



# Licensing Policy and Procedures Manual

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## 1. Table of Contents

<b>Record of Updates .....</b>	<b>20</b>
<b>VSA OFFICIAL MARKS “LOGO” .....</b>	<b>21</b>
<b>A. INTRODUCTION .....</b>	<b>22</b>
<b>1. Background .....</b>	<b>22</b>
1.1. Purpose of this manual .....	22
1.2. How this manual is organized .....	22
1.3. Policy and the authority of the Registrar .....	23
1.4. Use of the term “licence” for dealer registration .....	23
1.5. Use of the term “sale” or “sell” and their grammatical variations .....	23
<b>2. Roles and Responsibilities .....</b>	<b>24</b>
2.1. Manager of Licensing .....	24
2.2. Licensing Officer .....	24
2.3. Manager of Investigations .....	25
2.4. Investigations Officer .....	25
2.5. The Manager of Industry Standards .....	26
2.6. Industry Standards Officer .....	26
2.7. Compliance Officer .....	27
2.8. Advertising Standards Officer .....	27
2.9. Registrar .....	27
2.10. Director of Investigations, Licensing and Legal Services .....	28
2.11. Paralegal .....	28
2.12. Director of Consumer Services and Industry Standards .....	28
<b>B. DEALER LICENSING AND RENEWAL .....</b>	<b>30</b>
<b>1. Overview .....</b>	<b>30</b>
1.1. Licensing and renewal .....	30
1.2. Legislative authority and requirements .....	30
Authority to delegate .....	30
Definition of motor dealer .....	30
Exemptions .....	31
Definition of motor vehicle .....	31
Definition of inventory .....	32
Requirements for a motor dealer .....	33
Motor dealer licensing .....	33
Certificate of Registration .....	34

- Displaying Certificate of Registration ..... 35
    - Surrender of dealer licence..... 35
    - Death of a partner – effect on dealer partnership ..... 35
  - 2. Requirement to be licenced as a dealer ..... 36**
    - 2.1. Policy ..... 36
      - Meaning of “consumer” in this policy ..... 36
      - Who must be licensed as a dealer ..... 36
      - Exemptions from requirement to be licensed ..... 36
      - Separate licence required for each location ..... 37
      - Death of a sole proprietor – effect on licence ..... 38
      - Death of a partner – effect on licence ..... 38
  - 3. Qualifications for a dealer licence ..... 39**
    - 3.1. Policy ..... 39
      - Extra-provincial company ..... 39
      - Zoning and signage ..... 39
      - Business licence ..... 39
      - Repair facilities..... 39
      - Authorized spokesperson ..... 40
      - Background checks ..... 40
      - Salesperson licensing ..... 41
      - Agreement of purchase and sale ..... 41
      - Business plan..... 41
      - Business skills and experience ..... 41
      - Letter of credit ..... 42
      - Fees ..... 42
      - Inspection..... 42
      - Where application is for an additional location ..... 43
  - 4. Review of application for a dealer licence ..... 44**
    - 4.1. Policy ..... 44
      - Licence application requirements..... 44
      - Application must be complete ..... 44
      - Where applicant has criminal record or charges ..... 45
      - Where application not approved..... 45
    - 4.2. Procedures ..... 45
      - Initial review of application ..... 45
      - Where application is incomplete ..... 46

- Confirmation of applicant’s identity ..... 46
- Criminal record check ..... 46
- Credit history ..... 47
- Other background checks ..... 47
- Corporate registration ..... 47
- Salesperson licensing ..... 47
- Agreement of purchase and sale ..... 47
- Repair facilities..... 47
- Viability of proposed dealership ..... 48
- Review by Investigations Officer..... 48
- Providing dealer number in advance of licensing..... 48
- Application review complete – no unresolved issues..... 49
- Application review – issues identified ..... 49
- Where application not approved..... 49
- 5. Issuing a dealer licence ..... 50**
- 5.1. Policy ..... 50
  - Decision to issue a licence ..... 50
  - Conditions ..... 50
  - Removing conditions ..... 50
- 5.2. Procedures ..... 50
  - Issuing a licence ..... 50
  - Removing conditions to be met before regular licensed issued ..... 51
- 6. Renewal of dealer licence ..... 52**
- 6.1. Policy ..... 52
  - Application to renew dealer licence ..... 52
  - Application must be complete ..... 52
  - Renewal fee reduction for small new vehicle dealers ..... 53
  - Failure to renew licence before renewal date ..... 53
  - Failure to renew consignment privileges before renewal date ..... 54
  - Late renewal fee ..... 54
  - Criteria for renewal of consignment privileges ..... 55
  - Additional letter of credit for consignment privileges..... 55
  - Decisions regarding a renewal application ..... 55
  - Hearing before the Registrar ..... 55
- 6.2. Procedures ..... 56
  - Renewal notice ..... 56
  - Follow up for renewal of consignment privileges..... 56

- Temporary extension of consignment privileges..... 56
- Initial review of application to renew ..... 57
- Detailed review of renewal application ..... 57
- Check for outstanding balance ..... 58
- Corporate registration ..... 58
- Salesperson licensing ..... 58
- Renewing the licence ..... 58
- Referral to Manager of Licensing..... 59
- Where Manager determines a licence should not be renewed ..... 59
- Where consignment privileges are not renewed (no consignment privileges)..... 59
- Failure to renew licence before renewal date ..... 60
- 7. Dealership changes ..... 61**
  - 7.1. Policy ..... 61
    - Licence not transferrable..... 61
    - Change of contact information ..... 61
    - Change of name, location or ownership..... 61
    - Change of ownership – where new application is required ..... 61
    - Change in name of corporation ..... 62
  - 7.2. Procedures ..... 62
    - Change of location ..... 62
    - Change of name ..... 62
    - Change of ownership ..... 63
- 8. Secondary store-front locations ..... 64**
  - 8.1. Policy ..... 64
    - Application of this policy..... 64
    - Application requirements ..... 64
    - Location change or inactivity ..... 64
  - 8.2. Procedures ..... 64
- 9. Off-site sales events..... 65**
  - 9.1. Policy ..... 65
    - Permit required..... 65
    - Application for permit..... 65
    - Discounted fee for multi-dealer events..... 65
    - Waiving off-site sale permit fee..... 65
    - Exception to permit requirement for non-sales event ..... 66
    - General requirements for off-site sales events ..... 66

- Compliance with local bylaws ..... 66
- 9.2. Procedures ..... 66
  - Initial review of request for permit..... 66
  - Processing the permit request..... 67
  - Issuing the permit ..... 67
  - Request to waive fee ..... 67
  - Event concluded..... 68
- 10. Dealer licence on hold ..... 69**
  - 10.1. Policy ..... 69
  - 10.2. Procedures ..... 69
- 11. Cancellation or suspension of a licence ..... 70**
  - 11.1. Policy ..... 70
  - 11.2. Procedures ..... 70
    - General..... 70
    - Consignment privileges – voluntary surrender, bankruptcy or winding up ..... 70
- 12. Release of letter of credit ..... 71**
  - 12.1. Policy ..... 71
    - General..... 71
    - Request for release while dealer is active ..... 71
  - 12.2. Procedures ..... 71
    - Request for release where dealer is not active ..... 71
    - Request for release while dealer is active ..... 72
    - Releasing a letter of credit..... 72
- 13. Progressive Enforcement Model ..... 73**
  - 13.1. Progressive enforcement..... 73
- C. AUTHORIZATION OF CONSIGNMENT SALES ..... 75**
  - 1. Overview ..... 75**
    - 1.1. Consignment sales ..... 75
    - 1.2. Application for consignment privileges ..... 75
    - 1.3. Renewal of consignment privileges ..... 75
    - 1.4. Legislative authority and requirements..... 76
      - Authority to delegate..... 76
      - Motor dealer licensing ..... 76
  - 2. Qualifications for consignment privileges ..... 78**
    - 2.1. Policy..... 78

Licensing and compliance history .....	78
Dealer location .....	78
Background checks .....	78
Business skills and experience .....	79
Business plan.....	79
Trust account .....	79
Additional letter of credit .....	80
Application of policy on additional letter of credit.....	81
Consignment and purchase agreement form .....	81
Fees .....	81
Inspection.....	81
<b>3. Review of application for consignment privileges .....</b>	<b>82</b>
3.1. Policy .....	82
Consignment application requirements .....	82
Application must be complete .....	82
Decisions regarding approval of an application.....	83
Request for hearing where application rejected or denied.....	83
Amending licence to authorize consignment sales .....	83
Term of authorization .....	83
3.2. Procedure’s flowchart – review of application .....	84
3.3. Procedures .....	85
Initial review by Licensing Officer .....	85
Licensing history .....	85
Determining who will be the subject of background checks.....	86
Web-based background checks .....	86
Financial responsibility and solvency.....	86
Criminal record check .....	86
Business skill and experience.....	87
Business plan.....	87
Licensing Officer’s Report .....	87
Initial review by Manager of Licensing .....	87
Detailed review by Investigations Officer .....	88
Review and recommendation by Manager of Investigations.....	88
Final review by Manager of Licensing.....	88
Registrar’s review and decision .....	89
Where application approved .....	89
Amending licence.....	89

Where application rejected by the Manager of Licensing..... 89

Where application denied by the Registrar ..... 90

Request for a hearing..... 90

**D. SALESPERSON LICENSING AND RENEWAL ..... 91**

**1. Overview ..... 91**

1.1. Licensing and renewal..... 91

1.2. Legislative authority and requirements..... 91

    Definition of salesperson ..... 91

    Requirement to be licensed as a salesperson ..... 91

    Application for a licence ..... 91

    Application to renew a licence..... 92

    Issuing and renewing a licence ..... 92

    Conditions on a licence ..... 93

    Conditions related to the obligations of the licensee – s. 6(1)..... 93

    Conditions related to prohibitions on the licensee – s. 6(2)..... 94

    Revoking or suspending a licence ..... 94

**2. Requirement to be licensed as a salesperson ..... 96**

2.1. Policy..... 96

    Meaning of “consumer” in this policy ..... 96

    Definition of salesperson ..... 96

    Requirement to be licensed..... 97

    Conditional licence..... 97

    Regular licence ..... 97

    Salesperson licenced in another province ..... 97

**3. Qualifications for a salesperson licence ..... 98**

3.1. Policy..... 98

    Proof of employment..... 98

    Background checks ..... 98

    Certification courses ..... 98

    Application for both a salesperson licence and a broker-agent representative licence ..... 99

**4. Review of application for salesperson licence ..... 100**

4.1. Policy..... 100

    Application requirements ..... 100

    Application requirements – where applicant is a licensed broker-agent representative ..... 100

    Application must be complete ..... 100

    Where applicant has criminal record or charges..... 100



- Where application not approved..... 100
- 4.2. Procedures – general ..... 101
  - Initial review of application ..... 101
  - Confirmation of applicant’s identity ..... 101
  - Assigning salesperson number ..... 101
  - Review of eligibility questionnaire..... 102
  - Criminal record check ..... 102
  - Review of 5-year history ..... 102
  - Applicant currently working without a licence ..... 103
  - Course registration ..... 103
  - Application review complete – no issues identified ..... 103
  - Application review – issues identified ..... 103
  - Where application not approved..... 104
- 4.3. Procedures – where applicant is a licensed broker-agent representative ..... 104
  - Completing the application review ..... 104
- 5. Issuing a salesperson licence..... 105**
  - 5.1. Policy..... 105
    - Decision to issue a licence ..... 105
    - Standard conditions ..... 105
    - Other conditions ..... 106
    - Failure to complete certification course..... 106
    - Marketing salesperson..... 106
  - 5.2. Procedures ..... 106
    - Issuing a licence ..... 106
    - Marketing salesperson – no licence issued ..... 107
    - Failure to complete certification course..... 107
- 6. Renewal or reinstatement of licence..... 108**
  - 6.1. Policy..... 108
    - Application to renew salesperson licence ..... 108
    - Application to renew – where applicant is also a licensed broker-agent representative ..... 108
    - Online renewal..... 108
    - Application must be complete..... 108
    - Failure to renew before renewal date ..... 108
    - Late renewal fee ..... 109
    - Reinstatement of cancelled licence ..... 109
  - 6.2. Procedures ..... 109
    - Renewal notice ..... 109

- Initial review of renewal application ..... 109
- Detailed review of renewal application ..... 110
- Renewing the licence ..... 110
- Where licence may not be renewed ..... 110
- Failure to renew before renewal date ..... 111
- Reinstatement of cancelled licence ..... 111
- 7. Employment authorization ..... 113**
  - 7.1. Policy ..... 113
    - May work only at named location ..... 113
    - Return of licence ..... 113
    - Deactivation ..... 113
  - 7.2. Procedures ..... 113
    - Employment authorization – new employer or location ..... 113
    - Employment authorization – cancellation of employment ..... 114
    - Employment authorization – marketing salespersons ..... 114
- 8. Medical leave ..... 115**
  - 8.1. Policy ..... 115
    - When leave is available ..... 115
    - Duration of leave ..... 115
    - Return from medical leave ..... 115
    - Licence fees ..... 116
    - Application requirements ..... 116
    - Requirements for returning ..... 116
  - 8.2. Procedures ..... 116
    - Application for leave ..... 116
    - Return from leave ..... 116
- E. WHOLESALE LICENSING AND RENEWAL ..... 117**
  - 1. Overview ..... 117**
    - 1.1. Licensing and renewal ..... 117
    - 1.2. Legislative authority and requirements ..... 117
      - Definition of wholesaler ..... 117
      - Definition of representative ..... 117
      - Definition of associate ..... 118
      - Requirement to be licensed and display licence ..... 118
      - Exemptions from requirement to be licensed ..... 118
      - Application for a licence ..... 119

Application to renew a licence.....	120
Issuing and renewing a licence .....	120
Conditions on a licence .....	121
Conditions related to the obligations of the licensee – s. 7(1).....	121
Conditions related to prohibitions on the licensee – s. 7(2).....	122
Requirement to display a licence.....	123
Revoking or suspending a licence .....	123
Death of a partner – effect on wholesaler partnership.....	124
Definition of business records .....	124
<b>2. Requirement to be licenced as a wholesaler .....</b>	<b>125</b>
2.1. Policy.....	125
Wholesaling applies only to used vehicles .....	125
Who must be licensed as a wholesaler.....	125
Exemptions from requirement to be licensed .....	125
Separate licence required for each location.....	125
Death of a sole proprietor – effect on licence .....	126
Death of a partner – effect on licence .....	126
<b>3. Qualifications for a wholesaler licence .....</b>	<b>127</b>
3.1. Policy.....	127
Extra-provincial company .....	127
Business location.....	127
Business licence .....	127
Authorized spokesperson .....	127
Background checks .....	127
Agreement of purchase and sale .....	128
Business plan.....	128
Business skills and experience .....	129
Letter of credit .....	129
Fees .....	129
Where application is for an additional location .....	129
Application for both a wholesaler licence and a dealer licence .....	129
<b>4. Review of application for a wholesaler licence.....</b>	<b>131</b>
4.1. Policy.....	131
Licence application requirements.....	131
Licence application requirements – where applicant is a licensed dealer .....	131
Application must be complete.....	132

Where applicant has criminal record or charges ..... 132

Where application not approved ..... 132

4.2. Procedures – general ..... 132

    Initial review of application ..... 132

    Where application is incomplete ..... 133

    Confirmation of applicant’s identity ..... 133

    Criminal record check ..... 134

    Credit history ..... 134

    Other background checks ..... 134

    Corporate registration ..... 134

    Agreement of purchase and sale ..... 135

    Business location..... 135

    Viability of proposed wholesale business ..... 135

    Review by Investigations Officer..... 135

    Providing licence number in advance of licensing ..... 135

    Application review complete – no unresolved issues..... 136

    Application review – issues identified ..... 136

    Where application not approved..... 136

4.3. Procedures – where applicant is a licensed dealer..... 136

    Initial review of application ..... 136

    Where application is incomplete ..... 137

    Confirmation of representatives’ identity ..... 137

    Background checks ..... 137

    Agreement of purchase and sale ..... 137

    Completing the application review ..... 137

**5. Issuing a wholesaler licence ..... 138**

    5.1. Policy ..... 138

        Decision to issue a licence ..... 138

        Standard conditions ..... 138

        Other conditions ..... 140

        Conditional licence..... 140

        Removing conditions ..... 140

    5.2. Procedures ..... 140

        Issuing a licence ..... 140

        Removing conditions to be met before regular licensed issued ..... 141

**6. Renewal of wholesaler licence ..... 142**

    6.1. Policy ..... 142

Application to renew wholesaler licence.....	142
Application to renew – where applicant is also a licensed dealer.....	142
Application must be complete.....	142
Failure to renew licence before renewal date.....	142
Late renewal fee.....	143
Decisions regarding a renewal application.....	143
Hearing before the Registrar.....	143
<b>6.2. Procedures.....</b>	<b>143</b>
Renewal notice.....	143
Initial review of application to renew.....	144
Detailed review of renewal application.....	144
Check for outstanding balance.....	144
Corporate registration.....	144
Renewing the licence.....	145
Referral to Manager of Licensing.....	145
Where Manager determines a licence should not be renewed.....	145
Failure to renew licence before renewal date.....	146
<b>7. Wholesale business changes.....</b>	<b>147</b>
7.1. Policy.....	147
Licence not transferrable.....	147
Change of contact information.....	147
Reporting change of name, location or ownership.....	147
Change of ownership – where new application is required.....	147
Change in name of corporation.....	148
7.2. Procedures.....	148
Change of location.....	148
Change of name.....	148
Change of ownership.....	149
<b>8. Wholesaler licence on hold.....</b>	<b>150</b>
8.1. Policy.....	150
8.2. Procedures.....	150
<b>9. Cancellation or suspension of a licence.....</b>	<b>151</b>
9.1. Policy.....	151
9.2. Procedures.....	151
<b>F. BROKER-AGENT LICENSING AND RENEWAL.....</b>	<b>152</b>
<b>1. Overview.....</b>	<b>152</b>

- 1.1. Licensing and renewal..... 152
- 1.2. Legislative authority and requirements..... 152
  - Definition of broker-agent ..... 152
  - Definition of associate ..... 152
  - Definition of broker-agent representative ..... 153
  - Requirement to be licensed and display licence ..... 153
  - Application for a licence ..... 153
  - Application to renew a licence..... 154
  - Application for licence by a dealer ..... 154
  - Issuing and renewing a licence ..... 155
  - Conditions on a licence ..... 155
  - Conditions related to the obligations of the licensee – s. 7(1) ..... 155
  - Conditions related to prohibitions on the licensee – s. 7(2)..... 156
  - Requirement to display a licence..... 157
  - Death of a partner – effect on broker-agent partnership ..... 157
  - Definition of business records ..... 158
- 2. Requirement to be licenced as a broker-agent..... 159**
  - 2.1. Policy..... 159
    - Meaning of “consumer” in this policy ..... 159
    - Who must be licensed as a broker-agent ..... 159
    - Exemptions from requirement to be licensed ..... 159
    - Separate licence required for each location..... 159
    - Death of a sole proprietor – effect on licence ..... 159
    - Death of a partner – effect on licence ..... 160
- 3. Qualifications for a broker-agent licence..... 161**
  - 3.1. Policy..... 161
    - Extra-provincial company ..... 161
    - Business location..... 161
    - Business licence ..... 161
    - Authorized spokesperson ..... 161
    - Background checks ..... 161
    - Service agreement ..... 162
    - Business plan..... 162
    - Business skills and experience ..... 162
    - Letter of credit ..... 163
    - Fees ..... 163
    - Where application is for an additional location ..... 163

Application for both a broker-agent licence and a dealer licence..... 163

**4. Review of application for a broker-agent licence ..... 165**

4.1. Policy ..... 165

    Licence application requirements..... 165

    Licence application requirements – where applicant is a licensed dealer ..... 165

    Application must be complete ..... 166

    Where applicant has criminal record or charges ..... 166

    Where application not approved..... 166

4.2. Procedures – general ..... 166

    Where application is incomplete ..... 167

    Confirmation of applicant’s identity ..... 167

    Criminal record check ..... 167

    Credit history ..... 168

    Other background checks ..... 168

    Corporate registration ..... 168

    Broker-agent service agreement ..... 168

    Broker-agent representative licensing..... 169

    Business location..... 169

    Viability of proposed broker-agent business ..... 169

    Review by Investigations Officer..... 169

    Providing licence number in advance of licensing..... 169

    Application review complete – no unresolved issues..... 170

    Application review – issues identified ..... 170

    Where application not approved..... 170

4.3. Procedures – where applicant is a licensed dealer..... 170

    Initial review of application ..... 170

    Where application is incomplete ..... 171

    Broker-agent service agreement ..... 171

    Broker-agent representative licensing..... 171

    Completing the application review ..... 171

**5. Issuing a broker-agent licence..... 172**

5.1. Policy ..... 172

    Decision to issue a licence ..... 172

    Standard conditions ..... 172

    Other conditions ..... 173

    Conditional licence..... 173

    Removing conditions ..... 173

- 5.2. Procedures ..... 173
  - Issuing a licence ..... 173
  - Removing conditions to be met before regular licensed issued ..... 174
- 6. Renewal of broker-agent licence..... 175**
  - 6.1. Policy ..... 175
    - Application to renew broker-agent licence ..... 175
    - Application to renew – where applicant is also a licensed dealer ..... 175
    - Application must be complete ..... 175
    - Failure to renew licence before renewal date ..... 175
    - Late renewal fee ..... 176
    - Decisions regarding a renewal application ..... 176
    - Hearing before the Registrar ..... 176
  - 6.2. Procedures ..... 177
    - Renewal notice ..... 177
    - Initial review of application to renew ..... 177
    - Detailed review of renewal application ..... 177
    - Check for outstanding balance ..... 177
    - Corporate registration ..... 178
    - Renewing the licence ..... 178
    - Referral to Manager of Licensing ..... 178
    - Where Manager determines a licence should not be renewed ..... 179
    - Failure to renew licence before renewal date ..... 179
- 7. Broker-agent business changes ..... 180**
  - 7.1. Policy ..... 180
    - Licence not transferrable ..... 180
    - Change of contact information ..... 180
    - Reporting change of name, location or ownership ..... 180
    - Change of ownership – where new application is required ..... 180
    - Change in name of corporation ..... 181
  - 7.2. Procedures ..... 181
    - Change of location ..... 181
    - Change of name ..... 181
    - Change of ownership ..... 182
- 8. Broker-agent licence on hold ..... 183**
  - 8.1. Policy ..... 183
  - 8.2. Procedures ..... 183



- 9. Cancellation or suspension of a licence ..... 184**
  - 9.1. Policy ..... 184
  - 9.2. Procedures ..... 184
- G. BROKER-AGENT REPRESENTATIVE LICENSING AND RENEWAL ..... 185**
  - 1. Overview ..... 185**
    - 1.1. Licensing and renewal ..... 185
    - 1.2. Legislative authority and requirements ..... 185
      - Definition of broker-agent representative ..... 185
      - Definition of conflict of interest ..... 185
      - Requirement to be licensed as broker-agent representative ..... 186
      - Application for a licence ..... 186
      - Application to renew a licence ..... 187
      - Application for a broker-agent representative licence by a salesperson ..... 187
      - Issuing and renewing a licence ..... 187
      - Conditions on a licence ..... 188
      - Conditions related to the obligations of the licensee ..... 188
      - Conditions related to prohibitions on the licensee ..... 188
      - Revoking or suspending a licence ..... 189
  - 2. Requirement to be licensed as a broker-agent representative ..... 191**
    - 2.1. Policy ..... 191
      - Meaning of “consumer” in this policy ..... 191
      - Definition of broker-agent representative ..... 191
      - Requirement to be licensed ..... 192
      - Conditional licence ..... 192
      - Regular licence ..... 192
      - Broker-agent representative licenced in another province ..... 193
  - 3. Qualifications for a broker-agent representative licence ..... 194**
    - 3.1. Policy ..... 194
      - Proof of employment ..... 194
      - Background checks ..... 194
      - Certification courses ..... 194
      - Application for both a broker-agent representative and a salesperson licence ..... 194
  - 4. Review of application for broker-agent representative licence ..... 196**
    - 4.1. Policy ..... 196
      - Application requirements ..... 196

Application requirements – where applicant is a licensed salesperson.....	196
Application must be complete .....	196
Where applicant has criminal record or charges.....	196
Where application not approved.....	197
<b>4.2. Procedures - general.....</b>	<b>197</b>
Initial review of application .....	197
Confirmation of applicant’s identity .....	197
Assigning a broker-agent representative number .....	197
Review of eligibility questionnaire.....	198
Criminal record check .....	198
Review of 5-year history .....	198
Applicant currently working without a licence .....	199
Course registration .....	199
Application review complete – no issues identified .....	199
Application review – issues identified .....	199
Where application not approved.....	200
<b>4.3. Procedures – where applicant is a licensed salesperson.....</b>	<b>200</b>
Completing the application review.....	200
<b>5. Issuing a broker-agent representative licence .....</b>	<b>201</b>
<b>5.1. Policy.....</b>	<b>201</b>
Decision to issue a licence .....	201
Standard conditions.....	201
Other conditions .....	202
Failure to complete certification course.....	202
<b>5.2. Procedures .....</b>	<b>203</b>
Issuing a licence .....	203
Failure to complete certification course.....	203
<b>6. Renewal or reinstatement of licence.....</b>	<b>204</b>
<b>6.1. Policy.....</b>	<b>204</b>
Application to renew broker-agent representative licence.....	204
Application to renew – where applicant is also a licensed salesperson.....	204
Online renewal.....	204
Application must be complete.....	204
Failure to renew before renewal date.....	204
Late renewal fee .....	205
Reinstatement of cancelled licence .....	205
<b>6.2. Procedures .....</b>	<b>205</b>

- Renewal notice ..... 205
- Initial review of renewal application ..... 205
- Detailed review of renewal application ..... 206
- Renewing the licence ..... 206
- Where licence may not be renewed ..... 206
- Failure to renew before renewal date ..... 207
- Reinstatement of cancelled licence ..... 207
- 7. Employment authorization ..... 209**
  - 7.1. Policy ..... 209
    - May work only at named location ..... 209
    - Return of licence ..... 209
    - Deactivation ..... 209
  - 7.2. Procedures ..... 209
    - Employment authorization – new employer or location ..... 209
    - Employment authorization – cancellation of employment ..... 210
- 8. Medical leave ..... 211**
  - 8.1. Policy ..... 211
    - When leave is available ..... 211
    - Duration of leave ..... 211
    - Return from medical leave ..... 211
    - Licence fees ..... 212
    - Application requirements ..... 212
    - Requirements for returning ..... 212
  - 8.2. Procedures ..... 212
    - Application for leave ..... 212
    - Return from leave ..... 212
- H. REVIEW OF CRIMINAL RECORD OR OFFENCE ..... 213**
  - 1. Overview ..... 213**
    - 1.1. Background ..... 213
    - 1.2. Legislative authority and requirements ..... 213
      - Registrar’s authority to delegate ..... 213
      - Dealer licensing ..... 213
      - Salesperson licensing ..... 213
      - Wholesaler licensing ..... 214
      - Broker-agent licensing ..... 214
      - Broker-agent representative licensing ..... 214

Prohibited discrimination ..... 214

**2. Policy and Procedures..... 215**

2.1. Policy ..... 215

    General principles on reviewing a criminal record or offence ..... 215

    When a criminal record or offence will be reviewed ..... 215

    Investigation of the record and subsequent events ..... 216

    Review and decision regarding risk to the public interest..... 217

    Waiting period on future applications..... 217

    Requirement to pay fine or comply with order ..... 219

    Where application denied or licence cancelled..... 219

    Hearing to reduce waiting period ..... 219

2.2. Procedures ..... 219

    Determining whether a criminal record or offence will be reviewed ..... 219

    Investigation of the record and subsequent events ..... 220

    Review and decision regarding risk to the public interest..... 220

**EXEMPTION FOR WHOLESALE AUCTIONS ..... 222**

**ACRONYMS AND ABBREVIATIONS ..... 225**

## Record of Updates

Version	Date	Summary of Update
1	February 1, 2013	Original
2	April 1, 2014	Information and warning about VSA Official Mark "Logo." New sections 1.2.23 and 1.2.24 regarding the display of a paper certificate and decal.
3	April 1, 2018	Incorporates amendments to the <i>Motor Dealer Act</i> in the Motor Dealer Amendment Act, 2016 and the regulations. This includes the addition of wholesaler, broker-agent and broker-agent representative licensing.
4	December 2021	Change in Roles and Responsibilities; Added Progressive Enforcement Model

## VSA OFFICIAL MARKS “LOGO”

The following are the registered Official Marks of the Motor Dealer Council of British Columbia, doing business as the Motor Vehicle Sales Authority of British Columbia (the “VSA”), and may not be used or reproduced in whole or in part, in any colour or font and in any combination or individually:

- (a) by motor dealers or salespersons unless directed to by the Registrar in accordance with the *Motor Dealer Act*, and which will be found in the Licensing Policies of the VSA, or
- (b) by any other person unless they receive prior written approval from the VSA.

“Motor Vehicle Sales Authority of British Columbia”

“Vehicle Sales Authority”

“VSA”



## A. INTRODUCTION

### 1. Background

#### 1.1. Purpose of this manual

The purpose of the VSA Licensing Policy and Procedures Manual is to document the policy and procedures that support the licensing of motor dealers, salespersons, wholesalers, broker-agents and broker-agent representatives in BC. It is intended to assist the VSA in maintaining a fair and consistent process for decision-making that meets the requirements of the *Motor Dealer Act*, administrative, and natural justice.

#### 1.2. How this manual is organized

This manual is divided into the following parts:

- ✓ Part A – Introduction. This part provides background about this manual, the authority of the Registrar and the roles and responsibilities of VSA staff in dealer and salesperson licensing.
- ✓ Part B – Dealer Licensing and Renewal. This part provides the policy and procedures regarding the licensing of dealers, the renewal of licences, and specific issues pertaining to licensed dealers.
- ✓ Part C – Authorization of Consignment Sales. This part provides the policy and procedures for determining when a dealer will be authorized to conduct consignment sales and for the renewal of consignment privileges.
- ✓ Part D – Salesperson Licensing and Renewal. This part provides the policy and procedures regarding the licensing of salespersons, the renewal of licences and specific issues pertaining to licensed salespersons.
- ✓ Part E – Wholesaler Licensing and Renewal. This part provides the policy and procedures regarding the licensing of wholesalers, the renewal of licences and specific issues pertaining to licensed wholesalers.
- ✓ Part F – Broker-agent Licensing and Renewal. This part provides the policy and procedures regarding the licensing of broker-agents, the renewal of licences and specific issues pertaining to licensed broker-agents.
- ✓ Part G – Broker-agent Representative Licensing and Renewal. This part provides the policy and procedures regarding the licensing of broker-agent representatives, the renewal of licences and specific issues pertaining to licensed broker-agent representatives.

- ✓ Part H – Review of Criminal Record or Offence. This part provides the policy and procedures regarding the review of a criminal record, an offence record or outstanding charges of a licensee or an applicant for licence to determine whether the individual poses a risk to the public interest.
- ✓ Exemption for Wholesale Auctions. This part contains section 14.1 of the *Motor Dealer Act* Regulation, under which a wholesale auction is exempt from licensing provided it meets all the requirements set out in that section.
- ✓ Acronyms and Abbreviations. This part lists all the acronyms and abbreviations used in this manual.

### 1.3. Policy and the authority of the Registrar

The legal authority to licence motor dealers, salespersons, wholesalers, broker-agents and broker-agent representatives is granted to the Registrar under the *Motor Dealer Act* and the VSA under the regulations. Under the *Motor Dealer Act*, the Registrar is given the authority to delegate any of the powers of the Registrar to a Licensing Officer, Investigations Officer, Industry Standards Officer, Consumer Services Officer or any other person the registrar deems appropriate to exercise those powers. Those acting with the Registrar’s delegated authority are under the same obligations as the Registrar when exercising that authority.

The role of the Licensing Policy and Procedures is to assist the Registrar and VSA staff in ensuring that decisions regarding licensing are undertaken in an open, structured and consistently fair manner.

The policy and procedures in this manual do not bind the Registrar or otherwise hinder or limit the authority and discretion of the Registrar when making decisions about registration and licensing. The principles of natural justice require that the Registrar consider the unique facts and context of each situation when making decisions.

### 1.4. Use of the term “licence” for dealer registration

For convenience, in this manual the term “licence” is used when referring to motor dealer registration. Technically, dealers are “registered” under the *Motor Dealer Act* while others are “licensed” under the regulations. The use of the term licence in place of dealer registration reflects common usage among industry, VSA staff and the public.

### 1.5. Use of the term “sale” or “sell” and their grammatical variations

For convenience, in this manual when the term “sale”, “sell” or their grammatical variations are used in relation to a motor vehicle transaction, this includes a lease or any type of regulated exchange, supply, or disposition of a motor vehicle to an individual for personal or family use. Under the *Motor Dealer Act*, the word “sale” is defined as including a lease or any manner of exchange, supply, or disposition of a motor vehicle, that is not expressly exempted under the regulations. [S. 1(1) MDA, definition of “sale”]



## 2. Roles and Responsibilities

### 2.1. Manager of Licensing

The Manager of Licensing has overall responsibility for the process of licensing. The role of the Manager is to:

- ✓ oversee the Licensing Officer's review of an application, renewal or change and assist where required
- ✓ consult with the Investigations department or Industry Standards department where required to obtain further input on an application, renewal or change and
- ✓ where required, make decisions or recommendations to the Registrar regarding an application, renewal or change.

The Manager of Licensing is responsible for:

- ✓ determining who will be the subject of background checks in relation to an application for a dealer licence or consignment privileges, a wholesaler licence and a broker-agent licence, where required
- ✓ approving or rejecting an application, renewal or change when referred to the Manager by a Licensing Officer
- ✓ adding or removing conditions on a licence
- ✓ recommending approval or rejection of an application, renewal or change, including any terms or conditions, to the Registrar where required, and
- ✓ identifying and referring issues regarding the conduct of licensees to the Registrar.

### 2.2. Licensing Officer

The role of the Licensing Officer is to:

- ✓ be the primary point of contact regarding licensing for licensees and the public
- ✓ receive and review all applications, renewals and changes to licensing
- ✓ approve an application, renewal or change that, upon review, meets the designated requirements, and
- ✓ refer an application for consignment privileges, and any other application, renewal or change that, upon review, may not meet designated requirements to the Manager of Licensing

The Licensing Officer is responsible for:

- ✓ determining whether an application, renewal form or change form is complete and informing the applicant where it is incomplete
- ✓ ensuring that any designated fees have been paid prior to completing the processing of an application, renewal or change

- ✓ determining whether an application, renewal or change to a licence meets the designated requirements and approving them where the requirements are met
- ✓ referring an application, renewal or change to the Manager of Licensing where the officer determines that the requirements have not been met or identifies other issues that should be further considered before deciding whether to approve, and
- ✓ referring all applications for consignment privileges along with the results of the officer's review of the application to the Manager of Licensing.

The Licensing Officer is not authorized to:

- ✓ Add Conditions on a Licence without prior approval from Registrar or delegate
- ✓ Return a Letter of Credit (LOC) without prior approval by the Manager of Licensing or delegate
- ✓ Approve a Motor Dealer application without prior approval by the Manager of Licensing or delegate
- ✓ Approve an Applicant's Criminal Record Check without prior approval by the Manager of Licensing or delegate

### 2.3. Manager of Investigations

The role of the Manager of Investigations is to:

- ✓ provide advice and assistance to the Manager of Licensing regarding the review of a license application, change or renewal and in reviewing issues regarding the conduct of licensees, and
- ✓ oversee an Investigations Officer's inspection and review of an application for consignment privileges and provide advice on the application to the Manager of Licensing.

The Manager of Investigations is responsible for:

- ✓ reviewing all applications for consignment privileges and application inspection reports, and providing a recommendation on whether to approve the application to the Manager of Licensing, and
- ✓ where required, providing advice to the Manager of Licensing regarding a review of any other licence application, change or renewal.

### 2.4. Investigations Officer

The role of the Investigations Officer is to:

- ✓ establish and maintain a relationship with licensees in their region and be a primary point of contact on compliance issues for licensees in their region,
- ✓ conduct investigations as required, and
- ✓ refer serious compliance issues to the Manager of Investigations where required.

The Investigations Officer is responsible for:

- ✓ conducting licensee liaison visits,
- ✓ providing advice on compliance issues to licensees,
- ✓ investigating compliance issues, compensation fund claims and the criminal record or offence history of a licensee or applicant for licence where required and completing investigation reports, and
- ✓ determining minor enforcement requiring a verbal warning and referring serious compliance issues to the Manager of Investigations.

## 2.5. The Manager of Industry Standards

The Manager of Industry Standards has overall responsibility for inspections, and related enforcement activities. The role of the Manager of Industry Standards is to:

- ✓ oversee the Industry Standards staff conduct of inspections
- ✓ provide advice and direction on the conduct of inspections where required
- ✓ engage in preliminary dispute resolution procedures, such as undertakings, with licensees where applicable, and

The Manager of Industry Standards is responsible for:

- ✓ providing advice and support to industry standards staff as required,
- ✓ reviewing the results of all consignment application inspections and providing advice on approval of a consignment application to the Manager of Licensing

## 2.6. Industry Standards Officer

The role of the Industry Standards Officer is to:

- ✓ establish and maintain a relationship with motor dealers in their region and be the primary, point of contact on compliance issues for motor dealers and salespersons in their region,
- ✓ conduct inspections as required, and
- ✓ refer serious compliance issues to the Manager of Industry Standards where required.

The Industry Standards Officer is responsible for:

- ✓ conducting motor dealer liaison visits and inspections,
- ✓ providing advice on compliance issues to motor dealers and salespersons,
- ✓ investigating compliance issues, compensation fund claims and the criminal record or offence history of a licensee or applicant for licence where required and completing investigation reports, and

- ✓ referring serious compliance issues to the Managers of Investigations

## 2.7. Compliance Officer

The role of the Compliance Officer is a combination of the roles of Investigations Officer and Industry Standards Officer and has the duties and responsibilities of both roles. The purpose of this role is to take a pro-active approach to preventing consumer complaints and follow up on any complaints or concerns.

## 2.8. Advertising Standards Officer

The role of the Advertising Standards Officer is to oversee motor vehicle advertising, enforce advertising requirements and support advertising compliance activities through education in order to provide for consistent application of advertising standards across the province.

The Advertising Standards Officer is responsible for:

- ✓ Monitoring and inspecting motor vehicle advertising in all media, including the internet and identifying compliance issues
- ✓ addressing compliance issues with licensees, including taking appropriate enforcement action
- ✓ advising the Manager of Industry Standards of unlicensed motor dealer advertising
- ✓ liaising with licensees and manufacturers on the application of the VSA's Advertising Guidelines,
- ✓ conducting investigations as required, and
- ✓ conducting research on motor dealer advertising as required to assist Industry Standards Officers with inspections or investigations.

## 2.9. Registrar

The role of the Registrar is to:

- ✓ provide overall direction to the Director of Consumer Services and Industry Standards; Director of Investigations, Licensing and Legal Services; Manager of Consumer Services, and the Consumer Services department; Manager of Licensing and the Licensing Department, Manager of Industry Standards and the Industry Standards department and the Manager of Investigations and the investigations department; and
- ✓ make a final decision regarding approval of an application for consignment privileges, and
- ✓ conduct licensing hearings as necessary.

The Registrar is responsible for:

- ✓ delegating authority to VSA staff where required to carry out duties under these policies and procedures
- ✓ ensuring staff properly exercise their delegated authority
- ✓ providing advice to the Manager of Licensing on the review of a licence application, change or renewal as required

- ✓ reviewing the recommendations of the Manager of Licensing regarding approval of an application for consignment privileges and making a final decision on the application, and
- ✓ conducting hearings on licensing matters where required.

## 2.10. Director of Investigations, Licensing and Legal Services

The Role of the Director of Investigations, Licensing and Legal Services is to:

- ✓ oversee the Investigations team through the Manager of Investigations to ensure investigations are completed in a consistently timely, fair, thorough, objective and legally defensible manner
- ✓ monitor the VSA's administration of the legislation
- ✓ respond to public and industry complaints about the Investigations department in accordance with the VSA Service Complaints policy
- ✓ provide legal advice on complex investigations, ensuring the investigation is completed in a timely manner, is legally defensible, and fair
- ✓ review all legal documents
- ✓ represent the VSA and the Motor Dealer Compensation Fund Board as legal counsel

## 2.11. Paralegal

The role of the Paralegal is to support the Director of Investigations, Licensing and Legal Services, the Manager of Investigations, and the Manager of Industry Standards in the preparation of enforcement related documents and by coordinating selected enforcement processes.

The Paralegal is responsible for:

- ✓ assisting Investigations and Industry Standards Officers with drafting investigation closing letters and warning letters
- ✓ assisting Investigations and Industry Standards Officers, the Director of Investigations, Licensing and Legal Services, the Manager of Investigations, and the Manager of Industry Standards in drafting affidavits and assisting with hearing processes
- ✓ assisting Investigations Officers with drafting Production Orders
- ✓ liaising with internal and external legal counsel, court reporters and conducts research for court proceedings
- ✓ coordinating hearings before the Registrar and drafting legal documents required for hearings and court proceedings, and
- ✓ assisting the Registrar with legal processes as required.

## 2.12. Director of Consumer Services and Industry Standards

The Director of Consumer Services and Industry Standards has overall responsibility for the Industry Standards team. Working through the Manager of Industry Standards, the Director ensures that the

department functions consistent with the VSA's mandate, policies, the Regulatory Philosophy & Enforcement Principles, and its Compliance Enforcement Model.

## B. DEALER LICENSING AND RENEWAL

### 1. Overview

#### 1.1. Licensing and renewal

Any person who sells vehicles to consumers in the course of their business must be licensed as a dealer by the VSA unless they are a licensed salesperson employed by a licensed dealer or specifically exempted from being licensed under the *Motor Dealer Act Regulation*.

This part contains the requirements that a person must meet in order to be granted a dealer licence and the process for reviewing applications for a licence. The VSA carefully reviews an applicant's qualifications and suitability to be a dealer in order to protect the public and the vehicle sales industry. This includes background checks, a review of the applicant's business plan and financial resources and an inspection of the applicant's facilities.

A dealer must renew their licence annually. At renewal, the VSA confirms whether the dealer is in good standing with the VSA and follows up on any outstanding licensing or compliance issues before granting a renewal of the licence.

This part also contains the requirements for licensed dealers to report changes to their dealership, apply for approval of secondary locations and off-site sales or to put a dealer licence on hold, and policy and procedures for the cancellation or suspension of a licence and releasing a letter of credit.

