

## SUPPLEMENTARY GAZETTE



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**South Australia**

**Supreme Court Criminal Rules 2014**

**By virtue and in pursuance of Section 72 of the Supreme Court Act 1935 and all other enabling powers, we, Judges of the Supreme Court of South Australia, make the following Supreme Court Criminal Rules 2014.**

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## Chapter 1—Preliminary

### Part 1—Formal provisions

#### 1—Citation

These Rules may be cited as the *Supreme Court Criminal Rules 2014*.

#### 2—Commencement

These Rules commence on 1 October 2014.

### Part 2—Objects

#### 3—Objects

- (1) The objects of these Rules are to—
  - (a) establish orderly procedures for the conduct of the business of the Court in its criminal jurisdiction;
  - (b) promote the just and efficient determination of such business; and
  - (c) facilitate the timely disposal of such business at a cost affordable to the parties and the community generally.
- (2) These Rules are not intended to defeat a proper prosecution by or frustrate a proper defence of a party who is genuinely endeavouring to comply with the procedures of the Court.
- (3) Proceedings in the Court will be managed and supervised with a view to best attaining the objects in subrule (1).
- (4) These Rules are to be construed and applied, and the processes and procedures of the Court conducted, so as best to attain the objects in subrule (1).

### Part 3—Interpretation

#### 4—Interpretation

In these Rules, unless the contrary intention appears—

*Act* means the *Criminal Law Consolidation Act 1935*;

*address for service* – see rule 32;

*approved form* means a form approved under rule 28 and contained in the Schedule to the Supplementary Rules;

*audiovisual link* means a communication between the Court and a party or a party's representative or a witness by video, telephone or other electronic means for the purpose of a court hearing;

*bail authority* means a court or person constituted as a bail authority by or under section 5 of the *Bail Act 1985* or a Magistrate acting under section 83 of the *Service and Execution*

*of Process Act 1992 (Cth)* as the case requires;

**bail review authority** means a Magistrate making a decision on review under section 14 of the *Bail Act 1985*;

**business day** means a day on which the Registry is ordinarily open for business;

**the Civil Rules** means the *Supreme Court Civil Rules 2006*;

**child pornography** – see rule 31;

**commencement date** means the date on which these Rules came into operation;

**community impact statement** means a neighbourhood impact statement or a social impact statement as defined in section 7B of the *Criminal Law (Sentencing) Act 1988*;

**Confiscation Acts** – see rule 98;

**Court** means the Supreme Court of South Australia;

**Director** means the Director of Public Prosecutions for the State or Commonwealth as the context requires;

**election** - see rule 38;

**lawyer** means a legal practitioner within the meaning of the *Legal Practitioners Act 1981*;

**legal representative certificate** – see rule 46;

**practitioner's certificate** - see rule 41;

**preliminary question** - see rule 49(1)(h);

**prescribed proceeding** means a proceeding in which a person—

- (a) is charged with a serious and organised crime offence within the meaning of section 5(1) of the Act; or
- (b) is or becomes the subject of a serious and organised crime suspect determination under section 3A of the *Bail Act 1985*;

**Registrar** means the Registrar and includes the Deputy Registrar (Criminal) and any other officer or employee of the Court performing functions delegated by the Registrar or under the Registrar's supervision;

**the Rules** means these Rules;

**Sentencing Act** means the *Criminal Law (Sentencing) Act 1988*;

**Special directions hearing** – see rule 57;

**Supplementary Rules** - see rule 15;

**Written assurance** – see rule 46.

## 5—Calculation of periods of time

- (1) When a rule or order of the Court fixes prospectively the time within which something is required or permitted to be done, the period runs from the end of the day from which the calculation is to be made.

Example—

On 1 March, the Court orders a party to file a document within 14 calendar days. The party must file the document by no later than 15 March.

- (2) When a rule or order fixes the time within which something is required or permitted to be done as being not less than a specified number of days before a day or event in the future, the calculation of the period commences on the day before the day or event in question.

**Example—**

The Court orders a party to file a document at least 14 days or 14 clear days before a hearing scheduled on 31 March. The party must file the document by no later than 16 March.

- (3) If the time within which something is required or permitted to be done under these Rules or an order is fixed at 7 days or less, the period is to be understood as a reference to business days only.

**Example 1—**

On Thursday, 1 March, the Court orders a party to file a document within 4 days. The party must file the document by no later than Wednesday, 7 March.

**Example 2—**

The Court orders a party to file a document at least 4 days or 4 clear days before a hearing scheduled on Monday, 31 March. The party must file the document by no later than Monday, 24 March.

- (4) When the time within which something is required or permitted to be done under these Rules or an order ends on a day on which the Registry is closed, the period is extended so that it ends on the next day on which the Registry is open for business.
- (5) During the period fixed by the Supplementary Rules as the Christmas vacation—
- (a) documents may be filed on any day on which the Registry is open for business; but
  - (b) subject to any contrary direction by the Court, the time for filing a document or taking any other step in a proceeding does not run during the Christmas vacation.

## **Part 4—Application of Rules**

### **6—Application of Rules**

- (1) These Rules apply to the exercise by the Court of its original and appellate criminal jurisdiction, except appeals that lie to a single Judge that are governed by the Civil Rules.
- (2) These Rules do not derogate from the Court's inherent jurisdiction.

## **Part 5—Repeal and transitional provisions**

### **7—Repeal**

*The Supreme Court Criminal Rules 2013, the Supreme Court Bail Review Rules 1985*

and the *Supreme Court Criminal Appeal Rules 1996* are repealed.

**8—Transitional provision**

- (1) Unless the Court otherwise directs, these Rules apply to—
  - (a) proceedings commenced on or after the commencement date; and
  - (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) The Court may direct that these Rules, or the Rules in force before these Rules were made, apply to a transitional proceeding or a particular step or matter in a transitional proceeding.

## **Chapter 2—General procedural rules and allocation of Court business**

### **Part 1—Sittings**

#### **9—Sittings**

The sittings of the Court in its criminal jurisdiction will be at such times and places as the Chief Justice from time to time directs.

### **Part 2—Public access to hearings**

#### **10—Public access to hearings**

- (1) All proceedings before the Court are, as a general rule, to be held in a place open to the public.
- (2) This general rule is, however, subject to the following exceptions—
  - (a) directions hearings and pre-trial conferences are usually heard in private;
  - (b) the Court has a general discretion to direct, if there is good reason to do so, that a proceeding be heard wholly or partly in private or that the public be excluded from the whole or a particular part of a hearing.

#### **11—Recording events in court**

- (1) Subject to this rule and to any contrary direction of the Court, the making of a record of persons, things, or events in court is not permitted.
- (2) Subrule (1) does not apply to Courts Administration Authority staff acting in the course of their office or employment.
- (3) Despite subrule (1) and subject to subrules (4) and (5)—
  - (a) a party to a proceeding that is being heard by the Court, a lawyer, law clerk, student or bona fide member of the media may make a handwritten or electronic note of persons, things or events in court; and
  - (b) a bona fide member of the media may make an audio recording of a proceeding for the sole purpose of verifying notes and for no other purpose.
- (4) A record made in court permitted by this rule must—
  - (a) be made in a manner that does not interfere with court decorum, not be inconsistent with court functions, not impede the administration of justice, and not interfere with the proceeding;
  - (b) not interfere with the Court's sound system or other technology; and
  - (c) not generate sound or require speaking into a device.
- (5) An audio recording made by a member of the media under subrule (3)(b) —
  - (a) must not record any private conversation occurring in court;
  - (b) must not be made available to any other person or used for any other purpose; and

- (c) must be erased entirely within 48 hours of the recording.
- (6) For the purpose of this rule, *record* means a record by any means whatsoever, including by handwriting, other physical means, audio and/or visual recording or electronic record.

#### **12—Electronic communications to and from court**

- (1) Subject to this rule and to any contrary direction of the Court, communication by means of an electronic device to and from a courtroom during the conduct of proceedings is not permitted.
- (2) Subrule (1) does not apply to Courts Administration Authority staff acting in the course of their office or employment.
- (3) Despite subrule (1) and subject to subrules (4) and (5), a party to a proceeding that is being heard by the Court, a lawyer or a bona fide member of the media may communicate by means of an electronic device to and from a courtroom during the conduct of the proceeding.
- (4) An electronic communication permitted by this rule must—
  - (a) be made in a manner that does not interfere with court decorum, not be inconsistent with court functions, not impede the administration of justice, and not interfere with the proceeding;
  - (b) not interfere with the Court's sound system or other technology; and
  - (c) not generate sound or require speaking into a device.
- (5) An electronic communication of evidence adduced or a submission made in a proceeding, whether in full or in part, must not be made until at least 15 minutes have elapsed since the evidence or submission in question, or until the Court has ruled on any application for suppression or objection made in relation to the evidence or submission within that period of 15 minutes, whichever occurs last.
- (6) For the purpose of this rule, *electronic device* means any device capable of transmitting and/or receiving information, audio, video or other matter (including a cellular phone, computer, personal digital assistant, digital or analogue audio and/or visual camera or similar device).

### **Part 3—Court's control of procedure**

#### **13—Power of Court to control procedure**

- (1) The Court may, on its own initiative or on application by a party, give directions about the procedure to be followed in a particular proceeding.
- (2) A direction may be given under this rule—
  - (a) when these Rules do not address or address fully a procedural matter that arises in a proceeding;
  - (b) to resolve uncertainty about the correct procedure to be adopted;
  - (c) to achieve procedural fairness in the circumstances of a particular case; or
  - (d) to expedite the hearing or determination of a particular case or to avoid

unnecessary delay or expense.

- (3) A direction may be given under this rule irrespective of whether it involves some departure from these Rules or the established procedures of the Court.
- (4) A direction may be given under this rule superseding an earlier direction but a step taken in a proceeding in accordance with a direction that has been superseded is to be regarded as validly taken.

#### **14—Dispensation**

- (1) The Court may at any time dispense with compliance with all or any part of these Rules including a rule relating to or governing powers that the Court may exercise on its own initiative.
- (2) The Court may extend or abridge the time for taking a step prescribed by or under these Rules whether or not such time has expired.

#### **15—Supplementary Rules**

- (1) It is intended that the Court make supplementary rules necessary or convenient for the regulation of proceedings in the Court (the *Supplementary Rules*).
- (2) In particular, it is intended that the Supplementary Rules—
  - (a) supplement these Rules;
  - (b) modify these Rules in respect of a particular category of proceedings;
  - (c) give directions as to practices to be followed;
  - (d) prescribe scales of costs;
  - (e) prescribe approved forms.

### **Part 4—Distribution of Court's business**

#### **16—Jurisdiction of Masters**

A Master has jurisdiction to make interlocutory orders in criminal proceedings governed by these Rules only in respect of —

- (a) the adjudication of costs; and
- (b) any matter referred to a Master by a Judge.

#### **17—Registrar's functions**

- (1) The Registrar is the Court's principal administrative officer.
- (2) The Registrar's functions include the following—
  - (a) to establish and maintain appropriate systems—
    - (i) for filing documents in the Court; and
    - (ii) for issuing the Court's process as provided by these Rules or as directed by the Court;
  - (b) to ensure that proper records of the Court's proceedings are made and to provide for the safe keeping of the Court's records;

- (c) to take custody of documents and objects produced to the Court in response to a subpoena, and of all exhibits tendered in proceedings before the Court, and to deal with them as authorised by these Rules or as directed by the Court;
  - (d) to ensure that judgments and orders of the Court are properly entered in the records of the Court.
- (3) The Registrar may delegate functions under these Rules to another officer of the Court.
  - (4) No record is to be taken out of the Registrar's custody without the Court's authorisation.

## **Part 5—Representation**

### **18—Solicitor acting for party**

- (1) A solicitor instructed to act for a person committed for trial or sentence is, not less than 5 clear business days before that person's first arraignment, to give notice in writing to the Registrar that the solicitor is so acting.
- (2) A solicitor appearing or counsel instructed by a solicitor to appear to represent a person committed for trial or sentence is to announce to the Court the name of the solicitor who acts for the person.
- (3) A solicitor is to be recorded in the Court's records as the solicitor acting for a party if—
  - (a) the solicitor's name appears on the first document to be filed in the Court on behalf of the party as the name of the party's solicitor;
  - (b) the solicitor's name is announced to the Court as the party's solicitor by a lawyer appearing in court to represent the party; or
  - (c) the solicitor gives notice to the Court, in an approved form, that the solicitor is acting for the party.
- (4) The Court will alter its records so that a particular solicitor no longer appears as the solicitor for a party if—
  - (a) the party files in the Court a notice, in an approved form, to the effect that the party is no longer represented by a solicitor; or
  - (b) a solicitor files a notice, in an approved form, to the effect that the solicitor is to be recorded as the solicitor acting for the party in place of the solicitor previously recorded as the solicitor acting for the party; or
  - (c) the Court orders on its own initiative, or on the application of a party or a solicitor, that the Court's records be altered so that the solicitor no longer appears as the solicitor acting for the party.
- (5) If the Court makes an order under subrule (4)(c), it may make ancillary orders—
  - (a) requiring that notice be given of the order; and
  - (b) providing that the order is not to take effect until notice has been given of



the order.

**19—Service of documents on solicitor acting for party**

Unless these Rules otherwise provide and subject to any contrary direction by the Court, any document, notice or proceeding to be served on a party may be served on the solicitor recorded in the Court's record as the solicitor for the party.

## **Chapter 3—Initiation of criminal proceedings**

### **Part 1—Information**

#### **20—Revocation of Schedule 3 rules**

The Rules contained in Schedule 3 to the Act are revoked.

#### **21—Information**

- (1) An information presented under section 275(1) of the Act is to—
  - (a) be in an approved form;
  - (b) contain in a separate numbered paragraph, called a count, a description of each offence charged;
  - (c) have endorsed on the back the names of the witnesses who the Director intends to call at the trial.
- (2) The accused is to be sufficiently identified in the information without necessarily stating his or her full name, address and occupation.
- (3) Each count in an information is to—
  - (a) describe the offence briefly in ordinary language, avoiding technical terms when possible, and without necessarily stating all the essential elements of the offence;
  - (b) state the section of the statute creating the offence when applicable; and
  - (c) contain in ordinary language particulars of the offence, avoiding technical terms whenever possible.
- (4) If an offence comprises—
  - (a) any one of several different acts or omissions;
  - (b) an act or omission in any one of several capacities;
  - (c) an act or omission with any one of several intentions;
  - (d) any other element in the alternative,the acts, omissions, capacities, intentions or other matters in the alternative may be stated in the alternative in the count charging the offence.
- (5) It is not necessary, in a count charging a statutory offence, to negative any exception or exemption from, or qualification of, the operation of the statute creating the offence.
- (6) An information is not open to objection by reason only of any failure to comply with this rule or with rule 22.

#### **22—Particulars**

- (1) The description or designation of any other person to whom reference is made is to be sufficient to identify the person, without necessarily stating his or her full and correct name, address and occupation.

- (2) If such a description or designation cannot be given, the best description or designation is to be given, or the person may be described as "a person unknown".
- (3) The description of property should be sufficient to identify the property. Unless an offence depends on the special ownership or value of property, it is not necessary to state the owner or value of the property.
- (4) If reference is made to property with multiple owners, it is sufficient to describe it as owned by one named person "with others". If the owners are a body of persons with a collective name, such as "Trustees", "Commissioners" or "Club", it is sufficient to use the collective name without naming any individual.
- (5) The description of a document or instrument should be sufficient to identify it. It is sufficient to describe a document or instrument by a name or designation by which it is usually known, or by its effect, without setting out a copy of it.
- (6) The description of a place, time, thing, matter, act or omission should be sufficient to identify it.
- (7) Figures and abbreviations may be used to express anything commonly expressed in that manner.
- (8) If a rule of law or statute limits the particulars required to be given, this rule does not require more detailed particulars than those required by the rule or statute.

### **23—Serious and organised crime offences**

- (1) If a proceeding comprises a prescribed proceeding, the information is to be accompanied by a notice in an approved form—
  - (a) identifying that the proceeding is a prescribed proceeding;
  - (b) identifying why the proceeding is a prescribed proceeding; and
  - (c) stating that the proceeding may be expedited in accordance with section 275(3) of the Act and these Rules.
- (2) If a proceeding becomes a prescribed proceeding after an information has been filed, the Director is to apply as soon as practicable for permission to amend the information to add a notice complying with subrule (1).
- (3) The Director is to inform the Court at the first arraignment that a proceeding is a prescribed proceeding.

## **Part 2—Arraignment**

### **24—Arraignment of persons committed for trial or sentence**

- (1) Subject to subrule (2), a person committed for trial or sentence is to appear before the Court on the date prescribed by the Supplementary Rules.
- (2) The Court may direct that a person appear before the Court at an earlier or later date.

### **25—Arraignment on multiple counts**

- (1) If—
  - (a) a person committed for trial or sentence is to be arraigned on an information

- charging more than one offence; and
- (b) the Court is satisfied that the person is literate,  
the Court may direct the person to be arraigned under this rule.
- (2) Upon arraignment under this rule—
- (a) a true copy of the information is to be provided to the person before or at the arraignment;
- (b) the person is, before or at the arraignment, to write against each charge on a true copy of the information his or her plea;
- (c) a summary of the offences is to be read to the person;
- (d) the person is to sign his or her name at the foot of the true copy of the information and his or her signature is to be witnessed by the person's solicitor or counsel or, if not represented, by a person directed by the Judge;
- (e) the Judge will record the respective pleas in accordance with the signed copy of the information; and
- (f) if the person pleads not guilty and the arraignment is in the presence of the jury panel or a jury—a copy of the information bearing the pleas may be given to the jury.

#### **26—Court of trial**

- (1) If a person committed for trial pleads not guilty to an offence or offences not within the exclusive jurisdiction of the Court, the Director and the defence may make submissions under section 110 of the *Summary Procedure Act 1921* as to the appropriate court of trial.
- (2) A decision whether a proceeding is to be referred to the District Court for trial may be made by the Court at any time before trial.
- (3) In determining the court of trial, regard will be had to the matters set out in section 110(5) of the *Summary Procedure Act 1921* including the availability of Judges of each of the Supreme and District Courts to preside over criminal trials.

#### **27—Referral to directions hearing**

If upon arraignment or attendance for arraignment—

- (a) a person committed for trial pleads not guilty to an offence;
- (b) an issue of fitness to stand trial is raised and no plea is entered; or
- (c) there is a dispute as to the facts in respect of a person committed for sentence or who pleads guilty having been committed for trial,

the Court will refer the proceeding to a directions hearing.

## Chapter 4—Documents, service and hearings generally

### Part 1—Documents

#### 28—Approved forms

- (1) It is intended that approved forms will be promulgated in a schedule to the Supplementary Rules.
- (2) On promulgation of an approved form, it is to be published on the Court's website.
- (3) A document to be filed in the Court is to be in an approved form.
- (4) The Court may, in a particular action, give directions—
  - (a) about the form in which documents are to be filed in the Court; and
  - (b) imposing additional requirements about the filing or form of documents.

#### 29—Inspection of court records

- (1) Unless an Act or rule otherwise provides or the Court otherwise directs, a party to a proceeding or a party's solicitor may inspect any court record relating to the proceeding or take a copy on payment of the appropriate copying fee.
- (2) No record is to be taken out of the Court without an order of the Court.
- (3) Subject to subrule (1) and section 131 of the *Supreme Court Act 1935*, no person is entitled inspect or take a copy of a court record without first obtaining the permission of the Court.

#### 30—Production of court records

- (1) This rule applies to a request by a court or tribunal, including an umpire or arbitrator, for production of a court record.
- (2) Subject to subrule (3), unless the Registrar is satisfied that there is good reason why the original of a record should be produced, the Registrar is to answer a request for production of a court record by sending a copy of the record certified by the Registrar to be a true copy. The court or tribunal requesting production of the record is liable to pay the charges prescribed by regulation for the copy. The copy need not be returned to the Court.
- (3) The Court may direct that the original court record be produced subject to such conditions, if any, as the Court thinks fit.
- (4) If the Court directs or the Registrar decides that the original court record be produced, subject to compliance with any condition stipulated by the Court or the Registrar, the Registrar is to send the original record to the requesting court or tribunal, together with a certificate signed by the Registrar certifying that the record was filed in or is in the custody of the Court and specifying the date upon and matter in which it was filed.
- (5) Subject to subrule (6), the original record is to be sent to the requesting court or tribunal by messenger or registered post.
- (6) If the Registrar thinks fit, the Registrar may require that an officer of the Court attend the requesting court or tribunal to produce the original record.

- (7) The court or tribunal to which an original record is sent under this rule is to—
  - (a) keep the record in safe custody; and
  - (b) return it by messenger or registered post to the Registrar immediately it is no longer required.
- (8) The Registrar is to keep a register containing a description of any original record sent, the date upon which it is sent, the court or tribunal to which it is sent and the date of its return. The Registrar is to ensure that each original record is duly returned within a reasonable time.

### 31—Child pornography material

- (1) This rule applies to child pornography marked for identification, received as an exhibit or otherwise received into the custody of the Court in proceedings in the criminal jurisdiction of the Court.
- (2) The purpose of this rule is to ensure that the handling and storing of child pornography is lawful, safe and efficient.

**Note—**  
Child pornography is sensitive material as defined in section 67H of the *Evidence Act 1929*.
- (3) A reasonable time before tender, a party who proposes to tender child pornography in electronic form is to inform the Registrar of the computer hardware and software required to access it.
- (4) At the time of tender, a party tendering child pornography in electronic form is to—
  - (a) tender it in a sealed envelope marked with the title and file number of the proceeding, a description of the material, the name of the party tendering it and any code needed to access it; and
  - (b) provide computer hardware and software enabling it to be viewed.
- (5) The Registrar is to maintain a computer especially designated for viewing child pornography in electronic form.
- (6) Upon receipt of child pornography into the custody of the Court, the Judge's staff will keep it and any relative code in secure storage and, at the conclusion of the hearing, deliver it to the Registrar to be kept in secure storage.
- (7) Subject to subrule (8), the Registrar is to keep in secure storage all child pornography in hard copy or electronic form and any relative code.
- (8) Subject to section 131 of the *Supreme Court Act 1935*, child pornography and the relative code may only be accessed—
  - (a) by direction of a Judge; and
  - (b) for the purpose of the proceeding in which the material is received into the custody of the Court; and
  - (c) if in electronic format—on the computer maintained by the Registrar or provided by the tendering party for that purpose.
- (9) If copies of exhibits containing child pornography are provided during a trial for

the assistance of the jury, at the conclusion of the trial, the Sheriff is to ensure that all copies are retrieved from the jury and delivered to the Registrar and—

- (a) if a copy has been marked by a jury member—the Registrar is to immediately destroy the copy; and
  - (b) otherwise—the Registrar is to keep the copies in secure storage in accordance with subrule (7) for return to the party who tendered the exhibit in accordance with subrule (11).
- (10) When access to the child pornography is no longer required for the purpose of the proceeding, the material and any relative code are to be returned to the Registrar and the Registrar is to—
- (a) cause any images to be erased from all drives of the computer;
  - (b) place the child pornography in any physical form and any relative code in a sealed envelope marked “Not to be opened except by order of a Judge”; and
  - (c) keep the envelope in secure storage.
- (11) Unless a Judge otherwise directs, no later than six months after finalisation of the proceeding including any appeal, the Registrar is to return the child pornography and any relative code to the party who tendered it and for this purpose may open the sealed envelope in which they are contained.
- (12) In this rule, *child pornography* means—
- (a) in relation to a Commonwealth prosecution—child pornography material or child abuse material as defined by the *Criminal Code* enacted by the *Criminal Code Act 1995* (Cth); and
  - (b) otherwise—child pornography as defined by section 62 of the Act, marked for identification, received as an exhibit or otherwise received into the custody of the Court.

## Part 2—Service

### 32—Address for service

- (1) The *address for service* of a party is an address recorded (or to be recorded) in the Court's records as an address at which documents may be served on the party.
- (2) A party must submit a physical address as an address for service.
- (3) A *physical address* for service is an address of premises at which service may be effected on the party—
  - (a) by leaving the document for the party; or
  - (b) if there is no separate postal address for service—by sending the document by prepaid post in an envelope addressed to the party at that address.
- (4) The premises to which a physical address for service relates—
  - (a) must be in separate occupation; and
  - (b) must—

- (i) be premises at which the party's lawyer practises in South Australia; or
  - (ii) unless service was effected on the party under the *Service and Execution of Process Act 1992* (Cth) or the *Trans-Tasman Proceedings Act 2010* (Cth)—be within 50 kilometers of the GPO at Adelaide.
- (5) A party may submit, in addition to a physical address, one or more of the following as an address for service—
- (a) a postal address at which service may be effected on the party by sending the document by prepaid post in an envelope addressed to the party at that address (a *postal address*);
  - (b) a box number at an approved document exchange, or a branch of an approved document exchange, at which service may be effected on the party by delivery of the document to the box in an envelope addressed to the party (a *DX address*);
  - (c) a fax number at which the party is prepared to accept service of documents transmitted by fax (a *fax address*);
  - (d) an address at which the party is prepared to accept service of documents by the transmission of documents in electronic form to the relevant address (an *email address*).

