



Salesperson Appeal Committee Policy

Version 8
Sept. 15, 2022
Legal services

Salesperson Appeal Committee Policy

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2. Introduction

2.1 Policy statement

In accordance with section 22 of the Automotive Business Regulation 192/1999 (the Regulation), a person whose application for registration or renewal has been refused, whose registration is made subject to terms and conditions, or whose registration has been cancelled or suspended under section 127 of the *Consumer Protection Act* (the Act), may appeal in accordance with the process established by the Director of Fair Trading (as delegated) (the Registrar). The appeal process established by the Registrar is contained in this policy.

2.2 Purpose

The Alberta Motor Vehicle Industry Council (AMVIC) is a delegated regulatory board created by the Regulation in accordance with section 136(5) of the Act. AMVIC has been delegated responsibility for licensing automotive businesses and registering automotive salespeople in Alberta on behalf of the Province. AMVIC has in turn delegated their authority to the Registrar of AMVIC who is responsible for application and enforcement of the Act as the Director of Fair Trading (as delegated).

The Regulation requires that salespeople must be registered before acting on behalf of a licensee. A prospective registrant or a registrant wishing to have his or her registration renewed must submit an application to AMVIC in the form established by or acceptable to AMVIC, along with any additional information requested by AMVIC and proof satisfactory to AMVIC that the applicant has met the educational requirements that have been established by AMVIC. AMVIC may issue the registration, refuse to issue or renew the registration, or may issue or renew the registration with terms and conditions. AMVIC may also suspend or cancel registrations for any of the reasons set forth in section 127 of the Act.

The Act requires that before refusing to issue or renew a registration and before a registration is suspended or cancelled or terms or conditions are imposed, the Registrar must provide the Applicant with written notice of a proposed refusal, suspension or cancellation, or the proposed terms and conditions of registration. The Applicant is provided with an opportunity to make representations to the Registrar, either in writing or in person, before the Registrar issues a decision with respect to the registration.

The Regulation allows an Applicant who receives a decision such as refusal, suspension, cancellation, or conditions the opportunity to appeal in accordance with the process established by the Registrar.

The Regulation provides for the establishment of an appeal process for salespeople including forming or designating an appeal body. This appeal body is established as an appeal committee of the AMVIC Board of Directors.

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2.3 Definitions

In this policy:

- i. "Appeal" means an appeal made in accordance with the provisions of this Appeal Policy;
- ii. "Appeal Policy" means this Salesperson Appeal Policy;
- iii. "Appellant" means an individual entitled by this Appeal Policy to appeal a decision of the Director of Fair Trading (as delegated);
- iv. "Applicant" means an individual who has submitted an application;
- v. "Application" means an application made for registration as a salesperson and includes an application for renewal of a registration as a salesperson;
- vi. "Appeal Committee" means a committee established by the Board pursuant to this Appeal Policy for purposes of hearing an Appeal;
- vii. "Board" means the AMVIC Board of Directors;
- viii. "Committee Member" means a member of an Appeal Committee as established by the AMVIC Board;
- ix. "Director" means a member of the AMVIC Board;
- x. "Legal Services" means the department in AMVIC that is responsible for the daily management of all salesperson appeals;
- xi. "Registrant" means a salesperson who has been registered in accordance with the provisions of the Automotive Business Regulation (Alta Reg. 192/99);
- xii. "Registrar" means the Director of Fair Trading (as delegated).

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3. Policy

3.1 Duties and responsibilities

See 3.2 Application of the policy.

3.2 Application of the policy

1. Establishment of Appeal Committees

- a) Established are the following Appeal Committees:
 - Salesperson Appeal Committee (South [Calgary]); and
 - Salesperson Appeal Committee (North [Edmonton]).
- b) The Board shall appoint a Director to act as chair for each appeal committee. Each Appeal Committee shall consist of the chair and two individuals from the industry. The chair shall select individuals to sit on the Appeal Committees and selections shall include one (1) dealer industry representative and one (1) salesperson industry representative.
- c) Legal Services shall maintain a roster of industry individuals who are willing to serve as a committee member for an appeal. The chair of the Appeal Committee shall select committee members from the roster list or from industry as a whole when necessary.
- d) The term for a committee chair is determined in accordance with the Board of Directors and Committees Terms of Reference. A vacancy in the chair position on the Appeal Committee may be filled by a person appointed by the Board or the chair of the other Appeal Committee can cover both Appeal Committees.
- e) A committee chair may resign from an Appeal Committee by giving notice in writing to the Board chair.
- f) An Appeal Committee may remove a Committee Member who is a dealer industry representative or a salesperson industry representative for cause deemed appropriate by the committee. An Appeal Committee may request the Board to remove or to replace a Committee Member who is a Director.

