

## **Magistrates Court (General) Rules 2005**

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## Magistrates Court (General) Rules 2005

### Part 1 — Preliminary

**1. Citation**

These rules are the *Magistrates Court (General) Rules 2005*.

**2. Commencement**

These rules come into operation on the day on which the *Magistrates Court Act 2004* comes into operation.

**3. Interpretation**

In these rules, unless the contrary intention appears —

“**Act**” means the *Magistrates Court Act 2004*;

“**approved form**” means a form approved by the Chief Magistrate;

“**CPA**” means the *Criminal Procedure Act 2004*;

“**Form**”, if followed by a number, means the form of that number in Schedule 2;

“**lodge**” a document, means to lodge it with the Court together with any fee required to be paid under the *Magistrates Court (Fees) Regulations 2005*;

“**registry**” means a registry of the Court.

## **Part 2 — Administrative matters**

### **Division 1 — Court seals**

#### **4. Form and number of court seals**

- (1) The Court's seal is to be in a form or forms approved by the Chief Magistrate.
- (2) The Principal Registrar must ensure that each registry has at least one such seal.

#### **5. Custody of court seals**

The registrar in charge of a registry must ensure that the Court's seals are kept in safe custody and are used in accordance with these rules and any other applicable written law.

#### **6. Use of court seals**

A person must not apply the Court's seal to a document unless he or she is —

- (a) a registrar; or
- (b) a person authorised to do so by a registrar.

#### **7. Court seal applied electronically, effect of**

If the Court issues a document in an electronic form that bears a facsimile of the Court's seal, the sealed document as it appears electronically, or as it appears when printed on paper, is to be taken to have the same effect as if the Court's seal had been lawfully applied to it by hand by an officer of the Court, unless there is evidence that the document was not issued by the Court.



### **Division 2 — Registry matters**

**8. Registry at which documents must be lodged**

A document that is to be lodged in respect of a case that has been commenced must be lodged at the registry at which the case is being conducted.

**9. Some documents may be rejected for lodgment**

A registrar may refuse to accept for lodging any form that does not contain the information required by the form and any document that does not comply with rules of court made by the Court or with any other written law.

**10. Leave to lodge a refused document, application for (Act s. 17)**

An application under the Act section 17 to a magistrate for leave to lodge a document that a registrar has refused to accept must be made by lodging the approved form.

### **Division 3 — Lodging and serving documents electronically**

**11. Lodging documents by fax**

- (1) Subject to this rule, a document may be lodged by fax.
- (2) A person wanting to lodge a document at a registry by fax must use the published fax number for that registry.
- (3) A document that, with any attachments and a cover page, is more than 20 pages long, must not be lodged by fax.
- (4) A document that is sent by fax to a registry must have a cover page stating —
  - (a) the sender's name, postal address, document exchange number (if any), telephone number and fax number; and
  - (b) the number of pages (including the cover page) being sent by fax.

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- (5) A person that lodges a document by fax must —
- (a) endorse the first page of the original document with —
    - (i) a statement that the document is the original of a document sent by fax; and
    - (ii) the date and time the document was sent by fax;
  - (b) keep the endorsed original document and the fax machine's report evidencing the successful transmission of the document; and
  - (c) if directed to do so by the Court, produce the items in paragraph (b) to the Court.
- (6) A document lodged by fax at a registry is to be taken to have been lodged —
- (a) if the whole document is received before 4.30 p.m. on a day when the registry is open for business, on that day;
  - (b) otherwise, on the next day when the registry is open for business.
- (7) If a document is sent by fax to a registry but not in accordance with this rule —
- (a) the document is to be taken not to have been lodged at the registry; and
  - (b) a registrar must notify the person who sent it of the fact.

**12. Lodging documents through Court's website**

- (1) Subject to the requirements of the Court's website and this rule, a person may lodge a document electronically by lodging an electronic version of it by means of the Court's website.
- (2) If a document is or must be signed by a person who is not, or who is not acting on behalf of, the person lodging it, the document cannot be lodged electronically unless it is an affidavit.

- (3) If the rules of court require a document, before it is lodged, to be signed by or on behalf of the person lodging it and the document is being lodged electronically —
- (a) the document need not be signed by that person; and
  - (b) the person lodging the document electronically must ensure that the electronic version of the document, instead of showing a signature at any place where a signature is required, states the name of the person whose signature is required at the place.
- (4) A person who lodges an affidavit electronically must either lodge an electronic version of it that includes the signatures on it or —
- (a) lodge an electronic version of it that does not include the signatures on it;
  - (b) ensure that the electronic version, instead of showing a signature at any place where a signature appears in the paper version, states the name of the person whose signature it is; and
  - (c) also lodge an undertaking that the person —
    - (i) has possession of the paper version signed according to law; and
    - (ii) will retain the paper version subject to any order of the Court.
- (5) A document lodged electronically at a registry is to be taken to have been lodged —
- (a) if the whole document is received before 4.30 p.m. on a day when the registry is open for business, on that day;
  - (b) otherwise, on the next day when the registry is open for business.
- (6) If a document is sent electronically to a registry but not in accordance with the requirements of the Court's website and this rule —

- (a) the document is to be taken not to have been lodged at the registry; and
  - (b) a registrar must notify the person who sent it of the fact.
- (7) A person who lodges a document electronically must have the paper version of the document with him or her at any conference or hearing in the case concerned.
- (8) The Court may at any time, on the application of a party or on its own initiative, order a person who has lodged a document electronically to lodge the paper version of the document.

**13. Electronic addresses for service**

- (1) For the purposes of enabling the service by fax of documents that rules of court require to be served, a person may, in addition to providing an address for service in accordance with rules of court, provide a fax number operating at that address.
- (2) For the purposes of enabling the service by email of documents that rules of court require to be served, a person who is not registered by the Court's website as a person authorised to lodge documents electronically may, in addition to providing an address for service in accordance with rules of court, provide an email address operating at that address.
- (3) If a lawyer practises in a business with one or more other lawyers or people —
- (a) any fax number provided under subrule (1) must be the fax number of the business and not that of the lawyer personally; and
  - (b) any email address provided under subrule (2) must be the email address of the business and not that of the lawyer personally.
- (4) If a party to any proceedings who is self-represented —
- (a) resides in Australia;
  - (b) is registered by the Court's website as a person authorised to lodge documents electronically; and

- (c) under rules of court is required to provide an address for service,

the party, in addition to providing an address for service in accordance with the rules, may provide one email address being the email address of the party recorded on the Court's website.