### **33—Obligation to give address for service**

- (1) A document filed in the Court by or on behalf of a party must be endorsed with the party's address for service.
- (2) The address for service shown on the first document filed in the Court by a party (including a notification of address for service) is to be recorded as the party's address for service.
- (3) A party may designate or change the party's address for service by giving the Registrar notice, in an approved form, of the address for service.

### **34—Service of documents at address for service**

Unless these Rules otherwise provide, any document, notice or proceeding to be served on a party may be served at the address for service recorded for that party.

## **Part 3—Hearings generally**

### **35—Appearance of defendant in person**

- (1) A person who has appeared before the Court under rule 24 or 25 and been remanded in custody for trial or sentence is to appear before the Court in person on a subsequent occasion—
  - (a) for the trial or sentence, as the case may be; or
  - (b) if the Court directs.
- (2) A defendant who has been convicted and is in custody will not appear before the



Court in person for the hearing of an application for permission to appeal or of an appeal unless—

- (a) the defendant requests; and
- (b) the appeal is not on a ground of law alone or the Court directs.

**36—Appearance of defendant by audiovisual link**

- (1) Subject to section 59IQ of the *Evidence Act 1929* and to any contrary direction by the Court, a person in custody is to appear by audiovisual link for—
  - (a) directions hearings;
  - (b) bail application and bail review hearings;
  - (c) permission to appeal hearings;
  - (d) appeal hearings, unless the defendant requests to be personally present and the appeal is not on a ground of law alone or the Court so directs;
  - (e) such other hearings as the Court directs.
- (2) A party may object to the use of an audiovisual link by—
  - (a) an oral submission whenever the proceeding is before the Court; or
  - (b) filing a notice of objection in an approved form at least 3 clear business days before the relevant hearing.
- (3) A notice of objection may be determined at the discretion of the Court—
  - (a) at a hearing in court;
  - (b) in chambers without hearing from any party; or
  - (c) at a hearing using an audiovisual link (whether a hearing to which subrule (1) refers or otherwise).
- (4) If during the course of a hearing by audiovisual link counsel is required to take instructions on a matter that could not reasonably have been anticipated, counsel will be provided with access to a private telephone linked to the audiovisual link facility at the custodial institution in which the person is held.

**Part 4—Hearings for interstate courts**

**37—Audiovisual evidence for interstate proceedings**

- (1) A party to a proceeding seeking to enforce an order of a recognised court under Part 6C Division 3 of the *Evidence Act 1929* is to file with the Registrar a sealed copy of the order.
- (2) The Registrar will maintain a register of orders made by a recognised court filed under subrule (1). The register may be maintained in electronic format.
- (3) After filing the order, the party seeking to enforce the order may do so in accordance with the provisions of section 59IL(2) of the *Evidence Act 1929*.
- (4) In this rule, *recognised court* has the meaning defined in section 59IA of the *Evidence Act 1929*.

## Chapter 5—Election for trial by Judge alone

### 38—Election

- (1) An accused may make an election under section 7(1)(a) of the *Juries Act 1927* (the *election*) in the manner and at the time stipulated in this Chapter and not otherwise.
- (2) Subject to subrule (3), the election applies to the trial of all charges in the information in respect of which a trial is to be held. An election that purports to be limited to certain charges contained in the information is not valid or effectual.
- (3) When an accused is charged in an information in respect of more than one count and proposes to apply for a separate trial in respect of one or more counts, a separate election may be made as to the counts sought to be severed or as to the counts remaining in anticipation of an order for severance. The election is to be made in the manner and at the time stipulated in this Chapter and will be valid and effectual only if the application for severance is granted.

### 39—Election by joint accused

- (1) Subject to subrule (2), when two or more accused are jointly charged with an offence, they must concur, as required by section 7(3) of the *Juries Act 1927*, in making the election by jointly signifying their concurrence in the election or by each of them separately notifying his or her election in accordance with this Chapter.
- (2) When two or more accused are jointly charged in an information and an accused proposes to apply for a separate trial from the trial of others jointly charged, a separate election may be made by that accused in anticipation of an order for separate trials. The election is to be made in the manner and at the time stipulated in this Chapter and will be valid and effectual only if the application for separate trials is granted or all co-accused make a valid election in accordance with subrule (1).

### 40—Manner of making election

- (1) An election made by the defendant is to be made by filing a notice of election in an approved form signed by the accused making the election and a practitioner's certificate.
- (2) An election made by counsel on behalf of the defendant under section 269W(2) of the Act is to be made by filing a notice of election in an approved form signed by counsel and no practitioner's certificate is required.
- (3) When an accused or counsel files a notice of election, the accused or counsel, as the case may be, is as soon as practicable to serve a copy of the notice on the Director and on any person jointly charged with the accused on a charge contained in an information the subject of the election.
- (4) Unless the election was made under subrule (2), a notice of election complying with this rule is admissible at any stage of the proceeding as evidence that the accused before making the election sought and received advice in relation to the election from a lawyer.

**41—Practitioner’s certificate**

- (1) A *practitioner’s certificate* is a certificate signed by a lawyer stating that the signatory holds a current practising certificate and has advised the accused on all matters relevant to the election. The certificate is to identify clearly the charge in respect of which the advice has been given.
- (2) A practitioner’s certificate is to be in an approved form.
- (3) A practitioner’s certificate complying with this rule is admissible at any stage of the proceeding as evidence that the accused before making the election sought and received advice in relation to the election from a lawyer.

**42—Time for making election**

- (1) If an accused is committed for trial to sittings at Adelaide, the election is to be made no later than the day of the accused’s first arraignment on the information in respect of which the trial is intended to be held or within such time and in such manner as the Judge on the first arraignment directs.
- (2) If an accused is committed for trial to a circuit sittings, the election is to be made within 28 calendar days after the accused is committed for trial.
- (3) Subject to subrules (4) and (5) and to rule 44, if the election is not made in accordance with the preceding subrules, the accused is precluded from making the election subsequently notwithstanding that the information is amended or that the trial proceeds upon an information filed in substitution for an earlier information or informations on which the accused has been arraigned.
- (4) If an amended or new information referred to in subrule (3) materially alters the substance of the charge or charges upon which the accused is to be tried, the accused may make an election at or before the first arraignment on the amended or new information.
- (5) The Court may extend the time prescribed by or under this rule if satisfied that there are special reasons for so doing or that it would be unjust not to do so notwithstanding that such period has expired.

**43—Election irrevocable**

- (1) Subject to rule 44, an accused who has made an election in accordance with the preceding rules is not permitted to revoke the election without the permission of the Court.
- (2) Permission to revoke the election may be granted only if the Court is satisfied that, because of events occurring after the election, there are special reasons for so doing or that it would be unjust to refuse such permission.

**44—Election after direction for new trial**

- (1) Despite rule 42, when there has been a mistrial or a jury has been unable to reach a verdict or an appeal against conviction has been allowed and the accused has been remanded for a new trial, the accused may make the election in the manner set out in the preceding rules within 28 calendar days after being remanded for a new trial.
- (2) Despite rule 43, when an appeal against conviction by a Judge alone has been

allowed and the accused has been remanded for a new trial, the accused may revoke an election for trial by Judge alone by filing a notice of revocation in an approved form signed by the accused and a practitioner's certificate within 28 calendar days after being remanded for a new trial.

- (3) A notice of revocation and practitioner's certificate complying with subrule (2) are admissible at any stage of the proceeding as evidence that the accused before making the revocation sought and received advice in relation to revoking the election from a lawyer.

**45—Application by Director**

An application by the Director for a determination under section 7(3a) of the *Juries Act 1927* that the trial of an information that includes a charge of a serious and organised crime offence be heard by Judge alone is to be made by written application under rule 49 no later than 28 calendar days after the first arraignment.

## Chapter 6—Pre-trial applications and directions

### Part 1—Matters before first directions hearing

#### 46—Legal representation certificate or written assurance

- (1) If the accused is represented by a lawyer, the lawyer is, at least 5 clear business days before the first directions hearing, to file a certificate (a **legal representation certificate**) under section 8(2) of the *Criminal Law (Legal Representation) Act 2001* certifying that—
  - (a) the accused is an assisted person; or
  - (b) the lawyer undertakes that the accused will be provided with legal representation for the duration of the trial; or
  - (c) the accused is not an assisted person and the lawyer is not prepared to give an undertaking under paragraph (b).
- (2) The legal representation certificate is to be in an approved form.
- (3) A written assurance under section 8(3)(c) of the *Criminal Law (Legal Representation) Act 2001* that the accused does not want legal representation at trial (a **written assurance**) is to be in an approved form.

#### 47—Application for deferred trial date for serious and organised crime suspect

An application by the Director or an accused for an order under section 275(3) of the Act that exceptional circumstances justify the trial not commencing within six months of the determination that an accused is a serious and organised crime suspect is to be filed and served at least 5 clear business days before the first directions hearing.

### Part 2—Convening directions hearings

#### 48—Convening directions hearing

- (1) A directions hearing will be convened—
  - (a) when the proceeding has been referred upon arraignment to a directions hearing under rule 27;
  - (b) when convened by the Registrar under rule 49; or
  - (c) when convened by the Court (including by the trial Judge in preparation for the trial) on the Court's own initiative or on the application of a party.
- (2) Any directions hearing required in relation to prescribed proceedings will be held as soon as possible and, in any event, within four weeks of the arraignment.

### Part 3—Pre-trial applications

#### 49—Written application

- (1) An application—
  - (a) by the Director under section 3A(1) of the *Bail Act 1985* for a determination

- that a person is a serious and organised crime suspect or under section 19A of the *Bail Act 1985* for the cancellation of bail;
- (b) by the Director for an order under section 7(3a) of the *Juries Act 1927* for a trial by Judge alone;
  - (c) by the accused for an extension of time under rule 42 to elect for trial by Judge alone or for permission to revoke an election under rule 43;
  - (d) to quash or stay a proceeding on the ground of an abuse of process or otherwise;
  - (e) for separate trials of different charges or different accused charged in the same information;
  - (f) for an order under section 285BB of the Act requiring the defence to notify the Director in writing whether the defence consents to dispensing with calling prosecution witnesses or to give written notice of intention to introduce certain kinds of evidence;
  - (g) for permission under section 285BA of the Act to serve on an unrepresented defendant a notice to admit specified facts;
  - (h) to determine before trial any question relating to the admissibility of evidence or any other question of law affecting the conduct of the trial (a *preliminary question*);
  - (i) to adduce evidence or make submissions by audiovisual link under section 59IE or 59IQ of the *Evidence Act 1929*;
  - (j) required by these Rules to be made by written application;
  - (k) that cannot reasonably be made without notice to the other party or parties; or
  - (l) that the applicant seeks to be determined in chambers under rule 52,
- is to be made by filing and serving an application for directions in an approved form.
- (2) The Court may dispense with the need for a written application or may direct that a written application be made when an oral application is made under rule 50.
  - (3) A written application is to set out—
    - (a) the orders sought; and
    - (b) sufficient particulars of the grounds relied upon to enable each other party to consider whether evidence will be necessary in respect of the issues raised.
  - (4) A written application is to be supported by an affidavit—
    - (a) when it is an application under section 3A(1) or section 19A of the *Bail Act 1985*; or
    - (b) if it relies upon evidence that is potentially contentious.
  - (5) A written application for taking evidence interstate is to be accompanied by a draft letter of request.

- (6) The Registrar will endorse the written application with the date, time and place of its hearing, which may be a hearing that has already been fixed under rule 48 or a hearing before the trial Judge at or immediately before the commencement of the trial.

#### **50—Oral application**

Unless the Court otherwise directs, an oral application may be made at a directions hearing—

- (a) to amend the information;
- (b) for bail or a variation in the conditions of bail;
- (c) to issue a bench warrant;
- (d) to make a subpoena for documents returnable before commencement of trial;
- (e) to abridge or extend time for service of a subpoena including a subpoena served or to be served interstate under section 30 of the *Service and Execution of Process Act 1992* (Cth);
- (f) to permit inspection of documents produced on subpoena before commencement of trial;
- (g) for special arrangements for protection of a witness under section 13 of the *Evidence Act 1929*;
- (h) to enter a *nolle prosequi*; or
- (i) subject to rule 49, in relation to any other matter concerning the conduct of the proceeding and of the trial.

#### **51—Time for making certain applications**

- (1) An application for separate trials or to quash or stay a proceeding is to be filed within 28 calendar days after the first arraignment.
- (2) An application for an order or permission under section 285BA or 285BB of the Act is to be filed within 28 calendar days after the first directions hearing.
- (3) An application to determine a preliminary question is to be filed within 28 calendar days after the date on which the proceeding is listed for trial.
- (4) An application to adduce evidence or make submissions by audiovisual link or interstate is to be filed no less than 28 calendar days before the listed trial date.
- (5) An application for special arrangements for the protection of a witness under section 13 of the *Evidence Act 1929* is to be made no less than 28 calendar days before the listed trial date.

### **Part 4—Determination without oral hearing**

#### **52—Determination of application without hearing oral submissions**

- (1) The Court may determine an application by making an order in chambers without the attendance of the parties and without hearing oral submissions from the parties

if—

- (a) the application is not contentious; or
  - (b) the Court decides on its own initiative or on the application of a party to determine the application on the basis of written submissions.
- (2) Unless the Court otherwise directs, any submissions to be made on an application to which this rule applies are to be sent to the Court in electronic form.

## **Part 5—Proceedings at directions hearings**

### **53—Forum for directions hearing**

- (1) Unless the Court otherwise directs—
- (a) a directions hearing will be presided over by a Judge of the Court; and
  - (b) the accused is to attend but attendance may be by audiovisual link under rule 36.
- (2) Unless the Court otherwise directs—
- (a) subject to paragraphs (b) and (c), a directions hearing will be held in private and only the persons involved in the directions hearing, and lawyers whether involved in the hearing or not, are permitted to be present;
  - (b) when a contested application is set down for argument, the hearing will be in open court;
  - (c) the recording of a *nolle prosequi* will be in open court if the accused so requests.

### **54—First directions hearing**

- (1) At the first directions hearing after arraignment, the Court will consider any legal representation certificate or written assurance that has been filed and will consider whether to make a direction under section 8 of the *Criminal Law (Legal Representation) Act 2001* that the defendant make an application to the Legal Services Commission for legal assistance.
- (2) At the first directions hearing for prescribed proceedings, the parties are to address the means by which—
- (a) the proceeding may be expedited; and
  - (b) subject to rule 47, the trial of a proceeding involving an accused who is a serious and organised crime suspect is to commence within six months after a determination is made that an accused is such a suspect.

### **55—Directions hearings generally**

- (1) At a directions hearing, the Court may—
- (a) adjourn the hearing;
  - (b) give directions and set time limits for steps in the proceeding;
  - (c) set or alter the date for the commencement of the trial;



- (d) record the entry of a *nolle prosequi*;
  - (e) hear and determine any application made under rule 49 or rule 50;
  - (f) make an order relating to any other matter concerning the conduct of the proceeding and of the trial.
- (2) No failure to answer a question nor anything said by or on behalf of an accused at a directions hearing may be used or made the subject of comment at any subsequent trial.
  - (3) Directions given at a directions hearing may be supplemented or varied at an adjourned or subsequent directions hearing.

#### **56—Tender documents and aids**

- (1) The Court may, on its own initiative or on application of a party, direct that, by a specified date, a party proposing to tender documentary exhibits to the Court file and serve on all other parties a list of such documents.
- (2) The Court may direct that a list of documents be numbered or marked to correspond with the marking of the documents to be tendered at the trial and include such other details as the Court thinks fit.
- (3) The Court may direct that a list of documents and copies of the documents referred to therein be filed and served in hard copy form, electronic form or both.
- (4) The Court may give directions for the production and use at trial of summaries, diagrams, charts, illustrations, graphs, photographs, films, documents, models or other audio, video, or visual media as an aid to illustrating or assisting to explain the evidence.

### **Part 6—Special directions hearings**

#### **57—Special directions hearing**

- (1) At a directions hearing, the Court may refer the proceeding to a special directions hearing (a *special directions hearing*).
- (2) The accused is to attend at the special directions hearing but that attendance may be by audiovisual link under rule 36.
- (3) At a special directions hearing, the principal matters to be considered are possible resolution of the matter or of specific issues.
- (4) Nothing said at a special directions hearing can be used at a subsequent trial, sentencing hearing or other substantive hearing.
- (5) If the matter resolves or partially resolves at the special directions hearing, a *nolle prosequi* can be entered at that hearing in respect of any counts agreed to be withdrawn, and any counts to which it is agreed that the defendant will plead guilty will generally be referred to the next convenient arraignment.
- (6) If the matter does not fully resolve at the special directions hearing, it will remain in the trial list with its allocated trial date.

## Part 7—Pre-trial directions hearings

### 58—Convening pre-trial directions hearing

- (1) When a criminal trial is pending, a directions hearing before commencement of the trial may be held on the Court's own initiative or on application by a party.
- (2) A directions hearing may be convened or conducted under this rule by any Judge but will usually be conducted by the Judge to whom the trial has been assigned.

### 59—Proceedings at pre-trial directions hearing

- (1) Counsel briefed to appear at the trial (or, if the attendance of a party's counsel is not practicable, that party's solicitor) and, subject to rule 36, the accused are to attend at a directions hearing convened under rule 58.
- (2) At a directions hearing convened under rule 58, the Court will discuss with the parties matters (including any arising by virtue of section 59J of the *Evidence Act 1929*) with respect to the trial to ensure that the trial will be conducted in an expeditious and fair manner.

## Part 8—Outcome of directions hearings

### 60—Outcome of directions hearing

- (1) To give effect to an agreement arrived at between the parties in the course of a directions hearing, the Court may direct that—
  - (a) a specified fact may be proved at trial in a specified manner that is not in accordance with the rules of evidence;
  - (b) a specified fact is to be treated as admitted or established without proof at trial;
  - (c) a specified exhibit is to be admitted in evidence at trial without proof of its authenticity;
  - (d) specified evidence may be read or a specified statement may be tendered at trial without a witness being called; or
  - (e) with respect to any specified matter or topic, the regular course of procedure at the trial is to be modified or varied to facilitate proof of facts.
- (2) An order made under this rule is to be drawn up at the direction of and signed by the Court.
- (3) Subject to these Rules, the trial is to be conducted in conformity with the provisions of any such order.
- (4) Despite any order made under this rule, a party may, with the permission of the trial Judge, withdraw agreement to any provision contained in that order, whereupon that provision ceases to have effect and the trial is thereafter with respect to the subject matter of that provision to be conducted in accordance with the law and practice generally applicable.
- (5) Nothing in these Rules, or any order made under them, precludes the Court—
  - (a) at any time, on its own initiative or on the application of a party, setting

aside or varying by administrative direction the listing of a trial;

- (b) adjourning the trial or giving any other necessary directions as to how it is to proceed;
- (c) making any order or giving any direction at trial that, in the opinion of the Court, should be made in the interest of justice and to ensure that there is a fair trial according to law.

## Chapter 7—Notice of and dispensing with evidence

### Part 1—Notice of evidence

#### 61—Evidence of discreditable conduct

- (1) Notice of intention to adduce evidence of discreditable conduct under section 34P(4) of the *Evidence Act 1929* is to be in an approved form and filed and served on all other parties to the proceeding—
  - (a) in the case of a notice by the Director—within 21 calendar days after the date on which the proceeding is listed for trial;
  - (b) in all other cases—at least 21 clear calendar days before the listed trial date.
- (2) A party who intends to object to the admission of proposed evidence of discreditable conduct is to file and serve on all other parties to the proceeding a notice of objection in an approved form—
  - (a) in the case of an objection to evidence proposed to be led by the Director—within 28 calendar days after the filing of the Director’s notice of intention;
  - (b) in all other cases—at least 5 clear business days before the listed trial date.
- (3) The Court may vary the time within which a notice under this rule is to be filed and served.

#### 62—Evidence of self-defence or other designated matters

- (1) An application under section 285BB(1) of the Act to require the defence to give to the Director notice of intention to adduce evidence of a certain kind is to be in an approved form.

**Note —**

Rule 51(2) requires an application to be made within 28 calendar days after the first directions hearing.

- (2) An order requiring the defence to give notice of intention to adduce evidence of a certain kind is to be in an approved form.
- (3) The defence response to an order is to be in an approved form.

#### 63—Expert evidence

A notice under section 285BC of the Act of intention by the defence to call expert evidence is to be in an approved form.

### Part 2—Admissions

#### 64—Dispensing with prosecution witnesses

- (1) An application under section 285BB(4) of the Act to require the defence to give to the Director notice whether it consents to dispensing with calling certain prosecution witnesses is to be in an approved form and is to state the time within which it is proposed the defence is to respond.

**Note —**

Rule 51(2) requires an application to be made within 28 calendar days after the first directions hearing.

- (2) An order requiring the defence to give notice whether it consents to dispensing with calling certain prosecution witnesses is to be in an approved form.
- (3) The defence response to an order is to be in an approved form.

#### 65—Admission of facts

- (1) An application under section 285BA of the Act for permission to serve on an unrepresented accused a notice to admit facts is to be in an approved form.

**Note —**

Rule 51(2) requires an application to be made within 28 calendar days after the first directions hearing.

- (2) A notice to the defence to admit specified facts under section 285BA of the Act is to be in an approved form.
- (3) The defence response to a notice to admit facts is to be in an approved form.

### Part 3—Subpoenas

**Note —**

This Part follows the form of harmonised rules adopted in jurisdictions across Australia.

#### 66—Interpretation

- (1) In this Part, unless the contrary intention appears—
  - addressee* means a person who is the subject of the order expressed in a subpoena;
  - conduct money* means a sum of money or its equivalent, such as pre-paid travel, sufficient to meet the reasonable expenses of the addressee of attending court as required by the subpoena and returning after so attending;
  - issuing party* means the party at whose request a subpoena is issued;
  - subpoena* means an order in writing requiring a person (an *addressee*)—
    - (a) to attend to give evidence; or
    - (b) to produce the subpoena or a copy of it and a document or thing; or
    - (c) to do both those things.
- (2) To the extent that a subpoena requires an addressee to attend to give evidence, it is called a *subpoena to attend to give evidence*.
- (3) To the extent that a subpoena requires an addressee to produce the subpoena or a copy of it and a document or thing, it is called a *subpoena to produce*.

#### 67—Issuing subpoena

- (1) The Court may, in any proceeding, by subpoena order an addressee—
  - (a) to attend to give evidence as directed by the subpoena; or

- (b) to produce the subpoena or a copy of it and any document or thing as directed by the subpoena; or
- (c) to do both those things.
- (2) The Court may exercise its power to issue a subpoena not only for the purposes of a proceeding in the Court but also for the purposes of proceedings extraneous to the Court for which the issue of a subpoena by the Court is authorised by statute.
- (3) The Registrar is empowered to issue subpoenas on the Court's behalf.
- (4) The Registrar—
  - (a) may issue a subpoena if requested by a party to a proceeding to do so; and
  - (b) must issue a subpoena if directed by the Court to do so.
- (5) A subpoena is not to be issued—
  - (a) if the Court has made an order, or there is a rule of the Court, having the effect of requiring that the proposed subpoena—
    - (i) not be issued; or
    - (ii) not be issued without permission of the Court and that permission has not been given; or
  - (b) requiring the production of a document or thing in the custody of the Court or another court.
- (6) A subpoena is not to be issued to compel the production of a public document unless a Judge authorises the issue of the subpoena.
- (7) On issuing a subpoena, the Court will authenticate it by affixing its seal or in some other appropriate manner.

#### **68—Form of subpoena**

- (1) A subpoena must be in the approved form.
- (2) A subpoena—
  - (a) may be addressed to one or more persons; and
  - (b) must, unless the Court otherwise orders, identify the addressee or addressees by name, or by description of office or position.
- (3) A subpoena may, however, be issued without the identification of the addressee or addressees on the basis that the necessary identifying names or descriptions are to be inserted before service of the subpoena by a solicitor for the party on whose application the subpoena was issued.
- (4) A subpoena to produce must—
  - (a) identify the document or thing to be produced; and
  - (b) specify the date, time and place for production.
- (5) A subpoena to attend to give evidence must specify, for each addressee who is required to attend, the date, time and place for attendance.