#### 1.2. Legislative authority and requirements

##### Authority to delegate

1.2.1. The Registrar may lawfully delegate any of his powers to an Investigations Officer, Industry Standards Officer, Licensing Officer, Consumer Services Officer or any other person the Registrar deems appropriate to exercise those powers. [MDA s. 1(1) – definition of Registrar]

##### Definition of motor dealer

1.2.2. Any person who, in the course of business:

- (a) engages in, or represents themselves as engaging in, the sale, exchange or other disposition of a motor vehicle, whether for that person's own account or for the account of another person, to another person for purposes that are primarily personal, family or household, or
- (b) solicits, offers, advertises or promotes with respect to the disposition of a motor vehicle under paragraph (a)

is a motor dealer. [MDA s. 1(1) – definition of motor dealer]

1.2.3. The definition of motor dealer does not include:

- (a) a person who is [exempted](#) under section 14 of the *Motor Dealer Act Regulation*, and

- (b) a [salesperson](#) regularly employed by a motor dealer. [MDA s. 1(1) – definition of motor dealer]

### Exemptions

1.2.4. The following persons are exempt from the *Motor Dealer Act*:

- (a) the Insurance Corporation of British Columbia (ICBC), and
- (b) an insurer licensed under the *Insurance Act*. [MDA Reg s. 14(2)]

1.2.5. In regard to a specific motor vehicle, a person is exempt from the *Motor Dealer Act* if any of the following conditions apply:

- (a) the person may dispose of the motor vehicle under section 12 of the Repairers Lien Act or section 4 (1) of the Warehouse Lien Act [MDA Reg s. 14(4)(a)]
- (b) the person deals with the motor vehicle in the course of the person's duties as a liquidator, receiver, trustee in bankruptcy, person acting under an order of a court or an executor or trustee under a will [MDA Reg s. 14(4)(b)]
- (c) the person deals with the motor vehicle in the course of the person's duties as
  - (i) a sheriff or court bailiff under the Sheriff Act, or
  - (ii) a bailiff licensed under the *Business Practices and Consumer Protection Act* [MDA Reg s. 14(4)(c)]
- (d) the person
  - (i) deals with the motor vehicle incidentally to the person's business of buying, selling, dealing in or lending money on the security of conditional sale contracts, chattel mortgages, bills of lading, warehouse receipts, bills of exchange, choses in action or other commercial paper, including, without limitation, as a chartered bank, trust company, sales finance company, consumer loan company or credit union, and
  - (ii) does not advertise or promote with respect to the person's disposition of motor vehicles described in subparagraph (i) [MDA Reg s. 14(4)(d)]
- (e) the person rents the motor vehicle to another person on terms that do not provide for the other person to acquire the motor vehicle [MDA Reg s. 14(4)(e)]
- (f) the person is a manufacturer, exporter, importer or distributor of motor vehicles who is described in paragraph (b) or (c) but not in paragraph (a) of the definition of "motor dealer" [MDA Reg s. 14(4)(f)]
- (g) the person holds an auction of the motor vehicle, if
  - (i) the motor vehicle is offered for disposition on behalf of a registrant, and
  - (ii) the person who holds the auction and, if any, the directors, officers, employees and agents of that person have no property interest in the motor vehicle. [MDA Reg s. 14(4)(g)]

### Definition of motor vehicle

1.2.6. "Motor vehicle" means a self-propelled vehicle designed or used primarily for travel on a highway, as defined in the Highway Act, and includes a trailer, as defined in the Motor Vehicle



Act, designed or used primarily for accommodation during travel or recreation, but does not include

- (a) an all terrain vehicle, as defined in section 1 of the Motor Vehicle Act Regulations
- (b) a farm tractor or motor assisted cycle, as those terms are defined in the *Motor Vehicle Act*
- (c) machinery primarily intended for construction, mining or logging purposes,
- (d) a boat trailer
- (e) a utility trailer with a gross vehicle weight rating (as defined in section 1 of the Motor Vehicle Act Regulations) of 1,400 kg or less, or
- (f) a golf cart. [MDA s. 1(1) – definition of motor vehicle; MDA Reg s. 14(1) and 14(3)]

1.2.7. “Trailer” means a vehicle that is at any time drawn on a highway by a motor vehicle, except:

- (a) an implement of husbandry
- (b) a side car attached to a motorcycle, and
- (c) a disabled motor vehicle that is towed by a tow car. [MVA s. 1 – definition of trailer]

1.2.8. "All terrain vehicle" means a wheeled or tracked vehicle designed primarily for recreational use or for the transportation of property or equipment exclusively on marshland, open country or other unprepared surfaces and includes any trailer attached to the vehicle. [MVA Regs s. 1 – definition of all terrain vehicle]

1.2.9. “Farm tractor” means a motor vehicle designed and used primarily as an implement of husbandry for drawing agricultural equipment. [MVA s. 1 – definition of farm tractor]

1.2.10. “Motor assisted cycle” means a device:

- (a) to which pedals or hand cranks are attached that will allow for the cycle to be propelled by human power,
- (b) on which a person may ride,
- (c) to which is attached a motor of a prescribed type that has an output not exceeding the prescribed output, and
- (d) that meets the other criteria prescribed under section 182.1 (3) of the Motor Vehicle Act. [MVA s. 1 – definition of motor assisted cycle]

### Definition of inventory

1.2.11. ‘Inventory’, in regard to a motor dealer, means:

- (a) new motor vehicles in the possession of the motor dealer or the manufacturer that the motor dealer has the authority to sell
- (b) used motor vehicles that are owned by and in the possession of the motor dealer
- (c) motor vehicles the motor dealer is authorized to sell under a consignment agreement in accordance with the Motor Dealer Consignment Sales Regulation. [MDA S. 1(1) – definition of inventory.

### Requirements for a motor dealer

1.2.12. A motor dealer must:

- (a) be registered by the VSA and meet all the requirements for maintaining registration
- (b) provide the prescribed security satisfactory to the Registrar
- (c) pay the prescribed annual renewal fee
- (d) maintain motor vehicle repair facilities or file a service contract providing such facilities, which are satisfactory to the Registrar
- (e) maintain a sign on the business premises identifying the dealer and the premises in the prescribed manner, and
- (f) maintain business premises that are, in the opinion of the Registrar, sufficient for the purpose of displaying motor vehicles. [MDA s. 3(1)]

1.2.13. A motor dealer must only carry on business:

- (a) in the dealer's registered name, and
- (b) at the dealer's registered business premises, except as provided in paragraph 1.2.14. [MDA s. 3(1)(c)]

1.2.14. A motor dealer may carry on business outside of the dealer's registered premises if:

- (a) the business is conducted by electronic means, including the internet, and
- (b) every motor vehicle that is the subject of the business conducted by electronic means is in the dealer's inventory.

### Motor dealer licensing

1.2.15. An application for a registration must be made to the Registrar in the form approved by the Registrar and must be accompanied by the prescribed fee and any required contribution to the Motor Dealer Customer Compensation Fund. [MDA s.4(1); MDCCF Reg s.2(1) and (3)]

1.2.16. If a person carries on business as a motor dealer at more than one location in British Columbia, the person must register separately for each location from which they operate. [MDA s. 4(2)]

1.2.17. The term of registration and renewal of registration is one year and it expires at midnight on the day prior to the anniversary of it taking effect. [MDA s. 4(3)]

1.2.18. The Registrar may register or renew a registration on terms, conditions or restrictions that the Registrar considers necessary, including a condition requiring an irrevocable letter of credit, in an amount set by the Registrar, as evidence of financial responsibility. [MDA s.4(4) and (5)]

1.2.19. The Registrar at any time may, by giving written notice to a registered person, add to or alter the terms, conditions, or restrictions of registration. [MDA s. 4(6)]

1.2.20. The Registrar may grant or renew registration to be effective on a date after the date the Registrar's decision is made. [MDA s. 4(7)]

- 1.2.21. If, in the opinion of the Registrar, the financial responsibility or past conduct of an applicant or person registered, or its officers or directors, is such that it would not be in the public interest for them to be registered or continue to be registered, the Registrar may:
- (a) refuse to register an applicant or refuse to renew a registration, or
  - (b) cancel a registration, or
  - (c) suspend a registration for a period of time and subject to conditions the Registrar considers necessary. [MDA s. 5]
- 1.2.22. If the Registrar proposes to refuse to:
- (a) register or renew a person's registration
  - (b) cancel a registration, or
  - (c) suspend a registration,
- the Registrar must notify the applicant or holder of the registration that
- (d) they have the right to be heard at a date and place specified in the notice, and
  - (e) if they do not attend at that time and place, the matter may be disposed of in the absence of the applicant or holder of the registration. [MDA s. 6]
- 1.2.23. The Registrar may review a registration at any time and require any information or material concerning the organization, operating practices and procedures and financial status of the registrant. [MDA Reg s. 7]
- 1.2.24. The Registrar, in the exercise of the Registrar's powers and duties under sections 4 and 5 of the *Motor Dealer Act*, may make inquiries and require information
- (a) the Registrar considers appropriate or necessary to decide whether to grant, renew, cancel or suspend a registration, or
  - (b) respecting the business or the proposed business of the applicant as authorized by the regulations. [MDA s. 7(1)]
- 1.2.25. It is a condition of registration or renewal of a registration that the applicant or the holder of a certificate of registration or renewal provide information and documents respecting the business of a motor dealer that the Registrar or another person conducting an inquiry under this Act requires. [MDA s. 7(2)]

### Certificate of Registration

- 1.2.26. A motor dealer's certificate of registration consists of the following two items:
- (a) A paper certificate issued by the VSA and containing the motor dealers' registration number and any conditions of licensing, and
  - (b) A decal containing the motor dealers' registration number, the VSA logo and name for display as required by the Registrar. [MDA s. 4(4), 13(1); MDA Reg s. 5]

### Displaying Certificate of Registration

1.2.27. It is a condition of a motor dealer's licence that they shall display their paper form and decal form of their certificate of registration as follows:

- (a) The paper form of the certificate of registration shall be displayed in a conspicuous place where it can be easily seen by consumers entering the motor dealer's business premises. It may be displayed where the motor dealer lawfully displays their business licence.
- (b) The decal form of the certificate of registration shall be displayed
  - (i) on a glass front door at the motor dealer's registered business premises so that consumers may easily see the decal, or
  - (ii) where there is no glass front door, on a glass window near the front door at the motor dealer's registered business premises so that consumers may easily see the decal. [MDA s. 4(4), 13(1); MDA Reg s. 5]

### Surrender of dealer licence

1.2.28. Where a dealer voluntarily cancels its licence or the licence is cancelled or suspended by the Registrar, the dealer must immediately return the certificate of registration to the Registrar. [MDA s.10; MDA Reg s.8 and 9]

### Death of a partner – effect on dealer partnership

1.2.29. On the death, bankruptcy or dissolution of a partner:

- (a) a partnership of 2 partners is dissolved, and
- (b) subject to agreement among the partners, a partnership of more than 2 partners is dissolved as between the bankrupt, dead or dissolved partner and the other partners. [Partnership Act s. 36]

## 2. Requirement to be licenced as a dealer

### 2.1. Policy

#### Meaning of “consumer” in this policy

- 2.1.1. In this policy, “consumer” means an individual who engages in the purchase, exchange or other disposition or acquisition of a vehicle for purposes that are primarily personal, family or household.
- 2.1.2. An “individual” means a natural person and not a company or corporation<sup>1</sup>.
- 2.1.3. For the purpose of determining whether a vehicle was used primarily for personal, family or household purposes, “primarily” means that more than 50% of the use of the vehicle was, or was intended for personal, family or household purposes.
- 2.1.4. Evidence of the primary purpose of a vehicle includes
- (a) the intended use at the time of the purchase,
  - (b) any actual use of the vehicle by the client, and
  - (c) where the vehicle was purchased to replace a vehicle previously used by the client, the primary purpose of the applicant’s use of the vehicle to be replaced.

#### Who must be licensed as a dealer

- 2.1.5. Unless specifically [exempted](#) in the *Motor Dealer Act Regulation*, any person who, in the course of business
- (a) engages in, or represents themselves as engaging in, the sale, exchange or other disposition of a [vehicle](#) with a consumer, or
  - (b) solicits, offers, advertises or promotes with respect to the disposition of a vehicle under paragraph (a)
- must be licensed as a dealer.

#### Exemptions from requirement to be licensed

- 2.1.6. The following are exempt from the *Motor Dealer Act*:
- (a) the Insurance Corporation of British Columbia (ICBC), and
  - (b) an insurance company licensed under the *Insurance Act*.
- 2.1.7. The following may be directly involved in the sale of a vehicle to a consumer without being licensed as a dealer, provided that the vehicle is purchased from a licenced dealer:
- (a) a licensed salesperson while acting as a salesperson

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<sup>1</sup> Although the general policy is that an individual must be a natural person, there may be circumstances in which a legal entity, such as a family trust, may be considered an “individual”. To qualify, the entity must not have any commercial purpose, must have been acting in the place of a natural person.

- (b) a licensed broker-agent representative while acting as a broker-agent representative, and
- (c) a person who conducts the sale by auction on behalf of a licensed dealer and who does not have any property interest in the vehicle being sold.

2.1.8. A person is exempt from the requirement to be licensed as a motor dealer if they meet any one of the following conditions:

- (a) the person may dispose of the motor vehicle under section 12 of the Repairers Lien Act or section 4 (1) of the Warehouse Lien Act
- (b) the person deals with the motor vehicle in the course of the person's duties as a liquidator, receiver, trustee in bankruptcy, person acting under an order of a court or an executor or trustee under a will
- (c) the person deals with the motor vehicle in the course of the person's duties as
  - (i) a sheriff or court bailiff under the Sheriff Act, or
  - (ii) a bailiff licensed under the *Business Practices and Consumer Protection Act*
- (d) the person
  - (i) deals with the motor vehicle incidentally to the person's business of buying, selling, dealing in or lending money on the security of conditional sale contracts, chattel mortgages, bills of lading, warehouse receipts, bills of exchange, choses in action or other commercial paper, including, without limitation, as a chartered bank, trust company, sales finance company, consumer loan company or credit union, and
  - (ii) does not advertise or promote with respect to the person's disposition of motor vehicles described in subparagraph (i)
- (e) the person rents the motor vehicle to another person on terms that do not provide for the other person to acquire the motor vehicle, or
- (f) the person is a manufacturer, exporter, importer or distributor of motor vehicles who is described in paragraph (b) or (c) but not in paragraph (a) of the definition of "motor dealer".

2.1.9. A person who deals in:

- (a) boat trailers
- (b) utility trailers with a gross vehicle weight rating (GVWR) of 1,400 kg or less, and
- (c) golf carts

but does not sell any other type of vehicle as defined in the *Motor Dealer Act* does not have to be licensed as a dealer.

### **Separate licence required for each location**

2.1.10. If a person carries on business as a dealer at more than one location in British Columbia, the person must obtain a separate licence for each location from which they operate.

2.1.11. Generally, a different location means a different physical address. An exception may be made where a dealer is using an adjoining or nearby vehicle display area and all transactions are completed at the business office at the dealer's registered location.

#### **Death of a sole proprietor – effect on licence**

2.1.12. Where a dealer who is a sole proprietor dies, the sole proprietorship ends and the dealer licence is no longer valid.

2.1.13. An executor or administrator of the deceased dealer's estate may temporarily continue to operate the dealership without a licence (see paragraph [2.1.8\(b\)](#) above) for the purpose of disposing of the estate.

2.1.14. Where an executor is required to establish a trust to operate the dealership on behalf of a beneficiary, the trustee is not exempt and must be licenced.

#### **Death of a partner – effect on licence**

2.1.15. Where a dealer consists of a partnership of 2 people and one partner dies, the partnership ceases to exist and the dealer licence is no longer valid.

2.1.16. Where a dealer consists of a partnership of more than 2 people and one partner dies, the partnership continues unless the partners have agreed that it should end. If the partnership continues then the dealer licence remains valid.

### 3. Qualifications for a dealer licence

#### 3.1. Policy

3.1.1. At a minimum, an applicant must meet the requirements in this part to qualify for a dealer licence.

##### Extra-provincial company

3.1.2. An applicant that is a company incorporated somewhere other than BC must be registered as an extra-provincial company in the BC Corporate Registry.

##### Zoning and signage

3.1.3. The zoning of the applicant's proposed dealership location must be appropriate for the operation of the dealership.

3.1.4. The dealership location must have a sign that

- (a) identifies the applicant's corporate or business name as provided in the application and as registered with the Corporate Registry, and
- (b) is compliant with the applicable municipal or regional district sign bylaws.

##### Business licence

3.1.5. The applicant must have a valid business licence or licences to operate the dealership and repair facilities.

##### Repair facilities

3.1.6. The applicant must have a vehicle repair facility or a service contract for the provision of a vehicle repair facility.

3.1.7. The repair facility must have a least one technician with an Inter-provincial Standards Red Seal endorsement on their BC Certificate of Qualification for each of the following areas of work carried out at the facility:

- (a) Automotive Service Technician
- (b) Motor Vehicle Body Repairer (metal and paint) (Automotive Collision Repair Technician)
- (c) Motorcycle Mechanic, and
- (d) Recreation Vehicle Service Technician.

3.1.8. Where a dealer intends to rebuild salvage vehicles for sale to consumers, the repair facilities must:

- (a) have a Red Seal certified Automotive Service Technician and Motor Vehicle Body Repairer (metal and paint), and
- (b) be equipped as required by the Motor Vehicle Act to rebuild motor vehicles.



- 3.1.9. Where a dealer intends to sell vehicles that require a BC government inspection, the dealer's chosen repair facility must be a Designated Inspection Facility as recognized by the Ministry of Transportation and Infrastructure.

### Authorized spokesperson

- 3.1.10. An authorized spokesperson is an individual who has the authority to speak, decide, and act on behalf of the applicant on all matters regarding registration and compliance.
- 3.1.11. An applicant for registration must identify an individual who is an owner, shareholder, director or officer, general Manager or senior Manager of the applicant who will be the applicant's authorized spokesperson.

### Background checks

- 3.1.12. Every individual who is a sole proprietor, a partner in a partnership, an officer or director of a corporation, or a shareholder of a private corporation that is applying for a dealer licence must provide consent for the VSA to conduct:
- (a) a criminal record check, including criminal history from every country in which the individual has resided, and
  - (b) a review of their personal and corporate credit history.
- 3.1.13. Generally, the VSA will not conduct background checks on shareholders in a public corporation that is applying for a dealer licence.
- 3.1.14. The VSA will conduct background checks on the applicant and any individual to be registered with the applicant except that:
- (a) a criminal record check may not be conducted if the individual is currently registered and has had a criminal record check conducted within the past 5 years and
  - (b) a credit history check will not be conducted if the individual is currently registered and has had a credit history check conducted within the past 6 months.
- 3.1.15. Once licensed, a dealer must declare any change to their criminal record or offence history when applying to renew their licence.
- 3.1.16. If an applicant or any person associated with the applicant who is required to have a background check has:
- (a) a criminal record
  - (b) a conviction for an offence (excluding parking tickets)
  - (c) been disciplined by another licensing body, or
  - (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery)

the applicant or other person must not present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).

- 3.1.17. The credit history of an applicant and any person associated with the applicant who is required to have a background check must indicate financial solvency, including:
- (a) no outstanding judgment debts unless a court approved payment plan is in place and the payments are not in arrears
  - (b) credit owing does not exceed 75% of the credit available, unless further investigation of credit details indicates financial solvency, and
  - (c) the amount of credit available is sufficient to support the requirements of the dealer's business plan.

### Salesperson licensing

- 3.1.18. An individual applicant who will in any way act as a [salesperson](#) must have a salesperson licence issued by the VSA.

### Agreement of purchase and sale

- 3.1.19. An applicant must provide a copy of the vehicle purchase and sale agreement the applicant intends to use and the agreement must comply with the requirements of the *Motor Dealer Act Regulation*.

### Business plan

- 3.1.20. An applicant must submit a business plan that meets the requirements outlined in the dealer application package.

### Business skills and experience

- 3.1.21. An applicant must have business experience, education or training in the following areas:
- (a) sales
  - (b) marketing
  - (c) book-keeping, including payroll
  - (d) collecting and remitting taxes
  - (e) requirements of employment law in BC, and
  - (f) statutory requirements regarding the sale of warranties and insurance.
- 3.1.22. When evaluating whether an applicant's business skill and experience is adequate, the VSA will consider the following:
- (a) the nature of the applicant's business plan
  - (b) the extent of the applicant's experience in relation to education and training, with experience in the vehicle sales industry being most important,
  - (c) whether the applicant has been approved as a franchise dealer.

**Letter of credit**

3.1.23. An applicant must provide the VSA with an irrevocable letter of credit that is automatically renewable annually. The amount of the irrevocable credit required generally will depend on the type of vehicles that the applicant intends to sell as indicated in the following table:

Type of vehicle	Amount of credit required
Motorcycles, mopeds, low speed vehicles	\$5000
Cars and trucks	\$10,000
Recreation vehicles – towables only	\$15,000
Recreation vehicles – motorized and towable	\$30,000

3.1.24. The Manager of Licensing may require a higher amount of credit where the Manager determines that an applicant presents a greater than typical risk of loss to consumers.

3.1.25. When determining whether to require a higher amount of credit under paragraph [3.1.24](#), the Manager of Licensing will consider all the circumstances and facts of the application, including:

- (a) the risk that the applicant may pose to the Motor Dealer Customer Compensation Fund
- (b) the applicant’s business experience
- (c) the applicant’s history in another regulated industry
- (d) the applicant’s history in managing their personal finances
- (e) the applicant’s credit utilization at the time of application
- (f) the number and type of lenders to the applicant’s business
- (g) the level of detail contained in the applicant’s business plan, and
- (h) the demographics and location of the applicant’s dealership in relation to the business plan.

**Fees**

3.1.26. Except where otherwise provided in this policy, an applicant for a dealer licence or renewal of licence must pay all applicable application fees and assessments as described in the [Motor Dealer Licence Application Schedule of Fees](#).

**Inspection**

3.1.27. An applicant must pass a new dealer inspection of the applicant’s dealer premises and operations prior to being issued a regular licence. The new dealer inspection may be conducted by telephone where permitted by the VSA’s Investigations and Industry Standards Policy and Procedures.

3.1.28. The Manager of Licensing may approve a conditional licence pending a new dealer inspection where the review of an application is substantially complete and:

- (a) the application is for new ownership of an existing dealership
- (b) the applicant is a licensed dealer who already operates one or more existing dealerships, or
- (c) the applicant has significant industry experience and the location has previously been occupied by other licensed dealers.

#### **Where application is for an additional location**

- 3.1.29. Where an existing dealer applies for a dealer licence for an additional location, the Manager of Licensing may waive the requirements for a [business plan](#) and a [letter of credit](#) for the additional location.
- 3.1.30. Other than an item waived under paragraph [3.1.29](#), all the qualifications for a dealer licence apply to an application for an additional location made by an existing dealer.

## 4. Review of application for a dealer licence

### 4.1. Policy

#### Licence application requirements

- 4.1.1. An applicant must submit a completed Application for Registration as a Motor Dealer (form 1) and the application fees and assessments as described in the [Motor Dealer Licence Application Schedule of Fees](#) .
- 4.1.2. Every individual who is a sole proprietor, a partner in a partnership, an officer or director of a corporation, or a shareholder of a private corporation that is applying for a dealer licence must:
- (a) complete and sign a Dealer Applicant Profile (form 1a)
  - (b) provide consent for the VSA to conduct a review of their personal and corporate credit history
  - (c) provide a copy of personal photo identification, and
  - (d) confirm that they have read and understood the Code of Conduct.
- 4.1.3. Along with the completed Application for Registration as a Motor Dealer form and fees, the applicant must submit all the following supporting documentation:
- (a) a copy of the applicant's city or municipal business licence, or where the applicant's dealership is within a regional district that does not issue business licenses, proof that the location of the applicant's business premises is properly zoned for retail motor vehicle sales
  - (b) a 3-year business plan as described in paragraph [3.1.20](#)
  - (c) a copy of the applicant's vehicle purchase and sale agreement
  - (d) where the applicant has a service contract to meet the requirement for repair facilities
    - (i) a copy of the service contract, and
    - (ii) a copy of the repair facility's city or municipal business licence, or where the facility is within a regional district that does not issue business licenses, proof that the location of the facility is properly zoned for vehicle repairs
  - (e) an account verification form signed by a bank representative and an individual with signing authority for the applicant, which provides the applicant's bank account information
  - (f) documentation from a financial institution confirming that it will provide the applicant with an irrevocable Letter of Credit in the amount required by the Registrar (see [Letter of Credit](#) above), and
  - (g) a list of all staff members and management currently employed or to be employed by the applicant, including their current salesperson licensing status and licensing history.

#### Application must be complete

- 4.1.4. The VSA will not begin to review an application until the application fee has been paid and will not approve an application until all the required information and documentation has been provided.

- 4.1.5. Where an application that has been received is incomplete, the VSA will inform the applicant and request the missing information or documentation.
- 4.1.6. Where the applicant does not provide the missing information or documentation within 6 months of receipt of the application, the application will be closed as incomplete. If the applicant wishes to reapply after an application has been closed as incomplete, the applicant must submit a new application including all application fees.

#### Where applicant has criminal record or charges

- 4.1.7. Where an applicant has a criminal record, an offence record, or outstanding charges that have been confirmed, the Manager of Licensing will review the record under [Part H – Review of Criminal Record or Offence](#).

#### Where application not approved

- 4.1.8. Where the Manager of Licensing determines that an application for a dealer licence should not be approved, the Manager will schedule a hearing before the Registrar.

## 4.2. Procedures

### Initial review of application

- 4.2.1. Upon receipt of an application, the Licensing Officer checks the applicant's company name, names of directors and the dealer location in the VSA database to determine whether:
  - (a) the applicant has been licensed previously, or
  - (b) there is another dealer who is currently operating at the proposed location.
- 4.2.2. Where an applicant has been licensed previously, the Licensing Officer reviews the dealer record to determine whether there are any outstanding issues regarding the termination of the previous licence or outstanding fees.
- 4.2.3. Where there is a dealer currently located on the proposed location, the Licensing Officer determines whether the dealer will be leaving the proposed location or whether the applicant intends to share the location. Where the applicant intends to share the location, the Licensing Officer notifies the Investigations Officer about the proposed shared location.
- 4.2.4. The Licensing Officer creates a new dealer application record and processes the application fee.
- 4.2.5. If the application fee has not been provided, the Licensing Officer contacts the applicant to request the application fee.
- 4.2.6. After the application fee has been processed, the Licensing Officer reviews the application to determine if
  - (a) the dealer application form is complete, and
  - (b) all the supporting documentation required in paragraph [4.1.3](#) has been provided.

### Where application is incomplete

- 4.2.7. Where an application is incomplete, the Licensing Officer contacts that applicant and:
- (a) requests that the applicant provide the missing information or supporting documentation as soon as possible, and
  - (b) informs the applicant that if all the missing information or documentation is not received within 6 months of receipt of the application, the application will be closed.
- 4.2.8. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.
- 4.2.9. Where an applicant does not provide the missing information or documentation within 6 months of receipt of the application, the Licensing Officer closes the application as incomplete and informs the applicant in writing that:
- (a) the application has been closed, and
  - (b) if the applicant wishes to reapply in the future, the applicant must submit a new application including the application fee.

### Confirmation of applicant's identity

- 4.2.10. The Licensing Officer compares the name of each individual applicant as shown on the photo identification with the applicant's proof of legal status.
- 4.2.11. If there is a discrepancy between the names that are on the applicant's photo identification and the proof of legal status, the Licensing Officer contacts the applicant and requests that the applicant provide one of the following documents as proof of a change of name:
- (a) a marriage certificate showing the change of name, or
  - (b) a government-issued certificate of legal name change.

### Criminal record check

- 4.2.12. For each applicant required to undergo a criminal record check under paragraph [3.1.14](#), the Licensing Officer forwards the applicant's consent for a criminal record check and statutory declaration where applicable to Security Programs Division for processing.
- 4.2.13. If the results of a criminal record check indicate that a record may exist and the applicant did not submit a statutory declaration, the Licensing Officer requests that the applicant provide a statutory declaration and when received, the officer forwards the declaration to Security Programs Division to confirm the charges or convictions disclosed.
- 4.2.14. Where the charges or convictions disclosed on a statutory declaration cannot be confirmed by Security Programs Division, the Licensing Officer instructs the applicant to submit a revised statutory declaration where possible.

4.2.15. Where Security Programs Division is unable to confirm a statutory declaration or revised declaration, the Licensing Officer instructs the applicant to request a fingerprint verification of their criminal record and provide it to the VSA.

4.2.16. Once a criminal record has been confirmed by Security Programs Division or fingerprint verification, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

#### **Credit history**

4.2.17. The Licensing Officer obtains an Equifax credit history report on each applicant required to undergo a credit history report under paragraph [3.1.14](#).

4.2.18. The Licensing Officer reviews the credit history report for compliance with the requirements in paragraph [3.1.17](#).

#### **Other background checks**

4.2.19. The Licensing Officer may conduct a general web query and a search of Court Services Online on the applicant and any individual, partnership or corporation to be registered with the applicant for information that may be relevant to the application.

4.2.20. If the applicant is or was previously licensed by another regulatory body, the Licensing Officer obtains the applicant's licensing history from that body.

#### **Corporate registration**

4.2.21. The Licensing Officer conducts a search of the Corporate Registry to determine whether:

- (a) the applicant is registered in good standing, and
- (b) any "Doing Business As" or trade name to be used by the applicant is registered.

#### **Salesperson licensing**

4.2.22. The Licensing Officer reviews the VSA database to ensure that individual applicants who will be acting as a salesperson have a salesperson licence in good standing.

#### **Agreement of purchase and sale**

4.2.23. The Licensing Officer forwards the applicant's vehicle purchase and sale agreement to an Investigations Officer or Industry Standards Officer for review of compliance with the requirements in the *Motor Dealer Act Regulation*.

#### **Repair facilities**

4.2.24. Where an applicant has a service contract for the required repair facilities, the Licensing Officer confirms the status of the repair facility's business license and whether the facility is permitted to repair motor vehicles by contacting the issuer of the business licence.



4.2.25. Where an applicant intends to purchase, rebuild and then sell rebuilt vehicles obtained from ICBC Salvage or Impact Auto Auction or any other source, the Licensing Officer:

(a) obtains

- (i) a copy of the certificate designating the repair facility that will be responsible for rebuilding and inspecting the rebuilt vehicle as a Provincial Inspection Facility
- (ii) a copy of the qualifications of any person who will conduct a structural integrity assessment for those vehicles as part of the rebuild process, and

(b) confirms the status of the designated Provincial Inspection Facility by reviewing information posted on the Commercial Vehicle Safety Enforcement Branch website ([http://www.th.gov.bc.ca/cvse/vehicle\\_inspections/PDF/DIFs.PDF](http://www.th.gov.bc.ca/cvse/vehicle_inspections/PDF/DIFs.PDF)) or contacting the branch where required.

### Viability of proposed dealership

4.2.26. The Licensing Officer reviews the applicant's business skills and experience, business model, and financial viability to determine whether there are any issues regarding the applicant's ability to successfully operate the proposed dealership, including a review of the following information and documentation:

- (a) business plan
- (b) credit history and available credit
- (c) information provided on the Dealer Applicant Profile (form 1a), and
- (d) any other relevant information obtained in reviewing the application.

4.2.27. Where necessary, the Licensing Officer contacts the applicant for further information or documentation required to evaluate the viability of the proposed dealership.

### Review by Investigations Officer

4.2.28. The Licensing Officer requests that an Investigations Officer or Industry Standards Officer review the application or a specific issue that arises in the review of the application where the Licensing Officer believes it may assist in the review.

### Providing dealer number in advance of licensing

4.2.29. A Licensing Officer may provide an applicant with the applicant's dealer number prior to the dealer licence being issued where:

- (a) the applicant requires the number to complete preparation of the dealership, and
- (b) the officer believes that the application is likely to be approved.

4.2.30. When providing a dealer number in advance, the Licensing Officer explains to the applicant that the provision of the number does not mean that the application is or will be approved and that the applicant may not act as a motor dealer until the dealer licence is issued.

#### **Application review complete – no unresolved issues**

- 4.2.31. When the review of an application is complete and there are no unresolved issues, the Licensing Officer forwards the application to the Manager of Licensing with a recommendation to approve the application and issue a conditional licence pending:
- (a) receipt of the applicant’s business licence, and
  - (b) completion of a new dealer inspection.
- 4.2.32. The Manager of Licensing reviews the application and the recommendation and determines whether to issue the licence.

#### **Application review – issues identified**

- 4.2.33. Where the Licensing Officer determines that there are issues affecting approval of the application, which the applicant has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.
- 4.2.34. The Manager of Licensing reviews the application and the issues identified by the Licensing Officer and investigates further where required.
- 4.2.35. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
- (a) recommend to the Registrar that the application not be approved, or
  - (b) approve the application, including any conditions on licence required to address the issues identified.

#### **Where application not approved**

- 4.2.36. Where the Manager of Licensing determines that an application for licence should not be approved, the Manager schedules a hearing before the Registrar as provided in the VSA’s [Hearing Policy and Procedures](#).

## 5. Issuing a dealer licence

### 5.1. Policy

#### Decision to issue a licence

5.1.1. The Manager of Licensing or the Registrar will determine whether an applicant will be issued a dealer licence and any conditions on the licence.

#### Conditions

5.1.2. Every new dealer licence will include the following standard conditions:

- (a) the dealer may not engage in consignment sales unless this condition is removed from the licence, and
- (b) a dealer selling used vehicles may not have more than the designated number of demonstration licences.

5.1.3. The Manager of Licensing or the Registrar may add other conditions to a licence to address any issues of concern regarding a dealership. Where the Manager of Licensing imposes other conditions on a licence, the dealer may request a reconsideration of the decision to impose conditions by the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

5.1.4. The Manager of Licensing may approve a conditional dealer licence pending the completion of the application requirements where the application is substantially complete and there are no outstanding issues that are likely to affect the approval of the licence.

#### Removing conditions

5.1.5. Only the Registrar may approve the removal of:

- (a) a condition not to engage in consignment sales, and
- (b) any condition that is imposed by the Registrar

unless the Registrar specifically delegates the authority to remove the condition.

5.1.6. The Manager of Licensing may remove any condition that was imposed by the Manager.

### 5.2. Procedures

#### Issuing a licence

5.2.1. The Manager of Licensing reviews the application and the recommendation of the Licensing Officer and determines whether to approve the application, including any conditions on the licence.

5.2.2. The Licensing Officer reviews the dealer licence information in the VSA database and confirms that all conditions have been correctly entered.

- 5.2.3. Where there are conditions to be met before a regular licence will be issued, the Licensing Officer:
- (a) sends a copy of the conditional licence to the applicant by fax or email, and
  - (b) where required, contacts the Industry Standards Officer or Investigations Officer to request a new dealer inspection.
- 5.2.4. Where there are no conditions to be met before a regular licence is issued, the Licensing Officer:
- (a) contacts the applicant to inform them that the licence has been approved, and
  - (b) issues and mails the licence to the applicant.

**Removing conditions to be met before regular licensed issued**

- 5.2.5. When the Licensing Officer has received confirmation that all conditions for issuing a regular licence has been met, the officer
- (a) confirms the removal of the conditions with the Manager of Licensing and removes the conditions in the VSA database, and
  - (b) issues and mails the regular licence to the dealer.

## 6. Renewal of dealer licence

### 6.1. Policy

#### Application to renew dealer licence

- 6.1.1. A dealer applying for a licence renewal must complete a Notice of Registration Renewal (form 2) and submit it to the VSA along with the renewal application fee at least 14 days prior to the renewal date of their licence.
- 6.1.2. A dealer applying for a licence renewal and renewal of consignment privileges must include the information required for dealers with consignment privileges on the Notice of Registration Renewal and submit both the dealer licence renewal fee and the consignment dealer fee.
- 6.1.3. In addition to a completed Notice of Registration Renewal and renewal fees, a dealer applying for renewal of licence must provide:
  - (a) either a municipal business licence or other documentation from a municipal or regional district authority that confirms that the zoning of the premises is consistent with retail automotive sales and consignment sales, where applicable
  - (b) a current list of all the dealer's employees who are required to hold a salesperson license
  - (c) where the dealer is applying for renewal of consignment privileges
    - (i) a copy of the dealer's trust account statements and cancelled cheques for the licence year
    - (ii) the financial statements for the dealer's most recent fiscal year-end, and
  - (d) any other information that may be required to determine whether the licence should be renewed.
- 6.1.4. Where the dealer is applying for renewal of consignment privileges and there has been a change or the dealer plans a change in the dealer's business that could affect the viability of the business or the financial solvency of the dealer, the VSA may require that the dealer submit an updated business plan and financial records for the period since the dealer's last financial statements were produced.

#### Application must be complete

- 6.1.5. The VSA will not begin to review an application to renew a dealer licence until the application fee has been paid and will not approve a renewal application until a fully completed application has been received.
- 6.1.6. Where an application to renew a dealer licence that has been received is incomplete, the VSA will inform the dealer and request the missing information or documentation.

6.1.7. Where an application is received or completed less than 14 days prior to the renewal of the dealer licence, the VSA will make reasonable efforts to complete its review of the application prior to the renewal of the licence.

#### **Renewal fee reduction for small new vehicle dealers**

6.1.8. On renewal, a dealer that sells new vehicles and falls into one of the following categories may be eligible for a reduced renewal fee:

- (a) new car dealers that have sold or leased no more than 100 new vehicles in the previous 12 months
- (b) lease/finance companies that have no more than 100 active lease contracts for new vehicles as of their most recent month-end
- (c) new RV dealers whose total gross sales of vehicles and services is no more than \$4 million for the previous 12 months, or
- (d) new motorcycle dealers that have sold or leased no more than 50 street legal new motorcycles in the previous 12 months.

6.1.9. In order to qualify for a reduced licence fee, a dealer must submit documentation to prove that the dealer meets the criteria set out in paragraph [6.1.8](#) along with a completed renewal application and payment. The following documentation must be provided:

- (a) for a new car dealer or new motorcycle dealer, a copy of the dealer's sales report summary as submitted to a manufacturer or financial institution, or a notarized declaration regarding sales by the dealer principle
- (b) for a lease/finance company, a copy of the dealer's most recent month-end lease report as submitted to an accountant or financial institution, or
- (c) for a new RV dealer, copies of the dealer's HST remittance forms or worksheets for each of the previous 12 months.

6.1.10. A new car dealer, leasing/financing company or new RV dealer that qualifies as a small dealer will pay the same licence renewal fee as a dealer selling only used cars or RVs based on the number of demonstration licence plates held by the dealer.

6.1.11. A new motorcycle dealer that qualifies as a small dealer will pay the same licence renewal fee as a dealer selling only used motorcycles.

#### **Failure to renew licence before renewal date**

6.1.12. Where a dealer fails to renew a licence before it expires:

- (a) the dealer must not continue to sell vehicles after the licence has expired, and
- (b) the dealer's licence will be designated as lapsed for 60 days, during which time the dealer may apply for renewal by submitting a renewal application and paying the renewal fees including any late renewal fees.

6.1.13. If a dealer fails to renew the licence within 60 days of the renewal date, the licence will be automatically cancelled and if the dealer wishes to be licensed again after cancellation, the dealer must submit a new dealer application.

#### **Failure to renew consignment privileges before renewal date**

6.1.14. Except as provided in paragraph [6.1.15](#), where:

- (a) a dealer fails to apply for renewal of consignment privileges, or
- (b) a dealer submits or completes an application to renew consignment privileges less than 14 days prior to the renewal date of the dealer licence and the VSA is not able to complete its review of the application prior to the renewal date of the dealer's authorization to conduct consignment sales

the dealer is prohibited from conducting consignment sales immediately upon the expiration of the dealer's authorization.

6.1.15. Where:

- (a) a dealer submits or completes an application to renew consignment privileges less than 14 days prior to the renewal date of the dealer licence and the VSA is not able to complete its review of the application prior to the renewal date of the dealer's authorization to conduct consignment sales, or
- (b) the VSA requires some additional information not included in the renewal application requirements in order to evaluate a renewal application

the Manager of Licensing may temporarily extend an authorization to conduct consignment sales for up to 30 days, pending completion of the review and decision on the renewal application.

6.1.16. Where a dealer's consignment privileges expire without being renewed or temporarily extended and the dealer wishes to reapply for consignment privileges, the dealer must submit a new application for consignment privileges.

#### **Late renewal fee**

6.1.17. Where a dealer renews a licence within 60 days of the renewal date or consignment privileges within 30 days of the renewal date, the Licensing Officer will apply a late fee in addition to the renewal fee.

6.1.18. If a dealer disputes the application of a late fee, the Licensing Officer will consult with the Manager of Licensing to determine whether the late fee should be applied.

6.1.19. When determining whether to apply a late fee, the Licensing Officer and the Manager of Licensing will consider:

- (a) the reasons for the late renewal, and
- (b) the dealer's history of compliance with licensing requirements.

### Criteria for renewal of consignment privileges

6.1.20. Generally, a dealer's consignment privileges will be renewed where:

- (a) the dealer's actual consignment business is consistent with the business plan previously approved by the VSA or the VSA has approved the dealer's updated business plan where required under paragraph [6.1.4](#)
- (b) the dealer has a favourable compliance history, including the results of any dealer inspections
- (c) the dealer's authorized spokesperson has completed the required certification course
- (d) the dealer's financial statements and other information reviewed by the VSA indicate that the dealer continues to be solvent and financially responsible, and
- (e) the review of the renewal application indicates no other consignment or licensing issues.

### Additional letter of credit for consignment privileges

6.1.21. Where the review of an application to renew consignment privileges indicates:

- (a) a significant change in the proportion of the dealer's revenue attributable to consignment sales,
- (b) a new or additional risk of financial insolvency, or
- (c) new or additional grounds for concern about the compliance history of the dealer or the dealer's employees

the VSA may require that the amount of the additional letter of credit required on an application for consignment privileges be increased as a condition of renewal.

### Decisions regarding a renewal application

6.1.22. After completing a detailed review of a renewal application, where the Licensing Officer determines that the application meets the application requirements and there are no other issues with the renewal of licence or consignment privileges, the Licensing Officer will approve the application.

6.1.23. Where a Licensing Officer does not approve an application under paragraph [6.1.22](#), the officer will refer the application to the Manager of Licensing.

6.1.24. Where an application to renew a dealer licence is referred to the Manager of Licensing, the Manager will investigate further as required and determine whether to:

- (a) renew the licence and consignment privileges where applicable, including any conditions on the renewal to address the issues identified
- (b) recommend that the licence not be renewed, or
- (c) refuse to renew the dealer's consignment privileges.

### Hearing before the Registrar

6.1.25. Where the Manager of Licensing determines that a dealer licence should not be renewed, the Manager will schedule a hearing before the Registrar.



- 6.1.26. Where the Manager of licensing decides to revoke or not to renew a dealer's consignment privileges, the applicant may request a hearing before the Registrar. The applicant must request a hearing within 30 days from the date of the letter notifying the applicant that the consignment privileges were revoked or not renewed.

## 6.2. Procedures

### Renewal notice

- 6.2.1. The Licensing Officer monitors licence renewal dates and 6 weeks prior to the renewal of a dealer's licence the officer sends a renewal package to the dealer.

### Follow up for renewal of consignment privileges

- 6.2.2. If a dealer with consignment privileges has not submitted an application to renew consignment privileges by 14 days prior to the renewal date, a Licensing Officer contacts the dealer and informs them that the dealer must cease all consignment sales activity if the authorization expires without being renewed.
- 6.2.3. If a dealer has not submitted or completed an application to renew consignment privileges within 5 business days of the renewal date of the authorization, then the Licensing Officer informs the Manager of Licensing and the Manager of Investigations.
- 6.2.4. Where a dealer's authorization expires without being renewed, the Licensing Officer informs the Manager of Industry Standards that the dealer is no longer authorized to conduct consignment sales.

### Temporary extension of consignment privileges

- 6.2.5. Where:
- (a) a dealer submits or completes an application to renew consignment privileges less than 14 days prior to the renewal date of the dealer registration, or
  - (b) the VSA requires some additional information that was not included in the renewal application requirements in order to evaluate a renewal application
- and the Licensing Officer determines that the VSA will not be able to complete its review of the application prior to the renewal date, the officer refers the application to the Manager of Licensing.
- 6.2.6. The Manager of Licensing reviews the application and determines whether to:
- (a) temporarily extend the dealer's authorization to conduct consignment sales for up to 30 days, or
  - (b) allow the dealer's authorization to conduct consignment sales to expire if the VSA is not able to complete its review of the application prior to the renewal date.