- (5) If a lawyer acting for a party, or the business in which the lawyer works —
  - (a) has a business address in Australia;
  - (b) is registered by the Court's website as a person authorised to lodge documents electronically; and
  - (c) under rules of court is required to provide an address for service,

the lawyer or business, in addition to providing an address for service in accordance with rules, may provide one email address being the email address of the lawyer or business recorded on the Court's website.

- (6) A person who under this rule provides an email address or a fax number is to be taken to consent to being served with documents by fax at that fax number, or as an attachment to an email sent to that email address, as the case may be.
- (7) If a party's fax number or email address provided under this rule changes, the party must lodge and serve a notice of change of address as soon as practicable after the change occurs.
- (8) The notice of change must be in the approved form.

*[Rule 13 amended in Gazette 8 Jul 2005 p. 3160.]*

#### **14. Service electronically**

- (1) If rules of court require a person to serve a document, then, unless the contrary intention appears, the person may serve the document —
  - (a) if the party has provided a fax number under rule 13(1), by sending the document by fax to that number; or

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**Division 4** Recording proceedings

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- (b) if the party has provided an email address under rule 13, by sending the document as an attachment to an email sent to that address.
- (2) A document cannot be served by email under subrule (1) if under rule 12(2) it cannot be lodged electronically.
- (3) Rule 11(4) and (5), with any necessary changes, apply to a document being served by fax in the same way as they apply to a document being lodged by fax.
- (4) Rule 12(3) and (4)(a) and (b), with any necessary changes, apply to a document being served by email in the same way as they apply to a document being lodged electronically.
- (5) A document that is served by email or fax on a person is to be taken to have been served —
  - (a) if the whole document is sent before 4.30 p.m. on a working day, on that day;
  - (b) otherwise, on the next working day.
- (6) Subrule (1), with any necessary changes, applies to the service by the Court of any document on a party.
- (7) This rule does not prevent a person from consenting to being served in a manner other than in accordance with the rules of court.

**Division 4 — Recording proceedings**

**15. Interpretation**

In this Division, unless the contrary intention appears —

**“proceedings”** means any proceedings in the civil or criminal jurisdiction of the Court;

**“record”** means any thing or process —

- (a) upon or by which information is recorded or stored;  
or

- (b) by means of which a meaning can be conveyed by any means in a visible or recoverable form, whether or not the use or assistance of some electronic, electrical, mechanical, chemical or other device or process is required to recover or convey the information or meaning;

“**registrar**” does not include a Deputy Registrar.

**16. Application of these rules**

These rules apply to and in relation to all proceedings that are —

- (a) pending when these rules commence; or  
(b) commenced on or after these rules commence.

**17. Transcripts may be in electronic form**

These rules do not prevent a transcript of proceedings being in an electronic form.

**18. Proceedings that are to be recorded and transcribed**

- (1) A registrar may direct that the whole or a part of any proceedings or class of proceedings be recorded.  
(2) A registrar may direct how proceedings are to be recorded.  
(3) A registrar may direct that the whole or a part of any record or class of record be transcribed into written English.

**19. Recorders and transcribers, duties of**

- (1) In this rule a reference to recording proceedings or to transcribing records of proceedings includes a reference to copying a record or transcript of proceedings.  
(2) A person who records proceedings or who transcribes records of proceedings or who checks the accuracy of transcripts of proceedings is, while doing so, an officer of the Court and must

obey any directions of a magistrate or a registrar in respect of those activities.

- (3) A person who records proceedings must —
  - (a) before the proceedings commence, check that the recording equipment is working properly;
  - (b) during the proceedings, monitor the recording equipment and ensure that an accurate record is made; and
  - (c) identify the record.
- (4) A person who transcribes a record of proceedings must —
  - (a) enter in a register the identification of the record;
  - (b) accurately transcribe the record into written English; and
  - (c) include on each page of the transcript information to identify the proceedings and the speakers and any other matter directed by a registrar.
- (5) A person who checks a transcript, or who copies a record or transcript, of proceedings must —
  - (a) ensure that the transcript is an accurate transcription of the record, or that the copy is an accurate copy, as the case requires; and
  - (b) having done so, certify that it is accurate.
- (6) A person who records, copies, transcribes or checks the accuracy of transcripts of proceedings must at all times ensure the safe custody of the record of the proceedings.

**20. Accuracy, requesting check of**

- (1) Whether or not a transcript or a copy has been certified under these rules to be accurate, a person may apply to a registrar to have the accuracy of a specific part of the transcript checked.
- (2) On such an application a registrar must cause the transcript to be checked for accuracy, corrected if necessary and certified to be accurate.



**21. Certificate of accuracy**

A certificate given under this Part as to the accuracy of a transcript of a record of proceedings must comply with the *Evidence Act 1906* section 50A(2).

**22. Custody of recordings and transcripts**

A registrar must ensure that the recording and any transcript of the recording of proceedings —

- (a) are sufficiently registered and marked for identification;
- (b) are kept in safe custody; and
- (c) unless the court orders to the contrary, are not destroyed until at least 2 years after the conclusion of the proceedings, or the last date for commencing any appeal in relation to the proceedings, whichever is the later.

## **Part 3 — Delegated jurisdiction**

### **Division 1 — General**

#### **23. Oaths, who may administer**

Any Court officer assisting the Court, when it is constituted by a magistrate or by one or more JPs, may administer an oath or affirmation to any person who the Court requires to be sworn.

### **Division 2 — Registrar's jurisdiction**

#### **24. Registrars' civil jurisdiction**

In a civil case, a registrar has the jurisdiction conferred on a registrar by the *Magistrates Court (Civil Proceedings) Rules 2005* in addition to the jurisdiction conferred by others of these rules.