- (6) If a subpoena requires an addressee's personal attendance at a particular date, time and place to produce a document or thing, or to give evidence (or both)—
  - (a) the date, time and place for attendance must be the date, time and place at which the trial is scheduled to commence or some other date, time and place permitted by the Court; but
  - (b) if the course of the Court's business makes it necessary or expedient to change the date, time or place for attendance—
    - (i) the issuing party may amend the date, time or place by serving notice of the amendment on the addressee personally and tendering any additional conduct money that may be reasonable in the light of the amendment; and
    - (ii) the subpoena then operates in its amended form.
- (7) The place specified for production may be the Court or the address of any person authorised to take evidence in the proceeding as permitted by the Court.
- (8) The last date for service of a subpoena—
  - (a) is the date falling 5 clear business days before the earliest date on which an addressee is required to comply with the subpoena or an earlier or later date fixed by the Court; and
  - (b) must be specified in the subpoena.
- (9) If an addressee is a company, the company must comply with the subpoena by its appropriate or proper officer.
- (10) If there is a mistake in the terms in which a subpoena is issued, and the mistake is discovered before the subpoena is served, the issuing party may correct the mistake and, after filing a corrected copy of the subpoena in the Court, proceed with service of the subpoena in its corrected form.

**69—Alteration of date for attendance or production**

- (1) The issuing party may give notice to the addressee of a date or time later than the date or time specified in a subpoena as the date or time for attendance or for production or for both.
- (2) When notice is given under subrule (1), the subpoena has the effect as if the date or time notified appeared in the subpoena instead of the date or time which appeared in the subpoena.

**70—Setting aside or other relief**

- (1) The Court may on the application of a party or any person having a sufficient interest, set aside a subpoena in whole or part, or grant other relief in respect of it.
- (2) Any application under subrule (1) must be made on notice to the issuing party.
- (3) The Court may order that the applicant give notice of the application to any other party or to any other person having a sufficient interest.

**Note—**

Sections 33, 43 and 44 of the *Service and Execution of Process Act 1992* (Cth) contain

provisions governing applications to set aside subpoenas served interstate.

#### **71—Service**

- (1) A subpoena must be served personally on the addressee on or before the last business day for service specified in the subpoena.
- (2) The issuing party must serve a copy of a subpoena to produce on each other party as soon as practicable after the subpoena has been served on the addressee or addressees.

#### **72—Compliance with subpoena**

- (1) An addressee need not comply with the requirements of a subpoena to attend to give evidence unless conduct money has been handed or tendered to the addressee a reasonable time before the date on which attendance is required.
- (2) An addressee need not comply with the requirements of a subpoena unless it is served on or before the date specified in the subpoena as the last date for service of the subpoena.

##### **Note—**

1. Section 30 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, service is only effective if it is not less than 14 days before the person is required to comply unless the Court allows a shorter period in defined circumstances.
  2. Section 31 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, service is only effective if prescribed notices and a copy of any order under section 30 are attached to the subpoena served.
  3. Section 32 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, service is only effective if, a reasonable time before compliance is required, sufficient allowances and travelling expenses are paid or tendered to the person.
- (3) Despite rule 71(1), an addressee must comply with the requirements of a subpoena even if it has not been served personally on that addressee if the addressee has, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.
  - (4) Subject to subrules (5) and (6), the addressee must comply with a subpoena to produce—
    - (a) by attending at the date, time and place specified for production or, if the addressee has received notice of a later date or time from the issuing party, at that later date or time and producing the subpoena or a copy of it and the document or thing to the Court or to the person authorised to take evidence in the proceeding as permitted by the Court; or
    - (b) by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified for the purpose in the subpoena, or, if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production or, if the addressee has received notice of a later date or time from the issuing



party, before that later date.

**Note—**

Section 34 of the *Service and Execution of Process Act 1992* (Cth) provides that, when a subpoena is served interstate, a document or thing may be delivered to the Registrar not less than 24 hours before the date for compliance.

- (5) In the case of a subpoena that is both a subpoena to attend to give evidence and a subpoena to produce, production of the subpoena or a copy of it and of the document or thing in any of the ways permitted by subrule (4) does not discharge an addressee from the obligation to attend to give evidence.
- (6) Unless a subpoena specifically requires the production of the original, the addressee may produce a copy of any document required to be produced by the subpoena.
- (7) The copy of a document may be—
  - (a) a photocopy; or
  - (b) in an electronic form that the issuing party has indicated will be acceptable.

**73—Production otherwise than on attendance**

- (1) This rule applies if an addressee produces a document or thing in accordance with rule 72(4)(b).
- (2) The Registrar must, if requested by the addressee, give a receipt for the document or thing to the addressee.
- (3) If the addressee produces more than one document or thing, the addressee must, if requested by the Registrar, provide a list of the documents or things produced.

**74—Removal, return, inspection, copying and disposal of documents and things**

The Court may give directions in relation to the removal from and return to the Court, and the inspection, copying and disposal, of any document or thing that has been produced to the Court in response to a subpoena.

**75—Inspection of, and dealing with, documents and things produced otherwise than on attendance**

- (1) On request in writing of a party, the Registrar must inform the party whether production in response to a subpoena has occurred in accordance with rule 72(4)(b) and, if so, include a description, in general terms, of the documents and things produced.
- (2) The following provisions of this rule apply if an addressee produces a document or thing in accordance with rule 72(4)(b).
- (3) Subject to this rule, no person may inspect a document or thing produced unless the Court has granted permission and the inspection is in accordance with that permission.
- (4) Unless the Court otherwise orders, the Registrar may permit the parties to inspect at the Registry any document or thing produced if—

- (a) the Registrar is satisfied that a copy of the subpoena to produce was served on each other party in accordance with rule 71(2); and
  - (b) there has been no objection to inspection under this rule by a party or any person having a sufficient interest.
- (5) If the addressee objects to a document or thing being inspected by any party to the proceeding, the addressee must, at the time of production, notify the Registrar in writing of the objection and of the grounds of the objection.
- (6) If a party or person having a sufficient interest objects to a document or thing being inspected by a party to the proceeding, the objector may notify the Registrar in writing of the objection and of the grounds of the objection.
- (7) On receiving notice of an objection under this rule, the Registrar—
- (a) must not permit any, or any further, inspection of the document or thing the subject of the objection; and
  - (b) must refer the objection to the Court for hearing and determination.
- (8) The Registrar must notify the issuing party of the objection and of the date, time and place at which the objection will be heard, and the issuing party must notify the addressee, the objector and each other party accordingly.
- (9) The Registrar must not permit any document or thing produced to be removed from the Registry except on application in writing signed by the solicitor for a party.
- (10) A solicitor who signs an application under subrule (9) and removes a document or thing from the Registry undertakes to the Court by force of this rule that—
- (a) the document or thing will be kept in the personal custody of the lawyer for the party; and
  - (b) the document or thing will be returned to the Registry in the same condition, order and packaging in which it was removed, as and when directed by the Registrar.
- (11) The Registrar may, in the Registrar's discretion, grant an application under subrule (9) subject to conditions or refuse to grant the application.

#### **76—Disposal of documents and things produced**

- (1) Unless the Court otherwise orders, the Registrar may, in the Registrar's discretion, return to an addressee any document or thing produced in response to the subpoena.

**Note—**

It should be noted, however, that if the document or thing has been tendered as an exhibit, the Registrar is to deal with the exhibit as directed by the Court (see rule 83).

- (2) Unless the Court otherwise orders, the Registrar must not return any document or thing under subrule (1) unless the Registrar has given to the issuing party at least 14 calendar days notice of the intention to do so and that period has expired.
- (3) The issuing party must attach, to the front of a subpoena to produce to be served

on the addressee, a notice and declaration in the approved form.

- (4) The addressee must complete the notice and declaration and attach it to the subpoena or copy of the subpoena which accompanies the documents produced to the Court under the subpoena.
- (5) Subject to subrule (6), the Registrar may, on the expiry of four months from the conclusion of the proceeding, cause to be destroyed all the documents produced in the proceeding in compliance with a subpoena which were declared by the addressee to be copies.
- (6) The Registrar may cause to be destroyed those documents declared by the addressee to be copies which have become exhibits in the proceeding when they are no longer required in connection with the proceeding, including on any appeal.

**77—Costs and expenses of compliance**

- (1) The Court may order the issuing party to pay the amount of any reasonable loss or expense incurred in complying with the subpoena.
- (2) If an order is made under subrule (1), the Court must fix the amount or direct that it be fixed in accordance with the Court's usual procedure in relation to costs.
- (3) An amount referred to in this rule is separate from and in addition to—
  - (a) any conduct money paid to the addressee; or
  - (b) any witness expenses payable to the addressee.

**Note—**

Sections 35 and 45 of the *Service and Execution of Process Act 1992* (Cth) provide that, when a subpoena is served interstate, the person served is entitled to reasonable expenses incurred in compliance and empowers the Court to make orders for this purpose.

**78—Failure to comply with subpoena—contempt of court**

- (1) An addressee who fails to comply with a subpoena without lawful excuse is in contempt of court and may be dealt with accordingly.
- (2) Despite rule 71(1), if a subpoena has not been served personally on an addressee, the addressee may be dealt with for contempt of court as if the addressee had been so served if it is proved that the addressee had, by the last date for service of the subpoena, actual knowledge of the subpoena and its requirements.
- (3) Subrules (1) and (2) are without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

**79—Documents and things in court custody**

- (1) A party who seeks production of a document or thing in the custody of the Court or of another court may inform the Registrar in writing accordingly, identifying the document or thing.
- (2) If the document or thing is in the custody of the Court, the Registrar must produce the document or thing—
  - (a) in court or to any person authorised to take evidence in the proceeding, as

- required by the party; or
  - (b) as the Court directs.
- (3) If the document or thing is in the custody of another court, the Registrar must, unless the Court has otherwise ordered—
- (a) request the other court to send the document or thing to the Registrar; and
  - (b) after receiving it, produce the document or thing—
    - (i) in court or to any person authorised to take evidence in the proceeding as required by the party; or
    - (ii) as the Court directs.

## Chapter 8—Trial

### Part 1—Evidence

#### 80—Audiovisual link evidence or submissions

- (1) When an order has been made for taking evidence or submissions by audiovisual link, an applicant who no longer requires the evidence or submissions to be taken by audiovisual link is to notify the Registrar immediately.
- (2) Unless the Court otherwise orders, if the Court makes an order under section 59IF of the *Evidence Act 1929*, the amount fixed by the Court under section 59IF of that Act is to be paid by the applicant for the order.

#### 81—Evidence to be taken interstate or overseas

- (1) A request under section 59E(1)(c) of the *Evidence Act 1929* to a foreign court to take evidence is to be in an approved form.
- (2) The party obtaining the order is responsible for all expenses incurred by the Court, or by any person at the request of the Court, in respect of the letter of request to the foreign court.

#### 82—Audiovisual record of evidence

- (1) This rule applies to an audiovisual record of the evidence of a vulnerable or other witness given in a proceeding before the Court.
- (2) An application under section 13C(3) of the *Evidence Act 1929* to take custody of an audiovisual record of the evidence of a vulnerable witness given in a proceeding before the Court for the purpose of a related proceeding—
  - (a) may be made orally at a directions hearing in the proceeding;
  - (b) otherwise is to be made by application under rule 49.
- (3) Subject to any contrary direction by the Court, a party who is authorised by the Court under section 13C(3) of the *Evidence Act 1929* to take custody of an audiovisual record of evidence—
  - (a) will be provided with a duplicate copy of the record;
  - (b) is to use the duplicate record for the sole purpose of the related proceeding in respect of which the authorising order is made;
  - (c) is not to copy or disseminate the duplicate record to any third party; and
  - (d) is to ensure the safekeeping of the duplicate record and to return it to the Court at the conclusion of the related proceeding in respect of which the authorising order is made.
- (4) An application under section 13D of the *Evidence Act 1929* to admit an official record of evidence given in an earlier criminal proceeding in a later proceeding is to be made by application under rule 49.
- (5) If editing of an official record of evidence is required under section 13D(3) of the *Evidence Act 1929*, the party tendering the evidence—

- (a) will be provided with a duplicate copy of the official record and the editing is to be carried out on the duplicate record;
- (b) is to ensure that the edited version is prepared in a form that, if tendered, may be displayed on the Court's audio or audiovisual equipment;
- (c) is to keep all edited versions of the official record in safekeeping; and
- (d) is to return to the Court all edited versions not already in the custody of the Court immediately upon the conclusion of the proceeding.

## Part 2—Exhibits

### 83—Exhibits

- (1) Subject to section 131 of the *Supreme Court Act 1935*, a Judge may at any time make such direction as he or she thinks fit for the custody, disposal or production at the conclusion of the trial of any exhibit.
- (2) Subject to any direction under subrule (1) and subject to the Registrar not having received any notice of appeal, the Registrar may, at the expiration of 28 calendar days after the conclusion of the trial, return any exhibit to the custody of the person who produced it or to the solicitor for the party who tendered it, as may be appropriate, and the person to whom any exhibit is returned is liable for any costs incurred by the Registrar in returning the exhibit.
- (3) Subject to any direction under subrule (1), if a notice of appeal is received by the Registrar before returning the exhibits, the Registrar is to retain the exhibits in custody until required to transmit them to the Full Court.
- (4) Upon the exhibits being returned, the Registrar may deal with the exhibits in accordance with subrule (2).
- (5) If an exhibit is returned while an appeal is pending, the person to whom it is returned is, so far as is practicable having regard to the nature of the exhibit, to keep it marked and labelled as before so that the person may be able to produce the exhibit so marked and labelled at the hearing of the appeal if required to do so.
- (6) If there is an appeal, the Registrar will include the list of exhibits amongst the documents supplied to the proper officer of the Full Court for the purpose of the appeal.

## Chapter 9—Juries

### 84—Interpretation

In this Chapter—

*jury card* means the jury card referred to in section 42 of the *Juries Act 1927*;

*jury pool room* means the place appointed from time to time by the Sheriff for the attendance of the jury pool for a jury district;

*Sheriff* includes the Deputy Sheriff and any other person for the time being performing the functions of the Sheriff under the *Juries Act 1927*;

*sheriff's officer* means an officer appointed by the Sheriff.

### 85—Juror's oath or affirmation

- (1) Before first directing a juror to attend for a criminal trial, the Sheriff is to cause the juror to take an oath or affirmation in the form of Schedule 6 to the *Juries Act 1927*.
- (2) The Sheriff is to cause a record to be made of the taking by each juror of the oath or affirmation. The record is not to be shown or communicated to any person other than a Judge except by leave of a Judge.

### 86—Jury panel

- (1) When a trial of an accused is to commence, the Sheriff is to ensure that a jury panel of not less than 20 jurors attend for the trial.
- (2) When a trial of more than one accused is to commence, the Sheriff is to ensure that a jury panel of not less than 20 jurors plus not less than 3 extra jurors in respect of each additional accused attend for the trial.
- (3) Subject to subrule (4), a copy of the jury panel list giving the number, name, suburb and occupation of the jurors selected by the Sheriff under subrule (1) or (2) will be made available to counsel for the parties or an unrepresented accused by the Sheriff's Officer in court sufficiently early before the jury is empanelled to enable decisions to be made on challenge.
- (4) The Presiding Judge may direct the Sheriff to have information included or removed from the jury panel list for a particular trial.

### 87—Selection of jurors by ballot

- (1) The Associate will conduct the juror ballot by drawing a jury card from the ballot box and reading aloud to the Court the jury number only of the juror selected as shown on the jury card.
- (2) This procedure will continue, allowing for challenges, until 12 jurors, or 12 jurors and any additional jurors, are seated in the jury box.
- (3) After the selection of the jury, the Sheriff's Officer will collect the jury panel list from counsel and from any unrepresented accused.
- (4) The jury panel list is not a public document and is supplied to the parties for the purpose of jury selection only. Subject to any direction of the trial Judge, it ceases

to be available to counsel or the accused after the jury has been selected.

- (5) The cards of the jurors empanelled for a criminal trial are to be kept apart from the cards of all other jurors until a verdict has been given or until such jurors have been discharged.
- (6) A ballot required to be held in accordance with section 6A(2) of the *Juries Act 1927* is to be conducted by drawing at random the number of cards necessary to reduce the number of jurors to 12 from those cards kept apart in accordance with subrule (5).

**88—Jurors in charge of Sheriff or Sheriff's officer**

The Sheriff is to ensure that jurors while in a jury pool room, jury retiring room, courtroom, building in which a courtroom is situated, at a view or proceeding between any of those places are in the charge of the Sheriff or a sheriff's officer.

**89—Non attendance**

If a juror does not attend in obedience to a summons or in compliance with a direction by the Sheriff, the Sheriff is to report the fact to a Judge.



## **Chapter 10—Sentencing**

### **90—Victim impact statements**

- (1) A person wishing to furnish to the Court a victim impact statement under section 7(2a) or 7A of the Sentencing Act or section 269R(3) of the Act is to provide the statement in writing to the Director.
- (2) A copy of the statement is to be provided to the Court and the defence as soon as reasonably practicable after the defendant pleads or is found guilty or the Court declares that the defendant is liable to supervision under Part 8A of the Act.
- (3) The Director may request the Court to—
  - (a) allow an audio or audiovisual record of the person reading the statement to be played to the Court;
  - (b) exercise, in relation to the person making the statement, any power that the Court has with regard to a vulnerable witness;
  - (c) direct that the defendant, or if the defendant is a body corporate a director or other representative of the body corporate satisfactory to the Court, be present when the statement is read or played to the Court.
- (4) The Court may appoint the time when the victim impact statement will be read or played to the Court and may refuse to postpone reading or playing it if the resulting delay would be unreasonable in the circumstances.
- (5) If the person providing the statement is not in court when the Court gives a direction under subrule (4), the Director is to advise the person of the time fixed for reading or playing it.
- (6) The person making the statement may amend it at any time before it is read or played to the Court.
- (7) The Court may direct that irrelevant material in the statement not be read or played to or taken into account by the Court.
- (8) A person may at any time withdraw the statement, in which event it will not be read or played to or taken into account by the Court.

### **91—Community impact statements**

- (1) If the Director or the Commissioner for Victims' Rights wishes to furnish to the Court a community impact statement in a proceeding to determine sentence or to fix a limiting term, he or she is to provide a copy of it to the Court and to the defence upon the accused pleading or being found guilty or upon the Court declaring that the defendant is liable to supervision under Part 8A of the Act.
- (2) The Court will appoint the time at which the statement will be read to the Court and may refuse to postpone its reading if the resulting delay would be unreasonable in the circumstances.
- (3) The statement will not be read out in court if the Court determines that it is inappropriate or if it would be unduly time consuming to do so.
- (4) The Court may direct that irrelevant material in the statement not be read or taken

into account by the Court.

**92—Application to fix non-parole period**

- (1) An application under section 32(3) of the Sentencing Act to fix a non-parole period is to be made by originating application in an approved form.
- (2) The application is to be served—
  - (a) if made by the prisoner—on the Parole Board, the Director and any other person directed by the Court; and
  - (b) if made by Parole Board—on the prisoner, the Director and any other person directed by the Court.

**93—Mental impairment detention**

When the Court makes a supervision order committing the defendant to detention under section 269O of the Act, the warrant to be issued by the Court will be in an approved form.

## **Chapter 11—Statutory applications**

### **94—Mental impairment**

- (1) An application to revoke, vary or revise a supervision order under section 269P or 269U of the Act (other than a telephone application under section 269U(1)) is to be made by originating application in an approved form.
- (2) The application is to be served on the Director, the defendant, the Parole Board and the Public Advocate (other than the applicant) within 5 business days after being filed.
- (3) The Registrar will list the application before the Court and it is to proceed in accordance with any directions given by the Court.
- (4) When an order is made by the Court committing the defendant to detention under section 269P or 269U of the Act, the warrant issued by the Court will be in an approved form.
- (5) When an order is made by the Court committing the defendant to an appropriate form of custody under section 269X(1) or (2) of the Act, the warrant issued by the Court will be in an approved form.

### **95—Dangerous offender declaration**

- (1) An application by the Attorney-General under section 33A(1) of the Sentencing Act to have a person declared a dangerous offender is to be made by originating application in an approved form.
- (2) The application is to be served on the person to whom the application relates, the Director (if the Director is not representing the Attorney-General) and the Commissioner for Victims' Rights within 5 business days after being filed.
- (3) The Registrar will list the application in an arraignment list and it is to proceed in accordance with any directions given by the Court.
- (4) Notice of the date of the hearing required by section 33A of the Sentencing Act is to be in an approved form.
- (5) Without affecting the right of any party to adduce further relevant evidence, the Court may receive any evidence given in a criminal proceeding concerning the person to whom the application relates and may give such weight to that evidence as it thinks fit.

### **96—Detention of person unable or unwilling to control sexual instincts**

- (1) An application by the Attorney-General under section 23(2a) of the Sentencing Act for an order detaining a person in custody until further order is to be made by originating application in an approved form.
- (2) The application is to be served on the person within 5 business days after being filed.
- (3) The Registrar will list the application in an arraignment list and it is to proceed in accordance with any directions given by the Court.
- (4) Without affecting the right of any party to adduce further evidence, the Court may

receive any evidence given in a criminal proceeding concerning the person to whom the application relates and may give such weight to that evidence as it thinks fit.

**97—Suspension of reporting obligations**

- (1) An application to suspend reporting obligations under section 37 of the *Child Sex Offenders Registration Act 2006* is to be made by originating application in an approved form.
- (2) The application is to be accompanied by an affidavit of the applicant that—
  - (a) if the applicant is subject to a child sex offender registration order—specifies the order including the date upon which it was made, the Court that made it, the offence for which the applicant was sentenced when the order was made and, if the applicant is subject to a restraining order under section 99AA of the *Summary Procedure Act 1921*, the terms of that order;
  - (b) if the applicant is not subject to a child sex offender registration order—specifies each sentence imposed on the applicant that has the effect that the applicant is a registrable offender;
  - (c) sets out the grounds upon which the application is made;
  - (d) sets out details of the applicant’s antecedent criminal history;
  - (e) exhibits a report of any expert witness upon whose evidence the applicant relies;
  - (f) exhibits any other documentary evidence upon which the applicant relies; and
  - (g) identifies any other evidence upon which the applicant relies.
- (3) The application and supporting affidavit are to be served on the Commissioner of Police within 5 business days after being filed.
- (4) The Registrar will list the application in an arraignment list and it is to proceed in accordance with any directions given by the Court.
- (5) The Court may, on the application of the Commissioner of Police, direct that the applicant submit to examination by a medical practitioner registered under the *Health Practitioner Regulation National Law* or another person as the Court directs, and may obtain from any such practitioner or other person such report relating to an issue arising in relation to the application as the Court thinks fit.
- (6) If the applicant fails to comply with a direction to submit to an examination, the Court may stay the hearing of the application until the applicant complies with that direction.

**98—Confiscation orders**

- (1) This rule applies to proceedings instituted in the criminal jurisdiction of the Court under the *Proceeds of Crime Act 2002* (Cth) or the *Criminal Assets Confiscation Act 2005* (the **Confiscation Acts**).
- (2) A party may initiate a proceeding under the Confiscation Acts in the Court’s criminal jurisdiction—

- (a) if there is a criminal proceeding underway against the person to whom the application relates for an offence upon which the confiscation application relies—by a written application under rule 49 in that proceeding; or
  - (b) otherwise—by originating application in an approved form.
- (3) An application—
  - (a) under subrule (2)(a) will proceed in accordance with directions given by the Court on a directions hearing;
  - (b) under subrule (2)(b) will be listed by the Registrar before the Court and is to proceed in accordance with directions given by the Court.
- (4) Without affecting the right of any party to adduce further evidence, the Court may receive any evidence given in a criminal proceeding concerning the person to whom the application relates and may give such weight to that evidence as it thinks fit.
- (5) Subject to the Confiscation Acts, the Court may direct that an application under the Confiscation Acts in the criminal jurisdiction of the Court be transferred to the civil jurisdiction of the Court, and in that event the application will be governed by the Civil Rules.

## Chapter 12—Bail reviews

### 99—Application of Chapter

This Chapter applies to the review in the Supreme Court of bail decisions under Part 4 of the *Bail Act 1985* or under Part 5 of the *Service and Execution of Process Act 1992* (Cth).

### 100—Application for review

- (1) An application for review of a decision of a bail authority under section 14(2)(a) of the *Bail Act 1985* is to be made by originating application in an approved form.
- (2) An application for review of a decision of a Magistrate on a review of a decision of a bail authority under section 15A(1) and for permission under section 15A(3) of the *Bail Act 1985* is to be made by originating application in an approved form.
- (3) An application for review of a decision of a Magistrate under section 86 of the *Service and Execution of Process Act 1992* (Cth) is to be made by originating application in an approved form.

**Note—**

Section 86(2) of the *Service and Execution of Process Act 1992* (Cth) requires the application for review to be brought within 7 days after the making of the order.

- (4) The application is to be supported by an affidavit setting out or exhibiting—
  - (a) the decision subject to the review;
  - (b) the reasons given by the bail authority and, when applicable, by the bail review authority;
  - (c) the grounds for the review; and
  - (d) when permission is required under section 15A(3) of the *Bail Act 1985*—the grounds for the grant of permission.
- (5) Except with the permission of the Court, the applicant for review is not to use an affidavit on the hearing of the review unless it was filed with the application.
- (6) The Registrar will endorse on the application the time and place for the hearing of the review and transmit the duplicate copy to the applicant.
- (7) Subject to section 16 of the *Bail Act 1985*, an application for review does not operate as a stay of the orders made under the decision subject to review unless the Court so orders.
- (8) An application for extension of the period of deferral under section 16(2)(a) of the *Bail Act 1985* is to be made by an application under rule 49.
- (9) An application for a suppression order under section 96 of the *Service and Execution of Process Act 1992* (Cth) is to be made by an application under rule 49.

