to serve their submissions and evidence on the other parties, the complainant, the VSA and file a copy with the Registrar.
 - (e) Once the Authority and the consumer complainant are served under 30.1(1)(c) or (d), they will have 14 days to serve any further submissions on, each other, on any other party who is the subject of the hearing and file a copy with the Registrar.



- (f) Once the party or parties who are the subject of the hearing are served under 30.1(1)(e) they have 7 days to file any further submissions, on any other parties, on the VSA, on any consumer complainant and file a copy with the Registrar.

Commentary	
Rule 30.1	Sets out the order and timing of providing written submissions and evidence during a written hearing involving a consumer complainant.

Rule 30.2 – Written Hearings without a consumer complainant

- 1) Unless ordered otherwise by the Registrar, the process and time frame for providing written submissions and evidence in a written hearing without a consumer complainant is as follows:
 - (a) The VSA shall first serve a copy of its written submissions and any evidence on all the parties and file a copy with the Registrar.
 - (b) Once the parties are served under Rule 30.2(1)(a), they will have 30 days to serve any other party and the VSA with their written submissions and any evidence and file a copy with the Registrar.
 - (c) Once the VSA is served under Rule 30.2(1)(b), they will have 21 days to serve a response submission on the parties and file a copy with the Registrar.
 - (d) Once the parties are served under Rule 30.2(1)(c), they will have 14 days to serve any further submissions on any other party, on the VSA and file a copy with the Registrar.

Rule 30.3 – Extension of time to file Submissions

- 1) Despite Rule 30.1 and 30.2, any party to a written hearing may apply to the Registrar to extend the time to file submissions and provide evidence.
- 2) The person applying for an extension of time under Rule 30.3(1) must serve a copy of their application on all other parties, on the VSA and on any Consumer Complainant.



- 3) A person served with an application under 30.3(2) has 14 days to serve on all other parties, on the VSA and file with the Registrar any submissions objecting to the application within 7 days of being served.
- 4) Service and filing an application or submissions under Rule 30.3(1) or 30.3(3) can be by way of letter or electronic mail.
- 5) In considering granting an extension of time under this Rule, the Registrar will consider:
 - (a) Any prejudice to any party or consumer complainant,
 - (b) The need for a timely, cost-effective and efficient process,
 - (c) The protection of the public and the public interest, and
 - (d) Ensuring a fair process.

Rule 30.4 – Oral Hearings

- 1) In ordering an oral hearing, the Registrar shall consider:
 - (a) whether there is disagreement in the evidence that requires examination and cross-examination of the parties or any witnesses under oath or affirmation,
 - (b) whether the allegations are such that a licensee may be in jeopardy of having their licence revoked,
 - (c) whether an oral hearing is preferable to ensure fairness in the process,
 - (d) the balance of convenience and the cost to the parties and the VSA in having an oral hearing,
 - (e) any factor that will affect the fair, timely and cost-effective resolution, and
 - (f) the circumstances of the particular issues.
- 2) Any party may request in writing that the Registrar convene an oral hearing and must state the reasons why and provide any evidence in support of that request. The Registrar will consider the factors in Rule 30.4(1) in determining whether to hold an oral hearing or not.
- 3) A person may participate in an oral hearing by way of teleconference or videoconference.



- 4) Despite Rule 30.4(3) a party may request that the Registrar Summons a person to attend a hearing in person to provide oral evidence if:
- a) it is necessary to question the person, and their presence will enhance the quality of the evidence they provide, or
 - b) the evidence is complex and technical.

[ATA – 11(1) & 36; MDA – 6 and 8.1; MDA Reg. 29; SL Reg. – 7; BPCPA – 155 and 164]

Commentary	Paper hearings are preferred because of the time and costs associated with oral hearings.
30.4(1)	Identifies the considerations of the Registrar when ordering an oral hearing
30.4(2)	Allows any person to apply to have an oral hearing
30.4(3)	Allows oral hearings to be by teleconference or videoconference
30.4(4)	Where it is necessary to see the person give evidence, a person can request a witness attend a hearing in-person.

Rule 31 – Public access and recording of Hearings

- 1) Oral hearings will be open to the public unless the Registrar orders otherwise for all or part of the hearing.
- 2) A party may request that a hearing, in whole or in part, be closed to the public by making a written request to the Registrar stating the reasons to close the hearing and attach any evidence in support.
- 3) In deciding to close the hearing in whole or in part, the Registrar shall consider the following factors:
 - a) the importance of open public hearings, so the public can see justice is administered fairly and in accordance with the law,
 - b) whether a public hearing will negatively impact the fair adjudication of the application,



- c) whether a public hearing will make public, law enforcement and investigation techniques used by the VSA and which will negatively impact on the VSA’s ability to investigate,
 - d) where informer privilege or another legal privilege requires a closed hearing in whole or in part, and
 - e) any other factor which shows that a closed hearing is necessary to ensure fairness in the proceeding.
- 4) All oral hearings will be officially recorded.
- 5) A party wishing to receive a copy of a hearing transcript must request one from the VSA and may be required to pay the costs to produce a transcript.
- 6) No person, other than the court reporter, may take or make electronic records or photographs at a hearing.

