Western Australia

Criminal Procedure Act 2004

Criminal Procedure Regulations 2005

Western Australia

Criminal Procedure Regulations 2005

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Criminal Procedure Act 2004

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Part 1 — Preliminary

1. Citation

These regulations are the *Criminal Procedure Regulations 2005* ¹.

2. Commencement

These regulations come into operation on 2 May 2005.

3. Terms used in these regulations

(1) In these regulations, unless the contrary intention appears — *CPA* means the *Criminal Procedure Act 2004*;

Form, if followed by a number, means the form of that number in Schedule 1;

lodge a document, means to lodge it with the court concerned at the registry where the prosecution concerned is being conducted together with any fee required to be paid under —

- (a) the Magistrates Court (Fees) Regulations 2005; or
- (b) the Children's Court (Fees) Regulations 2005, as the case requires;

working day means a day other than a Saturday, a Sunday, or a public holiday.

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(2) Examples in these regulations do not form part of them and are provided to assist understanding.

Part 2 — General

Forms prescribed 4.

Each form in Schedule 1 is prescribed for the purposes for which it is applicable, whether under the CPA or another Act referred to in the form.

5. Forms, completion of

- When completing a form in Schedule 1 (1)
 - the name of a party must be capitalised according to the preference of the party; and
 - (b) the family name of a party must be underlined.

Examples: Vincent van Gogh; Wong Hei; Mary Jane Citizen.

- A person completing a form in Schedule 1 must adapt the form (2) to the circumstances of the prosecution concerned, such as where there is more than one accused.
- If an item in a form in Schedule 1 does not have enough space to complete it, the person completing it must
 - insert in the item "See attachment [number]"; and
 - (b) attach to the form a separate document titled "Attachment [number] — [name of the item]".

6. **Service information**

Unless a form in Schedule 1 provides otherwise, the following information is the service information that must be included in the service certificate on a document that is served on a person under the CPA Schedule 2 —

- the name of the person who served the document;
- the name of the person served with the document; (b)
- (c) how the document was served;

- r. 6
- (d) if the document was served under the CPA Schedule 2 clause 2 the date on which, and the time and place at which, it was served;
- (e) if the document was served under the CPA Schedule 2 clause 3
 - (i) the date on which it was posted;
 - (ii) the address to which it was posted; and
 - (iii) if the CPA Schedule 2 clause 3(4) or (5) applies, a statement as to how the person who served the document is qualified to serve it.

Part 3 — CPA Part 2 regulations

6A. Prescribed Acts (CPA s. 4)

For the purposes of the definition of "prescribed Act" in the CPA section 4, the Acts listed in Schedule 1A are prescribed.

[Regulation 6A inserted in Gazette 14 Jul 2006 p. 2568.]

7. Corresponding laws prescribed (CPA s. 11)

For the purposes of the definition of "corresponding law" in the CPA section 11, each law of each jurisdiction listed in the Table to this regulation is prescribed to be a law that corresponds with the *Road Traffic Act 1974* or the *Control of Vehicles (Off-road Areas) Act 1978*.

Table

Jurisdiction	Corresponding law
Australian Capital Territory	Road Transport (General) Act 1999 Road Transport (Driver Licensing) Act 1999 Road Transport (Vehicle Registration) Act 1999
New South Wales	Road Transport (General) Act 1999 Road Transport (Driver Licensing) Act 1998 Road Transport (Vehicle Registration) Act 1997
Northern Territory	Motor Vehicles Act 2004
Queensland	Transport Operations Road Use Management Act 1995
South Australia	Motor Vehicles Act 1959
Tasmania	Vehicle and Traffic Act 1999
Victoria	Road Safety Act 1986

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Division 1

General

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Part 4 — CPA Part 3 regulations

Division 1 — General

7A. Public authority prescribed (CPA s. 18)

For the purposes of paragraph (c) of the definition of *authorised investigator* in the CPA section 18 the following are a prescribed public authority —

- (a) the Department as defined in the *Child Care Services Act 2007* section 3;
- (b) the Authority as defined in the *Public Transport Authority Act 2003* section 3.

[Regulation 7A inserted in Gazette 21 Apr 2009 p. 1368.]

8. Prosecution notice

- (1) A prosecution notice must be in the form of Form 3.
- (2) Any attachment to a prosecution notice must be signed by the person or persons who sign the notice.
- (3) A prosecution notice must not allege both an either way charge and an indictable charge that is not an either way charge.
- (4) If a prosecution notice alleges more than one offence
 - (a) the item in Form 3 that requires the details of the alleged offence must contain "See attachment 1 Charges";
 - (b) in the attachment
 - (i) each alleged offence must be numbered consecutively as "Charge No. 1 of 2" and "Charge No. 2 of 2" as the case requires; and
 - (ii) the details of each alleged offence, as required by Form 3, must be stated.
- (5) If a prosecution notice alleges that more than one person committed an offence —

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- (a) the item in Form 3 that requires the accused's details must contain "See attachment [number] Accused";
- (b) in the attachment
 - (i) each of the accused must be numbered consecutively as "Accused No. 1 of 2" and "Accused No. 2 of 2" as the case requires; and
 - (ii) the name of each accused, and the accused's details, as required by Form 3, must be stated;
- (c) on the original of the notice that is lodged, in the item in Form 3 that requires the details of the alleged offence, the name of the first accused in the item must be marked with an asterisk; and
- (d) for each of the other accused the prosecutor must lodge a copy of the original of the notice (together with its attachment or attachments) on which, in the item in Form 3 that requires the details of the alleged offence, the name of the accused to which the copy relates is marked with an asterisk.