### Initial review of application to renew

- 6.2.7. When renewal applications are received, the Licensing Officer processes the applications in order of renewal date.
- 6.2.8. The Licensing Officer reviews the Notice of Registration Renewal to determine if:
- (a) the correct renewal fee has been provided
  - (b) the renewal form is complete, and
  - (c) all the supporting documentation required in paragraph [6.1.3](#) has been provided.
- 6.2.9. Where a renewal application is not complete, the Licensing Officer contacts the dealer and:
- (a) requests that the dealer provide the missing information or documentation, and
  - (b) informs the dealer that the licence will not be renewed until the application is complete.

### Detailed review of renewal application

- 6.2.10. The Licensing Officer reviews the renewal application for information about the dealer that may affect approval of the renewal, including:
- (a) engaging in consignment sales when not permitted
  - (b) offering in-house leasing or financing when not licensed as a lease or finance company
  - (c) a change in dealer name (legal name or DBA name), location or ownership that was not approved
  - (d) a change to the criminal record or offence history that has not been reviewed by the VSA, and
  - (e) any other information that may indicate it would not be in the public interest to renew the licence.
- 6.2.11. Where the dealer is applying for a renewal of consignment privileges, the Licensing Officer reviews the application and information in VSA files or obtained from other sources to determine if:
- (a) the dealer's actual consignment business is consistent with the business plan approved by the VSA and the dealer has no plans to change the business in a way that might affect the viability of the business or the financial solvency of the dealer
  - (b) the dealer has a favourable compliance history, including the results of any dealer inspections
  - (c) the dealer's authorized spokesperson has completed any required certification course, and
  - (d) the dealer continues to be solvent and financially responsible.
- 6.2.12. Where the Licensing Officer becomes aware that a dealer with consignment privileges has relocated, the officer immediately informs the Manager of Industry Standards.

### Check for outstanding balance

- 6.2.13. The Licensing Officer checks the dealer profile to determine whether the dealer has any outstanding balance owing to the VSA.
- 6.2.14. Where the dealer has an outstanding balance, the Licensing Officer determines the reason for the balance owing and requests authorization from the Manager of Licensing to renew the licence.
- 6.2.15. The Manager of Licensing reviews the outstanding balance and determines whether the dealer licence will be renewed prior to the outstanding balance being paid.

### Corporate registration

- 6.2.16. Where required, the Licensing Officer checks the corporate registry to determine whether the dealer's registration remains in good standing. This check is done every other year based on dealer number, with odd numbers being done in one year and even numbers the next.
- 6.2.17. Where a dealer is not in good standing, the Licensing Officer sends the dealer a letter indicating that they must take action to meet the requirements for good standing.
- 6.2.18. Where a check of the Corporate Registry indicates that the dealership has been dissolved, the Licensing Officer:
- (a) notifies the dealer that the licence is no longer valid
  - (b) changes the status of the licence in the VSA database to pending, and
  - (c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction that the licence is no longer valid.

### Salesperson licensing

- 6.2.19. The Licensing Officer reviews the dealership employee list to determine whether the salesperson licence information in the VSA database matches the information provided in the renewal application and that there are no lapsed licenses or unlicensed salespersons.
- 6.2.20. Where a dealer is not compliant with salesperson licensing requirements, the officer contacts the dealer to address the issues and determines whether the dealer should be renewed or whether the application should be referred to the Manager of Licensing.

### Renewing the licence

- 6.2.21. Where the Licensing Officer completes the review of a renewal application and there are no unresolved issues, the officer:
- (a) renews the licence including consignment privileges where applicable in the VSA database
  - (b) processes the renewal fee, and
  - (c) issues the new licence and mails it to the dealer.

### Referral to Manager of Licensing

- 6.2.22. Where the Licensing Officer determines that there are issues affecting approval of the renewal application that the dealer has not been able to resolve, the officer refers the application to the Manager of Licensing for review.
- 6.2.23. The Manager of Licensing reviews the application and the issues identified by the officer and investigates further where required. This may include:
- (a) requesting that an Investigations Officer conduct an inspection or investigation of the dealer, and
  - (b) requiring that the dealer provide further information regarding the dealer's operations, business plans, or financial records.
- 6.2.24. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
- (a) renew the licence and consignment privileges where applicable, including any conditions on the renewal to address the issues identified
  - (b) recommend that the licence not be renewed, or
  - (c) refuse to renew the dealer's consignment privileges.

### Where Manager determines a licence should not be renewed

- 6.2.25. Where the Manager of Licensing determines that a dealer licence should not be renewed, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

### Where consignment privileges are not renewed (no consignment privileges)

- 6.2.26. Where the Manager of Licensing determines that a dealer's consignment privileges should not be renewed and the dealer continues to be licensed, the Manager of Licensing:
- (a) informs the dealer of the decision and indicates that written reasons will be provided
  - (b) informs the Manager of Investigations of the decision to ensure compliance, and
  - (c) sends a letter to the dealer indicating
    - (i) that the dealer no longer has consignment privileges
    - (ii) the reasons for the decision, and
    - (iii) that if the dealer wishes to have a hearing before the Registrar on the decision, the dealer must request a hearing within 30 days of the date of the letter.
- 6.2.27. Where a dealer requests a hearing within the time allowed, the Manager of Licensing initiates a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

**Failure to renew licence before renewal date**

- 6.2.28. The Licensing Officer monitors dealer licence renewal dates and where a dealer has failed to submit a renewal application prior to the renewal date of the licence, the officer:
- (a) contacts the dealer by telephone where possible, and
  - (b) sends a warning letter to the dealer indicating that the dealer's licence has lapsed and will be cancelled if it is not renewed within 60 days.
- 6.2.29. Where the dealer fails to renew the licence within 60 days of the renewal date, the Licensing Officer:
- (a) cancels the licence
  - (b) requests that the Investigations Officer or Industry Standards Officer conduct a closure inspection, and
  - (c) notifies ICBC, ADESA and any other wholesale auction that the licence has been cancelled.
- 6.2.30. Where a dealer submits an application to renew within 60 days of the renewal date, the Licensing Officer reviews the application and determines whether to:
- (a) renew the licence, or
  - (b) forward the renewal application to the Manager of licensing for further review.
- 6.2.31. Where the Licensing Officer renews the licence, the officer applies a late fee in addition to the renewal fee.
- 6.2.32. If a dealer disputes the application of a late fee, the Licensing Officer consults with the Manager of Licensing to determine whether the late fee will be applied.

## 7. Dealership changes

### 7.1. Policy

#### Licence not transferrable

7.1.1. A dealer licence is not transferrable to any other individual, partnership or corporation. Where there is a change to a sole proprietor or where, in the opinion of the Manager of Licensing, a change of partners, officers or directors of a corporation, or shareholders of a private corporation, constitutes a change in ownership, the new ownership will be required to submit an application for a new dealer licence.

#### Change of contact information

7.1.2. A dealer must provide the VSA with any changes to its contact information, including any change to the dealer's authorized spokesperson, within 14 days of the change.

#### Change of name, location or ownership

7.1.3. Where there is any change to a dealer's name or location, or to the partners in a partnership, the officers or directors of a corporation, or the shareholders of a private corporation that is a licenced dealer, the dealer must complete a Notice of Change (form 3) and submit it to the VSA along with any applicable fee within 14 days of the change.

7.1.4. Where there is a change to a partner, an officer or directors of a corporation, or a shareholder of a private corporation that is a licenced dealer, every new individual must:

- (a) complete and submit a Dealer Applicant Profile (form 1a), and
- (b) provide
  - (i) a copy of personal photo identification
  - (ii) a copy of the share purchase agreement, where applicable
  - (iii) consent for the VSA to conduct a review of their personal and corporate credit history, and
  - (iv) consent for a criminal record check.

7.1.5. The VSA will conduct [background checks](#) on individuals submitting a Dealer Applicant Profile as part of change to an existing dealership according to the policy for new dealer applicants.

#### Change of ownership – where new application is required

7.1.6. A new dealer application must be submitted where:

- (a) a dealership is transferred to a new legal entity (a new individual, partnership or corporation), or
- (b) the legal entity that owns the dealership does not change but a change in ownership of the entity results in a change to the controlling interest in the dealership.

- 7.1.7. Where there is a change as described in [7.1.6\(b\)](#), the applicant may keep the existing dealer licence number if a new dealer application is approved.

### Change in name of corporation

- 7.1.8. Where a dealership owned by an incorporated company changes its name but:

- (a) retains the same incorporation number, and
- (b) there is no change to the controlling interest

the change will be processed as change to an existing dealer and will not require a new application.

## 7.2. Procedures

### Change of location

- 7.2.1. Upon receipt of a Notice of Change – Location (form 3a), the Licensing Officer reviews the form for:

- (a) completeness
- (b) payment of the change fee, and
- (c) the effective date of the change.

- 7.2.2. The Licensing Officer processes the change the day before the effective date of the change or as soon as possible after the change has taken effect.

- 7.2.3. When processing the change, the Licensing Officer:

- (a) processes the fee payment
- (b) enters the new location information into the VSA database and adds conditions to the dealer licence for the dealer to
  - (i) submit a new business licence for the location within 30 days, and
  - (ii) undergo an inspection of the new location.
- (c) sends an inspection request to the Investigations Officer, and
- (d) notifies ICBC, ADESA and any other wholesale auction of the location change.

### Change of name

- 7.2.4. Upon receipt of a Notice of Change – Motor Dealer Name (form 3b), the Licensing Officer reviews the form for completeness and payment of the change fee.

- 7.2.5. The Licensing Officer checks the Corporate Registry to confirm that the new name is registered.

- 7.2.6. When processing the change, the Licensing Officer:

- (a) processes the fee payment and enters the new dealer name into the VSA database
- (b) changes the dealer name on the dealer file, and

(c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction about the name change.

7.2.7. The Licensing Officer mails a new dealer licence and new salesperson licences to the dealer and salespersons except where:

- (a) new dealer and salesperson licences are not sent because the name change is minor, or
- (b) a new dealer licence is not sent because the dealer licence renewal is imminent.

### **Change of ownership**

7.2.8. Upon receipt of a Notice of Change – Ownership (form 3c), the Licensing Officer reviews the form for:

- (a) completeness, including any required
  - (i) Dealer Applicant Profile (form 1a)
  - (ii) copy of a share purchase agreement
- (b) payment of the change fee, and
- (c) the effective date of the change.

7.2.9. The Licensing Officer reviews the form to determine whether the new ownership may be processed as a change or a new dealer application is required and follows up with the dealer where required.

7.2.10. Where new individuals are being added, the Licensing Officer:

- (a) determines the requirement for and status of salesperson licensing, and
- (b) conducts background checks.

7.2.11. When the Licensing Officer's review is complete and there are no unresolved issues, the Licensing Officer amends the dealer record in the VSA database.



## 8. Secondary store-front locations

### 8.1. Policy

#### Application of this policy

8.1.1. This policy applies to a registered dealer who wishes to register an additional location consisting primarily of a display space within an existing shopping centre or mall.

8.1.2. A secondary store-front location must be:

- (a) associated with an established dealership but must be licensed separately from the associated dealership, and
- (b) used for the display and sale of new vehicles only.

#### Application requirements

8.1.3. The application requirements for a secondary store-front location are the same as those for a new dealer application (see [Licence application requirements](#)) except that:

- (a) the application fee and renewal fee will be the same as the licence renewal fee applicable under the small new dealer category (see [Renewal fee reduction for small new vehicle dealers](#))
- (b) the location will be exempt from the business premises requirements found in section 3(1)(a)(vi) of the MDA as provided under section 15 of the MDA Regulation, and
- (c) the Manager of Licensing may
  - (i) allow the applicant to provide a more simplified business plan than required for a regular dealer location, and
  - (ii) where requested by the applicant, waive the letter of credit requirement for the store-front location.

#### Location change or inactivity

8.1.4. A dealer may move the location of the secondary store-front location up to 4 times per year without incurring a change fee.

8.1.5. Where a dealer ceases to operate a secondary store-front location, the dealer may hold the licence as pending for up to six months or until the registration expires, whichever occurs first.

8.1.6. The dealer may reactivate a pending licence once during the term of the licence.

### 8.2. Procedures

8.2.1. The Licensing Officer processes the application following the same procedures as a regular dealer application.

## 9. Off-site sales events

### 9.1. Policy

#### Permit required

- 9.1.1. Except as provided in paragraph [9.1.10](#), a dealer must conduct business solely at its registered location unless the Licensing department has issued an off-site sale permit.
- 9.1.2. In a multi-dealer off-site sales event, each dealer is responsible for ensuring that it has received an off-site sale permit prior to the start of the event.
- 9.1.3. A dealer's off-site sale permit must be displayed to the public at all times during an off-site sales event.

#### Application for permit

- 9.1.4. A dealer or an off-site sales event organizer applying for an off-site sale permit must complete an Off-site Sale Permit Request (form 4) and submit it to the VSA along with the permit fee at least 3 weeks prior to the proposed off-site sale.
- 9.1.5. A 25% surcharge will be applied to the permit fee where an application for an off-site sale permit is completed or received by the VSA less than 3 weeks from the proposed off-site sale.
- 9.1.6. A 50% surcharge will be applied to the permit fee where an application for an off-site sale permit is completed or received by the VSA on or after the start date of the event.

#### Discounted fee for multi-dealer events

- 9.1.7. Where five or more dealers plan to participate in an off-site sales event, those dealers will receive a 30% discount on the permit fee if the event organizer fully completes a group off-site sale permit request form on behalf of all participating dealers and submits it to the VSA no less than 3 weeks prior to the start of the event.
- 9.1.8. A group off-site sale permit request completed or received by the VSA less than 3 weeks prior to the start of the event will not be eligible for a discounted permit fee.

#### Waiving off-site sale permit fee

- 9.1.9. The Manager of Licensing may waive, either partially or fully, the off-site sale permit fee where:
  - (a) the Off-site Sale Permit Request is received by the VSA at least 6 weeks prior to the proposed off-site sale
  - (b) the proposed off-site sale will
    - (i) benefit an organization that is a charity registered with the Canada Revenue Agency,
    - (ii) provide consumer access to vehicle sales in a remote community with no resident dealers, or

- (iii) provide an opportunity for the VSA to communicate with dealers and consumers.

#### **Exception to permit requirement for non-sales event**

9.1.10. A dealer may, for promotional purposes, display a vehicle in a public location such as a shopping mall, lottery prize display, or exhibition grounds without obtaining an off-site sale permit if the following criteria are met:

- (a) the vehicle remains parked and locked while on display
- (b) no salespersons or dealer representatives are present unless the dealer has requested and received prior approval from the Licensing department
- (c) the dealer's registered name is displayed on the vehicle, and
- (d) the price of the vehicle is displayed and complies with the Motor Dealer Advertising Guidelines.

#### **General requirements for off-site sales events**

9.1.11. A dealer may not have more than 36 off-site sale days in a calendar year.

9.1.12. All individuals interacting with consumers on behalf of a dealer must hold a valid salesperson licence.

9.1.13. Manufacturer and supplier representatives who attend an off-site sales event may not participate in selling or negotiating the sale of a vehicle to a consumer unless they hold a valid salesperson licence.

9.1.14. Any advertisement for an off-site sales event must:

- (a) clearly identify
  - (i) the registered names of all participating dealers, and/or
  - (ii) the legal name of the organization hosting the event, and
- (b) comply with the Motor Dealer Advertising Guidelines.

9.1.15. All vehicles displayed for sale must be marked to clearly indicate the name of the dealer offering the vehicle for sale.

#### **Compliance with local bylaws**

9.1.16. The location and facilities of an off-site sales event must meet the applicable zoning and other bylaws of the local authority, including requirements for a permit or licence to operate the event.

## **9.2. Procedures**

### **Initial review of request for permit**

9.2.1. The Licensing Officer reviews the Off-Site Sale Permit Request to determine if:

- (a) the request form is complete and the correct permit fee has been provided, and

(b) a marketing company or marketing salesperson will be present at the event.

9.2.2. Where the request form is not complete or the correct fee has not been provided, the Licensing Officer follows up with the applicant as required.

### Processing the permit request

9.2.3. The Licensing Officer checks the dealer records to confirm that all the participating dealers are in good standing.

9.2.4. Where marketing salespersons will be involved in the event, the Licensing Officer also ensures that:

- (a) there is a temporary Employment Authorization for each marketing salesperson who will attend and which indicates the start and end date of the event,
- (b) the marketing salespersons are licensed in good standing, and
- (c) any salesperson licence fees owing for participation in the event have been paid.

### Issuing the permit

9.2.5. The Licensing Officer:

- (a) processes the permit fee and enters the event in the VSA database
- (b) creates the permit, and
- (c) notifies the
  - (i) Investigations Officer
  - (ii) Manager of Investigations
  - (iii) advertising coordinator, and
  - (iv) Manager of Licensing.

9.2.6. If no issues are raised by Investigations or Licensing after 2 days from sending notification of the event and any salesperson licence fees owing have been paid, the Licensing Officer:

- (a) emails the permit to the dealer
- (b) where there are marketing salespersons, issues conditional salesperson licences for the event and faxes them to the dealer with a cover sheet indicating
  - (i) the conditional licence is effective only for the dates indicated, and
  - (ii) the dealer is responsible for confirming the identity of those named in the licences
- (c) notifies the web coordinator, and
- (d) updates the licensing spreadsheet of off-site sale events.

### Request to waive fee

9.2.7. Where the Licensing Officer receives a request to waive the permit fee for an off-site sales event, the officer forwards the request to the Manager of Licensing.

9.2.8. The Manager of Licensing reviews the request and determines whether to waive the fee.

**Event concluded**

9.2.9. After the off-site sales event has ended, the Licensing Officer notes the end of employment in the VSA database for any marketing salesperson.

## 10. Dealer licence on hold

### 10.1. Policy

- 10.1.1. A dealer who wishes to temporarily suspend operations may request that the dealer licence be placed on hold for up to 6 months provided that the dealer complies with any renewal requirements, including payment of renewal fees, while the licence is on hold.
- 10.1.2. A license may be placed on hold where the dealer is temporarily unable to continue operating the dealership for reasons beyond the dealer's control, such as:
- (e) illness, injury or other medical condition
  - (f) the need to care for a newborn child
  - (g) the loss of a lease on the dealer's premises, and
  - (h) interruption of business caused by a natural disaster or similar event.

### 10.2. Procedures

- 10.2.1. Where a dealer requests that a licence be placed on hold, the Licensing Officer confirms the reason for the request and determines whether to place the licence on hold.
- 10.2.2. Where the Licensing Officer is unable to determine whether to place the licence on hold, the officer refers the request to the Manager of Licensing.
- 10.2.3. Where the Licensing Officer or the Manager of Licensing determines that the dealer licence will be placed on hold, the Licensing Officer:
- (a) changes the licence status from active to pending
  - (b) schedules a follow-up contact with the dealer, and
  - (c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction about the status of the licence.

## 11. Cancellation or suspension of a licence

### 11.1. Policy

11.1.1. Where a dealer voluntarily cancels a licence, or the Registrar cancels or suspends a dealer licence, the dealer must immediately return the licence to the VSA.

11.1.2. Where a cancelled or suspended licence is not immediately returned to the VSA, the Investigations department will attempt to retrieve the licence from the dealer.

### 11.2. Procedures

#### General

11.2.1. When the Licensing Officer receives hearing results indicating that a licence has been cancelled or suspended, the officer:

- (a) cancels or suspends the licence and enters the reason for cancellation or suspension in the dealer record
- (b) uploads the hearing results to the dealer record, and
- (c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction about the cancellation or suspension, including the end date of a suspension.

11.2.2. Where the licence is suspended, the Licensing Officer schedules a reminder to change the status of the licence when the term of the suspension ends.

#### Consignment privileges – voluntary surrender, bankruptcy or winding up

11.2.3. Where a Licensing Officer or other VSA staff member becomes aware that a dealer with consignment privileges has voluntarily surrendered consignment privileges, gone into bankruptcy or is winding up the business, that person immediately informs the:

- (a) Manager of Licensing
- (b) Manager of Investigations, and
- (c) Registrar.

## 12. Release of letter of credit

### 12.1. Policy

#### General

12.1.1. Except as provided in paragraph [12.1.3](#), a letter of credit will be held by the VSA for a minimum of:

- (a) six months after a dealer ceases to be licensed, or
- (b) one year after a dealer ceases to be licensed or to be authorized to conduct consignment sales if the letter of credit is related to the dealer's consignment privileges.

12.1.2. After the minimum period for holding a letter of credit has passed, a dealer may request that the VSA release the letter of credit. Upon such a request, the letter of credit will be returned to the issuing financial institution if:

- (a) the request is made by all the shareholders registered with the dealer
- (b) the dealer has no outstanding balance with the VSA, and
- (c) there are no ongoing VSA investigations or Motor Dealer Customer Compensation Fund claims against the dealer.

#### Request for release while dealer is active

12.1.3. An active dealer who was licenced before January 1, 2009 may request the release of the letter of credit provided at the time of licensing.

12.1.4. Where a request is made under paragraph [12.1.3](#), a Licensing Officer will:

- (a) obtain and review a credit history report for the dealer
- (b) obtain a report from the Investigations Officer regarding any issues that may affect a decision to release the letter of credit, and
- (c) review the status of any enquiries, investigations or Motor Dealer Customer Compensation Fund claims involving the dealer

in order to determine whether the letter of credit may still be required.

12.1.5. The Licensing Officer will forward the request to the Manager of Licensing with a recommendation whether to approve or deny the request.

### 12.2. Procedures

#### Request for release where dealer is not active

12.2.1. Where a request to return a letter of credit is received from a dealer who is no longer licenced, the Licensing Officer reviews the request and the dealer record to confirm whether the requirements in paragraphs [12.1.1](#) and [12.1.2](#) have been met.

12.2.2. Where the requirements have been met, the Licensing Officer releases the letter of credit.



### Request for release while dealer is active

12.2.3. Where a request to return a letter of credit is received from a licenced dealer, the Licensing Officer:

- (a) reviews the dealer record to
  - (i) confirm that the dealer was licensed before January 1, 2009
  - (ii) ensure there are no active enquiries, investigations or compensation fund claims
- (b) requests that the Investigations Officer review the request and provide an email indicating whether the Investigations Officer has any concerns about releasing the letter of credit, and
- (c) conducts a credit history check on the dealer and individuals registered with the dealer to confirm that there are no credit or solvency issues.

12.2.4. After reviewing the request, the Licensing Officer forwards the request and a recommendation to approve or deny the request to the Manager of Licensing.

12.2.5. The Manager of Licensing determines whether to approve the request and

- (a) where the request is approved, instructs the Licensing Officer to release the letter of credit, or
- (b) where the request is denied, sends a letter to the dealer indicating why the request was denied.

### Releasing a letter of credit

12.2.6. After a decision to release a letter of credit, the Licensing Officer:

- (a) prepares and mails a notification letter to the dealer and adds a copy to the dealer file
- (b) contacts the issuing financial institution to determine the name and contact information of the person responsible for receiving the letter of credit, and
- (c) instructs an administrative officer to courier the letter of credit to the financial institution and to enter the courier tracking number in the dealer profile.

## 13. Progressive Enforcement Model

### 13.1. Progressive enforcement

In addition to the Registrar's authority under the MDA and regulations, the Registrar also has the powers of the "Director" to enforce parts of the BPCPA as they relate to motor dealers and salespersons.

To address non-compliance, the VSA employs a method of progressive enforcement. Progressive enforcement means that the enforcement measures should only become more serious and deterrent in nature if a corrective action is not taken at the earliest detection of unlawful behavior. Nonetheless, depending on the nature of the non-compliance, the VSA may proceed as needed to any appropriate enforcement measure. The specific enforcement measure used will always depend on the circumstances of each case with the goal of educating and deterring future non-compliance.

The following are the general enforcement practices:

- ✓ The Investigations Officer will investigate and submit a report to the Manager of Investigations.
- ✓ The Manager of Investigations in consultation with the Director of Investigations, Licensing and Legal Services, will consider what if any enforcement response is appropriate.
- ✓ In selecting any enforcement response, the VSA Regulatory Philosophy and Enforcement Principles and the VSA's Compliance Enforcement Model will be applied.
- ✓ The Manager of Investigations can recommend a licensee voluntarily accept a proposed enforcement response through an undertaking or warning letter. The licensee is free to accept, reject or propose an alternative enforcement response.
- ✓ Ultimately, the Registrar is responsible for approving, or if necessary, ordering all enforcement responses.

The following are general enforcement measures that may be used:

- ✓ Discussion and advice to allow a licensee to voluntarily come into compliance;
- ✓ A written warning;
- ✓ A condition added to a licence to be met within a certain time period;
- ✓ A violation ticket with a fine;

- ✓ An undertaking (a voluntary agreement to undertake conditions with specified consequences for failing to fulfill the agreement); and
- ✓ a hearing before the Registrar. After a hearing, the Registrar may impose the following enforcement measures:
  - a condition added to a licence
  - a compliance order (an order issued where there has been a contravention of the MDA and/or BPCPA)
  - an administrative penalty (a monetary penalty assessed where there has been a contravention of the MDA and/or BPCPA)
  - a suspension of a licence, and
  - a cancellation of a licence.

**Levels of Authority:**

- ✓ Investigator: An investigator investigates if a breach of the legislation has occurred and reports their findings to the Manager of Investigations. An investigator cannot impose enforcement on a licensee and should not be making recommendations regarding enforcement.
- ✓ Manager of Investigations: Reviews investigation reports and in consultation with the Director of Investigations, Licensing and Legal Services and where appropriate with outside legal counsel, recommends what if any enforcement response is appropriate. The Manager of Investigations engages in discussion with the licensee on the proposed enforcement response.
- ✓ Director of Consumer Services and Industry Standards: Oversees the Manager of Industry Standards and may be consulted on enforcement response selection.
- ✓ Director of Investigations, Licensing and Legal Services: Provides legal advice and policy advice on the allegations and enforcement selection.
- ✓ Registrar: Must formally approve or order all enforcement responses, including written warnings.

If necessary, a compliance order, administrative penalty and an undertaking made under the MDA and/or the BPCPA may be filed in the BC Supreme Court and enforced as a court order.

## C. AUTHORIZATION OF CONSIGNMENT SALES

### 1. Overview

#### 1.1. Consignment sales

Consignment means any arrangement by which a vehicle is entrusted to a dealer:

- ✓ for sale by the dealer
- ✓ under a conditional sale to the dealer for the purpose of resale, or
- ✓ to display by the dealer for sale.

Consignment sales entail a unique relationship of trust between the consumer (consignor) and the dealer (consignee) with great potential for loss to the consumer. In order to mitigate this risk, the *Motor Dealer Act* and the *Motor Dealer Consignment Sales Regulation* provide specific legal requirements for the conduct of consignment sales and give the Registrar the authority to determine whether a dealer will be authorized to conduct consignment sales.

The VSA employs application reviews, inspection procedures and reporting requirements to monitor the compliance of dealers with the laws governing consignment sales and assess potential risks to the public.

#### 1.2. Application for consignment privileges

Every new dealer licence includes a condition prohibiting the dealer from conducting consignment sales. A dealer who wishes to conduct consignment sales must apply to the VSA for consignment privileges.

The VSA has developed a set of criteria that must be met in order for a dealer to qualify for consignment privileges. These criteria are intended to ensure that dealers who conduct consignment sales have a proven track record of responsible business practices in order to minimize the risk of financial loss to the public.

An application for consignment privileges is thoroughly reviewed by the Licensing and Investigations departments before the Registrar decides whether to authorize a dealer to conduct consignment sales.

#### 1.3. Renewal of consignment privileges

An authorization to conduct consignment sales is valid for a maximum of 1 year and expires on the same date as the dealer's licence. A dealer must apply to renew consignment privileges at the time of licence renewal.

When applying to renew consignment privileges, a dealer must provide consignment business records and financial information. This information is reviewed by the Licensing department before consignment privileges are renewed. Where there are any areas of concern, the renewal application is reviewed by

the Manager of Licensing and further investigation may be conducted before deciding whether consignment privileges will be renewed.

The policy and procedures for renewal of consignment privileges are included in [Part B, section 6 – Renewal of dealer licence](#).

## 1.4. Legislative authority and requirements

### Authority to delegate

1.4.1. The Registrar may lawfully delegate any of his powers to an Investigations Officer, Licensing Officer, Consumer Services Officer or any other person he deems appropriate to exercise those powers. [MDA s. 1(1) – definition of Registrar]

### Motor dealer licensing

1.4.2. An application for registration must be made to the Registrar in the form approved by the Registrar and must be accompanied by the prescribed fee and any required contribution to the Motor Dealer Customer Compensation Fund. [MDA s. 4(1)]; MDCCF Reg – s.2(1) and (3)]

1.4.3. The Registrar may register or renew a registration on terms, conditions or restrictions that the Registrar considers necessary, including a condition requiring an irrevocable letter of credit, in an amount set by the Registrar, as evidence of financial responsibility. [MDA s. 4(4) and (5)]

1.4.4. The Registrar at any time may, by giving written notice to a registered person, add to or alter the terms, conditions, or restrictions of registration. [MDA s. 4(6)]

1.4.5. If, in the opinion of the Registrar, the financial responsibility or past conduct of an applicant or person registered, or its officers or directors, is such that it would not be in the public interest for them to be registered or continue to be registered, the Registrar may:

- (a) refuse to register an applicant or refuse to renew a registration, or
- (b) cancel a registration, or
- (c) suspend a registration for a period of time and subject to conditions the Registrar considers necessary. [MDA s. 5]

1.4.6. The Registrar may review a motor dealer's registration at any time and require any information or material concerning the organization, operating practices and procedures and financial status of the registrant. [MDA Reg s. 7]

1.4.7. The Registrar, in the exercise of the Registrar's powers and duties under sections 4 and 5 of the *Motor Dealer Act*, may make inquiries and require information

- (a) the Registrar considers appropriate or necessary to decide whether to grant, renew, cancel or suspend registration, or
- (b) respecting the business or the proposed business of the applicant as authorized by the regulations. [MDA s. 7(1)]

- 1.4.8. It is a condition of registration or renewal of registration that the applicant or the holder of a certificate of registration or renewal provide information and documents respecting the business of a motor dealer that the Registrar or another person conducting an inquiry under this Act requires. [MDA s. 7(2)]

## 2. Qualifications for consignment privileges

### 2.1. Policy

- 2.1.1. At a minimum, an applicant must meet the requirements in this part to qualify for consignment sales.

#### Licensing and compliance history

- 2.1.2. An applicant must be a licenced dealer in good standing with the VSA.
- 2.1.3. An applicant must have a history of consistent compliance with dealer and salesperson licensing requirements and prompt payment of fees.
- 2.1.4. An applicant's authorized spokesperson must have completed any required certification course.
- 2.1.5. And, have a minimum three years of experience as a licensed salesperson. An applicant must have a history of satisfactory inspection reports and compliance with regulatory requirements.
- 2.1.6. During the application review, an applicant must undergo a consignment inspection and receive a satisfactory inspection report.

#### Dealer location

- 2.1.7. The zoning of the applicant's dealership location must be appropriate for the operation of a dealership with consignment sales.
- 2.1.8. Where the applicant shares a location with another dealer, that dealer must also be authorized to conduct consignment sales.

#### Background checks

- 2.1.9. The VSA will conduct background checks on the applicant and any individual registered with the applicant.
- 2.1.10. In addition to the applicant and any individual registered with the applicant, where the Manager of Licensing determines that it is necessary the VSA may also conduct background checks on:
- (a) an individual, partnership or corporation that has a 10% or greater share of ownership of the applicant, and
  - (b) an individual that the VSA considers to be a "controlling mind" in the applicant's operations.
- 2.1.11. If an applicant or any person associated with the applicant who is required to have a background check has:
- (a) a criminal record
  - (b) a conviction for an offence (excluding parking tickets)
  - (c) been disciplined by another licensing body, or

(d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery),

the applicant or other person must not present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).

2.1.12. The credit history of an applicant and any person associated with the applicant who is required to have a background check must indicate financial solvency, including:

- (a) no outstanding judgment debts, and
- (b) credit owing does not exceed 75% of the credit available, unless further investigation of credit details indicates financial solvency.

### **Business skills and experience**

2.1.13. An applicant must have 3 years of experience operating as a dealer or another comparable business in which the applicant:

- (a) held substantial sums of money (\$10,000 or more) in trust for customers or in equivalent circumstances
- (b) experienced no serious financial issues such as bankruptcy, receivership, liquidation, or legal proceedings related to an inability to meet financial obligations, and
- (c) had no substantiated complaints regarding issues of trust, including deceptive or unconscionable practices, fraud, theft or other illegal activities.

### **Business plan**

2.1.14. An applicant must have a revised 3-year business plan with monthly and annual projections regarding proposed consignment sales including:

- (a) the anticipated number of vehicles to be consigned monthly
- (b) the anticipated value of the vehicles to be consigned, and
- (c) the anticipated percentage of total revenue that will be earned through consignment sales.

### **Trust account**

2.1.15. An applicant must have a trust account in a savings institution in British Columbia and which is designated as a trust account in the savings institution's records.

2.1.16. For the purposes of the required trust account, a "savings institution" means:

- (a) a bank or credit union
- (b) an incorporated trust company authorized to carry on deposit business under the Financial Institutions Act, or
- (c) an incorporated loan company that is a subsidiary of a bank and to which the Trust and Loan Companies Act (Canada) applies.



**Additional letter of credit**

2.1.17. An applicant must provide the VSA with an irrevocable letter of credit expressly for consigned vehicles sales only and in addition to any other letter of credit required as a condition of licence.

2.1.18. The amount of the irrevocable credit required in paragraph [2.1.17](#) generally will depend on the category of vehicle that the applicant intends to consign as indicated in the following table:

Category	Type of consigned vehicle	Maximum value of consigned vehicle inventory per month	Amount of credit required
1	Motorcycles, mopeds, low speed vehicles	\$80,000	\$15,000
2	Category 1 vehicles, and Cars, SUVs, pick-up trucks, passenger vans and similar vehicles	\$100,000	\$30,000
3	Category 1 and 2 vehicles and recreational vehicles and trailers	\$750,000	\$50,000

2.1.19. Where the average monthly inventory value of consigned vehicles exceeds the maximum amount for the category of vehicle, or the application indicates:

- (a) revenue from consignment sales will be more than 25% of total revenue
- (b) there is a risk of financial insolvency, or
- (c) grounds for concern about the compliance history of the applicant or the applicant’s employees,

the Registrar may require a higher amount of credit than indicated by the category of consigned vehicle.

2.1.20. When determining whether to require a higher amount of credit under paragraph [2.1.19](#), the Registrar will consider all the circumstances and facts of the application, including:

- (a) the risk that the applicant may pose to the Motor Dealer Customer Compensation Fund
- (b) the applicant’s business experience
- (c) the applicant’s experience in handling other people’s money or property under trust conditions
- (d) the applicant’s history in another regulated industry
- (e) the applicant’s history in managing their personal finances
- (f) the applicant’s credit utilization at the time of application
- (g) the number and type of lenders to the applicant’s business
- (h) the level of detail contained in the applicant’s business plan, and

- (i) the demographics and location of the applicant's dealership in relation to the business plan.

#### **Application of policy on additional letter of credit**

2.1.21. The letter of credit requirements in this policy apply to applications received after May 31, 2012.

2.1.22. A dealer who applied for or was granted consignment privileges prior to May 31, 2012 must comply with the letter of credit policy that was in place at the time of their application.

2.1.23. A dealer who applied for or was granted consignment privileges prior to May 31, 2012 and who subsequently stops being authorized to conduct consignment sales for more than six months must comply with the requirements of this policy if they re-apply for consignment privileges.

#### **Consignment and purchase agreement form**

2.1.24. An applicant must provide a copy of the consignment agreement form and purchase agreement for a consigned vehicle form that the applicant intends to use, and those forms must comply with the requirements of the Motor Dealer Consignment Sales Regulation.

#### **Fees**

2.1.25. Except where otherwise provided in this policy, an applicant for consignment privileges or renewal of consignment privileges must pay all applicable application fees and assessments as described in the [Motor Dealer Licence Application Schedule of Fees](#).

#### **Inspection**

2.1.26. An applicant must pass a consignment inspection prior to being authorized to conduct consignment sales.

### 3. Review of application for consignment privileges

#### 3.1. Policy

##### Consignment application requirements

- 3.1.1. An applicant must submit a completed Application for Consignment Privileges form (form 1(c)) and the consignment dealer fee.
- 3.1.2. Along with the completed Application for Consignment Privileges form and fee, the applicant must submit all the following supporting documentation:
  - (a) the applicant's financial statements for the previous 3 years
  - (b) a copy of the applicant's city or municipal business licence, or where the applicant's dealership is within a regional district that does not issue business licenses, proof that the location of the applicant's business premises is properly zoned for the operation of a dealership with consignment sales
  - (c) a revised 3-year business plan that includes consignment sales as described in paragraph [2.1.14](#)
  - (d) documentation from a savings institution in British Columbia confirming that the applicant has established a trust account which is designated as a trust account in the savings institution's records
  - (e) documentation from a financial institution confirming that it will provide the applicant with an irrevocable Letter of Credit in the amount required for the proposed consignment sales (see paragraph [2.1.18](#))
  - (f) a copy of the consignment agreement form and purchase agreement for a consigned vehicle form that the applicant proposes to use, and
  - (g) a list of all staff members and management currently employed or to be employed by the applicant, including their current licensing status and licensing history.

##### Application must be complete

- 3.1.3. The VSA will not begin to review an application until the application fee has been paid and will not approve an application until all the required information and documentation has been provided.
- 3.1.4. Where an application that has been received is incomplete, the VSA will inform the applicant and request the missing information or documentation.
- 3.1.5. Where the applicant does not provide the missing information or documentation within 6 months of receipt of the application, the application will be closed as incomplete. If the applicant wishes to reapply after an application has been closed as incomplete, the applicant must submit a new application including the consignment dealer fee.

### **Decisions regarding approval of an application**

- 3.1.6. The Manager of Licensing will reject an application for consignment privileges where the application does not meet the requirements for consignment privileges.
- 3.1.7. Where the Manager of Licensing believes an application meets the requirements for consignment privileges, the Manager will recommend approval to the Registrar, including any recommend terms or conditions.
- 3.1.8. After reviewing a recommendation from the Manager of Licensing, the Registrar may approve or deny an application for consignment privileges.

### **Request for hearing where application rejected or denied**

- 3.1.9. Where an application for consignment privileges is rejected or denied, the applicant may request a hearing before the Registrar. The applicant must request a hearing within 30 days from the date of the letter notifying the applicant that the application was rejected or denied.

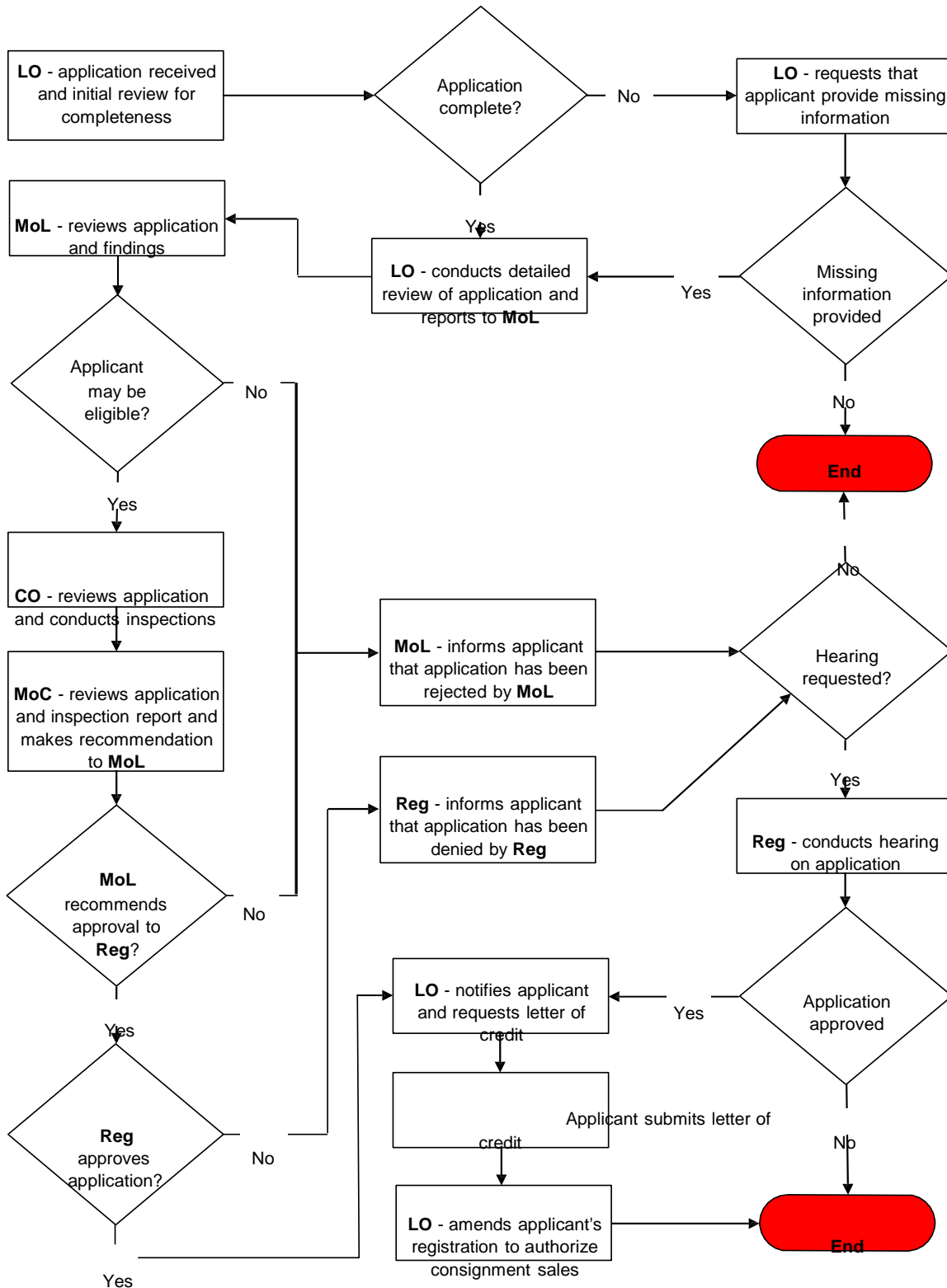
### **Amending licence to authorize consignment sales**

- 3.1.10. Upon receipt of the additional letter of credit from a dealer whose application for consignment privileges has been approved, the VSA will amend the dealer's licence to authorize consignment sales.

### **Term of authorization**

- 3.1.11. The maximum term of an authorization to conduct consignment sales will be 1 year and it will expire at the same time as the dealer licence.

### 3.2. Procedure's flowchart - review of application



### 3.3. Procedures

#### Initial review by Licensing Officer

- 3.3.1. Upon receipt of an application, a Licensing Officer processes the consignment dealer fee and enters the payment into the VSA database.
- 3.3.2. If the consignment dealer fee has not been provided, the Licensing Officer contacts the applicant and requests that the applicant provide the fee.
- 3.3.3. After the consignment dealer fee has been processed, the Licensing Officer reviews the application to determine if:
  - (a) the application form is complete, and
  - (b) all the supporting documentation required in paragraph [3.1.2](#) is attached.
- 3.3.4. Where the application is incomplete, the Licensing Officer contacts the applicant in writing and:
  - (a) requests that the applicant provide the missing information or documentation as soon as possible, and
  - (b) informs the applicant that if all the missing information or documentation is not received within 6 months of receipt of the application, the application will be closed.
- 3.3.5. Where an applicant does not provide the missing information or documentation within 6 months of receipt of the application, the Licensing Officer closes the application as incomplete and informs the applicant in writing that:
  - (a) the application has been closed, and
  - (b) if the applicant wishes to reapply in the future, the applicant must submit a new application including the consignment dealer fee.
- 3.3.6. Where the application is complete, the Licensing Officer conducts a detailed review of the application.