[ATA – 11(2)(p), 35 and 41]

Commentary	The “open court” principle applies to tribunals such as the Registrar.
Rule 31(1)	Default is that the Registrar’s hearings are open to the public.
Rule 31(2)	A party may request a closed hearing, but must provide good reasons for doing so.
Rule 31(3)	Factors for the Registrar to consider in closing a hearing to the public consistent with the common law.
Rule 31(4)	All VSA hearings are recorded.
Rule 31(5)	The VSA controls the provision of a transcript to ensure privacy where warranted and if part or all of the hearing was closed to the public.
Rule 31(6)	Respects the privacy of all parties.

Rule 32 – Participation at Hearings by Parties and Witnesses

- 1) All parties may make submissions on any question of fact, law or policy pertaining to an application.
- 2) At an oral hearing, a party may make submissions orally, in writing or a combination of oral or written.
- 3) The parties may provide joint submissions and agreed statements of fact to expedite the adjudication of the application.
- 4) All witnesses who are not a party to a hearing shall be excluded from the hearing until called to give evidence, unless the Registrar orders otherwise.

[ATA – 11(2)(e),(f) and (s)]

Commentary	
Rule 32(1)	Parties may participate fully.
Rule 32(2)	Parties have flexibility in how they provide their submissions.
Rule 32(3)	The parties may agree on certain joint submissions or statements of fact.
Rule 32(4)	Excluding witnesses helps to prevent a witness manufacturing evidence to meet prior witness testimony or does not “taint/influence” a witnesses’ memory.

Rule 33 – Order of presentation at oral Hearings

- 1) Unless the Registrar otherwise orders prior to the hearing or at the hearing, the order of presentation and related questioning at an oral hearing will be as follows:

Opening

- a) Opening comments by the Registrar
- b) Introduction of all parties

Evidence

- c) Presentation of Notice to Attend a Hearing before the Registrar and the reason(s) for the Hearing



- d) Registrar asks licensee(s) if they admit or deny the allegation(s)
- e) Presentation of evidence by VSA staff and/or witnesses
- f) Questions of VSA staff and witnesses by licensees
- g) Presentation of evidence by licensees and/or their witnesses
- h) Questions of licensees by the VSA staff and/or complainant

Closing

- i) Closing comments from licensees, VSA and any complainants
 - j) Closing comments and submissions by any interveners
 - k) Closing comments by Registrar
- 2) During the Hearing, the Registrar may ask questions and may modify the hearing process where necessary to ensure fairness and an efficient process.

[ATA – 11(1) and 48]

Commentary	
Rule 33	Follows the typical court process to ensure all parties have an opportunity to present their case. Sub-rule (2) reserves the right of the Registrar to ask any questions.

Rule 34 – Evidence at Hearings

- 1) Parties may file an agreed statement of facts, which will be determinative of those facts for all purposes of the application. The parties are encouraged to explore this possibility as it has the potential to reduce time, expense and complexity at Hearings.
- 2) Evidence at an oral hearing will be taken under oath or by affirmation.
- 3) The Registrar is not bound by the rules of evidence that apply in a court of law. The Registrar may in their discretion decide whether to admit evidence, its relevance and the amount of weight to be given to it.
- 4) All documents filed in advance of a Hearing will be admitted into evidence without authentication for consideration by the Registrar unless a party specifically objects and the Registrar rules otherwise.
- 5) When presenting documents at an oral hearing, each party will provide copies to:



- a) the Registrar,
 - b) each party with participation status at the Hearing,
 - c) the Hearing Secretary,
 - d) witnesses, as necessary for the purpose of questioning, and
 - e) the Court Reporter
- 6) Documents presented at an oral hearing but not previously disclosed will not be considered unless the Registrar determines otherwise.
- 7) Where a party objects to the Registrar receiving or considering evidence, the Registrar may make a decision on that question at the time, or it may receive the evidence and consider the objection in the course of rendering its decision on the case.

[ATA – 11(1), 11(2)(e),(f) and (s)]

Commentary	
Rule 34	Allows evidence to be admitted at a hearing by different methods. It recognizes that the Registrar has greater flexibility than a court in receiving and considering evidence.