9. Warrant in the first instance, applying for

- (1) In this regulation
 - *remote communication* means any way of communicating at a distance including by telephone, fax, email and radio.
- (2) A reference in this regulation to making an application includes a reference to giving information in support of the application.
- (3) This regulation applies to and in respect of an application to a magistrate under the CPA section 28 for an arrest warrant for an accused.
- (4) The application must be made in person before the magistrate in chambers unless
 - (a) the warrant is needed urgently; and
 - (b) the applicant reasonably believes that a magistrate is not available within a reasonable distance of the applicant,

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in which case —

- (c) it may be made to a magistrate by remote communication; and
- (d) the magistrate must not grant it unless satisfied about the matters in paragraphs (a) and (b).
- (5) The application must be made in writing unless
 - (a) the application is made by remote communication; and
 - (b) it is not practicable to send the magistrate written material,

in which case —

- (c) it may be made orally; and
- (d) the magistrate must make a written record of the application and any information given in support of it.
- (5a) Despite subregulation (5), information in support of the application may be given orally if the warrant is needed urgently, in which case the magistrate must make a written record of the information.
- (6) The application must be made on oath unless
 - (a) the application is made by remote communication; and
 - (b) it is not practicable for the magistrate to administer an oath to the applicant,

in which case —

- (c) it may be made in an unsworn form; and
- (d) if the magistrate issues a warrant, the applicant must as soon as practicable send the magistrate an affidavit verifying the application and any information given in support of it.
- (7) If on an application made by remote communication a magistrate issues a warrant, the magistrate must, if practicable, send a copy of the original warrant to the applicant by remote communication, but otherwise —

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Division 1

- the magistrate must give the applicant by remote communication any information that must be set out in the warrant;
- the applicant must complete a form of a warrant with the information received and give the magistrate a copy of the form as soon as practicable after doing so; and
- the magistrate must attach the copy of the form to the original warrant and any affidavit received from the applicant and make them available to the applicant.
- (8) The copy of the original warrant sent, or the form of the warrant completed, as the case may be, under subregulation (7) has the same force and effect as the original warrant.
- (9) If an applicant contravenes subregulation (6)(d) or (7)(b) any evidence obtained under the warrant is not admissible in proceedings in a court unless the court is satisfied that the desirability of admitting the evidence outweighs the undesirability of admitting the evidence.

[Regulation 9 amended in Gazette 14 Nov 2006 p. 4728.]

Prescribed simple offences (CPA s. 35) 10.

For the purposes of the CPA section 35, the offences listed in Schedule 3 are prescribed as prescribed simple offences.

11. Committal, prescribed periods after (CPA s. 45)

- For the purposes of the CPA section 45(2), the prescribed period (1) is 21 days.
- (2) For the purposes of the CPA section 45(3), the prescribed period is 21 days.

12. Listed simple offences (CPA s. 60)

For the purposes of the CPA section 60, the offences listed in Schedule 4 are prescribed as listed simple offences.

Division 2 — Applications to courts of summary jurisdiction

Subdivision 1 — Applications in or after a prosecution

[Heading inserted in Gazette 9 Nov 2007 p. 5612.]

13. Application of this Subdivision

- (1) This Subdivision applies to and in respect of any application that may be made to a court of summary jurisdiction
 - (a) in a prosecution; or
 - (b) after a prosecution
 - (i) if the application could have been, but was not, made in the prosecution; or
 - (ii) under the CPA section 72.
- (2) This Subdivision does not apply to or in respect of an application that may be made to a superior court.

[Regulation 13 inserted in Gazette 9 Nov 2007 p. 5612.]

14. Applications, general provisions about

- (1) This regulation applies to and in respect of an application except to the extent that
 - (a) another regulation provides otherwise;
 - (b) the CPA or a written law provides otherwise; or
 - (c) a court, in a particular case, permits otherwise.
- (2) The application must be made by lodging a Form 6.
- (3) The application and any affidavit in support of it must be lodged and served at least 3 clear working days before the date on which it is to be heard, unless the court orders otherwise.
- (4) The application must be served on each other party in accordance with the CPA Schedule 2 clause 2 or 3.
- (5) The application must be heard in court and not in chambers.

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15. Applications that can be made orally

Despite regulation 14(2) and (3), these applications may be made orally unless the court in any particular case orders otherwise —

- (a) an application for bail;
- an application to vary a condition of bail;
- an application made under the *Bail Act 1982* section 20 (c) or 54;
- an application for the issue of a warrant under the Bail (d) Act 1982 section 59B;
- an application under the CPA to a prescribed court (e) officer, other than an application under the CPA section 159;
- (f) an application to adjourn a prosecution, other than an application made under the CPA section 63(2);
- an application for the use of a video link or audio link at (g) the hearing of any proceedings in a prosecution;
- an application for a directions hearing; (h)
- an application for costs; (i)
- an application for forfeiture.

[Regulation 15 amended in Gazette 27 Feb 2009 p. 518.]

16. Application for arrest warrant for accused (CPA s. 28)

An application under the CPA section 28(3) or (4) to a magistrate for an arrest warrant for an accused must be lodged together with —

- the prosecution notice that alleges one or more charges (a) against the accused; and
- a draft arrest warrant for the accused. (b)

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Part 4 CPA Part 3 regulations

Division 2 Applications to courts of summary jurisdiction

r. 17

17. Application for an adjournment due to non-disclosure (CPA s. 63)

An application under the CPA section 63(2) must be lodged and served at least 5 clear working days before the date on which the trial is listed to begin, unless the court orders otherwise.

18. Application to set aside decision made in absence of a party (CPA s. 71)

An application under the CPA section 71 must be made by lodging a Form 7 together with an affidavit verifying the grounds for the application.

19. Application for use of video link (CPA s. 77)

An application for an order under the CPA section 77(2) or (3) may be dealt with in chambers.

20. Applications, non-appearance at hearing of

If a court is satisfied that a party who does not appear at the hearing of an application has had adequate notice of the hearing, the court may deal with the application in the absence of the party.

Subdivision 2 — Applications not in or after a prosecution

[Heading inserted in Gazette 9 Nov 2007 p. 5612.]

