

# Application to the Victorian Liquor Commission for internal review

This kit contains an application form for internal review of a liquor licencing decision in Victoria.

**Note:** You must be an 'eligible person' in order to make this application. A list of 'eligible persons' is provided in s152 of the *Liquor Control Reform Act 1998* (the Act). Please consider if you fall within this list and seek legal advice if needed. If you are not an 'eligible person', the Victorian Liquor Commission will not be able to consider this application.

## Contents:

1. Application form
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## How to apply

This is an interactive PDF form which allows you to:

- complete the form using a computer or tablet
- save your progress and continue at a later time
- print the completed form to sign and return.

You are still able to print the form and complete it by hand if you prefer.

This form has been designed to be completed using the free Adobe Acrobat Reader software. To download this free software, [please visit the following link](#) or search for the free "Adobe Acrobat Reader" on your device's app store.

**This form may not function as intended if you use any other software.**

### Email applications to:

[secretariat@liquor.vic.gov.au](mailto:secretariat@liquor.vic.gov.au)

### Or post to:

Secretariat  
Liquor Control Victoria  
GPO Box 4356  
Melbourne VIC 3001

## Need help?

For more information on how to apply for a liquor licence or permit:

- visit Liquor Control Victoria (LCV) website at [liquor.vic.gov.au](http://liquor.vic.gov.au)
- telephone LCV on 1300 182 457
- email LCV at [contact@liquor.vic.gov.au](mailto:contact@liquor.vic.gov.au)

## Privacy

Liquor Control Victoria (LCV) is committed to protecting the privacy of your personal information. LCV endorses fair information handling practices and uses information in compliance with its obligations under the *Privacy and Data Protection Act 2014* (Vic). Personal information collected from you is only used for the purposes of the application for the licence or permit and/or legislation administered by LCV. Personal information is not disclosed to third parties unless required or authorised by law, or with your consent. As part of the application process, information provided may be forwarded to and retained by Victoria Police.

# Application to the Victorian Liquor Commission for internal review

Liquor Control Reform Act 1998

## A. Applicant details

Your name:

Your postal address for correspondence:

Email address:

All correspondence and notices will be sent to this email address.

Telephone number:

### My involvement in the original decision is:

(Tick one box only)

I am the applicant or licensee/permittee.

I am an objector.

Was your objection acknowledged by the Victorian Liquor Commission (the Commission)?

Yes

No

I am an owner or mortgagee of licensed premises.

I am a person prejudicially affected by the licensee/permittee's failure to renew their licence/permit.

I applied to have my name and address endorsed on the licence/permit and am one of the following:

an intended or actual legal personal representative of a deceased licensee or permittee

a guardian or administrator of licensee/permittee

an official receiver, trustee or assignee of a licensee/permittee who became an insolvent under administration

an administrator of a licensee/permittee and the licensee/permittee is an externally administered body corporate.

A person who requests that the Commission extend the time for making an objection under the Act, or accepts a late objection.

**Note:** You must be an 'eligible person' to make this application. A list of 'eligible persons' is provided in s152 of the Act. Please consider if you fall within this list and seek legal advice if needed. If you are not an 'eligible person', the Commission will not be able to consider this application.

## B. Details of licence or permit

Licensed premises trading name (if applicable):

Type of licence:

Licence number (if applicable):

Name of licensee/permittee:

Street address of licensed premises:

## C. Details of decision to be reviewed

Date of the decision (dd/mm/yyyy):

**The decision was to** (tick one box only):

grant, vary, transfer or relocate a licence/BYO permit

refuse to grant, vary, transfer or relocate a licence/BYO permit

impose a condition

approve or refuse to approve a person as the nominee or director of the licensee/permittee

grant or refuse to grant a renewal of a licence/BYO permit

grant or refuse to grant the surrender of a licence/BYO permit

release the licensee/permittee from their obligations under the Act and suspend the licence/BYO permit until a replacement licensee/permittee is found

(continued over)

grant or refuse an application for endorsement on licence/ BYO permit by any of the following persons:

- intended or actual legal personal representative of a deceased licensee or permittee
- guardian or administrator of licensee/permittee
- official receiver, trustee or assignee of a licensee/permittee who becomes an insolvent under administration
- administrator of licensee/permittee where licensee/permittee is an externally administered body corporate
- an owner or mortgagee of the licensed premises referred to above

suspend the licence

grant or refuse an application to be exempted from the requirement to provide free drinking water to patrons

grant or refuse consent or impose conditions on the licensee/permittee letting or sub-letting any part of the licensed premises or assigning the right to supply liquor

grant or refuse consent or impose conditions on the licensee/permittee allowing other persons to supply liquor

approve or refuse to approve or impose conditions for an application to be exempted from approved Responsible Service of Alcohol program requirements

give notice banning the licensees from advertising or promoting the supply of liquor or the conduct of the licensed premises

approve or refuse to approve or impose conditions for the entertainment for people aged under 18 on licensed premises

issue a fire safety notice of closure and evacuation, under s148ZD of the Act

extend or refuse to extend the time for making an objection, or accept a late objection.

