



Service Nova Scotia
and Municipal Relations

Motor Vehicle Appeal Board

Process Guide to Appeal Driver's License Suspensions under Section 279B

October 23, 2012

Disclaimer The legislation referred to in this Guide is subject to amendment from time to time and to judicial interpretation. The Guide may not reflect recent amendments to the legislation and should not be relied upon or interpreted as an accurate statement of the existing law. It is a guide to the practices and procedures related to filing an appeal and the hearing process of the MVAB only.

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Appealing a Driver's License Suspension to the Motor Vehicle Appeal Board (MVAB)

This guide will take you through the steps of the appeal process as set out in the *Motor Vehicle Act*.

If you require further information, please contact us or refer to the *Motor Vehicle Act*, found at: <http://nslegislature.ca/legc/statutes/motorv.htm>

The Basic Appeal Process



Grounds for Appeal

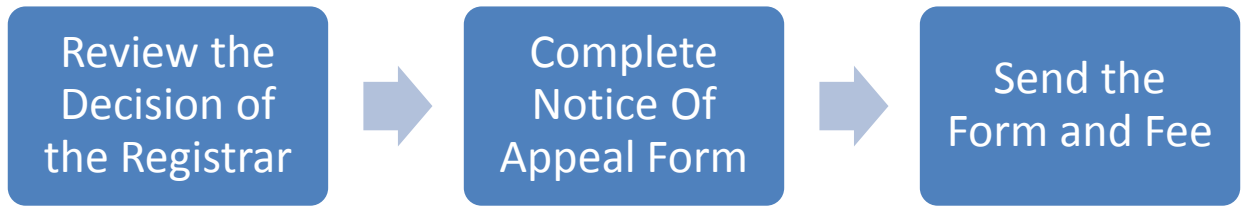
If an appeal to the Registrar under Section 279B of the *Motor Vehicle Act* did not change your suspension, you may appeal the decision to the MVAB. The grounds on which you can appeal are:

- you dispute that you operated or had care and control of a vehicle when your blood alcohol level was above .08; or,
- you dispute that you failed or refused to provide a breath sample.

Deadline for Filing a Notice of Appeal

The Notice of Appeal Form must be filed within **30 days** of the date of the Registrar's decision in order to be heard by the MVAB.

First Steps in the Appeal Process



What are the steps to appeal to the MVAB?

Step 1: Review the decision of the Registrar

Read the Registrar's decision to understand why your suspension was upheld. Consider any reasons why you may disagree with this decision.

Step 2: Complete Notice of Appeal Form

If you wish to appeal the decision of the Registrar, complete the Notice of Appeal Form that was included with the decision. An electronic copy of the Notice of Appeal Form can be located at <http://www.accessns.ca/drivers/motor-vehicle-appeal-board.asp>. For more information on how to complete the Form, see the section in this Guide called "[Completing the Notice of Appeal Form.](#)"

Step 3: Appeal Fee

A fee of \$150 must accompany the Notice of Appeal Form. A cheque or money order should be made payable to the Minister of Finance (**DO NOT SEND CASH**). This fee is non-refundable regardless of the outcome of your appeal.

Step 4: Send to the MVAB

Once you have completed the Notice of Appeal Form, you can mail, courier, or drop it off along with the cheque or money order (do not send cash), to our office at the address listed below.

Mailing and Contact Information

Motor Vehicle Appeal Board
Service Nova Scotia and Municipal Relations
1505 Barrington Street
Maritime Center, 9 North
Halifax, NS B3J 3K5
902-424-4256 or toll free: 1-855-424-4256

What if your application is incomplete?

We will return it to you by mail. You then have 30 days from the date on our letter to provide the missing information and return it to us. **If the application is not returned to us within 30 days, the decision of the Registrar is final and there is no further review or appeal.**

Overview of a Hearing

You have the option of presenting your appeal in writing, via teleconference or in-person.

The MVAB Chair, or in the absence of the Chair, the Vice-Chair will preside at a hearing. There will be two other MVAB members on the panel. This panel will conduct the hearing and make a decision. The decision of the panel is the decision of the MVAB. The decision will be put in writing and sent to you within seven days of the hearing date.

Evidence

The MVAB members shall consider evidence such as;

- information used in your appeal under Section 279B;
- the police officer's report of the suspension;
- the status of any criminal charges that were laid as a result of the suspension;
- statements made under oath;
- a copy of the certificate of Analysis provided by police as to your blood alcohol content; and
- any other relevant information.

