



Western Australia

Liquor Control Act 1988

## **Liquor Licensing Court Rules 2005**

These regulations were repealed in *Gazette* 5 Oct 2007 p 5322.

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## Liquor Licensing Court Rules 2005

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## Liquor Licensing Court Rules 2005

### Part 1 — Preliminary

**1. Citation**

These rules are the *Liquor Licensing Court Rules 2005*.

**2. Terms used in these rules**

In these rules, unless the contrary intention appears —

**“approved”** means approved by the Judge;

**“document”** means any record that is or is capable of being put on paper;

**“lodge”** means to lodge with the Court;

**“party”** means a party to proceedings;

**“proceedings”** means —

(a) a matter referred to the Court by the Director under the Act section 24;

(b) an application under the Act section 25 for the review of a decision of the Director; or

(c) a complaint under the Act section 95;

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

(a) on 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.

**3. Application of these rules**

Unless the Court in a particular case orders otherwise, these rules apply in all proceedings<sup>2</sup>.

## **Part 2 — Practice and procedure**

### **4. Applications for review of a decision by the Director (Act s. 25)**

- (1) If a party to proceedings before the Director wants to apply under the Act section 25 for the Court to review a decision of the Director, the party must —
  - (a) lodge an application in the form of Schedule 1 Form 1; and
  - (b) as soon as practicable after lodging the application, serve a copy of the application on the Director and every other person who is a party to the proceedings before the Director.
  
- (2) The Director must, as soon as practicable after being served with an application under subrule (1), send to the Court —
  - (a) every original exhibit in the proceedings before the Director;
  - (b) the transcript of the proceedings before the Director; and
  - (c) the documents contained in the relevant file of the Director, including —
    - (i) the application to the Director;
    - (ii) any submissions made under the Act section 38 in relation to the application to the Director;
    - (iii) any plans or specifications of the relevant premises accompanying the application to the Director;
    - (iv) any certificate referred to in the Act section 40;
    - (v) any letter of the consent to the application by the owner or lessor of the relevant premises; and
    - (vi) any decision of the Director under the Act section 71 specifying the affected area to which the application to the Director relates.

- (3) Where subrule (2) requires the Director to send a particular document to the Court, the Director may comply with that requirement by sending a copy of the document certified by the Director as being a true copy of that document.

**5. Separate proceedings determined simultaneously**

The Court may, on an application by a party or on its own initiative, order that separate proceedings be determined simultaneously, irrespective of when the applications giving rise to the proceedings were made.

**6. Separate proceedings heard together**

The Court may, on an application by a party or on its own initiative, order that separate proceedings be heard together.

**7. Withdrawal**

- (1) If a party wants to withdraw an application, or an objection to an application, the party must seek leave from the Court to do so by —
- (a) lodging a notice to withdraw in an approved form; and
  - (b) serving it on every other party.
- (2) The Court may give the party leave to withdraw its application or objection in the absence of the parties.

**8. Callover**

- (1) If —
- (a) a matter is referred to the Court by the Director under the Act section 24;
  - (b) an application is made under the Act section 25 for the review of a decision of the Director; or
  - (c) a complaint is made under the Act section 95,
- the Court is to list the proceedings for a callover and notify the parties in writing.



- (2) The purpose of a callover is —
  - (a) for the Court to determine whether the proceedings are ready to be listed for hearing;
  - (b) if the proceedings are not ready to be listed for hearing, for the Court to give any directions necessary to enable the proceedings to be listed for hearing; and
  - (c) if the proceedings are ready to be listed for hearing, for the Court to list the proceedings for hearing.
- (3) A party must attend a callover either personally or through a representative.
- (4) A party attending a callover must ensure that the party is able to assist the Court in exercising its functions under subrule (2).

**9. Costs**

- (1) If the Court orders a party to pay the costs of another party, the Court is to list the proceedings for an assessment of those costs and notify the parties in writing.
- (2) When the Court lists proceedings for an assessment of costs, the party entitled to costs must lodge and serve on the other parties a bill of those costs.
- (3) The bill of costs is to be in an approved form.