**Please attach a copy of the decision to this application.**

**Note:** The decision can only be reviewed if it is a 'reviewable decision' under the Act. A list of 'reviewable decisions' is provided in s152 of the Act. Please consider if the decision falls within this list and seek legal advice if needed. If the original decision is not a 'reviewable decision', the Commission will not be able to consider this application.

#### D. Time limits for application

Date you first received notice of the decision:

Date you received a Statement of Reasons (if applicable):

Have more than **28 days** passed since both of the dates above?

No

Yes

If yes, you must demonstrate that you have 'exceptional circumstances' to justify an extension of time. Please provide your reasons in the box below.

You can attach further pages as needed with this application.

#### E. Delaying the effects of a decision

Do you seek to have the outcome of the original decision be deferred until this review is completed?

No

Yes

If yes, you must state below your reason for seeking to defer the outcome of the original below. If you do not, the Commission will not consider your request:

## F. Reasons for review application

Please provide a short summary of why you are applying to the Commission for review of the decision (attach further pages as needed):

## I. Signature

I declare/certify that:

- the information contained in this application, including attachments, is true and correct
- if a body corporate applicant, I am authorised to sign this application on behalf of the body corporate.

Signature:

Date (dd/mm/yyyy):

Name:

Signature:

Date (dd/mm/yyyy):

Name:

## G. Additional information

Please tick if this applies to you:

I am able to provide additional information which was not provided to the original decision maker. If yes, please attach copies.

Please provide a short summary of why this information was not provided to the original decision maker (attach further pages as needed):

It is an offence under section 118 of the *Liquor Control Reform Act* to make a statement that is false or misleading in relation to this application. This carries a maximum penalty of 60 penalty units.

## H. Checklist

Please tick the boxes before signing this form.

I have:

completed Parts A, B, C, D, E, F and G of this form

attached a copy of the decision I am requesting be reviewed

signed and dated this form.

# Internal reviews of liquor licence applications

Most decisions to grant, vary, relocate or transfer a liquor licence or BYO permit are made by Liquor Control Victoria staff under delegated authority from the Victorian Liquor Commission (the Commission). If an eligible person<sup>1</sup> is not satisfied with a decision, they can apply to the Commission for an internal review of the decision. Generally, applications for internal review are made by a liquor licensee, Victoria Police, a local council or a person who has objected.

## Applying for an internal review

You need to request the internal review in writing using the Application to the Commission for Internal Review form, which is available from our website at [liquor.vic.gov.au](http://liquor.vic.gov.au)

The application for internal review must be made within 28 days of receiving the decision<sup>2</sup>. The Commission can only extend that timeframe if it is satisfied that exceptional circumstances exist.

## Processing of the application

When we receive your application, we must notify any person who provided information or material, or gave evidence, to the original decision maker, such as a person who objected to the original decision. These persons are known as 'parties'. Parties may participate in the internal review process and provide submissions to the Commission.

The Commission can make a decision 'on the papers' (that is, based on the written information you include in your application) or after a hearing.

Three commissioners will consider your application. If an individual commissioner made the original decision, that commissioner will not be involved in the internal review.

## Delaying the effects of a decision

Generally, the decision being reviewed remains in effect until the internal review is completed. For example, a licensee who has been granted a licence can supply liquor in accordance with that licence until the completion of the internal review.

However, you may request that the Commission delay the operation of the decision (otherwise known as 'staying a decision') until the completion of the internal review. This means the decision being reviewed will not have effect until the internal review is completed. For example, if the Commission decides to stay a decision to grant a licence, the licensee cannot supply liquor under that licence until completion of the internal review.

If you want to delay the effects of a decision, you need to indicate this on the application form and tell us why. The Commission will write to other parties and give them an opportunity to put forward their views. Within ten days of the request, the Commission will decide whether or not to delay the effects of the decision.