#### Licensing history

- 3.3.7. The Licensing Officer reviews the application and the information on the applicant in VSA files or obtained from other sources and determines whether:
  - (a) the applicant is a licenced dealer in good standing
  - (b) all the applicant's salespersons, including the applicant where applicable, are licensed and have completed any required certification course.
  - (c) the applicant's authorized spokesperson has completed any required certification course
  - (d) there are any concerns regarding the applicant's compliance history, including complaints, compensation fund claims, investigations or hearings, and
  - (e) there are any significant inconsistencies between the information provided in the application and the information on the applicant in VSA files or obtained from other sources.

### Determining who will be the subject of background checks

3.3.8. Where:

- (a) an individual, partnership or corporation registered with the applicant has a 10% or greater share of ownership of the applicant, or
- (b) there is an individual that the VSA considers to be a “controlling mind” in the applicant’s operations who is not registered with the applicant

the Licensing Officer consults with the Manager of Licensing to determine which of these individuals will be subject to background checks.

### Web-based background checks

3.3.9. The Licensing Officer conducts a general web query and a search of Court Services Online on the applicant and any individual, partnership or corporation identified under paragraph [3.3.8](#) for information that may be relevant to the application.

### Financial responsibility and solvency

3.3.10. The Licensing Officer reviews the credit history of the applicant and any individual, partnership or corporation identified under paragraph [3.3.8](#), and determines whether:

- (a) there are any outstanding judgment debts
- (b) the applicant’s credit owing exceeds 75% of the applicant’s available credit, and
- (c) whether there is any other information that may indicate a lack of financial responsibility or solvency.

3.3.11. Where the results of the review under paragraph [3.3.10](#) indicate that there may be a lack of financial responsibility or solvency, the Licensing Officer consults with the Manager of Licensing to determine whether further information is required from the applicant.

### Criminal record check

3.3.12. The Licensing Officer confirms whether the VSA has the results of a criminal record check on the applicant and any individual identified under paragraph [3.3.8](#) conducted within the past 5 years. Where the VSA does not have the results, the Licensing Officer ensures that all criminal record checks are updated as required.

3.3.13. Where the application review or a criminal record check reveals that an individual has:

- (a) a criminal record
- (b) a conviction for an offence (excluding parking tickets)
- (c) been disciplined by another licensing body, or
- (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, or assault and battery),

the Licensing Officer ensures that the individual has been found not to present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).

### Business skill and experience

- 3.3.14. The Licensing Officer reviews the application and the information on the applicant in VSA files or obtained from other sources and determines whether the applicant has at least 3 years of experience operating as a dealer or in another comparable business in which the applicant has:
- (a) held substantial sums of money (\$10,000 or more) in trust for customers or in equivalent circumstances
  - (b) experienced no serious financial issues such as bankruptcy, receivership, liquidation, or legal proceedings related to an inability to meet financial obligations, and
  - (c) had no substantiated complaints regarding issues of trust, including deceptive or unconscionable practices, fraud, theft or other illegal activities.

### Business plan

- 3.3.15. The Licensing Officer reviews the applicant's revised business plan and the information on the applicant in VSA files or obtained from other sources, and determines whether the revised business plan:
- (a) is consistent with the applicant's existing business,
  - (b) appears viable, and
  - (c) indicates that revenue from consignment sales will not be more than 25% of total revenue.

### Licensing Officer's Report

- 3.3.16. At any point during the review, if the Licensing Officer identifies an issue that may immediately disqualify an applicant, the Licensing Officer forwards the application to the Manager of Licensing and reports on the issue.
- 3.3.17. After completing a detailed review of the application, the Licensing Officer completes the Consignment Application Review Checklist, uploads it to the applicant's file in the VSA database, and forwards the application to the Manager of Licensing.

### Initial review by Manager of Licensing

- 3.3.18. The Manager of Licensing reviews the application and the results of the detailed review of the Licensing Officer and determines whether:
- (a) the application should continue to be reviewed, or
  - (b) the application should be rejected.
- 3.3.19. Where the Manager of Licensing determines that the application should continue to be reviewed, the Manager of Licensing forwards the application to the Investigations Officer for the applicant's service region and copies the Manager of Investigations.
- 3.3.20. Where the Manager of Licensing determines that an application should be rejected, the procedures in paragraph [3.3.32](#) apply.



### Detailed review by Investigations Officer

3.3.21. The Investigations Officer reviews the application, the information on the applicant in VSA files or obtained from other sources, and inspects the dealership and any dealership sharing the premises with the applicant. This includes a review of the applicant's:

- (a) trust account information
- (b) consignment agreement form and purchase agreement for a consigned vehicle form
- (c) randomly selected dealer records
- (d) maintenance and secure storage of dealer records
- (e) use of dealer plates
- (f) vehicle lot and buildings, including zoning for consignment sales
- (g) vehicles displayed for sale at the dealership
- (h) signage and dealer advertisements
- (i) physical security for consigned vehicles
- (j) insurance for consigned vehicles, where applicable, and
- (k) compliance history.

3.3.22. After completing the review and inspection, the Investigations Officer prepares a report with a recommendation and reasons regarding approval or rejection of the application, uploads the report to the VSA database, and forwards the application to the Manager of Investigations.

### Review and recommendation by Manager of Investigations

3.3.23. The Manager of Investigations reviews the application and the information on the review of the application, and makes a recommendation regarding approval or rejection to the Manager of Licensing.

### Final review by Manager of Licensing

3.3.24. The Manager of Licensing reviews the recommendation from the Manager of Investigations and decides whether the application should be recommended for approval to the Registrar or should be rejected.

3.3.25. Where the Manager of Licensing decides to recommend approval of an application and:

- (a) the average monthly inventory value of consigned vehicles exceeds the maximum amount for the category of vehicle established in paragraph [2.1.18](#)
- (b) the revenue from consignment sales will be more than 25% of total revenue,
- (c) there is risk of financial insolvency, or
- (d) there are grounds for concern about the compliance history of the applicant or the applicant's employees

the Manager of Licensing includes a recommendation on the amount to be required for the applicant's additional letter of credit.

### Registrar's review and decision

- 3.3.26. Where the Manager of Licensing recommends approval of an application for consignment privileges, the Registrar reviews the recommendation, including the recommended amount of the additional letter of credit, and decides:
- (a) whether to approve or deny the application
  - (b) the amount of the additional letter of credit required, and
  - (c) whether any other terms or conditions should be imposed on the authorization to conduct consignment sales.
- 3.3.27. Where the Registrar considers it necessary, the Registrar may call a hearing for the purpose of making a decision under paragraph [3.3.26](#).

### Where application approved

- 3.3.28. Where the Registrar approves an application for consignment privileges, the Licensing Officer sends a letter to the applicant indicating:
- (a) that the application for consignment privileges has been approved
  - (b) the amount of the additional letter of credit required
  - (c) any other terms or conditions on the authorization of consignment sales, and
  - (d) that the applicant must provide the additional letter of credit prior to being authorized to conduct consignment sales.
- 3.3.29. The Licensing Officer schedules a follow-up inspection of the approved applicant in the VSA database.

### Amending licence

- 3.3.30. Upon receipt of the additional letter of credit required from a dealer whose application for consignment privileges has been approved, a Licensing Officer amends the dealer licence to authorize consignment sales, including any terms and conditions of the authorization.
- 3.3.31. The Licensing Officer sends a copy of the revised licence to the dealer along with a letter indicating that:
- (a) there will be a follow-up inspection of the dealer within 3 months, and
  - (b) the authorization to conduct consignment sales will expire on the same date as the dealer's current licence and the dealer must apply for renewal of consignment privileges along with the dealer's licence renewal at least 14 days prior to the renewal date of the licence.

### Where application rejected by the Manager of Licensing

- 3.3.32. Where an application is rejected, the Manager of Licensing sends a letter to the applicant indicating:
- (a) that the application has been rejected by the Manager of Licensing
  - (b) the reasons for the decision, and

- (c) that if the applicant wishes to have a hearing on the application before the Registrar, the applicant must request the hearing within 30 days of the date of the letter.

#### **Where application denied by the Registrar**

3.3.33. Where an application is denied by the Registrar, the Registrar sends a written decision to the applicant with a letter indicating that if the applicant wishes to have a hearing on the application before the Registrar, the applicant must request the hearing within 30 days of the date of the letter.

#### **Request for a hearing**

3.3.34. Where an applicant requests a hearing within the time allowed, the Licensing Officer initiates the hearing process according to the VSA's [Hearing Policy and Procedures](#).

## D. SALESPERSON LICENSING AND RENEWAL

### 1. Overview

#### 1.1. Licensing and renewal

Any person who is a dealer or who works of behalf of a dealer and in any way participates in the sale of a vehicle to a consumer is a salesperson and must be licensed by the VSA.

This part contains the requirements that a person must meet in order to be granted a salesperson licence and the process for reviewing applications for a licence. The VSA carefully reviews an applicant's qualifications and suitability to be a salesperson in order to protect the public and the vehicle sales industry. This includes background checks and ensuring that an applicant has taken any mandatory certification courses.

Salespersons must renew their licences annually. At renewal, the VSA confirms whether the salesperson is in good standing with the VSA, including certification course requirements and follows up on any outstanding licensing or compliance issues before granting a renewal of the licence.

This part also contains the requirements for salespersons and dealers to submit and update employment authorizations when a salesperson starts or leaves employment and for the approval of medical leave.

#### 1.2. Legislative authority and requirements

##### Definition of salesperson

1.2.1. Any individual who is a motor dealer or who, on behalf of a motor dealer and for or in the expectation of a fee, gain or reward:

- (a) solicits, negotiates or arranges for the sale of a motor vehicle to a person, or
- (b) in any way participates in the soliciting, negotiating or arranging for the sale of a motor vehicle to a person

is a salesperson. [MDA s. 1(1) – definition of salesperson]

##### Requirement to be licensed as a salesperson

1.2.2. A person must not act as a salesperson unless they hold a valid licence. [SL Reg s. 2]

##### Application for a licence

1.2.3. An application for a salesperson licence must:

- (a) be made in the form and manner approved by the VSA and
- (b) be submitted with the applicable fee set by the VSA. [SL Reg s. 3(1)]

- 1.2.4. An application for a salesperson licence must include the following information, records, declarations and authorizations: [SL Reg s. 3(2)]:
- (a) the usual name of the applicant and any other name used by the applicant [SL Reg s. 3(2)(a)]
  - (b) contact information for the applicant, including a mailing address, residential address and telephone number and, if any, electronic mail address [SL Reg s. 3(2)(b)]
  - (c) proof of the applicant's age, citizenship and, if relevant, authority to work in Canada [SL Reg s. 3(2)(c)]
  - (d) the name of any person who employs or engages the applicant and, if the person is a registered dealer, the person's registration number [SL Reg s. 3(2)(d)]
  - (e) a copy of government-issued photo identification and a wallet-sized picture of the applicant endorsed by any dealer who will employ or engage the applicant [SL Reg s. 3(2)(e)]
  - (f) declarations of the applicant respecting the applicant's
    - (i) past conduct in the motor vehicle industry in this or any other jurisdiction, including previous dealings, if any, with the authority
    - (ii) past conduct in another regulated industry in this or any other jurisdiction
    - (iii) convictions, if any, for an offence under an enactment of this or any other jurisdiction in relation to consumer protection, tax, the motor vehicle industry or another regulated industry, and
    - (iv) convictions, if any, for a crime outside Canada [SL Reg s. 3(2)(f)]
  - (g) authorizations necessary for the VSA to
    - (i) obtain a criminal record check for the applicant, and
    - (ii) verify any other information provided in the application. [SL Reg s. 3(2)(g)]

#### **Application to renew a licence**

1.2.5. An application to renew a salesperson licence must be made at least 14 days before the salesperson licence expires. [SL Reg s. 3(4)]

1.2.6. An application to renew a salesperson licence must include:

- (a) a statement confirming that the information, the records and the facts described in a declaration or authorization provided at the time of the initial application for a licence or at the time of the last licence renewal, continue to be accurate, or
- (b) if there has been any change in the information, the records or the facts referred to in paragraph (a), a statement setting out the change and, as applicable, an updated record, declaration or authorization. [SL Reg s. 3(3)]

#### **Issuing and renewing a licence**

1.2.7. The VSA may issue or renew a salesperson licence for a term of not more than one year. [SL Reg s. 4]

- 1.2.8. The VSA may refuse to issue or renew a salesperson licence if the VSA considers, having regard to the conduct of the applicant, that it would not be in the public interest for the applicant to be licensed. [SL Reg s. 5(1)]
- 1.2.9. The VSA may not refuse to issue or renew a salesperson licence unless the VSA gives the applicant:
- (a) notice that the applicant has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
  - (b) written reasons for the decision to issue or renew the licence. [SL Reg s. 5(2), 8]

### Conditions on a license

- 1.2.10. When issuing or renewing a salesperson licence, the VSA may impose any of the conditions
- (a) related to the [obligations of the licensee](#) provided in section 6(1) of the Salesperson Licensing Regulation, and
  - (b) related to [prohibitions on the licensee](#) as provided in section 6(2) of the Salesperson Licensing Regulation.
- 1.2.11. On written notice to a licensed salesperson, the VSA may remove a condition or impose a condition provided in section 6(1) or 6(2). [SL Reg s. 6(3)]

### Conditions related to the obligations of the licensee – s. 6(1)

- 1.2.12. Any of following conditions related to the obligations of the licensee may be imposed:
- (a) the licensee must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the licensee's application for a salesperson licence [SL Reg s. 6(1)(a)]
  - (b) the licensee must, if the licensee ceases to act as a salesperson, immediately notify the VSA in writing and surrender the licensee's salesperson licence to the VSA [SL Reg s. 6(1)(b)]
  - (c) the licensee must notify any motor dealer who employs or engages the licensee of a condition on or suspension of the licensee's salesperson licence or if the licensee's salesperson licence is revoked [SL Reg s. 6(1)(c)]
  - (d) the licensee must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee [SL Reg s. 6(1)(d)]
  - (e) the licensee must complete, to the VSA's satisfaction, educational courses specified by the VSA [SL Reg s. 6(1)(e)]
  - (f) the licensee must keep and maintain, for a period of at least 2 years after the last dealing or transaction to which the record relates, notes, correspondence and other records relating to a consumer with whom the licensee dealt or a motor vehicle being considered for acquisition by a consumer [SL Reg s. 6(1)(f)]

- (g) the licensee must, on written request of the VSA, produce for the VSA's inspection the records described in paragraph (f) that the authority requires to determine whether the licensee's salesperson licence should be renewed, suspended or revoked [SL Reg s. 6(1)(g)]
- (h) the licensee must, if the VSA receives a complaint respecting the licensee, provide the VSA with the information and records that the VSA requires to investigate the complaint if the VSA
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint [SL Reg s. 6(1)(h)]
- (i) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed as a salesperson. [SL Reg s. 6(1)(i)]

### Conditions related to prohibitions on the licensee – s. 6(2)

1.2.13. Any of following conditions related to prohibitions on the licensee may be imposed:

- (a) the licensee must not act as a salesperson for a motor dealer unless the motor dealer is registered and named in the licensee's salesperson licence [SL Reg s. 6(2)(a)]
- (b) the licensee must not receive or otherwise handle a consumer's money [SL Reg s. 6(2)(b)]
- (c) the licensee must not hold a management position in a motor dealer business [SL Reg s. 6(2)(c)]
- (d) the licensee must not be unsupervised while acting as a salesperson in a motor dealer business [SL Reg s. 6(2)(d)]
- (e) the licensee must not act as a salesperson for a motor dealer other than a motor dealer who operates under a franchise agreement with a motor vehicle manufacturer [SL Reg s. 6(2)(e)]
- (f) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed as a salesperson. [SL Reg s. 6(2)(f)]

### Revoking or suspending a licence

1.2.14. The VSA may revoke or suspend a salesperson licence if the licensee notifies the authority that the licensee has ceased to act as a salesperson. [SL Reg s. 7(1)]

1.2.15. The VSA may revoke or suspend a salesperson licence if the VSA considers, having regard to the conduct of the licensee, that it would not be in the public interest for the licensee to continue to be licensed. [SL Reg s. 7(2)]

1.2.16. Before the VSA can revoke or suspend a salesperson licence, the VSA must give the licensee:

- (a) notice that the licensee has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
- (b) written reasons for the decision to revoke or suspend the licence. [SL Reg s. 7(3), 8]

1.2.17. Where a licence is suspended, the written reasons must specify the period of suspension, which may end on:

- (a) a fixed date, or

(b) the date the licensee meets all the conditions specified in the written reasons. [SL Reg s. 7(4)]

1.2.18. The conditions in the written reasons for a suspension may require that the licensee:

- (a) comply with a specified condition on the licence, and
- (b) pay a specified administrative penalty imposed under section 26.04 of the *Motor Dealer Act*. [SL Reg s. 7(5)]



## 2. Requirement to be licensed as a salesperson

### 2.1. Policy

#### Meaning of “consumer” in this policy

- 2.1.1. In this policy, “consumer” means an individual who engages in the purchase, exchange or other disposition or acquisition of a vehicle for purposes that are primarily personal, family or household.
- 2.1.2. An “individual” means a natural person and not a company or corporation<sup>2</sup>.
- 2.1.3. For the purpose of determining whether a vehicle was used primarily for personal, family or household purposes, “primarily” means that more than 50% of the use of the vehicle was, or was intended for personal, family or household purposes.
- 2.1.4. Evidence of the primary purpose of a vehicle includes:
  - (a) the intended use at the time of the purchase,
  - (b) any actual use of the vehicle by the client, and
  - (c) where the vehicle was purchased to replace a vehicle previously used by the client, the primary purpose of the applicant’s use of the vehicle to be replaced.

#### Definition of salesperson

- 2.1.5. A salesperson is an individual who is a dealer or who acts of behalf of a dealer with the expectation or receipt of a fee, gain or reward and who in any way participates in:
  - (a) soliciting
  - (b) negotiating, or
  - (c) arranging forthe sale of a vehicle to a consumer.
- 2.1.6. A salesperson includes any individual whose activities and decisions affect the sale of a vehicle, including those working in the following circumstances:
  - (a) an individual dealer engaged in sales
  - (b) new and used vehicle sales staff and management
  - (c) business office staff
  - (d) lease office staff
  - (e) internet sales staff, and

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<sup>2</sup> Although the general policy is that an individual must be a natural person, there may be circumstances in which a legal entity, such as a family trust, may be considered an “individual”. To qualify, the entity must not have any commercial purpose, must have been acting in the place of a natural person.

(f) direct marketing staff.

2.1.7. An individual does not need to be an employee of a dealer to be considered a salesperson, as long as they receive or expect to receive a fee, gain, or reward from their participation in the sale of a vehicle.

#### **Requirement to be licensed**

2.1.8. An individual must not act as a salesperson unless they have a salesperson licence issued by the VSA and are:

- (a) a licensed dealer, or
- (b) working on behalf of a licensed dealer.

2.1.9. If an individual works as a salesperson at more than one dealer location in British Columbia, then that individual must be licensed separately for each dealer premises in which the individual works.

#### **Conditional licence**

2.1.10. A conditional salesperson licence may be granted to allow an applicant for licence or renewal of licence to work as a salesperson pending the completion of:

- (a) any required certification course, or
- (b) a criminal record check acceptable to the VSA.

2.1.11. A conditional licence will not be granted where the applicant or salesperson has an unconfirmed criminal record or a criminal record or offence that is being reviewed under [Part H – Review of Criminal Record or Offence](#).

2.1.12. A conditional licence is valid until the date shown on the licence document and is valid for a period of no more than 45 days.

#### **Regular licence**

2.1.13. A regular salesperson licence will be granted to an individual who has successfully completed all required certification courses and met all other application requirements.

2.1.14. The VSA may include conditions on a regular licence that the salesperson must meet in order to maintain the licence.

2.1.15. The term of a regular licence is one year and it expires at midnight on the day prior to the anniversary of it taking effect.

#### **Salesperson licenced in another province**

2.1.16. An individual who holds a licence from another Canadian province that is comparable to a salesperson licence issued by the VSA must still meet the same application and licensing requirements as those applicants who do not have comparable licence.

### 3. Qualifications for a salesperson licence

#### 3.1. Policy

3.1.1. At a minimum, an applicant must meet the requirements in this part to qualify for a salesperson licence.

##### Proof of employment

3.1.2. An applicant for a salesperson licence must be a licensed dealer or provide proof of employment or offer of employment by a licensed dealer.

##### Background checks

3.1.3. The VSA will conduct background checks on an applicant for a salesperson licence.

3.1.4. An applicant must provide consent for the VSA to conduct a criminal record check, including criminal history from every country in which the applicant has resided.

3.1.5. If an applicant has:

- (a) a criminal record
- (b) a conviction for an offence (excluding parking tickets)
- (c) been disciplined by another licensing body, or
- (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery),

the applicant must not present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).

3.1.6. Once licensed, a salesperson must declare any change to their criminal record or offence history when applying to renew their licence.

##### Certification courses

3.1.7. An applicant for a salesperson licence must successfully complete any required certification course.

3.1.8. Except as provided in paragraph [3.1.9](#), an applicant who has not completed a required certification course may be issued a conditional licence with a term of no more than 45 days, during which the applicant must successfully complete the course.

3.1.9. A salesperson who is employed by a vehicle marketing company for work at off-site sale events must successfully complete any required certification course before being issued a salesperson licence.

3.1.10. A licensed salesperson must successfully complete any other certification course that may be required by the Registrar after the salesperson has been licensed.

### Application for both a salesperson licence and a broker-agent representative licence

3.1.11. A licensed broker-agent representative who applies for a salesperson licence:

- (a) does not have to pay any application or renewal fees applicable to the salesperson licence<sup>3</sup>, and
- (b) is deemed to meet all the qualifications for a salesperson licence if the broker-agent representative
  - (i) is employed or engaged by a licensed dealer, and
  - (ii) has paid the course fees and completed any supplemental certification course required for a salesperson licence.

3.1.12. An individual may apply for both a salesperson licence and a broker-agent representative licence at the same time. In this case:

- (a) the application for a broker-agent representative licence will not be processed until the application for a salesperson licence has been approved, and
- (b) the applicant must pay only the application fees applicable to one licence.

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<sup>3</sup> While s. 13(5) of the Broker Licensing Regulation exempts a licensed salesperson from application fees if they apply for a broker-agent representative licence, there is no reciprocal provision for a broker-agent representative to be exempt from application fees when applying for a salesperson licence. The fee exemption in these circumstances is authorized by VSA policy.

## 4. Review of application for salesperson licence

### 4.1. Policy

#### Application requirements

4.1.1. An applicant for a salesperson licence must:

- (a) complete the Application for Registration as a Licensed Salesperson (form 5) and submit it to the VSA along with the application fee, and
- (b) confirm that they have read and understood the Code of Conduct.

#### Application requirements – where applicant is a licensed broker-agent representative

4.1.2. A licensed broker-agent representative who is applying for a salesperson must:

- (a) complete the application form, and
- (b) confirm that they have read and understood the Salesperson Code of Conduct.

#### Application must be complete

4.1.3. The VSA will not begin to review an application until the application fee has been paid and will not approve an application until all the required information and documentation has been provided.

4.1.4. Where an application that has been received is incomplete, the VSA will inform the applicant and request the missing information or documentation.

4.1.5. Where the applicant does not provide the missing information or documentation within 6 months of receipt of the application, the application will be closed as incomplete. If the applicant wishes to reapply after an application has been closed as incomplete, the applicant must submit a new application including all application fees.

#### Where applicant has criminal record or charges

4.1.6. Where an applicant has:

- (a) a criminal record
- (b) a conviction for an offence (excluding parking tickets)
- (c) been disciplined by another licensing body, or
- (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery),

the Manager of Licensing will review the record under [Part H – Review of Criminal Record or Offence](#).

#### Where application not approved

4.1.7. Where the Manager of Licensing determines that an application for licence should be denied, the Manager will schedule a hearing before the Registrar.

## 4.2. Procedures – general

### Initial review of application

- 4.2.1. Upon receipt of an application, the Licensing Officer checks the name of the applicant in the VSA database to determine whether the applicant has been licensed previously and:
  - (a) where the applicant has been licensed previously, the Licensing Officer reviews the record and updates the applicant's profile as required, or
  - (b) where the applicant has not been previously registered, the Licensing Officer creates a new salesperson application record.
- 4.2.2. The Licensing Officer reviews the application to determine if the application form is complete and all the required documentation has been provided.
- 4.2.3. Where an application is incomplete, the Licensing Officer contacts that applicant and requests that the applicant provide the missing information or supporting documentation as soon as possible.
- 4.2.4. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.

### Confirmation of applicant's identity

- 4.2.5. The Licensing Officer compares the name and identifying information for the applicant as shown on the photo identification and the proof of legal status.
- 4.2.6. If there is a discrepancy between the names that are on the applicant's photo identification and the proof of legal status, the Licensing Officer contacts the applicant and requests that the applicant provide one of the following documents as proof of a change of name:
  - (a) a marriage certificate showing the change of name, or
  - (b) a government-issued certificate of legal name change.

### Assigning salesperson number

- 4.2.7. After completing the initial review of the application and confirming the identity of the applicant, the Licensing Officer:
  - (a) assigns the applicant a salesperson number, and
  - (b) processes the application fee.
- 4.2.8. Where the applicant is already employed as a salesperson but has not registered or completed the Level 1 Salesperson Certification Course, the Licensing Officer calculates the validity period of the applicant's 45-day conditional licence based on the applicant's employment date.

### Review of eligibility questionnaire

- 4.2.9. The Licensing Officer reviews the applicant's answers to the eligibility questionnaire on the application form and follows up to obtain more information as required.
- 4.2.10. Where the Licensing Officer's review confirms that an applicant has been disciplined by another licensing or regulatory body, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

### Criminal record check

- 4.2.11. The Licensing Officer forwards the applicant's consent for a criminal record check and statutory declaration where applicable to Security Programs Division for processing.
- 4.2.12. If the results of a criminal record check indicate that a record may exist and the applicant did not submit a statutory declaration, the Licensing Officer requests that the applicant provide a statutory declaration and when received, the officer forwards the declaration to Security Programs Division to confirm the charges or convictions disclosed.
- 4.2.13. Where the charges or convictions disclosed on a statutory declaration cannot be confirmed by Security Programs Division, the Licensing Officer instructs the applicant to submit a revised statutory declaration where possible.
- 4.2.14. Where Security Programs Division is unable to confirm a statutory declaration or revised declaration, the Licensing Officer instructs the applicant to request a fingerprint verification of their criminal record and provide it to the VSA.
- 4.2.15. Once a criminal record has been confirmed by Security Programs Division or fingerprint verification, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

### Review of 5-year history

- 4.2.16. The Licensing Officer reviews the applicants 5-year employment and education history and follows up with the applicant as required to confirm that the applicant's work and education activities are fully accounted for over the previous 5 years.
- 4.2.17. Where an applicant's work history indicates that the applicant had previously worked as a salesperson without a licence, the Licensing Officer:
- (a) backdates the application to include the time that the applicant worked as a salesperson without a licence
  - (b) calculates the licence fees owing based on the new date of the licence, and
  - (c) contacts the applicant to inform them of the fees owing and arrange for payment of the fees.

### Applicant currently working without a licence

4.2.18. Where an application indicates that the applicant is currently working as a salesperson without a licence, the Licensing Officer:

- (a) backdates the application to the date that the applicant began working as a salesperson, and
- (b) does not issue a conditional licence pending successful completion of any required certification course.

4.2.19. The Licensing Officer contacts the dealer to review the circumstances of the applicant working without a licence and:

- (a) where there is a history of similar incidents or other indications that the dealer is not taking reasonable action to avoid employing unlicensed salespersons, the officer may issue a written warning to the dealer, or
- (b) where there was a previous written warning or other enforcement action taken regarding unlicensed salespersons, the officer forwards the matter to the Manager of Licensing.

### Course registration

4.2.20. Where the application package includes a completed certification course registration, the Licensing Officer:

- (a) processes the payment of the course registration fee if provided, and
- (b) forwards the registration to the Learning department.

### Application review complete – no issues identified

4.2.21. When the review of an application is substantially complete and there are no unresolved issues, the Licensing office issues a licence as provided in [section 5 – Issuing a salesperson licence](#) below.

### Application review – issues identified

4.2.22. Where the Licensing Officer determines that there are issues affecting approval of the application that the applicant has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.

4.2.23. The Manager of Licensing reviews the application and the issues identified by the Licensing Officer and investigates further where required.

4.2.24. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:

- (a) recommend to the Registrar that the application not be approved, or
- (b) approve the application, including any conditions on licence required to address the issues identified.



### **Where application not approved**

4.2.25. Where the Manager of Licensing determines that an application for licence should not be approved, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

### **4.3. Procedures – where applicant is a licensed broker-agent representative**

- 4.3.1. The Licensing Officer reviews the application to determine if the application form is complete and all the required documentation has been provided.
- 4.3.2. Where an application is incomplete, the Licensing Officer contacts that applicant and requests that the applicant provide the missing information or supporting documentation as soon as possible.
- 4.3.3. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.

### **Completing the application review**

4.3.4. The Licensing Officer completes the application review as provided in the general procedures from [Application Review Complete](#).

## 5. Issuing a salesperson licence

### 5.1. Policy

#### Decision to issue a licence

- 5.1.1. Where the review of a salesperson application is substantially complete and there are no outstanding issues, the Licensing Officer may issue a conditional licence with the following conditions (where required) in addition to the standard conditions:
- (a) that the salesperson successfully complete a required certification course within 45 days, and
  - (b) that the results of the criminal record check are acceptable to the VSA.
- 5.1.2. Where the review of an application is fully complete and the applicant has met all the requirements for a licence, the Licensing Officer will issue a regular licence.
- 5.1.3. The Manager of Licensing or the Registrar may issue a salesperson licence including any conditions on the licence.

#### Standard conditions

- 5.1.4. Every salesperson will include the following standard conditions relating to the obligations of the licensee:
- (a) the licensee must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the salesperson's application for licence [SL Reg s. 6(1)(a)]
  - (b) the licensee must, if the salesperson ceases to act as a salesperson, immediately notify the VSA in writing and surrender their licence to the VSA [SL Reg s. 6(1)(b)]
  - (c) the licensee must notify any motor dealer who employs or engages the licensee of a condition on or suspension of their licence or if the licence is revoked [SL Reg s. 6(1)(c)]
  - (d) the licensee must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee [SL Reg s. 6(1)(d)]
  - (e) the licensee must complete, to the VSA's satisfaction, educational courses specified by the VSA [SL Reg s. 6(1)(e)]
  - (f) the licensee must keep and maintain, for a period of at least 2 years after the last dealing or transaction to which the record relates, notes, correspondence and other records relating to a consumer with whom the licensee dealt or a motor vehicle being considered for acquisition by a consumer [SL Reg s. 6(1)(f)]
  - (g) the licensee must, on written request of the VSA, produce for the VSA's inspection the records described in paragraph (f) that the VSA requires to determine whether the licence should be renewed, suspended or revoked [SL Reg s. 6(1)(g)]
  - (h) the licensee must, if the VSA receives a complaint respecting the licensee, provide the VSA with the information and records that the VSA requires to investigate the complaint if the VSA
    - (i) requests the information and records in writing, and

(ii) indicates in the request the nature of the complaint. [SL Reg s. 6(1)(h)]

5.1.5. In addition to the conditions in paragraph [5.1.4](#), every salesperson licence will include a standard condition that the salesperson must not act as a salesperson for a dealer unless the dealer is registered and named in the salesperson licence. [SL Reg s. 6(2)(a)]

#### Other conditions

5.1.6. The Manager of Licensing or the Registrar may add other conditions to a licence to address any issues of concern regarding a salesperson. Where the Manager of Licensing intends to impose other conditions on a licence, the salesperson will be provided 30 days to request a review by the Registrar of the Manager of Licensing's intended decision to impose conditions, as provided in the VSA's [Hearing Policy and Procedures](#). [SL Reg s. 6(1)(i) and s. 6(2)(f); MDA s. 26.04(5)(b)]

#### Failure to complete certification course

5.1.7. Where a salesperson with a licence conditional on successfully completing a required certification course fails to successfully complete the course prior to expiry of the licence, the Licensing Officer may extend the expiration date of the licence to allow the salesperson an opportunity to complete the requirement.

5.1.8. Where a salesperson fails to successfully complete a certification course after 2 attempts, the Licensing Officer will not extend a conditional licence and the licence will be expired until the salesperson successfully completes the course.

#### Marketing salesperson

5.1.9. An applicant who is employed by a vehicle marketing company will not be issued a licence until the applicant has successfully completed any required certification course.

5.1.10. Where an applicant who is employed by a vehicle marketing company has met all the requirements for a salesperson licence, the Licensing Officer will grant a conditional licence for marketing events but will not issue the licence to the salesperson.

## 5.2. Procedures

#### Issuing a licence

5.2.1. Where the review of a salesperson application is substantially complete and there are no outstanding issues, the Licensing Officer issues a conditional licence with the following conditions (where applicable) in addition to the standard conditions:

- (a) that the salesperson successfully complete a required certification course within 45 days, and
- (b) that the results of the criminal record check are acceptable to the VSA.

5.2.2. Where an applicant has met the conditions in paragraph [5.2.1](#), the Licensing Officer

- (a) removes the conditions from the licence where required, and

- (b) issues a regular salesperson licence.

#### **Marketing salesperson – no licence issued**

- 5.2.3. Where the applicant is employed by a vehicle marketing company and has completed the required certification course, the Licensing Officer enters the salesperson licence as conditional for marketing events in the VSA database but does not issue a licence.

#### **Failure to complete certification course**

- 5.2.4. Where a salesperson with a licence conditional on successfully completing a certification course fails to complete the course prior to the expiry of the conditional licence, the Licensing Officer:
- (a) informs the dealer that is employing the salesperson that the salesperson has failed to meet the condition
  - (b) reviews the circumstances with the dealer to determine a reasonable timeframe for meeting the condition, and
  - (c) where a reasonable timeframe for meeting the condition is established, extends the expiry date of the conditional licence to allow the salesperson to meet the condition.
- 5.2.5. Where a salesperson fails to successfully complete a required certification course after receiving an extension, the Licensing Officer notifies the dealer that is employing the salesperson that the salesperson's licence is expired and the salesperson may not work until they have met the requirement.

## 6. Renewal or reinstatement of licence

### 6.1. Policy

#### Application to renew salesperson licence

6.1.1. A salesperson applying for a licence renewal must complete a Salesperson Licence Renewal Application (form 6) and submit it to the VSA along with the renewal fee at least 14 days prior to the renewal date of their licence.

#### Application to renew – where applicant is also a licensed broker-agent representative

6.1.2. Where a salesperson who is applying for a licence renewal is also a licensed broker-agent representative, the applicant must complete a Salesperson Licence Renewal Application (form 6) and submit it to the VSA at least 14 days prior to the renewal date of their licence.

6.1.3. The applicant must only pay the renewal fee for one licence.

#### Online renewal

6.1.4. Where a licensed salesperson submits an application for renewal of licence online along with the renewal fee for a 2-year period and is granted a renewal, the salesperson's licence will be automatically renewed for one additional year upon expiry.

#### Application must be complete

6.1.5. The VSA will not begin to review an application to renew a salesperson licence until the application fee has been paid and will not approve a renewal application until a fully completed application has been received.

6.1.6. Where an application to renew a salesperson licence that has been received is incomplete, the VSA will inform the salesperson and request the missing information or documentation.

6.1.7. Where an application for renewal is received or completed less than 14 days prior to the renewal date of a salesperson licence, the VSA will make reasonable efforts to complete its review of the application prior to the renewal date of the licence.

#### Failure to renew before renewal date

6.1.8. Where a salesperson fails to renew a licence before the renewal date, the licence will lapse automatically.

6.1.9. If a salesperson's licence has lapsed, the salesperson may apply for renewal by submitting a renewal application and paying the renewal fees including any late renewal fees.

6.1.10. If a salesperson fails to renew a lapsed licence within 2 months of the renewal date, the licence will be cancelled automatically and if the salesperson wishes to be licensed again after cancellation, the salesperson must apply for [reinstatement](#).

### Late renewal fee

- 6.1.11. Where a salesperson renews a lapsed licence, the Licensing Officer will apply a late fee in addition to the renewal fee.
- 6.1.12. If a salesperson disputes the application of a late fee, the Licensing Officer will consult with the Manager of Licensing to determine whether the late fee should be applied.
- 6.1.13. When determining whether to apply a late fee, the Licensing Officer and the Manager of Licensing will consider:
- (a) the reasons for the late renewal, and
  - (b) the salesperson's history of compliance with licensing requirements.

### Reinstatement of cancelled licence

- 6.1.14. Where a salesperson licence has been cancelled for failure to renew or has been voluntarily cancelled, the salesperson may apply to have the licence reinstated by submitting a Salesperson Licence Reinstatement Application (form 7).
- 6.1.15. A salesperson licence will be reinstated where:
- (a) the salesperson has completed any required Salesperson Certification Courses and paid any outstanding fees owing to the VSA
  - (b) the review of the reinstatement application indicates no outstanding issues, and
  - (c) the results of an updated criminal record check are acceptable to the VSA.

## 6.2. Procedures

### Renewal notice

- 6.2.1. The Licensing Officer monitors salesperson licence renewal dates and sends a renewal notice to the salesperson 1 month prior to the renewal date of the licence.

### Initial review of renewal application

- 6.2.2. When renewal applications are received, the Licensing Officer processes the applications in order of date received.
- 6.2.3. The Licensing Officer reviews the renewal application to determine if:
- (a) the correct renewal fee has been provided, and
  - (b) the renewal application is complete.
- 6.2.4. Where a renewal application is not complete, the Licensing Officer contacts the salesperson and:
- (a) requests that the salesperson provide the missing information, and
  - (b) informs the salesperson that the licence will not be renewed until the application is complete.

### Detailed review of renewal application

- 6.2.5. The Licensing Officer checks the salesperson profile to determine if the salesperson has an outstanding balance owing to the VSA and where there is a balance owing:
- (a) determines the reason for the outstanding balance, and
  - (b) requests authorization from the Manager of Licensing to renew the licence with the balance owing.
- 6.2.6. The Licensing Officer reviews the salesperson personal information and updates the VSA database as required.
- 6.2.7. The Licensing Officer confirms the salesperson's employment information and follows up as required where the information does not match the record in the VSA database.
- 6.2.8. The Licensing Officer reviews the eligibility questions on the renewal application for information that may affect the approval of the renewal. Where an issue is identified, the Licensing Officer follows up using the procedures for review of an initial application for salesperson licence.

### Renewing the licence

- 6.2.9. Where the Licensing Officer completes the review of a renewal application and there are no unresolved issues, the officer:
- (a) renews the licence in the VSA database
  - (b) processes the renewal fee, and
  - (c) where the salesperson is actively employed, issues the new licence to the salesperson.

### Where licence may not be renewed

- 6.2.10. Where the Licensing Officer determines that there are issues affecting approval of a renewal application that the salesperson has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.
- 6.2.11. The Manager of Licensing reviews the renewal application and the issues identified by the officer and investigates further where required.
- 6.2.12. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
- (a) recommend that the licence not be renewed, or
  - (b) renew the licence, including any conditions on the renewal to address the issues identified.
- 6.2.13. Where the Manager of Licensing determines that a salesperson licence should not be renewed, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

### Failure to renew before renewal date

- 6.2.14. Where a salesperson fails to renew a licence before the renewal date, the licence automatically lapses.
- 6.2.15. The Licensing Officer monitors for lapsed salesperson licences and where a salesperson licence has lapsed, the officer sends a late renewal notice to the salesperson indicating that the licence has lapsed and will be cancelled if it is not renewed within 2 months.
- 6.2.16. Where the salesperson is actively employed, the Licensing Officer also:
- (a) contacts the dealer that is employing the salesperson to inform them that the licence has lapsed, and
  - (b) follows up with salesperson by telephone or email where possible.
- 6.2.17. Where the salesperson fails to renew the licence within 2 months of the renewal date, the licence is cancelled automatically.
- 6.2.18. Where a salesperson submits an application to renew within 2 months of the renewal date, the Licensing Officer reviews the application and determines whether to:
- (a) renew the licence, or
  - (b) forward the renewal application to the Manager of licensing for further review.
- 6.2.19. Where the Licensing Officer renews the licence, in addition to the renewal fee, the officer applies a late fee as indicated on the renewal application.
- 6.2.20. If the salesperson disputes the application of a late fee, the Licensing Officer consults with the Manager of Licensing to determine whether the late fee will be applied.

### Reinstatement of cancelled licence

- 6.2.21. When an application for reinstatement is received, the Licensing Officer reviews the application to determine if:
- (a) the correct reinstatement fee has been provided, and
  - (b) the reinstatement application is complete.
- 6.2.22. Where a reinstatement application is not complete, the Licensing Officer contacts the salesperson and:
- (a) requests that the salesperson provide the missing information, and
  - (b) informs the salesperson that the licence will not be reinstated until the application is complete.
- 6.2.23. The Licensing Officer reviews the application following the applicable procedures for review of an initial application in [section 4.2](#) and for a renewal application in [section 6.2](#).



- 6.2.24. Where the Licensing Officer completes the review of the reinstatement application and there are no unresolved issues, the officer:
- (a) reinstates the licence in the VSA database
  - (b) processes the reinstatement fees, and
  - (c) where the salesperson is employed, issues the new licence to the salesperson.
- 6.2.25. Where the Licensing Officer determines that there are issues affecting approval of a reinstatement application that the salesperson has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.
- 6.2.26. The Manager of Licensing reviews the reinstatement application and the issues identified by the officer and investigates further where required.
- 6.2.27. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
- (a) recommend that the licence not be reinstated, or
  - (b) reinstate the licence, including any conditions on the renewal to address the issues identified.
- 6.2.28. Where the Manager of Licensing determines that a salesperson licence should not be reinstated, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

## 7. Employment authorization

### 7.1. Policy

#### May work only at named location

- 7.1.1. A licensed salesperson may work only at the dealer location named on their salesperson licence. A salesperson may hold more than one licence in order to work at more than one dealer location.
- 7.1.2. If a licensed salesperson changes dealer location or gets a new employer, the salesperson must notify the VSA of the change. This obligation may also be met if the new employer notifies the VSA of the change.

#### Return of licence

- 7.1.3. When a licensed salesperson ceases to work for a dealer or at a particular dealer location, the salesperson must return the licence that names the former dealer or dealer location to the VSA.

#### Deactivation

- 7.1.4. A licensed salesperson must return a licence to the VSA and request deactivation of the licence if they are not currently employed as a salesperson.
- 7.1.5. Where a licence is deactivated under paragraph [7.1.4](#), the VSA will designate the licence as “inactive”, provided that all other licensing conditions, including renewal requirements, are met. An inactive licence may be reactivated if the licensed salesperson is re-employed as a salesperson.

### 7.2. Procedures

#### Employment authorization – new employer or location

- 7.2.1. When the Licensing Officer receives an Employment Authorization form indicating that a salesperson has a new employer or is working at a new location, the officer:
  - (a) checks the licensing status of the salesperson to confirm that they are active
  - (b) updates the salesperson’s employer record in the VSA database, and
  - (c) issues a new licence to the salesperson, except as provided in paragraph [7.2.2](#).
- 7.2.2. Where the salesperson licence is due for renewal within 1 month, the Licensing Officer does not issue a new licence as a new licence will be issued on renewal.
- 7.2.3. Where the new employer or location indicates that the salesperson has likely moved from the salesperson’s address in the VSA database, the Licensing Officer contacts the salesperson to confirm their current address and contact information.

**Employment authorization – cancellation of employment**

7.2.4. When the Licensing Officer receives an Employment Authorization Form indicating that a salesperson's employment has been cancelled, the Licensing Officer:

- (a) updates the salesperson's record in the VSA database with the employment end date, and
- (b) where the salesperson has no other employer or location, changes the salesperson's status to inactive.