#### **25. Registrars' criminal jurisdiction**

- (1) In this rule —  
“**registrar**” does not include a Deputy Registrar.
- (2) In a criminal case, the jurisdiction conferred by this rule is in addition to the jurisdiction conferred by others of these rules.
- (3) A registrar has jurisdiction to deal with an application made under the CPA for an adjournment and to perform the court's functions under the CPA section 75.
- (4) A registrar has jurisdiction to grant or adjourn, but not to refuse, an application made under the CPA section 71 if —
  - (a) it is made in the circumstances described in the CPA section 72(1) or (2); and
  - (b) it is not made by an accused who is in custody and who seeks to be released on bail until the hearing at which the charge is to be dealt with again.

- (5) If an application made under the CPA section 71(1) or (2) includes an application made under the CPA section 71(3), a registrar may only grant the application made under the CPA section 71(3) if the registrar grants the application made under the CPA section 71(1) or (2).

### **Division 3 — Appeals against decisions by a registrar**

#### **26. Commencing an appeal (Act s. 29)**

- (1) If under the Act section 29(1) a person who is dissatisfied with a decision made by a registrar wants to appeal to a magistrate, the person must lodge 2 copies, and one copy for each other party, of these documents —
- (a) an appeal notice in the approved form;
  - (b) a copy of the registrar's decision; and
  - (c) any other documents necessary to decide the appeal.
- (2) The appellant must serve one copy of the lodged documents on each other party within 14 days after the date on which the documents are lodged.

#### **27. Appeal does not stay the case**

The commencement of an appeal under the Act section 29(1) does not stay the case concerned unless a magistrate orders otherwise.

#### **28. Listing the appeal for hearing**

- (1) When the documents lodged under rule 26(1) are served, a registrar must list the appeal for hearing and notify the parties.
- (2) The appeal must be listed at least 21 days after the date on which the documents lodged under rule 26(1) are served.

## **Part 4 — Contempt of court**

### **29. Interpretation**

In this Part —

“**contempt**” has the meaning given by the Act section 16;

“**defendant**” means a person who is alleged to have committed a contempt.

### **30. Summonses and warrants (Act s. 16)**

- (1) A warrant issued under the Act section 16(2) —
  - (a) for a person who has committed a contempt of court under the Act section 15(2) must be in the form of Form 12 in the *Criminal Procedure Regulations 2005* Schedule 1;
  - (b) for any other person who has committed a contempt of court, must be in the form of Form 1 in the *Criminal Procedure Regulations 2005* Schedule 1.
- (2) A summons issued under the Act section 16(2) must be in the form of Form 4 in the *Criminal Procedure Regulations 2005* Schedule 1 adapted as necessary.

### **31. When contempt may be dealt with summarily**

- (1) If an alleged contempt occurs —
  - (a) while the Court, constituted by a magistrate or JP, is sitting; or
  - (b) in respect of a magistrate or JP who is about to, or who has just, constituted the Court,

and the magistrate or JP is satisfied that the alleged contempt should be dealt with immediately because it is an immediate threat to the authority of the Court or to the integrity of the proceedings, the officer may deal with it summarily.

- (2) If a magistrate or JP decides to deal with an alleged contempt summarily, he or she must if practicable, orally inform the defendant of the nature and particulars of the alleged contempt.

**32. Contempts not dealt with summarily may be referred to Attorney General**

- (1) This rule and rule 33 apply if an alleged contempt is not dealt with summarily.
- (2) If the alleged contempt occurs while the Court, constituted by a magistrate or JP, is sitting, or occurs in respect of a magistrate or JP, he or she may refer it to the Attorney General.
- (3) If the alleged contempt occurs in the presence of or in respect of a registrar when performing functions delegated to the registrar under the Act section 28, the registrar may refer it to the Chief Magistrate who may refer it to the Attorney General.
- (4) If the alleged contempt occurs in any other circumstances, the Chief Magistrate may refer it to the Attorney General.
- (5) A referral of an alleged contempt to the Attorney General must set out the details of the act or omission that are considered to constitute the alleged contempt.

**33. Attorney General may prosecute alleged contempt**

- (1) The Attorney General may commence and conduct proceedings in the Court against a person for a contempt of court allegedly committed by the person.
- (2) To commence proceedings for an alleged contempt, the Attorney General must lodge a written charge against the defendant that sets out the details of the act or omission that constitute the alleged contempt.
- (3) The charge must be served on the defendant together with written notice of a hearing date for it and written notice that at the hearing he or she is entitled to be represented by a lawyer and to call any person as a witness.

**34. Hearing a charge of contempt**

At the hearing of a charge of contempt lodged by the Attorney General —

- (a) the Court must be constituted by a magistrate;
- (b) the Court must not be constituted so as to include any Court officer in whose presence or in respect of whom the alleged contempt was committed;
- (c) a certificate by —
  - (i) the magistrate or JP who was constituting the Court when, or in respect of whom, the alleged contempt was committed;
  - (ii) the registrar in whose presence, or in respect of whom, the alleged contempt was committed; or
  - (iii) the Chief Magistrate, setting out the details of the act or omission that constitute the alleged contempt is, in the absence of evidence to the contrary, evidence of its contents; and
- (d) any transcript of the proceedings in which the alleged contempt was committed is admissible.

**35. Procedure for contempts generally**

The procedure for dealing with an alleged contempt, whether summarily or otherwise, is to be the same, so far as is practicable, as that followed in the Supreme Court when it is dealing with an alleged contempt except so far as this Part provides otherwise.

**36. Outcome of contempt proceedings to be recorded**

- (1) Whether an alleged contempt is dealt with summarily or otherwise, the person constituting the Court must record the Court's decision about the alleged contempt and any order made as a result.

- (2) A registrar must issue to the defendant a written notice advising the defendant of the Court's decision, any order made as a result, and any punishment imposed.

## **Part 5 — Court records**

### **37. Request to inspect or obtain a copy of a record (Act s. 33)**

- (1) A request under the Act section 33(3), (5) or (7) must be made by lodging a Form 1.
- (2) If a person who is not a party to a case wants —
  - (a) to inspect, listen to, or obtain a copy of, any record; or
  - (b) to inspect any thing,

held by the Court in respect of the case, the person must lodge a Form 1.