## Decisions 'on the papers'

Where the Commission believes the internal review can be conducted on the papers, we will write to you (and any other parties) asking whether a hearing is required or whether all parties agree the Commission can decide the matter in this way.

<sup>1</sup> Section 152 of the Act sets out the types of decisions that are able to be reviewed and the persons who are eligible to apply for internal review regarding those decisions.

<sup>2</sup> See section 153 of the Act.

## Uncontested application

An uncontested application is where no other parties, except the licensee, participate in the internal review. In these circumstances, the Commission will invite you to provide written submissions and evidence within a specified timeframe. The Commission will provide any other information that affects the internal review for your comment or response.

The Commission will then decide based on all written information.

## Contested application

A contested application is where multiple parties disagree on the decision the Commission should make. Where this occurs:

- the Commission will invite the applicant to provide the Commission with written submissions and evidence within a specified timeframe
- these submissions and evidence will then be provided to the other parties involved
- the other parties will, in turn, be invited to provide their own written submissions and evidence within a specified timeframe
- that material will be provided to the original applicant and
- the original applicant will be invited to respond within a specified timeframe (if necessary).

If the Commission has any other information which affects the internal review, all parties will receive this information. Everyone will have an opportunity to respond or provide further information (which needs to be provided within the timeframe specified). However, if a party does not respond in time, the Commission may make a decision on the information already available. This includes any information or material that was available to the original decision-maker.

## Compulsory conference

At any stage of a contested application, the Commission may require the applicant and any other party to the matter to attend a compulsory conference with a single commissioner to:

- identify key issues relevant to the internal review
- promote resolution of issues in dispute and
- identify questions of fact or law to be decided by the Commission.

## Hearing

If the Commission considers that a matter is complex and it would be helpful to hear from the parties in person, we will invite the parties to attend a hearing.

## Preliminary meetings

In certain circumstances, the Commission may decide to hold a preliminary meeting with all parties. At such a meeting, a single commissioner will work with the parties to:

- identify key issues relevant to the internal review
- set an agreed timetable for the exchange of submissions and documents by parties
- identify relevant witnesses (if any) and estimate the likely duration of any hearing and
- set an agreed time and date for the hearing.

The outcome of this meeting will be summarised in writing in an agreed timetable document. This will be provided to all parties and represents what actions have agreed to.

Preliminary meetings can be in person or by telephone. Parties will be advised of the time and date of a preliminary meeting.

## Participating in a hearing

If you request a hearing or the Commission decides one is needed, the Commission will arrange a time and date that suits all parties. If any party requires an interpreter, please let us know as soon as possible so that we can arrange for one to be present.

At the hearing, each party can explain their view and put forward any relevant evidence or submissions. This may include hearing from witnesses. In addition, other parties or the Commission will have the opportunity to ask questions. The hearing will generally be public unless the circumstances require a private hearing. A party can also request a private hearing—see the Private hearings information sheet (attached).

There is usually a lawyer from LCV present who helps the Commission conduct the hearing. See Counsel Assisting in Commission inquiries (attached) for more information about this person's role.

## Legal support

We aim to conduct hearings with as little formality and technicality as possible. You are not required to have a lawyer represent you but may do so if you wish. You can also bring along a support person.

## Non-attendance

If you don't attend a scheduled hearing, the Commission may decide the matter based on all of the available information. If you cannot attend the scheduled hearing (for example, you are unwell), you can ask for the hearing to occur another day and the Commission will consider this request.