20A. Applications under the Crimes Act 1914 (Cwlth) section 9

- (1) An application under the *Crimes Act 1914* of the Commonwealth section 9 must be made by lodging a Form 6A.
- (2) The application and any affidavit in support of it must be lodged at least 3 clear working days before the date on which it is to be heard, unless the court orders otherwise.
- (3) The application may be heard in chambers.

 [Regulation 20A inserted in Gazette 9 Nov 2007 p. 5612.]

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Part 5 — Witnesses

21. Term used in this Part

In this Part —

trial date, in relation to a trial, means the date the trial is listed to begin.

22. **Application of this Part**

This Part does not apply to or in respect of a prosecution in a superior court.

23. Prescribed court officers (CPA s. 159)

For the purposes of the CPA section 159 the prescribed court officers for a court are as follows —

- for the Magistrates Court, any registrar;
- for the Children's Court, any registrar; (b)
- for an industrial magistrate's court established under the (c) Industrial Relations Act 1979, the clerk of the court;
- for a compensation magistrate's court established under (d) the Workers' Compensation and Injury Management Act 1981, the clerk of the court.

24. Witness in custody, request for presence of

If a party or other person wants a person who is in legal custody to be present to give oral evidence in a case, he or she must lodge a Form 8.

25. Witness summons, application for (CPA s. 159)

To make an application under the CPA section 159 a party must (1) lodge a Form 9 to which is attached one or both of the following —

- (a) a draft witness summons, in the form of Form 10, that requires the witness to attend the court to give oral evidence in the case:
- (b) a draft witness summons, in the form of Form 11, that requires the witness to attend the court and produce to the court a record or thing that is relevant to the case.
- (2) The attendance date in a witness summons to produce a record or thing must be
 - (a) if the person who applied for the issue of the summons so requests, a date before the trial date; or
 - (b) otherwise, the trial date.
- (3) A witness summons must be issued under the seal of the court concerned.
- (4) A witness summons must contain or be accompanied by the information to the witness in Schedule 2.

26. Early compliance with summons to produce in court of summary jurisdiction

- (1) This regulation applies in the case of a witness summons to produce a record or thing if
 - (a) the summons requires the witness to produce the record or thing to the court on a date before the trial date; or
 - (b) under the CPA section 163 the witness wishes to produce the record or thing to the court on a date before the trial date.
- (2) The witness may produce the record or thing in person or may send it to the court by post or a courier.
- (3) If the witness produces more than one record or thing to the court, the witness must give the court a list of whatever is produced.
- (4) If the witness claims that any record or thing to which the summons relates is privileged, the witness —

- must apply for an order that the record or thing is privileged; and
- (b) must produce the record or thing to the court at the hearing of the application.
- An application under subregulation (4)(a) must be lodged as soon as practicable after the witness is served with the witness summons and in any event on or before the attendance date in the witness summons.
- (6) On receiving the record or thing produced, a registrar must
 - issue a receipt to the witness for the record or thing; and (a)
 - keep the record or thing in safe custody until any (b) application for an order under the CPA section 163(3) is decided and, subject to any order made on such an application, until the trial date.

27. Arrest warrant for a witness (CPA s. 159(2))

A warrant to arrest a witness (whether issued under the CPA section 159(3) or under the *Evidence Act 1906* section 16(1)(b)) must be in the form of Form 12.

28. Warrant to imprison a witness (CPA Sch. 4 cl. 2)

A warrant to imprison a witness under the CPA Schedule 4 clause 2 must be in the form of Form 13.

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Part 6 — CPA Part 6 regulations

28A. Destruction or disposal of unclaimed exhibits

If an exhibit tendered in evidence to a court remains in the possession of the court after reasonable steps have been taken to identify a person who is entitled to possession of it and to require the person to collect it from the court, a magistrate may order a registrar to destroy it or dispose of it in some other way.

[Regulation 28A inserted in Gazette 9 Nov 2007 p. 5612-13.]

28B. Fee for additional copy of served documents (CPA s. 175A)

The fee to be paid for giving another copy of a document under section 175A of the Act is the fee set out in the *Magistrates Court (Fees) Regulations 2005* Schedule 1 Division 1 item 1(b).

[Regulation 28B inserted in Gazette 16 May 2008 p. 1910.]

29. Application to correct court record (CPA s. 179)

- (1) If an application made under the CPA section 179 to correct a record of a court in respect of an accused is made by or on behalf of the prosecutor in the relevant prosecution against the accused, the application
 - (a) need not be served on the accused; and
 - (b) may be dealt with in the absence of the accused,

unless a court orders otherwise.

- (2) If an application made under the CPA section 179 to correct a record of a court in a prosecution is made by a person other than the prosecutor, the application
 - (a) must be served on the prosecutor; and
 - (b) must not be dealt with in the absence of the prosecutor unless a court considers it is in the interests of justice to do so.

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30. Application for review of court officer's decision (CPA s. 184)

- (1) To make an application under the CPA section 184 a person must lodge a Form 14.
- (2) The court may deal with the application either
 - (a) at a hearing of which notice has been given to the parties; or
 - (b) without a hearing on the basis of the documents lodged with the court.
- (3) If the application is dealt with without a hearing, the court must notify the parties of the court's decision on the application.

Part 7 — CPA Schedule 3 regulations

31. Transcripts, certification of (CPA Sch. 3 cl. 6)

- (1) For the purposes of the CPA Schedule 3 clause 6(5), a certificate that a transcript of a witness's evidence is correct must comply with the *Evidence Act 1906* section 50A(2).
- (2) A person who signs a certificate required by the CPA Schedule 3 clause 6(5) knowing that it is false in a material particular commits an offence.

Penalty: \$1 000.

Part 8 — Miscellaneous matters

[Heading inserted in Gazette 14 Nov 2006 p. 4728.]

Dangerous Sexual Offenders Act 2006 s. 21, applications **32.** under

Regulation 9, other than subregulations (3) and (6), applies with any necessary changes to and in respect of an application under the Dangerous Sexual Offenders Act 2006 section 21 to a magistrate for a warrant or a summons.

