



Western Australia

Liquor Control Act 1988

## **Liquor Commission Rules 2007**

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## Liquor Commission Rules 2007

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## Liquor Commission Rules 2007

### Part 1 — Preliminary

**1. Citation**

These rules are the *Liquor Commission Rules 2007*.

**2. Commencement**

These rules come into operation as follows:

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day after that day.

**3. Terms used in these rules**

In these rules, unless the contrary intention appears —

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

***lodge*** means to lodge at the office of the Commission;

***party*** means a party to proceedings;

***proceedings*** means —

- (a) a matter referred to the Commission by the Director under section 24 of the Act; or
- (b) an application under section 25 of the Act for the review of a decision of the Director; or

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- (c) an appeal under section 28(4a) of the Act against a decision of the Commission constituted by one member; or
- (d) a complaint under section 95 of the Act; or
- (e) an application under section 115AD(3);

**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.

*[Rule 3 amended in Gazette 21 Jun 2011 p. 2251.]*

4. Application of these rules

Unless the Commission in a particular case orders otherwise, these rules apply in all proceedings.

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

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

- (1) If a party to proceedings before the Director wants to apply under section 25 of the Act for the Commission to review a decision of the Director, the party must —
  - (a) within one month after the decision, lodge a written application in accordance with subrule (2) —
    - (i) by hand delivery; or
    - (ii) by pre-paid post; or
    - (iii) by facsimile transmission; or
    - (iv) by email;and
  - (b) as soon as practicable after lodging the application, serve a copy of the application on the Director and every other person who was a party to the proceedings before the Director.
- (2) The application must clearly state —
  - (a) the name, address and telephone number of the applicant; and
  - (b) the decision the applicant wants reviewed; and
  - (c) the grounds of the application; and
  - (d) the date of the decision.
- (3) The application may include information, or be accompanied by any other material, that was before the Director when making the decision.

**6. Appeals against a decision of the Commission constituted by one member (s. 28(4a) of the Act)**

- (1) If a party to proceedings wants to appeal under section 28(4a) of the Act against a decision of the Commission constituted by one member, the party must —
- (a) within one month after the decision, lodge a written appeal in accordance with subrule (2) —
    - (i) by hand delivery; or
    - (ii) by pre-paid post; or
    - (iii) by facsimile transmission; or
    - (iv) by email;and
  - (b) as soon as practicable after lodging the appeal, serve a copy of the appeal on every other person who was a party to the proceedings in which the relevant decision was made.
- (2) The appeal must clearly state —
- (a) the name, address and telephone number of the appellant; and
  - (b) the decision the appellant is appealing against; and
  - (c) the grounds of the appeal; and
  - (d) the name of the member who gave the decision; and
  - (e) the date of the decision.

**7. Complaints (s. 95 of the Act)**

If a person wants to lodge a complaint under section 95 of the Act the person may do so —

- (a) by hand delivery; or
- (b) by pre-paid post; or
- (c) by facsimile transmission; or
- (d) by email.



**8A. Lodging written submissions for proceedings**

- (1) If a party to proceedings wants to lodge written submissions in relation to those proceedings, the submissions —
  - (a) must be a summary of the party's arguments expressed so as to convey the substance of them clearly and as succinctly as possible; and
  - (b) must be set out in numbered paragraphs; and
  - (c) must not exceed —
    - (i) in the case of the primary submissions, 20 pages; or
    - (ii) in the case of any further submissions that the Commission allows to be lodged, 10 pages.
- (2) If the party's written submissions refer to any legislation, judgment, legal text or any other related material (an *authority*), the party must, at the time the party lodges its written submissions, provide —
  - (a) for an authority that is a judgment — a copy of the complete judgment;
  - (b) for any other authority — sufficient details to enable the authority to be identified and located.
- (3) The party must, as soon as practicable after lodging the written submissions, serve a copy of them on every other party to the proceedings.

*[Rule 8A inserted in Gazette 18 Nov 2014 p. 4327-8.]*

**8. Separate proceedings determined simultaneously**

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

**9. Separate proceedings heard together**

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

**10. Withdrawal**

- (1) If a party wants to withdraw from proceedings, the party must do so by —
  - (a) lodging a written notice of that withdrawal; and
  - (b) serving a copy of that notice on every other party.
- (2) The Commission may give the party leave to withdraw its application or objection in the absence of the parties.

**11. Orders relating to practice and procedure**

- (1) If a party wants to make an application for an order relating to practice or procedure the party must do so by lodging the application in writing.
- (2) A party may, with the leave of the Commission, make an application for an order relating to practice or procedure orally at any hearing before the Commission.

**12. Costs orders**

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

### **Part 3 — Miscellaneous**

**13. Authentication of decisions of the Commission**

A decision of the Commission is to be authenticated by —

- (a) being signed by a member of the Commission; and
- (b) having the seal of the Commission affixed to it.

[14. Deleted in Gazette 21 Jun 2011 p. 2251.]

**15. Costs and charges payable in relation to proceedings**

The costs and charges set out in Schedule 1 are payable in relation to proceedings.

**16. Repeal and savings**

- (1) The *Liquor Licensing Court Rules 2005* 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 — Costs and charges payable in relation to proceedings**

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<b>Cost or charge</b>	<b>\$</b>
1. Charge payable for lodging an application for the review of a decision by the Director (rule 5 and section 25 of the Act)	405.00
2. Charge payable for lodging an appeal against a decision of the Commission constituted by one member (rule 6 and section 28(4a) of the Act)	405.00
3. Cost per page for the supply of a copy of a document or transcript of an electronic recording under rule 14	5.00

*[Schedule 1 amended in Gazette 1 Dec 2009 p. 4816; 21 Jun 2011 p. 2251-2; 18 Nov 2014 p. 4328.]*

**Notes**

<sup>1</sup> This is a compilation of the *Liquor Commission Rules 2007* 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>Liquor Commission Rules 2007</i>	5 Oct 2007 p. 5313-23	r. 1 and 2: 5 Oct 2007 (see r. 2(a)); Rules other than r. 1 and 2: 6 Oct 2007 (see r. 2(b))
<i>Liquor Commission Amendment Rules 2009</i>	1 Dec 2009 p. 4816	r. 1 and 2: 1 Dec 2009 (see r. 2(a)); Rules other than r. 1 and 2: 2 Dec 2009 (see r. 2(b))
<i>Liquor Commission Amendment Rules 2011</i>	21 Jun 2011 p. 2251-2	r. 1 and 2: 21 Jun 2011 (see r. 2(a)); Rules other than r. 1 and 2: 22 Jun 2011 (see r. 2(b))
<i>Liquor Commission Amendment Rules 2014</i>	18 Nov 2014 p. 4327-8	r. 1 and 2: 18 Nov 2014 (see r. 2(a)); Rules other than r. 1 and 2: 19 Nov 2014 (see r. 2(b))

## **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>
authority .....	8A(2)
commencement day .....	16(3)
document.....	3
lodge .....	3
party .....	3
proceedings .....	3
record.....	3
repealed rules .....	16(3)