**Employment authorization – marketing salespersons**

See policy and procedures in [part B, section 9 – Off-site sales events](#).

## 8. Medical leave

### 8.1. Policy

#### When leave is available

8.1.1. The VSA may place a salesperson licence on hold where a salesperson is taking a leave from their employment because:

- (a) they are unable to work due to illness, injury or other medical condition, or
- (b) they are on maternity or paternity leave.

#### Duration of leave

8.1.2. The VSA may grant a medical leave for a period of no less than 30 days and no more than 12 months.

8.1.3. After 12 months of medical leave, the VSA may grant additional leave where the salesperson re-applies and meets the requirements for leave.

#### Return from medical leave

8.1.4. When a salesperson returns from medical leave, the VSA will issue a new licence with a new renewal date.

8.1.5. Where the salesperson’s licence renewal date does not pass during the leave, the renewal date will be extended by the amount of time spent on leave.

#### Example – licence renewal date does not pass during leave

Original licence renewal date	May 1, 2018
Medical leave	July 1 to October 31, 2017 - 4 months
Return date	November 1, 2017
New licence renewal date	September 1, 2018
Notes	4 months of leave taken prior to renewal date – new renewal date is 4 months after the previous renewal date

8.1.6. Where the salesperson’s licence renewal date passes during the leave, the new renewal date will be based on the date the salesperson returns from leave plus the amount of time spent on leave before the renewal date passed.

#### Example – licence renewal date passes during leave

Original licence renewal date	May 1, 2018
Medical leave	March 1 to June 30, 2018 - 4 months
Return date	July 1, 2018
New licence renewal date	September 1, 2018

Notes	2 months of leave taken prior to renewal date and 2 months taken after – new renewal date is 2 months after the previous renewal date
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### Licence fees

8.1.7. No licence fees will be refunded because of medical leave.

### Application requirements

8.1.8. To apply for medical leave, a salesperson must provide an Employment Authorization form completed by their employer indicating the start date and reasons for the leave.

8.1.9. If a salesperson requesting leave is inactive, the salesperson must provide:

- (a) written notice of the start date of the leave, and
- (b) written notice from a medical doctor confirming the start date of the leave and the reasons for the leave.

### Requirements for returning

8.1.10. Prior to returning to work from a medical leave, the salesperson's employer must submit an Employment Authorization form and indicate the date on which the salesperson will return to work.

## 8.2. Procedures

### Application for leave

8.2.1. Where the Licensing Officer receives an Employment Authorization form confirming medical leave or written confirmation of medical leave from a medical doctor, the officer:

- (a) places the salesperson licence on medical leave in the VSA database and includes a notation that the salesperson is inactive because of leave, and
- (b) notes the start date of the leave as the salesperson's employment end date.

### Return from leave

8.2.2. Where the Licensing Officer receives an Employment Authorization form indicating that a salesperson's leave is ending, the officer:

- (a) calculates the salesperson's new licence renewal date based on the policy on [return from medical leave](#) above
- (b) issues the new salesperson licence, and
- (c) contacts the salesperson to review the new licence renewal date and requirements for renewal.

## E. WHOLESALER LICENSING AND RENEWAL

### 1. Overview

#### 1.1. Licensing and renewal

Any person who sells used vehicles to a motor dealer or to another wholesaler in the course of their business must be licensed as a wholesaler by the VSA unless they are specifically exempted from being licensed under the *Motor Dealer Act Regulation*.

This part contains the requirements that a person must meet in order to be granted a wholesaler licence and the process for reviewing applications for a licence. The VSA carefully reviews an applicant's qualifications and suitability to be a wholesaler in order to protect the public and the vehicle sales industry. This includes background checks, a review of the applicant's business premises, business plan and financial resources and a review of the applicant's business location.

A wholesaler must renew their licence annually. At renewal, the VSA confirms whether the wholesaler is in good standing with the VSA and follows up on any outstanding licensing or compliance issues before granting a renewal of the licence.

This part also contains the requirements for licensed wholesalers to report changes to their business, to put a wholesaler licence on hold, and policy and procedures for the cancellation or suspension of a licence.

#### 1.2. Legislative authority and requirements

##### Definition of wholesaler

1.2.1. Any person who, in the course of business engages in the sale, exchange or other disposition of a used motor vehicle to a motor dealer or another wholesaler is a wholesaler. [MDA s. 1(1) – definition of wholesaler]

1.2.2. The definition of wholesaler does not include:

- (a) a person who is [exempted](#) under section 14 of the *Motor Dealer Act Regulation*, and
- (b) a representative who is employed or engaged by a wholesaler.

##### Definition of representative

1.2.3. Any individual who is employed or engaged by a wholesaler and who:

- (a) solicits, negotiates or arranges for the disposition of a used motor vehicle to a motor dealer or wholesaler, or
- (b) in any way participates in the soliciting, negotiating or arranging for the disposition of a used motor vehicle to a motor dealer or wholesaler

(c) is a representative. [WL Reg s. 1 – definition of representative]

### Definition of associate

1.2.4. An associate is

- (a) a director or officer of a corporation or a beneficial owner of shares of a corporation, or
- (b) an individual who is a partner in a partnership, or, if a corporation is a partner in a partnership, then a director or officer of that corporation or a beneficial owner of shares of that corporation. [WL Reg s. 1 – definition of associate]

### Requirement to be licensed and display licence

1.2.5. A person must not act as a wholesaler unless they hold a valid wholesaler licence. [WL Reg s. 2]

1.2.6. A wholesaler licence is only valid for the business premises specified in the licence. Separate storage or repair facilities are not considered separate premises. [WL Reg s. 3]

1.2.7. A licensed wholesaler must display the original copy of their licence in a conspicuous place at their business premises. [WL Reg s. 8]

### Exemptions from requirement to be licensed

1.2.8. A person is exempt from the Wholesaler Licensing Regulation in regard to the sale, exchange or other disposition of a used motor vehicle if any of the following conditions apply to the person: [MDA Reg s. 14(5)(a)]:

- (a) the person may dispose of the motor vehicle under
  - (i) section 12 of the Repairers Lien Act, or
  - (ii) section 4 (1) of the Warehouse Lien Act [MDA Reg s. 14(4)(a)]
- (b) the person deals with the motor vehicle in the course of the person's duties as a
  - (i) liquidator
  - (ii) receiver
  - (iii) trustee in bankruptcy
  - (iv) person acting under an order of a court, or
  - (v) an executor or trustee under a will [MDA Reg s. 14(4)(b)]
- (c) the person deals with the motor vehicle in the course of the person's duties as
  - (i) a sheriff or court bailiff under the Sheriff Act, or
  - (ii) a bailiff licensed under the *Business Practices and Consumer Protection Act* [MDA Reg s. 14(4)(c)]
- (d) the person
  - (i) deals with the motor vehicle incidentally to the person's business of buying, selling, dealing in or lending money on the security of conditional sale contracts, chattel mortgages, bills of lading, warehouse receipts, bills of exchange, choses in action or other commercial paper, including, without limitation, as a chartered

bank, trust company, sales finance company, consumer loan company or credit union, and

- (ii) does not advertise or promote with respect to the person's disposition of motor vehicles described in paragraph (d)(i). [MDA Reg s. 14(4)(d)]
  - (e) the person deals with the motor vehicle for the purposes of the motor vehicle being wrecked or dismantled for parts or scrap metal and does not sell motor vehicles for any other purpose. [MDA Reg s. 14(5)(b)]
- 1.2.9. A person who holds an auction of motor vehicles is exempt from the Wholesaler Licensing Regulation in regard to that auction if they meet the requirements in section 14.1 of the *Motor Dealer Act Regulation*. See [Exemption for wholesale auctions](#). [MDA Reg s. 14.1(2)]

### Application for a licence

1.2.10. An application for a wholesaler licence must:

- (a) be made in the form and manner approved by the VSA and
- (b) be submitted with the applicable fee set by the VSA. [WL Reg s. 4(1)]

1.2.11. An application for a wholesaler licence must include the following information, records, declarations and authorizations: [WL Reg s. 4(2)]:

- (a) the usual name of the applicant and, if applicable, the applicant's associates and representatives, and any other name used by the applicant, associate or representative [WL Reg s. 4(2)(a)]
- (b) contact information for the applicant and, if applicable, the applicant's associates and representatives, including a mailing address, residential address and telephone number and, if any, electronic mail address [WL Reg s. 4(2)(b)]
- (c) the name in which the applicant will carry on business as a wholesaler and the address at which the applicant will maintain business premises [WL Reg s. 4(2)(c)]
- (d) if the applicant is an individual, proof of the applicant's age, citizenship and, if relevant, authority to work in Canada [WL Reg s. 4(2)(d)]
- (e) if the applicant is a corporation or partnership, proof of the applicant's authority to carry on business in British Columbia [WL Reg s. 4(2)(e)]
- (f) a copy of the applicant's business plan [WL Reg s. 4(2)(f)]
- (g) the wholesaler licence number, if any, of any representative of the applicant [WL Reg s. 4(2)(g)]
- (h) a copy of any business licence issued to the applicant by the local government or other body, in or outside British Columbia, with jurisdiction over the area in which the applicant's business premises are located [WL Reg s. 4(2)(h)]
- (i) if the applicant is a corporation, the total number of issued shares of the corporation and the number of shares held by each beneficial owner of shares [WL Reg s. 4(2)(i)]



- (j) declarations of the applicant and, if applicable, the applicant's associates and representatives, respecting the applicant's, the associate's or the representative's
  - (i) past conduct in the motor vehicle industry in this or any other jurisdiction, including previous dealings, if any, with the VSA
  - (ii) past conduct in another regulated industry in this or any other jurisdiction
  - (iii) convictions, if any, for an offence under an enactment of this or any other jurisdiction in relation to consumer protection, tax, the motor vehicle industry or another regulated industry, and
  - (iv) convictions, if any, for a crime outside Canada [WL Reg s. 4(2)(j)]
- (k) declarations of the applicant and, if applicable, the applicant's associates, respecting the applicant's or associate's involvement in bankruptcy proceedings [WL Reg s. 4(2)(k)]
- (l) authorizations necessary for the VSA to
  - (i) obtain a criminal record check for the applicant and, if applicable, the applicant's associates and representatives
  - (ii) obtain a credit report for the applicant and, if applicable, the applicant's associates
  - (iii) inspect the business premises in British Columbia, if any, at which the applicant will carry on business as a wholesaler, and
  - (iv) verify any other information provided in the application. [WL Reg s. 4(2)(l)]

### Application to renew a licence

1.2.12. An application to renew a wholesaler licence must be made at least 14 days before the wholesaler licence expires. [WL Reg s. 4(4)]

1.2.13. An application to renew a wholesaler licence must include:

- (a) a statement confirming that the information, the records and the facts described in a declaration or authorization provided at the time of the initial application for a licence or at the time of the last licence renewal, continue to be accurate, or
- (b) if there has been any change in the information, the records or the facts referred to in paragraph (a), a statement setting out the change and, as applicable, an updated record, declaration or authorization. [WL Reg s. 4(3)]

### Issuing and renewing a licence

1.2.14. The VSA may issue or renew a wholesaler licence for a term of not more than one year. [WL Reg s. 5]

1.2.15. The VSA may refuse to issue or renew a wholesaler licence if the VSA considers that it would not be in the public interest for the applicant to be licensed, having regard to:

- (a) the financial responsibility of the applicant and, if applicable, the applicant's associates, or
- (b) the conduct of the applicant, and, if applicable, the applicant's associates and representatives. [WL Reg s. 6(1)]

1.2.16. Before the VSA can refuse to issue or renew a wholesaler licence, the VSA must give the applicant:

- (a) notice that the applicant has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
- (b) written reasons for the decision to issue or renew the licence. [WL Reg s. 6(2), 12]

### Conditions on a licence

1.2.17. When issuing or renewing a wholesaler licence, the VSA may impose any of the conditions:

- (a) related to the [obligations of the licensee](#) provided in section 7(1) of the Wholesaler Licensing Regulation, and
- (b) related to [prohibitions on the licensee](#) as provided in section 7(2) of the Wholesaler Licensing Regulation.

1.2.18. On written notice to a licensed wholesaler, the VSA may remove a condition or impose a condition provided in section 7(1) or 7(2). [WL Reg s. 7(3)]

### Conditions related to the obligations of the licensee – s. 7(1)

1.2.19. Any of following conditions related to the obligations of the licensee may be imposed:

- (a) the licensee must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the licensee's application for a wholesaler licence [WL Reg s. 7(1)(a)]
- (b) the licensee must, within 14 days after the circumstance occurs, notify the VSA, in writing, if
  - (i) the licensee is issued a garage vehicle certificate of insurance under the Insurance (Vehicle) Act, or
  - (ii) a garage vehicle certificate of insurance issued to the licensee expires or is cancelled [WL Reg s. 7(1)(b)]
- (c) the licensee must, if the licensee ceases to act as a wholesaler, immediately notify the VSA in writing and surrender the licensee's wholesaler licence to the VSA [WL Reg s. 7(1)(c)]
- (d) the licensee and, if applicable, the licensee's associates and representatives, must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee, associate or representative [WL Reg s. 7(1)(d)]
- (e) the licensee must establish, maintain and occupy business premises
  - (i) that are located at the address identified in the licensee's wholesaler licence
  - (ii) that are, in the opinion of the VSA, sufficient for carrying on business as a wholesaler, and
  - (iii) that are separate and distinct from premises or part of premises occupied as a residence [WL Reg s. 7(1)(e)]
- (f) the licensee must display, at or near the front entrance to the licensee's business premises, any decal issued to the licensee by the VSA indicating that the licensee is licensed to act as a wholesaler [WL Reg s. 7(1)(f)]

- (g) the licensee must provide security within the time, in the form and in the amount required by the VSA [WL Reg s. 7(1)(g)]
- (h) the licensee and, if applicable, the licensee's representatives and designated associates, must complete, to the VSA's satisfaction, educational courses specified by the VSA [WL Reg s. 7(1)(h)]
- (i) the licensee must keep and maintain, at its business premises, business records for a period of at least 2 years after the last dealing or transaction to which the business record relates [WL Reg s. 7(1)(i)]
- (j) the licensee must, if the VSA receives a complaint respecting the licensee, provide the VSA with the information and records it requires to investigate the complaint, if the VSA
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint [WL Reg s. 7(1)(j)]
- (k) the licensee must, at a reasonable time during normal business hours, on request of the VSA, permit an individual authorized in writing by the VSA to
  - (i) enter and inspect the licensee's business premises in BC,
  - (ii) inspect all motor vehicles kept or stored in or on the licensee's business premises if any of the motor vehicles in or on the premises are owned, possessed or controlled by the licensee for the licensee's wholesale business, and
  - (iii) inspect the licensee's business records [WL Reg s. 7(1)(k)]
- (l) the licensee must, in a written representation respecting the disposition or proposed disposition of a used motor vehicle that is not suitable for transportation, include a statement to that effect [WL Reg s. 7(1)(l)]
- (m) the licensee must, in a written representation respecting the disposition or proposed disposition of a used motor vehicle in respect of which the licensee exchanges or repairs the odometer or a part of the motor vehicle that is directly related to the odometer, record the reading on the motor vehicle's odometer taken before and after the exchange or repair [WL Reg s. 7(1)(m)]
- (n) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed as a wholesaler. [WL Reg s. 7(1)(n)]

### Conditions related to prohibitions on the licensee – s. 7(2)

1.2.20. Any of following conditions related to prohibitions on the licensee may be imposed:

- (a) the licensee must not dispose of a used motor vehicle by consignment [WL Reg s. 7(2)(a)]
- (b) the licensee must not dispose of a used motor vehicle to a person unless the person is
  - (i) a registered motor dealer or a licensed wholesaler, or
  - (ii) located in a jurisdiction other than BC and not precluded by the laws of the other jurisdiction from acting as a motor dealer or wholesaler in that jurisdiction [WL Reg s. 7(2)(b)]
- (c) the licensee must not dispose of a used motor vehicle to a person unless the licensee and the person have signed a written agreement of purchase and sale that conforms to section 9

- of the Wholesaler Licensing Regulation and the licensee has given a copy of the signed agreement to the person [WL Reg s. 7(2)(c)]
- (d) the licensee must not permit a representative specified in the licensee's wholesaler licence to
    - (i) receive or otherwise handle a purchaser's money
    - (ii) hold a management position in a wholesale business, or
    - (iii) act in a wholesale business without supervision [WL Reg s. 7(2)(d)]
  - (e) the licensee must not employ or engage a representative unless the representative has completed, to the VSA's satisfaction, educational courses specified by the VSA [WL Reg s. 7(2)(e)]
  - (f) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed as a wholesaler. [WL Reg s. 7(1)(f)]

### Requirement to display a licence

- 1.2.21. A licensee must display, in a conspicuous place at the licensee's business premises, the original copy of the licensee's wholesaler licence. [WL Reg s. 8]

### Revoking or suspending a licence

- 1.2.22. The VSA may revoke a wholesaler licence if the licensee notifies the VSA that they have ceased to act as wholesaler. [WL Reg s. 11(1)]
- 1.2.23. The VSA may revoke or suspend a wholesaler licence if the VSA considers that it would not be in the public interest for the licensee to continue to be licensed, having regard to:
- (a) the financial responsibility of the applicant and, if applicable, the applicant's associates, or
  - (b) the conduct of the applicant, and, if applicable, the applicant's associates and representatives. [WL Reg s. 11(2)]
- 1.2.24. Before the VSA can revoke or suspend a wholesaler licence, the VSA must give the licensee:
- (a) notice that the licensee has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
  - (b) written reasons for the decision to revoke or suspend the licence. [WL Reg s. 11(3), 12]
- 1.2.25. Where a licence is suspended, the written reasons must specify the period of suspension, which may end on:
- (a) a fixed date, or
  - (b) the date the licensee meets all the conditions specified in the written reasons. [WL Reg s. 11(4)]
- 1.2.26. The conditions in the written reasons for a suspension may require that the licensee:
- (a) comply with a specified condition on the licence, and

- (b) pay a specified administrative penalty imposed under section 26.04 of the *Motor Dealer Act*. [WL Reg s. 11(5)]

### Death of a partner – effect on wholesaler partnership

1.2.27. On the death, bankruptcy or dissolution of a partner:

- (a) a partnership of 2 partners is dissolved, and
- (b) subject to agreement among the partners, a partnership of more than 2 partners is dissolved as between the bankrupt, dead or dissolved partner and the other partners. [Partnership Act s. 36]

### Definition of business records

1.2.28. If a licence condition requires a wholesaler to maintain ‘business records’, the following are considered business records:

- (a) a record of each person who has acquired a used motor vehicle from the licensee [WL Reg s. 10(a)]
- (b) for each person referred to in paragraph (a), a copy of the written agreement of purchase and sale referred to in section 7(2)(c) [WL Reg s. 10(b)]
- (c) a record of the number of used motor vehicles acquired or disposed of by the licensee [WL Reg s. 10(c)]
- (d) for each used motor vehicle acquired or disposed of by the licensee, the following records, as applicable:
  - (i) a record of material reconditioning or other substantial work performed on the motor vehicle by the licensee, including the date, particulars and cost of substantial work done and the supporting repair orders
  - (ii) the details of any inspection conducted
  - (iii) a record relating to the import or export of the motor vehicle
  - (iv) a record of the reading on the motor vehicle's odometer taken before and after the exchange or repair of that motor vehicle's odometer or a part of that motor vehicle that is directly related to the odometer [WL Reg s. 10(d)]
- (e) a record of all dealings or transactions involving the acquisition or disposition of a used motor vehicle by the licensee, including the correspondence, notes and other records of the licensee [WL Reg s. 10(e)]
- (f) financial records related to the wholesale business. [WL Reg s. 10(f)]

## 2. Requirement to be licenced as a wholesaler

### 2.1. Policy

#### Wholesaling applies only to used vehicles

2.1.1. The definition of wholesaler is limited to those who deal in used motor vehicles. Therefore, it does not apply to:

- (a) manufacturers, distributors or importers of new vehicles who provide inventory to dealers, or
- (b) franchise dealers who source new vehicles from other franchise dealers.

#### Who must be licensed as a wholesaler

2.1.2. Any person who, in the course of business, engages in the sale, exchange or other disposition of a used motor vehicle to a motor dealer or a wholesaler must be licensed, except a person who is exempt from being licensed under the *Motor Dealer Act Regulation*.

#### Exemptions from requirement to be licensed

2.1.3. In the following circumstances, a person may engage in the sale, exchange or other disposition of a used motor vehicle to a motor dealer or a wholesaler without being licensed as wholesaler:

- (a) where the person is entitled to dispose of the vehicle that is the subject of a lien under the *Repairer's Lien Act* or *Warehouse Lien Act*
- (b) where the person is acting under a court order or in the course of their duties as a
  - (i) liquidator
  - (ii) receiver
  - (iii) trustee in bankruptcy
  - (iv) executor or trustee under a will
  - (v) sheriff or court bailiff under the *Sheriff Act*
  - (vi) a bailiff licensed under the *Business Practices and Consumer Protection Act*
- (c) where the person deals with the vehicle for the purpose of wrecking or dismantling it for parts or for scrap, as long as the person does not sell vehicles for any other purpose.
- (d) where the person is a bank, credit union, trust company, finance company, consumer loan company or other similar person whose dealings with the vehicle are incidental to their business of lending money. This exemption does not apply if the person advertises or promotes their dealings with the vehicle.

2.1.4. A person may hold a wholesale vehicle auction without being licensed as a wholesaler only if all the requirements for an exemption in [section 14.1](#) of the *Motor Dealer Act Regulation* are met.

#### Separate licence required for each location

2.1.5. If a person carries on business as a wholesaler at more than one location in British Columbia, the person must obtain a separate licence for each location from which they operate.

- 2.1.6. Generally, a different location means a different physical address. However, separate storage or vehicle repair facilities are not considered to be a separate location.

#### **Death of a sole proprietor – effect on licence**

- 2.1.7. Where a wholesaler who is a sole proprietor dies, the sole proprietorship ends and the wholesaler licence is no longer valid.
- 2.1.8. An executor or administrator of the deceased wholesaler’s estate may temporarily continue to operate the wholesale business without a licence for the purpose of disposing of the estate (see paragraph [2.1.3 \(b\)\(iv\)](#) above).
- 2.1.9. Where an executor is required under a will to establish a trust to operate the wholesaler’s business on behalf of a beneficiary, the trustee is not exempt and must be licenced.

#### **Death of a partner – effect on licence**

- 2.1.10. Where a wholesale business consists of a partnership of two people and one partner dies, the partnership ceases to exist and the wholesaler licence is no longer valid.
- 2.1.11. Where a wholesale business consists of a partnership of more than two people and one partner dies, the partnership continues unless the partners have agreed that it should end. If the partnership continues then the wholesaler licence remains valid.

### 3. Qualifications for a wholesaler licence

#### 3.1. Policy

3.1.1. At a minimum, an applicant must meet the requirements in this part to qualify for a wholesaler licence.

##### Extra-provincial company

3.1.2. An applicant that is a company incorporated somewhere other than BC must be registered as an extra-provincial company in the BC Corporate Registry.

##### Business location

3.1.3. The zoning of an applicant's proposed business location must be appropriate for the operation of the business.

3.1.4. If an applicant's business will be located in a residence, the residence must have a separate external entrance to be used for business purposes.

3.1.5. If the applicant's business location is shared with other businesses, the applicant's part of the shared location must be identified with a sign identifying the applicant's wholesale business.

##### Business licence

3.1.6. If an applicant's business is located in an area that requires business licensing, the applicant must have a valid business licence to operate the business.

##### Authorized spokesperson

3.1.7. An authorized spokesperson is an individual who has the authority to speak, decide, and act on behalf of the applicant on all matters regarding licensing and compliance.

3.1.8. An applicant for licence must identify an individual who is an owner, shareholder, director or officer, general manager or senior manager of the applicant who will be the applicant's authorized spokesperson.

##### Background checks

3.1.9. Every applicant, and associate and representative of an applicant, must provide consent for the VSA to conduct a criminal record check, including criminal history from every country in which the individual has resided.

3.1.10. Every applicant and associate of an applicant must provide consent for a review of their personal and corporate credit history.

3.1.11. Generally, the VSA will not conduct background checks on shareholders in a public corporation that is applying for a wholesaler licence but may do so if the checks are necessary to confirm the suitability of the applicant.



- 3.1.12. The VSA will conduct background checks on the applicant and each associate and representative of an applicant except that:
- (a) a criminal record check may not be conducted if the individual is currently registered and has had a criminal record check conducted within the past 5 years and
  - (b) a credit history check may not be conducted if the individual is currently registered and has had a credit history check conducted within the past 6 months.
- 3.1.13. Once licensed, a wholesaler and the wholesaler's associates and representatives must declare any change to their criminal record or offence history when applying to renew their licence.
- 3.1.14. If an applicant or an applicant's associate or representative who is required to have a background check has:
- (a) a criminal record
  - (b) a conviction for an offence (excluding parking tickets)
  - (c) been disciplined by another licensing body, or
  - (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery)
- the applicant or other person must not present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).
- 3.1.15. The credit history of an applicant and an applicant's associate who is required to have a background check must indicate financial solvency, including:
- (a) no outstanding judgment debts unless a court approved payment plan is in place and the payments are not in arrears
  - (b) credit owing does not exceed 75% of the credit available, unless further investigation of credit details indicates financial solvency, and
  - (c) the amount of credit available is sufficient to support the requirements of the applicant's business plan.

#### **Agreement of purchase and sale**

- 3.1.16. An applicant must provide a copy of the wholesale purchase and sale agreement that the applicant intends to use and the agreement must comply with the requirements of section 9 of the Wholesaler Licensing Regulation.

#### **Business plan**

- 3.1.17. An applicant must submit a business plan that meets the requirements outlined in the wholesaler application package.

### Business skills and experience

3.1.18. An applicant must have business experience, education or training in the following areas:

- (a) sales
- (b) marketing
- (c) book-keeping, including payroll
- (d) collecting and remitting taxes
- (e) requirements of employment law in BC, and
- (f) statutory requirements regarding consumer rights and the obligations of a motor dealer.

3.1.19. When evaluating whether an applicant's business skill and experience is adequate, the VSA will consider the following:

- (a) the nature of the applicant's business plan
- (b) the extent of the applicant's experience in relation to education and training, with experience in the vehicle sales industry being most important, and
- (c) the applicant's plans for sourcing inventory and potential clients, with a focus on confirming the legitimacy of their wholesale operations.

### Letter of credit

3.1.20. Generally, the VSA will not require an applicant for a wholesaler licence to provide a letter of credit.

### Fees

3.1.21. Except where otherwise provided in this policy, an applicant for a wholesaler licence or renewal of licence must pay all applicable application fees and assessments as described in the [Wholesaler Licence Application Schedule of Fees](#).

### Where application is for an additional location

3.1.22. Where a licenced wholesaler applies for a licence for an additional location, the Manager of Licensing may waive the requirements for a [business plan](#) for the additional location.

3.1.23. Other than an item waived under paragraph [3.1.22](#), all the qualifications for a wholesaler licence apply to an application for an additional location made by an existing licensed wholesaler.

### Application for both a wholesaler licence and a dealer licence

3.1.24. A licensed dealer who applies for a wholesaler licence:

- (a) does not have to pay any wholesaler licence application or renewal fees except as provided in paragraph (b), and
- (b) is deemed to have met all the qualifications for a licence if
  - (i) the dealer's wholesale business will operate from the existing dealer location and be owned and operated by the same business entity and associates

- (ii) any individuals who will be acting as wholesaler representatives of the dealer and who are not a licensed wholesaler or salesperson have met the VSA background check requirements
- (iii) the dealer pays any fee required for conducting background checks on wholesaler representatives who are not a licensed wholesaler or salesperson, and
- (iv) the dealer provides a copy of the wholesale purchase and sale agreement that the dealer intends to use and the agreement complies with the requirements in section 9 of the Wholesaler Licensing Regulation.

3.1.25. An individual may apply for both a wholesaler licence and a dealer licence at the same time. In this case:

- (a) the application for wholesaler licence will not be processed until the application for a dealer licence has been approved, and
- (b) the applicant must pay only the application fees applicable to the dealer licence.

## 4. Review of application for a wholesaler licence

### 4.1. Policy

#### Licence application requirements

- 4.1.1. An applicant must submit a completed Application for Wholesaler License (form X) and the application fees and assessments as described in the [Wholesaler Licence Application Schedule of Fees](#).
- 4.1.2. Every applicant and every associate of the applicant applying for a wholesaler licence must:
- (a) complete and sign a Wholesaler Application Profile (Form 4a)
  - (b) provide a copy of personal photo identification, and
  - (c) confirm that they have read and understood the Code of Conduct.
- 4.1.3. Every representative identified in the application must:
- (a) complete and sign a Wholesaler Representative Application, and
  - (b) provide a copy of personal photo identification.
- 4.1.4. Along with the completed Application for Wholesaler Licence form and fees, the applicant must submit all the following supporting documentation:
- (a) a copy of the applicant's city or municipal business licence, or where the applicant's business location is within a regional district that does not issue business licenses, proof that the location is properly zoned for wholesale motor vehicle sales
  - (b) photographs of the applicant's business location
  - (c) a 3-year business plan as described in paragraph [3.1.17](#)
  - (d) a copy of the applicant's wholesale purchase and sale agreement
  - (e) an account verification form signed by a bank representative and an individual with signing authority for the applicant, which provides the applicant's bank account information, and
  - (f) a list of all representatives, staff members and management currently employed or to be employed by the applicant.

#### Licence application requirements - where applicant is a licensed dealer

- 4.1.5. Where an applicant for a wholesaler licence is a licensed dealer, the applicant must provide:
- (a) confirmation that the dealer's wholesale business will operate from the existing dealer location and be owned and operated by the same business entity and associates
  - (b) a list of individuals who will act as a wholesaler representative for the applicant, and
  - (c) a copy of the applicant's wholesale purchase and sale agreement.
- 4.1.6. The applicant and the applicant's associates must confirm that they have read and understood the Wholesaler Code of Conduct.

- 4.1.7. Every representative identified in the application who is not a licensed wholesaler or salesperson must:
- (a) complete and sign a Wholesaler Representative Application, and
  - (b) provide a copy of personal photo identification.
- 4.1.8. The applicant must submit the fees required for conducting background checks on wholesaler representatives who are not a licensed wholesaler or salesperson.

#### **Application must be complete**

- 4.1.9. The VSA will not begin to review an application until the application fee has been paid and will not approve an application until all the required information and documentation has been provided.
- 4.1.10. Where an application that has been received is incomplete, the VSA will inform the applicant and request the missing information or documentation.
- 4.1.11. Where the applicant does not provide the missing information or documentation within 6 months of receipt of the application, the application will be closed as incomplete. If the applicant wishes to reapply after an application has been closed as incomplete, the applicant must submit a new application including all application fees.

#### **Where applicant has criminal record or charges**

- 4.1.12. Where an applicant or an applicant's associate or representative has a criminal record, an offence record, or outstanding charges that have been confirmed, the Manager of Licensing will review the record under [Part H – Review of Criminal Record or Offence](#).

#### **Where application not approved**

- 4.1.13. Where the Manager of Licensing determines that an application for a wholesaler licence should not be approved, the Manager will schedule a hearing before the Registrar.

## **4.2. Procedures – general**

### **Initial review of application**

- 4.2.1. Upon receipt of an application, the Licensing Officer checks the applicant's company name, names of the applicant's associates and representatives and the proposed location of the business in the VSA database to determine whether:
- (a) the applicant has been licensed previously, or
  - (b) there is another wholesaler who is currently operating at the proposed location.
- 4.2.2. Where an applicant, or their associates or representatives have been licensed previously, the Licensing Officer reviews the licensing record to determine whether there are any outstanding issues regarding the termination of the previous licence or outstanding fees.

- 4.2.3. Where there is a wholesaler currently located on the proposed location, the Licensing Officer determines whether the wholesaler will be leaving the proposed location or whether the applicant intends to share the location. Where the applicant intends to share the location, the Licensing Officer notifies the Investigations Officer about the proposed shared location.
- 4.2.4. The Licensing Officer creates a new wholesaler application record and processes the application fee.
- 4.2.5. If the application fee has not been provided, the Licensing Officer contacts the applicant to request the application fee.
- 4.2.6. After the application fee has been processed, the Licensing Officer reviews the application to determine if:
  - (a) the wholesaler application form is complete, and
  - (b) all the required supporting documentation has been provided.

#### Where application is incomplete

- 4.2.7. Where an application is incomplete, the Licensing Officer contacts that applicant and:
  - (a) requests that the applicant provide the missing information or supporting documentation as soon as possible, and
  - (b) informs the applicant that if all the missing information or documentation is not received within 6 months of receipt of the application, the application will be closed.
- 4.2.8. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.
- 4.2.9. Where an applicant does not provide the missing information or documentation within 6 months of receipt of the application, the Licensing Officer closes the application as incomplete and informs the applicant in writing that:
  - (a) the application has been closed, and
  - (b) if the applicant wishes to reapply in the future, the applicant must submit a new application including the application fee.

#### Confirmation of applicant's identity

- 4.2.10. The Licensing Officer compares the name of each individual applicant, associate and representative as shown on the photo identification with the individual's proof of legal status.
- 4.2.11. If there is a discrepancy between the names that are on the photo identification and the proof of legal status, the Licensing Officer contacts the individual and requests that they provide one of the following documents as proof of a change of name:
  - (a) a marriage certificate showing the change of name, or

- (b) a government-issued certificate of legal name change.

#### **Criminal record check**

- 4.2.12. For each applicant, associate and representative required to undergo a criminal record check under paragraph [3.1.12](#), the Licensing Officer forwards the consent for a criminal record check and statutory declaration where applicable to Security Programs Division for processing.
- 4.2.13. If the results of a criminal record check indicate that a record may exist and the applicant, associate or representative did not submit a statutory declaration, the Licensing Officer requests that they provide a statutory declaration and when received, the officer forwards the declaration to Security Programs Division to confirm the charges or convictions disclosed.
- 4.2.14. Where the charges or convictions disclosed on a statutory declaration cannot be confirmed by Security Programs Division, the Licensing Officer instructs the individual to submit a revised statutory declaration where possible.
- 4.2.15. Where Security Programs Division is unable to confirm a statutory declaration or revised declaration, the Licensing Officer instructs the individual to request a fingerprint verification of their criminal record and provide it to the VSA.
- 4.2.16. Once a criminal record has been confirmed by Security Programs Division or fingerprint verification, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

#### **Credit history**

- 4.2.17. The Licensing Officer obtains an Equifax credit history report on each applicant and the applicant's associates required to undergo a credit history review under paragraph [3.1.10](#).
- 4.2.18. The Licensing Officer reviews the credit history report for compliance with the requirements in paragraph [3.1.15](#).

#### **Other background checks**

- 4.2.19. The Licensing Officer may conduct a general web query and a search of Court Services Online on the applicant, associate or representative for information that may be relevant to the application.
- 4.2.20. If the applicant, associate or representative is or was previously licensed by another regulatory body, the Licensing Officer obtains the applicant's licensing history from that body.

#### **Corporate registration**

- 4.2.21. The Licensing Officer conducts a search of the Corporate Registry to determine whether:
  - (a) the applicant is registered in good standing, and
  - (b) any "Doing Business As" or trade name to be used by the applicant is registered.

### Agreement of purchase and sale

4.2.22. The Licensing Officer forwards the applicant's wholesale purchase and sale agreement to an Investigations Officer for review of compliance with the requirements in section 9 of the Wholesaler Licensing Regulation.

### Business location

4.2.23. The Licensing Officer reviews the information provided by the applicant regarding the proposed business location to confirm the following:

- (a) the applicant has a business licence to operate at the proposed location, or where no business licence is required, that the local zoning of the location allows for the operation of a wholesale business
- (b) the applicant has a place at the location for keeping required records that is secure and that may be readily accessed for the purpose of inspections
- (c) if the proposed location is within a private residence, that there is a separate external entrance that is used for business purposes, and
- (d) if the proposed location is shared with other businesses, that there is a sign identifying that part of the location used for the applicant's business.

### Viability of proposed wholesale business

4.2.24. The Licensing Officer reviews the applicant's business skills and experience, business model, and financial viability to determine whether there are any issues regarding the applicant's ability to successfully operate the proposed wholesale business, including a review of the following information and documentation:

- (a) business plan
- (b) credit history and available credit
- (c) information provided on the Wholesaler Application Profile (Form 4a), and
- (d) any other relevant information obtained in reviewing the application.

4.2.25. Where necessary, the Licensing Officer contacts the applicant for further information or documentation required to evaluate the viability of the proposed wholesale business.

### Review by Investigations Officer

4.2.26. The Licensing Officer requests that an Investigations Officer review the application or a specific issue that arises in the review of the application where the Licensing Officer believes it may assist in the review.

### Providing licence number in advance of licensing

4.2.27. A Licensing Officer may provide an applicant with the applicant's licence number prior to the licence being issued where

- (c) the applicant requires the number to complete preparation of the business, and



(d) the officer believes that the application is likely to be approved.

4.2.28. When providing a licence number in advance, the Licensing Officer explains to the applicant that the provision of the number does not mean that the application is or will be approved and that the applicant may not act as a wholesaler until the licence is issued.

#### **Application review complete – no unresolved issues**

4.2.29. When the review of an application is complete and there are no unresolved issues, the Licensing Officer forwards the application to the Manager of Licensing with a recommendation to approve the application and issue a conditional licence pending:

- (e) receipt of the applicant's business licence, and
- (f) review by the Investigations department.

4.2.30. The Manager of Licensing reviews the application and the recommendation and determines whether to issue the licence.

#### **Application review – issues identified**

4.2.31. Where the Licensing Officer determines that there are issues affecting approval of the application that the applicant has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.

4.2.32. The Manager of Licensing reviews the application and the issues identified by the Licensing Officer and investigates further where required.

4.2.33. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:

- (g) approve the application, including any conditions on licence required to address the issues identified, or
- (h) recommend to the Registrar that the application not be approved.

#### **Where application not approved**

4.2.34. Where the Manager of Licensing determines that an application for licence should not be approved, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

### **4.3. Procedures – where applicant is a licensed dealer**

#### **Initial review of application**

4.3.1. The Licensing Officer reviews the application to determine if:

- (a) any individuals who are listed as a wholesaler representative for the applicant and who are not already licensed as a wholesaler or a salesperson have provided
  - (i) a completed Wholesaler Representative Application, and

- (ii) a copy of personal photo identification
  - (b) the applicant has provided
    - (i) confirmation that the applicant's wholesale business will operate from the existing dealer location and be owned and operated by the same business entity and associates as the dealership
    - (ii) the fees required for conducting background checks on wholesaler representatives who are not a licensed wholesaler or salesperson, and
    - (iii) a copy of the applicant's wholesaler purchase and sale agreement
  - (c) the applicant and the applicant's associates have confirmed that they have read and understood the Wholesaler Code of Conduct.
- 4.3.2. The Licensing Officer creates a new wholesaler application record and processes the background check fees, if any.
- 4.3.3. If the background check fees have not been provided, the Licensing Officer contacts the applicant to request the fees. Background checks will not be conducted until the required fees have been submitted and processed.

#### Where application is incomplete

- 4.3.4. Where the application is incomplete, the Licensing Officer proceeds as provided in the general procedures at [Where application is incomplete](#).

#### Confirmation of representatives' identity

- 4.3.5. The Licensing Officer confirms the identity of any of the applicant's wholesaler representatives who are not already licensed as a wholesaler or salesperson as provided in the general procedures at [Confirmation of applicant's identity](#).

#### Background checks

- 4.3.6. The Licensing Officer conducts any required background checks on the applicant's wholesaler representatives as provided in the general procedures at [Criminal record check](#) and [Other background checks](#).

#### Agreement of purchase and sale

- 4.3.7. The Licensing Officer forwards the applicant's wholesale purchase and sale agreement to an Investigations Officer for review of compliance with the requirements in section 9 of the Wholesaler Licensing Regulation.

#### Completing the application review

- 4.3.8. The Licensing Officer completes the application review as provided in the general procedures from [Review by Investigations Officer](#).

## 5. Issuing a wholesaler licence

### 5.1. Policy

#### Decision to issue a licence

5.1.1. The Manager of Licensing or the Registrar will determine whether an applicant will be issued a wholesaler licence and the conditions on the licence.

#### Standard conditions

- 5.1.2. Every wholesaler licence will include the following standard conditions relating to the obligations of the wholesaler:
- (a) the wholesaler must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the wholesaler's application for licence [WL Reg s. 7(1)(a)]
  - (b) the wholesaler must, within 14 days after the circumstance occurs, notify the VSA, in writing, if
    - (i) the wholesaler is issued a garage vehicle certificate of insurance under the Insurance (Vehicle) Act, or
    - (ii) a garage vehicle certificate of insurance issued to the wholesaler expires or is cancelled [WL Reg s. 7(1)(b)]
  - (c) the wholesaler must, if the wholesaler ceases to act as a wholesaler, immediately notify the VSA in writing and surrender the wholesaler licence to the VSA [WL Reg s. 7(1)(c)]
  - (d) the wholesaler, and if applicable, the wholesaler's associates and representatives, must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the wholesaler, associate or representative [WL Reg s. 7(1)(d)]
  - (e) the wholesaler must establish, maintain and occupy business premises
    - (i) that are located at the address identified in the wholesaler licence
    - (ii) that are, in the opinion of the VSA, sufficient for carrying on business as a wholesaler, and
    - (iii) that are separate and distinct from premises or part of premises occupied as a residence [WL Reg s. 7(1)(e)]
  - (f) the wholesaler must display, at or near the front entrance to the wholesaler's business premises, any decal issued by the VSA indicating that the wholesaler is licensed [WL Reg s. 7(1)(f)]
  - (g) the wholesaler and, if applicable, the wholesaler's representatives and designated associates, must complete, to the VSA's satisfaction, educational courses specified by the VSA [WL Reg s. 7(1)(h)]
  - (h) the wholesaler must keep and maintain, at its business premises, business records for a period of at least 2 years after the last dealing or transaction to which the business record relates [WL Reg s. 7(1)(i)]

- (i) the wholesaler must, if the VSA receives a complaint respecting the wholesaler, provide the VSA with the information and records the VSA requires to investigate the complaint if the VSA
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint [WL Reg s. 7(1)(j)]
- (j) the wholesaler must, at a reasonable time during normal business hours, on request of the VSA, permit an individual authorized in writing by the VSA to
  - (i) enter and inspect the wholesaler's business premises in British Columbia
  - (ii) inspect all motor vehicles kept or stored in or on the business premises if any of the motor vehicles in or on the premises are owned, possessed or controlled by the wholesaler for the wholesaler's business, and
  - (iii) inspect the wholesaler's business records [WL Reg s. 7(1)(k)]
- (k) the wholesaler must, in a written representation respecting the disposition or proposed disposition of a used motor vehicle that is not suitable for transportation, include a statement to that effect [WL Reg s. 7(1)(l)], and
- (l) the wholesaler must, in a written representation respecting the disposition or proposed disposition of a used motor vehicle in respect of which the wholesaler exchanges or repairs the odometer or a part of the motor vehicle that is directly related to the odometer, record the reading on the motor vehicle's odometer taken before and after the exchange or repair. [WL Reg s. 7(1)(m)]

5.1.3. Every wholesaler licence will include the following standard conditions relating to prohibitions on the wholesaler:

- (a) the wholesaler must not dispose of a used motor vehicle to a person unless that person is
  - (i) a registered motor dealer or a licensed wholesaler, or
  - (ii) located in a jurisdiction other than British Columbia and not precluded by the laws of the other jurisdiction from acting as a motor dealer or wholesaler in that jurisdiction [WL Reg s. 7(2)(b)]
- (b) the wholesaler must not dispose of a used motor vehicle to a person unless the wholesaler and the person have signed a written agreement of purchase and sale that conforms to section 9 of the Wholesaler Licensing Regulation and the wholesaler has given a copy of the signed agreement to the person [WL Reg s. 7(2)(c)], and
- (c) the wholesaler must not employ or engage a representative unless the representative has provided
  - (i) the declarations required under section 4(2)(j) of the Wholesaler Licensing Regulation
  - (ii) the authorizations required under section 4(2)(l)(i) of the Wholesaler Licensing Regulation, andthe VSA has indicated that the representative may be employed or engaged. [WL Reg s. 7(2)(f)]

- (d) the wholesaler must not employ or engage a representative unless the representative has completed, to the VSA's satisfaction, educational courses specified by the VSA. [WL Reg s. 7(2)(e)]

### Other conditions

- 5.1.4. The Manager of Licensing or the Registrar may add other conditions to a licence to address any issues of concern regarding a wholesaler. Where the Manager of Licensing intends imposing other conditions on a licence, the wholesaler will have 30 days to request a review by the Registrar of the Manager of Licensing's intended decision to impose conditions as provided in the VSA's [Hearing Policy and Procedures](#). [WL Reg s. 7(1)(n) and s. 7(2)(f); MDA s. 26.04(5)(b)]

### Conditional licence

- 5.1.5. The Manager of Licensing may approve a conditional wholesaler licence pending the completion of the application requirements where the application is substantially complete and there are no outstanding issues that are likely to affect the approval of the licence.