2. Procedures to conduct appeal proceedings

Scope of appeal

- a) An individual
 - whose application has been refused;
 - whose application has been approved subject to terms or conditions; or
 - whose registration has been cancelled or suspended;

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is entitled by this Appeal Policy to appeal the decision of the Registrar.

Notice of Appeal

- b) An Appellant may appeal a decision of the Registrar, by delivering a written Notice of Appeal in the prescribed form attached to this Policy, to the Registrar not later than thirty (30) days after the Registrar issues notice of the decision to the Appellant.

Selection of committee

- c) The Registrar shall, upon receipt of a Notice of Appeal, refer the appeal to one of the Appeal Committees having regard to the residence of the Appellant and the proximity of the Appellant to the regions serviced by the respective Appeal Committees.
- d) The committee chair, with the assistance of Legal Services, shall establish the committee from the roster of industry individuals who are willing to serve as committee members for an appeal. The committee established by the committee chair shall consist of the Chair, one (1) dealer industry representative and one (1) salesperson industry representative.
- e) The committee shall be selected by the committee chair so as to minimize actual or perceived conflicts of interest and also so as to emphasize elements of efficiency and fairness.
- f) If one or more of the Committee Members dies, resigns or is removed under the Appeal Policy or the Bylaws of AMVIC, or in any other manner, the remaining Committee Members may select a successor from the roster or continue with a committee of two (2).
- g) In the event a Committee Member is replaced in accordance with the provisions of this Appeal Policy, the committee (as reconstituted by the appointment of the new Committee Member) shall not be required to hold a new appeal hearing. The committee may order a new appeal hearing if it is satisfied that the Appellant would be unduly prejudiced by the committee's reliance only on the record of the appeal hearing or portion of the appeal hearing already held.

Independence of the committee

- h) Except to the extent required by this Policy, every Committee Member shall be independent of the Appellant bringing the appeal.
- i) If after the establishment of a committee, a Committee Member becomes aware of circumstances that give rise to a reasonable apprehension of bias, that Committee Member shall promptly disclose the circumstances to the committee chair, the other Committee Member, Legal Services and the Appellant.

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Hearing date

- j) Once the committee has been established, the committee chair shall provide a copy of the Notice of Appeal to each of the Committee Members.
- k) The committee chair shall select a time, date and location for the appeal hearing and shall notify the Appellant of such the time, date and location that he or she has selected. The committee chair shall provide no less than thirty (30) days' notice to the Appellant of the time, date and location of the appeal hearing.
- l) The chair of the appeal committee is responsible for hearing an appeal and may decide to conduct the hearing by electronic means and may authorize the parties and other participants to attend the hearing by electronic means including teleconference or videoconference call.
- m) The appeal hearing date shall be no later than ninety (90) days from the date the Notice of Appeal was received by the Registrar. In the event the Appellant is unavailable to attend an appeal hearing within the 90 days, the committee chair shall have the discretion to grant an extension upon request from the Appellant.

If the Appellant fails to request an adjournment, an extension of time, or fails to attend at the hearing, the appeal shall be considered abandoned and the decision of the Registrar shall remain in effect.

Decision of the committee

- n) The committee shall determine if the decision by the Registrar that is the subject of the appeal is consistent with the provisions of the Act, the Regulation, and the Bylaws and policies of AMVIC.
- o) The committee that hears the appeal pursuant to section 22 of the Regulation may confirm, vary, or quash the decision.
- p) The committee shall provide the Appellant with a written notice of its decision.
- q) The determination of the committee shall be final and binding on the Appellant. There shall be no appeal from any determination of the committee. The committee must give its written decision on the appeal within 45 days after the conclusion of the hearing.
- r) The decision of the committee will be posted on the AMVIC website in accordance with AMVIC's Communications Policy.

Determination of procedure

- s) The committee may, subject to the provisions of the Act, the Regulation, and the Bylaws and policies of AMVIC:
 - adjourn appeal proceedings; and

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- lengthen or shorten the time prescribed by this Appeal Policy if the committee determines it is in the interest of fairness to do so.
- t) Where a salesperson registration is cancelled, refused, or suspended in conjunction with a business licence cancellation, refusal or suspension, the Appeal Board established to hear the business licence appeal in accordance with Section 179 of the Act will be the designated appeal body to hear the appeal of the salesperson registration.
- u) The committee shall observe such other procedures relative to appeal proceedings as may be established by the Registrar from time to time.

Appeal proceedings to serve the interest of fairness

- v) The committee shall conduct appeal proceedings in a manner that is just and convenient in the particular circumstances of the case before it.

Evidence and representations

- w) The committee shall give the Appellant an adequate opportunity to make representations by way of argument and to introduce evidence.