[Regulation 32 inserted in Gazette 14 Nov 2006 p. 4728-9.]

Schedule 1 — Forms

[r. 4]

1. **Arrest warrant**

a		Arrest warrant for an accused or		
at		an offender		
		CWI Warrant No.		
All police office	ers.	CWT Warrant No.		
		exercise a power in the Court Security		
Date of birth		Male/Female		
Address		-		
This warrant at	uthorises	and commands you to arrest the above		
		her before the above court to be dealt		
When arrested	the perso	n must be brought before the above		
court as soon as	s is reasor	nably practicable, either in person or by		
means of an au	dio link o	r video link.		
0 0 1 1 1				
		ication to cancel surety undertaking (s. 48).		
		ication to vary or revoke bail (s. 54).		
		ice to accompany a prosecution notice or		
☐ Person requir	ed to appe	ear on a charge (s. 139).		
		et can ascertain if he or she has complied		
		ver allegation of breach, or likely breach,		
		instinute amond on concel CRO, CRO		
☐ Person required at application to amend or cancel CRO, CBO,				
	aniraman	to (c. 14 9 4H 126)		
ISO or CSI re		ts (s. 14, 84H, 126).		
ISO or CSI re ☐ Person require	ed to answ	ts (s. 14, 84H, 126). Ver allegation of re-offending while subject I or suspended imprisonment (s. 79, 84E,		
	All police office All persons aut and Custodial S Full name Date of birth Address This warrant a person and brin with according When arrested court as soon as means of an au Under the Bail A Person requir Person did no Under the Crimi Issued in the indictment ch Person did no Person requir Under the Young Person did no Person requir Under the Sente. Person requir Person requir Person requir Of Person requir with PSO, CF Person requir of PSO (s. 33) Person requir	All police officers. All persons authorised to and Custodial Services Ad Full name Date of birth Address This warrant authorises person and bring him or with according to law. When arrested the perso court as soon as is reason means of an audio link of Under the Bail Act 1982 — Person required at appli Person did not obey bail Under the Criminal Procest Issued in the first instant indictment charging the Person did not obey sur Person required to appe Under the Young Offender Person did not obey not Under the Sentencing Act Person required for sent Person required so cour with PSO, CRO or CSI Person required to answ of PSO (s. 33P). Person required at applied		

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	Other (specify) —			
Relevant charges	Prosecution notice/ Indictment No.	Description of	offence	
Warrant issued by	Signature:		Date	
	Judicial officer/[Title	e of officer]		
Execution	Person arrested on	20 at	hours at	
details	by:		Registered No	o.:
	of:		Station:	
	Signature:		Date:	

[Form 1 amended in Gazette 12 May 2006 p. 1784; 27 Feb 2009 p. 518.]

2. **Remand warrant**

Western Australi	ia		Remand wa	rrant		
[Name of court]	at					
No:						
То	All police office	rs.				
	Chief executive	officer	under the Prison	ns Act 19	<i>81</i> .	
	All persons authorised to exercise a power in the Court Security					
	and Custodial Services Act 1999 Schedule 2 clause 2 or 3, as the					
	case requires.					
Person	Full name					
remanded	Date of birth			Male/Fe	male	
	Address					
Reason for					relation to these	
warrant	offences and the	e proce	edings were adjo	ourned.		
Command	This warrant at	uthorise	es and command	s you to	keep the person	
	in custody until	the nev	v court date stat	ed below	, when you shall	
			court at the pla			
			nted, is entered i			
			with the condit		W.	
Offences		ce/ De	scription of offen	ce		
charged	Indictment No.					
New court date	Date:			Time:		
(if in custody)	Court:					
	Place:					
FTP: 1 1 1				that date,	the accused must	
[Tick one box]	be brought befor	e the co	urt —			
	in person	vidaa 1	intropoudio lintr			
New court date	Date:	video i	ink or audio link	Time:		
(if bailed)	Court:			i iiiie.		
(II balled)	Place:					
Bail	☐ Granted (see below) ☐ Not granted					
Bail details	Conditions:					
(if granted)	Conditions.					
(ii grantea)	Surety to be approved by □ JP □ Other (specify)					
Warrant issued	Signature:		, = 11 = 2 tile1	Date		
by	~-0			•		
	Judicial officer/[Judicial officer/[Title of officer]				

Version 01-h0-02 As at Extract from www.slp.wa.gov.au, see that website for further information page 22 As at 24 Jun 2009

3. Prosecution notice (r. 8)

Western Australi	a		Prosecution notice
Criminal Proced	lure Act 2004		
[Name of court] :	at		
No:			
Details of	Accused		
alleged offence ¹	Date or period		
	Place		
	Description		
	Written law		
Notice to	You are charged	d with the	offence described above,
accused	or the offences of	lescribed	in any attachment to this notice.
	The charge(s) w	ill be deal	t with by the above court.
Accused's	Date of birth		Male/Female
details ²	Address		
Prosecutor ³			
Person issuing	Full name		
this notice	Official title		
	Work address		
	Work telephone		
	Signature		
	Witness's		
	signature ⁴	JP/Prescr	bed court officer
Date	This prosecution notice is signed on		

Notes to Form 3 —

- 1. This description must comply with the CPA Schedule 1 clause 5.
- 2. This description must comply with the CPA Schedule 1 clause 4.
- 3. Identify the prosecutor in accordance with the CPA Schedule 1 clause 3.
- 4. A witness may not be needed. See the CPA section 23.