### Removing conditions

- 5.1.6. Only the Registrar may approve the removal of a condition imposed by the Registrar unless the Registrar specifically delegates the authority to remove the condition.
- 5.1.7. The Manager of Licensing may remove any condition that was imposed by the Manager.

## 5.2. Procedures

### Issuing a licence

- 5.2.1. The Manager of Licensing reviews the application and the recommendation of the Licensing Officer and determines whether to approve the application, including any conditions on the licence.
- 5.2.2. The Licensing Officer reviews the wholesaler licence information in the VSA database and confirms that all conditions have been correctly entered.
- 5.2.3. Where there are conditions to be met before a regular licence will be issued, the Licensing Officer:
  - (a) sends a copy of the conditional licence to the applicant by fax or email, and
  - (b) where required, contacts the Investigations Officer in the applicant's region to request a review.
- 5.2.4. Where there are no conditions to be met before a regular licence is issued, the Licensing Officer:
  - (a) contacts the applicant to inform them that the licence has been approved, and
  - (b) issues and mails the licence to the applicant.

**Removing conditions to be met before regular licensed issued**

5.2.5. When the Licensing Officer has received confirmation that all conditions for issuing a regular licence has been met, the officer:

- (a) confirms the removal of the conditions with the Manager of Licensing and removes the conditions in the VSA database, and
- (b) issues and mails the regular licence to the wholesaler.

## 6. Renewal of wholesaler licence

### 6.1. Policy

#### Application to renew wholesaler licence

- 6.1.1. A wholesaler applying for a licence renewal must complete a Wholesaler Licence Renewal Application (Notice of Renewal) and submit it to the VSA along with the renewal application fee at least 14 days prior to the renewal date of their licence.
- 6.1.2. In addition to a completed Wholesaler Licence Renewal Application and renewal fees, a wholesaler applying for renewal of licence must provide:
- (a) either a municipal business licence or other documentation from a municipal or regional district authority that confirms that the zoning of the premises is consistent with the wholesale business
  - (b) a current list of all the wholesaler's representatives
  - (c) any other information that may be required to determine whether the licence should be renewed.

#### Application to renew – where applicant is also a licensed dealer

- 6.1.3. Where a wholesaler who is applying for a licence renewal is also a licensed dealer, the applicant must complete a Wholesaler Licence Renewal Application (form x) and submit it to the VSA at least 14 days prior to the renewal date of their licence. The applicant does not have to pay the renewal fee for the wholesaler licence if they have paid the renewal fee for their dealer licence.

#### Application must be complete

- 6.1.4. The VSA will not begin to review an application to renew a wholesaler licence until the application fee has been paid and will not approve a renewal application until a fully completed application has been received.
- 6.1.5. Where an application to renew a wholesaler licence that has been received is incomplete, the VSA will inform the wholesaler and request the missing information or documentation.
- 6.1.6. Where an application is received or completed less than 14 days prior to the renewal of the wholesaler licence, the VSA will make reasonable efforts to complete its review of the application prior to the renewal of the licence.

#### Failure to renew licence before renewal date

- 6.1.7. Where a wholesaler fails to renew a licence before it expires:
- (a) the wholesaler must not continue to sell vehicles after the licence has expired, and
  - (b) the wholesaler's licence will be designated as lapsed for 60 days, during which time the wholesaler may apply for renewal by submitting a renewal application and paying the renewal fees including any late renewal fees.

6.1.8. If a wholesaler fails to renew the licence within 60 days of the renewal date, the licence will be automatically cancelled and if the wholesaler wishes to be licensed again after cancellation, the wholesaler must submit a new wholesaler application.

#### **Late renewal fee**

6.1.9. Where a wholesaler renews a licence within 60 days of the renewal date, the Licensing Officer will apply a late fee in addition to the renewal fee.

6.1.10. If a wholesaler disputes the application of a late fee, the Licensing Officer will consult with the Manager of Licensing to determine whether the late fee should be applied.

6.1.11. When determining whether to apply a late fee, the Licensing Officer and the Manager of Licensing will consider:

- (a) the reasons for the late renewal, and
- (b) the wholesaler's history of compliance with licensing requirements.

#### **Decisions regarding a renewal application**

6.1.12. After completing a detailed review of a renewal application, where the Licensing Officer determines that the application meets the application requirements and there are no other issues with the renewal of licence or consignment privileges, the Licensing Officer will approve the application.

6.1.13. Where a Licensing Officer does not approve an application under paragraph 6.1.11, the officer will refer the application to the Manager of Licensing.

6.1.14. Where an application to renew a wholesaler licence is referred to the Manager of Licensing, the Manager will investigate further as required and determine whether to:

- (a) renew the licence, including any conditions on the renewal to address the issues identified, or
- (b) recommend that the licence not be renewed.

#### **Hearing before the Registrar**

6.1.15. Where the Manager of Licensing determines that a wholesaler licence should not be renewed, the Manager will schedule a hearing before the Registrar.

## **6.2. Procedures**

#### **Renewal notice**

6.2.1. The Licensing Officer monitors licence renewal dates and 6 weeks prior to the renewal of a wholesaler's licence the officer sends a renewal package to the wholesaler.



### Initial review of application to renew

- 6.2.2. When renewal applications are received, the Licensing Officer processes the applications in order of renewal date.
- 6.2.3. The Licensing Officer reviews the Wholesaler Licence Renewal Application to determine if:
- (a) the correct renewal fee has been provided
  - (b) the renewal form is complete, and
  - (c) all the supporting documentation required in paragraph [6.1.2](#) has been provided.
- 6.2.4. Where a renewal application is not complete, the Licensing Officer contacts the wholesaler and:
- (a) requests that the wholesaler provide the missing information or documentation, and
  - (b) informs the wholesaler that the licence will not be renewed until the application is complete.

### Detailed review of renewal application

- 6.2.5. The Licensing Officer reviews the renewal application for information about the wholesaler that may affect approval of the renewal, including:
- (a) a change in wholesaler name (legal name or DBA name), location or ownership that was not approved, and
  - (b) a change to the criminal record or offence history that has not been reviewed by the VSA, and
  - (c) any other information that may indicate it would not be in the public interest to renew the licence.

### Check for outstanding balance

- 6.2.6. The Licensing Officer checks the wholesaler profile to determine whether the wholesaler has any outstanding balance owing to the VSA.
- 6.2.7. Where the wholesaler has an outstanding balance, the Licensing Officer determines the reason for the balance owing and requests authorization from the Manager of Licensing to renew the licence.
- 6.2.8. The Manager of Licensing reviews the outstanding balance and determines whether the wholesaler licence will be renewed prior to the outstanding balance being paid.

### Corporate registration

- 6.2.9. Where required, the Licensing Officer checks the corporate registry to determine whether the wholesaler's licence remains in good standing. This check is done every other year based on wholesaler licence number, with odd numbers being done in one year and even numbers the next.

- 6.2.10. Where a wholesaler is not in good standing, the Licensing Officer sends the wholesaler a letter indicating that they must take action to meet the requirements for good standing.
- 6.2.11. Where a check of the Corporate Registry indicates that the wholesaler has been dissolved, the Licensing Officer:
- (a) notifies the wholesaler that the licence is no longer valid
  - (b) changes the status of the licence in the VSA database to pending, and
  - (c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction that the licence is no longer valid.

### Renewing the licence

- 6.2.12. Where the Licensing Officer completes the review of a renewal application and there are no unresolved issues, the officer:
- (a) renews the licence in the VSA database
  - (b) processes the renewal fee, and
  - (c) issues the new licence and mails it to the wholesaler.

### Referral to Manager of Licensing

- 6.2.13. Where the Licensing Officer determines that there are issues affecting approval of the renewal application that the wholesaler has not been able to resolve, the officer refers the application to the Manager of Licensing for review.
- 6.2.14. The Manager of Licensing reviews the application and the issues identified by the officer and investigates further where required. This may include:
- (a) requesting that an Investigations Officer conduct an inspection or investigation of the wholesaler, and
  - (b) requiring that the wholesaler provide further information regarding the wholesaler's operations, business plans, or financial records.
- 6.2.15. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
- (a) renew the licence, including any conditions on the renewal to address the issues identified, or
  - (b) recommend that the licence not be renewed.

### Where Manager determines a licence should not be renewed

- 6.2.16. Where the Manager of Licensing determines that a wholesaler licence should not be renewed, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

**Failure to renew licence before renewal date**

6.2.17. The Licensing Officer monitors wholesaler licence renewal dates and where a wholesaler has failed to submit a renewal application prior to the renewal date of the licence, the officer:

- (a) contacts the wholesaler by telephone where possible, and
- (b) sends a warning letter to the wholesaler indicating that the wholesaler's licence has lapsed and will be cancelled if it is not renewed within 60 days.

6.2.18. Where the wholesaler fails to renew the licence within 60 days of the renewal date, the Licensing Officer:

- (a) cancels the licence
- (b) requests that the Investigations Officer conduct a closure inspection, and
- (c) notifies ICBC, ADESA and any other wholesale auction that the licence has been cancelled.

6.2.19. Where a wholesaler submits an application to renew within 60 days of the renewal date, the Licensing Officer reviews the application and determines whether to:

- (a) renew the licence, or
- (b) forward the renewal application to the Manager of licensing for further review.

6.2.20. Where the Licensing Officer renews the licence, the officer applies a late fee in addition to the renewal fee.

6.2.21. If a wholesaler disputes the application of a late fee, the Licensing Officer consults with the Manager of Licensing to determine whether the late fee will be applied.

## 7. Wholesale business changes

### 7.1. Policy

#### Licence not transferrable

- 7.1.1. A wholesaler licence is not transferrable to any other individual, partnership or corporation. Where there is a change to a sole proprietor or where, in the opinion of the Manager of Licensing, a change of partners, officers or directors of a corporation, or shareholders of a private corporation, constitutes a change in ownership, the new ownership will be required to submit an application for a new wholesaler licence.

#### Change of contact information

- 7.1.2. A wholesaler must provide the VSA with any changes to its contact information, including any change to the wholesaler's authorized spokesperson, within 14 days of the change.

#### Reporting change of name, location or ownership

- 7.1.3. Where there is any change to a wholesaler's name or location, or to the partners in a partnership, the officers or directors of a corporation, or the shareholders of a private corporation that is a licenced wholesaler, the wholesaler must complete a Notice of Change (form 3) and submit it to the VSA along with any applicable fee within 14 days of the change.
- 7.1.4. Where there is a change to an associate of a licenced wholesaler, every new individual must
- (a) complete and submit a Wholesaler Applicant Profile (Form 4a), and:
  - (b) provide
    - (i) a copy of personal photo identification
    - (ii) a copy of the share purchase agreement, where applicable
    - (iii) consent for the VSA to conduct a review of their personal and corporate credit history, and
    - (iv) consent for a criminal record check.
- 7.1.5. The VSA will conduct [background checks](#) on individuals submitting a Wholesaler Applicant Profile as part of change to an existing wholesale business according to the policy for new wholesaler licence applicants.

#### Change of ownership – where new application is required

- 7.1.6. A new wholesaler licence application must be submitted where:
- (a) a wholesale business is transferred to a new legal entity (a new individual, partnership or corporation), or
  - (b) the legal entity that owns the wholesale business does not change but a change in ownership of the entity results in a change to the controlling interest in the business.

- 7.1.7. Where there is a change as described in [7.1.6\(b\)](#), the applicant may keep the existing wholesaler licence number if a new wholesaler licence application is approved.

### Change in name of corporation

- 7.1.8. Where a wholesale business owned by an incorporated company changes its name but:

- (i) retains the same incorporation number, and
- (j) there is no change to the controlling interest

the change will be processed as change to an existing wholesaler licence and will not require a new application.

## 7.2. Procedures

### Change of location

- 7.2.1. Upon receipt of a Notice of Change – Location (form 3a), the Licensing Officer reviews the form for:

- (a) completeness
- (b) payment of the change fee, and
- (c) the effective date of the change.

- 7.2.2. The Licensing Officer processes the change the day before the effective date of the change or as soon as possible after the change has taken effect.

- 7.2.3. When processing the change, the Licensing Officer:

- (a) processes the fee payment
- (b) enters the new location information into the VSA database and adds a condition to the wholesaler licence for the wholesaler to submit a new business licence for the location within 30 days
- (c) sends an inspection request to the Investigations Officer, and
- (d) notifies ICBC, ADESA and any other wholesale auction of the location change.

### Change of name

- 7.2.4. Upon receipt of a Notice of Change – Wholesaler Name (form 3b), the Licensing Officer reviews the form for completeness and payment of the change fee.

- 7.2.5. The Licensing Officer checks the Corporate Registry to confirm that the new name is registered.

- 7.2.6. When processing the change, the Licensing Officer:

- (a) processes the fee payment and enters the new wholesaler name into the VSA database
- (b) changes the wholesaler name on the wholesaler file, and

(c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction about the name change.

7.2.7. The Licensing Officer mails a new wholesaler licence except where a new wholesaler licence is not sent because:

- (a) the name change is minor, or
- (b) the wholesaler's licence renewal is imminent.

### **Change of ownership**

7.2.8. Upon receipt of a Notice of Change – Ownership (form 3c), the Licensing Officer reviews the form for:

- (a) completeness, including any required
  - (i) Wholesaler Applicant Profile (Form 4a)
  - (ii) copy of a share purchase agreement
- (b) payment of the change fee, and
- (c) the effective date of the change.

7.2.9. The Licensing Officer reviews the form to determine whether the new ownership may be processed as a change or a new wholesaler application is required and follows up with the wholesaler where required.

7.2.10. Where new individuals are being added, the Licensing Officer conducts background checks.

7.2.11. When the Licensing Officer's review is complete and there are no unresolved issues, the Licensing Officer amends the wholesaler record in the VSA database.

## **8. Wholesaler licence on hold**

### **8.1. Policy**

- 8.1.1. A wholesaler who wishes to temporarily suspend operations may request that the wholesaler licence be placed on hold for up to 6 months provided that the wholesaler complies with any renewal requirements, including payment of renewal fees, while the licence is on hold.
- 8.1.2. A license may be placed on hold where the wholesaler is temporarily unable to continue operating the wholesale business for reasons beyond the wholesaler's control, such as:
  - (a) illness, injury or other medical condition
  - (b) the need to care for a newborn child
  - (c) the loss of a lease on the wholesaler's business premises, and
  - (d) interruption of business caused by a natural disaster or similar event.

### **8.2. Procedures**

- 8.2.1. Where a wholesaler requests that a licence be placed on hold, the Licensing Officer confirms the reason for the request and determines whether to place the licence on hold.
- 8.2.2. Where the Licensing Officer is unable to determine whether to place the licence on hold, the officer refers the request to the Manager of Licensing.
- 8.2.3. Where the Licensing Officer or the Manager of Licensing determines that the wholesaler licence will be placed on hold, the Licensing Officer:
  - (a) changes the licence status from active to pending
  - (b) schedules a follow-up contact with the wholesaler, and
  - (c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction about the status of the licence.

## **9. Cancellation or suspension of a licence**

### **9.1. Policy**

- 9.1.1. Where a wholesaler voluntarily cancels a licence, or the Registrar cancels or suspends a wholesaler licence, the wholesaler must immediately return the licence to the VSA.
- 9.1.2. Where a cancelled or suspended licence is not immediately returned to the VSA, the Investigations department will attempt to retrieve the licence from the wholesaler.

### **9.2. Procedures**

- 9.2.1. When the Licensing Officer receives hearing results indicating that a licence has been cancelled or suspended, the officer:
  - (a) cancels or suspends the licence and enters the reason for cancellation or suspension in the wholesaler record
  - (b) uploads the hearing results to the wholesaler record, and
  - (c) notifies the Investigations Officer, ICBC, ADESA and any other wholesale auction about the cancellation or suspension, including the end date of a suspension.
- 9.2.2. Where the licence is suspended, the Licensing Officer schedules a reminder to change the status of the licence when the term of the suspension ends.



## F. BROKER-AGENT LICENSING AND RENEWAL

### 1. Overview

#### 1.1. Licensing and renewal

Any person who, in the course of their business, acts on behalf of a consumer to facilitate the purchase of a vehicle must be licensed as a broker-agent by the VSA.

This part contains the requirements that a person must meet in order to be granted a broker-agent licence and the process for reviewing applications for a licence. The VSA carefully reviews an applicant's qualifications and suitability to be a broker-agent in order to protect the public and the vehicle sales industry. This includes background checks, a review of the applicant's business premises, business plan and financial resources and a review of the applicant's business location.

A broker-agent must renew their licence annually. At renewal, the VSA confirms whether the broker-agent is in good standing with the VSA and follows up on any outstanding licensing or compliance issues before granting a renewal of the licence.

This part also contains the requirements for licensed broker-agents to report changes to their business, to put a broker-agent licence on hold, and policy and procedures for the cancellation or suspension of a licence.

#### 1.2. Legislative authority and requirements

##### Definition of broker-agent

1.2.1. Any person who, in the course of business, acts on behalf of another person to facilitate the other person's purchase, exchange or other acquisition of a motor vehicle for purposes that are primarily personal, family or household is a broker-agent. [MDA s. 1(1) – definition of broker-agent]

1.2.2. The definition of broker-agent does not include:

- (a) a broker-agent representative, or
- (b) a person who is exempted by regulation<sup>4</sup>.

##### Definition of associate

1.2.3. An associate is:

- (a) a director or officer of a corporation or a beneficial owner of shares of a corporation, or

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<sup>4</sup> Currently, no one has been exempted from being a broker-agent in the regulations.

- (b) an individual who is a partner in a partnership, or, if a corporation is a partner in a partnership, then a director or officer of that corporation or a beneficial owner of shares of that corporation. [BL Reg s. 1 – definition of associate]

### Definition of broker-agent representative

- 1.2.4. A broker-agent representative is an individual who is a broker-agent or who, on behalf of a broker-agent and for or in the expectation of a fee, gain or reward:
  - (a) acts on behalf of a person to facilitate that person's purchase, exchange or other acquisition of a motor vehicle for purposes that are personal, family or household, or
  - (b) in any way participates in acting on behalf of a person to facilitate that person's purchase, exchange or other acquisition of a motor vehicle for purposes that are personal, family or household. [MDA s. 1(1) – definition of broker-agent representative]

### Requirement to be licensed and display licence

- 1.2.5. A person must not act as a broker-agent unless they hold a valid broker-agent licence. [BL Reg s. 2]
- 1.2.6. A broker-agent licence is only valid for the business premises specified in the licence. [BL Reg s. 3]
- 1.2.7. A licensed broker-agent must display the original copy of their licence in a conspicuous place at their business premises. [BL Reg s. 8]

### Application for a licence

- 1.2.8. An application for a broker-agent licence must:
  - (a) be made in the form and manner approved by the VSA and
  - (b) be submitted with the applicable fee set by the VSA. [BL Reg s. 4(1)]
- 1.2.9. An application for a broker-agent licence must include the following information, records, declarations and authorizations:
  - (a) the usual name of the applicant and, if applicable, the applicant's associates and representatives, and any other name used by the applicant, associate or representative [BL Reg s. 4(2)(a)]
  - (b) contact information for the applicant and, if applicable, the applicant's associates and representatives, including a mailing address, residential address and telephone number and, if any, electronic mail address [BL Reg s. 4(2)(b)]
  - (c) the name in which the applicant will carry on business as a broker-agent and the address at which the applicant will maintain business premises [BL Reg s. 4(2)(c)]
  - (d) if the applicant is an individual, proof of the applicant's age, citizenship and, if relevant, authority to work in Canada [BL Reg s. 4(2)(d)]
  - (e) if the applicant is a corporation or partnership, proof of the applicant's authority to carry on business in British Columbia [BL Reg s. 4(2)(e)]

- (f) a copy of the applicant's business plan [BL Reg s. 4(2)(f)]
- (g) the name and licence number of any broker-agent representative who will be employed by the applicant [BL Reg s. 4(2)(g)]
- (h) a copy of any business licence issued to the applicant by the local government or other body, in or outside British Columbia, with jurisdiction over the area in which the applicant's business premises are located [BL Reg s. 4(2)(h)]
- (i) if the applicant is a corporation, the total number of issued shares of the corporation and the number of shares held by each beneficial owner of shares [BL Reg s. 4(2)(i)]
- (j) declarations of the applicant and, if applicable, the applicant's associates and representatives, respecting the applicant's, the associate's or the representative's
  - (i) involvement in bankruptcy proceedings
  - (ii) past conduct in the motor vehicle industry in this or any other jurisdiction, including previous dealings, if any, with the VSA
  - (iii) past conduct in another regulated industry in this or any other jurisdiction
  - (iv) convictions, if any, for an offence under an enactment of this or any other jurisdiction in relation to consumer protection, tax, the motor vehicle industry or another regulated industry, and
  - (v) convictions, if any, for a crime outside Canada [BL Reg s. 4(2)(j)]
- (k) authorizations necessary for the VSA to
  - (i) obtain a criminal record check for the applicant and, if applicable, the applicant's associates
  - (ii) obtain a credit report for the applicant and, if applicable, the applicant's associates
  - (iii) inspect the business premises in British Columbia, if any, at which the applicant will carry on business as a broker-agent, and
  - (iv) verify any other information provided in the application. [BL Reg s. 4(2)(k)]

### Application to renew a licence

1.2.10. An application to renew a broker-agent licence must be made at least 14 days before the broker-agent licence expires. [BL Reg s. 4(4)]

1.2.11. An application to renew a broker-agent licence must include:

- (a) a statement confirming that the information, the records and the facts described in a declaration or authorization provided at the time of the initial application for a licence or at the time of the last licence renewal, continue to be accurate, or
- (b) if there has been any change in the information, the records or the facts referred to in paragraph (a), a statement setting out the change and, as applicable, an updated record, declaration or authorization. [BL Reg s. 4(3)]

### Application for licence by a dealer

1.2.12. A licensed dealer who applies for a broker-agent licence or to renew a broker-agent licence is not required to:

- (a) pay an application or renewal fee
- (b) provide the information, records, declarations and authorizations listed in paragraph [1.2.9](#), or
- (c) provide the statements listed in paragraph [1.2.11](#). [BL Reg s. 4(5)]

### Issuing and renewing a licence

- 1.2.13. The VSA may issue or renew a broker-agent licence for a term of not more than one year. [BL Reg s. 5]
- 1.2.14. The VSA may refuse to issue or renew a broker-agent licence if the VSA considers that it would not be in the public interest for the applicant to be licensed, having regard to:
- (a) the financial responsibility of the applicant and, if applicable, the applicant's associates, or
  - (b) the conduct of the applicant, and, if applicable, the applicant's associates and representatives. [BL Reg s. 6(1)]
- 1.2.15. Before the VSA can refuse to issue or renew a broker-agent licence, the VSA must give the applicant:
- (a) notice that the applicant has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
  - (b) written reasons for the decision to issue or renew the licence. [BL Reg s. 6(2), 18]

### Conditions on a licence

- 1.2.16. When issuing or renewing a broker-agent licence, the VSA may impose any of the conditions:
- (a) related to the [obligations of the licensee](#) provided in section 7(1) of the Broker-agent Licensing Regulation, and
  - (b) related to [prohibitions on the licensee](#) as provided in section 7(2) of the Broker-agent Licensing Regulation.
- 1.2.17. On written notice to a licensed broker-agent, the VSA may remove a condition or impose a condition provided in section 7(1) or 7(2). [BL Reg s. 7(3)]

### Conditions related to the obligations of the licensee – s. 7(1)

- 1.2.18. Any of following conditions related to the obligations of the licensee may be imposed:
- (a) the licensee must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the licensee's application for a broker-agent licence
  - (b) the licensee must, if the licensee ceases to act as a broker-agent, immediately notify the VSA in writing and surrender the licensee's broker-agent licence to the VSA
  - (c) the licensee and, if applicable, the licensee's associates, must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee or associate
  - (d) the licensee must establish, maintain and occupy business premises

- (i) that are located at the address identified in the licensee's broker-agent licence
  - (ii) that are separate and distinct from premises or part of premises occupied as a residence.
- (e) the licensee must display, at or near the front entrance to the licensee's business premises, any decal issued to the licensee by the VSA indicating that the licensee is licensed to act as a broker-agent
- (f) the licensee must provide security within the time, in the form and in the amount required by the VSA
- (g) the licensee must keep and maintain, at its business premises, business records for a period of at least 2 years after the last dealing or transaction to which the business record relates
- (h) the licensee must, if the VSA receives a complaint respecting the licensee, provide the VSA with the information and records it requires to investigate the complaint, if the VSA
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint
- (i) the licensee must, at a reasonable time during normal business hours, on request of the VSA, permit an individual authorized in writing by the VSA to
  - (i) enter and inspect the licensee's business premises in BC, and
  - (ii) inspect the licensee's business records
- (j) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed as a broker-agent.

#### Conditions related to prohibitions on the licensee – s. 7(2)

1.2.19. Any of following conditions related to prohibitions on the licensee may be imposed:

- (a) the licensee must not employ or engage a broker-agent representative other than a broker-agent representative who is licensed in British Columbia
- (b) the licensee must not act as a broker-agent for a consumer with whom the licensee or a broker-agent representative employed or engaged by the licensee has a conflict of interest
- (c) the licensee must not act as a broker-agent for a consumer unless the licensee and the consumer have signed a written service agreement that conforms to section 9 of the Broker Licensing Regulation and the licensee has given a copy of the signed agreement to the consumer
- (d) the licensee must not, on behalf of a consumer for whom the licensee acts as broker-agent
  - (i) enter into an agreement to acquire or finance a motor vehicle
  - (ii) grant a waiver referred to in section 31(6) of the *Motor Dealer Act Regulation*, or
  - (iii) acknowledge receipt of information that is required by a provincial or federal law to be disclosed to the consumer for that consumer's protection
- (e) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed as a broker-agent.

### Requirement to display a licence

1.2.20. A licensee must display, in a conspicuous place at the licensee's business premises, the original copy of the licensee's broker-agent licence. [BL Reg s. 8]

### Revoking or suspending a licence

1.2.21. The VSA may revoke a broker-agent licence if the licensee notifies the VSA that they have ceased to act as broker-agent. [BL Reg s. 11(1)]

1.2.22. The VSA may revoke or suspend a broker-agent licence if the VSA considers that it would not be in the public interest for the licensee to continue to be licensed, having regard to

- (a) the financial responsibility of the applicant and, if applicable, the applicant's associates, or
- (b) the conduct of the applicant, and, if applicable, the applicant's associates and representatives. [BL Reg s. 11(2)]

1.2.23. Before the VSA can revoke or suspend a broker-agent licence, the VSA must give the licensee:

- (a) notice that the licensee has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
- (b) written reasons for the decision to revoke or suspend the licence. [BL Reg s. 11(3.), 18]

1.2.24. Where a licence is suspended, the written reasons must specify the period of suspension, which may end on:

- (a) a fixed date, or
- (b) the date the licensee meets all the conditions specified in the written reasons. [BL Reg s. 11(4)]

1.2.25. The conditions in the written reasons for a suspension may require that the licensee:

- (a) comply with a specified condition on the licence, and
- (b) pay a specified administrative penalty imposed under section 26.04 of the *Motor Dealer Act*.

### Death of a partner – effect on broker-agent partnership

1.2.26. On the death, bankruptcy or dissolution of a partner:

- (a) a partnership of 2 partners is dissolved, and
- (b) subject to agreement among the partners, a partnership of more than 2 partners is dissolved as between the bankrupt, dead or dissolved partner and the other partners. [Partnership Act s. 36]

### Definition of business records

- 1.2.27. If a licence condition requires a broker-agent to maintain 'business records', the following are considered business records:
- (a) a record of the consumers for whom the licensee has acted as a broker-agent
  - (b) a record disclosing to a consumer a conflict of interest between the consumer and the licensee or a broker-agent employed or engaged by the licensee
  - (c) financial records related to the broker-agent business
  - (d) for each person referred to in paragraph (a), a copy of the written agreement of purchase and sale referred to in section 7(2)(c)
  - (e) a record of the number of motor vehicles acquired by consumers with the assistance of the broker-agent
  - (f) for each consumer for whom the licensee has acted a broker agent, the following records, as applicable:
    - (i) a copy of the service agreement required in section 7(2)(c) of the Broker Licensing Regulation
    - (ii) correspondence, notes and other records related to the acquisition or possible acquisition of a motor vehicle by a consumer
    - (iii) a record of fees for services provided and out of pocket expenses incurred in the course of providing broker-agent services to the consumer and copies of receipts for those services and expenses
    - (iv) a copy of a lease and related disclosure statement provided by the broker-agent to the consumer on behalf of a lessor as defined in section 57(1) of the *Business Practices and Consumer Protection Act*
    - (v) a copy of a financing statement and related disclosure statement provided by the broker-agent to the consumer on behalf of a loan broker or credit grantor as defined in section 57(1) of the *Business Practices and Consumer Protection Act*
    - (vi) a copy of the agreement of purchase and sale of a motor vehicle
    - (vii) a copy of a record provided by the broker-agent to the consumer that describes the motor vehicle, its history or its performance characteristics copy of the agreement of purchase and sale of a motor vehicle
    - (viii) a record obtained by the licensee relating to the inspection, repair or reconditioning of a motor vehicle the consumer acquired or considered for acquisition
    - (ix) a record obtained by the licensee relating to the import or export of a motor vehicle the consumer acquired or considered acquiring.

## 2. Requirement to be licenced as a broker-agent

### 2.1. Policy

#### Meaning of “consumer” in this policy

- 2.1.1. In this policy, “consumer” means an individual who engages in the purchase, exchange or other disposition or acquisition of a vehicle for purposes that are primarily personal, family or household.
- 2.1.2. An “individual” means a natural person and not a company or corporation.
- 2.1.3. For the purpose of determining whether a vehicle was used primarily for personal, family or household purposes, “primarily” means that more than 50% of the use of the vehicle was, or was intended for personal, family or household purposes.
- 2.1.4. Evidence of the primary purpose of a vehicle includes:
  - (a) the intended use at the time of the purchase,
  - (b) any actual use of the vehicle by the client, and
  - (c) where the vehicle was purchased to replace a vehicle previously used by the client, the primary purpose of the applicant’s use of the vehicle to be replaced.

#### Who must be licensed as a broker-agent

- 2.1.5. Any person who, in the course of business, acts on behalf of a consumer to facilitate the consumer’s purchase, exchange or other acquisition of a motor vehicle must be licensed as a broker-agent.

#### Exemptions from requirement to be licensed

- 2.1.6. A person who is licensed as a broker-agent representative and who is acting on behalf of a licensed broker-agent is not required to be licensed as a broker-agent.

#### Separate licence required for each location

- 2.1.7. If a person carries on business as a broker-agent at more than one location in British Columbia, the person must obtain a separate licence for each location from which they operate.
- 2.1.8. Generally, a different location means a different physical address.

#### Death of a sole proprietor – effect on licence

- 2.1.9. Where a broker-agent who is a sole proprietor dies, the sole proprietorship ends and the broker-agent licence is no longer valid.
- 2.1.10. An executor or administrator of the deceased broker-agent’s estate may temporarily continue to operate the broker-agent business without a licence for the purpose of disposing of the estate.



2.1.11. Where an executor is required under a will to establish a trust to operate the broker-agent's business on behalf of a beneficiary, the trustee is not exempt and must be licenced.

#### **Death of a partner – effect on licence**

2.1.12. Where a broker-agent business consists of a partnership of two people and one partner dies, the partnership ceases to exist and the broker-agent licence is no longer valid.

2.1.13. Where a broker-agent business consists of a partnership of more than two people and one partner dies, the partnership continues unless the partners have agreed that it should end. If the partnership continues then the broker-agent licence remains valid.

### 3. Qualifications for a broker-agent licence

#### 3.1. Policy

- 3.1.1. At a minimum, an applicant must meet the requirements in this part to qualify for a broker-agent licence.

##### Extra-provincial company

- 3.1.2. An applicant that is a company incorporated somewhere other than BC must be registered as an extra-provincial company in the BC Corporate Registry.

##### Business location

- 3.1.3. The zoning of an applicant's proposed business location must be appropriate for the operation of the business.
- 3.1.4. If an applicant's business will be located in a residence, the residence must have a separate external entrance to be used for business purposes.
- 3.1.5. If the applicant's business location is shared with other businesses, the applicant's part of the shared location must be identified with a sign identifying the applicant's broker-agent business.

##### Business licence

- 3.1.6. If an applicant's business is located in an area that requires business licensing, the applicant must have a valid business licence to operate the business.

##### Authorized spokesperson

- 3.1.7. An authorized spokesperson is an individual who has the authority to speak, decide, and act on behalf of the applicant on all matters regarding licensing and investigations.
- 3.1.8. An applicant for licence must identify an individual who is an owner, shareholder, director or officer, general manager or senior manager of the applicant who will be the applicant's authorized spokesperson.

##### Background checks

- 3.1.9. Every applicant and associate of an applicant, must provide consent for the VSA to:
- (a) conduct a criminal record check, including criminal history from every country in which the individual has resided and
  - (b) review of their personal and corporate credit history.
- 3.1.10. Generally, the VSA will not conduct background checks on shareholders in a public corporation that is applying for a broker-agent licence but may do so if the checks are necessary to confirm the suitability of the applicant.

- 3.1.11. The VSA will conduct background checks on the applicant and each associate of an applicant except that:
- (a) a criminal record check may not be conducted if the individual is currently licensed and has had a criminal record check conducted within the past 5 years and
  - (b) a credit history check may not be conducted if the individual is currently licensed and has had a credit history check conducted within the past 6 months.
- 3.1.12. Once licensed, a broker-agent and the broker-agent's associates must declare any change to their criminal record or offence history when applying to renew their licence.
- 3.1.13. If an applicant or an applicant's associate who is required to have a background check has:
- (a) a criminal record
  - (b) a conviction for an offence (excluding parking tickets)
  - (c) been disciplined by another licensing body, or
  - (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery)
- the applicant or other person must not present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).
- 3.1.14. The credit history of an applicant and an applicant's associate who is required to have a background check must indicate financial solvency, including:
- (a) no outstanding judgment debts unless a court approved payment plan is in place and the payments are not in arrears
  - (b) credit owing does not exceed 75% of the credit available, unless further investigation of credit details indicates financial solvency, and
  - (c) the amount of credit available is sufficient to support the requirements of the applicant's business plan.

### **Service agreement**

- 3.1.15. An applicant must provide a copy of the broker-agent service agreement that the applicant intends to use and the agreement must comply with the requirements of section 9 of the Broker Licensing Regulation.

### **Business plan**

- 3.1.16. An applicant must submit a business plan that meets the requirements outlined in the broker-agent application package.

### **Business skills and experience**

- 3.1.17. An applicant must have business experience, education or training in the following areas:
- (a) sales

- (b) marketing
- (c) book-keeping, including payroll
- (d) collecting and remitting taxes
- (e) requirements of employment law in BC
- (f) acting as a trustee, fiduciary or agent
- (g) managing a trust account, and
- (h) statutory requirements regarding consumer rights and the obligations of a motor dealer.

3.1.18. When evaluating whether an applicant's business skill and experience is adequate, the VSA will consider the following:

- (a) the nature of the applicant's business plan
- (b) the extent of the applicant's experience in relation to education and training, with experience in the vehicle sales industry being most important, and
- (c) the applicant's plans for marketing their services to consumers and to dealers or salespersons.

#### Letter of credit

3.1.19. Generally, the VSA will not require an applicant for a broker-agent licence to provide a letter of credit.

#### Fees

3.1.20. Except where otherwise provided in this policy, an applicant for a broker-agent licence or renewal of licence must pay all applicable application fees and assessments as described in the [Broker-agent Licence Application Schedule of Fees](#).

#### Where application is for an additional location

3.1.21. Where a licenced broker-agent applies for a licence for an additional location, the Manager of Licensing may waive the requirements for a [business plan](#) for the additional location.

3.1.22. Other than an item waived under paragraph [3.1.21](#), all the qualifications for a broker-agent licence apply to an application for an additional location made by an existing licensed broker-agent.

#### Application for both a broker-agent licence and a dealer licence

3.1.23. A licensed dealer who applies for a broker-agent licence:

- (a) does not have to pay any broker-agent licence application or renewal fees, and
- (b) is deemed to have met all the qualifications for a licence if
  - (i) the dealer's broker-agent business will operate from the existing dealer location and be owned and operated by the same business entity and associates
  - (ii) any individuals who will be acting as broker-agent representatives on behalf of the dealer have a broker-agent representative licence in good standing, and

- (iii) the dealer provides a copy of the broker-agent service agreement that the dealer intends to use and the agreement complies with the requirements of section 9 of the Broker Licensing Regulation.

3.1.24. An individual may apply for both a broker-agent licence and a dealer licence at the same time. In this case:

- (a) the application for broker-agent licence will not be processed until the application for a dealer licence has been approved, and
- (b) the applicant must pay only the application fees applicable to the dealer licence.

## 4. Review of application for a broker-agent licence

### 4.1. Policy

#### Licence application requirements

- 4.1.1. An applicant must complete an Application for Broker-agent License (form X) and submit it to the VSA along with the application fee as described in the [Broker-agent Licence Application Schedule of Fees](#), except where the applicant is a licensed dealer.
- 4.1.2. Every applicant and every associate of the applicant applying for a broker-agent licence must:
  - (a) complete and sign a Broker-agent Applicant Profile (Form 5a)
  - (b) provide a copy of personal photo identification, and
  - (c) confirm that they have read and understood the Code of Conduct.
- 4.1.3. Along with the completed Application for Broker-agent Licence form and fees, the applicant must submit all the following supporting documentation:
  - (a) a copy of the applicant's city or municipal business licence, or where the applicant's business location is within a regional district that does not issue business licenses, proof that the location is properly zoned for a broker-agent business
  - (b) photographs of the applicant's business location
  - (c) a 3-year business plan as described in paragraph [3.1.16](#)
  - (d) a copy of the applicant's broker-agent service agreement
  - (e) an account verification form signed by a bank representative and an individual with signing authority for the applicant, which provides the applicant's bank account information, and
  - (f) a list of all staff members and management currently employed or to be employed by the applicant, including their current broker-agent representative licensing status and licensing history.

#### Licence application requirements – where applicant is a licensed dealer

- 4.1.4. Where an applicant for a broker-agent licence is a licensed dealer, the applicant must provide:
  - (a) confirmation that the applicant's broker-agent business will operate from the existing dealer location and be owned and operated by the same business entity and associates
  - (b) a list of individuals who will act as a broker-agent representative for the applicant, and
  - (c) a copy of the applicant's broker-agent service agreement.
- 4.1.5. The applicant and the applicant's associates must confirm that they have read and understood the Broker-agent Code of Conduct.

### Application must be complete

- 4.1.6. The VSA will not begin to review an application until the application fee has been paid and will not approve an application until all the required information and documentation has been provided.
- 4.1.7. Where an application that has been received is incomplete, the VSA will inform the applicant and request the missing information or documentation.
- 4.1.8. Where the applicant does not provide the missing information or documentation within 6 months of receipt of the application, the application will be closed as incomplete. If the applicant wishes to reapply after an application has been closed as incomplete, the applicant must submit a new application including all application fees.

### Where applicant has criminal record or charges

- 4.1.9. Where an applicant or an applicant's associate has a criminal record, an offence record, or outstanding charges that have been confirmed, the Manager of Licensing will review the record under [Part H – Review of Criminal Record or Offence](#).

### Where application not approved

- 4.1.10. Where the Manager of Licensing determines that an application for a broker-agent licence should not be approved, the Manager will schedule a hearing before the Registrar.

## 4.2. Procedures – general

### Initial review of application

- 4.2.1. Upon receipt of an application, the Licensing Officer checks the applicant's company name, names of the applicant's associates and the proposed location of the business in the VSA database to determine whether:
  - (a) the applicant has been licensed previously, or
  - (b) there is another broker-agent who is currently operating at the proposed location.
- 4.2.2. Where an applicant or their associates have been licensed previously, the Licensing Officer reviews the licensing record to determine whether there are any outstanding issues regarding the termination of the previous licence or outstanding fees.
- 4.2.3. Where there is a broker-agent currently located on the proposed location, the Licensing Officer determines whether the broker-agent will be leaving the proposed location or whether the applicant intends to share the location. Where the applicant intends to share the location, the Licensing Officer notifies the Investigations Officer about the proposed shared location.
- 4.2.4. The Licensing Officer creates a new broker-agent application record and processes the application fee.

- 4.2.5. If the application fee has not been provided, the Licensing Officer contacts the applicant to request the application fee.
- 4.2.6. After the application fee has been processed, the Licensing Officer reviews the application to determine if:
  - (a) the broker-agent application form is complete, and
  - (b) all the required supporting documentation has been provided.

#### Where application is incomplete

- 4.2.7. Where an application is incomplete, the Licensing Officer contacts that applicant and:
  - (a) requests that the applicant provide the missing information or supporting documentation as soon as possible, and
  - (b) informs the applicant that if all the missing information or documentation is not received within 6 months of receipt of the application, the application will be closed.
- 4.2.8. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.
- 4.2.9. Where an applicant does not provide the missing information or documentation within 6 months of receipt of the application, the Licensing Officer closes the application as incomplete and informs the applicant in writing that:
  - (a) the application has been closed, and
  - (b) if the applicant wishes to reapply in the future, the applicant must submit a new application including the application fee.

#### Confirmation of applicant's identity

- 4.2.10. The Licensing Officer compares the name of each individual applicant and associate as shown on the photo identification with the individual's proof of legal status.
- 4.2.11. If there is a discrepancy between the names that are on the photo identification and the proof of legal status, the Licensing Officer contacts the individual and requests that they provide one of the following documents as proof of a change of name:
  - (a) a marriage certificate showing the change of name, or
  - (b) a government-issued certificate of legal name change.

#### Criminal record check

- 4.2.12. For each applicant and associate required to undergo a criminal record check under paragraph 3.1.12, the Licensing Officer forwards the consent for a criminal record check and statutory declaration where applicable to Security Programs Division for processing.