**Note—**

An appeal against a decision in relation to a suppression order under the *Service and*

*Execution of Process Act 1992* (Cth) lies as of right under section 101 of that Act except as provided by the *Judiciary Act 1903* (Cth).

#### **101—Service of application**

- (1) The application and affidavit in support are to be served as soon as practicable on—
  - (a) the other parties to the proceeding in which the bail decision was made;
  - (b) the registrar of the court or other bail authority who made the original bail decision;
  - (c) the registrar of the court that was the bail review authority when applicable; and
  - (d) any other person whom the Registrar considers to be an interested party.
- (2) Unless the Registrar endorses on the application that the applicant is to effect service, the Registrar will effect service of the documents to be served under subrule (1).

#### **102—Transmission of bail authority file**

If an application for review is made and the Registrar makes a written request to the bail authority or bail review authority, that authority is to send to the Registrar immediately the file and all other documents relevant to the review, including any reasons under section 12(1), 14 or 15(1) of the *Bail Act 1985* or section 83 of the *Service and Execution of Process Act 1992* (Cth) (as the case may be), together with a certificate that such file and other documents are those relevant to the review.

#### **103—Hearing of application for review**

- (1) Unless the Court otherwise directs—
  - (a) the application is to be heard in open court;
  - (b) a person in custody is to appear by audiovisual link; and
  - (c) all evidence is to be given by affidavit.
- (2) A party who objects to the use of an audiovisual link for the hearing is to give notice of objection in writing in accordance with rule 36(2)(b).
- (3) Rules 36(2)(b) and (3) apply to the hearing and determination of a notice of objection.

#### **104—Determination of application for review**

- (1) When upon a review the Court releases a person on bail, the Court may direct that the Registrar or another officer of the Court take the bail agreement in the terms ordered and thereupon release the applicant on bail.
- (2) Upon completion of a review, the Registrar may return the file and any documents received under rule 102 to the person who transmitted them except documents required as court records.

## Chapter 13—Appellate proceedings

### Part 1—Introduction

#### 105—Application of Chapter

- (1) Subject to subrule (3), this Chapter applies to all appeals to or jurisdiction exercised by the Full Court of the Supreme Court in the exercise of its criminal jurisdiction.
- (2) In particular, these Rules and this Chapter apply to—
  - (a) appeals against a judgment, sentence or decision by a Judge of the Supreme Court or District Court exercising criminal jurisdiction;
  - (c) appeals under section 22(2)(d) of the *Youth Court Act 1993* against a judgment, sentence or decision by a Judge of the Youth Court exercising criminal jurisdiction under the *Young Offenders Act 1993* other than an interlocutory judgment;
  - (d) appeals under section 42(2)(ab) of the *Magistrates Court Act 1991* or section 22(2)(ba) of the *Youth Court Act 1993* against a sentence for a major indictable offence by a Magistrate exercising criminal jurisdiction under section 9(ab) of the *Magistrates Court Act 1991* or section 14(2a) of the *Youth Court Act 1993*;
  - (e) reservations of questions of law under section 350 of the Act;
  - (f) references of the whole case or a point on a petition for mercy under section 369 of the Act; and
  - (g) applications to establish or review a sentencing guideline under section 29B of the Sentencing Act.
- (3) These Rules and this Chapter do not apply to appeals to the Full Court against a judgment of a single Judge on appeal from a decision of a Magistrate exercising criminal jurisdiction.

#### 106—Interpretation

- (1) In this Chapter—

**antecedent decision** means a decision on an issue antecedent to trial within the meaning of section 352(1)(b) or (c) of the Act;

**appeal**

  - (a) incorporates the substantive appeal as well as any application for permission to appeal and any application for an extension of time for commencing the appeal;
  - (b) includes a second appeal;
  - (c) includes any other application dealt with in this Chapter other than under Part 3;

**appellant** means a person who is given a right to appeal or apply for permission to



appeal or make any other application dealt with in this Chapter;

**appellate proceeding** means an appeal to or other matter in which jurisdiction is exercised by the Full Court governed by this Chapter;

**court of trial** means the court from which the appeal lies;

**decision** includes an antecedent decision and a sentencing decision;

**exhibits** means all documents, electronic records and other things admitted into evidence or marked for identification at trial;

**judgment** means—

- (a) a conviction and includes a finding of guilt without recording a conviction;
- (b) an acquittal;
- (c) a decision whether to make a declaration that the defendant is liable to supervision under Part 8A of the Act; or
- (d) a key decision within the meaning of section 269Y(4) of the Act;

**respondent** means the person who undertakes the defence of the appeal;

**second appeal** means a second or subsequent appeal against conviction under section 353A of the Act;

**sentence** means—

- (a) a sentence within the meaning of the Sentencing Act;
- (b) a decision whether to make an order for payment of a pecuniary sum within the meaning of the Sentencing Act or for restitution;
- (c) a decision whether to make a serious repeat offender or recidivist young offender declaration under Part 2 Division 2A of the Sentencing Act;
- (d) a decision whether to make a child sex offender registration order under section 9 of the *Child Sex Offenders Registration Act 2006*; and
- (e) a decision whether to make any other order against a person convicted or found guilty of an offence other than a sentencing decision.

**Sentencing Act** means the *Criminal Law (Sentencing) Act 1988*;

**sentencing decision** means—

- (a) a decision whether to make a dangerous offender declaration and order negating the non-parole period under section 33A(9) of the Sentencing Act;
- (b) a decision whether to make, extend or discharge an order for detention or an order for release on licence under Part 2 Division 3 of the Sentencing Act;
- (c) an order under section 269O of the Act; and
- (d) a decision of the Court to defer sentencing under section 352(1)(a)(iii) of the Act;

**trial Judge** means the Judge who presided in the court of trial and includes the Judge who made a decision on an issue antecedent to trial and the Judge who passed sentence.

## **Part 2—Commencement of appeal**

### **107—Time for appeal**

- (1) Subject to any statute or rule to the contrary and to subrule (2), an appeal is to be commenced within 21 calendar days after the date of the judgment, sentence or sentencing decision subject to the appeal.
- (2) An appeal by the Director under section 352(1)(a)(iii) and 352(2) of the Act is to be commenced within 5 business days after the grant to the defendant of permission to appeal under section 352(1)(a)(iii) of the Act.

### **108—How to commence appeal**

- (1) An appeal is commenced by filing a notice of appeal.
- (2) A notice of appeal—
  - (a) is to contain the appellant's address for service within the State of South Australia;
  - (b) is to identify the judgment, sentence or decision subject to the appeal;
  - (c) is to state in detail the grounds of the appeal;
  - (d) is to state the orders sought by the appellant on the appeal;
  - (e) if the appeal is of a kind for which permission to appeal is necessary—
    - (i) is to include a request for the necessary permission; or
    - (ii) if the appellant has obtained a certificate of the trial Judge under section 352(1)(a)(ii) of the Act—is to attach the certificate; and
  - (f) if an extension of time for commencing the appeal is necessary—is to include an application for the necessary extension of time.
- (3) A notice of appeal is to be in an approved form.

### **109—Petition for mercy**

When the Attorney-General refers the whole case on a petition of mercy to the Full Court under section 369(1)(a) of the Act, the case is to be heard and determined as if it were an appeal by the petitioner and permission to appeal had been granted.

### **110—Notification of appeal**

- (1) Subject to subrule (2), within 5 business days after filing a notice of appeal, the appellant is to serve notification of the appeal in an approved form attaching a copy of the notice of appeal and any document filed with the notice of appeal on—
  - (a) the respondent to the appeal; and
  - (b) if the appeal is from another court—the proper officer of the court of trial.
- (2) When the appeal is instituted by the defendant, the Registrar will serve the documents required by subrule (1) to be served.

**111—Address for service**

- (1) The appellant's address for service will be the address for service shown in the notice of appeal.
- (2) If the appellant's address for service changes, the appellant is to file and serve on the respondent a new address for service in an approved form, which becomes the appellant's address for service thereafter.
- (3) Unless the respondent is the Director, the respondent is to file and serve on the appellant a notice of acting and address for service in an approved form within 5 business days after the date of the notice of appeal.
- (4) If the respondent's address for service changes, the respondent is to file and serve on the appellant a new address for service in an approved form, which becomes the respondent's address for service thereafter.
- (5) A document to be served on a party under these Rules may be served at the party's address for service.

**Part 3—Effect of filing notice of appeal****112—Custody of exhibits**

- (1) Subject to any direction by the Court, on receipt of a notice of appeal under this rule, the proper officer of the court of trial is to transmit to the Registrar—
  - (a) the information or other document initiating the proceeding;
  - (b) the exhibits and any documents marked for identification;
  - (c) the transcript of the hearing;
  - (d) the judgment, sentence or decision subject to the appeal and reasons given for it; and
  - (e) any other document requested by the Registrar.
- (2) The Registrar may direct that a document required to be transmitted by the proper officer of the court of trial to the Registrar be transmitted in electronic form.

**113—Certificate of conviction**

No certificate of conviction of any person is to be issued by the court of trial—

- (a) for 28 calendar days after the conviction and sentence in case there is to be an appeal; and
- (b) while an appeal against conviction or sentence in respect of that person is pending.

**Part 4—Reservation of question for Full Court****114—Application for permission to apply to reserve question**

An application under section 350(6)(b)(ii) of the Act for permission of the Supreme Court to make an application to the Full Court for an order that a court refer a relevant question to the Full Court for consideration and determination is to be made by originating application in an approved form.

**115—Reservation of question**

- (1) An application by—
  - (a) the Attorney General or the Director under section 350(5) and (6)(a) of the Act; or
  - (b) any other person under section 350(6)(b) of the Act who has obtained permission under section 350(6)(b)(ii) of the Act,for an order by the Full Court requiring a court to refer a relevant question to the Full Court for consideration and determination is to be made by originating application in an approved form.
- (2) Unless the Court otherwise directs, the proper officer of the court of trial by or in respect of which a question is reserved for determination by the Court under sections 350 and 351 of the Act is to forward to the Registrar—
  - (a) the information or other document initiating the proceeding;
  - (b) the exhibits and documents marked for identification;
  - (c) the transcript of the hearing;
  - (d) any other document,identified by the trial Judge as necessary to be considered by the Full Court in relation to the question reserved.
- (3) The Registrar may direct that a document required to be transmitted by the proper officer of the court of trial to the Registrar be transmitted in electronic form.

**116—Application for sentencing guideline**

An application under section 29B of the Sentencing Act to establish or review a sentencing guideline is to be made by originating application in an approved form.

**117—Reference on petition for mercy**

Unless the Court otherwise orders, when the Attorney-General refers a point to the Judges of the Supreme Court under section 369(1)(b) of the Act, the reference is to be heard and determined by the Full Court in the same manner as a reservation of a relevant question under section 350 of the Act.

**Part 5—Permission to appeal****118—Certificate of trial Judge**

- (1) A certificate of the trial Judge under section 352(1)(a)(ii) of the Act will be in an approved form and is to be filed with the notice of appeal.
- (2) A certificate may be given—
  - (a) without any application being made by the person convicted; or
  - (b) on the application in writing of the person convicted within 14 calendar days after the date of conviction.

**119—Hearing by single Judge**

- (1) All applications—

- (a) for permission to appeal;
- (b) for an extension of time in which to appeal;
- (c) for bail pending the hearing and determination of an appeal;
- (d) to appear before the Court in person at the hearing of an appeal; or
- (e) that otherwise may be heard by a single Judge under section 48(3) of the *Supreme Court Act 1935*,

will in the first instance be heard and determined by a single Judge.

- (2) Unless the Court otherwise directs, if a person in custody is to appear at the hearing of an application under this rule, the person will appear by audiovisual link. Rules 35 and 36 apply to all such hearings.
- (3) If the Judge considers that an application or part of an application should be referred to the Full Court, the Judge may, without otherwise disposing of the application, make an order accordingly, in which case the application or that part of the application will be referred to the Full Court in accordance with rule 120.
- (4) No order refusing an application under this rule will be made without the applicant being afforded an opportunity to present oral argument in open court or by audiovisual link in support of the application.
- (5) If the Judge refuses the application in whole or in part, the Registrar will notify the applicant of the decision of the Judge by notice in an approved form.
- (6) A Judge hearing an application under this rule may receive and hear evidence for the purpose of determining the application.

#### **120—Referral of application to Full Court**

- (1) If a Judge refuses an application by an applicant in whole or in part under rule 119, the applicant may request that the application or the part of the application that was refused be referred to the Full Court.
- (2) Any such request by the applicant is to be made within 5 business days after the date of the notice referred to in rule 119(5) by filing an application in an approved form.
- (3) If a Judge orders that the whole or part of an application or part be referred to the Full Court under rule 119(3), it will be dealt with in accordance with this rule.
- (4) Unless the Court otherwise orders, when an application for permission to appeal or for an extension of time to appeal is referred to the Full Court in accordance with this rule, it will be heard at the same time as the merits of the appeal.
- (5) Unless the Court otherwise orders, the Full Court will hear and determine in private any request for bail pending an appeal or for the applicant to appear before the Court in person at the hearing of an appeal and the applicant will be notified of the decision in an approved form.

## **Part 6—Preparation for hearing of appeal**

### **121—Service of documents and notification of directions**

- (1) When the Registrar receives a document filed by a party or to be provided to the parties under this Part, the Registrar will serve a copy of the document on the other parties to the appeal.
- (2) Except when otherwise provided in these Rules, when notice of an order or direction is to be given, it will be given by the Registrar to all parties.

### **122—Witnesses before Full Court**

- (1) An application under section 359(b) of the Act for an order requiring a witness to be examined for the purpose of the appeal is to be in an approved form.
- (2) The application is to identify—
  - (a) the name and address of the witness;
  - (b) the grounds upon which it is sought to have the witness examined; and
  - (c) upon what matters it is proposed to examine the witness.
- (3) Unless the Court otherwise directs, the application is to be filed with the notice of appeal.
- (4) Upon the hearing of an appeal or application for permission to appeal to which section 359 of the Act applies, the Court may give such directions as it thinks fit as to the sealing and service upon any person of any subpoena or order made under section 359(b) of the Act and as to the procedure to be followed for the examination of a witness pursuant to that section.

### **123—Report of trial Judge**

- (1) When a notice of appeal has been filed, the Registrar will enquire of the trial Judge whether the Judge wishes to provide a report in writing giving his or her opinion upon the case or upon any point arising in the case.
- (2) When the grounds of appeal under a notice of appeal have been settled, the Registrar will enquire of the trial Judge whether the Judge wishes to provide a report in writing giving his or her opinion upon the case or upon any point arising in the case.
- (3) The Registrar will in every such case provide the trial Judge with a copy of the notice of appeal together with all such documents and information as the Judge may require.
- (4) The trial Judge may, and if requested by the Full Court or a Judge considering an application for permission to appeal shall, provide a report to the Full Court.
- (5) Upon receipt of a report from the trial Judge, the Registrar will provide a copy of the report to the appellant and respondent.

### **124—Preparation of appeal book**

- (1) The Registrar will determine the contents of the appeal book for the use of the Full Court subject to any directions by the Court.

- (2) The appeal book will be prepared by the Registrar free of charge.

**125—Discontinuance of appeal**

- (1) An appellant may discontinue an appeal by filing a notice of discontinuance in an approved form.
- (2) Upon a notice of discontinuance being filed, the appeal will be deemed to have been dismissed by the Full Court.
- (3) A notice of discontinuance may be withdrawn by permission of the Full Court.

**Part 7—Hearing and determination of appeal****126—Hearing of appeal**

- (1) Unless the Court otherwise orders, at the hearing of the appeal, the Full Court will hear any application for permission to appeal or for an extension of time for commencing the appeal referred to the Full Court under rule 119 or 120 at the same time as hearing the merits of the appeal.
- (2) Unless the Court otherwise directs, if a person in custody is to appear at the hearing of an appeal or application for permission to appeal under this rule, the person will appear by audiovisual link, unless the appeal is not on a ground of law alone and the person requests to attend in person.
- (3) Subject to any limitation on its powers arising apart from these Rules, the Full Court may determine an appeal as the justice of the case requires despite the failure of parties to the appeal to raise relevant grounds of appeal, or to state grounds of appeal appropriately, in the notice of appeal.
- (4) When an appellant is not present at the hearing of the appeal by reason of the appellant's escape from custody or breach of a bail agreement, the Full Court may—
  - (a) summarily dismiss the appeal;
  - (b) consider the appeal in the appellant's absence; or
  - (c) make such other order as the Court thinks fit.

**127—Notifying result of appeal**

On the final determination of an appeal, the Registrar will give notice of the determination in an approved form to the appellant, the respondent, the court of trial and such other persons as the Registrar considers appropriate.

## Chapter 14—Contempt of Court

### Part 1—Contempt committed in face of Court

#### 128—Contempt committed in face of Court

- (1) If a contempt is committed in the face of the Court and it is necessary to deal urgently with it, the Court may—
  - (a) if the person alleged to have committed the contempt (the *accused*) is within the precincts of the Court—order that the accused be taken into custody; or
  - (b) issue a warrant to have the accused arrested and brought before the Court to be dealt with on a charge of contempt.
- (2) The Court must formulate a written charge containing reasonable details of the alleged contempt and have the charge served on the accused when, or as soon as practicable after, the accused is taken into custody.

### Part 2—Court initiated proceedings for contempt—other cases

#### 129—Court initiated proceedings for contempt—other cases

- (1) If the Court decides on its own initiative to deal with a contempt of the Court, the Court will require the Registrar to formulate a written charge containing reasonable details of the alleged contempt.
- (2) The Registrar will then issue a summons requiring the person alleged to have committed the contempt (the *accused*) to appear before the Court at a nominated time and place to answer the charge.
- (3) The Court may issue a warrant to have the accused arrested and brought before the Court to answer the charge if—
  - (a) there is reason to believe that the accused will not comply with a summons; or
  - (b) a summons has been issued and served but the accused has failed to appear in compliance with it.

### Part 3—Contempt proceedings by party to proceeding

#### 130—Contempt proceedings by party to proceeding

- (1) A party to a proceeding who claims to have been prejudiced by a contempt of the Court committed by another party, a witness or another person in relation to the proceeding may apply to the Court to have the accused charged with contempt.
- (2) The application is to—
  - (a) be made as an application for directions under rule 49; and
  - (b) include details of the alleged contempt.
- (3) The application may be made without notice to the accused or other parties but the Court may direct the applicant to give notice of the application to the accused or



the other parties (or both).

- (4) If the Court is satisfied on an application under this rule that there are reasonable grounds to suspect the accused of the alleged contempt, subject to subrule (7), the Court may require the Registrar to formulate a written charge containing reasonable details of the alleged contempt.
- (5) The Registrar will then issue a summons requiring the accused to appear before the Court at a nominated time and place to answer the charge.
- (6) The Court may issue a warrant to have the accused arrested and brought before the Court to answer the charge if—
  - (a) there is reason to believe that the accused will not comply with a summons; or
  - (b) a summons has been issued and served but the accused has failed to appear in compliance with it.
- (7) Despite subrule (4), the Court may, if satisfied that there are reasonable grounds to suspect the accused of the alleged contempt, grant permission to the applicant to issue a summons requiring the accused to appear before the Court at a nominated time and place to answer the charge and, in that event, the applicant—
  - (a) must, within the time fixed by the Court, issue and serve a summons in an approved form requiring the accused to appear before the Court at the nominated time and place to answer the charge;
  - (b) must be named as the prosecuting party in the summons;
  - (c) will have the carriage of the prosecution of the charge;
  - (d) must prosecute the charge at its own expense and satisfy any costs orders made in favour of the accused;
  - (e) must comply with any direction of the Court in relation to the prosecution of the charge.

## **Part 4—Hearing of charge of contempt**

### **131—Charge to be dealt with by Judge**

A charge of contempt is to be dealt with by the Court constituted of a single Judge.

#### **Exception—**

If the contempt is a contempt of the Full Court, the Full Court may itself deal with the charge.

### **132—Procedure on charge of contempt**

- (1) Apart from those cases to which rule 130(7) applies, the Registrar will have carriage of the prosecution of a charge of contempt, and the Registrar may retain solicitors and counsel for that purpose.
- (2) In relation to a proceeding for contempt that was initiated by an application under rule 130(1), the Court may direct the applicant to indemnify the Registrar in respect of the costs incurred by the Registrar or ordered to be paid by the

Registrar.

**Note—**

This right of cost recovery is additional to that contained in Rule 133(3).

- (3) The Court will deal with a charge of contempt as follows—
  - (a) the Court will hear relevant evidence for and against the charge from the prosecutor and the accused;
  - (b) the Court may, on its own initiative, call witnesses who may be able to give relevant evidence;
  - (c) at the conclusion of the evidence, the Court will allow the prosecutor and the accused a reasonable opportunity to address the Court on the question whether the charge has been established;
  - (d) if, after hearing the evidence and representations from the prosecutor and the accused, the Court is satisfied beyond reasonable doubt that the charge has been established, the Court will find the accused guilty of the contempt;
  - (e) the Court will, if it finds the accused guilty of the contempt, allow the prosecutor and the accused a reasonable opportunity to make submissions on penalty;
  - (f) the Court will then determine and impose penalty.
- (4) A witness called by the Court may be cross-examined by the prosecutor and the accused.
- (5) In a proceeding founded on a charge of contempt—
  - (a) the Court—
    - (i) may exercise with respect to the charge any of the powers that it has with respect to a charge of an indictable offence; and
    - (ii) may exercise with respect to the accused any of the powers that it has in relation to a person charged with an indictable offence; and
  - (b) evidence may be received by way of affidavit if the accused does not require attendance of the witness for cross-examination.

### **133—Punishment of contempt**

- (1) The Court may punish a contempt by a fine or imprisonment (or both).
- (2) If the Court imposes a fine, the Court may fix—
  - (a) the time for payment of the fine; and
  - (b) a term of imprisonment in default of payment of the fine.
- (3) The Court may order a person who has been found guilty of a contempt to pay the costs of the proceeding for contempt.
- (4) The Court may release a person who has been found guilty of a contempt on the person entering into an undertaking to the Court to observe conditions determined by the Court.

- (5) The Court may, on its own initiative or on application by an interested person, cancel or reduce a penalty imposed for a contempt.
- (6) An order for the imposition of a penalty for a contempt, or for the cancellation of a penalty imposed for a contempt may be—
  - (a) made on conditions the Court considers appropriate; and
  - (b) suspended on conditions the Court considers appropriate.
- (7) The Court may, on its own initiative or on application by the Registrar—
  - (a) cancel the release of a person who has been released under subrule (4) for breach of a condition of the undertaking; and
  - (b) issue a warrant to have the person arrested and brought before the Court to be dealt with for the original contempt.
- (8) The Registrar, if so directed by the Court, must make an application under subrule (7).

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this .....25<sup>th</sup> ..... day of .....August.....2014.

**C KOURAKIS, CJ**

**T. A. GRAY, J**

**J. R. SULAN, J**

**A. M. VANSTONE, J**

**M. DAVID, J**

**P. KELLY, J**

**D. H. PEEK, J**

**M. F. BLUE, J**

**T. L. STANLEY, J**

**K. G. NICHOLSON, J**

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**South Australia**

**Supreme Court Criminal Supplementary Rules**

**2014**

**By virtue and in pursuance of Section 72 of the Supreme Court Act 1935 and all other enabling powers, we, Judges of the Supreme Court of South Australia, make the following Supreme Court Criminal Rules 2014.**

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## Chapter 1—Preliminary

### Part 1—Formal provisions

#### 1—Citation

- (1) These Supplementary Rules may be cited as the *Supreme Court Criminal Supplementary Rules 2014*.
- (2) These Supplementary Rules supplement the *Supreme Court Criminal Rules 2014*.
- (3) These Supplementary Rules follow the Chapter and Part headings of the *Supreme Court Criminal Rules 2014*.

#### 2—Commencement

These Supplementary Rules commence on 1 October 2014.

### Part 2—Objects

[no supplementary rules]

### Part 3—Interpretation

#### 3—Interpretation

- (1) Unless the contrary intention appears, expressions in these Supplementary Rules have the same meaning as in the Rules.
- (2) In these Supplementary Rules, unless the contrary intention appears—  
*FDN* means the file document number when the Registrar elects to allocate a file document number to a document filed with the Court;  
the *Rules* means the *Supreme Court Criminal Rules 2014*;  
the *Supplementary Rules* means the *Supreme Court Criminal Supplementary Rules 2014*.
- (3) Unless the contrary intention appears, rule 5 of the Rules applies to the calculation of time under these Supplementary Rules.

### Part 4—Application of Rules

#### 4—Application of Supplementary Rules

These Supplementary Rules apply to the exercise by the Court of its original and appellate criminal jurisdiction, except appeals to a single Judge.