4. Summons to an accused

Western Australia Criminal Procedure Act 2004			Summons to ar	accused	
[Name of court] No:	at				
Accused's	Full name				
details	Address				
Hearing details	O \ /		ed prosecution not	ice dated	
	will be dealt with	by the ab	ove court on	at	a.m./p.m.
	at				
Command			ttend personally b		
			e dealt with accor		
			ourt until you are		
	•		e but also on subs		
Warning			mmons you may l		
Notice	If you do not know what to do, you should get advice from a lawyer,				
			or the Aboriginal		
	•		ter in court, please	contact the	court.
Issuing details	This summons is	issued on	[date].		
	[Title of person is	ssuing sun	nmons]		
Service details			of this summons a		cution
	notice referred to	above on	the accused at [pla	ace] (on [<i>date</i>].
[*Police only]	Name of server:		*]	Registered N	lo:
	Signature:		St	tation:	

5. Court hearing notice

Western Australi	a		Court hearing notice		
Criminal Proced	ure Act 2004		g		
[Name of court]	at				
No:					
Accused's	Full name				
details	Address				
Hearing details	The charge(s) in the attached prosecution notice dated				
	will be first dealt with by the above court on at a.m./p.m.				
	at				
Notice to			below. You should read them carefully.		
accused			do, you should get advice from a lawyer,		
			or the Aboriginal Legal Service.		
			eter in court, please contact the court.		
Options	1. You can attend		e hearing.		
	2. You can do no	_			
	3. You can plead				
	4. You can plead				
D : 41:	Options 2, 3 and 4 are explained below.				
Doing nothing	If you do not appear at the above hearing and you do not send the				
[Option 2]	court a written plea in time, the court may determine the charge(s) at				
	the above hearing in your absence. In some cases the court can take as proved any allegation in the				
	attached prosecution notice without hearing evidence.				
	-		immons you to court or have you arrested		
	and brought befo				
			y, it may fine you and order you to pay		
	court costs and th				
Pleading not	Pleading not guil	ty to a cha	arge in the prosecution notice means you		
guilty in writing	do not admit the				
[Option 3]			ten plea of <u>not guilty</u> , you need not attend		
			ourt receives your written plea in time it		
			nother hearing at which the court will deal		
			absence if you are not there) and hear any		
			and any witnesses you call.		
			plea of not guilty, fill out page 2 of this		
			e address on it at least 3 days before the		
	above hearing da	te.			

Pleading guilty	Pleading guilty to a charge in the prosecution notice means you				
in writing	admit the charge.				
[Option 4]	If you send the court a written plea of guilty, you need not attend the above hearing unless you want to tell the court something. If the court receives your written plea in time it will deal with the charge(s) at the above hearing (in your absence if you are not there) and may fine you and order you to pay court costs and the prosecutor's costs. To send the court a written plea of guilty, fill out page 2 of this form, include any written explanation or information you want the court to consider, and send it all to the address on the form at least 3 days before the above hearing date. The court might not accept your plea of guilty if what you tell the				
	court suggests you do not admit the charge. If that happens you will				
	be notified.				
Issuing details	This notice is issued on [date].				
	[Title of person issuing notice]				
Service details ¹	On 20 , the accused was served with a copy of this notice				
	and the prosecution notice referred to above in the following manner:				
	Name of server: *Registered No:				
[*Police only]	Signature: *Station:				

Notes to Form 5 page one —

1. Service must be in one of the manners in the CPA Schedule 2 clauses 2, 3 or 4 (see s. 33(3)). Insert here whichever manner of service was used.

Form 5 page 2

Western Australia Criminal Procedure Act 2004			Written plea by accused
[Name of court] at No:			
Accused's details	Full name		
	Address		
Accused's plea	I have received a prosecution notice dated and a court hearing notice advising me of the hearing on [date]. I understand or have had explained to me the charge(s) in the prosecution notice and the contents of the court hearing notice and I understand the effect of this written plea I am sending to the court.		

Plea of guilty	☐ I plead guilty to the charge(s) in the prosecution notice.					
[Tick one box]	☐ I plead guilty to Charge No. in the prosecution notice.					
	Attendance at court:					
[Tick one box]	☐ I will be attending the hearing on the above date.					
	☐ I will not be attending the hearing on the above date.					
	I would like the court to take account of the following: ²					
Plea of not guilty	\square I plead <u>not guilty</u> to the charge(s) in the prosecution notice.					
[Tick one box]	\square I plead <u>not guilty</u> to Charge No. ³ in the prosecution notice.					
	Attendance at court:					
[Tick one box]	☐ I will be attending the hearing on the above date.					
	☐ I will not be attending the hearing on the above date.					
	At the trial of the charge(s) I intend to call ⁴ witnesses (including					
	myself).					
	When setting a date for the trial please take account of the					
	following: ⁵					
Contact details	My contact details are —					
	Address (if different to the one above):					
	Telephone No. Fax No. Mobile No.					
Lawyer's details	Name:					
[If a lawyer will	Firm name:					
appear for you]	1,5					
Accused's	Date					
signature ⁶						
Court address	Send this document to:					
	at:					

Notes to Form 5 page 2 —

- If the prosecution notice contains more than one charge and you want to plead guilty to only some of them, write the numbers of the charges here.
- If you are pleading guilty you can (but need not) explain why you 2. committed the offence(s) and give any information that you want the court to consider when deciding what sentence to impose on you.
- 3. If the prosecution notice contains more than one charge and you want to plead not guilty to only some of them, write the numbers of them here.
- 4. Please insert the number of witnesses to assist the court in deciding how long the trial might last.
- Please provide any information that might assist the court when setting the date for the trial such as dates when you will be overseas or in hospital.
- This may be signed by the accused's lawyer or, if the accused is a corporation, made in accordance with the Criminal Procedure Act 2004 section 154(1).

6. Application in or after a prosecution (r. 14)

Criminal Procedure Act 2004		Application in or after a			
[Name of court] at		prosecution			
No:					
Case	[Names of all parties]				
Applicant	[Name of the party applying]				
Application	The applicant applies for —				
details	[Set out the order or orders sought]				
Signature of	Date				
applicant or					
lawyer	Applicant/Applicant's lawyer				
Hearing details	This application will be heard —				
	on [date] at [time] or as soon after as possible,				
	at [place]				

[Form 6 amended in Gazette 9 Nov 2007 p. 5613.]

