

Private Security and Investigative Services Branch
Rules of Practice
Hearings before the Registrar under subsection 16(2) of the *Private Security and Investigative Services Act, 2005*
January 8, 2009

1 DEFINITIONS

1.1 In these rules the following words will have the following meanings:

“*Act*” means the *Private Security and Investigative Services Act, 2005, S.O. 2005, ch. 34*.

“*Affidavit*” means a written statement by a person who states that its contents are true, and which is confirmed as true by oath, affirmation or such other manner as is recognized under the laws of Ontario.

“*Adjournment*” means the rescheduling of a hearing or motion to a later date.

“*Document*” includes a sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account, and information recorded or stored by means of any device.

“*Expert*” is a person other than an employee of the Private Security and Investigative Services Branch who is called by the Registrar to provide relevant evidence necessary to assist the Registrar, and who is qualified to provide professional, scientific or technical information and opinion based on special or peculiar knowledge through education, training or experience in respect of the matters on which he or she will testify.

“*Hearing*” means the opportunity of a party to appear before the Registrar in person to show cause why the Registrar should not take the proposed action to refuse to issue or renew a licence, apply conditions to a licence or to the renewal of a licence, or to revoke a licence, and any related matter as provided for in section 16 of the Act, or under these Rules.

“*Motion*” is a request by a Party at or prior to a Hearing before the Registrar for a remedy.

“*Party*” means a licensee or an applicant for a license.

“*Registrar*” means the Registrar of Private Investigators and Security Guards appointed under section 3 of the Act, and includes his or her delegate.

“*Representative*” means the counsel or the agent who the Registrar is satisfied is authorized to represent a Party at a Hearing.

“*Rules*” means these Rules of Practice of the Private Security and Investigative Services Branch prepared pursuant to section 51 of the Act.

2. GENERAL

2.1 These Rules apply to all hearings held under section 16 of the Act.

2.2 The Registrar may exercise any of its powers under these Rules on his or her own initiative or at the request of a Party.

2.3 Where any of these Rules is in conflict with any statute or regulation, the statute or regulation applies.

2.4 In any matter not provided for in these Rules, the practice of the Registrar will be determined by referring to these Rules and to any other applicable laws.

2.5 No hearing is invalid by reason only of a defect or other irregularity in form.

2.6 The Registrar may issue general or specific directions at any time.

2.7 The Registrar may waive any of these Rules at any time.

2.8 The Registrar may extend or reduce any time limit required under these Rules, except where the Act prescribes a specific time limit. Time limits shall be computed in accordance with section 89 of the *Legislation Act, 2006*.

2.9 In the event that the Registrar is unable to continue to conduct the Hearing because of illness or other reason, the Registrar may, without the consent of the Party, be replaced.

2.10 The replacement Registrar will be seized of the matter and may make whatever orders are necessary to ensure a fair Hearing process for the Party.

2.11 A Representative may represent a Party at a Hearing.

2.12 If a Party fails to attend before the Registrar, or leaves prior to the conclusion of the Hearing, the Registrar may proceed in the Party's absence, the Registrar may treat the Hearing as abandoned, and the Registrar may act as though the Party had not requested a Hearing before the Registrar.

3. PRIOR TO A HEARING

3.1 A Party may request a Hearing before the Registrar within 21 days of receiving a notice issued by the Registrar pursuant to subsection 16(1) of the Act, advising the Party, in accordance with that subsection, that the Registrar proposes to refuse to issue or to renew the Party's licence, wishes to apply conditions to the Party's licence or its renewal, or proposes to revoke the Party's licence.

3.2 If the Party requests the Hearing, the Registrar shall give the Party an opportunity to appear before the Registrar in person to show cause why the Registrar should not take the proposed action set out in the notice referred to in Rule 3.1. This appearance before the Registrar shall occur within 90 days after the notice referred to in Rule 3.1 was served or at a later date if the Party consents.

3.3 The Registrar shall provide a notice of the Hearing to the Party, and the notice shall contain:

- (a) A reference to the fact that the Hearing is being held pursuant to section 16 of the Act;
- (b) A statement of the time, date, and location of the Hearing;
- (c) The reasons for the Registrar's proposed action;
- (d) A statement that the Party is entitled to a Hearing before the Registrar to show cause why the Registrar should not take the proposed action;
- (e) A statement that where the Party is properly served with a notice of a Hearing and does not attend at the time and place appointed, or attends and then leaves prior to the conclusion of the Hearing, such that the Party has abandoned the Hearing, then the Registrar may proceed in the Party's absence and without further notice to the Party; and,
- (e) Any other information the Registrar considers necessary for the proper conduct of the Hearing.