### **38. Requests, dealing with**

- (1) When a Form 1 is lodged in respect of a record in a case, a registrar may —
  - (a) grant the request if the request is made by a party to the case and is not made under the Act section 33(5);
  - (b) grant the request if —
    - (i) it is made under the Act section 33(5); and
    - (ii) the registrar is satisfied that the person making it is an interested party;or
  - (c) otherwise, refer the request to a magistrate.
- (2) A magistrate who is referred such a request may —
  - (a) without hearing the applicant, grant it; or
  - (b) after hearing the applicant, grant or refuse it.

### **39. Application for leave in respect of a court record**

An application for leave under the Act section 33(4) must be made by lodging a Form 2.



**40. Application for leave, dealing with**

- (1) When a Form 2 is lodged in respect of a record in a case, a registrar may grant leave or refer the application to a magistrate.
- (2) A magistrate who is referred such an application may —
  - (a) without hearing the applicant, grant it; or
  - (b) after hearing the applicant, grant or refuse it.

**41. Conditions on access may be imposed**

- (1) A registrar or magistrate granting a request referred to in rule 37 or an application referred to in rule 39 may impose any conditions on the applicant's access to the record as is just.
- (2) Without limiting subrule (1), conditions may be imposed —
  - (a) to prevent the record from being damaged, interfered with or lost;
  - (b) to prevent the improper use or publication of the record or any information in it.

## **Part 6 — *Criminal Procedure Act 2004* rules**

### **42. Interpretation**

In this Part, unless the contrary intention appears, a term defined in the CPA has the same meaning as it has in the CPA.

### **43. Prescribed court officers**

For the purposes of the CPA each registrar is prescribed to be a prescribed court officer.

### **44. Prosecutions, where they must be commenced**

- (1) A prosecution for an offence must be commenced in the registry nearest to the place where the offence was allegedly committed.
- (2) Despite subrule (1), if an offence is allegedly committed in a suburb listed in Schedule 1, a prosecution for the alleged offence must be commenced in the registry listed opposite that suburb in Schedule 1.
- (3) If it is not known where an alleged offence was committed, a prosecution for it must be commenced in the registry nearest to where the accused usually lives.
- (4) Despite subrule (3), if an accused usually lives in a suburb listed in Schedule 1, a prosecution for the alleged offence must be commenced in the registry listed opposite that suburb in Schedule 1.
- (5) A prosecution for an offence that is one of 2 or more offences the prosecutions of which are to be dealt with together may be commenced in the registry nearest to the place where any one of the prosecutions may be commenced in accordance with subrule (1), (2), (3) or (4).
- (6) Despite subrules (1) to (5), a prosecution for an alleged offence may be commenced in a registry that is not a registry where it is required by those subrules to be commenced if the registrar in

charge of the registry is satisfied that there is good reason for the prosecution to be commenced in that registry.

- (7) If a prosecution for an offence is not commenced in a registry in accordance with subrules (1) to (6), the Court sitting at the place where the prosecution is commenced may, under the CPA section 135, order that prosecution be conducted at a registry where it should have been commenced.

**45. Prosecution notice, manner of lodging (CPA s. 24)**

- (1) A prosecution notice must be lodged by handing the original notice to the Court.
- (2) Subrule (1) applies even if the information in the prosecution notice is given to the Court by electronic means.

**46. Summons etc., amendment of (CPA s. 34)**

A prescribed court officer must not, under the CPA section 34, amend the court date in a summons or a court hearing notice after the summons has been lodged with the Court.

**Part 7 — Fines, Penalties and Infringement Notices  
Enforcement Act 1994 rules**

**47. Interpretation**

In this Part —

“**Act**” means the *Fines, Penalties and Infringement Notices  
Enforcement Act 1994*.

**48. Application to cancel licence suspension order (s. 101)**

- (1) An application under the Act section 101 must be made by lodging a Form 3.
- (2) On accepting a Form 3, a registrar must —
  - (a) list the application for hearing on the earliest convenient date;
  - (b) insert the hearing details on the form; and
  - (c) return one copy of the form to the applicant and serve one copy on the Commissioner of Police in accordance with the CPA Schedule 2 clause 2 or 3 at least 5 clear days before the date set by the Court for the hearing of it.

**49. Application to cancel licence suspension order (s. 101A)**

- (1) An application under the Act section 101A must be made by lodging a Form 4.
- (2) On accepting a Form 4, a registrar must —
  - (a) list the application for hearing on the earliest convenient date;
  - (b) insert the hearing details on the form; and
  - (c) return one copy of the form to the applicant and serve one copy on the Commissioner of Police in accordance with the CPA Schedule 2 clause 2 or 3 at least 5 clear

days before the date set by the Court for the hearing of  
it.

## **Part 8 — Road Traffic Act 1974 rules**

### **50. Interpretation**

In this Part —

“**Director General**” has the meaning given by the RTA section 5;

“**RTA**” means the *Road Traffic Act 1974*;

“**special application**” has the meaning given by the RTA section 76(12).

### **51. Applications under RTA s. 76, how to be made**

- (1) An application under the RTA section 76(1), other than a special application, must be made by lodging a Form 5 and any affidavit that the applicant proposes to tender at the hearing of the application.
- (2) A special application must be made by lodging a Form 6 and any affidavit that the applicant proposes to tender at the hearing of the application.
- (3) An application under the RTA section 76(7)(a) must be made by lodging a Form 7 and any affidavit that the applicant proposes to tender at the hearing of the application.
- (4) An application under the RTA section 76(7)(b) must be made by lodging —
  - (a) a Form 8 and any affidavit that the applicant proposes to tender at the hearing of the application; and
  - (b) a copy of the record of the convictions of the holder of the extraordinary licence to which the application relates.
- (5) When a form and any affidavit is lodged under this rule, 2 copies must be also be lodged.