6A. Application under the Crimes Act 1914 (Cwlth) section 9 (r. 20A)

Criminal Procedure Act 2004 [Name of court] at		Application under the <i>Crimes</i> Act 1914 (Cwlth) section 9		
No: Case	[Names of all parties]			
Applicant	[Name of the party applying]			
Application details	The applicant applies for an articles be condemned:	order that the following	g forfeited	
Signature of applicant or lawyer	Applicant/Applicant's lawy	Date		
Hearing details	This application will be heard — on [date] at [time] or as soon after as possible, at [place]			

[Form 6A inserted in Gazette 9 Nov 2007 p. 5613.]

7. Application to set aside decision made in absence of a party (r. 18)

Criminal Procedure Act 2004		Application to set aside decision			
[Name of court] at		made in abs	sence of	a party	
No:					
Case	[Names	of all parties]			
Applicant	[Name o	of the party applying	g]		
Application	Under th	ne Criminal Proced	<i>ure Act 2004</i> s	ection 7	l, the applicant
	applies t	for an order that set	s aside the dec	ision spe	cified below and
		ers the charge speci			
Licence		r the <i>Criminal Proc</i>			
disqualification		cant applies for an o			
order,		alifying the accused			
suspension of ¹	under	under a written law until the above application is decided.			
Decision details	Court	at No.			
	Date				
Grounds ²	The grounds for this application are —				
	☐ I did not receive notice of the court date on which the above				
[Tick one box]		ion was made.			
		not receive notice of			
		ion was made in en			
		receive notice of th			
	was made but I did not appear for these reasons —				
Signature of				Date	
applicant or					
lawyer	Applicant/Applicant's lawyer				
Hearing details	This application will be heard —				
	on [date] at [time] or as soon after as possible,				
	at [place]				

Notes to Form 7 —

Tick the box if you are applying under the Criminal Procedure Act 2004 section 71(3).

2. You must lodge an affidavit verifying these grounds.

8. Request that person in custody be present to give evidence (r. 24)

Criminal Procedure Act 2004 [Name of court] at		Request that person in custody be present to give evidence			
No:					
Case	[Names of all parties]				
Applicant	[Name of the party requesting]				
Request	The applicant requests the court to require the following person(s) to be present on [date] at [place] to give evidence on behalf of the applicant in this matter.				
	Full name of person in cust	Istody Place of custody (if known)			
Signature of applicant or			Date		
lawyer	Applicant/Applicant's lawyer				

9. Application for witness summons (r. 25(1))

Criminal Procedure Act 2004		Application	for wit	ness summons
[Name of court] at				
No:				
Case	[Names of all parties]			
Applicant	[Name of the party requesti	ng]		
Request	The applicant requests the c	ourt to issue t	he attach	ed witness
	summons(es) requiring the witness(es) named below to give or			
	produce evidence on behalf of the above applicant in this matter.			
Full names of	1.			
witness(es)				
Signature of			Date	
applicant or				
lawyer	Applicant/Applicant's lawy	er		
Result of	☐ Application granted.		Date	
application	☐ Application refused beca	use:		
	Prescribed court officer			

Extract from www.slp.wa.gov.au, see that website for further information

10. Witness summons to give oral evidence (r. 25(1)(a))

Western Australia		Witness summons	to give oral	
Criminal Procedur	re Act 2004	evidence	0	
[Name of court] at				
No:				
Case	[Names of the parties to t	he case in which the wi	tness is required]	
To:	[Full name and address]			
[Witness's details]				
Command	You are commanded to	attend personally at tl	he time and place	
	specified below to give e	vidence in the above n	natter.	
Time and place to	You must attend personal	ly as follows:		
appear	Date:	Time	:	
	Court:			
	Place:			
	You must attend at the court until you are released by the court, not			
	only on the above date bu	t also on subsequent da	ys.	
Warning	If you do not obey this s		arrested and also	
	you may be imprisoned			
Party requesting	This summons is issued b	y the court at the reque	st of [<i>party</i>]	
summons	For inquiries contact	Tel:	Ref:	
Date summons	This summons is issued b	y the court on [date].	Court seal	
issued				
Service details	I personally served a copy			
	witness" in the Criminal	Procedure Regulations	2005 Schedule 2	
	on this witness at [place]	on [date].		
	At the same time I gave the witness [set out the amount of money			
	or other means for the wi	tness to comply with the	e summons].	
[*Police only]	Name of server:	*Re	egistered No:	
	Signature:	*St	ation:	

11. Witness summons to produce a record or thing (r. 25(1)(b))

Western Australia		Witness summons	to produce a
Criminal Procedure Act 2004		record or thing	•
[Name of court] at			
No:			
Case	[Names of the parties to t	he case in which the wi	tness is required]
To:	[Full name and address]		-
[Witness's details]			
Command	You are commanded to produce the records or things		
	described below at the p	olace, and on or before	the date and
	time specified below.		
Time and place to	Date:	Tin	ne:
produce record or	Court:		
thing	Place:		
Records or things	You must produce to the		
to be produced	[Describe in reasonable detail each record or thing to be		
	produced; on an attachm	ent if necessary.]	
Warning	If you do not obey this summons you may be arrested and also		
	you may be imprisoned	or fined or both.	
Party requesting	This summons is issued by	y the court at the reque	st of [<i>party</i>]
summons	For inquiries contact	Tel:	Ref:
Date summons	This summons is issued by	y the court on [date].	Court seal
issued			
Service details	I personally served a copy		
	witness" in the Criminal Procedure Regulations 2005 Schedule 2		
	on this witness at [place] on [date].		
	At the same time I gave the witness [set out the amount of money		
	or other means for the wi		
[*Police only]	Name of server:		egistered No:
	Signature:	*St	ation:

12. Arrest warrant for a witness (r. 27)

Western Australia		Arrest warrant for a witness					
Criminal Proced	lure Act 2004						
[Name of court] : No:	at		CWI	Wa	rran	t No.	
То	All police officers.						
	All persons authorised to exercise a power in the Court Security						
	and Custodial	Services Act	1999	Sch	edu	le 2 claus	se 2.
Person to be	Full name						
arrested	Date of birth				N	lale/Fem	ale
	Address						
Case in which	The above person is wanted as a witness in the following case:						
witness is	[Set out the parties to the case.]						
required							
Command	This warrant	authorises a	nd co	mm	and	s you to a	arrest the above
	person and ta	ke him or he	er to 1	the a	bov	e court.	
	When arrested the person must be brought before the above						
	court as soon as is reasonably practicable, either in person or by			r in person or by			
	means of an a	udio link or	video	lin]	k.		
Reason for	☐ The above p	erson did no	t obey	y a v	vitne	ss summe	ons.
warrant	☐ The above p	erson is wan	ted as	s a w	itne	ss in the a	above matter.
Warrant issued	Signature:					Date	
by							
	Judicial officer	•					
Execution	Person arrested	d on	20	at	ho	urs at	
details	by:				Reg	gistered N	lo:
	of:				Sta	tion:	
	Signature:				Dat	te:	

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13. Warrant to imprison a witness (r. 28)

Western Australi	ia		Warrant to	impris	on a witness
Criminal Procea	lure Act 2004			•	
[Name of court]	at				
No:					
То	All police officer	rs.			
	Chief executive	officer un	der the <i>Prison</i>	is Act 19	<i>81</i> .
	All persons auth				•
	and Custodial Se	ervices Act	1999 Schedu	le 2 clau	se 2 or 3 as the
	case requires.				
Witness	Full name				
	Date of birth		N	/lale/Fem	ale
	Address				
Case in which	The above person			in the foll	lowing case:
witness is	[Set out the parti	es to the co	ase.]		
required					
Command	This warrant au			•	
	witness in custoo				
	bring the witnes		ourt at the pla	ace state	d below;
F=1.1.1 ()	unless before the				
[Tick box(es) as	☐ the witness complies with an order made under the <i>Criminal</i> Procedure Act 2004 Schedule 4 clause 2(5) as set out below;				
required]				` '	· ·
	one or more s				
		cedure Act	<i>2004</i> Schedu	le 4 clau	se 2(5) as set out
TT 1 1 1	below.			т.	
Hearing date	Date:			Tin	ne:
0.1	Place:				
Order as to witness ¹					
Order as to					
surety ²	C:			D-4-	1
Warrant issued	Signature:			Date	
by	Judicial officer				
	Judiciai officer				

Notes to Form 13 —

1. Leave blank if no order is made under the *Criminal Procedure Act 2004* Schedule 4 clause 2(4). Otherwise set out terms of the order made under clause 2(4) and any order made under clause 2(5) in respect of the witness.

2. Leave blank if no order is made under the *Criminal Procedure Act 2004* Schedule 4 clause 2(5) requiring one or more sureties. Otherwise set out the terms of any order made as to a surety or sureties.

14. Application for review of court officer's decision (r. 30)

Criminal Procea	lure Act 2004				view of court
[Name of court]	at		officer's de	cision	
No:					
Case	[Names of all parti	ies]			
Applicant	[Name of the party	applying	g]		
Decision to be	Date of decision				
reviewed	Brief description				
	of decision				
Application	Under the Criminal Procedure Act 2004 section 184 the applicant				
	applies for a review of the above decision.				
Extension of	Is this application lodged within 7 days after the date of the above				
time	decision? Yes/No				
	If no, state why the application is lodged late:				
Grounds of	1.				
review					
Signature of				Date	
applicant or					
lawyer	Applicant/Applican	nt's lawy	er		
Hearing details	This application will be heard —				
	on [date] at [time] or as soon after as possible,				
	at [place]				

Schedule 1A — Infringement notices: prescribed Acts

[r. 6A]

[Heading inserted in Gazette 14 Jul 2006 p. 2568.]

Associations Incorporation Act 1987

Business Names Act 1962

Charitable Collections Act 1946

Chattel Securities Act 1987

Child Care Services Act 2007

Companies (Co-operative) Act 1943

Consumer Affairs Act 1971

Consumer Credit (Western Australia) Act 1996

Co-operative and Provident Societies Act 1903

Credit Act 1984

Credit (Administration) Act 1984

Debt Collectors Licensing Act 1964

Door to Door Trading Act 1987

Electricity Act 1945

Employment Agents Act 1976

Energy Coordination Act 1994

Energy Safety Act 2006

Fair Trading Act 1987

Gas Standards Act 1972

Hire-Purchase Act 1959

Land Valuers Licensing Act 1978

Painters' Registration Act 1961

Real Estate and Business Agents Act 1978

Residential Tenancies Act 1987

Retail Trading Hours Act 1987

Settlement Agents Act 1981

Street Collections (Regulation) Act 1940

Sunday Entertainments Act 1979

Travel Agents Act 1985

[Schedule 1A inserted in Gazette 14 Jul 2006 p. 2568-9; amended in Gazette 13 Nov 2007 p. 5696; 8 May 2009 p. 1502; 23 Jun 2009 p. 2467.]

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Schedule 2 — Information for witnesses

[r. 25(4)]

Notice to witness

This notice and the attached document(s) are very important.

Please read them very carefully. If you have any trouble understanding them, you should get legal advice as soon as possible.

Attached to this notice is either one or two witness summonses that have been issued by a court.

Your rights

You may be able to apply to the court to have the summons(es) set aside. If you want to make such an application you should get legal advice.

Your obligations

You must obey the summons(es) if at the time you were served with them or at some reasonable time before the date(s) when the summons(es) require you to appear in court —

- an amount that is likely to be sufficient to meet your reasonable expenses of attending court was tendered to you;
- arrangements to enable you to attend court were made with you; or
- you were provided the means to enable you to attend court.

If you do not obey the summons(es) you may be imprisoned or fined or both.

Are you restricted in where you can go by a legal order?