Rule 35 –Adjournments

- 1) The Registrar may adjourn a Hearing at any time on his or her own initiative.
- 2) A party may file an application to request an adjournment of the Hearing including reasons as to why the application is being made and must provide a copy to the parties.
- 3) Any party or intervener receiving a copy of an application for adjournment may file with the VSA any submissions it may have on the adjournment application within three (3) days of the date of the application.
- 4) In deciding whether or not to grant an application for adjournment, the Registrar will take into account the following factors:
 - a) the reason for the adjournment,



- b) whether the adjournment would cause unreasonable delay,
 - c) the impact of refusing the adjournment on the other parties,
 - d) the impact of granting the adjournment on the other parties, and
 - e) the impact of the adjournment on the public interest.
- 5) If a hearing is adjourned, the Registrar may order any terms and conditions respecting rescheduling, attendance at settlement conferences, production of documents or reports, or any other matters which may assist with the fair and efficient conduct of the hearing.
[ATA – 11(2)(n) and 39]

Commentary	
Rule 35	Allows for adjournments and provides considerations for the Registrar to ensure a decision to adjourn is fair and after all parties have had an opportunity to make submissions on the request.

PART 10 – POST HEARING PROCEDURES

Rule 36 – Registrar’s Decision

- 1) The Registrar may issue an oral or written decision.
- 2) Where required by the Registrar for preparing reasons, a Hearing transcript will be ordered.
- 3) Where the Registrar chooses to render a written decision, the Registrar should complete the decision within 90 days of the last hearing date.
- 4) Despite sub-rule 36(3), where due to illness, to other factors beyond the control of the Registrar or the VSA, or because the issues are complex or the evidence is voluminous, the Registrar may render a decision as late as 180 days after the last hearing date.
- 5) Registrar’s decisions are a public record to be published on the VSA’s website.

[ATA – 11(1), 11(2)(u) and 61; MDA – 13.2]

Commentary	
Rule 36	Provides a service standard for the Registrar to complete a decision.

PART 11 – APPLYING FOR RECONSIDERATION

Rule 37 – Applying for Reconsideration

- 1) The Registrar may reconsider a determination made under the BPCPA or the MDA.
- 2) A consumer complaint may only request a reconsideration of a determination that they pay costs of a hearing because their complaint was found frivolous or vexatious.
- 3) A licensee or a consumer complainant applying for reconsideration of a determination must, in writing:
 - a) identify the decision to be reconsidered,
 - b) explain the reasons for the reconsideration;
 - c) attach and identify how evidence that is:
 - (i) new evidence that did not exist at the time of the hearing and how it came to the attention of the applicant, or
 - (ii) not new evidence, but was recently discovered and why it was not obtained prior to the original hearing and brought to the original hearing, and
 - (iii) substantial and material to the reconsideration of the determination.
- 4) The Registrar may require any party provide additional information or evidence to ensure the fair adjudication of a reconsideration request.
- 5) The Registrar may reject a reconsideration request or may grant a reconsideration request.



- 6) If a reconsideration request is granted, the Registrar will conduct the reconsideration or assign a person to conduct the reconsideration hearing.
- 7) A Reconsideration hearing will follow the normal hearing process unless ordered otherwise.
- 8) Once a decision is made on an application for reconsideration, it cannot again be reconsidered.

[ATA – 11(1); BPCPA – 180, 181 and 182; MDA – 26.11 to 26.12]

Commentary	
Rule 37	Allows for reconsideration of a Registrar’s determination. This follows the procedure set by the MDA and the BPCPA.

Rule 38 – Time limit for applying for Reconsideration

- 1) The applicant should deliver the application for reconsideration as soon as possible after the Registrar’s determination, but in any event within 30 days after the date of the Registrar’s determination.
- 2) If the applicant delivers the application for reconsideration more than 30 days after the date of the Registrar’s determination, the applicant must provide written reasons for the delay.

[ATA – 11(1); BPCPA – 180, 181 and 182; MDA – 26.11(2)]

Commentary	
Rule 38	Sets the time for applying for a reconsideration of a Registrar’s determination. This follows the time set by the MDA and the BPCPA.

PART 12 – FORMS

Rule 39 - Forms

- 1) The following Forms are established and are available by requesting a copy from the Registrar's office. Please e-mail hearings@mvsabc.com.

[ATA – s. 11(2)(q)]

Consumer Complaint Applications

Form 8: Consumer Complaint Form

Form 9: Consent to Disclose Personal Information Form

Form 10: Motor Dealer Response to Consumer Complaint Form

Hearings

Form 11: Hearing Notice

Form 12: Summons to a Witness

Form 13: Affidavit of Service

Form 14(a): Request for a Production Order

Form 14(b): Production Order Template

Compliance & Enforcement

Form 15: Compliance Order – BPCPA

Form 16: Notice of Administrative Penalty – BPCPA

Form 17: Undertaking – BPCPA

Form 18: Undertaking – MDA

Form 19: Notice of Conditions Added to Licence

Form 20(a): Notice of Dealer Suspension

Form 20(b): Notice of Salesperson Suspension

Form 21(a): Notice of Dealer's Licence Cancellation

Form 21(b): Notice of Salesperson's Licence Cancellation

Motor Dealer Customer Compensation Fund

Form 23: Claim Application

Form 24: Cash Payment Affidavit