**52. Registrar's functions when application is made**

- (1) A registrar may reject an application made under rule 51 if the registrar has reason to believe that the application cannot be made to or heard by the Court under the RTA section 76.
- (2) On accepting a Form 5 or 6, a registrar must —
  - (a) list the application for hearing on the earliest convenient date that is at least 14 clear days after the date on which the form is lodged;
  - (b) insert the hearing details on the form; and
  - (c) return one copy of the form to the applicant and serve one copy on the Director General in accordance with the CPA Schedule 2 clause 2 or 3 or by any other means agreed to by the Director General.
- (3) On accepting a Form 7, a registrar must —
  - (a) list the application for hearing on the earliest convenient date;
  - (b) insert the hearing details on the form; and
  - (c) return one copy of the form to the applicant and serve one copy on the Director General in accordance with the CPA Schedule 2 clause 2 or 3.
- (4) On accepting a Form 8, a registrar must —
  - (a) list the application for hearing on the earliest convenient date that is at least 14 clear days after the date on which the form is lodged;
  - (b) insert the hearing details on the form; and
  - (c) return 2 copies of the form to the Director General.
- (5) On receiving the copies of a Form 8 from a registrar, the Director General must serve one copy on the holder of the extraordinary licence to which the application relates in accordance with the CPA Schedule 2 clause 2 or 3.

**53. Hearing of application, appearance at**

- (1) If the Court is satisfied that the Director General has been served with an application made under the RTA section 76(1), a special application, or an application made under the RTA section 76(7)(a), the Court may deal with it in the absence of the Director General.
- (2) If the Court is satisfied that the holder of the extraordinary licence to which an application made under the RTA section 76(7)(b) relates has been served with it, the Court may deal with it in the absence of the holder.

**54. Hearing of application, procedure on**

At the hearing of an application made under the RTA section 76(1), a special application, or an application made under the RTA section 76(7)(a) —

- (a) the applicant bears the onus of proof;
- (b) the standard of proof is on the balance of probabilities;  
and
- (c) affidavit evidence may be adduced by a party if the maker of the affidavit is present.

**55. Result of hearing, Director General to be notified**

As soon as practicable after the Court decides an application to which this Part applies, a registrar must give the Director General notice of the decision including the details of any order made.



## **Part 9 — Miscellaneous**

*[Heading inserted in Gazette 8 Jul 2005 p. 3160.]*

### **56. Title and address**

In court and in relation to court proceedings, a magistrate is entitled —

- (a) to be addressed as “Your Honour”; and
- (b) to be referred to as “His Honour” or “Her Honour”.

*[Rule 56 inserted in Gazette 8 Jul 2005 p. 3160.]*

**Schedule 1 — Suburbs and registries**

[r. 44]

<b>Suburb (A-L)</b>	<b>Registry</b>	<b>Suburb (M-Z)</b>	<b>Registry</b>
Alexander Heights	Joondalup	Maddington	Armadale
Alfred Cove	Fremantle	Madeley	Joondalup
Alkimos	Joondalup	Madora	Mandurah
Anketell	Rockingham	Mahogany Creek	Midland
Applecross	Perth	Maida Vale	Midland
Araluen	Armadale	Malaga	Midland
Ardross	Perth	Malmalling	Midland
Armadale	Armadale	Mandogalup	Rockingham
Ascot	Perth	Mandurah	Mandurah
Ashby	Joondalup	Manning	Perth
Ashfield	Midland	Marangaroo	Joondalup
Attadale	Fremantle	Mariginiup	Joondalup
Atwell	Fremantle	Marmion	Joondalup
Bailup	Midland	Marsurup	Mandurah
Balcatta	Perth	Martin	Armadale
Baldivis	Rockingham	Maylands	Perth
Balga	Perth	Meadow Springs	Mandurah
Ballajura	Midland	Medina	Rockingham
Banjup	Rockingham	Melville	Fremantle
Banksia	Mandurah	Menora	Perth
Banksia Grove	Joondalup	Merriwa	Joondalup
Barragup	Mandurah	Middle Swan	Midland
Baskerville	Midland	Midland	Midland
Bassendean	Midland	Midvale	Midland
Bateman	Fremantle	Millendon	Midland
Bayswater	Perth	Mindarie	Joondalup
Beaconsfield	Fremantle	Mirrabooka	Perth
Beckenham	Perth	Morley	Perth
Bedford	Perth	Mosman Park	Perth
Bedforddale	Armadale	Mount Helena	Midland
Beechboro	Midland	Mt Claremont	Perth
Beechina	Midland	Mt Hawthorn	Perth
Beeliar	Fremantle	Mt Lawley	Perth
Beldon	Joondalup	Mt Nasura	Armadale
Belhus	Midland	Mt Pleasant	Perth
Bellevue	Midland	Mullaloo	Joondalup

<b>Suburb (A-L)</b>	<b>Registry</b>	<b>Suburb (M-Z)</b>	<b>Registry</b>
Belmont	Perth	Mundaring	Midland
Bentley	Perth	Mundijong	Armadale
Bertram	Rockingham	Munster	Fremantle
Bibra Lake	Fremantle	Murdoch	Fremantle
Bickley	Midland	Myaree	Fremantle
Bicton	Fremantle	Myora	Mandurah
Booragoon	Fremantle	Nanbeelup	Mandurah
Bouvard	Mandurah	Naval Base	Rockingham
Boya	Midland	Nedlands	Perth
Brentwood	Fremantle	Neerabup	Joondalup
Brigadoon	Midland	Newburn	Midland
Brookdale	Armadale	Nirimba	Mandurah
Bull Creek	Fremantle	Nollamara	Perth
Bullsbrook	Midland	Noranda	Perth
Burns	Joondalup	North Beach	Perth
Burrendah	Fremantle	North Dandalup	Mandurah
Burswood	Perth	North Fremantle	Fremantle
Butler	Joondalup	North Lake	Fremantle
Byford	Armadale	North Perth	Perth
Calista	Rockingham	North Shore	Joondalup
Canning Mills	Armadale	North Yunderup	Mandurah
Canning Vale	Armadale	Northbridge	Perth
Cannington	Perth	Nowergup	Joondalup
Carabooda	Joondalup	O'Connor	Fremantle
Cardup	Armadale	Oakford	Armadale
Carilla	Midland	Oakley	Mandurah
Carine	Perth	Ocean Reef	Joondalup
Carlisle	Perth	Oldbury	Armadale
Carmel	Midland	Orange Grove	Armadale
Carramar	Joondalup	Orelia	Rockingham
Casuarina	Rockingham	Osborne Park	Perth
Caversham	Midland	Padbury	Joondalup
Challenger	Rockingham	Palmyra	Fremantle
Chidlow	Midland	Parkerville	Midland
Chittering	Midland	Parkwood	Fremantle
Churchlands	Perth	Parmelia	Rockingham
City Beach	Perth	Paulls Valley	Midland
Claremont	Perth	Pearsall	Joondalup
Clarkson	Joondalup	Peel Estate	Rockingham
Cloverdale	Perth	Peppermint Grove	Fremantle