Read this if you are subject to a legal restriction on your movements that you might breach when you obey the summons(es); for example one of these —

- a bail undertaking;
- an order imposed on you by a court as or part of a sentence;
- a work and development order;
- a parole or other order imposed on you when you were released from prison.

If you are restricted in where you can go, you must —

- tell the person who supervises the order that restricts your movements; and
- tell the court that issued the summons(es); and
- tell the party that requested the summons(es),

as soon as practicable after you are served with the summons(es).

You must take all reasonable steps to have the restriction varied so that you can comply with the summons(es).

If the restriction is not varied you must tell the court that issued the summons(es) and the party that requested the summons(es) either —

- of the steps you took to have the restriction varied and that the restriction has not been varied; or
- that the law does not permit that variation,

whichever is the case.

Schedule 3 — Prescribed simple offences

[r. 10]

1. Criminal Code offence

The offence under *The Criminal Code* section 338E (Stalking).

2. Prostitution Act 2000 offence

The offence under the Prostitution Act 2000 section 7 (Seeking to induce person to act as prostitute).

3. Restraining Orders Act 1997 offences

The offences under the following sections of the Restraining Orders Act 1997 —

- section 61(1) (Breaching a violence restraining order); (a)
- section 61(2a) (Breaching a police order). (b)

4. Road Traffic Act 1974 offence

The offence under the Road Traffic Act 1974 section 59A (Dangerous driving causing bodily harm).

[Clause 4 amended in Gazette 9 Nov 2007 p. 5613.]

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Schedule 4 — Listed simple offences

[r. 12]

[Heading inserted in Gazette 9 Nov 2007 p. 5613.]

1. Criminal Code offence

The offence under *The Criminal Code* section 338E (Stalking). *[Clause 1 inserted in Gazette 9 Nov 2007 p. 5613.]*

2. Environmental Protection Act 1986 offences

Any simple offence under the *Environmental Protection Act 1986*. [Clause 2 inserted in Gazette 9 Nov 2007 p. 5613.]

3. Fish Resources Management Act 1994 offences

Any simple offence under the Fish Resources Management Act 1994. [Clause 3 inserted in Gazette 9 Nov 2007 p. 5614.]

4. Liquor Control Act 1988 offences

Any simple offence under the Liquor Control Act 1988. [Clause 4 inserted in Gazette 9 Nov 2007 p. 5614.]

5. Mines Safety and Inspection Act 1994 offences

Any simple offence under the *Mines Safety and Inspection Act 1994*. [Clause 5 inserted in Gazette 9 Nov 2007 p. 5614.]

6. Occupational Safety and Health Act 1984 offences

Any simple offence under the *Occupational Safety and Health Act 1984*.

[Clause 6 inserted in Gazette 9 Nov 2007 p. 5614.]

7. Prostitution Act 2000 offence

The offence under the *Prostitution Act 2000* section 7 (Seeking to induce person to act as prostitute).

[Clause 7 inserted in Gazette 9 Nov 2007 p. 5614.]

8. Restraining Orders Act 1997 offences

The offences under the following sections of the *Restraining Orders Act 1997* —

- (a) section 61(1) (Breaching a violence restraining order);
- (b) section 61(2a) (Breaching a police order).

[Clause 8 inserted in Gazette 9 Nov 2007 p. 5614.]

9. Road Traffic Act 1974 offence

The offence under the *Road Traffic Act 1974* section 59A (Dangerous driving causing bodily harm).

[Clause 9 inserted in Gazette 9 Nov 2007 p. 5614.]

Notes

This is a compilation of the *Criminal Procedure Regulations 2005* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
Criminal Procedure Regulations 2005	28 Apr 2005 p. 1441-82	2 May 2005 (see r. 2)
Criminal Procedure Amendment Regulations 2006	12 May 2006 p. 1784	31 May 2006 (see r. 2 and <i>Gazette</i> 30 May 2006 p. 1965)
Criminal Procedure Amendment Regulations (No. 2) 2006	14 Jul 2006 p. 2567-9	14 Jul 2006
Criminal Procedure Amendment Regulations (No. 3) 2006	14 Nov 2006 p. 4728-9	14 Nov 2006
Criminal Procedure Amendment Regulations 2007	9 Nov 2007 p. 5611-14	r. 1 and 2: 9 Nov 2007 (see r. 2(a)); Regulations other than r. 1 and 2: 10 Nov 2007 (see r. 2(b))
Criminal Procedure Amendment Regulations (No. 2) 2007	13 Nov 2007 p. 5696	13 Nov 2007 (see note to r. 1)

Reprint 1: The *Criminal Procedure Regulations 2005* as at 8 Feb 2008 (includes amendments listed above)

Criminal Procedure Amendment Regulations 2008	16 May 2008 p. 1909-10	r. 1 and 2: 16 May 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 30 Sep 2008 (see r. 2(b) and Gazette 11 Jul 2008 p. 3253)
Criminal Procedure Amendment Regulations 2009	27 Feb 2009 p. 517-18	r. 1 and 2: 27 Feb 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 1 Mar 2009 (see r. 2(b) and Gazette 27 Feb 2009 p. 511)
Criminal Procedure Amendment Regulations (No. 3) 2009	21 Apr 2009 p. 1368	r. 1 and 2: 21 Apr 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 22 Apr 2009 (see r. 2(b))
Criminal Procedure Amendment Regulations (No. 2) 2009	8 May 2009 p. 1501-2	r. 1 and 2: 8 May 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 9 May 2009 (see r. 2(b))

Criminal Procedure Regulations 2005

Citation	Gazettal	Commencement
Criminal Procedure Amendment Regulations (No. 5) 2009	23 Jun 2009 p. 2467	r. 1 and 2: 23 Jun 2009 (see r. 2(a)); Regulations other than r. 1 and 2: 24 Jun 2009 (see r. 2(b))

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Defined Terms

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

The list is not part of the law.]

Defined Term	Provision(s)
CPA	3(1)
Form	3(1)
lodge	3(1)
remote communication	9(1)
trial date	
working day	3(1)