Rules of evidence

- x) The committee shall not be bound by the rules of evidence applicable to judicial proceedings and shall have the power to determine:
 - admissibility, relevance and weight of any evidence; and
 - the manner in which any evidence may be admitted.

Representation

- y) The committee shall permit an Applicant, who files a Notice of Appeal, to be represented.

Oaths

- z) The committee shall not require oaths or affirmations to be given during the course of appeal proceedings.

Requirements of natural justice

- aa) The committee shall observe the requirements of natural justice in all proceedings before it.

4. Administration

4.1 Related documents and legislation

Consumer Protection Act c-26.3, RSA 2000
AMVIC Communications Policy

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Automotive Business Regulation, AR 192/99

4.2 Procedures

4.3 Forms

Notice of Appeal Form - attached

4.4 Amendment history

| Version | Date | Summary of update |
|---------|----------------|---|
| 1 | Sept. 8, 2000 | Original. |
| 2 | Feb. 11, 2004 | Reviewed and approved by Board. |
| 3 | Nov. 13, 2013 | Reviewed and approved by Board. |
| 4 | Sept. 23, 2015 | Updated title of Executive Director to President and Chief Executive Officer (CEO). |
| 5 | May 9, 2017 | Updated by Rhonda Varley, reviewed by legal counsel <ul style="list-style-type: none"> • Change title to CEO • Redefine panel member • Update 3.ii.n) – appellant availability Reviewed and approved by Board. |
| | Feb. 8, 2018 | Administrative change: <i>Fair Trading Act</i> to <i>Consumer Protection Act</i> (motion 18-026). |
| 6 | June 19, 2018 | Organizational edits, Requirement for Notice of Appeal. |
| 7 | June 23, 2020 | Delegation statement. |
| 8 | Sept. 15, 2022 | Updated by Legal Services <ul style="list-style-type: none"> • Change of position title from legal assistant to Legal Services. • Appeal hearings held by electronic means. • Maintaining a public record of appeal decisions. • Establishing process for salesperson appealed in conjunction with business Reviewed and approved by the Registrar and AMVIC CEO, Malcolm Knox. |

4.5 Scheduled review date

July 2025

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Notice of Appeal

Instructions to the Appellant

The authority to appeal a decision of the Registrar (Director of Fair Trading, as delegated) is found at Section 22 of the Automotive Business Regulation.

Section 22 of the Automotive Business Regulation states that:

22(1) A person

- whose application for registration or renewal of registration has been refused,
- whose registration is made subject to terms and conditions, or
- whose registration has been cancelled or suspended under section 127 of the Act may appeal in accordance with the process established by the Director.

(2) The Director may establish an appeal process for the purposes of subsection (1), including forming or designating an appeal body.

In accordance with s. 22(2) of the Automotive Business Regulation, AMVIC created the AMVIC Salesperson Appeal Committee Policy (the “Appeal Policy”). The Appeal Policy allows an Appellant to appeal a decision of the Registrar by delivering a written Notice of Appeal to the Registrar no later than thirty (30) days after the Registrar issues notice of the decision to the Appellant. The Notice of Appeal may be **provided as follows**:

By email: director@amvic.org
Or by mail: Suite 303, 9945 – 50 Street
Edmonton, AB T6A 0L4

To appeal a decision of the Registrar, the attached Notice of Appeal form MUST BE PROVIDED TO AMVIC WITHIN 30 DAYS after the Registrar has issued notice of the decision to you and provided as outlined above.

After your Notice of Appeal has been filed:

1. The Registrar shall refer the matter to the Salesperson Appeal Committee having regard to the residence of the Appellant (North [Edmonton] or South [Calgary]).
2. The Chair of the Committee shall establish an Appeal Committee in accordance with the Policy and provide the Appellant with written notice of the date, time and location of the appeal hearing. The appeal hearing will be held within 90 days of receiving the Notice of Appeal.

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3. It is the Appellant's responsibility to attend at the scheduled appeal hearing. Failure to request an adjournment, extension of time, or attend at the hearing shall be considered an abandonment of the appeal and the decision of the Registrar shall remain in effect.
4. A written decision of the appeal committee shall be provided to the Appellant within 45 days of the appeal hearing.



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DOCUMENT: **Notice of Appeal**

APPELLANT NAME: _____

ADDRESS: _____

EMAIL ADDRESS: _____

PHONE NUMBER: (____) _____ - _____

The Appellant appeals to the Salesperson Appeal Committee the decision of the Registrar to

Refuse / Cancel / Place conditions on
(Please circle one)

Reasons for Appeal:

Salesperson Appeal Committee decisions will be posted on the AMVIC website in accordance with the AMVIC Communications Policy.

By signing this Notice of Appeal, I agree to receive all documentation regarding the appeal hearing, including the decision of the Appeal Committee electronically to my email address provided above.

Signature of Appellant

PRINT NAME

Date