### Part 5—Repeal and transitional provisions

#### 5—Repeal and transitional provision

- (1) Unless the Court otherwise directs, these Supplementary Rules apply to—
  - (a) proceedings commenced on or after the commencement date; and

- (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) All practice directions and practice notes made before the commencement date, insofar as they applied to the criminal jurisdiction, are superseded by these Supplementary Rules.
- (3) The Court may give directions about which rule is to apply to a transitional proceeding or a particular step in a transitional proceeding.

## **Chapter 2—General procedural rules and allocation of Court business**

### **Part 1—Sittings**

*[no supplementary rules]*

### **Part 2—Public access to hearings**

*[no supplementary rules]*

### **Part 3—Court's control of procedure**

*[no supplementary rules]*

### **Part 4—Distribution of Court's business**

*[no supplementary rules]*

### **Part 5—Representation**

#### **6—Notice of acting and address for service**

- (1) A notice of acting and address for service under rule 18(3)(c) of the Rules is to be in form 5A.
- (2) A notice of acting and address for service under rule 18(4)(b) of the Rules is to be in form 5A.
- (3) A notice of acting in person and address for service by a party under rule 18(4)(a) of the Rules is to be in form 5B.

## **Chapter 3—Initiation of criminal proceedings**

### **Part 1—Information**

#### **7—Information**

- (1) An information under rule 21(1) of the Rules is to be in form 3.
- (2) A notice of prescribed proceedings under rule 23(1) of the Rules is to be in form 4.

### **Part 2—Arraignment**

#### **8—Timing of arraignment and listing of trials**

- (1) Persons committed for trial or sentence in Adelaide, whether in custody or on bail, are to appear before the Court on the first business day of the first week after the expiration of 28 calendar days from their committal for trial or sentence.
- (2) Persons committed for trial or sentence at a place other than Adelaide, whether in custody or on bail, are to appear before the Court on the second business day of the first week of the next sittings after the expiration of 28 calendar days from their committal for trial or sentence.
- (3) Despite paragraphs (1) and (2), a Judge may direct that a person committed for trial or sentence is to appear before the Court at an earlier or later date.

#### **9—Procedure at arraignment**

- (1) Subject to paragraph (2), on a plea of not guilty at arraignment, or if there is to be a disputed facts hearing, the matter will usually be remanded to a directions hearing approximately 4 to 6 weeks thereafter.
- (2) In proceedings in which a sexual offence against a child is alleged, on a plea of not guilty at arraignment, or if there is to be a disputed facts hearing, the matter will usually be remanded to a directions hearing within 4 weeks.
- (3) On a plea of guilty at arraignment, or on matters committed for sentence, a later date will usually be set for submissions on sentence.
- (4) If, between arraignment and the first directions hearing, it is agreed that a matter is to be a plea of guilty, the parties are to arrange with the Registrar to place the matter into an arraignment list and for the directions hearing to be vacated.

### **Part 3—Listing for trial and disposition of cases**

#### **10—Disposition of cases**

- (1) The system of case flow management will be administered with the aims that—
  - (a) cases for trial are disposed of or come to trial within 6 months after first arraignment and in any event by no later than 12 months after first arraignment; and

- (b) cases committed for sentence are disposed of or sentenced within 4 months after first appearance in Court.
- (2) The system of case flow management in proceedings in which a sexual offence against a child is alleged will be administered with the aims that—
  - (a) cases for trial are disposed of or come to trial in Adelaide within 4 months after first arraignment and in Port Augusta and Mount Gambier within 6 months after first arraignment; and
  - (b) cases committed for sentence are disposed of or sentenced within 4 months after first appearance in Court.

#### **11—Listing of trials**

- (1) Unless there are exceptional circumstances, on a plea of not guilty the Court will give the matter a date for trial or disputed fact hearing at the first directions hearing.
- (2) In proceedings in which a sexual offence against a child is alleged—
  - (a) if the proceeding is to be heard at Adelaide, at the first directions hearing the Court will fix a date for trial or disputed facts hearing within the next 3 months;
  - (b) if the proceeding is to be heard at Port Augusta or Mount Gambier, it will be given a date for trial or disputed fact hearing within 6 months of first arraignment.
- (3) Counsel accepting a brief to appear in a proceeding in which a sexual offence against a child is alleged should do so on the basis that they will be able to appear at the trial or hearing within 4 months or 6 months, as the case requires, of first arraignment.
- (4) When a matter is listed for trial, a date will usually be set for a directions hearing before trial so that parties can report on the status of the matter and obtain pre-trial ancillary orders if needed.

## **Chapter 4—Documents, service and hearings generally**

### **Part 1—Documents**

#### **12—Approved forms**

- (1) The forms in the Schedule to these Supplementary Rules are approved forms.
- (2) A proceeding heading is to be in form 1 and used on all documents in respect of which a front sheet is not required.
- (3) A front sheet is to be in form 2 and used on all documents to be filed or lodged by a party in Court. The text of the document itself is to start on a fresh page.
- (4) The Registrar may allocate an FDN to a document filed by a party in Court.

#### **13—Form of documents**

- (1) Unless these Supplementary Rules otherwise provide or the Registrar otherwise directs, a document prepared for filing or lodgment in Court is to—
  - (a) be in the English language;
  - (b) be on A4 size white bond paper;
  - (c) be paginated;
  - (d) be typed or printed so as to be completely legible in no less than size 12 font except for quotations and footnotes which may be in size 10 font;
  - (e) have margins of 4 centimetres to the left and 2 centimetres to the right;
  - (f) have one and a half spacing between lines (unless the document is to be settled by the Court, in which case double spacing is to be used);
  - (g) have double spacing between paragraphs;
  - (h) have figures and amounts of money expressed in numerals and not in words; and
  - (i) have any erasures or handwritten additions authenticated.
- (2) Unless the Court otherwise directs, a document prepared for filing or lodging in Court is to be typed or printed—
  - (a) on a single side of the page if it is an original affidavit or statutory declaration (including the exhibits to an affidavit or annexures to a statutory declaration); and
  - (b) otherwise on both sides of the page if it is any other document.
- (3) If the Registrar is satisfied that a self-represented litigant is unable to comply with one or more of the above requirements, the Registrar may accept a document for filing, provided that it is legible and able to be filed conveniently.
- (4) When there is substantial non-compliance with this supplementary rule, the Registrar may refuse to accept a document for filing.

#### **14—Original of affidavit**

- (1) An affidavit filed or produced in Court is to be an original bearing the original signature of the deponent and not a copy. A lawyer or self-represented party

lodging or producing an affidavit to the Court impliedly undertakes to the Court that the signatures on the documents are originals and not copies.

- (2) In a case of urgency when it is impracticable for a lawyer to obtain the original of the affidavit before a hearing, the lawyer may swear an affidavit exhibiting a copy of that affidavit. A lawyer swearing such an affidavit impliedly undertakes to the Court that the lawyer will file the original of the affidavit immediately upon receipt.

#### **15—Form of affidavit**

- (1) An affidavit is to state that the deponent is speaking of his or her own knowledge except when a statement is made in accordance with paragraph (2).
- (2) An affidavit made for the purpose of an application or hearing other than the trial or final hearing of a criminal proceeding or with the Court's permission may contain statements that the witness honestly believes to be true if the witness also states the source and grounds of the belief.

**Note—**

A statement to the effect, "I know the facts deposed herein from my own knowledge except where otherwise appears", without properly identifying the sources and grounds of information and belief, is unacceptable.

- (3) The address of a deponent in an affidavit may be a business address provided it is a place where the deponent may usually be found during normal working hours.
- (4) Each page of an affidavit is to be signed by the deponent and the witness and dated.

#### **16—Exhibits to affidavit**

- (1) An affidavit (including an affidavit of service) that refers to a document already on the court file or part of the court record in a proceeding or a related proceeding is not to exhibit that document but is to describe the document by reference to its FDN when applicable and proceeding number or another indication where it is to be found on the court file. The object of this supplementary rule is that a document should appear only once on a court file or set of related court files.
- (2) Unless a lawyer forms the view that there is good reason not to, documents comprising a sequence of correspondence between the same or related persons and other documents comprising a sequence of a similar kind are to be made a single exhibit instead of being marked as separate exhibits.

#### **17—Binding of affidavit and exhibits**

- (1) If an affidavit with exhibits—
  - (a) comprises 50 or more pages (including the body of the affidavit and its exhibits but excluding front sheets); or
  - (b) includes 5 or more exhibits,the exhibits are to be bound together into a volume or volumes with or separate from the body of the affidavit.

- (2) In respect of an affidavit to which paragraph (1) applies—
  - (a) each volume is to be paginated and contain an index showing the page at which each exhibit commences;
  - (b) each exhibit is to be clearly marked with its exhibit designation and tagged so that its commencement can be seen without opening the volume;
  - (c) the binding is to be of an appropriate size and allow the volume to lie flat when opened at any page;
  - (d) each volume (with any binding) is to be no more than 3 centimetres thick;
  - (e) the authorised person before whom the affidavit is made is to make a single certification that exhibits in the bundle are the exhibits produced by the deponent when making the affidavit;
  - (f) the certification is to be made on the front sheet of the volume of exhibits and, if there is more than one volume, is to be reproduced and included as a front sheet on each volume together with an index of the exhibit numbers contained in each volume.
- (3) A party may file an affidavit comprising less than 50 pages or including less than 5 exhibits in the manner required by paragraphs (1) and (2), but is not obliged to do so.

#### **18—Form of list of authorities**

- (1) A list of authorities is to contain the—
  - (a) full heading of the proceeding;
  - (b) anticipated date of hearing;
  - (c) names or name of the Judges or Judge who will hear the case (if known).
- (2) A list of authorities is to be divided into two parts—
  - (a) PART I to be headed “Authorities to be Read” is to contain the authorities from which counsel will or may read passages to the Court;
  - (b) PART II to be headed “Authorities to be Referred To” is to contain the authorities that are relied upon but from which counsel does not expect to read.

#### **19—Citations in list of authorities**

- (1) When a case is reported in an authorised series of reports such as the South Australian State Reports, Commonwealth Law Reports, Federal Court Reports, the English authorised reports (The Law Reports) or in a series of reports containing only decisions of a State or Territory Supreme Court, the citation of the case in those reports is to be used. In addition, the medium neutral citation, when available, is to be provided for all cases, whether reported or not.
- (2) Each authority in a list of authorities provided by email is to be hyperlinked to a page from which the authority can be accessed in HyperText Markup Language (*HTML*), Rich Text Format (*RTF*), Portable Document Format



- (PDF) or other comparable format, so as to facilitate access by the Court to that authority.
- (3) If alternatives are available, a searchable format of the authority is to be preferred over a non-searchable format. In the case of reports provided by Thomson Reuters (eg CLR, SASR or NSWLR) or LexisNexis (eg VLR), the link is to be to the HTML version (and not the PDF version) of the authorised report. In the case of reports sourced from Austlii (the medium neutral version), the link is to be directly to the RTF version of the report (if available).
  - (4) If an online authorised series of reports is available to the party delivering the list of authorities, the hyperlink is to be to the report of the case in that series as well as to a freely available medium neutral version of the case (if available).
  - (5) If hyperlinking is not possible because, for example, an electronic report of the authority is not available, the authority is to be marked in the list with the words “hyperlinking unavailable”.
  - (6) If a hyperlink comprises more than 75 characters, parties should use a hyperlink shortening service such as <http://goo.gl>, <http://bit.ly> or <http://tinyurl.com> to shorten the hyperlink to a manageable form.
  - (7) In all cases, the hyperlink provided is to be in addition to, and not in place of, a citation in conformity with paragraph (1).

## **20—Electronic delivery of summary of argument and list of authorities**

- (1) When a summary of argument, list of authorities, chronology or summary of evidence and facts is to be provided for any hearing, it is to be lodged with the Court by email in accordance with the following paragraphs of this supplementary rule.
- (2) When the matter is to be heard by a single Judge, the email is to be sent with the subject line required by paragraph (3)—
  - (a) to the chambers email address of the Judge who is to hear the matter (see the link to the Supreme Court on the Courts Administration Authority website (<http://www.courts.sa.gov.au>);
  - (b) if and only if the identity of the Judge is not known—to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au)
- (3) When the matter is to be heard by the Full Court, the email is to be sent to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) with a subject line that contains the file number and the names of the parties only.

### **Example—**

File No SCCRM- 2014-123 *R v Bloggs*

- (4) Authorities are not to be provided as an attachment to the email.
- (5) In every case, a copy of the document lodged by email with the Court is to be sent simultaneously by email to each other party.
- (6) If an email address for another party is not known and cannot reasonably be ascertained, a hard copy of the document is to be served on the other party no

later than 5.00 pm on the same business day as the document is emailed to the Court.

### **21—Criminal Registry**

- (1) The Registry is open for business from 9.30 am to 4.30 pm each day except on Saturdays, Sundays, Public Holidays and the Christmas vacation, which comprises the calendar days between Christmas Day and New Year's Day.
- (2) If it is sought to file or lodge a document or arrange for an urgent hearing when the Registry is not open for business, the party should phone the afterhours business number of the Registry ((08) 8204 0289). The number will provide the current contact details of the rostered on call officer. If that officer is satisfied about the urgency of the request, he or she will arrange for the opening of the Registry and/or for a special hearing.
- (3) Other than with the prior permission of the Judge, no lawyer or party is to contact a Judge to seek an urgent hearing.
- (4) Unless the Rules or these Supplementary Rules otherwise provide or the Court otherwise orders, a party to a proceeding may inspect or obtain copies of documents held on the Court file for that proceeding by an informal request to the Registry.

#### **Exception—**

Rule 75 of the Rules imposes special requirements for the inspection and copying of documents produced pursuant to a subpoena.

- (5) When the permission of the Court is required by a member of the public to inspect or obtain a copy of a court record, permission may be sought by letter or email to the Registrar without notice to any party or person interested.

## **Part 2—Service**

### **22—Address for service**

- (1) A notice of acting and address for service under rule 18(3)(c) or 18(4)(b) of the Rules is to be in form 5A.
- (2) A notice of acting in person and address for service by a party under rule 18(4)(a) of the Rules is to be in form 5B.
- (3) A notice of change of address for service under rule 33(3) of the Rules is to be in form 6.

## **Part 3—Hearings generally**

### **23—Appearance of defendant by audiovisual link**

Notice of objection to the use of an audiovisual link for a hearing under rule 36(2)(b) of the Rules is to be in form 7.

### **24—Addressing Judges**

- (1) In Court—
  - (a) the Chief Justice of the Court is to be addressed and referred to by the title Chief Justice, eg “Chief Justice Smith” and as “Your/His/Her Honour”;

- (b) a Judge of the Court is to be addressed and referred to by the title Justice, eg “Justice Brown” and as “Your/His/Her Honour”.
- (2) In documents filed or used in the Court and in correspondence, a Judge of the Court is to be referred to as “The Honourable Chief Justice....” or as “The Honourable Justice....” as the case may be.

**25—Barristers’ attire**

- (1) The dress of a barrister appearing in court is to be black court coat or bar jacket, white jabot and gown (silk for Queen’s Counsel and Senior Counsel and stuff for junior counsel), dark trousers for men and dark skirt or slacks/trousers for women. As an alternative to the jabot, white bands may be worn with white shirt and winged collar.
- (2) Wigs will be worn when the Court is hearing criminal proceedings (including appeals).
- (3) Barrister’s attire is not required for directions hearings or for any other matter not heard in open court.
- (4) A barrister’s attire is at all times to be in a clean and neat condition.

**26—Noting of appearances of counsel and solicitors**

The counsel or solicitor appearing in a case listed before the Court is to inform the Judge’s associate before the hearing of his or her name, the party for whom he or she appears and, when applicable, the name of his or her instructing solicitor.

**27—Interpreters in court**

- (1) An interpreting service to the Courts is provided by the Interpreting and Translation Centre, a branch of the Office of Multicultural & Ethnic Affairs.
- (2) The service provides interpreting facilities during court hearings for persons accused of criminal offences and witnesses giving evidence.
- (3) The service does not provide interpreters for lawyers taking instructions from clients or for parties to communicate with their lawyers.
- (4) A lawyer or self-represented party is to notify the listing section of the Court of the requirement for interpreting services at a directions hearing or trial at the earliest possible time to allow the maximum possible time for arrangements to be made.

**28—Copies of authorities**

- (1) The Court discourages the provision of hard copies of authorities readily available in the Supreme Court library or available electronically.
- (2) Unless the client consents or the Court so directs, the cost of copying such authorities is not to be charged to the client.
- (3) Notwithstanding paragraph (1), if a party proposes to rely on an authority not contained in the list of authorities, the party should provide a hard copy to the Court and to any other parties.
- (4) Unless the client consents or the Court so directs, the cost of copying such authorities is not to be charged to the client.

- (5) Only in exceptional cases should a hard copy of an authority in Part II of the list of authorities be provided to the Court.

**29—Information for reporters**

- (1) A party is to give a copy of any list of authorities, or summary of argument when there is no list of authorities, to the reporters in court before commencement of the hearing to ensure the reporters have the correct details for any authority cited during the hearing.
- (2) A party calling a witness is to give the name of the witness to the reporters in court before the witness is called.

**30—Record of proceedings**

- (1) As soon as practicable after a judicial officer has pronounced an order or direction, its contents are to be entered into the Court's computer system.
- (2) A hard copy as signed by the judicial officer, the associate or a person delegated by the judicial officer for that purpose is to be placed onto a hard copy court file.

**Part 4—Hearings for interstate courts**

*[no supplementary rules]*

## **Chapter 5—Election for trial by Judge alone**

### **31—Manner of making election**

- (1) An election for trial by Judge alone made by a defendant under rule 40(1) of the Rules is to be in form 8A.
- (2) An election for trial by Judge alone made by counsel under rule 40(2) of the Rules is to be in form 8B.

### **32—Practitioner’s certificate**

A practitioner’s certificate under rule 41(2) or 44(2) of the Rules is to be in form 9.

### **33—Revocation of election**

A revocation of election for trial by Judge alone made by a defendant under rule 44(2) of the Rules is to be in form 10.

## **Chapter 6—Pre-trial applications and directions**

### **Part 1—Matters before first directions hearing**

#### **34—Representation of defendants**

- (1) A legal representation certificate under rule 46(2) of the Rules is to be in form 11.
- (2) A written assurance under rule 46(3) of the Rules is to be in form 12.

#### **35—Directions hearings**

Directions hearings will generally be listed for—

- (a) defendants on bail—Friday morning (9.00 am to 10.00 am) each second week when the Court is sitting;
- (b) defendants in custody and present by audiovisual link—Friday morning (9.00 am to 10.00 am) each alternate week when the Court is sitting.

### **Part 2—Convening directions hearings**

*[no supplementary rules]*

### **Part 3—Pre-trial applications**

#### **36—Written applications**

- (1) An application for directions under rule 49(1) of the Rules is to be in form 13.
- (2) A written application for directions to adduce evidence or make submissions by audiovisual means under rule 49(1)(i) of the Rules is to be in form 14.

### **Part 4—Determination without oral hearing**

*[no supplementary rules]*

### **Part 5—Proceedings at directions hearings**

*[no supplementary rules]*

### **Part 6—Special directions hearings**

#### **37—Special directions hearings**

- (1) The decision to refer a proceeding to a special directions hearing is in the discretion of the Court and will depend in part on the nature of the charges.
- (2) A proceeding will only be referred to a special directions hearing when the defendant is legally represented.
- (3) If a proceeding is to be referred to a special directions hearing, it will generally be referred at the same time as the proceeding is listed for trial.

**Part 7—Pre-trial directions hearings**

*[no supplementary rules]*

**Part 8—Outcome of directions hearings**

*[no supplementary rules]*

## **Chapter 7—Notice of and dispensing with evidence**

### **Part 1—Notice of evidence**

#### **38—Evidence of discreditable conduct**

- (1) Notice of intention to adduce evidence of discreditable conduct under—
  - (a) rule 61(1)(a) of the Rules is to be in form 15;
  - (b) rule 61(1)(b) of the Rules is to be in form 16.
- (2) Notice of intention to object to the admission of proposed evidence of discreditable conduct under rule 61(2) of the Rules is to be in form 17.

#### **39—Evidence of self-defence or other designated matters**

- (1) An application to require the defence to give to the Director notice of intention to adduce evidence of a certain kind under rule 62(1) of the Rules is to be in form 13.
- (2) An order requiring the defence to notify the Director of an intention to adduce evidence under rule 62(2) of the Rules is to be in form 22.
- (3) Notice of the defence's intention to adduce evidence in response to an order under rule 62(3) of the Rules is to be in form 23.

#### **40—Expert evidence**

Notice of intention by the defence to introduce expert evidence under rule 63 of the Rules is to be in form 24.

### **Part 2—Admissions**

#### **41—Dispensing with prosecution witnesses**

- (1) An application to require the defence to give to the Director notice whether it consents to dispensing with calling certain prosecution witnesses under rule 64(1) of the Rules is to be in form 13.
- (2) An order requiring the defence to notify the Director whether it consents to dispensing with calling certain prosecution witnesses under rule 64(2) of the Rules is to be in form 18.
- (3) Notice whether the defence consents to dispensing with calling certain prosecution witnesses in response to an order under rule 64(3) of the Rules is to be in form 19.

#### **42—Admission of facts**

- (1) An application for permission to serve on an unrepresented accused a notice to admit facts under rule 65(1) of the Rules is to be in form 13.
- (2) A notice to the defence to admit facts under rule 65(2) of the Rules is to be in form 20.
- (3) The defence response to a notice to admit facts under rule 65(3) of the Rules is to be in form 21.



### **Part 3—Subpoenas**

#### **43—Subpoenas**

- (1) A subpoena under rule 68(1) of the Rules is to be in form 26.
- (2) A notice and declaration to be attached to the front of a subpoena to produce under rule 76(3) and (4) of the Rules is to be in form 27.

## **Chapter 8—Trial**

### **Part 1—Evidence**

#### **44—Evidence to be taken interstate or overseas**

A request to a foreign court to take evidence under rule 81(1) of the Rules is to be in form 25.

#### **45—Evidence by vulnerable witnesses**

- (1) A party calling a witness who is to give evidence by audiovisual link from a location remote from the courtroom is to make arrangements with the Sheriff's office for the witness to be brought into the building and to the witness room.
- (2) When counsel wishes to ask questions of a witness giving evidence by audiovisual link from a remote location relating to a document or thing, counsel is to give sufficient notice to court staff to allow appropriate arrangements to be made for the document or thing to be displayed electronically to the witness or taken to the remote location by court staff.

#### **46—Conduct of trials**

- (1) This supplementary rule applies subject to any contrary direction by the trial Judge.
- (2) Defence counsel will sit at the end of the bar table closer to the dock.
- (3) The Judge will be present on the Bench when—
  - (a) an accused enters the dock;
  - (b) the jury enters and leaves the courtroom;
  - (c) a witness enters or leaves the courtroom while the accused is in the dock.
- (4) When a jury is about to be empanelled, an accused will enter the dock in the presence of the Judge and the jury panel. If counsel seeks a direction to the contrary, it should be requested before the jury panel is brought to the courtroom.

#### **47—Conduct of views**

- (1) This supplementary rule applies subject to any contrary direction by the trial Judge.
- (2) A view is part of the trial and is under the control of the trial Judge.
- (3) Any person may attend on a view, but this supplementary rule does not authorise any such person to trespass on private property.
- (4) When a view takes place in a confined space, the trial Judge may limit the persons to enter that space.
- (5) No member of the media or the public is to be in such proximity to jurors as to be able to overhear what is said between them.
- (6) No member of the media or the public is to be in such proximity to the trial Judge or counsel as to be able to overhear private conversations.
- (7) Jurors are not to be filmed, photographed or sketched.

- (8) Witnesses are not to be filmed or photographed.
- (9) If there is no suppression order relating to the identity of an accused, he or she may be filmed, photographed and sketched from a distance, but not so as to show that he or she is in custody or under restraint or in any way that might suggest guilt.
- (10) There is to be no sound recording at a view other than by the court reporter.

**48—Witness identification**

- (1) A witness in a criminal proceeding is required to submit his or her address in writing for inclusion in court records. A lawyer calling a witness is to arrange for the witness to write out his or her address and hand it to the Judge's associate when taking the oath or affirmation.
- (2) A witness in a criminal proceeding will not be asked when taking the oath or affirmation to state his or her address or occupation.
- (3) This supplementary rule does not restrict the right of counsel for either party to ask a witness to state his or her address or occupation if the address or occupation, as the case may be, is relevant to an issue or to credit.

**Part 2—Exhibits**

*[no supplementary rules]*

**Chapter 9—Juries**

*[no supplementary rules]*

## **Chapter 10—Sentencing**

### **49—Application to fix non-parole period**

An application to fix a non-parole period under rule 92(1) of the Rules is to be in form 28.

### **50—Mental impairment detention**

A warrant committing the defendant to detention under rule 93 of the Rules is to be in form 30.