Decision

The MVAB may agree with the suspension or change the decision so your license is reinstated.

The Steps for a Written Hearing

The date of your hearing will be within 60 days of the date your application was received. You will receive written notification at least 20 days prior to the hearing date.

With the notification, you will receive all information that has been provided by the Registrar related to your appeal. Review this information and respond in writing if there is any additional information you would like the MVAB to consider. **The MVAB must receive this information 10 business days before the hearing date.** Mail, courier or drop off your written response to the address above.

On the date of the hearing, the MVAB will meet to review all evidence submitted and make a decision on your appeal. The MVAB will send you its decision in writing.

The Steps for a Teleconference Hearing

The date of your hearing will be within 60 days of the date your application was received. You will receive written notification at least 20 days prior to the hearing date and arrangements will be made to call you when the MVAB is meeting.

With the notification, you will receive all information that has been provided by the Registrar related to your appeal. Review this information and respond in writing if there is any additional information you would like the MVAB to consider. **The MVAB must receive this information 10 business days prior to the hearing date.** Mail, courier or drop off your written response to the address above.

The Steps for an In-Person Hearing

An in-person hearing, you and your representative (if you have one) must be present. The date of your hearing will be within 60 days of the date your application was received. You will receive written notification at least 20 days prior to the hearing date.

With the notification, you will receive all information that has been provided by the Registrar related to your appeal. Review this information and assemble any additional information you would like the MVAB to consider. Bring this information with you to present to the MVAB. All in-person hearings will be held in Halifax, Nova Scotia.

What if I have to reschedule the Hearing?

You can reschedule the teleconference or in-person hearing by providing at least 48 hours notice by calling the Department of Service Nova Scotia and Municipal Relations at 424-4256 or toll free 1-855-424-4256.

If you request that an oral hearing be rescheduled, but you give less than 48 hours notice, you must pay a rescheduling fee of \$150 within 10 days before the new hearing date.

If you do not pay the rescheduling fee, the MVAB will dismiss your application and the Registrar's decision is final.

Written Decision

The MVAB will provide you with its written decision in English, which will include the following:

- the reason for the decision; and,
- the information about what the decision means to you.

The decision will be signed by each member of the MVAB panel and be sent to the address on your Notice of Appeal. The review decision is not subject to an appeal or further review by the MVAB.

What if I disagree with the MVAB's decision?

You may appeal to the Nova Scotia Court of Appeal. For more information see http://www.courts.ns.ca/appeals/index_ca.htm.

Disclosure of information

Neither the MVAB nor Service Nova Scotia and Municipal Relations will make any information regarding your appeal available to the public. You are the only person who can make the MVAB's decision public.

Completing the Notice of Appeal Form

Applicant Information

This information must include your full name and the *address that you would like us to send all correspondence*. Your contact information is important and will be used when the MVAB needs to contact you. This will help ensure timely delivery of all information and give you the time you may need to respond within the set timeframes.

Suspension Effective Date

The suspension effective date can be found on the Notice and Order of Suspension form given to you by the police officer.

Grounds for Appeal

Please outline in this section the reason(s) you believe the suspension should be changed. Please note that the allowable grounds for appeal are listed on page 3.

Facts Supporting the Grounds for Appeal

Please include the facts that support your beliefs to change the suspension.

Witnesses

If there is anyone who witnessed the offence and is willing to describe what they saw to the MVAB (either in writing or in person), please provide the information requested.

Representation

It is your choice whether or not you want to be represented by a lawyer in your appeal. You do not need to be represented by a lawyer, you may choose to represent yourself (that is, present your own case) or have someone else (that is not a lawyer) act as your spokesperson. The MVAB will ensure the process is open and accessible to parties that are not represented by a lawyer. Please indicate if you will be representing yourself.

Hearing

Please note the type of hearing you prefer. If you choose an in-person or teleconference hearing, please note the approximate time you think it will take you or your representative to present your evidence. This information will be used for scheduling purposes.

Finalization of Application

Please ensure you include a copy of the Notice and Order of Suspension, have completed all sections of the Form, sign it and have your signature witnessed. Include a cheque or money order for the \$150 fee with the package you are mailing or delivering to us. Send or drop off all required information to the address provided.