- 4.2.13. If the results of a criminal record check indicate that a record may exist and the applicant, associate or representative did not submit a statutory declaration, the Licensing Officer requests that they provide a statutory declaration and when received, the officer forwards the declaration to Security Programs Division to confirm the charges or convictions disclosed.
- 4.2.14. Where the charges or convictions disclosed on a statutory declaration cannot be confirmed by Security Programs Division, the Licensing Officer instructs the individual to submit a revised statutory declaration where possible.
- 4.2.15. Where Security Programs Division is unable to confirm a statutory declaration or revised declaration, the Licensing Officer instructs the individual to request a fingerprint verification of their criminal record and provide it to the VSA.
- 4.2.16. Once a criminal record has been confirmed by Security Programs Division or fingerprint verification, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

#### **Credit history**

- 4.2.17. The Licensing Officer obtains an Equifax credit history report on each applicant and the applicant's associates required to undergo a credit history review under paragraph [3.1.9](#).
- 4.2.18. The Licensing Officer reviews the credit history report for compliance with the requirements in paragraph [3.1.14](#).

#### **Other background checks**

- 4.2.19. The Licensing Officer may conduct a general web query and a search of Court Services Online on the applicant and the applicant's associates for information that may be relevant to the application.
- 4.2.20. If the applicant or the applicant's associates were previously licensed by another regulatory body, the Licensing Officer obtains the applicant's licensing history from that body.

#### **Corporate registration**

- 4.2.21. The Licensing Officer conducts a search of the Corporate Registry to determine whether:
- (a) the applicant is registered in good standing, and
  - (b) any "Doing Business As" or trade name to be used by the applicant is registered.

#### **Broker-agent service agreement**

The Licensing Officer forwards the applicant's broker-agent service agreement to an Investigations Officer for review of compliance with the requirements in section 9 of the Broker Licensing Regulation.

### Broker-agent representative licensing

4.2.22. The Licensing Officer reviews the VSA database to ensure that individuals who will be acting as a broker-agent representative on behalf of the applicant have a broker-agent representative licence in good standing.

### Business location

4.2.23. The licensing Officer reviews the information provided by the applicant regarding the proposed business location to confirm the following:

- (a) the applicant has a business licence to operate at the proposed location, or where no business licence is required, that the local zoning of the location allows for the operation of a broker-agent business
- (b) the applicant has a place at the location for keeping required records that is secure and that may be readily accessed for the purpose of inspections
- (c) if the proposed location is within a private residence, that there is a separate external entrance that is used for business purposes, and
- (d) if the proposed location is shared with other businesses, that there is a sign identifying that part of the location used for the applicant's business.

### Viability of proposed broker-agent business

4.2.24. The Licensing Officer reviews the applicant's business skills and experience, business model, and financial viability to determine whether there are any issues regarding the applicant's ability to successfully operate the proposed broker-agent business, including a review of the following information and documentation:

- (a) business plan
- (b) credit history and available credit
- (c) information provided on the Broker-agent Applicant Profile (form xx), and
- (d) any other relevant information obtained in reviewing the application.

4.2.25. Where necessary, the Licensing Officer contacts the applicant for further information or documentation required to evaluate the viability of the proposed broker-agent business.

### Review by Investigations Officer

4.2.26. The Licensing Officer requests that an Investigations Officer review the application or a specific issue that arises in the review of the application where the Licensing Officer believes it may assist in the review.

### Providing licence number in advance of licensing

4.2.27. A Licensing Officer may provide an applicant with the applicant's licence number prior to the licence being issued where:

- (a) the applicant requires the number to complete preparation of the business, and

(b) the officer believes that the application is likely to be approved.

4.2.28. When providing a licence number in advance, the Licensing Officer explains to the applicant that the provision of the number does not mean that the application is or will be approved and that the applicant may not act as a broker-agent until the licence is issued.

#### **Application review complete – no unresolved issues**

4.2.29. When the review of an application is complete and there are no unresolved issues, the Licensing Officer forwards the application to the Manager of Licensing with a recommendation to approve the application and issue a conditional licence pending:

- (a) receipt of the applicant’s business licence, and
- (b) review by the Investigations department.

4.2.30. The Manager of Licensing reviews the application and the recommendation and determines whether to issue the licence.

#### **Application review – issues identified**

4.2.31. Where the Licensing Officer determines that there are issues affecting approval of the application that the applicant has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.

4.2.32. The Manager of Licensing reviews the application and the issues identified by the Licensing Officer and investigates further where required.

4.2.33. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:

- (a) approve the application, including any conditions on licence required to address the issues identified, or
- (b) recommend to the Registrar that the application not be approved.

#### **Where application not approved**

4.2.34. Where the Manager of Licensing determines that an application for licence should not be approved, the Manager schedules a hearing before the Registrar as provided in the VSA’s [Hearing Policy and Procedures](#).

### **4.3. Procedures – where applicant is a licensed dealer**

#### **Initial review of application**

4.3.1. The Licensing Officer reviews the application to determine if:

- (a) the applicant has provided

- (i) confirmation that the applicant's broker-agent business will operate from the existing dealer location and be owned and operated by the same business entity and associates
  - (ii) a list of individuals who will act as a broker-agent representative for the applicant, and
  - (iii) a copy of the applicant's broker-agent service agreement, and
- (b) the applicant and the applicant's associates have confirmed that they have read and understood the Broker-agent Code of Conduct.

4.3.2. The Licensing Officer creates a new broker-agent application record.

#### **Where application is incomplete**

4.3.3. Where the application is incomplete, the Licensing Officer proceeds as provided in the general procedures at [Where application is incomplete](#).

#### **Broker-agent service agreement**

4.3.4. The Licensing Officer forwards the applicant's broker-agent service agreement to an Investigations Officer for review of compliance with the requirements in section 9 of the Broker Licensing Regulation.

#### **Broker-agent representative licensing**

4.3.5. The Licensing Officer reviews the VSA database to ensure that individuals who will be acting as a broker-agent representative on behalf of the applicant have a broker-agent representative licence in good standing.

#### **Completing the application review**

4.3.6. The Licensing Officer completes the application review as provided in the general procedures from [Review by Investigations Officer](#).

## 5. Issuing a broker-agent licence

### 5.1. Policy

#### Decision to issue a licence

5.1.1. The Manager of Licensing or the Registrar will determine whether an applicant will be issued a broker-agent licence and the conditions on the licence.

#### Standard conditions

5.1.2. Every broker-agent licence will include the following standard conditions relating to the obligations of the licensee:

- (a) the broker-agent must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the broker-agent's application for licence [BL Reg s. 7(1)(a)]
- (b) the broker-agent must, if the broker-agent ceases to act as a broker-agent, immediately notify the VSA in writing and surrender the broker-agent licence to the VSA [BL Reg s. 7(1)(b)]
- (c) the broker-agent or, if applicable, the broker-agent's associates, must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee or associate [BL Reg s. 7(1)(c)]
- (d) the broker-agent must establish, maintain and occupy business premises
  - (i) that are located at the address identified in the broker-agent licence
  - (ii) that are separate and distinct from premises or part of premises occupied as a residence [BL Reg s. 7(1)(d)]
- (e) the broker-agent must display, at or near the front entrance to the broker-agent's business premises, any decal issued by the VSA indicating that the broker-agent is licensed [BL Reg s. 7(1)(e)]
- (f) the broker-agent must keep and maintain, at its business premises, business records for a period of at least 2 years after the last dealing or transaction to which the business record relates [BL Reg s. 7(1)(g)]
- (g) the broker-agent must, if the VSA receives a complaint respecting the broker-agent, provide the VSA with the information and records the VSA requires to investigate the complaint if the VSA
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint [BL Reg s. 7(1)(h)]
- (h) the broker-agent must, at a reasonable time during normal business hours, on request of the VSA, permit an individual authorized in writing by the VSA to
  - (i) enter and inspect the broker-agent's business premises in British Columbia
  - (ii) inspect the broker-agent's business records [BL Reg s. 7(1)(i)]

- 5.1.3. Every broker-agent licence will include the following standard conditions relating to prohibitions on the licensee:
- (a) the broker-agent must not employ or engage a broker-agent representative other than a broker-agent representative licensed in British Columbia [BL Reg s. 7(2)(a)]
  - (b) the broker-agent must not act as a broker-agent for a consumer with whom the broker-agent or a broker-agent representative employed or engaged by the broker-agent has a conflict of interest [BL Reg s. 7(2)(b)]
  - (c) the broker-agent must not act as a broker-agent for a consumer unless the broker-agent and the consumer have signed a written service agreement that conforms to section 9 of the Broker Licensing Regulation and the broker-agent has given a copy of the signed agreement to the consumer [BL Reg s. 7(2)(c)], and
  - (d) the broker-agent must not, on behalf of a consumer for whom the broker-agent acts as a broker-agent
    - (i) enter into an agreement to acquire or finance a motor vehicle
    - (ii) grant a waiver referred to in section 31(6) of the *Motor Dealer Act Regulation*, or
    - (iii) acknowledge receipt of information that is required by a provincial or federal law to be disclosed to the consumer for that consumer's protection. [BL Reg s. 7(2)(d)]

#### Other conditions

- 5.1.4. The Manager of Licensing or the Registrar may add other conditions to a licence to address any issues of concern regarding a broker-agent. Where the Manager of Licensing intends imposing other conditions on a licence, the broker-agent will have 30 days to request a review by the Registrar of the Manager of Licensing's intended decision to impose conditions as provided in the VSA's [Hearing Policy and Procedures](#). [BL Reg s. 7(1)(j) and s. 7(2)(e); MDA s. 26.04(5)(b)]

#### Conditional licence

- 5.1.5. The Manager of Licensing may approve a conditional broker-agent licence pending the completion of the application requirements where the application is substantially complete and there are no outstanding issues that are likely to affect the approval of the licence.

#### Removing conditions

- 5.1.6. Only the Registrar may approve the removal of a condition imposed by the Registrar unless the Registrar specifically delegates the authority to remove the condition.
- 5.1.7. The Manager of Licensing may remove any condition that was imposed by the Manager.

## 5.2. Procedures

### Issuing a licence

- 5.2.1. The Manager of Licensing reviews the application and the recommendation of the Licensing Officer and determines whether to approve the application, including any conditions on the licence.

- 5.2.2. The Licensing Officer reviews the broker-agent licence information in the VSA database and confirms that all conditions have been correctly entered.
- 5.2.3. Where there are conditions to be met before a regular licence will be issued, the Licensing Officer:
  - (a) sends a copy of the conditional licence to the applicant by fax or email, and
  - (b) where required, contacts the Investigations Officer in the applicant's region to request a review.
- 5.2.4. Where there are no conditions to be met before a regular licence is issued, the Licensing Officer:
  - (a) contacts the applicant to inform them that the licence has been approved, and
  - (b) issues and mails the licence to the applicant.

#### **Removing conditions to be met before regular licensed issued**

- 5.2.5. When the Licensing Officer has received confirmation that all conditions for issuing a regular licence has been met, the officer:
  - (a) confirms the removal of the conditions with the Manager of Licensing and removes the conditions in the VSA database, and
  - (b) issues and mails the regular licence to the broker-agent.

## 6. Renewal of broker-agent licence

### 6.1. Policy

#### Application to renew broker-agent licence

- 6.1.1. A broker-agent applying for a licence renewal must complete a Broker-agent Licence Renewal Application (form x) and submit it to the VSA along with the renewal application fee at least 14 days prior to the renewal date of their licence.
- 6.1.2. In addition to a completed Broker-agent Licence Renewal Application and renewal fees, a broker-agent applying for renewal of licence must provide:
- (a) either a municipal business licence or other documentation from a municipal or regional district authority that confirms that the zoning of the premises is consistent with the broker-agent business
  - (b) a current list of all the broker-agent's employees who are required to hold a broker-agent representative licence
  - (c) any other information that may be required to determine whether the licence should be renewed.

#### Application to renew – where applicant is also a licensed dealer

- 6.1.3. Where a broker-agent who is applying for a licence renewal is also a licensed dealer, the applicant must complete a Broker-agent Licence Renewal Application (form x) and submit it to the VSA at least 14 days prior to the renewal date of their licence.
- 6.1.4. The applicant does not have to pay the renewal fee for the broker-agent licence if they have paid the renewal fee for their dealer licence.

#### Application must be complete

- 6.1.5. The VSA will not begin to review an application to renew a broker-agent licence until the application fee has been paid and will not approve a renewal application until a fully completed application has been received.
- 6.1.6. Where an application to renew a broker-agent licence that has been received is incomplete, the VSA will inform the broker-agent and request the missing information or documentation.
- 6.1.7. Where an application is received or completed less than 14 days prior to the renewal of the broker-agent licence, the VSA will make reasonable efforts to complete its review of the application prior to the renewal of the licence.

#### Failure to renew licence before renewal date

- 6.1.8. Where a broker-agent fails to renew a licence before it expires:



- (a) the broker-agent must not continue to act as a broker-agent for consumers after the licence has expired, and
- (b) the broker-agent's licence will be designated as lapsed for 60 days, during which time the broker-agent may apply for renewal by submitting a renewal application and paying the renewal fees including any late renewal fees.

6.1.9. If a broker-agent fails to renew the licence within 60 days of the renewal date, the licence will be automatically cancelled and if the broker-agent wishes to be licensed again after cancellation, the broker-agent must submit a new broker-agent application.

#### Late renewal fee

6.1.10. Where a broker-agent renews a licence within 60 days of the renewal date, the Licensing Officer will apply a late fee in addition to the renewal fee.

6.1.11. If a broker-agent disputes the application of a late fee, the Licensing Officer will consult with the Manager of Licensing to determine whether the late fee should be applied.

6.1.12. When determining whether to apply a late fee, the Licensing Officer and the Manager of Licensing will consider:

- (a) the reasons for the late renewal, and
- (b) the broker-agent's history of compliance with licensing requirements.

#### Decisions regarding a renewal application

6.1.13. After completing a detailed review of a renewal application, where the Licensing Officer determines that the application meets the application requirements and there are no other issues with the renewal of licence or consignment privileges, the Licensing Officer will approve the application.

6.1.14. Where a Licensing Officer does not approve an application under paragraph [6.1.11](#), the officer will refer the application to the Manager of Licensing.

6.1.15. Where an application to renew a broker-agent licence is referred to the Manager of Licensing, the Manager will investigate further as required and determine whether to:

- (a) renew the licence, including any conditions on the renewal to address the issues identified, or
- (b) recommend that the licence not be renewed.

#### Hearing before the Registrar

6.1.16. Where the Manager of Licensing determines that a broker-agent licence should not be renewed, the Manager will schedule a hearing before the Registrar.

## 6.2. Procedures

### Renewal notice

6.2.1. The Licensing Officer monitors licence renewal dates and 6 weeks prior to the renewal of a broker-agent's licence the officer sends a renewal package to the broker-agent.

### Initial review of application to renew

6.2.2. When renewal applications are received, the Licensing Officer processes the applications in order of renewal date.

6.2.3. The Licensing Officer reviews the Broker-agent Licence Renewal Application to determine if:

- (a) the correct renewal fee has been provided
- (b) the renewal form is complete, and
- (c) all the supporting documentation required in paragraph [6.1.2](#) has been provided.

6.2.4. Where a renewal application is not complete, the Licensing Officer contacts the broker-agent and:

- (a) requests that the broker-agent provide the missing information or documentation, and
- (b) informs the broker-agent that the licence will not be renewed until the application is complete.

### Detailed review of renewal application

6.2.5. The Licensing Officer reviews the renewal application for information about the broker-agent that may affect approval of the renewal, including:

- (a) offering in-house leasing or financing
- (b) a change in broker-agent name (legal name or DBA name), location or ownership that was not approved
- (c) a change to the criminal record or offence history that has not been reviewed by the VSA, and
- (d) any other information that may indicate it would not be in the public interest to renew the licence.

### Check for outstanding balance

6.2.6. The Licensing Officer checks the broker-agent profile to determine whether the broker-agent has any outstanding balance owing to the VSA.

6.2.7. Where the broker-agent has an outstanding balance, the Licensing Officer determines the reason for the balance owing and requests authorization from the Manager of Licensing to renew the licence.

6.2.8. The Manager of Licensing reviews the outstanding balance and determines whether the broker-agent licence will be renewed prior to the outstanding balance being paid.

### Corporate registration

6.2.9. Where required, the Licensing Officer checks the corporate registry to determine whether the broker-agent's registration remains in good standing. This check is done every other year based on broker-agent licence number, with odd numbers being done in one year and even numbers the next.

6.2.10. Where a broker-agent is not in good standing, the Licensing Officer sends the broker-agent a letter indicating that they must take action to meet the requirements for good standing.

6.2.11. Where a check of the Corporate Registry indicates that the broker-agent has been dissolved, the Licensing Officer:

- (a) notifies the broker-agent that the licence is no longer valid
- (b) changes the status of the licence in the VSA database to pending, and
- (c) notifies the Investigations Officer.

### Renewing the licence

6.2.12. Where the Licensing Officer completes the review of a renewal application and there are no unresolved issues, the officer:

- (a) renews the licence in the VSA database
- (b) processes the renewal fee, and
- (c) issues the new licence and mails it to the broker-agent.

### Referral to Manager of Licensing

6.2.13. Where the Licensing Officer determines that there are issues affecting approval of the renewal application that the broker-agent has not been able to resolve, the officer refers the application to the Manager of Licensing for review.

6.2.14. The Manager of Licensing reviews the application and the issues identified by the officer and investigates further where required. This may include:

- (a) requesting that an Investigations Officer conduct an inspection or investigation of the broker-agent, and
- (b) requiring that the broker-agent provide further information regarding the broker-agent's operations, business plans, or financial records.

6.2.15. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:

- (a) renew the licence, including any conditions on the renewal to address the issues identified, or

- (b) recommend that the licence not be renewed.

#### **Where Manager determines a licence should not be renewed**

6.2.16. Where the Manager of Licensing determines that a broker-agent licence should not be renewed, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

6.2.17. Where a broker-agent requests a hearing within the time allowed, the Manager of Licensing initiates a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

#### **Failure to renew licence before renewal date**

6.2.18. The Licensing Officer monitors broker-agent licence renewal dates and where a broker-agent has failed to submit a renewal application prior to the renewal date of the licence, the officer:

- (a) contacts the broker-agent by telephone where possible, and
- (b) sends a warning letter to the broker-agent indicating that the broker-agent's licence has lapsed and will be cancelled if it is not renewed within 60 days.

6.2.19. Where the broker-agent fails to renew the licence within 60 days of the renewal date, the Licensing Officer:

- (a) cancels the licence, and
- (b) requests that the Investigations Officer conduct a closure inspection.

6.2.20. Where a broker-agent submits an application to renew within 60 days of the renewal date, the Licensing Officer reviews the application and determines whether to:

- (a) renew the licence, or
- (b) forward the renewal application to the Manager of licensing for further review.

6.2.21. Where the Licensing Officer renews the licence, the officer applies a late fee in addition to the renewal fee.

6.2.22. If a broker-agent disputes the application of a late fee, the Licensing Officer consults with the Manager of Licensing to determine whether the late fee will be applied.

## 7. Broker-agent business changes

### 7.1. Policy

#### Licence not transferrable

7.1.1. A broker-agent licence is not transferrable to any other individual, partnership or corporation. Where there is a change to a sole proprietor or where, in the opinion of the Manager of Licensing, a change of partners, officers or directors of a corporation, or shareholders of a private corporation, constitutes a change in ownership, the new ownership will be required to submit an application for a new broker-agent licence.

#### Change of contact information

7.1.2. A broker-agent must provide the VSA with any changes to its contact information, including any change to the broker-agent's authorized spokesperson, within 14 days of the change.

#### Reporting change of name, location or ownership

7.1.3. Where there is any change to a broker-agent's name or location, or to the broker-agent's associates, the broker-agent must complete a Notice of Change (form 3) and submit it to the VSA along with any applicable fee within 14 days of the change.

7.1.4. Where there is a change to a broker-agent's associates, every new individual must:

- (a) complete and submit a Broker-agent Applicant Profile (Form 5a), and
- (b) provide
  - (i) a copy of personal photo identification
  - (ii) a copy of the share purchase agreement, where applicable
  - (iii) consent for the VSA to conduct a review of their personal and corporate credit history, and
  - (iv) consent for a criminal record check.

7.1.5. The VSA will conduct [background checks](#) on individuals submitting a Broker-agent Applicant Profile as part of a change to an existing broker-agent business according to the policy for new broker-agent licence applicants.

#### Change of ownership – where new application is required

7.1.6. A new broker-agent licence application must be submitted where:

- (a) a broker-agent business is transferred to a new legal entity (a new individual, partnership or corporation), or
- (b) the legal entity that owns the broker-agent business does not change but a change in ownership of the entity results in a change to the controlling interest in the business.

- 7.1.7. Where there is a change as described in [7.1.6\(b\)](#), the applicant may keep the existing broker-agent licence number if a new broker-agent licence application is approved.

### Change in name of corporation

- 7.1.8. Where a broker-agent business owned by an incorporated company changes its name but:

- (a) retains the same incorporation number, and
- (b) there is no change to the controlling interest

the change will be processed as change to an existing broker-agent licence and will not require a new application.

## 7.2. Procedures

### Change of location

- 7.2.1. Upon receipt of a Notice of Change – Location (form 3a), the Licensing Officer reviews the form for:

- (a) completeness
- (b) payment of the change fee, and
- (c) the effective date of the change.

- 7.2.2. The Licensing Officer processes the change the day before the effective date of the change or as soon as possible after the change has taken effect.

- 7.2.3. When processing the change, the Licensing Officer:

- (a) processes the fee payment
- (b) enters the new location information into the VSA database and adds a condition to the broker-agent licence for the broker-agent to submit a new business licence for the location within 30 days.

### Change of name

- 7.2.4. Upon receipt of a Notice of Change – Broker-agent Name (form 3b), the Licensing Officer reviews the form for completeness and payment of the change fee.

- 7.2.5. The Licensing Officer checks the Corporate Registry to confirm that the new name is registered.

- 7.2.6. When processing the change, the Licensing Officer:

- (a) processes the fee payment and enters the new broker-agent name into the VSA database
- (b) creates a new company in the database with the old broker-agent name and includes a reference to the new broker-agent name
- (c) changes the broker-agent name on the broker-agent file, and
- (d) notifies the Investigations Officer.

- 7.2.7. The Licensing Officer mails a new broker-agent licence except where a new broker-agent licence is not sent because:
- (a) the name change is minor, or
  - (b) the broker-agent's licence renewal is imminent.

#### **Change of ownership**

- 7.2.8. Upon receipt of a Notice of Change – Ownership (form 3c), the Licensing Officer reviews the form for:
- (a) completeness, including any required
    - (i) Broker-agent Applicant Profile (Form 5a)
    - (ii) copy of a share purchase agreement
  - (b) payment of the change fee, and
  - (c) the effective date of the change.
- 7.2.9. The Licensing Officer reviews the form to determine whether the new ownership may be processed as a change or a new broker-agent application is required and follows up with the broker-agent where required.
- 7.2.10. Where new individuals are being added, the Licensing Officer conducts background checks.
- 7.2.11. When the Licensing Officer's review is complete and there are no unresolved issues, the Licensing Officer amends the broker-agent record in the VSA database.

## 8. Broker-agent licence on hold

### 8.1. Policy

- 8.1.1. A broker-agent who wishes to temporarily suspend operations may request that the broker-agent licence be placed on hold for up to 6 months provided that the broker-agent complies with any renewal requirements, including payment of renewal fees, while the licence is on hold.
- 8.1.2. A license may be placed on hold where the broker-agent is temporarily unable to continue operating the broker-agent business for reasons beyond the broker-agent's control, such as:
  - (a) illness, injury or other medical condition
  - (b) the need to care for a newborn child
  - (c) the loss of a lease on the broker-agent's business premises, and
  - (d) interruption of business caused by a natural disaster or similar event.

### 8.2. Procedures

- 8.2.1. Where a broker-agent requests that a licence be placed on hold, the Licensing Officer confirms the reason for the request and determines whether to place the licence on hold.
- 8.2.2. Where the Licensing Officer is unable to determine whether to place the licence on hold, the officer refers the request to the Manager of Licensing.
- 8.2.3. Where the Licensing Officer or the Manager of Licensing determines that the broker-agent licence will be placed on hold, the Licensing Officer:
  - (a) changes the licence status from active to pending
  - (b) schedules a follow-up contact with the broker-agent, and
  - (c) notifies the Investigations Officer.



## **9. Cancellation or suspension of a licence**

### **9.1. Policy**

- 9.1.1. Where a broker-agent voluntarily cancels a licence, or the Registrar cancels or suspends a broker-agent licence, the broker-agent must immediately return the licence to the VSA.
- 9.1.2. Where a cancelled or suspended licence is not immediately returned to the VSA, the Investigations department will attempt to retrieve the licence from the broker-agent.

### **9.2. Procedures**

- 9.2.1. When the Licensing Officer receives hearing results indicating that a licence has been cancelled or suspended, the officer:
  - (a) cancels or suspends the licence and enters the reason for cancellation or suspension in the broker-agent record
  - (b) uploads the hearing results to the broker-agent record, and
  - (c) notifies the Investigations Officer about the cancellation or suspension, including the end date of a suspension.
- 9.2.2. Where the licence is suspended, the Licensing Officer schedules a reminder to change the status of the licence when the term of the suspension ends.

## **G. BROKER-AGENT REPRESENTATIVE LICENSING AND RENEWAL**

### **1. Overview**

#### **1.1. Licensing and renewal**

Any person who is a broker-agent or who works of behalf of a broker agent and acts of behalf of a consumer to facilitate the purchase of a vehicle is a broker-agent representative and must be licensed by the VSA.

This part contains the requirements that a person must meet in order to be granted a broker-agent representative licence and the process for reviewing applications for a licence. The VSA carefully reviews an applicant's qualifications and suitability to be a broker-agent representative in order to protect the public and the vehicle sales industry. This includes background checks and ensuring that an applicant has taken any mandatory certification courses.

Broker-agent representatives must renew their licences annually. At renewal, the VSA confirms whether the broker-agent representative is in good standing with the VSA, including certification course requirements and follows up on any outstanding licensing or compliance issues before granting a renewal of the licence.

This part also contains the requirements for broker-agent representatives to submit and update employment authorizations when a broker-agent representative starts or leaves employment and for the approval of medical leave.

#### **1.2. Legislative authority and requirements**

##### **Definition of broker-agent representative**

1.2.1. Any individual who is a broker-agent or who, on behalf of a broker-agent and for or in the expectation of a fee, gain or reward:

- (a) acts on behalf of a person to facilitate that person's purchase, exchange or other acquisition of a motor vehicle for purposes that are personal, family or household, or
- (b) in any way participates in acting on behalf of a person to facilitate that person's purchase, exchange or other acquisition of a motor vehicle for purposes that are personal, family or household.

is a broker-agent representative. [MDA s. 1(1) – definition of broker-agent representative]

##### **Definition of conflict of interest**

1.2.2. For the purposes of the Broker Licensing Regulation, a licensee has a conflict of interest with a consumer in respect of a particular transaction to acquire a motor vehicle if the licensee

represents the interests of any person other than the consumer in the transaction or a related transaction including, without limitation, by:

- (a) having an interest in the motor vehicle being considered for acquisition by the consumer,
- (b) having an interest in a person who is a party to the transaction,
- (c) having an interest in a person who finances the transaction, or
- (d) receiving compensation from a person other than the consumer. [BL Reg s. 19]

### Requirement to be licensed as broker-agent representative

- 1.2.3. A person must not act as a broker-agent representative unless they hold a valid licence. [BL Reg s. 12]

### Application for a licence

- 1.2.4. An application for a broker-agent representative licence must:
- (a) be made in the form and manner approved by the VSA and
  - (b) be submitted with the applicable fee set by the VSA. [BL Reg s. 13(1)]
- 1.2.5. An application for a broker-agent representative licence must include the following information, records, declarations and authorizations: [BL Reg s. 13(2)]:
- (a) the usual name of the applicant and any other name used by the applicant [BL Reg s. 13(2)(a)]
  - (b) contact information for the applicant, including a mailing address, residential address and telephone number and, if any, electronic mail address [BL Reg s. 13(2)(b)]
  - (c) proof of the applicant's age, citizenship and, if relevant, authority to work in Canada [BL Reg s. 13(2)(c)]
  - (d) the name of any person who employs or engages the applicant and, if the person is a licensed broker-agent, the person's licence number [BL Reg s. 13(2)(d)]
  - (e) a copy of government-issued photo identification and a wallet-sized picture of the applicant endorsed by any broker-agent who will employ or engage the applicant [BL Reg s. 13(2)(e)]
  - (f) declarations of the applicant respecting the applicant's
    - (i) past conduct in the motor vehicle industry in this or any other jurisdiction, including previous dealings, if any, with the authority
    - (ii) past conduct in another regulated industry in this or any other jurisdiction
    - (iii) convictions, if any, for an offence under an enactment of this or any other jurisdiction in relation to consumer protection, tax, the motor vehicle industry or another regulated industry, and
    - (iv) convictions, if any, for a crime outside Canada [BL Reg s. 13(2)(f)]
  - (g) authorizations necessary for the VSA to
    - (i) obtain a criminal record check for the applicant, and
    - (ii) verify any other information provided in the application. [BL Reg s. 13(2)(g)]

### Application to renew a licence

- 1.2.6. An application to renew a broker-agent representative licence must be made at least 14 days before the broker-agent representative licence expires. [BL Reg s. 13(4)]
- 1.2.7. An application to renew a broker-agent representative licence must include:
- (a) a statement confirming that the information, the records and the facts described in a declaration or authorization provided at the time of the initial application for a licence or at the time of the last licence renewal, continue to be accurate, or
  - (b) if there has been any change in the information, the records or the facts referred to in paragraph (a), a statement setting out the change and, as applicable, an updated record, declaration or authorization. [BL Reg s. 13(3)]

### Application for a broker-agent representative licence by a salesperson

- 1.2.8. A licensed salesperson who applies for a broker-agent representative licence or to renew a broker-agent licence is not required to:
- (a) pay an application or renewal fee
  - (b) provide the information, records, declarations and authorizations listed in paragraph [1.2.5](#), or
  - (c) provide the statements listed in paragraph [1.2.7](#)
- provided that the salesperson is employed or engaged by a registered motor dealer who holds a valid broker-agent licence and will work for that dealer as broker-agent representative<sup>5</sup>. [BL Reg s. 13(5)]

### Issuing and renewing a licence

- 1.2.9. The VSA may issue or renew a broker-agent representative licence for a term of not more than one year. [BL Reg s. 14]
- 1.2.10. The VSA may refuse to issue or renew a broker-agent representative licence if the VSA considers, having regard to the conduct of the applicant, that it would not be in the public interest for the applicant to be licensed. [BL Reg s. 15(1)]
- 1.2.11. The VSA may not refuse to issue or renew a broker-agent representative licence unless the VSA gives the applicant
- (a) notice that the applicant has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
  - (b) written reasons for the decision to issue or renew the licence. [BL Reg s. 15(2), 18]

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<sup>5</sup> Although this exemption for a salesperson in the Broker-agent Licensing Regulation requires that the salesperson be employed by a licensed dealer who is also a broker-agent, VSA policy will allow the exemption to apply even where the person employing them is only a broker-agent and not also a dealer.

### Conditions on a license

1.2.12. When issuing or renewing a broker-agent representative licence, the VSA may impose any of the conditions:

- (a) related to the [obligations of the licensee](#) provided in section 16(1) of the Broker Licensing Regulation, and
- (b) related to [prohibitions on the licensee](#) as provided in section 16(2) of the Broker Licensing Regulation.

1.2.13. On written notice to a licensed broker-agent representative, the VSA may remove a condition or impose a condition provided in sections 16(1) or 16(2). [BL Reg s. 16(3)]

### Conditions related to the obligations of the licensee

1.2.14. Any of following conditions related to the obligations of the licensee may be imposed:

- (a) the licensee must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the licensee's application for licence [BL Reg s. 16(1)(a)]
- (b) the licensee must, if the licensee ceases to act as a broker-agent representative, immediately notify the VSA in writing and surrender the licensee's licence to the VSA [BL Reg s. 16(1)(b)]
- (c) the licensee must notify any broker-agent who employs or engages the licensee of a condition on or suspension of the licensee's licence or if the licensee's licence is revoked [BL Reg s. 16(1)(c)]
- (d) the licensee must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee [BL Reg s. 16(1)(d)]
- (e) the licensee must complete, to the VSA's satisfaction, educational courses specified by the VSA [BL Reg s. 16(1)(e)]
- (f) the licensee must keep and maintain, for a period of at least 2 years after the last dealing or transaction to which the record relates, notes, correspondence and other records relating to a consumer with whom the licensee dealt or a motor vehicle being considered for acquisition by a consumer [BL Reg s. 16(1)(f)]
- (g) the licensee must, on written request of the VSA, produce for the VSA's inspection the records described in paragraph (f) that the VSA requires to determine whether the licensee's licence should be renewed, suspended or revoked [BL Reg s. 16(1)(g)]
- (h) the licensee must, if the VSA receives a complaint respecting the licensee, provide the VSA with the information and records that the VSA requires to investigate the complaint if the VSA
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint [BL Reg s. 16(1)(h)]
- (i) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed. [BL Reg s. 16(1)(i)]

### Conditions related to prohibitions on the licensee

1.2.15. Any of following conditions related to prohibitions on the licensee may be imposed:

- (a) the licensee must not act as a broker-agent representative for a broker-agent unless the broker-agent is licensed and named in the licensee's licence [BL Reg s. 16(2)(a)]
- (b) the licensee must not receive or otherwise handle a consumer's money [BL Reg s. 6(2)(b)]
- (c) the licensee must not hold a management position in a broker-agent business [BL Reg s. 16(2)(c)]
- (d) the licensee must not be unsupervised while acting as a broker-agent representative in a broker-agent business [BL Reg s. 16(2)(d)]
- (e) the licensee must not act as a broker-agent representative for a broker-agent for a consumer with whom the licensee or a broker-agent who employs or engages the licensee has a conflict of interest [BL Reg s. 16(2)(e)]
- (f) the licensee must not, on behalf of a consumer for whom the licensee acts as a broker-agent representative,
  - (i) enter into an agreement to acquire or finance a motor vehicle,
  - (ii) grant a waiver referred to in section 31(6) of the *Motor Dealer Act Regulation*, or
  - (iii) acknowledge receipt of information that is required by a provincial or federal law to be disclosed to the consumer for that consumer's protection [BL Reg s. 16(2)(f)]
- (g) any other condition necessary for the VSA to ensure that it is not contrary to the public interest for the licensee to be licensed. [BL Reg s. 16(2)(g)]

### Revoking or suspending a licence

- 1.2.16. The VSA may revoke or suspend a broker-agent representative licence if the licensee notifies the authority that the licensee has ceased to act as a broker-agent representative. [BL Reg s. 17(1)]
- 1.2.17. The VSA may revoke or suspend a broker-agent representative licence if the VSA considers, having regard to the conduct of the licensee, that it would not be in the public interest for the licensee to continue to be licensed. [BL Reg s. 17(2)]
- 1.2.18. Before the VSA can revoke or suspend a broker-agent representative licence, the VSA must give the licensee:
- (a) notice that the licensee has the right to be heard in writing, electronically or orally or by any combination of written, electronic or oral hearings, as determined by the VSA, and
  - (b) written reasons for the decision to revoke or suspend the licence. [BL Reg s. 17(3), 18]
- 1.2.19. Where a licence is suspended, the written reasons must specify the period of suspension, which may end on:
- (a) a fixed date, or
  - (b) the date the licensee meets all the conditions specified in the written reasons. [BL Reg s. 17(4)]
- 1.2.20. The conditions in the written reasons for a suspension may require that the licensee:
- (a) comply with a specified condition on the licence, and

- (b) pay a specified administrative penalty imposed under section 26.04 of the *Motor Dealer Act*.  
[BL Reg s. 17(5)]

## 2. Requirement to be licensed as a broker-agent representative

### 2.1. Policy

#### Meaning of “consumer” in this policy

- 2.1.1. In this policy, “consumer” means an individual who engages in the purchase, exchange or other disposition or acquisition of a vehicle for purposes that are primarily personal, family or household.
- 2.1.2. An “individual” means a natural person and not a company or corporation<sup>6</sup>.
- 2.1.3. For the purpose of determining whether a vehicle was used primarily for personal, family or household purposes, “primarily” means that more than 50% of the use of the vehicle was, or was intended for personal, family or household purposes.
- 2.1.4. Evidence of the primary purpose of a vehicle includes:
  - (a) the intended use at the time of the purchase,
  - (b) any actual use of the vehicle by the client, and
  - (c) where the vehicle was purchased to replace a vehicle previously used by the client, the primary purpose of the applicant’s use of the vehicle to be replaced.

#### Definition of broker-agent representative

- 2.1.5. A broker-agent representative is:
  - (a) an individual who is a broker-agent, or
  - (b) an individual who acts of behalf of a broker-agent with the expectation or receipt of a fee, gain or reward, andacts on behalf of a consumer to facilitate the consumer’s purchase, exchange, or other acquisition of a vehicle.
- 2.1.6. A broker-agent representative includes any individual whose activities and decisions in any way affect a consumer’s purchase or consideration of a purchase of a vehicle, including those working in the following circumstances:
  - (a) an individual broker-agent engaged in facilitating the purchase of vehicles
  - (b) broker-agent staff and management.

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<sup>6</sup> Although the general policy is that an individual must be a natural person, there may be circumstances in which a legal entity, such as a family trust, may be considered an “individual”. To qualify, the entity must not have any commercial purpose, must have been acting in the place of a natural person.



2.1.7. An individual does not need to be an employee of a broker-agent to be considered a broker-agent representative, as long as they receive or expect to receive a fee, gain, or reward from their participation in the facilitated purchase of a vehicle.

#### Requirement to be licensed

2.1.8. An individual must not act as a broker-agent representative unless they have a broker-agent representative licence issued by the VSA and are:

- (a) a licensed broker-agent, or
- (b) working on behalf of a licensed broker-agent.

2.1.9. If an individual works as broker-agent representative at more than one location in British Columbia, then that individual must be licensed separately for each broker-agent location at which the individual works.

#### Conditional licence

2.1.10. A conditional broker-agent representative licence may be granted to allow an applicant for licence or renewal of licence to work as a broker-agent representative pending the completion of:

- (a) any required certification course, or
- (b) a criminal record check acceptable to the VSA.

2.1.11. A conditional licence will not be granted where the applicant or licensee has an unconfirmed criminal record or a criminal record or offence that is being reviewed under [Part H – Review of Criminal Record or Offence](#).

2.1.12. A conditional licence is valid until the date shown on the licence document and is valid for a period of no more than 45 days.

#### Regular licence

2.1.13. A regular broker-agent representative licence will be granted to an individual who has successfully completed all required certification courses and met all other application requirements.

2.1.14. In addition to the standard conditions, the VSA may include other conditions on a regular licence that the broker-agent representative must meet in order to maintain the licence.

2.1.15. The term of a regular licence is one year and it expires at midnight on the day prior to the anniversary of it taking effect.

**Broker-agent representative licenced in another province**

2.1.16. An individual who holds a licence from another Canadian province that is comparable to a broker-agent representative licence issued by the VSA must still meet the same application and licensing requirements as any other applicant.

### 3. Qualifications for a broker-agent representative licence

#### 3.1. Policy

3.1.1. At a minimum, an applicant must meet the requirements in this part to qualify for a broker-agent representative licence.

##### Proof of employment

3.1.2. An applicant for a broker-agent representative licence must be a licensed broker-agent or provide proof of employment or offer of employment by a licensed broker-agent.

##### Background checks

3.1.3. The VSA will conduct background checks on an applicant for a broker-agent representative licence.

3.1.4. An applicant must provide consent for the VSA to conduct a criminal record check, including criminal history from every country in which the applicant has resided.

3.1.5. If an applicant has:

- (a) a criminal record
- (b) a conviction for an offence (excluding parking tickets)
- (c) been disciplined by another licensing body, or
- (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery),

the applicant must not present an unacceptable risk as determined under [Part H – Review of Criminal Record or Offence](#).

3.1.6. Once licensed, a broker-agent representative must declare any change to their criminal record or offence history when applying to renew their licence.

##### Certification courses

3.1.7. An applicant for a broker-agent representative licence must successfully complete any required certification course.

3.1.8. A licensed broker-agent representative must successfully complete any other certification course that may be required by the Registrar after the broker-agent representative has been licensed.

##### Application for both a broker-agent representative and a salesperson licence

3.1.9. A licensed salesperson who applies for a broker-agent representative licence:

- (a) does not have to pay any application or renewal fees applicable to the broker-agent license, and

- (b) is deemed to meet all the qualifications for a broker-agent representative licence if the salesperson
  - (i) is employed or engaged by a licensed broker-agent<sup>7</sup>, and
  - (ii) has paid the course fees and completed any supplemental certification course required for a broker-agent representative licence.

3.1.10. An individual may apply for both a broker-agent representative licence and a salesperson licence at the same time. In this case:

- (a) the application for a salesperson licence will not be processed until the application for a broker-agent representative licence has been approved, and
- (b) the applicant must pay only the application fees applicable to one licence.

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<sup>7</sup> Section 13(5) of the Broker Licensing Regulation requires that a salesperson be employed by a dealer who is also a licensed broker-agent to be exempt from the application fees for a broker-agent representative licence. VSA policy extends this exemption to a salesperson who is employed by any licensed broker-agent, even if the broker-agent is not the dealer that the salesperson works for.

## 4. Review of application for broker-agent representative licence

### 4.1. Policy

#### Application requirements

##### 4.1.1. An applicant must:

- (a) complete an Application for Broker-agent Representative Licence (form X) and submit it to the VSA along with the application fee, and
- (b) confirm that they have read and understood the Code of Conduct.

#### Application requirements – where applicant is a licensed salesperson

##### 4.1.2. A licensed salesperson who is applying for a broker-agent representative licence must:

- (a) complete the application form, and
- (b) confirm that they have read and understood the Broker-agent Representative Code of Conduct.

#### Application must be complete

4.1.3. The VSA will not begin to review an application until the application fee has been paid and will not approve an application until all the required information and documentation has been provided.

4.1.4. Where an application that has been received is incomplete, the VSA will inform the applicant and request the missing information or documentation.

4.1.5. Where the applicant does not provide the missing information or documentation within 6 months of receipt of the application, the application will be closed as incomplete. If the applicant wishes to reapply after an application has been closed as incomplete, the applicant must submit a new application including all application fees.

#### Where applicant has criminal record or charges

##### 4.1.6. Where an applicant has:

- (a) a criminal record
- (b) a conviction for an offence (excluding parking tickets)
- (c) been disciplined by another licensing body, or
- (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion, breach of trust, and assault and battery),

the Manager of Licensing will review the record under [Part H – Review of Criminal Record or Offence](#).

### Where application not approved

- 4.1.7. Where the Manager of Licensing determines that an application for licence should be denied, the Manager will schedule a hearing before the Registrar.

## 4.2. Procedures - general

### Initial review of application

- 4.2.1. Upon receipt of an application, the Licensing Officer checks the name of the applicant in the VSA database to determine whether the applicant has been licensed previously and:
- (a) where the applicant has been licensed previously, the Licensing Officer reviews the record and updates the applicant's profile as required, or
  - (b) where the applicant has not been previously registered, the Licensing Officer creates a new broker-agent representative application record.
- 4.2.2. The Licensing Officer reviews the application to determine if the application form is complete and all the required documentation has been provided.
- 4.2.3. Where an application is incomplete, the Licensing Officer contacts that applicant and requests that the applicant provide the missing information or supporting documentation as soon as possible.
- 4.2.4. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.

### Confirmation of applicant's identity

- 4.2.5. The Licensing Officer compares the name and identifying information for the applicant as shown on the photo identification and the proof of legal status.
- 4.2.6. If there is a discrepancy between the names that are on the applicant's photo identification and the proof of legal status, the Licensing Officer contacts the applicant and requests that the applicant provide one of the following documents as proof of a change of name:
- (a) a marriage certificate showing the change of name, or
  - (b) a government-issued certificate of legal name change.