3.4 Due to space and security considerations at the Hearing, and subject to Rule 3.5 herein, the Party shall provide the Registrar with at least 10 days notice prior to the date of the Hearing of the number of individuals attending the hearing on behalf of the Party, either as a Representative or otherwise.

3.5 A Hearing shall not be open to the public unless:

- (a) The Party consents;
- (b) The Registrar determines that allowing members of the public to attend will not interfere with the Hearing or compromise the privacy of the Party, or public safety and security; and,
- (c) Every member of the public who wants to attend the Hearing has provided the Registrar with at least 10 days notice of his or her intention to attend a Hearing prior to the date of the Hearing.

3.6 The Registrar reserves the right to bar access to a Hearing where a Party or a member of the public has not provided the Registrar with notice under Rule 3.4 and Rule 3.5 herein.

3.7 The Registrar shall provide to the Party prior to the Hearing:

- (a) Such particulars as the Registrar considers necessary for the Party to have in order for the Party to have a full and satisfactory understanding of the reason or reasons why the Registrar has acted pursuant to subsection 16(1) of the Act; and,
- (b) Any Document that the Registrar will refer to or rely upon in making a decision.

3.8 Where the Registrar intends to rely on or refer to the evidence of an Expert, the Registrar shall provide to the Party the following information in writing prior to the Hearing:

- (a) The name of the Expert,
- (b) The qualifications of that Expert, referring specifically to the education, training and experience relied upon to qualify the Expert.
- (c) The Expert's conclusions and the basis for those conclusions on all issues to which the expert will testify before the Registrar, and,
- d) Where the Registrar intends to rely on or refer to a report or will say statement of the Expert at the Hearing, a copy of that report or will say statement signed by the Expert.

4. HEARING

4.1 The Party must bring to the Hearing every Document with them that they intend to rely upon at the Hearing.

4.2 The Party may, either directly, or through a Representative:

- (a) Present Documents that may assist the Registrar in making his or her determination;
- (b) Have one or more individuals appear at the Hearing on their behalf to provide information that may assist the Registrar in making his or her determination;
- (c) Ask questions of individuals who provided information to the Registrar at the Hearing; and,
- (d) Make submissions at the Hearing.

4.3 The Registrar may require that a Representative of a Party file, in a form satisfactory to the Registrar, a written acknowledgement of the authority of the Representative to represent or to speak for a Party. If a Representative ceases to represent a Party, the Representative and the Party shall promptly notify the Registrar in writing.

4.4 The Registrar may consider in making his or her decision:

- (a) Any evidence, or submissions presented at, and relevant to the Hearing, but the Registrar may exclude anything unduly repetitious; and,
- (b) Any generally recognized scientific or technical facts or information within the specialized knowledge of the Registrar.

4.5 A Party may bring a Motion during a Hearing without prior notice with the consent of the Registrar.

4.6 The Registrar may adjourn a Hearing where the circumstances warrant. A Party may request an adjournment by writing to the Registrar prior to the commencement of the Hearing. In the request for adjournment the Party shall set out the reasons for the request and the alternate dates when the Party is available for the Hearing. The Registrar may impose such conditions as the Registrar considers appropriate in granting an adjournment.

4.7 In determining whether or not to adjourn the hearing, the Registrar may consider any relevant factors including but not limited to:

- a) The reason for the request;
- b) The extent to which prejudice will be suffered if the adjournment is refused;
- c) The extent to which prejudice will be suffered if the adjournment is granted;
- d) The length of the adjournment; and,
- e) Previous delays, including the number and length of previous adjournments.

5. FOLLOWING A HEARING

5.1 The Registrar may at any time correct a clerical or typographical error, an error of calculation or other similar error or a factual error in its decision, which is not substantive and which would not alter the decision of the Registrar, without prior notice to the Party.

5.2 If the Registrar decides that a Party has not shown cause why the Registrar should not take the proposed action in subsection 16(1) of the Act, the Registrar shall:

(a) Inform the Party in writing; and

(b) If, within 14 days of being informed under clause (a), the Party requests written reasons, the Registrar shall serve written reasons for his or her decision on the Party within 14 days of the request being made.

5.3 The Registrar shall, at the time of serving the written reasons requested by the Party, advise the Party of the right to appeal to the License Appeal Tribunal under section 17 of the Act.