## **Chapter 11—Statutory applications**

### **51—Mental impairment**

- (1) An originating application to revoke, vary or revise a supervision order under rule 94(1) of the Rules is to be in form 29.
- (2) A warrant committing the defendant to detention under rule 94(4) of the Rules is to be in form 30.
- (3) A warrant committing the defendant to an appropriate form of custody under rule 94(5) of the Rules is to be in form 31 or form 32 as applicable.

### **52—Dangerous offender declaration**

- (1) An originating application by the Attorney-General to have a person declared a dangerous offender under rule 95(1) of the Rules is to be in form 33.
- (2) Notice of the date when the proceeding to determine the application is to be conducted under rule 95(4) of the Rules is to be in form 34.

### **53—Detention of person unable or unwilling to control sexual instincts**

An originating application by the Attorney-General for an order detaining a person in custody until further order under rule 96(1) of the Rules is to be in form 29.

### **54—Suspension of reporting obligations**

An originating application to suspend reporting obligations under rule 97(1) of the Rules is to be in form 29.

### **55—Confiscation order**

An application under the Confiscation Acts—

- (a) if made in existing criminal proceedings under rule 98(2)(a) of the Rules—is to be in form 13; or
- (b) if an originating application under rule 98(2)(b) of the Rules—is to be in form 29.

## **Chapter 12—Bail reviews**

### **56—Application for review**

- (1) An originating application for review of a decision of a bail authority under rule 100(1) of the Rules is to be in form 35.
- (2) An originating application for review of a decision of a Magistrate on a review of a decision of a bail authority and for permission under rule 100(2) of the Rules is to be in form 36.
- (3) An originating application for review of a decision of a Magistrate under rule 100(3) of the Rules is to be in form 37.

## **Chapter 13—Appellate proceedings**

### **Part 1—Introduction**

*[no supplementary rules]*

### **Part 2—Commencement of appeal**

#### **57—How to commence appeal**

- (1) A notice of appeal against a judgment other than of acquittal under rule 108(3) of the Rules is to be in form 38.
- (2) A notice of appeal being a second appeal against conviction under rule 108(3) of the Rules is to be in form 39.
- (3) A notice of appeal against acquittal under rule 108(3) of the Rules is to be in form 40.
- (4) A notice of appeal against sentence under rule 108(3) of the Rules is to be in form 41.
- (5) A notice of appeal against a sentencing decision under rule 108(3) of the Rules is to be in form 42.
- (6) A notice of appeal against an antecedent decision under rule 108(3) of the Rules is to be in form 43.
- (7) A notice appeal in any other case under rule 108(3) of the Rules is to be in form 44.

#### **58—Notification of appeal**

Notification to the respondent of the filing of a notice of appeal under rule 110(1) of the Rules is to be in form 45.

### **Part 3—Effect of filing notice of appeal**

*[no supplementary rules]*

### **Part 4—Reservation of question for Full Court**

#### **59—Application for permission to apply to reserve question**

An originating application for permission to apply to the Full Court for an order that a court refer a relevant question to the Full Court for consideration and determination under rule 114 of the Rules is to be in form 46.

#### **60—Reservation of question**

An originating application for an order of the Full Court requiring a court to refer a relevant question to the Full Court for consideration and determination under rule 115(1) of the Rules is to be in form 47.

#### **61—Application for sentencing guideline**

An originating application to establish or review a sentencing guideline under rule 116 of the Rules is to be in form 48.



## **Part 5—Permission to appeal**

### **62—Certificate of trial judge**

A certificate of the trial Judge under rule 118(1) of the Rules is to be in form 49.

### **63—Hearing by single Judge**

- (1) The Judge before whom an application comes in the first instance under rule 119(1) of the Rules will usually continue to deal with the application until it has been granted, refused or referred to the Full Court.
- (2) If the respondent concedes in writing that an application for permission to appeal should be granted before the hearing of the application, permission to appeal may be granted by a Judge without the attendance of the parties.
- (3) If the respondent concedes in writing that an application for an extension of time in which to appeal should be granted before the hearing of the application, the extension may be granted by a Judge without the attendance of the parties.
- (4) At the first listing of an application governed by this supplementary rule—
  - (a) if all parties are ready to argue the application, or have previously informed the Court that they will be ready to argue the application on the first listing date—the Judge will hear and determine the application;
  - (b) otherwise—the Judge will set a date by which settled grounds are to be filed and served and list the application for argument;
  - (c) if the application is listed for argument, it will usually be listed at least 14 calendar days in the case of a conviction or acquittal appeal and at least 5 business days in the case of any other appeal after the date when settled grounds are to be filed and served.
- (5) If settled grounds are not filed and served in accordance with a direction given by a Judge, unless the respondent agrees, the application will not be heard on the date fixed for hearing and on that date a new date will be fixed for hearing.
- (6) A Judge hearing an application for permission to appeal is deciding whether there is an arguable case. The parties should not argue the application for permission as if it were a preview of the hearing of the appeal.
- (7) Notification to the appellant under rule 119(5) of the Rules of a decision of the Judge to refuse an application will be in form 50.

### **64—Referral to Full Court**

- (1) An application under rule 120 of the Rules to refer to the Full Court an application for permission to appeal, for an extension of time in which to appeal, for bail pending an appeal or to appear before the Court in person at the hearing of an appeal that has been refused by a Judge is to be in form 51.
- (2) The Registrar will notify the applicant under rule 120(5) of the Rules of the decision of the Full Court on an application for bail pending an appeal or to appear before the Court in person at the hearing of an appeal in form 52.

**65—Consideration by Full Court**

- (1) If permission to appeal or an extension of time is not required, or if the Judge grants permission to appeal on all grounds and an extension of time if required, the appeal will be heard by the Full Court in the usual way.
- (2) If an application for permission to appeal on any ground or for an extension of time in which to appeal is to be heard by the Full Court, the application will be heard at the same time as the hearing of the merits of grounds on which an appeal lies as of right or on which permission has been. The appellant and respondent must be ready to argue all grounds on the merits in full.
- (3) Counsel appearing before the Full Court in a matter that is or includes a renewed or referred application for permission to appeal or an extension of time in which to appeal should prepare the summary of argument and for the oral hearing as if the application for permission to appeal or an extension of time in which to appeal had been granted to enable the Full Court to hear the argument in full on all issues.

**Part 6—Preparation for hearing of appeal****66—Address for service**

- (1) A notice of acting and address for service under rule 111(2)(a) of the Rules is to be in form 5A.
- (2) A notice of change of address for service under rule 111(1)(b) or 111(2)(b) of the Rules is to be in form 6.

**67—Witnesses before Full Court**

An application for an order requiring a witness to be examined for the purpose of an appeal under rule 122(1) of the Rules is to be in form 53.

**68—Discontinuance of appeal**

A notice of discontinuance of an appeal under rule 125(1) of the Rules is to be in form 54.

**69—Lodgment and service of summary of argument and list of authorities**

- (1) Subject to paragraph (6), the appellant's summary of argument, list of authorities and any chronology or summary of evidence and facts are to be lodged with the Court by emailing them to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) and simultaneously served on the respondent no later than 4.30 pm 6 clear business days before the listed hearing date.
- (2) Subject to paragraph (6), the respondent's summary of argument, list of authorities and any chronology or summary of evidence and facts are to be lodged with the Court by emailing them to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) and simultaneously served on the appellant no later than 4.30 pm 4 clear business days before the listed hearing date.
- (3) If the appellant intends at the hearing of the appeal to raise a new point as a result of the respondent's summary of argument not identified in the appellant's summary of argument that will embarrass the respondent if advance notice is not given, the appellant is to lodge with the Court a summary of argument articulating that point by emailing it to

- [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.
- (4) If the respondent delivers a summary of evidence and facts in accordance with paragraph (2) and the appellant intends at the hearing of the appeal to challenge or supplement the respondent's summary of evidence and facts, the appellant is to lodge a summary of evidence and facts identifying any items disputed and why and any additional items by emailing it to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.
  - (5) The appellant may lodge a summary of argument in reply to a respondent's summary of argument not exceeding 4 pages by emailing it to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.
  - (6) A party may apply to the Court to vary the timetable prescribed by this supplementary rule—
    - (a) if there is a hearing under rule 119 of the Rules—at the hearing; or
    - (b) otherwise—within 14 calendar days after the filing of the appeal.
  - (7) The email, summary of argument, list of authorities and any chronology or summary of evidence and facts governed by this supplementary rule are to be prepared, lodged and served in compliance with supplementary rules 18, 19, 20 and 70.

#### **70—Form and content of summary of argument**

- (1) The summary of argument is to be as brief as possible and, without the prior permission of the Court, is not to exceed 10 pages. It should not be in the nature of a written submission.
- (2) The summary of argument is to—
  - (a) contain a concise statement of the issues raised by the appeal;
  - (b) provide the Court with an outline of the steps in the argument to be presented on each issue;
  - (c) provide each other party with notice of the contentions to be advanced by that party;
  - (d) contain a succinct statement of each contention followed by a reference to the authorities (giving paragraph or page numbers), legislation (giving section numbers) and relevant passages of the evidence, exhibits and/or the reasons for the judgment under appeal (giving paragraph or page numbers);
  - (e) if a party intends to challenge any finding of fact—
    - (i) identify the relevant finding or failure to make a finding;
    - (ii) state concisely why the finding or failure to make a finding is contended to be erroneous;
    - (iii) identify the finding that the party contends should have been made; and

- (iv) give references to the evidence to be relied upon in support of the argument; and
  - (f) identify any grounds of appeal not to be pursued.
- (3) Except when necessary to identify error at first instance, the summary of argument should not set out passages from reasons for judgment under appeal, evidence or authorities, but is instead to be a guide to these materials.

**71—Reference to authority**

- (1) A summary of argument is to cite each authority in the manner required by supplementary rule 18 for a list of authorities.
- (2) A summary of argument is to hyperlink each authority as required by supplementary rule 18 for a list of authorities.

**72—Summary of evidence**

On an appeal in which a ground of appeal is that the verdict is unsafe or unsatisfactory, counsel is expected to provide a written summary of the relevant evidence, including references to transcript pages.

**73—Chronology**

Counsel will usually be expected to provide a chronology in criminal appeals.

**74—Skeleton of oral argument**

- (1) A party may, but unless the Court otherwise directs is not required to, lodge with the Court a skeleton outline of the propositions that the party intends to advance in oral argument.
- (2) A skeleton outline is to—
  - (a) be lodged with the Court no later than the commencement of the hearing;
  - (b) be given to all other parties at the same time as to the Court;
  - (c) be no longer than 3 pages;
  - (d) state propositions sequentially in the order they are intended to be addressed in oral argument;
  - (e) cross refer to the party's summary of argument.

**75—Suppression order**

An application to vary or revoke a suppression order made by the Supreme Court on appeal from another court is to be treated as an interlocutory application in the matter of the appeal.

**Part 7—Hearing and determination of appeal****76—Notifying result of appeal**

The notice of final determination of an appeal under rule 127 of the Rules is to be in form 55.

## **Chapter 14—Contempt of Court**

### **Part 1—Contempt committed in face of Court**

*[no supplementary rules]*

### **Part 2—Court initiated proceedings for contempt—other cases**

#### **77—Summons to appear**

A summons requiring the accused to appear before the Court at the nominated time and place under rule 130(7)(a) of the Rules is to be in form 55 of Schedule 3 to the *Supreme Court Civil Supplementary Rules 2014*.

### **Part 3—Contempt proceedings by party to proceeding**

*[no supplementary rules]*

### **Part 4—Hearing of charge of contempt**

*[no supplementary rules]*

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this .....2<sup>nd</sup> ..... day of ...September.....2014.

**C KOURAKIS, CJ**

**T. A. GRAY, J**

**J. R. SULAN, J**

**A. M. VANSTONE, J**

**M. DAVID, J**

**P. KELLY, J**

**D. H. PEEK, J**

**M. F. BLUE, J**

**T. L. STANLEY, J**

**K. G. NICHOLSON, J**

**A. E. BAMPTON, J**

**G. J. PARKER, J**

**South Australia**  
**Supreme Court Criminal Supplementary**  
**Rules 2014**

**SCHEDULE—APPROVED FORMS**

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Form 1

Proceeding heading

**IN THE SUPREME COURT OF SOUTH AUSTRALIA  
IN THE CRIMINAL JURISDICTION**

**SCCRM            of**

*(NAME)*

R/Appellant/Applicant *(delete whichever is inapplicable)*

v

*(NAME)*

Defendant/Respondent/The Queen *(delete whichever is inapplicable)*

Form 2

Front Sheet

**IN THE SUPREME COURT OF SOUTH AUSTRALIA  
IN THE CRIMINAL JURISDICTION**

**SCCRM of**

*(NAME)*

R/Appellant/Applicant *(delete whichever is inapplicable)*

v

*(NAME)*

Defendant/Respondent *(delete whichever is inapplicable)*

---

*(Document type, eg Application, Notice, etc.)*

---

Filed on behalf of *(name of party)* by *(name of solicitor)*

*(or)*

Filed by *(name of party)*

*(address) (Mandatory Field)*

*(telephone)*

*(mobile)*

*(facsimile)*

*(DX Box)*

*(email)*

*(‘L’ Code)*

*(‘P’ Code)*

Form 3

**Rule 21(1)**  
Information

*(insert proceeding heading)*

**INFORMATION**  
*Criminal Law Consolidation Act 1935 s 275(1)*

For arraignment on.....

*Information of the Director of Public Prosecutions*

*(insert name)* is charged with the following offences:

- 1.
  - 2.
- (etc)*

**Rule 23(1)**

Form 4

Notice of prescribed proceedings

*(insert front sheet)*

**NOTICE OF PRESCRIBED PROCEEDINGS**  
*Criminal Law Consolidation Act 1935 s 5(1), Bail Act 1985 s 3A*

TO THE REGISTRAR

AND TO THE DEFENDANT: *(insert name)*

**Notice**

The proceedings instituted by information for arraignment on *(insert date)* are prescribed proceedings because

.....  
.....  
.....  
.....  
.....

The proceedings may be expedited under section 275(3) of the *Criminal Law Consolidation Act 1935* and the *Supreme Court Criminal Rules 2014*.

**Date:**

*(signed)* .....  
Director of Public Prosecutions

Rules 18(3)(c), 18(4)(b), 111(2)(a)

Form 5A

Notice of acting and address for service

*(insert front sheet)*

**NOTICE OF ACTING AND ADDRESS FOR SERVICE**

**Notice**

*(name of solicitor)* .....  
acts/now acts *(delete whichever is inapplicable)* as solicitor for the  
defendant/appellant/respondent *(delete whichever is inapplicable)*.....  
whose address for service is/is now *(delete whichever is inapplicable)*  
.....  
.....

**Date:**

*(signed)* .....  
Solicitor for the defendant/appellant/applicant/respondent/Director  
*(delete whichever is inapplicable)*

Rule 18(4)(a), 33(3), 111(3)

Form 5B

Notice of acting in person and address for service

*(insert front sheet)*

**NOTICE OF ACTING IN PERSON AND ADDRESS FOR SERVICE**

**Notice**

The defendant/appellant/applicant/respondent *(delete whichever is inapplicable)*..... is/is now *(delete whichever is inapplicable)* self-represented.

The address for service for the defendant/appellant/applicant/respondent *(delete whichever is inapplicable)* is/is now *(delete whichever is inapplicable)*  
.....  
.....

**Date:**

*(signed)* .....  
Defendant/Appellant/Applicant/Respondent *(delete whichever is inapplicable)*

Form 6

Rules s 33(3), 111(1)(b) and 111(2)(b)

Notice of change of address for service

*(insert front sheet)*

**NOTICE OF CHANGE OF ADDRESS FOR SERVICE**

**Notice**

The address for service of the defendant/appellant/applicant/respondent (*delete whichever is inapplicable*) (*insert name of party*).....  
is now.....  
.....

**Date:**

*(signed)* .....  
Solicitor for the defendant/appellant/applicant/respondent (*delete whichever is inapplicable*)

*(or)*

Defendant/Appellant/Applicant/Respondent (*delete whichever is inapplicable*)

**Rule 36(2)(b)**

Form 7

Objection to audiovisual link

*(insert front sheet)*

**NOTICE OF OBJECTION TO AUDIOVISUAL LINK**

**Notice**

*(name of person in custody objecting)* .....

of .....

.....

objects to appearing by audiovisual link in the Court on the following hearing: *(insert details of the hearing the subject of the objection)* .....

.....

.....

The grounds of the objection are: *(insert a brief statement of the grounds of objection)*

.....

.....

.....

**Date:**

*(signed)* .....

Objector /Solicitor for the Objector / *(delete whichever is inapplicable)*



**Rule 40(1)**

Form 8A

Election by defendant for trial by Judge alone

*(insert front sheet)*

**ELECTION BY DEFENDANT FOR TRIAL BY JUDGE ALONE**

*Juries Act 1927 s 7(1)*

**Election**

I, *(full name of defendant)* .....

of *(address)* .....

ELECT under section 7(1)(a) of the *Juries Act 1927* to be tried by Judge alone in  
respect of all charges in the following information, namely: *(set out details of the  
charges)*

.....  
.....

**Acknowledgement**

I ACKNOWLEDGE that I have received legal advice about making the election before  
making the election.

**Date:**

(signed) .....  
Defendant

**Rule 40(2)**

Form 8B

Election by counsel for trial by Judge alone

*(insert front sheet)*

**ELECTION BY COUNSEL FOR TRIAL BY JUDGE ALONE**

*Juries Act 1927 s 7(1)*

**Election**

I, *(full name of lawyer)* .....

of *(address of practice)* .....

barrister/barrister and solicitor *(delete whichever is inapplicable)*

CERTIFY that:

1. I am a legal practitioner holding a current practising certificate under the *Legal Practitioners Act 1981*.
2. I am the counsel for the defendant *(name)* in this proceeding.
3. I believe that the defendant is unfit to instruct counsel or give rational instructions in respect of all charges in the information, namely: *(set out details of the charges)*  
.....  
.....  
.....
4. I have considered all matters relevant to the making of an election.
5. I consider that a trial by Judge alone would be in the best interest of the defendant.

6. I exercise my independent discretion under section 269W of the *Criminal Law Consolidation Act 1935* and ELECT under section 7(1)(a) of the *Juries Act 1927* that the defendant be tried by Judge alone on the above charges.

**Date:**

(signed)

.....

Counsel for the defendant

Rules 41(2), 44(2)

Form 9

Practitioner’s certificate

(insert front sheet)

PRACTITIONER’S CERTIFICATE

Certificate

I, (full name of practitioner) .....

of (address of practice) .....

barrister/solicitor/barrister and solicitor (delete whichever is inapplicable)

CERTIFY that:

- 1. I am a lawyer holding a current practising certificate under the Legal Practitioners Act 1981.
2. I am the solicitor/counsel (delete whichever is inapplicable) for the defendant.....in this proceeding.
3. I have advised the defendant on all matters relevant to the defendant making/revoking (delete whichever is inapplicable) an election for trial by Judge alone under section 7(1)(a) of the Juries Act 1927 in respect of all charges in the information, namely: (set out details of the charges)
.....
.....

Date:

(signed) .....
Solicitor/Counsel for the defendant (delete whichever is inapplicable)

**Rule 44(2)**

Form 10

Revocation of election by defendant

*(insert front sheet)*

**REVOCAION OF ELECTION BY DEFENDANT**

**Revocation**

I, *(full name of defendant)* .....  
of *(address)* .....  
.....

REVOKE the election that I previously made on .....  
under section 7(1)(a) of the *Juries Act 1927* to be tried by a Judge alone in respect of all  
charges in the following information, namely: *(set out details of the charges)*  
.....  
.....  
.....

**Acknowledgement**

I ACKNOWLEDGE that I have received legal advice about making the revocation of  
my previous election before making the revocation.

**Date:**

*(signed)* .....  
Defendant

## Rule 46(2)

Form 11

Legal representation certificate

*(insert front sheet)*

**LEGAL REPRESENTATION CERTIFICATE**  
*Criminal Law (Legal Representation) Act 2001 s 8(2)*

**Certificate**

1. I, *(full name of lawyer)* .....  
of *(address of practice)* .....  
.....  
act for the named defendant *(insert name)*.....

2. I certify that the defendant is an assisted person within the meaning of section 4 of the *Criminal Law (Legal Representation) Act 2001*.

*(or)*

I undertake that the defendant will be provided with legal representation for the duration of the trial.

*(or)*

I certify that the defendant is not an assisted person and I am not prepared to give an undertaking that the defendant will be provided with legal representation for the duration of the trial.

*(delete whichever is inapplicable)***Date:**

*(signed)* .....  
Solicitor for the defendant

Rule 46(3)

Form 12

Assurance that defendant does not want legal representation

(insert front sheet)

**ASSURANCE THAT DEFENDANT DOES NOT WANT LEGAL REPRESENTATION**

*Criminal Law (Legal Representation) Act 2001 s 8(3)(c)*

**Assurance**

I, *(full name of defendant)*.....  
of *(address)*.....  
.....

STATE that:

- 1. I am the defendant in these proceedings.
- 2. I am charged with *(insert charges)*  
.....  
.....  
.....  
.....  
.....
- 3. I do not want to be legally represented at the trial of the above charges.

**Date:**

*(signed)* .....  
Defendant

**Rules 49(1)**

Form 13

Application for directions

*(insert front sheet)*

**APPLICATION FOR DIRECTIONS**

TO THE *(INSERT ROLE)*; *(insert name of other party)*.....

AND TO *(insert names of others to whom notice of the application is to be given)*.....

.....

**Application**

The Director of Public Prosecutions/~~Defendant~~/~~Appellant~~/~~Applicant~~/~~Respondent~~ *(delete whichever is inapplicable)* *(insert name)* .....seeks the following orders or directions:

1. *(set out orders or directions sought)*

**Endorsements**

Application made pursuant to rule *(no)* of the *Supreme Court Criminal Rules 2014*/section *(no)* of the *(Act)* *(delete whichever is inapplicable)*.

**Grounds**

The grounds relied upon are as follows: *(set out sufficient particulars to give proper notice of the issues to be raised so that the other party may determine whether there will be a dispute on the relevant facts)*

.....  
.....  
.....  
.....



**Date:**

(signed) .....  
Director of Public Prosecutions

(or)

Defendant/Appellant/Applicant/Respondent (*delete whichever is inapplicable*)

(or)

Solicitor for the defendant/appellant/applicant/respondent (*delete whichever is inapplicable*)

**Hearing**

(When the application is to be given a separate listing date, the following will be completed by the Registry)

This application will be heard before.....in the Supreme Court at.....on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

(signed) .....  
Registrar

**Rule 49(1)(h)**

Form 14

Application for directions to use audiovisual link

*(insert front sheet)***APPLICATION FOR DIRECTIONS TO RECEIVE EVIDENCE OR  
SUBMISSIONS BY AUDIOVISUAL LINK***Evidence Act 1929 s 59IE/59IQ*TO THE *(INSERT ROLE): (insert name of other party)* .....AND TO *(insert names of others to whom notice of the application is to be given)* .....

.....

**Application**The Director of Public Prosecutions/Defendant *(insert name)* *(delete whichever is inapplicable)* applies for the following orders or directions:

## 1. an order that

- the evidence of *(identify the witness)* .....
- submissions by *(identify the person and subject matter)* .....

*(delete whichever is inapplicable)*

at the

- hearing of the application for *(identify the application)* .....
- directions hearing on *(insert date)* .....
- trial on *(insert date)* .....

*(delete whichever is inapplicable)*be conducted with the aid of an audio link/audiovisual link *(delete whichever is inapplicable)*.2. *(set out any other direction sought)*

**Particulars**

1. It is proposed that the link be utilised in relation to the whole of the proceeding/portion only of the proceeding,  
namely... .. *(delete whichever is inapplicable)*
2. The persons proposed to appear before the Court or give evidence by the proposed link are as follows: *(names and roles)*
3. The link is required from *(originating city/town)* to *(receiving city/town)*.
4. The time proposed for the commencement of the link is *(time and date)*.
5. The estimated duration of the link is *(period)*.
6. The application is made with/without *(delete whichever is inapplicable)* the consent of all parties to the proceedings.  
*(If all parties do not consent, identify any non-consenting party and the nature of the objection raised)*

**Grounds**

The grounds relied upon are as follows: *(set out sufficient particulars to give proper notice of the issues to be raised so that the other party may determine whether there will be a dispute on the relevant facts)*

.....  
.....  
.....  
.....

**Date:**

*(signed)* .....  
Director of Public Prosecutions/Defendant/Solicitor for the defendant  
*(delete whichever is inapplicable)*

**Hearing**

*(When the application is to be given a separate listing date, the following will be completed by the Registry)*

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

*(signed)* .....

Registrar

**Rule 61(1)(a)**

Form 15 Notice of intention by Director to adduce discreditable conduct evidence

*(insert front sheet)*

**NOTICE OF INTENTION BY DIRECTOR TO ADDUCE  
DISCREDITABLE CONDUCT EVIDENCE**

*Evidence Act 1929 s 34P(4)*

TO THE DEFENDANT: *(insert name of defendant)*.....