### Assigning a broker-agent representative number

- 4.2.7. After completing the initial review of the application and confirming the identity of the applicant, the Licensing Officer:
- (a) assigns the applicant a broker-agent representative number, and
  - (b) processes the application fee.
- 4.2.8. Where the applicant is already employed as a broker-agent representative but has not registered or completed the required certification course, the Licensing Officer calculates the

validity period of the applicant's 45-day conditional licence based on the applicant's employment date.

### Review of eligibility questionnaire

- 4.2.9. The Licensing Officer reviews the applicant's answers to the eligibility questionnaire on the application form and follows up to obtain more information as required.
- 4.2.10. Where the Licensing Officer's review confirms that an applicant has been disciplined by another licensing or regulatory body, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

### Criminal record check

- 4.2.11. The Licensing Officer forwards the applicant's consent for a criminal record check and statutory declaration where applicable to Security Programs Division for processing.
- 4.2.12. If the results of a criminal record check indicate that a record may exist and the applicant did not submit a statutory declaration, the Licensing Officer requests that the applicant provide a statutory declaration and when received, the officer forwards the declaration to Security Programs Division to confirm the charges or convictions disclosed.
- 4.2.13. Where the charges or convictions disclosed on a statutory declaration cannot be confirmed by Security Programs Division, the Licensing Officer instructs the applicant to submit a revised statutory declaration where possible.
- 4.2.14. Where Security Programs Division is unable to confirm a statutory declaration or revised declaration, the Licensing Officer instructs the applicant to request a fingerprint verification of their criminal record and provide it to the VSA.
- 4.2.15. Once a criminal record has been confirmed by Security Programs Division or fingerprint verification, the Licensing Officer forwards the application to the Manager of Licensing who reviews the record under [Part H – Review of Criminal Record or Offence](#).

### Review of 5-year history

- 4.2.16. The Licensing Officer reviews the applicants 5-year employment and education history and follows up with the applicant as required to confirm that the applicant's work and education activities are fully accounted for over the previous 5 years.
- 4.2.17. Where an applicant's work history indicates that the applicant had previously worked as a broker-agent representative without a licence, the Licensing Officer:
  - (a) backdates the application to include the time that the applicant worked as a broker-agent representative without a licence except that for a broker-agent representative licence, the backdate can be no earlier than April 1, 2018.
  - (b) calculates the licence fees owing based on the new date of the licence, and

- (c) contacts the applicant to inform them of the fees owing and arrange for payment of the fees.

#### **Applicant currently working without a licence**

4.2.18. Where an application indicates that the applicant is currently working as a broker-agent representative without a licence, the Licensing Officer:

- (a) backdates the application to the date that the applicant began working as a broker-agent representative, and
- (b) does not issue a conditional licence pending successful completion of any required certification course.

4.2.19. The Licensing Officer contacts the broker-agent to review the circumstances of the applicant working without a licence and:

- (a) where there is a history of similar incidents or other indications that the broker-agent is not taking reasonable action to avoid employing unlicensed representatives, the officer may issue a written warning to the broker-agent, or
- (b) where there was a previous written warning or other enforcement action taken regarding unlicensed representatives, the officer forwards the matter to the Manager of Licensing.

#### **Course registration**

4.2.20. Where the application package includes a completed certification course registration, the Licensing Officer:

- (a) processes the payment of the course registration fee if provided, and
- (b) forwards the registration to the Learning department.

#### **Application review complete – no issues identified**

4.2.21. When the review of an application is substantially complete and there are no unresolved issues, the Licensing office issues a licence as provided in section 5 – [Issuing a broker-agent representative licence](#).

#### **Application review – issues identified**

4.2.22. Where the Licensing Officer determines that there are issues affecting approval of the application that the applicant has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.

4.2.23. The Manager of Licensing reviews the application and the issues identified by the Licensing Officer and investigates further where required.

4.2.24. After reviewing the application and investigating as required, the Manager of Licensing determines whether to

- (a) recommend to the Registrar that the application not be approved, or



- (b) approve the application, including any conditions on licence required to address the issues identified.

#### **Where application not approved**

- 4.2.25. Where the Manager of Licensing determines that an application for licence should not be approved, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

### **4.3. Procedures – where applicant is a licensed salesperson**

- 4.3.1. The Licensing Officer reviews the application to determine if the application form is complete and all the required documentation has been provided.
- 4.3.2. Where an application is incomplete, the Licensing Officer contacts that applicant and requests that the applicant provide the missing information or supporting documentation as soon as possible.
- 4.3.3. Where possible, the Licensing Officer continues to process the application pending receipt of the missing information or documentation from the applicant.

#### **Completing the application review**

- 4.3.4. The Licensing Officer completes the application review as provided in the general procedures from [Application Review Complete](#).

## 5. Issuing a broker-agent representative licence

### 5.1. Policy

#### Decision to issue a licence

- 5.1.1. Where the review of a broker-agent representative application is substantially complete and there are no outstanding issues, the Licensing Officer may issue a conditional licence with the following conditions (where required) in addition to the standard conditions:
- (a) that the broker-agent representative successfully complete any required certification course within 45 days, and
  - (b) that the results of the criminal record check are acceptable to the VSA.
- 5.1.2. Where the review of an application is fully complete and the applicant has met all the requirements for a licence, the Licensing Officer will issue a regular licence.
- 5.1.3. The Manager of Licensing or the Registrar may issue a broker-agent representative licence including any conditions on the licence.

#### Standard conditions

- 5.1.4. Every broker-agent representative licence will include the following standard conditions relating to the obligations of the licensee:
- (a) the licensee representative must, within 14 days after the change, notify the VSA, in writing, of any change in the information provided in the licensee's application for licence [BL Reg s. 16(1)(a)]
  - (b) the licensee must, if the licensee ceases to act as a broker-agent representative, immediately notify the VSA in writing and surrender their licence to the VSA [BL Reg s. 16(1)(b)]
  - (c) the licensee must notify any broker-agent who employs or engages the licensee of a condition on or suspension of their licence or if the licence is revoked [BL Reg s. 16(1)(c)]
  - (d) the licensee must, on request, provide the VSA with the authorization necessary for the VSA to obtain a criminal record check for the licensee [BL Reg s. 16(1)(d)]
  - (e) the licensee must complete, to the VSA's satisfaction, educational courses specified by the VSA [BL Reg s. 16(1)(e)]
  - (f) the licensee must keep and maintain, for a period of at least 2 years after the last dealing or transaction to which the record relates, notes, correspondence and other records relating to a consumer with whom the licensee dealt or a motor vehicle being considered for acquisition by a consumer [BL Reg s. 16(1)(f)]
  - (g) the licensee must, on written request of the VSA, produce for the VSA's inspection the records described in paragraph (f) that the VSA requires to determine whether the licence should be renewed, suspended or revoked [BL Reg s. 16(1)(g)]

- (h) the licensee must, if the VSA receives a complaint respecting the licensee, provide the VSA with the information and records that the VSA requires to investigate the complaint if the VSA:
  - (i) requests the information and records in writing, and
  - (ii) indicates in the request the nature of the complaint. [BL Reg s. 16(1)(h)]

5.1.5. In addition to the conditions in paragraph [5.1.4](#), every broker-agent representative licence will include the following standard conditions relating to prohibitions on the licensee:

- (a) the broker-agent representative must not act as a representative for a broker-agent unless the broker-agent is licensed and named in the broker-agent representative licence. [BL Reg s. 16(2)(a)]
- (b) the broker-agent representative must not act as a broker-agent representative for a consumer with whom the representative or a broker-agent who employs or engages the representative has a conflict of interest [BL Reg s. 16(2)(e)]
- (c) the broker-agent representative must not, on behalf of a consumer for whom the representative acts as a broker-agent representative
  - (i) enter into an agreement to acquire or finance a motor vehicle
  - (ii) grant a waiver referred to in section 31(6) of the *Motor Dealer Act Regulation*, or
  - (iii) acknowledge receipt of information that is required by a provincial or federal law to be disclosed to the consumer for that consumer's protection. [BL Reg s. 16(2)(f)]

#### Other conditions

5.1.6. The Manager of Licensing or the Registrar may add other conditions to a licence to address any issues of concern regarding a broker-agent representative. Where the Manager of Licensing intends imposing other conditions on a licence, the broker-agent representative will have 30 days to request a review by the Registrar of the Manager of Licensing's intended decision to impose conditions as provided in the VSA's [Hearing Policy and Procedures](#). [BL Reg s. 16(1)(i) and s. 16(2)(g); MDA s. 26.04(5)(b)]

#### Failure to complete certification course

5.1.7. Where a broker-agent representative with a licence conditional on successfully completing any required certification course fails to successfully complete the course prior to expiry of the licence, the Licensing Officer may extend the expiration date of the licence to allow the licensee an opportunity to complete the requirement.

5.1.8. Where a broker-agent representative fails to successfully complete a certification course after 2 attempts, the Licensing Officer will not extend a conditional licence and the licence will be expired until the broker-agent representative successfully completes the course.

## 5.2. Procedures

### Issuing a licence

- 5.2.1. Where the review of a broker-agent representative application is substantially complete and there are no outstanding issues, the Licensing Officer issues a conditional licence with the following conditions (where applicable) in addition to the standard conditions:
- (a) that the broker-agent representative successfully complete any required certification course within 45 days, and
  - (b) that the results of the criminal record check are acceptable to the VSA.
- 5.2.2. Where an applicant has met the conditions in paragraph [5.2.1](#), the Licensing Officer:
- (a) removes the conditions from the licence where required, and
  - (b) issues a regular broker-agent representative licence.

### Failure to complete certification course

- 5.2.3. Where a broker-agent representative with a licence conditional on successfully completing a required certification course fails to complete the course prior to the expiry of the conditional licence, the Licensing Officer:
- (a) informs the broker-agent that is employing the licensee that the licensee has failed to meet the condition
  - (b) reviews the circumstances with the broker-agent to determine a reasonable timeframe for meeting the condition, and
  - (c) where a reasonable timeframe for meeting the condition is established, extends the expiry date of the conditional licence to allow the licensee to meet the condition.
- 5.2.4. Where a broker-agent representative fails to successfully complete a required certification course after receiving an extension, the Licensing Officer notifies the broker-agent that is employing the licensee that the licence is expired and the licensee may not work until they have met the requirement.

## 6. Renewal or reinstatement of licence

### 6.1. Policy

#### Application to renew broker-agent representative licence

6.1.1. A broker-agent representative applying for a licence renewal must complete a Broker-agent Representative Licence Renewal Application (form 6) and submit it to the VSA along with the renewal fee at least 14 days prior to the renewal date of their license.

#### Application to renew – where applicant is also a licensed salesperson

6.1.2. Where a broker-agent representative who is applying for a licence renewal is also a licensed salesperson, the applicant must complete a Broker-agent Representative Licence Renewal Application (form 6) and submit it to the VSA at least 14 days prior to the renewal date of their license.

6.1.3. The applicant must only pay the renewal fee for one licence.

#### Online renewal

6.1.4. Where a licensed broker-agent representative submits an application for renewal of licence online along with the renewal fee for a 2-year period and is granted a renewal, the licence will be automatically renewed for one additional year upon expiry.

#### Application must be complete

6.1.5. The VSA will not begin to review an application to renew a broker-agent representative licence until the application fee has been paid and will not approve a renewal application until a fully completed application has been received.

6.1.6. Where an application to renew a broker-agent representative licence that has been received is incomplete, the VSA will inform the licensee and request the missing information or documentation.

6.1.7. Where an application for renewal is received or completed less than 14 days prior to the renewal date of a licence, the VSA will make reasonable efforts to complete its review of the application prior to the renewal date of the licence.

#### Failure to renew before renewal date

6.1.8. Where a broker-agent representative fails to renew a licence before the renewal date, the licence will lapse automatically.

6.1.9. If a broker-agent representative's licence has lapsed, the licensee may apply for renewal by submitting a renewal application and paying the renewal fees including any late renewal fees.

6.1.10. If a licensee fails to renew a lapsed licence within 2 months of the renewal date, the licence will be cancelled automatically and if the representative wishes to be licensed again after cancellation, the broker-agent representative must apply for [reinstatement](#).

#### Late renewal fee

6.1.11. Where a broker-agent representative renews a lapsed licence, the Licensing Officer will apply a late fee in addition to the renewal fee.

6.1.12. If a broker-agent representative disputes the application of a late fee, the Licensing Officer will consult with the Manager of Licensing to determine whether the late fee should be applied.

6.1.13. When determining whether to apply a late fee, the Licensing Officer and the Manager of Licensing will consider:

- (a) the reasons for the late renewal, and
- (b) the licensee's history of compliance with licensing requirements.

#### Reinstatement of cancelled licence

6.1.14. Where a broker-agent representative licence has been cancelled for failure to renew or has been voluntarily cancelled, the licensee may apply to have the licence reinstated by submitting a Broker-agent Representative Licence Reinstatement Application (form 7).

6.1.15. A broker-agent representative licence will be reinstated where:

- (a) the licensee has completed any required certification courses and paid any outstanding fees owing to the VSA
- (b) the review of the reinstatement application indicates no outstanding issues, and
- (c) the results of an updated criminal record check are acceptable to the VSA.

## 6.2. Procedures

### Renewal notice

6.2.1. The Licensing Officer monitors broker-agent representative licence renewal dates and sends a renewal notice to the representative 1 month prior to the renewal date of the licence.

### Initial review of renewal application

6.2.2. When renewal applications are received, the Licensing Officer processes the applications in order of date received.

6.2.3. The Licensing Officer reviews the renewal application to determine if:

- (a) the correct renewal fee has been provided, and
- (b) the renewal application is complete.

- 6.2.4. Where a renewal application is not complete, the Licensing Officer contacts the broker-agent representative and:
- (a) requests that the licensee provide the missing information, and
  - (b) informs the licensee that the licence will not be renewed until the application is complete.

#### Detailed review of renewal application

- 6.2.5. The Licensing Officer checks the licensee profile to determine if the licensee has an outstanding balance owing to the VSA and where there is a balance owing:
- (a) determines the reason for the outstanding balance, and
  - (b) requests authorization from the Manager of Licensing to renew the licence with the balance owing.
- 6.2.6. The Licensing Officer reviews the licensee's personal information and updates the VSA database as required.
- 6.2.7. The Licensing Officer confirms the licensee's employment information and follows up as required where the information does not match the record in the VSA database.
- 6.2.8. The Licensing Officer reviews the eligibility questions on the renewal application for information that may affect the approval of the renewal. Where an issue is identified, the Licensing Officer follows up using the procedures for review of an initial application for broker-agent representative licence.

#### Renewing the licence

- 6.2.9. Where the Licensing Officer completes the review of a renewal application and there are no unresolved issues, the officer:
- (a) renews the licence in the VSA database
  - (b) processes the renewal fee, and
  - (c) where the licensee is actively employed, issues the new licence to the representative.

#### Where licence may not be renewed

- 6.2.10. Where the Licensing Officer determines that there are issues affecting approval of a renewal application that the broker-agent representative has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.
- 6.2.11. The Manager of Licensing reviews the renewal application and the issues identified by the officer and investigates further where required.
- 6.2.12. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
- (a) recommend that the licence not be renewed, or

(b) renew the licence, including any conditions on the renewal to address the issues identified.

6.2.13. Where the Manager of Licensing determines that a broker-agent representative licence should not be renewed, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

#### **Failure to renew before renewal date**

6.2.14. Where a broker-agent representative fails to renew a licence before the renewal date, the licence automatically lapses.

6.2.15. The Licensing Officer monitors for lapsed broker-agent representative licences and where a licence has lapsed, the officer sends a late renewal notice to the licensee indicating that the licence has lapsed and will be cancelled if it is not renewed within 2 months.

6.2.16. Where the broker-agent representative is actively employed, the Licensing Officer also:

- (a) contacts the broker-agent that is employing the representative to inform them that the licence has lapsed, and
- (b) follows up with licensee by telephone or email where possible.

6.2.17. Where the broker-agent representative fails to renew the licence within 2 months of the renewal date, the licence is cancelled automatically.

6.2.18. Where a broker-agent representative submits an application to renew within 2 months of the renewal date, the Licensing Officer reviews the application and determines whether to:

- (a) renew the licence, or
- (b) forward the renewal application to the Manager of licensing for further review.

6.2.19. Where the Licensing Officer renews the licence, in addition to the renewal fee, the officer applies a late fee as indicated on the renewal application.

6.2.20. If the broker-agent representative disputes the application of a late fee, the Licensing Officer consults with the Manager of Licensing to determine whether the late fee will be applied.

#### **Reinstatement of cancelled licence**

6.2.21. When an application for reinstatement is received, the Licensing Officer reviews the application to determine if:

- (a) the correct reinstatement fee has been provided, and
- (b) the reinstatement application is complete.

6.2.22. Where a reinstatement application is not complete, the Licensing Officer contacts the broker-agent representative and:



- (a) requests that the applicant provide the missing information, and
  - (b) informs the applicant that the licence will not be reinstated until the application is complete.
- 6.2.23. The Licensing Officer reviews the application following the applicable procedures for review of an initial application in [section 4.2](#) and for a renewal application in [section 6.2](#).
- 6.2.24. Where the Licensing Officer completes the review of the reinstatement application and there are no unresolved issues, the officer:
  - (a) reinstates the licence in the VSA database
  - (b) processes the reinstatement fees, and
  - (c) where the broker-agent representative is employed, issues the new licence to the licensee.
- 6.2.25. Where the Licensing Officer determines that there are issues affecting approval of a reinstatement application that the applicant has not been able to resolve, the officer forwards the application to the Manager of Licensing for review.
- 6.2.26. The Manager of Licensing reviews the reinstatement application and the issues identified by the officer and investigates further where required.
- 6.2.27. After reviewing the application and investigating as required, the Manager of Licensing determines whether to:
  - (a) recommend that the licence not be reinstated, or
  - (b) reinstate the licence, including any conditions on the renewal to address the issues identified.
- 6.2.28. Where the Manager of Licensing determines that a broker-agent representative licence should not be reinstated, the Manager schedules a hearing before the Registrar as provided in the VSA's [Hearing Policy and Procedures](#).

## 7. Employment authorization

### 7.1. Policy

#### May work only at named location

- 7.1.1. A licensed broker-agent representative may work only at the broker-agent location named on their licence. A broker-agent representative may hold more than one licence in order to work at more than one location.
- 7.1.2. If a licensed broker-agent representative changes location or gets a new employer, the licensee must notify the VSA of the change. This obligation will be met if the new employer provides this information to the VSA.

#### Return of licence

- 7.1.3. When a licensed broker-agent representative ceases to work for a broker-agent or at a particular location, the licensee must return the licence that names the former broker-agent or the former location to the VSA.

#### Deactivation

- 7.1.4. A licensed broker-agent representative must return their licence to the VSA and request deactivation of the licence if they are not currently employed as a broker-agent representative.
- 7.1.5. Where a licence is deactivated under paragraph [7.1.4](#), the VSA will designate the licence as “inactive”, provided that all other licensing conditions, including renewal requirements, are met. An inactive licence may be reactivated if the licensee is re-employed as a broker-agent representative.

### 7.2. Procedures

#### Employment authorization – new employer or location

- 7.2.1. When the Licensing Officer receives an Employment Authorization form indicating that a broker-agent representative has a new employer or is working at a new location, the officer:
  - (a) checks the licensing status of the licensee to confirm that they are active
  - (b) updates the licensee’s employer record in the VSA database, and
  - (c) issues a new licence to the licensee, except as provided in paragraph [7.2.2](#).
- 7.2.2. Where the broker-agent representative licence is due for renewal within 1 month, the Licensing Officer does not issue a new licence as a new licence will be issued on renewal.
- 7.2.3. Where the new employer or location indicates that the broker-agent representative has likely moved from the licensee’s address in the VSA database, the Licensing Officer contacts the licensee to confirm their current address and contact information.

**Employment authorization – cancellation of employment**

- 7.2.4. When the Licensing Officer receives an Employment Authorization Form indicating that a broker-agent representative's employment has been cancelled, the Licensing Officer:
- (a) updates the licensee's record in the VSA database with the employment end date, and
  - (b) where the licensee has no other employer or location, changes the license status to inactive.

## 8. Medical leave

### 8.1. Policy

#### When leave is available

8.1.1. The VSA may place a broker-agent representative licence on hold where a representative is taking a leave from their employment because:

- (a) they are unable to work due to illness, injury or other medical condition, or
- (b) they are on maternity or paternity leave.

#### Duration of leave

8.1.2. The VSA may grant a medical leave for a period of no less than 30 days and no more than 12 months.

8.1.3. After 12 months of medical leave, the VSA may grant additional leave where the broker-agent representative re-applies and meets the requirements for leave.

#### Return from medical leave

8.1.4. When a broker-agent representative returns from medical leave, the VSA will issue a new licence with a new renewal date.

8.1.5. Where the broker-agent representative’s licence renewal date does not pass during the leave, the renewal date will be extended by the amount of time spent on leave.

#### Example – licence renewal date does not pass during leave

Original licence renewal date	May 1, 2018
Medical leave	July 1 to October 31, 2017 - 4 months
Return date	November 1, 2017
New licence renewal date	September 1, 2018
Notes	4 months of leave taken prior to renewal date – new renewal date is 4 months after the previous renewal date

8.1.6. Where the broker-agent representative’s licence renewal date passes during the leave, the new renewal date will be based on the date the licensee returns from leave plus the amount of time spent on leave before the renewal date passed.

#### Example – licence renewal date passes during leave

Original licence renewal date	May 1, 2018
Medical leave	March 1 to June 30, 2018 - 4 months

Return date	July 1, 2018
New licence renewal date	September 1, 2018
Notes	2 months of leave taken prior to renewal date and 2 months taken after – new renewal date is 2 months after the previous renewal date

**Licence fees**

8.1.7. No licence fees will be refunded because of medical leave.

**Application requirements**

8.1.8. To apply for medical leave, a broker-agent representative must provide an Employment Authorization form completed by their employer indicating the start date and reasons for the leave.

8.1.9. If a broker-agent representative requesting leave is inactive, they must provide:

- (a) written notice of the start date of the leave, and
- (b) written notice from a medical doctor confirming the start date of the leave and the reasons for the leave.

**Requirements for returning**

8.1.10. Prior to returning to work from a medical leave, the broker-agent representative’s employer must submit an Employment Authorization form and indicate the date on which they will return to work.

**8.2. Procedures**

**Application for leave**

8.2.1. Where the Licensing Officer receives an Employment Authorization form confirming medical leave or written confirmation of medical leave from a medical doctor, the officer:

- (a) places the broker-agent representative licence on medical leave in the VSA database and includes a notation that the licensee is inactive because of leave, and
- (b) notes the start date of the leave as the licensee’s employment end date.

**Return from leave**

8.2.2. Where the Licensing Officer receives an Employment Authorization form indicating that a broker-agent representative’s leave is ending, the officer:

- (a) calculates the licensee’s new licence renewal date based on the policy on [return from medical leave](#) above
- (b) issues the new broker-agent representative licence, and
- (c) contacts the representative to review the new licence renewal date and requirements for renewal.

## H. REVIEW OF CRIMINAL RECORD OR OFFENCE

### 1. Overview

#### 1.1. Background

As a part of licensing, the VSA must assess whether an individual would pose a risk to the public interest if they are licensed. Individuals who have a criminal record or have committed some wrongful conduct may or may not be a risk to the public interest. Where the VSA determines that an individual poses some risk, the VSA must decide:

- ✓ whether that risk should preclude the individual from being licensed or continuing to be licensed, and
- ✓ where the risk does not preclude the individual from being licensed, whether conditions should be placed on the individual's licence in order to mitigate the risk to the public interest.

Where the Licensing department determines that an individual may have a criminal record, an offence record or outstanding charges, the Licensing Officer takes steps to confirm the record and forwards the information to the Manager of Licensing for further review under this policy.

#### 1.2. Legislative authority and requirements

##### Registrar's authority to delegate

- 1.2.1. The Registrar may lawfully delegate any of his powers to an Investigations Officer, Licensing Officer, Consumer Services Officer or any other person he deems appropriate to carry out his duties. [MDA – s. 1(1) – definition of Registrar]

##### Dealer licensing

- 1.2.2. If, in the opinion of the Registrar, the financial responsibility or past conduct of an applicant or person registered, or its officers or directors, is such that it would not be in the public interest for them to be registered or continue to be registered as a motor dealer, the Registrar may:
- (a) refuse to register an applicant or refuse to renew a registration, or
  - (b) cancel a registration, or
  - (c) suspend a registration for a period of time and subject to conditions the Registrar considers necessary. [MDA s. 5]

##### Salesperson licensing

- 1.2.3. The VSA may refuse to issue or renew a salesperson licence, or revoke or suspend a salesperson licence, if the VSA considers, having regard to the conduct of the applicant or licensee, that it would not be in the public interest for the applicant or licensee to be licensed. [SL Reg s. 5(1), 7(2)]

### Wholesaler licensing

1.2.4. The VSA may refuse to issue or renew a wholesaler licence, or revoke or suspend a wholesale licence, if the VSA considers that it would not be in the public interest for the applicant or licensee to be licensed, having regard to:

- (a) the financial responsibility of the applicant or licensee and, if applicable, their associates, or
- (b) the conduct of the applicant or licensee, and, if applicable, their associates and representatives. [WL Reg s. 6(1), 11(2)]

### Broker-agent licensing

1.2.5. The VSA may refuse to issue or renew a broker-agent licence, or revoke or suspend a broker-agent licence, if the VSA considers that it would not be in the public interest for the applicant or licensee to be licensed, having regard to:

- (a) the financial responsibility of the applicant or licensee and, if applicable, their associates, or
- (b) the conduct of the applicant or licensee, and, if applicable, their associates. [WL Reg s. 6(1), 11(2)]

### Broker-agent representative licensing

1.2.6. The VSA may refuse to issue or renew a broker-agent representative licence, or revoke or suspend a broker-agent representative licence, if the VSA considers, having regard to the conduct of the applicant or licensee, that it would not be in the public interest for the applicant or licensee to be licensed. [BL Reg s. 15(1), 17(2)]

### Prohibited discrimination

1.2.7. The VSA must not :

- (a) exclude any individual from being a licensee
- (b) cancel or suspend an individual's licence, or
- (c) discriminate against any applicant or licensee

because that individual has been convicted of a criminal or summary conviction offence that is unrelated to the licence that they are applying for or hold. [BC Human Rights Code s. 14]

## 2. Policy and Procedures

### 2.1. Policy

#### General principles on reviewing a criminal record or offence

- 2.1.1. Whether a charge or conviction is related to the occupation or employment of a person depends upon all the circumstances of the individual case.<sup>8</sup>
- 2.1.2. A person's past wrongful conduct and desire to be licensed must be weighed against the public interest specific to the motor vehicle sales industry. The public interest is not confined to consumers of British Columbia. It includes the greater public-at-large as a motor vehicle may be moved from place-to-place, domestically and internationally, and has many owners during its operational life.<sup>9</sup>
- 2.1.3. The VSA must also consider whether the person is a risk for dealers to employ. Dealers are accountable for their employee's conduct, which may be cause for consumer claims against the Motor Dealer Customer Compensation Fund. Legislation requires that all dealers contribute to the Fund. That same legislation imposes duties on the VSA and the Registrar to oversee the Fund.<sup>10</sup>
- 2.1.4. The public interest includes the interest of the BC motor vehicle sales industry and maintaining public confidence in the industry as a whole.
- 2.1.5. An applicant who has an outstanding criminal charge or any warrant for their arrest in another jurisdiction will be required to address the outstanding charge or warrant and the outcome known before their application to be licensed will be considered.

#### When a criminal record or offence will be reviewed

- 2.1.6. Where the VSA confirms that an applicant for a licence or a licensee has:
  - (a) a criminal record
  - (b) a conviction for an offence (excluding parking tickets)
  - (c) been disciplined by another licensing body, or
  - (d) been found civilly liable for a quasi-criminal wrong (e.g. conversion (theft), breach of trust, and assault and battery),the Manager of Licensing will review the record to determine whether it is sufficiently relevant to warrant further investigation.

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<sup>8</sup> *Woodward Stores (British Columbia) Ltd. V. McCartney* 1983 CanLII 444 (B.C.S.C.) at paragraph 9.

<sup>9</sup> The definition of "consumer" in the *Motor Dealer Act*; and the Administrative Agreement between Her Majesty the Queen in Right of British Columbia and the Authority, dated for reference, March 24, 2004, and see specifically paragraph 6.

<sup>10</sup> Part 2 of the *Motor Dealer Act* and the Motor Dealer Customer Compensation Fund Regulation B.C. Reg. 102/95.



- 2.1.7. When determining whether a record is sufficiently relevant to warrant further investigation, the Manager of Licensing will consider:
- (a) whether the record involves conduct relevant to the operation of a dealership, wholesaler business, broker-agent business or interaction with consumers, including
    - (i) theft
    - (ii) fraud
    - (iii) forgery
    - (iv) violence or threat of violence
  - (b) the role of the applicant within the licensed business
  - (c) the amount of time that has passed since the events occurred, and
  - (d) any other factors that Manager considers relevant to making the determination.
- 2.1.8. Where the Manager of Licensing determines that the record is not sufficiently relevant to warrant further investigation, the VSA will continue to process the application.
- 2.1.9. Where the Manager of Licensing determines that the record is sufficiently relevant to warrant further investigation, the Licensing department will conduct further investigation of the record.

#### **Investigation of the record and subsequent events**

- 2.1.10. The Licensing department, with assistance from the Investigations department, will investigate and gather information about the conduct giving rise to the record, the nature of the proceeding and subsequent events, including:
- (a) the date the person was charged or accused and the date of any conviction or finding of responsibility or fault
  - (b) the reasons and circumstances surrounding the conduct, such as
    - (i) the age of the person at the time the conduct occurred
    - (ii) whether there were any extenuating circumstances such as bankruptcy
    - (iii) whether there were any contributing factors such as drug or alcohol abuse
    - (iv) the individual's cooperation with the investigation of the conduct
  - (c) the sentence or penalty imposed, including
    - (i) the nature, length and conditions of any ban on professional activities, probation or parole order
    - (ii) whether there was any reduction of probation or parole based on good behaviour
    - (iii) whether the probation or parole has been completed without incident
  - (d) the individual's subsequent behaviour and efforts to rehabilitate, including
    - (i) community involvement
    - (ii) payment of restitution, where applicable
    - (iii) relevant training (e.g. life skills, work skills, anger management) or counselling
    - (iv) related work in an unregulated part of the industry (e.g. mechanical or body shop, sales of commercial vehicles or equipment)

- (v) abstinence from drugs or alcohol where these were a contributing factor in the conduct
- (e) the individual's current circumstances and behavior, including
  - (i) the individual's family and community support
  - (ii) any ongoing counselling or similar supports
  - (iii) the individual's cooperation with the VSA's review of the conduct.

### **Review and decision regarding risk to the public interest**

2.1.11. The Manager of Licensing will review the results of the investigation and determine whether the individual's conduct indicates that the individual poses a risk to the public interest.

2.1.12. In determining whether an individual poses a risk to the public interest, the Manager of Licensing will consider the relationship between the individual's conduct and their role and duties as a licensee, including:

- (a) whether the individual is or would be involved in
  - (i) the supervision of others in the licensed business
  - (ii) reviewing and obtaining financing for consumers
  - (iii) a management position or position of trust
  - (iv) accessing or having access to a consumer's personal or financial information
- (b) any relationship between the individual's conduct and their duties in the dealership, such as conduct involving theft from consumers or an employer, identity theft, forgery, or violence or threats of violence against the public or fellow employees, and
- (c) whether the individual's employer is aware of the conduct and where the employer is aware, the employer's approach to managing any risk posed by the individual.

2.1.13. Where the Manager of Licensing determines that an individual poses a risk to the public interest, the Manager will consider whether conditions could be added to the individual's licence that would mitigate the risk to an acceptable level.

2.1.14. Where the Manager of Licensing determines that an individual poses an unacceptable risk to the public interest and should not be licensed or continue to be licensed, the Manager will determine the length of the waiting period during which the individual will not be eligible to apply for a licence or a renewal of licence.

### **Waiting period on future applications**

2.1.15. The purpose of imposing a waiting period is to allow sufficient time for the individual to demonstrate that they have been rehabilitated and have not engaged in any subsequent wrongful conduct.

2.1.16. At the end of an imposed waiting period an individual may apply for a licence, which may or may not be granted after a fresh review of the application and the risk to the public interest.

2.1.17. The length of the waiting period will reflect the seriousness of the risk to the public interest and will allow for any subsequent wrongful conduct to come to light, be prosecuted and reported.

2.1.18. In determining the length of a waiting period, the Manager of Licensing will consider the results of the Manager's investigation and the following guidelines based on the nature of the conduct:

- (a) **Summary conviction offences** such as theft or fraud under \$5,000.00, false pretences under \$5,000.00, possession of stolen property under \$5,000.00, tax evasion and offences involving "identity theft":

The Manager of Licensing may impose a waiting period of up to 2 years after the completion of a parole or probation order, or a term of incarceration which is not followed by probation or parole.

- (b) **Indictable offences** such as robbery, theft over \$5,000, breaking and entering, forgery, possession of stolen property over \$5,000, false pretences over \$5,000, trafficking in drugs, conspiracy to traffic in drugs, sex offences, offences involving violence and weapons, tax evasion and offences involving "identity theft":

The Manager of Licensing may impose a waiting period of up to 5 years after the completion of a parole or probation order, or a term of incarceration which is not followed by probation or parole.

- (c) **Business related offences** such as theft from employer, theft of large sums of money, serious fraud cases, embezzlement, criminal breach of trust, forgery, tax evasion, or any other business-related crime, or a conviction for a crime where the individual was in a position of trust:

The Manager of Licensing may impose a waiting period of up to 7 years after the completion of a parole or probation order, or a term of incarceration which is not followed by a probation or parole order

- (d) **Civil liability** for quasi-criminal matters such as conversion, tax evasion, assault or battery (physical or sexual), breach of trust, breach of personal privacy or corporate confidences: The Manager of Licensing may impose a waiting period of up to 5 years after the person has fully complied with any judgment order of a court.

- (e) **Breach of court orders** including failure to appear, contempt of court, or disobeying any form of an injunction:

The Manager of Licensing may impose a waiting period of up to 2 years after a person has purged their contempt or otherwise complied with the original and any subsequent court order and paid any fines or penalties.

- (f) **Breach of a regulatory requirement** of an occupation or profession such as failure to provide documents or information during an investigation, interfering in an investigation, witness tampering, odometer tampering, failure to abide by a regulatory order, breach of trust imposed by law, or operating without a license within a licensed profession such as an unlicensed motor dealer:

The Manager of Licensing may impose a waiting period of up to 2 years after the individual has complied with any regulatory requirement or order.

- (g) **Perjury or giving a false statement** before a court or administrative tribunal, during a criminal or regulatory investigation, or on any application for a license:  
The Manager of Licensing may impose a waiting period of up to 3 years after serving a term of incarceration or after the imposition of any other sanction.
- (h) **Outstanding criminal charges or any outstanding warrants for arrest in another jurisdiction** will need to be addressed and the outcome known before an applicant can be considered for licensing.

### Requirement to pay fine or comply with order

- 2.1.19. Except as provided in paragraph [2.1.19](#), before the VSA will consider a new application for licence from an individual who was denied a licence under this policy, any fine, penalty, restitution order or other court order resulting from the record investigated must be fully paid or otherwise fulfilled.
- 2.1.20. Paragraph [2.1.18](#) does not apply where the individual can show that they:
  - (a) have obtained lawful authority to reduce or defer payments, or to make payments in instalments, and
  - (b) are not in arrears on any required payments.

### Where application denied or licence cancelled

- 2.1.21. Where the Manager of Licensing determines that an application for licence or renewal of licence should be denied or that a licence should be cancelled because an individual poses a risk to the public interest, the Manager will schedule a hearing before the Registrar.
- 2.1.22. An individual who is given a notice of a hearing scheduled under paragraph [2.1.20](#) may choose to withdraw their application for a licence or renewal of a license, or surrender their current license and agree to its cancellation prior to the hearing by providing written notice of their intention to do so.

### Hearing to reduce waiting period

- 2.1.23. An individual for whom a waiting period was imposed under paragraph [2.1.13](#) and who wishes to apply for a licence before the waiting period has passed may request a hearing before the Registrar to show why their application should be considered.

## 2.2. Procedures

### Determining whether a criminal record or offence will be reviewed

- 2.2.1. Where:
  - (a) a criminal record has been confirmed by Security Programs Division or fingerprint verification, or
  - (b) a Licensing Officer has confirmed the details of a civil record

the Licensing Officer forwards the file to the Manager of Licensing who determines whether the record is sufficiently relevant to warrant further investigation (see paragraph [2.1.6](#)).

- 2.2.2. Where the Manager of Licensing determines that the record is not sufficiently relevant to warrant further investigation, the Manager instructs the Licensing Officer to continue to process the application.
- 2.2.3. Where the Manager of Licensing determines that the record is sufficiently relevant to warrant further investigation, the Manager initiates an investigation of the record and subsequent events.

#### **Investigation of the record and subsequent events**

- 2.2.4. The Licensing Officer requests that the applicant provide a written statement with full details of the conviction or charge including any mitigating circumstances.
- 2.2.5. The Licensing Officer:
  - (a) scans the licence or renewal application and supporting documents (where applicable), the confirmed criminal record check results, and the results of other background checks (e.g., court record searches, correspondence with other governing bodies)
  - (b) sends the document package to the Manager of Licensing, and
  - (c) uploads the package to the individual's profile in the VSA database.
- 2.2.6. When the individual's written statement is received by the VSA, the Manager of Licensing arranges for an Investigations Officer to interview the applicant and forwards the document package to the Investigations Officer and the Manager of Investigations.
- 2.2.7. The Investigations Officer investigates the record, the conduct giving rise to the record and subsequent events relevant to the record as described in paragraph [2.1.9](#). Where applicable and feasible, this includes:
  - (a) obtaining and reviewing a copy of the court or tribunal's reasons for decision
  - (b) interviewing the individual's probation or parole officer, and
  - (c) where the individual's employer is aware of the record, interviewing the employer.
- 2.2.8. The Investigations Officer conducts an interview with the individual and the Licensing Officer attends the interview where possible.
- 2.2.9. The Investigations Officer completes and sends an investigation report to the Manager of Licensing.

#### **Review and decision regarding risk to the public interest**

- 2.2.10. The Manager of Licensing reviews the investigation report, the individual's statement and other relevant information and determines whether to:

- (a) issue a licence to the individual, including any conditions required to address a risk to the public interest, or
- (b) recommend that the individual not be licensed, including the length of the waiting period required before the individual may re-apply for a licence.

2.2.11. Where the Manager of Licensing recommends that an individual not be licensed, the Manager schedules a hearing before the Registrar under the VSA's [Hearing Policy and Procedures](#).

## EXEMPTION FOR WHOLESALE AUCTIONS

Section 14.1 of the *Motor Dealer Act Regulation* sets out the following detailed requirements for the licensing exemption for wholesale auctions.

**14.1** (1) In this section:

"**eligible bidder**" means any of the following:

- (a) a registrant [a licensed motor dealer];
- (b) a licensed wholesaler;
- (c) the Insurance Corporation of British Columbia or an insurer licensed under the *Insurance Act*;

"**eligible seller**", in relation to a motor vehicle, means any of the following:

- (a) a registrant;
- (b) a licensed wholesaler;
- (c) the Insurance Corporation of British Columbia or an insurer licensed under the *Insurance Act*;
- (d) a person exempt under section 14 (4) (a), (b), (c) or (d) in respect of the motor vehicle;
- (e) the Province;

"**representative**" has the same meaning as in the Wholesaler Licensing Regulation.

(2) A person who holds an auction of motor vehicles is exempt, in respect of that auction, from the Wholesaler Licensing Regulation if

- (a) the motor vehicles are eligible under subsection (3),
- (b) the bidding is limited to eligible bidders and conducted in accordance with subsection (4), and
- (c) the person keeps the records referred to in subsection (5) for at least 2 years after the last day of the auction and allows the Registrar, or a person authorized by the Registrar, to inspect those records on request.

(3) For the purposes of subsection (2) (a), a motor vehicle is eligible if all of the following criteria are met:

- (a) the motor vehicle is used;
- (b) the motor vehicle is offered for disposition on behalf of an eligible seller;
- (c) the person who holds the auction and the directors, officers, employees and agents of that person have no property interest in the motor vehicle;
- (d) the person who holds the auction has received from the eligible seller and made available to bidders a written statement about the motor vehicle that

- (i) makes the disclosures referred to in section 23 [*material facts*], and
- (ii) if the motor vehicle is not intended for transportation, contains a statement that the motor vehicle is not suitable for transportation and is sold for parts only or purposes other than transportation.

(4) For the purposes of subsection (2) (b), bidding is to be conducted as follows:

- (a) in the case that bidders may be physically present at the site of the auction, the site is to include a bidding area and access to the bidding area is to be restricted to the following individuals:
  - (i) any of the following who is wearing visible photo identification:
    - (A) an eligible bidder;
    - (B) a director, officer or employee of an eligible bidder;
    - (C) a representative of an eligible bidder, if the eligible bidder is a wholesaler;
  - (ii) any of the following who is present for the purposes of conducting or observing the auction:
    - (A) the person who conducts the auction, a director, officer, employee or agent of that person or an individual accompanied by any of them;
    - (B) an eligible seller on behalf of whom a motor vehicle is offered for disposition in the auction or a director, officer or employee of the eligible seller;
    - (C) the Registrar or an individual authorized by the Registrar;
    - (D) a peace officer;
- (b) in the case that bidders may bid through electronic means, access to the electronic means is to be restricted to eligible bidders.

(5) For the purposes of subsection (2) (c), the following records are to be kept:

- (a) a record of the motor vehicles offered for disposition at the auction that includes the following for each motor vehicle:
  - (i) the name of the eligible seller;
  - (ii) a copy of the statement referred to in subsection (3) (d);
  - (iii) the date on which the motor vehicle was offered for disposition;
  - (iv) whether the motor vehicle was disposed of at the auction and, if so, a copy of the following records:
    - (A) a record evidencing the disposition of the motor vehicle that includes the information specified in section 21 (1) and (2) [contents of sale or purchase agreement];
    - (B) if a warranty was made in respect of the motor vehicle by or on behalf of the eligible seller or the person who held the auction, records relating to the warranty;
- (b) if bidders are physically present at the site of the auction, a record of the individuals allowed entry to the bidding area that identifies which of them were eligible bidders;



(c) if bidders bid through electronic means, a record of the individuals allowed access to the electronic means.

## ACRONYMS AND ABBREVIATIONS

ADESA	ADESA Auctions Canada Corporation
AMVIC	Alberta Motor Vehicle Industry Council
BPCPA	<i>Business Practices and Consumer Protection Act, SBC 2004, c 2</i>
BL Reg	<i>Broker Licensing Regulation, BC Reg 429/2017</i>
ICBC	Insurance Corporation of British Columbia
MDA	<i>Motor Dealer Act, RSBC 1996, c 316</i>
MDA Reg	<i>Motor Dealer Act Regulation, BC Reg 447/78</i>
MDCCF Reg	<i>Motor Dealer Customer Compensation Fund Regulation, BC Reg 102/95</i>
MVA	<i>Motor Vehicle Act, RSBC 1996, c 318</i>
MVA Regs	<i>Motor Vehicle Act Regulations, BC Reg 26/58</i>
OMVIC	Ontario Motor Vehicle Industry Council
RV	Recreation vehicle
SL Reg	<i>Salesperson Licensing Regulation, BC Reg 430/2017</i>
VSA	Motor Vehicle Sales Authority of British Columbia
WL Reg	<i>Wholesaler Licensing Regulation, BC Reg 428/2017</i>