**10. Applications for orders relating to practice or procedure**

If a party wants the Court to make an order relating to practice or procedure, the party must make an application for the order in an approved form.

**11. Application of the Supreme Court's rules**

- (1) The Court may, on an application by a party or on its own initiative, order that any of the rules made by the Supreme Court apply to particular proceedings.

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- (2) A document required to be lodged or served in relation to a practice or procedure ordered under subrule (1) is to be in an approved form.

### Part 3 — Miscellaneous

#### 12. Registry hours

- (1) The registry of the Court is to be open at such times as are set by the Court.
- (2) Where under these rules or the Act —
  - (a) something is required to be done in relation to proceedings within a particular period; and
  - (b) the period expires on a day on which the registry of the Court is closed,

the period is to be taken to expire on the next day that the registry is open.

- (3) Nothing in subrule (2) affects the operation of the *Interpretation Act 1984* section 61.

#### 13. Court's records, access to

- (1) In this rule —

**“electronic recording”** means any electronic or magnetic recording of sounds or moving images or both.
- (2) This rule is subject to any other written law that relates to the possession or publication of documents and other records or to the possession of any thing.
- (3) A party is entitled, on request, to inspect or obtain a copy of —
  - (a) any application and supporting documents (including plans and submissions); and
  - (b) any objection, complaint or referral, and any judgment or order of the Court.
- (4) With the leave of the Court, a party may —
  - (a) listen to or view —
    - (i) any electronic recording tendered to the Court in the proceedings; or

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- (ii) any electronic recording of the proceedings in the proceedings,  
and obtain a copy of all or a part of such a recording;
- (b) inspect or obtain a copy of any document held by the Court in relation to the proceedings; or
- (c) inspect any other thing tendered to the Court in the proceedings and, if it is practicable for the Court to make a copy of such a thing, to obtain a copy of it.

**14. Availability of approved forms**

The Court is to make approved forms available —

- (a) at its registry; and
- (b) on request, by post.

**15. Repeal and savings**

- (1) The *Liquor Licensing Court Rules 1995* are repealed.
- (2) Proceedings under the repealed rules subsisting immediately before the commencement day may be continued as if the repealed rules had not been repealed.
- (3) In this rule —  
“**commencement day**” means the day on which these rules come into operation;  
“**repealed rules**” means the rules repealed by subrule (1).

## Schedule 1 — Forms

[r. 4(1)(a)]

**1. Application for review of decision by Director of Liquor Licensing**

Liquor Licensing Act 1988 s. 25 Liquor Licensing Court No:		<b>Application for review of decision by Director of Liquor Licensing</b>	
Applicant	Full name		
	Address		
Details of decision of Director (attach copy of decision)	Decision No.		
	Date of decision		
	Applicant (if not the same as above)		
	Premises		
Grounds for this application (State each ground. If space is insufficient use an attachment)			
Signature of applicant		Date	

**Notes**

- <sup>1</sup> This is a compilation of the *Liquor Licensing Court Rules 2005*. The following table contains information about those rules.

**Compilation table**

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<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Liquor Licensing Court Rules 2005</i> <sup>2</sup>	26 May 2005 p. 2277-89	26 May 2005

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**These regulations were repealed in *Gazette* 5 Oct 2007 p 5322**

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- <sup>2</sup> The *Liquor and Gaming Legislation Amendment Act 2006* replaced references in the *Liquor Control Act 1988* to the Liquor Licensing Court with references to the new Liquor Commission. However, under the *Liquor Control Act 1988* Schedule 1A clause 2, the Liquor Licensing Court will continue in operation to complete the hearing or determination of certain applications and matters until the date specified by the Minister in a notice published in the *Gazette*.

## Defined terms

*[This is a list of terms defined and the provisions where they are defined.*

*The list is not part of the law.]*

<b>Defined term</b>	<b>Provision(s)</b>
approved .....	2
commencement day .....	15(3)
document.....	2
electronic recording .....	13(1)
lodge .....	2
party .....	2
proceedings .....	2
record.....	2
repealed rules .....	15(3)