**Magistrates Court (General) Rules 2005****Schedule 1** Suburbs and registries**cl. 1**

<b>Suburb (A-L)</b>	<b>Registry</b>	<b>Suburb (M-Z)</b>	<b>Registry</b>
Como	Perth	Peron	Rockingham
Connolly	Joondalup	Perth Airport	Perth
Coogee	Fremantle	Perth City	Perth
Coolbellup	Fremantle	Pickering Brook	Midland
Coolbinia	Perth	Piesse Brook	Midland
Cooloongup	Rockingham	Pinjar	Joondalup
Coondalup	Mandurah	Pinjarra	Mandurah
Cottesloe	Perth	Point Gray	Mandurah
Craigie	Joondalup	Port Kennedy	Rockingham
Crawley	Perth	Postans	Rockingham
Cullacabardee	Midland	Pyrton	Midland
Currambine	Joondalup	Queens Park	Perth
Daglish	Perth	Quinns Rock	Joondalup
Dalkeith	Perth	Ravenswood	Mandurah
Darch	Joondalup	Red Hill	Midland
Darling Downs	Armadale	Redcliffe	Perth
Darlington	Midland	Reservoir	Midland
Davis Park	Fremantle	Ridgewood	Joondalup
Dawesville	Mandurah	Ridley Park	Mandurah
Dianella	Perth	Riverton	Perth
Doubleview	Perth	Rivervale	Perth
Dudley Park	Mandurah	Rockingham	Rockingham
Duncraig	Joondalup	Roleystone	Armadale
East Cannington	Perth	Rossmoyne	Perth
East Fremantle	Fremantle	Safety Bay	Rockingham
East Perth	Perth	Sale	Mandurah
East Rockingham	Rockingham	Salter Point	Perth
East Victoria Park	Perth	Samson	Fremantle
Eden Hill	Midland	San Remo	Mandurah
Edgewater	Joondalup	Sawyers Valley	Midland
Eglinton	Joondalup	Scarborough	Perth
Ellenbrook	Midland	Seaforth	Armadale
Ellis	Fremantle	Secret Harbour	Rockingham
Embleton	Perth	Serpentine	Armadale
Erskine	Mandurah	Shelley	Perth
Fairbridge	Mandurah	Shenton Park	Perth
Ferndale	Perth	Shoalwater	Rockingham
Floreat	Perth	Silver Sands	Mandurah
Forrestdale	Armadale	Sinagra	Joondalup
Forrestfield	Midland	Singleton	Mandurah

<b>Suburb (A-L)</b>	<b>Registry</b>	<b>Suburb (M-Z)</b>	<b>Registry</b>
Fremantle	Fremantle	Sorrento	Joondalup
Furnissdale	Mandurah	South Beach	Fremantle
Gidgegannup	Midland	South Coogee	Fremantle
Girrawheen	Joondalup	South Fremantle	Fremantle
Glen Forrest	Midland	South Guildford	Midland
Glendalough	Perth	South Lake	Fremantle
Gleneagle	Armadale	South Perth	Perth
Glengarry	Joondalup	South Yunderup	Mandurah
Gnangara	Joondalup	Southern River	Armadale
Golden Bay	Mandurah	Southwell	Fremantle
Golden Bay	Rockingham	Spearwood	Fremantle
Gooseberry Hill	Midland	St Andrews	Joondalup
Gorr	Midland	St James	Perth
Gosnells	Armadale	Stakehill	Mandurah
Graylands	Perth	Stirling	Perth
Greenfields	Mandurah	Stoneville	Midland
Greenmount	Midland	Stratton	Midland
Greenwood	Joondalup	Subiaco	Perth
Guildford	Midland	Success	Fremantle
Gwelup	Perth	Swan View	Midland
Hacketts Gully	Midland	Swanbourne	Perth
Halls Head	Mandurah	Tamala Park	Joondalup
Hamersley	Perth	Tapping	Joondalup
Hamilton Hill	Fremantle	The Lakes	Midland
Hazelmere	Midland	The Spectacles	Rockingham
Heathridge	Joondalup	The Vines	Midland
Helena Valley	Midland	Thompson Lake	Fremantle
Henderson	Fremantle	Thornlie	Armadale
Henley Brook	Midland	Trigg	Perth
Herdsman	Perth	Tuart Hill	Perth
Herne Hill	Midland	Two Rocks	Joondalup
High Wycombe	Midland	Upper Swan	Midland
Highgate	Perth	Victoria Park	Perth
Hillarys	Joondalup	Viveash	Midland
Hillman	Rockingham	Waikiki	Rockingham
Hilton	Fremantle	Walliston	Midland
Hocking	Joondalup	Wanamup	Mandurah
Hope Valley	Rockingham	Wandi	Rockingham
Hopeland	Rockingham	Wangara	Joondalup
Hovea	Midland	Wanneroo	Joondalup