## Decision

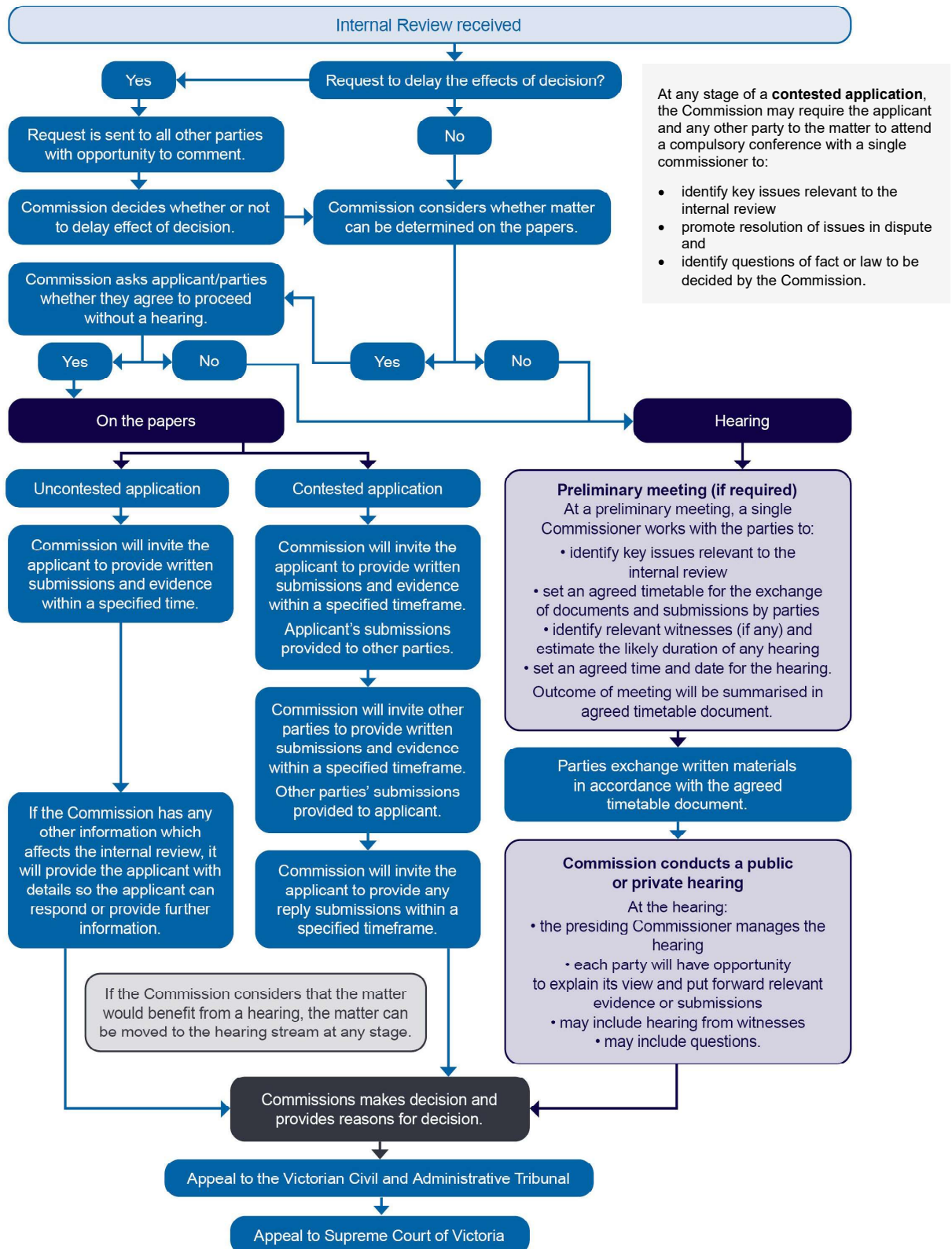
After considering the internal review, the Commission may affirm the original decision, vary it, or make a new decision.

At the end of the hearing, the Commission will not usually make an immediate decision.

Once the Commission has deliberated on your internal review, you will be notified in writing of a decision that will include reasons for the decision.



## Internal Review flow chart





## Private inquiries

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### Background

1. The *Liquor Control Reform Act 1998* (**the Act**) states that inquiries conducted for the purpose of making findings or determinations in certain matters must be held in public unless the Commission determines that there are special circumstances requiring that the inquiry (or part of it) should be conducted in private (**private inquiry**).
2. Section 172Z(2) of the Act lists matters for which the Commission must conduct an inquiry in public, unless special circumstances apply.
3. Additional provision with respect to inquiries for contested liquor applications is made by section 47(3A) of the Act.
4. This Practice Note sets out the Commission's standard practice when deciding whether or not to hold a private inquiry.
5. The Commission approves Practice notes to promote consistency in how the Commission conducts hearings and inquiries. However, at its absolute discretion, the Commission may vary the operation of a practice note where it considers that the circumstances make it appropriate to do so.

