



Notice to Industry

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REQUESTING A STAY before the HORSE RACING APPEAL PANEL

What is the Horse Racing Appeal Panel?

On April 1, 2016, legislation came into effect changing the way appeals of horse racing decisions are adjudicated in Ontario. Most importantly, a new adjudicative body - the Horse Racing Appeal Panel (HRAP) - is now responsible for hearing appeals of decisions made under the Rules of Racing.

The majority of HRAP appeals will relate to on-track and conduct violations, positive test cases and related decisions made by AGCO Racing Officials including Judges and Stewards. Under the HRAP's current Rules of Procedure, licensees can request a "stay" temporarily suspending these rulings and decisions until such time that their appeal is heard or such other time as the HRAP may determine. Previously, decisions regarding stays were made by the Deputy Director of Racing under the former Ontario Racing Commission. **As of April 1, 2016, however, the authority to grant or deny a stay now resides with the HRAP.**

How can you request a stay?

Stays are not automatic. A request must be submitted to the HRAP in order for a stay of a decision or ruling to be considered.

If you want to request that the HRAP temporarily suspend the decision or ruling you are appealing, you must complete and submit Section B of the Notice of Appeal form (see overleaf for an example and illustration of a completed form).

It is important that you provide the HRAP with sufficient background and details to support your stay request. When completing the form, you should provide information on:

- The decision or order you are requesting (e.g. an order of the HRAP to stay a ruling);
- The grounds or reasons to be argued, including reference to any statutory provision, rule or case law you are relying on (e.g. the legal or factual justification in support of your motion); and
- The evidence you intend to rely on in support of your stay motion (e.g. any document, video or witness testimony you intend to bring forward).

What happens after a request for a stay is submitted to the HRAP?

Once you have notified the HRAP that you wish to request a stay, the AGCO administration (i.e. the Registrar of Alcohol, Gaming and Racing) will have the opportunity to respond and advise the HRAP whether they consent or object to the stay request.

Depending on the AGCO administration's position and the nature of the issue under appeal, the HRAP may schedule a hearing in order to hear submissions from both parties to assist in making a decision on the stay request. Hearings before the HRAP are a quasi-judicial process and are generally held in person. You can represent yourself or be represented by counsel, call witnesses, present evidence and cross-examine the AGCO administration's witnesses. The AGCO administration will be represented by counsel, who can present witnesses and evidence, and can cross-examine your witnesses.

Alternatively, if the AGCO administration consents to your stay request, the HRAP may decide on the matter without having to conduct a hearing.

What factors does the HRAP take into consideration when deciding whether or not to issue a stay?

New Rules of Procedure were established on April 1 clarifying the test for the issuance of stays. Under Rule 16.2 of the Rules of Procedure, the HRAP may grant a stay if the following three criteria are met:

- There are reasonable grounds for the appeal;
- There would be irreparable harm to the applicant if the stay were not granted; and
- The balance of convenience favours the granting of the stay.

Keep in mind, a party making a motion to stay a decision or ruling must satisfy all three factors in order to be successful.

How and when will you know if your request for a stay is granted or denied?

The HRAP is committed to providing a timely and expeditious response to all stay requests. Once the HRAP has reached a decision, all parties will be notified as soon as possible, in writing, whether the stay request has been granted or denied.

For more information about HRAP proceedings, please visit www.hrappealpanel.ca or contact the HRAP office at info@hrappealpanel.ca or 416-326-8700 (or Toll free in Ontario: 1-800-522-2876).