**Magistrates Court (General) Rules 2005****Schedule 1** Suburbs and registries**cl. 1**

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<b>Suburb (A-L)</b>	<b>Registry</b>	<b>Suburb (M-Z)</b>	<b>Registry</b>
Huntingdale	Armadale	Warnbro	Rockingham
Illawarra	Armadale	Warwick	Joondalup
Iluka	Joondalup	Waterford	Perth
Inglewood	Perth	Waterman	Perth
Innaloo	Perth	Wattle Grove	Midland
Jandabup	Joondalup	Wattleup	Fremantle
Jandakot	Fremantle	Wellard	Rockingham
Jane Brook	Midland	Welshpool	Perth
Jarrahdale	Armadale	Wembley	Perth
Jindalee	Joondalup	Wembley Downs	Perth
Jolimont	Perth	West Leederville	Perth
Joondalup	Joondalup	West Perth	Perth
Joondanna	Perth	West Pinjarra	Mandurah
Kalamunda	Midland	West Swan	Midland
Kallaroo	Joondalup	Westfield	Armadale
Karawara	Perth	Westminster	Perth
Kardinya	Fremantle	Wexcombe	Midland
Karnup	Rockingham	Whitby	Armadale
Karragullen	Armadale	White Gum Valley	Fremantle
Karrakatta	Perth	Whiteman	Midland
Karrakup	Armadale	Whitfords	Joondalup
Karrinyup	Perth	Whittaker	Mandurah
Kelmscott	Armadale	Willagee	Fremantle
Kensington	Perth	Willetton	Perth
Kenwick	Perth	Wilson	Perth
Kewdale	Perth	Winthrop	Fremantle
Keysbrook	Armadale	Woodbridge	Midland
Kiara	Midland	Woodlands	Perth
Kings Park	Perth	Woodman Point	Fremantle
Kingsley	Joondalup	Woodvale	Joondalup
Kinross	Joondalup	Wooroloo	Midland
Koondoola	Joondalup	Wungong	Armadale
Koongamia	Midland	Yanchep	Joondalup
Kwinana	Rockingham	Yangebup	Fremantle
Kwinana Beach	Rockingham	Yokine	Perth
Lakelands	Mandurah		
Landsdale	Joondalup		
Langford	Fremantle		
Lathlain	Perth		
Leda	Rockingham		

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<b>Suburb (A-L)</b>	<b>Registry</b>	<b>Suburb (M-Z)</b>	<b>Registry</b>
Leederville	Perth		
Leeming	Fremantle		
Leighton	Fremantle		
Lesmurdie	Midland		
Lexia	Midland		
Lockridge	Midland		
Lynwood	Fremantle		

cl. 1

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**Schedule 2 — Forms**

[r. 3]

**1. Request to inspect or obtain copy of court record (r. 37)**

<i>Magistrates Court Act 2004</i> s. 33		<b>Request to inspect or obtain copy of court record</b>	
Magistrates Court at No:			
Applicant	Full name		
	Address		
	Telephone		Fax
	Email address		
Case details	Case No.		Civil/Criminal
	Parties		
Records wanted			
Application by a party [Delete if not applicable]	I am a party to the above case and I would like — <input type="checkbox"/> to inspect; <input type="checkbox"/> to obtain a copy of, the above records.		
Application by non-party [Tick one box]	I am not a party to the above case. I would like to inspect or obtain the above records because — <input type="checkbox"/> the case is a criminal case and I am a person referred to in the <i>Magistrates Court Act 2004</i> s. 33(7); <input type="checkbox"/> [set out grounds for the request].		
Signature of applicant		Date	



**2.            Application for leave in respect of court record (r. 39)**

<i>Magistrates Court Act 2004 s. 33(4)</i> Magistrates Court at No:		<b>Application for leave in respect of                  court record</b>	
Applicant	Full name		
	Address		
	Telephone		Fax
	Email address		
Case details	Case No.		Civil/Criminal
	Parties		
Records wanted			
Application <sup>1</sup>	I am a party to the above case and, under the <i>Magistrates Court Act 2004 s. 33(4)</i> , I apply for leave —		
Signature of applicant		Date	

Notes to Form 2 —

1.    Set out in detail what the applicant wants leave to do.

**cl. 3.**

**3.            Application to cancel licence suspension order made in respect of infringement notice (r. 48)**

<i>Fines, Penalties and Infringement Notices Enforcement Act 1994 s. 101</i>		<b>Application to cancel licence suspension order made in respect of infringement notice</b>	
Magistrates Court at No:			
Applicant	Full name		
	Address		
	Date of birth		
Licence suspension details	Prosecuting authority		
	Infringement notice No.		
	Registry case No.		
	Licence suspended [Tick one box]	<input type="checkbox"/> Driver's licence No. <input type="checkbox"/> Vehicle licence No. <input type="checkbox"/> All vehicle licences	
Application [Tick one box] [*delete one]	<p>I, the applicant, have been disqualified from holding or obtaining the above licence(s) by a licence suspension order made under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> Part 3.</p> <p>Under section 101 of that Act I apply for an order cancelling the licence suspension order on the grounds that I received none of the following —</p> <p>(a) the <b>infringement notice</b> that gave rise to the licence suspension order;</p> <p>(b) the <b>final demand</b> issued under section 14 of the Act in respect of the infringement notice;</p> <p>(c) the <b>order to pay or elect</b> issued under section 17 of the Act in respect of the infringement notice;</p> <p>(d) the <b>notice of intention to suspend licences</b> issued under section 18 of the Act in respect of the infringement notice;</p> <p>(e) the <b>notice confirming licence suspension</b> issued under section 19(6) of the Act in respect of the infringement notice.</p>		
Certificate	I certify that I have not previously made an unsuccessful application under section 101 of the Act in relation to this licence suspension order or in relation to any other licence suspension order made in respect of this infringement notice.		
Signature of applicant		Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

**4. Application to cancel licence suspension order made in respect of a fine (r. 49)**

<i>Fines, Penalties and Infringement Notices Enforcement Act 1994 s. 101A</i>		<b>Application to cancel licence suspension order made in respect of a fine</b>	
Magistrates Court at No:			
Applicant	Full name		
	Address		
	Date of birth		
Licence suspension details	Sentencing Court		
	Charge No.		
	Registry case No.		
	Licence suspended [Tick one box]	<input type="checkbox"/> Driver's licence No.	<input type="checkbox"/> Vehicle licence No.
		<input type="checkbox"/> All vehicle licences	
Application [Tick one box] [*delete one]	<p>I have been disqualified from holding or obtaining the above licence(s) by a licence suspension order made under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994 Part 4</i>. Under section 101A of that Act I apply for an order cancelling the licence suspension order on the grounds that —</p> <p>(a) I did not receive a <b>summons</b> or a <b>notice to attend court</b> in respect of the charge that gave rise to the fine that gave rise to the licence suspension order;</p> <p>(b) I was not present in court when that fine was imposed; and</p> <p>(c) I received neither of the following —</p> <p>(i) the <b>notice of intention to suspend licences</b> issued under section 42 of the Act in respect of that fine;</p> <p>(ii) the <b>notice confirming licence suspension</b> issued under section 43(6) of the Act.</p>		
Certificate by applicant	I certify that I have not previously made an unsuccessful application under section 101A of the Act in relation to this licence suspension order or in relation to any other licence suspension order made in respect of this fine.		
Signature of applicant		Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

cl. 5.