**Notice**

The Director of Public Prosecutions intends at trial to seek to adduce evidence of discreditable conduct of *(insert name)* .....

**Particulars of evidence of conduct**

- A. In respect of the first item of discreditable conduct:
  - A1. The nature of the discreditable conduct is  
.....  
.....
  - A2. The witness from whom the evidence is to be led, whether in examination-in-chief or in cross-examination, is  
.....  
.....
  - A3. The use of the evidence said to be permissible under section 34P(2)(b) in respect of count *(identify the first count to which the evidence is said to be relevant)* is  
.....  
.....  
.....

A4. The use of the evidence said to be permissible under section 34P(2)(b) in respect of count (*identify the second count to which the evidence is said to be relevant*) is

.....

.....

.....

(Repeat number 4 for each further count to which the evidence is said to be relevant)

B. (*Repeat A1 to A4 for each additional item of discreditable conduct alleged*)

**Action required**

If you wish to object to the admission of the evidence of discreditable conduct proposed to be adduced by the Director of Public Prosecutions you must, within 28 calendar days after the filing of this Notice, file in the Court and serve on all other parties to the proceeding a Notice using form 17 which sets out the grounds of your objection.

**Date:**

(*signed*) .....

Director of Public Prosecutions

**Note**

This Notice must be filed in the Court and served on all other parties to the proceeding within 21 calendar days after the date on which proceeding is listed for trial.

**Rule 61(1)(b)**

Form 16 Notice of intention by defendant to adduce discreditable conduct evidence

*(insert front sheet)*

**NOTICE OF INTENTION BY DEFENDANT TO ADDUCE  
DISCREDITABLE CONDUCT EVIDENCE**

*Evidence Act 1929 s 34P(4)*

TO THE DEFENDANT: *(insert name of co-defendant)* .....

AND TO THE DIRECTOR OF PUBLIC PROSECUTIONS

**Notice**

The defendant *(insert name)*..... intends at trial to seek to adduce evidence of discreditable conduct of *(insert name)* .....

**Particulars of evidence of conduct**

A. In respect of the first item of discreditable conduct:

A1. The nature of the discreditable conduct is  
.....  
.....

A2. The witness from whom the evidence is to be led, whether in examination-in-chief or in cross-examination, is  
.....  
.....

A3. The use of the evidence said to be permissible under section 34P(2)(b) in respect of count *(identify the first count to which the evidence is said to be relevant)* is  
.....  
.....  
.....

A4. The use of the evidence said to be permissible under section 34P(2)(b) in respect of count (*identify the second count to which the evidence is said to be relevant*) is

.....

.....

.....

(Repeat number 4 for each further count to which the evidence is said to be relevant)

B. (*Repeat A1 to A4 for each additional item of discreditable conduct alleged*)

**Action required**

If you wish to object to the admission of the evidence of discreditable conduct proposed to be adduced by your co-defendant you must, at least 5 clear business days before the listed trial date, file in the Court and serve on all other parties to the proceeding a Notice using form 17 that sets out the grounds of your objection.

**Date:**

(*signed*) .....

Defendant/Solicitor for the defendant (*delete whichever is inapplicable*)

**Note**

This Notice must be filed in the Court and served on all other parties to the proceeding at least 21 clear calendar days before the listed trial date.



**Rule 61(2)**

Form 17 Notice of intention to object to proposed discreditable conduct evidence

*(insert front sheet)*

**NOTICE OF INTENTION TO OBJECT TO PROPOSED  
DISCREDITABLE CONDUCT EVIDENCE**

*Evidence Act 1929 s 34P(4)*

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

AND TO THE DEFENDANT: *(insert name of co-defendant if applicable)*.....

.....

**Notice**

TAKE NOTICE that *(insert role and name of party objecting)* .....

will object to the evidence of discreditable conduct proposed to be adduced by *(insert role and name of relevant party)* .....

The evidence of discreditable conduct to which objection is taken is *(specify the particular proposed evidence of discreditable conduct to which and the counts in respect of which objection is taken)* .....

.....

.....

.....

**Grounds**

The grounds of objection are as follows:

1. *(set out, separately in relation to each allegation of discreditable conduct, the grounds of objection)*

2.

*(etc)*

**Date:***(signed)*

.....  
Director of Public Prosecutions/Defendant/Solicitor for the defendant  
*(delete whichever is inapplicable)*

**Note**

This Notice must be filed in the Court and served on all other parties to the proceeding:

- if in response to evidence proposed to be led by the Director of Public Prosecutions—no later than 28 calendar days after the Director of Public Prosecutions filed a Notice of Intention to Adduce Discreditable Conduct;
- otherwise— at least 5 clear business days before the listed trial date.

Rule 64(1)

Form 18 Order for notification whether defence dispenses with calling witnesses

(insert proceeding heading)

ORDER REQUIRING NOTIFICATION WHETHER DEFENCE DISPENSES WITH CALLING PROSECUTION WITNESSES

Criminal Law Consolidation Act 1935 s 285BB(4)

TO THE DEFENDANT: (insert name of defendant).....

Order

The Court requires you to notify the Director of Public Prosecutions whether you consent to dispensing with calling the following prosecution witnesses (names of witnesses).....

to establish the admissibility of evidence of the following: (description of evidence).....

Action required

YOU ARE REQUIRED to give a written reply to this Notice in form 19 of the Criminal Supplementary Rules 2014 within ..... days of the service of this Order on you or your solicitor.

Warning

If you fail to reply within this time, your consent to the tender of the evidence specified in this Notice for the purposes specified in this Notice will be conclusively presumed.

Date:

(signed) ..... Justice (insert name)

Rule 64(2)

Form 19 Notice whether defence consents to dispense with prosecution witnesses

(insert front sheet)

NOTIFICATION WHETHER DEFENCE CONSENTS TO DISPENSING WITH CALLING PROSECUTION WITNESSES Criminal Law Consolidation Act 1935 s 285BB(4)

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Response

In response to the order dated .....of Justice ..... the defendant (insert name of defendant) .....

- consents to the prosecution dispensing with the need to call witnesses to establish the admissibility of the following evidence (description of evidence)

.....

- does not consent to the prosecution dispensing with the need to call witnesses to establish the admissibility of the evidence/other evidence (delete whichever is inapplicable) identified in the order.

(delete whichever is inapplicable)

Date:

(signed) ..... Defendant/Solicitor for the defendant (delete whichever is inapplicable)

Form 20

**Rule 65(1)**  
Notice to admit facts

*(insert front sheet)*

**NOTICE TO ADMIT FACTS**  
*Criminal Law Consolidation Act 1935 s 285BA*

TO THE DEFENDANT: *(insert name of defendant)*.....

**Notice**

The Director of Public Prosecutions seeks that you admit the following facts:

1. *(specify each fact in a separate numbered paragraph).*

**Action required**

You must provide your response in form 21 of the *Criminal Supplementary Rules 2014* to this Notice within ..... days of the service of the Notice upon you or within a time fixed by the Court on an application by you.

**Warning**

You are not required to admit these facts, but if you are convicted, the Court is required to take an unreasonable failure to make an admission in response to this Notice into account in fixing sentence.

**Date:**

*(signed)* .....  
Director of Public Prosecutions

**Rule 65(2)**

Form 21

Response to notice to admit facts

*(insert front sheet)***RESPONSE TO NOTICE TO ADMIT FACTS***Criminal Law Consolidation Act 1935 s 285BA*

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

**Response**

In response to the Notice to Admit Facts dated .....

the defendant (*name of defendant*) .....

- admits the facts set out in the following paragraphs of the Notice to Admit Facts:

1. (*set out each fact admitted in a separate numbered paragraph by reference to the relevant paragraph number in the Notice to Admit*)

- does not admit the facts set out in the Notice to Admit Facts/remaining paragraphs of the Notice to Admit Facts (*delete whichever is inapplicable*)

*(delete whichever is inapplicable)***Date:***(signed)*

.....

Defendant/Solicitor for the defendant (*delete whichever is inapplicable*)

**Rule 62(2)**

Form 22                      Order requiring defence to give notice of intention to adduce evidence

*(insert proceeding heading)*

**ORDER REQUIRING DEFENCE TO GIVE PROSECUTION NOTICE OF INTENTION TO ADDUCE EVIDENCE**  
*Criminal Law Consolidation Act 1935 s 285BB(1)*

TO THE DEFENDANT: *(insert name of defendant)*.....

**Order**

The Court requires you to give to the Director of Public Prosecutions notice of an intention to introduce at trial evidence of the following kind: *(description of the kind of evidence)*

.....  
.....

**Action required**

YOU MUST give written notice in form 23 of the *Criminal Supplementary Rules 2014* of your intention to call evidence of the kind set out above within..... days of service of this Order on you or your solicitor.

**Warning**

Non-compliance with this order does not render evidence inadmissible, but the prosecutor or the Judge (or both) may comment on the non-compliance to the jury.

**Date:**

*(signed)*                      .....  
Justice *(insert name)*

**Rule 62(3)**

Form 23

Notice of intention to adduce evidence

*(insert front sheet)*

**NOTICE OF INTENTION TO ADDUCE EVIDENCE**

*Criminal Law Consolidation Act 1935 s 285BB(1)*

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

**Response**

In response to the order dated .....of Justice .....,  
the defendant (*name of defendant*) .....  
intends to introduce at the trial evidence of the following kind:

.....  
.....  
.....  
.....  
.....

**Date:**

*(signed)* .....  
Solicitor for the defendant/Defendant (*delete whichever is inapplicable*)



**Rule 63**

Form 24

Notice of intention to introduce expert evidence

*(insert front sheet)*

**NOTICE OF INTENTION TO INTRODUCE EXPERT EVIDENCE**  
*Criminal Law Consolidation Act 1935 s 285BC*

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

**Notice of intention**

The defendant (*name of defendant*).....

intends to introduce at the trial/during submissions on sentence (*delete whichever is inapplicable*), expert evidence from (*insert name and field of expertise of expert*)

.....  
.....  
.....

The witness will give the following evidence: (*set out concisely the general nature of the evidence and what it tends to establish*)

.....  
.....

**Warning**

Section 285BC of the *Criminal Law Consolidation Act 1935* provides that, if a defendant is to be tried or sentenced for an indictable offence, unless exempted by the Court, expert evidence cannot be adduced by a defendant without the Court’s permission unless the Director of Public Prosecutions receives notice of intention to introduce expert evidence:

- (a) in the case of trial—on or before the date of the first directions hearing; and
- (b) in the case of sentence—at least 28 calendar days before the date appointed for submissions on sentence; or

- (c) if the evidence does not become available to the defence until later—as soon as practicable after it becomes available to the defence,

Section 285BC of the *Criminal Law Consolidation Act 1935* also provides that, if a defendant fails to comply with the section in a case of trial by jury, the prosecutor or the Judge (or both) may comment on the non-compliance to the jury.

**Date:**

(signed) .....  
Solicitor for the defendant/Defendant (*delete whichever is inapplicable*)

**Note**

If the Director of Public Prosecutions receives notice of intention to introduce expert evidence less than 28 calendar days before the date appointed for trial or for submissions on sentence, the Court may, on application by the prosecutor, adjourn the case to allow the prosecution a reasonable opportunity to obtain expert advice on the proposed evidence if the defendant is to be permitted to adduce the evidence.

**Rule 81(1)**

Form 25

Letter of request

*(insert proceeding heading)*

**LETTER OF REQUEST**  
*Evidence Act 1929 s 59E(1)(c)*

TO THE COMPETENT JUDICIAL AUTHORITY OF *(insert place)*.....  
.....in *(insert country)*.....

**Background**

An action has been commenced in the Supreme Court of South Australia, in which  
*(insert name of party)* .....of *(insert address)*.....  
is the *(insert role of party)* .....

and *(insert name of party)*.....of *(insert address)*.....  
is the *(insert role of party)* .....

It is necessary, for the determination of the matters in dispute, that the following person,  
resident within your jurisdiction, be examined as a witness upon oath or affirmation  
concerning those matters: *(insert name and address of proposed witness and state  
concisely the matters on which the witness is required to testify)*

.....  
.....

**Request**

I *(name)*....., the Registrar of the Supreme Court of  
South Australia, request pursuant to section 59E of the *Evidence Act 1929* that, for the  
assistance of the Court, you summon the witness to attend, at a time and place you  
appoint, before a person who according to your procedure is competent to take  
examinations of witnesses, and that you cause the witness to be examined orally with  
regard to the matters in question, in the presence of the agents of the parties, or such of  
them as, on due notice given, attend the examination.

I request that you permit the agents of the *(insert name of party seeking that witness be called)*..... to examine the witness, and permit any other party to cross examine the witness and the party producing the witness for examination to re-examine the witness orally.

I request that the evidence of the witness be reduced into writing and all documents and things produced upon the examination be duly marked for identification, and that you authenticate the examination by the seal of your Court or in another way in accordance with your procedure, and return them to me together with a note of the charges and expenses payable in respect of this request through the Attorney-General of South Australia from whom this request was received for transmission to the Supreme Court of South Australia.

I request that you cause me, and the agents of the parties if appointed, to be informed of the date and time when and place where the examination is to take place.

**Date:**

*(signed)* .....

Registrar

Form 26

Rule 68(1)

Subpoena

*(insert proceeding heading)***SUBPOENA**TO: *(name)* of *(address)***You are ordered:**

- to attend to give evidence – see Section A of this form; or**
- to produce this subpoena or a copy of it and the documents or things specified in the Schedule – see Section B of this form; or**
- to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule – see Section C of this form.**

*(select one only of these three options)***Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.**

Please read Notes 1 to 15 at the end of this subpoena.

The last date for service of this subpoena is *(date)*. *(see Note 1)**(if applicable)* The last date for service was fixed by order made by Justice *(name)* dated *(date)*.

FILED:

*(Registry to place seal)*Issued at the request of *(role of party)*, *(name)* whose address for service is:

Place:

Email:

*(delete whichever of the following Section A, B or C is not applicable)*

**SECTION A. Details of subpoena to attend to give evidence only**

---

Date, time and place at which you must attend to give evidence, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court, Sir Samuel Way Building, 241-259 Victoria Square Adelaide

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

**SECTION B. Details of subpoena to produce only**

---

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court, Sir Samuel Way Building, 241-259 Victoria Square Adelaide

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

Supreme Court Criminal Registry  
Lower Ground Floor  
Sir Samuel Way Building  
241- 259 Victoria Square  
Adelaide, South Australia, 5000

**Schedule of documents**

The documents and things you must produce are as follows:

*(list the documents or things. if insufficient space attach list)*



**SECTION C. Details of subpoena both to attend to give evidence and to produce**

---

Insofar as you are required by this subpoena to attend to give evidence, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court, Sir Samuel Way Building, 241-259 Victoria Square Adelaide

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in this proceeding or until the hearing of the matter is completed.

---

Insofar as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to the Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (*see Notes 5-11*)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date:

Time:

Place: Supreme Court, Sir Samuel Way Building, 241-259 Victoria Square Adelaide

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

Supreme Court Civil Registry  
Lower Ground Floor  
Sir Samuel Way Building  
241- 259 Victoria Square  
Adelaide, South Australia, 5000

**Schedule of documents**

The documents and things you must produce are as follows:

*(list the documents or things. if insufficient space attach list)*

**Notes****Last day for service**

1. You need not comply with the subpoena unless it is served on you on or before the date specified in the subpoena as the last date for service of the subpoena.

**Informal service**

2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last date for service of the subpoena, actual knowledge of the subpoena and of its requirements.

**Addressee a corporation**

3. If the subpoena is addressed to a corporation, the corporation must comply with the subpoena by its appropriate or proper officer.

**Conduct money**

4. You need not comply with the subpoena in so far as it requires you to attend to give evidence unless conduct money sufficient to meet your reasonable expenses of attending as required by the subpoena is handed or tendered to you a reasonable time before the date on which your attendance is required.

**Production of subpoena or copy of it and documents or things by delivery or post**

5. In so far as this subpoena requires production of the subpoena (or a copy of it) and a document or thing, instead of attending to produce the subpoena (or a copy of it) and the document or thing, you may comply with the subpoena by delivering or sending the subpoena (or a copy of it) and the document or thing to the Registrar:

- (a) at the address specified in the subpoena for the purpose; or
- (b) if more than one address is so specified, at any one of those addresses;

so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production or, if you receive notice of a later date or time from the issuing party, before that later date or time.

**Objection to inspection of the document or thing produced**

6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to the subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

**Production of a number of documents or things**

8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.

**Production of copy instead of original**

9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.

9A. The copy of a document may be:

- (i) a photocopy; or
- (ii) in an electronic form that the issuing party has indicated will be acceptable (and otherwise in PDF format on a CD-rom).

**Return or destruction of documents or copies**

10. You may, at the time of production, inform the Court that any document or copy of a document produced need not be returned and may be destroyed.
11. If you have so informed the Court, the Registrar may destroy the document or copy instead of returning it to you.

**Applications in relation to subpoena**

12. You have the right to apply to the Court:
- (a) for an order setting aside the subpoena (or a part of it) or for relief in respect of the subpoena; and
  - (b) for an order with respect to your claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of the subpoena.

**Loss or expense of compliance**

13. You may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with the subpoena.

**Contempt of court – arrest**

14. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
15. Note 14 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

## Rules 76(3) and 76(4)

Form 27

Subpoena – notice and declaration by addressee of subpoena

*(insert proceeding heading)***NOTICE AND DECLARATION BY ADDRESSEE OF SUBPOENA**TO: *(name of addressee)**(address)***Notice to Addressee**

The *Addressee* is the person to whom the subpoena is addressed and who will be the recipient of the subpoena.

You may produce copies of any subpoenaed documents, unless the subpoena specifically requires you to produce originals. A copy of a document may be:

- (a) a photocopy; or
- (b) in an electronic form (preferably in PDF format on a CD).

**You must complete the Declaration below, attach it to the subpoena or a copy of the subpoena, and return them with the documents or things you provide to the Court under the subpoena.**

If you declare that the material you produce are copies of documents, the Registrar may, without further notice to you, destroy the copies after the expiry of 4 months from the conclusion of the proceeding or, if the documents become exhibits in the proceeding, when they are no longer required in connection with the proceeding, including on any appeal.

If the material you produce to the Court is or includes an original document, the Court will return all of the material to you at the address specified by you in the Declaration below.

**DECLARATION BY ADDRESSEE (SUBPOENA RECIPIENT)**

*(tick the relevant option below, provide your address as appropriate, sign and date)*

**All** of the material I am providing to the Court in compliance with the attached subpoena are **copies of documents**. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.

**Some or all** of the material I am providing to the Court in compliance with the attached subpoena is an **original** document. Once the material is no longer required, all of the material should be returned to me at the following address:

.....  
.....

*(signature of addressee)* .....

*(name of addressee)* .....

*(date)* .....

Rule 92(1)

Form 28

Originating application to fix non-parole period

*(insert proceeding heading)*

**ORIGINATING APPLICATION TO FIX NON-PAROLE PERIOD**

*Criminal Law (Sentencing) Act 1988 s 32(3)*

TO THE PAROLE BOARD

TO THE PRISONER: *(insert name)*

.....

*(delete whichever is inapplicable)*

AND TO THE DIRECTOR OF PUBLIC PROSECUTIONS

**Application**

*(name of applicant)*.....

applies under section 32(3) of the *Criminal Law (Sentencing) Act 1988* for an order fixing a non-parole period in respect of a sentence imposed in the *(insert Court)* .....

on *(insert date)*.....

of imprisonment for *(insert sentence imposed)*

.....

with a non-parole period of *(insert non-parole period imposed)*.....

*(delete if inapplicable)*

- On *(insert date)*.....the Parole Board of South Australia cancelled the applicant’s release on parole and directed that the applicant serve the balance of the sentence being *(insert period)* .....which commenced on *(insert date)*
- The applicant is serving a term of imprisonment of one year or more, and has not had a non-parole period fixed in respect of that sentence  
*(delete whichever is inapplicable)*

The applicant’s sentence will expire on *(insert date)*.....



**Relevant matters**

The applicant invites the sentencing Court to take into the following matters when it fixes the non-parole period:

.....  
.....  
.....

**Applicant's address**

The applicant's address for service is:

Place: .....  
.....

Email:

.....

The applicant's address is (*place of residence or business*):

.....  
.....

**Date:**

(*signed*)

.....

Prisoner/Solicitor for the prisoner/Parole Board of South Australia  
(*delete whichever is inapplicable*)

**Hearing**

*(When the application is to be given a separate listing date, the following will be completed by the Registry)*

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

*(signed)* .....

Registrar

Rules 94(1), 96(1), 97(1), 98(2)(b)

Form 29

Originating application

(insert front sheet)

**ORIGINATING APPLICATION**

TO THE *(INSERT ROLE)*; *(insert name of other party)*.....

AND TO *(insert names of others to whom notice of the application is to be given)*.....

**Application**

The Director of Public Prosecutions/Parole Board/Public Advocate/Attorney-General/Defendant/ Applicant *(delete whichever is inapplicable)* *(insert name and address when application made by or on behalf of the defendant or another individual)* seeks the following orders:

- 1. *(state briefly but specifically the orders sought)*

**Grounds**

The grounds relied upon by the applicant are as follows: *(set out sufficient particulars to give proper notice of the basis of the orders sought)*

.....  
.....

**Applicant’s address**

The applicant’s address for service is:

Place: .....  
.....

Email: .....

The applicant’s address is *(place of residence or business)*:

.....  
.....

**Date:**

(signed) .....  
Director of Public Prosecutions/Parole Board/Public Advocate/Attorney-  
General/Defendant/Applicant (*delete whichever is inapplicable*)

**Hearing**

*(When the application is to be given a separate listing date, the following will be completed by the Registry)*

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

(signed) .....  
Registrar

Rules 93, 94(4)

Form 30

Warrant for detention

(insert proceeding heading)

**WARRANT FOR DETENTION**

*Criminal Law Consolidation Act 1935 s 269O/269P/269U*

**Particulars of Defendant**

Name: .....

Date of Birth: .....

Address: .....

.....

**Particulars of supervision order**

Offence charged: .....

Section and Act under which offence charged: .....

Court which made Supervision Order: .....

Terms of Supervision Order: .....

Date of Supervision Order: .....

Period of limiting term: .....

**Warrant**

TO THE SHERIFF

AND TO THE COMMISSIONER OF POLICE AND MEMBERS OF THE POLICE  
FORCE

AND TO THE MINISTER OF HEALTH.

- The defendant named in this warrant has been dealt with by the Court and, having been declared liable to supervision, committed to detention with a limiting term pursuant to Part 8A of the *Criminal Law Consolidation Act 1935*.
- The defendant named in this warrant was committed to detention with a limiting term pursuant to Part 8A of the *Criminal Law Consolidation Act 1935*. The defendant was subsequently released on licence but on (date)..... the Court cancelled the release.

(delete whichever is inapplicable)

You, the Sheriff, and you, the Commissioner of Police and Members of the Police Force, are directed to convey the defendant to James Nash House and you, the Minister of Health, are directed to detain the defendant in accordance with the Supervision Order.

**Date:**

(*signed*) .....  
Justice (*name*)

Rule 94(5)

Form 31

Warrant of remand in custody pending investigation

(insert proceeding heading)

**WARRANT OF REMAND IN CUSTODY PENDING INVESTIGATION**

*Criminal Law Consolidation Act 1935 s 269X(1)*

**Particulars of Defendant**

Name: .....

Date of Birth: .....

Address: .....

**Particulars of investigation and institution**

Offence charged: .....

Section and Act under which offence charged: .....

Investigation into the mental fitness of the defendant to stand trial on the offence charged/the mental competence of the defendant to commit the offence charged (*delete whichever is inapplicable*)

Institution defendant is to be taken to: .....

**Warrant**

TO THE SHERIFF

AND TO THE COMMISSIONER OF POLICE AND MEMBERS OF THE POLICE FORCE

AND TO THE MINISTER OF HEALTH/THE CHIEF EXECUTIVE OF THE DEPARTMENT OF CORRECTIONAL SERVICES (*delete whichever is inapplicable*)

The defendant named in this warrant is subject of an investigation into his/her (*delete whichever is inapplicable*) fitness to stand trial/mental competence (*delete whichever is inapplicable*) pursuant to Part 8A of the *Criminal Law Consolidation Act 1935*

You, the Sheriff, and you, the Commissioner of Police and Members of the Police Force, are directed to convey the defendant to the institution referred to above.

The defendant is to be taken to the institution referred to above until a placement at a secure mental health facility is available and then the defendant is to be transferred to the care of the Minister of Health.

You, the/the Chief Executive of the Department of Correctional Services/Minister of Health (*delete whichever is inapplicable*) are directed to detain the defendant until the conclusion of the investigation.

