

Western Australia

## **Criminal Procedure (District Court) Rules 2008**

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As at 31 May 2008

Version 00-a0-03

Extract from [www.slp.wa.gov.au](http://www.slp.wa.gov.au), see that website for further information



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### CONTENTS

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1.	Citation	1
2.	Commencement	1
3.	Interpretation	1
4.	Application	2
5.	Consent orders	2
6.	When indictment or discontinuance must be lodged	2
7.	Initial hearing	3
8.	When request about pending charges must be lodged	3
	<b>Notes</b>	
	Compilation table	4



## **Criminal Procedure (District Court) Rules 2008**

### **1. Citation**

These rules are the *Criminal Procedure (District Court) Rules 2008*.

### **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. Interpretation**

In these rules unless the contrary intention appears —

***accused*** means a person who has been committed to the court for trial or sentence or who is the subject of an indictment that has been lodged in the court;

***Chief Judge*** means the Chief Judge of the District Court;

***court*** means the District Court;

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

***judge*** means a District Court judge;

***lodge*** a document, means to lodge it with the court.

**4. Application**

- (1) These rules must be read with the *Criminal Procedure Rules 2005*.
- (2) If a provision in these rules is inconsistent with a provision of the *Criminal Procedure Rules 2005*, the provision in these rules prevails in relation to any case in the court.

**5. Consent orders**

- (1) For the purpose of this rule the Chief Judge, by a practice direction, may specify —
  - (a) matters that may be the subject of an order made by written consent under this rule; and
  - (b) the form in which any written consent is to be given.
- (2) The parties to a case in the court may lodge a written consent to the making of an order in the case.
- (3) A lodged written consent must be in accordance with any practice direction made under subrule (1).
- (4) On a written consent being lodged, a judge may make the order without a hearing.

**6. When indictment or discontinuance must be lodged**

- (1) The Chief Judge, by a practice direction, may set the period within which an authorised officer must act under the CPA Part 4 Division 2 in respect of an accused who is committed to the court for trial or sentence on a charge.
- (2) If an authorised officer does not comply with a practice direction issued under subrule (1), the court may make an order under the CPA section 94(3).

**7. Initial hearing**

- (1) For the purpose of this rule, the initial hearing of a prosecution commences on the day on which the accused first appears in the court having been committed to the court for trial or sentencing.
- (2) A judge must preside at an initial hearing of a prosecution.
- (3) At an initial hearing of a prosecution the court may do any of the following —
  - (a) deal with any application under the CPA section 89, 90, 97, 118, 131, 132, 133, 134, 135, 136 or 138;
  - (b) exercise any of its powers in those sections if it can do so on its own initiative;
  - (c) exercise any of its powers in the CPA section 98 or 137;
  - (d) order that a status hearing be held under the *Criminal Procedure Rules 2005* rule 33 and fix the time and place for it;
  - (e) order that a pre-trial hearing be held under the *Criminal Procedure Rules 2005* rule 34 and fix the time and place for it;
  - (f) fix the time and place for the trial or sentencing proceedings;
  - (g) adjourn the initial hearing from time to time.

**8. When request about pending charges must be lodged**

The Chief Judge, by a practice direction, may set the time when a request under the *Sentencing Act 1995* section 32(1) must be lodged in the court notwithstanding the *Criminal Procedure Rules 2005* rule 44(2).

**Notes**

<sup>1</sup> This is a compilation of the *Criminal Procedure (District Court) Rules 2008*. The following table contains information about those regulations.

**Compilation table**

<b>Citation</b>	<b>Gazettal</b>	<b>Commencement</b>
<i>Criminal Procedure (District Court) Rules 2008</i>	30 May 2008 p. 2069-71	r. 1 and 2: 30 May 2008 (see r. 2(a)); Rules other than r. 1 and 2: 31 May 2008 (see r. 2(b))