**5. Application for extraordinary licence (r. 51(1))**

Road Traffic Act 1974 s. 76(1) Magistrates Court at No:		<b>Application for extraordinary licence</b>	
Applicant	Full name		
	Address		
	Date of birth		
	Occupation		
	Employment [Tick one box]	<input type="checkbox"/> Self employed <input type="checkbox"/> Not employed <input type="checkbox"/> Employed by the employer below	
	Employer's name and address		
Details of disqualification from holding or obtaining a driver's licence	Date disqualified		
	Period disqualified		
	Reason <sup>1</sup>		
Application	Under the <i>Road Traffic Act 1974</i> s. 76(1) I apply for an order directing the Director General to issue an extraordinary licence that allows me to drive — <ul style="list-style-type: none"> <li>• vehicles of class:</li> <li>• in these localities:</li> <li>• on these days at these times:</li> <li>• for these purposes:</li> </ul>		
Grounds for this application <sup>2</sup>	1.		
Certificate by applicant [Tick one box]	A licence suspension order made under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> is not in force against me. <input type="checkbox"/> I have not been refused an extraordinary licence by a court within the 6 months before the date of this application. <input type="checkbox"/> I made a special application for an extraordinary licence that was refused by the                      Court on            20    , but otherwise I have not been refused an extraordinary licence by a court within the 6 months before the date of this application.		
Signature of applicant		Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

Notes to Form 5 —

1. If disqualified by a court after being convicted of an offence, state the court and the offence and, if the offence was against the *Road Traffic Act 1974* s. 63, 64, 67 or 67A, state whether the conviction was the applicant's first, second or subsequent for the offence.  
If disqualified for some other reason, give details.
2. State the hardship and inconvenience that would result if this application were refused. Note the *Road Traffic Act 1974* s. 76(3). Use numbered paragraphs.

**cl. 6.**

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**6.            Special application for extraordinary licence (r. 51(2))**

<i>Road Traffic Act 1974 s. 76(1) &amp; (12)</i>		<b>Special application for extraordinary licence</b>	
Magistrates Court at No:			
Applicant	Full name		
	Address		
	Date of birth		
	Occupation		
	Employment [Tick one box]	<input type="checkbox"/> Self employed <input type="checkbox"/> Not employed <input type="checkbox"/> Employed by the employer below	
	Employer's name and address		
Details of disqualification from holding or obtaining a driver's licence	Date disqualified		
	Period disqualified		
	Court disqualifying		
	Reason [Tick one box]	I was disqualified under — <input type="checkbox"/> Section 63(2)(a) <input type="checkbox"/> Section 67(3)(a) <input type="checkbox"/> Section 64(2)(a) <input type="checkbox"/> Section 67A(3)(a)	
Application	Under the <i>Road Traffic Act 1974 s. 76(1) and (12)</i> I apply for an order directing the Director General to issue an extraordinary licence that allows me to drive — <ul style="list-style-type: none"> <li>• vehicles of class:</li> <li>• in these localities:</li> <li>• on these days at these times:</li> <li>• for these purposes:</li> </ul>		
Grounds for this application <sup>1</sup>	1.		
Certificate by applicant [Tick one box]	A licence suspension order made under the <i>Fines, Penalties and Infringement Notices Enforcement Act 1994</i> is not in force against me. I have not been refused an extraordinary licence by a court in respect of the period of disqualification stated above.		
Signature of applicant		Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

Notes to Form 6 —

1. State the extreme hardship (defined in the *Road Traffic Act 1974* s. 76(3b)) that would result if this application were refused. Use numbered paragraphs.

**7. Application by holder to vary extraordinary licence (r. 51(3))**

<i>Road Traffic Act 1974</i> s. 76(7)(a) Magistrates Court at No:		<b>Application by holder to vary                  extraordinary licence</b>	
Applicant	Full name		
	Address		
Extraordinary licence details	Court that ordered it		
	Date of court order		
	Licence's limitations and conditions		
Application [Tick one box]	I hold the above extraordinary licence. Under the <i>Road Traffic Act 1974</i> s. 76(7)(a) I apply for — <input type="checkbox"/> An order that varies the above limitations and conditions by:  <input type="checkbox"/> An order that cancels the above limitations and conditions and substitutes these limitations and conditions:		
Grounds for this application <sup>1</sup>	1.		
Signature of applicant		Date	
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]		

Notes to Form 7 —

1. Note the *Road Traffic Act 1974* s. 76(9)(a). Use numbered paragraphs.

**cl. 8.**

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**8.            Application by Director General to vary extraordinary licence  
(r. 51(4))**

<i>Road Traffic Act 1974 s. 76(7)(b)</i>		<b>Application by Director General to vary extraordinary licence</b>	
Magistrates Court at No:			
Extraordinary licence details	Holder's name		
	Holder's address		
	Court that ordered it		
	Date of court order		
	Licence's limitations and conditions		
Application [Tick one box]	Under the <i>Road Traffic Act 1974 s. 76(7)(b)</i> the Director General applies for — <input type="checkbox"/> An order that varies the above limitations and conditions by:  <input type="checkbox"/> An order that cancels the above limitations and conditions and substitutes these limitations and conditions:  <input type="checkbox"/> An order that cancels the above extraordinary licence.		
Grounds for this application <sup>1</sup>	1.		
Signature of applicant	for Director General	Date	
Hearing details	This application will be heard — on <i>[date]</i> at <i>[time]</i> or as soon after as possible, at <i>[place]</i>		

Notes to Form 8 —

1. Note the *Road Traffic Act 1974 s. 76(9)*. Use numbered paragraphs.



**Notes**

- <sup>1</sup> This is a compilation of the *Magistrates Court (General) Rules 2005* and includes the amendments made by the other written laws referred to in the following table.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Magistrates Court (General) Rules 2005</i>	28 Apr 2005 p. 1605-49	1 May 2005 (see r. 2 and <i>Gazette</i> 31 Dec 2005 p. 7127)
<i>Magistrates Court (General) Amendment Rules 2005</i>	8 Jul 2005 p. 3160	8 Jul 2005