### When can the Commission conduct an inquiry in private?

6. The interests of justice generally require that legal proceedings be conducted in public.<sup>1</sup> The public interest usually requires that decision-making by public officials and regulatory agencies is open to public scrutiny.
7. The Commission may direct that an inquiry be a private inquiry if it considers that there are special circumstances, being:
  - a. to prevent the unreasonable divulgence of information relating to the personal affairs of any person (including a deceased person); or
  - b. it is otherwise in the interests of justice, or the public interest, to conduct a private inquiry.<sup>2</sup>
8. For an inquiry conducted when determining a contested liquor application, the Commission may also hold a private inquiry if the Commission determines that:
  - a. confidential information will be disclosed at the inquiry;
  - b. it is in the public interest to conduct the inquiry in private; or
  - c. it is in the interests of justice to conduct the inquiry in private.<sup>3</sup>
9. A party to, or witness before, an inquiry may, at any time, request the Commission to conduct a private inquiry. Where such a request is made, the Commission may:
  - a. conduct a preliminary meeting to determine whether to hold a private inquiry; and/or
  - b. require the person requesting a private inquiry to make submissions and provide evidence in support of their request.

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<sup>1</sup> See section 28 *Open Courts Act 2013*.

<sup>2</sup> See section 172Z(3) of the Act.

<sup>3</sup> Section 47(3A) of the Act.

## Unreasonable divulgence of information relating to personal affairs?

10. In considering whether a public inquiry would involve the unreasonable divulgence of personal affairs, the Commission will consider the nature of the information and the circumstances of the person it relates to. For example, disclosure might be unreasonable where:
  - a. the information relates to alcohol abuse and disclosure would cause humiliation or embarrassment to an individual; or
  - b. the information that may be divulged would be regarded as sensitive information under privacy law (for example: health information, information about racial or ethnic origin, political opinions or affiliations, religious beliefs or affiliations, philosophical beliefs, sexual preferences or practices or criminal record) and disclosure would be likely to cause disadvantage to an individual.
11. Information relating to the personal affairs of a person would not usually include information about the business, financial or commercial affairs of company or other business structure. However, there may be circumstances where disclosure of such information may involve unreasonable disclosure of information relating to an individual's personal affairs.

## Otherwise in the interests of justice or public interest

12. In some circumstances, the interests of justice or public interest may necessitate a private hearing. For example, disclosure of evidence or information given at a public inquiry would be likely to:
  - a. prejudice the fair trial of any person
  - b. disclose the identity of a confidential source of information relating to criminal law enforcement
  - c. prejudice the proper enforcement of the law or the protection of public safety
  - d. create a risk to the health or safety of any person
  - e. put a person in breach of a legally binding secrecy or confidentiality obligation
  - f. cause distress or embarrassment to a complainant or witness in proceedings involving a sexual or family violence offence.

## Confidential information (contested liquor application only)

13. For an inquiry conducted for the purpose of a contested liquor application only, the Commission may conduct a private inquiry if it considers confidential information may be disclosed at a public inquiry.

## Counsel Assisting in Commission inquiries

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### Background

1. This Practice Note outlines the general roles and responsibilities of Counsel Assisting the Commission (**Counsel Assisting**) in Commission inquiries.
2. This Practice Note has been approved by the Commission to promote consistency in the way the Commission conducts hearings and inquiries. However, at its absolute discretion, the Commission may vary the operation of a practice note where it considers the relevant circumstances make it appropriate to do so.
3. A practice note approved by the Commission for a particular type of inquiry that specifies a different, additional or more limited role for Counsel Assisting in such an inquiry takes precedence over this Practice Note.

### Appointment of Counsel Assisting

4. The Commission will generally appoint a suitably qualified lawyer to be Counsel Assisting a Commission inquiry.

### Role of Counsel Assisting

5. **The roles of Counsel Assisting are to:**
  - a) facilitate the conduct of an inquiry with a view to ensuring that the Commission has before it all relevant and appropriate evidence, presented in a fair and reasonable manner, to inform the Commission's decision making
  - b) provide the Commission with legal advice concerning its powers, duties, functions and obligations.
6. For this purpose, Counsel Assisting **may do one or more of the following** (as appropriate for the particular inquiry):
  - a) provide advice to the Commission about how the inquiry (including preliminary hearings and conferences) should be conducted
  - b) identify and/or collate documents that may be relevant to the inquiry
  - c) provide advice about, and assistance with, the use of the Commission's investigative powers
  - d) tender documents or lead evidence
  - e) ask questions of parties and witnesses
  - f) make submissions on relevant matters
  - g) assist in the preparation of draft reasons for decision of the Commission.
7. **Counsel Assisting is expected to:**
  - a) act impartially and transparently in their dealings with parties and witnesses
  - b) act in accordance with the lawful directions given by the Commissioners
  - c) Counsel Assisting cannot provide legal advice to parties but can provide guidance to parties concerning the Commission's usual practices and procedures in conducting an inquiry.