**Date:**

(*signed*) .....  
Justice (*name*)



Rule 94(5)

Form 32

Warrant of remand in custody after declared liable to supervision

(insert proceeding heading)

**WARRANT OF REMAND IN CUSTODY AFTER DECLARED LIABLE TO SUPERVISION**

*Criminal Law Consolidation Act 1935 s 269X(2), 269U(3)*

**Particulars of Defendant**

Name: .....

Date of Birth: .....

Address: .....

**Particulars of declaration and institution**

Offence charged: .....

Section and Act under which offence charged: .....

Court which made declaration liable to supervision: .....

Date declared liable to supervision: .....

Institution defendant is to be taken to: .....

Date and time to which remanded: .....

**Warrant**

TO THE SHERIFF

AND TO THE COMMISSIONER OF POLICE AND MEMBERS OF THE POLICE FORCE

AND TO THE CHIEF EXECUTIVE OF THE DEPARTMENT OF CORRECTIONAL SERVICES

The defendant named in this warrant has been declared liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935*.

You, the Sheriff, and you, the Commissioner of Police and Members of the Police Force, are directed to convey the defendant to the correctional institution referred to above.

- The defendant is to be taken to the institution referred to above until a placement at a secure mental health facility is available and then the defendant is to be transferred to the care of the Minister of Health.
- You, the Chief Executive, Department of Correctional Services/ Minister of Health, are directed to detain the defendant until such time as the Court makes all orders which are required to be made pursuant to s 269O of the Act.
- The defendant named in this warrant was committed to detention with a limiting term pursuant to Part 8A of the *Criminal Law Consolidation Act 1935*. The defendant was subsequently released on licence but on..... the Court on an application for review of the supervision order under section 269U made an order that the defendant be detained until the application is determined.

*(delete whichever is inapplicable)*

**Date:**

*(signed)* .....  
Justice *(name)*

**Rule 95(1)**

Form 33

Originating application for dangerous offender declaration

*(insert front sheet)*

**ORIGINATING APPLICATION FOR DANGEROUS OFFENDER  
DECLARATION**

*Criminal Law (Sentencing) Act 1988 s 33A(1)*

TO: *(NAME OF PERSON SUBJECT OF APPLICATION)* .....

AND TO THE DIRECTOR OF PUBLIC PROSECUTIONS *(if not representing the  
Attorney-General)*

AND TO THE COMMISSIONER FOR VICTIMS' RIGHTS

**Application**

The Attorney-General of the State of South Australia applies under section 33A(1) of the *Criminal Law (Sentencing) Act 1988* for a declaration that *(insert name of person to whom the application relates)*.....is a dangerous offender and for an order that his/her *(delete whichever is inapplicable)* non-parole period be negated.

**Grounds**

The grounds relied upon by the applicant are as follows: *(set out sufficient particulars to give proper notice of the basis of the orders sought)*

.....  
.....

**Applicant's address**

The applicant's address for service is:

Place: .....

.....

Email: .....

The applicant's address is *(place of residence or business)*:

.....

.....

**Date:**

(signed) .....  
Attorney-General/Solicitor for the Attorney-General (*delete whichever is inapplicable*)

**Hearing**

*(When the application is to be given a separate listing date, the following will be completed by the Registry)*

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

(signed) .....  
Registrar

Rule 95(4)

Form 34

Notice of hearing of application for dangerous offender declaration

*(insert proceeding heading)*

**NOTICE OF HEARING OF APPLICATION FOR DANGEROUS OFFENDER DECLARATION**

*Criminal Law (Sentencing Act) 1988 s 33A*

TO: *(NAME OF PERSON SUBJECT OF APPLICATION)*.....

AND TO THE ATTORNEY-GENERAL

AND TO THE DIRECTOR OF PUBLIC PROSECUTIONS *(if not representing the Attorney-General)*

AND TO THE COMMISSIONER FOR VICTIMS' RIGHTS

**Hearing**

This application will be heard before.....in the Supreme Court at.....on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

*(signed)* .....

Registrar

**Note**

Section 33A(3) of the *Criminal Law (Sentencing) Act 1988* requires that the person to whom the application under section 33A relates must be given at least 14 calendar days written notice of the day on which the Court intends to conduct the proceedings to determine the application.

**Rule 100(1)**

Form 35

Originating application for review of bail decision

*(insert front sheet)*

**ORIGINATING APPLICATION FOR REVIEW OF BAIL DECISION**

*Bail Act 1985 s 14(2)(a)*

TO THE *(INSERT ROLE): (insert name of other party)*.....

AND TO *(insert names of others to whom notice of the application is to be given)*.....

.....

**Application**

The Director of Public Prosecutions/Defendant/Parent of the defendant/Guardian of the defendant *(insert name) (delete whichever is inapplicable)* applies for the following orders:

1. a review of the bail decision set out below under section 14(2)(a) of the *Bail Act 1985*;
2. *(set out any other orders or directions sought from the Court)*

**Particulars of bail decision**

1. The full name and address of the defendant is .....
2. The charge which gave rise to the proceeding is .....
3. The full names and addresses of all parties other than the applicant to the proceeding in which the bail decision was made are .....
4. Any other persons who are interested in the review and who should be served with this application are .....
5. The full name and address of the bail authority who made the bail decision is .....

6. The date and place of the bail decision are .....

7. The terms of the bail decision are .....  
.....

**Review grounds**

8. The whole of the decision is complained of/Parts of the decision complained of  
are *(specify) (delete whichever is inapplicable)*  
.....  
.....

9. The grounds relied upon by the applicant are .....  
.....  
.....  
.....  
.....

10. The evidence to be relied upon by the applicant on the review is the affidavit of  
.....

**Attendance at hearing**

11. *(Complete only if the applicant is in custody and wishes to appear in Court  
personally rather than by audiovisual link).* The applicant objects to appearing  
by audiovisual link at the hearing of the application. The grounds of objection  
relied upon by the applicant are  
.....  
.....  
.....

**Applicant's address**

The applicant's address for service is:

Place: .....  
.....

Email: .....



The applicant’s address is (*place of residence or business*):

.....  
.....

**Date:**

(*signed*) .....  
Director of Public Prosecutions/Defendant/Parent of the  
defendant/Guardian of the defendant (*delete whichever is inapplicable*)

**Hearing**

(*When the application is to be given a separate listing date, the following will be completed by the Registry*)

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

(*signed*) .....  
Registrar

**Rule 100(2)**

Form 36

Originating application for review of reviewed bail decision

*(insert front sheet)***ORIGINATING APPLICATION FOR REVIEW OF REVIEWED BAIL  
DECISION***Bail Act 1985 s 15A*TO THE *(INSERT ROLE): (insert name of other party)*.....AND TO *(insert names of others to whom notice of the application is to be given)*.....

.....

**Application**

The Director of Public Prosecutions/Defendant/Parent of the defendant/Guardian of the defendant *(insert name) (delete whichever is inapplicable)* applies for the following orders:

1. a review of the reviewed bail decision set out below under section 15A of the *Bail Act 1985*;
2. *(set out any other orders or directions sought)*

**Particulars of bail decision**

1. The full name and address of the defendant is .....
2. The charge which gave rise to the proceeding is .....
3. The full names and addresses of all parties other than the applicant to the proceeding in which the bail decision was made are .....
4. Any other persons who are interested in the review and who should be served with this application are .....

- 5. The full name and address of the bail authority who made the original bail decision is .....
- 6. The date and place of the original bail decision are .....
- 7. The terms of the original bail decision are .....
- 8. The name of the Magistrate making the bail review decision is .....
- 9. The date and place of the bail review decision are .....
- 10. The terms of the bail review decision are .....

**Review grounds**

- 11. The whole of the decision is complained of/Parts of the decision complained of are (*specify*) (*delete whichever is inapplicable*) .....
- 12. The grounds relied upon by the applicant are .....
- 13. The evidence to be relied upon by the applicant on the review is the affidavit of .....

**Attendance at hearing**

- 14. (*Complete only if the applicant is in custody and wishes to appear in Court personally rather than by audiovisual link*). The applicant objects to appearing by audiovisual link at the hearing of the application. The grounds of objection relied upon by the applicant are

.....  
.....

**Applicant’s address**

The applicant’s address for service is:

Place: .....

.....

Email: .....

The applicant’s address is (*place of residence or business*):

.....

.....

**Date:**

(*signed*) .....  
Director of Public Prosecutions/Defendant/Parent of the  
defendant/Guardian of the defendant (*delete whichever is inapplicable*)

**Hearing**

(*When the application is to be given a separate listing date, the following will be completed by the Registry*)

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

(*signed*) .....  
Registrar



- 6. The Magistrate who made the order is .....
- 7. The date and place of the order are .....
- 8. The terms of the order are .....

**Review grounds**

- 9. The whole of the decision is complained of/Parts of the decision complained of are (*specify*) (*delete whichever is inapplicable*)  
.....  
.....
- 10. The grounds relied upon by the applicant are .....
- 11. The evidence to be relied upon by the applicant on the review is the affidavits of .....

**Attendance at hearing**

- 12. (*Complete only if the applicant is in custody and wishes to appear in Court personally rather than by audiovisual link*). The applicant objects to appearing by audiovisual link at the hearing of the application. The grounds of objection relied upon by the applicant are  
.....  
.....  
.....

**Applicant's address**

The applicant's address for service is  
 Place: .....  
 .....  
 Email: .....

The applicant’s address is *(place of residence or business)*

.....  
.....

**Date:**

*(signed)* .....  
Director of Public Prosecutions/Defendant/Parent of the  
defendant/Guardian of the defendant *(delete whichever is inapplicable)*

**Hearing**

*(When the application is to be given a separate listing date, the following will be completed by the Registry)*

This application will be heard before.....in the Supreme Court  
at.....on ..... at ..... or so soon  
afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The parties and all persons served with this application are required then to attend if they wish to be heard on the application and, in their absence, the Court may make such order as it thinks fit.

**Date:**

*(signed)* .....  
Registrar

## Rule 108(3)

Form 38

Notice of appeal against conviction or other judgment

*(insert front sheet)*

**NOTICE OF APPEAL AGAINST CONVICTION OR OTHER  
JUDGMENT**

**Particulars of appellant**

1. Full name

.....

2. Primary residential address

.....

3. Address for service of documents *(specify if different from above)*

.....

**Nature of appeal** *(answer "Yes" or "No" in every square)*

4. Appeal by defendant against conviction

Yes / No
----------

5. Appeal by defendant against finding of guilt without recording conviction

Yes / No
----------

6. Appeal by defendant against decision not to make declaration that defendant liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935*

Yes / No
----------



7. Appeal by defendant against decision that defendant mentally fit to stand trial/mentally competent to commit offence charged/objective elements of offence established against defendant (*delete whichever is inapplicable*) Yes / No

**Judgment subject of appeal**

8. Court in which conviction or judgment made Supreme/District/Youth

9. Date of conviction or judgment / / 20

10. Judicial officer who presided over trial Justice/Judge.....

11. Offences subject of appeal (show count number and name of each offence subject of appeal):  
 .....  
 .....  
 .....

12. Terms of judgment subject to appeal (*when not a conviction*):  
 .....  
 .....

**Appeal as of right** (*answer "Yes" or "No" in every square*)

13. The appeal is on a question of law. Yes / No

14. The trial Judge gave a certificate that the matter was fit for appeal. (*if yes, provide certificate with appeal notice*) Yes / No

15. The appeal is against a judgment of a Judge of the Youth Court. Yes / No

Grounds of appeal when appeal is as of right

16. The following are the grounds of appeal when no permission is required (*ie all grounds are grounds of law alone or a certificate of the trial Judge has been given or the appeal is from a judgment of a Judge of the Youth Court*):  
 .....  
 .....

.....

.....

.....

.....

.....

.....

.....

.....

**Appeal requiring permission** (*answer "Yes" or "No" in the square*)  
*(answer this section only if all the answers to questions 13, 14 and 15 are "No")*

17. Some or all grounds of appeal do not involve a question of law. Yes / No

Grounds of appeal when permission to appeal is required

18. The following are the grounds of appeal when permission to appeal is required:

.....

.....

.....

.....

.....

.....

.....

.....

.....

**Orders sought**

19. The following orders are sought on appeal:

.....

.....

**Defendant in custody** (*answer "Yes" or "No" in the square*)

20. The defendant is in custody. Yes / No

21. If in custody, state where detained:

.....

**Attendance at hearings** (answer this section only if the answer to question 20 is "Yes")

24. At the hearing of the application for permission to appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

23. (answer this question only if you answered "I wish to be present in person" in question 22) Give reasons why you wish to be present in person at the hearing of the application for permission to appeal

.....  
.....  
.....

(audiovisual link is the usual form of appearance at a hearing of an application for permission for persons in custody. Special reasons need to be given for the Court to direct personal attendance)

24. At the hearing of the appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

25. (answer this question only if you answered "I wish to be present in person" in question 24) Give reasons why you wish to be present in person at the hearing of the appeal.....

.....  
.....

(audiovisual link is the usual form of appearance at a hearing of an appeal for persons in custody. Reasons need to be given for the Court to direct personal attendance. The Court will usually direct personal attendance if a person requests it.)

**Extension of time** (*Answer "Yes" or "No" in the square*)

26. The appeal is out of time.

Yes / No
----------

*(answer the question below only if the answer to question 26 is "Yes")*

27. The reasons for the delay and the grounds upon which the Court will be asked to extend time are:

.....  
.....  
.....

**Date:**

*(signed)* .....

Defendant/Solicitor for the defendant (*delete whichever is inapplicable*)

**Rule 108(3)**

Form 39

Notice of second or subsequent appeal against conviction

*(insert front sheet)*

**NOTICE OF SECOND OR SUBSEQUENT APPEAL AGAINST  
CONVICTION**

**Particulars of appellant**

- 1. Full name  
.....
- 2. Primary residential address  
.....
- 3. Address for service of documents *(specify if different from above)*  
.....

**Nature of appeal** *(answer "Yes" or "No" in every square)*

4. Second or subsequent appeal by defendant against conviction Yes / No

**Judgment subject of appeal**

5. Court in which convicted Supreme/District/Youth

6. Date of conviction / / 20

7. Judicial officer who presided over trial Justice/Judge.....

8. Offences subject of appeal *(show count number and name of each offence subject of appeal):*

.....  
.....  
.....  
.....

9. Date previous appeal dismissed

/ / 20

**Appeal requiring permission**

10. The following are the grounds of appeal if permission to appeal is granted:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

11. The following is the fresh evidence said to justify the grant of permission to make a second or subsequent appeal (*identify the witness or witnesses who would give the evidence and/or the documents containing the evidence and the effect of the evidence*):

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

12. The evidence summarised in question 11 above was not adduced at trial and could not, even with the exercise of reasonable diligence, have been adduced at trial because (*set out why not known or available by the exercise of reasonable diligence at trial and how since discovered*)

.....  
.....  
.....

.....  
.....  
.....

13. The fresh evidence summarised in question 11 above is compelling in that it is reliable, substantial and highly probative in the context of the issues in dispute at the trial of the offence because *(set out why the evidence is reliable, the issue at trial to which it is relevant and why it would or may have affected the result at trial)*:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Orders sought**

14. The following orders are sought on appeal:

.....  
.....

**Defendant in custody** *(answer "Yes" or "No" in the square)*

15. The defendant is in custody. 

Yes / No
----------

16. If in custody, state where detained:

.....

Attendance at hearings *(answer "Yes" or "No" or "NA" in each square)*  
*(answer this section only if the answer to question 15 is "Yes")*

17. At the hearing of the application for permission to appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

18. (answer this question only if you answered "I wish to be present in person" in question 17) Give reasons why you wish to be present in person at the hearing of the application for permission to appeal:

.....

.....

.....

(audiovisual link is the usual form of appearance at a hearing of an application for permission for persons in custody. Special reasons need to be given for the Court to direct personal attendance)

19. At the hearing of the appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

20. (answer this question only if you answered "I wish to be present in person" in question 19) Give reasons why you wish to be present in person at the hearing of the appeal

.....

.....

.....

(audiovisual link is the usual form of appearance at a hearing of an appeal for persons in custody. Reasons need to be given for the Court to direct personal attendance. The Court will usually direct personal attendance if a person requests it.)

Date:

(signed) .....  
Defendant/Solicitor for the defendant (delete whichever is inapplicable)



**Rule 108(3)**

Form 40

Notice of appeal against acquittal or other judgment

*(insert front sheet)*

**NOTICE OF APPEAL AGAINST ACQUITTAL OR OTHER JUDGMENT**

**Nature of appeal**

1. Appeal by Director of Public Prosecutions against acquittal Yes / No

2. Appeal by Director of Public Prosecutions against declaration that defendant liable to supervision under Part 8A of the *Criminal Law Consolidation Act 1935* Yes / No

3. Appeal by Director of Public Prosecutions against decision that defendant not mentally fit to stand trial/not mentally competent to commit offence charged/objective elements of offence not established against defendant Yes / No  
*(delete whichever is inapplicable)*

**Judgment subject of appeal**

4. Court in which defendant acquitted or judgment made Supreme/District/Youth

5. Date of acquittal or judgment / / 20

6. Judicial officer who presided over trial Justice/Judge .....

7. Offences subject of appeal (*show count number and name of each offence subject of appeal*):  
.....  
.....  
.....  
.....

**Appeal requiring permission** (answer "Yes" or "No" in the square)

8. The trial was by Judge alone.

Yes / No

9. The trial was by jury and the Judge directed the jury to acquit the accused.

Yes / No

Grounds of appeal

10. The following are the grounds of appeal if permission to appeal is granted:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Orders sought**

11. The following orders from the Court are sought on the appeal:

.....  
.....  
.....  
.....

**Extension of time** (answer "Yes" or "No" in the square)

12. The appeal is out of time.

Yes/No

*(answer the question below only if the answer to question 12 is "Yes")*

13. The reasons for the delay and the grounds upon which the Court will be asked to extend time are:

.....  
.....  
.....  
.....

**Director's address**

The Director's address for service is

Place: .....

.....

Email: .....

**Date:**

*(signed)* .....  
Director of Public Prosecutions

**Rule 108(3)**

Form 41

Notice of appeal against sentence

*(insert front sheet)*

**NOTICE OF APPEAL AGAINST SENTENCE**

**Particulars of appellant**

- 1. Full name *(if appeal is by the defendant)*  
.....
- 2. Usual residential address *(if appeal is by the defendant)*  
.....
- 3. Address for service of documents *(specify if different from above)*  
.....

**Nature of appeal** *(answer "Yes" or "No" in every square)*

- 4. Appeal by defendant against sentence Yes / No
- 5. Appeal by Director of Public Prosecutions against sentence Yes / No

**Judgment subject of appeal**

- 6. Court in which convicted Supreme/District/Youth  
Court  
  
OR Magistrates Court major  
indictable
- 7. Date of conviction / / 20
- 8. Offences subject of appeal *(show count number and name of each offence subject of appeal):*  
.....  
.....  
.....
- 9. Date sentenced / / 20

10. Judicial officer by whom sentenced Justice/Judge .....

11. Sentence imposed:  
.....  
.....  
.....

**Appeal as of right** (answer "Yes" or "No" in every square)

12. Appeal against sentence imposed by a Judge of the Youth Court. Yes / No

13. Appeal against sentence for a major indictable offence imposed by a Magistrate. Yes / No

Grounds of appeal when appeal is as of right

14. The following are the grounds of appeal when no permission is required (ie the appeal is from a sentence imposed by a Judge of the Youth Court or from a sentence for a major indictable offence imposed by a Magistrate):  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Appeal requiring permission** (answer "Yes" or "No" in the square)  
(answer this section only if the answers to questions 12 and 13 are both "No")

Grounds of appeal when permission to appeal is required

15. The following are the grounds of appeal when permission to appeal is required:  
.....  
.....

.....  
 .....  
 .....  
 .....  
 .....  
 .....

**Orders sought**

16. The following orders are sought on the appeal:

.....  
 .....  
 .....  
 .....  
 .....

**Defendant in custody** (answer "Yes" or "No" in the square)

17. The appeal is by the defendant and the defendant is in custody.

Yes / No
----------

18. If in custody, state where detained:

.....  
 .....

Attendance at hearings (answer "Yes" or "No" or "NA" in each square)  
 (answer this section only if the answer to question 17 is "Yes")

19. At the hearing of the application for permission to appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

20. (answer this question only if you answered "I wish to be present in person" in question 19) Give reasons why you wish to be present in person at the hearing of the application for permission to appeal:

.....  
.....  
.....

*(audiovisual link is the usual form of appearance at a hearing of an application for permission for persons in custody. Special reasons need to be given for the Court to direct personal attendance)*

21. At the hearing of the appeal, I wish to:

*(tick 1 box only)*

- be present in person
- appear by audiovisual link
- not appear.

22. *(answer this question only if you answered "I wish to be present in person" in question 21)* Give reasons why you wish to be present in person at the hearing of the appeal:

.....  
.....

*(audiovisual link is the usual form of appearance at a hearing of an appeal for persons in custody. Reasons need to be given for the Court to direct personal attendance. The Court will usually direct personal attendance if a person requests it.)*

**Extension of time** *(answer "Yes" or "No" in the square)*

23. The appeal is out of time.

Yes / No
----------

*(answer the question below only if the answer to question 23 above is "Yes")*

24. The reasons for the delay and the grounds upon which the Court will be asked to extend time are:

.....  
.....  
.....  
.....

**Date:**

*(signed)* .....

Defendant/Solicitor for the defendant/Director of Public Prosecutions  
*(delete whichever is inapplicable)*

Rule 108(3)

Form 42

Notice of appeal against sentencing decision

(insert front sheet)

NOTICE OF APPEAL AGAINST SENTENCING DECISION

Particulars of appellant

- 1. Full name (if appeal is by the defendant)
 

.....
- 2. Usual residential address (if appeal is by the defendant)
 

.....
- 3. Address for service of documents (specify if different from above)
 

.....

Nature of appeal by defendant (answer "Yes" or "No" in every square)

- 4. Appeal by defendant against decision to make a dangerous offender declaration and order negating the non-parole period under section 33A(9) of the *Criminal Law (Sentencing Act) 1988*. Yes / No
  
- 5. Appeal by defendant against decision not to discharge or to extend an order for indefinite detention or not to make an order for release on licence under Part 2 Division 3 of the *Criminal Law (Sentencing Act) 1988*. Yes / No
  
- 6. Appeal by defendant against decision to make a supervision order committing the defendant to detention or releasing the defendant on licence under section 269O of the *Criminal Law Consolidation Act 1935*. Yes / No

Nature of appeal by Crown (answer "Yes" or "No" in every square)

- 7. Appeal by Attorney-General against decision not to make a dangerous offender declaration and order negating the non-parole period under section 33A(9) of the *Criminal Law (Sentencing Act) 1988*. Yes / No
  
- 8. Appeal by Director of Public Prosecutions or Attorney-General against



decision to discharge or not to extend an order for indefinite detention or   
 to make an order for release on licence under Part 2 Division 3 of the  
*Criminal Law (Sentencing Act) 1988.*

9. Appeal by Director of Public Prosecutions against decision not to   
 make a supervision order committing the defendant to detention or to  
 release the defendant on licence under section 269O of the *Criminal Law  
 Consolidation Act 1935.*

**Judgment subject of appeal**

10. Court in which order was made or not made

11. Date of order

12. Judicial officer by whom order was made or not made

13. Offences subject of appeal (*show count number and name of each offence subject  
 of appeal*):  
 .....  
 .....  
 .....  
 .....

**Appeal as of right** (*answer "Yes" or "No" in every square*)

14. Sentencing decision:  
 .....  
 .....  
 .....

15. The appeal is against a decision whether to make a dangerous   
 offender declaration and order negating the non-parole period

16. The appeal is against a decision whether to discharge or extend an   
 order for indefinite detention or to release a person on licence  
 under Part 2 Division 3 of the *Criminal Law (Sentencing Act) 1988.*

Grounds of appeal when appeal is as of right

17. The following are the grounds of appeal when no permission is required (ie you answered "yes" to either question 15 or 16):

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Appeal requiring permission** (answer "Yes" or "No" in the square)  
(answer this section only if the answers to questions 15 and 16 are both "No")

18. The appeal is against a decision whether to make a supervision order committing the defendant to detention or release the defendant on licence under section 269O of the *Criminal Law Consolidation Act 1935* Yes / No

19. The appeal is against a decision whether to make an order for indefinite detention under Part 2 Division 3 of the *Criminal Law (Sentencing Act) 1988*. Yes / No

Grounds of appeal when permission to appeal is required

20. The following are the grounds of appeal when permission to appeal is required:

.....  
.....  
.....  
.....  
.....  
.....  
.....

.....  
.....  
.....

**Orders sought**

21. The following orders are sought on the appeal:

.....  
.....  
.....  
.....  
.....

**Defendant in custody** (answer "Yes" or "No" in the square)

22. The appeal is by the defendant and the defendant is in custody.

Yes / No
----------

23. If in custody, state where detained:

.....  
.....

**Attendance at hearings** (answer "Yes" or "No" or "NA" in each square)

(answer this section only if the answer to question 22 is "Yes")

24. At the hearing of the application for permission to appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

25. (answer this question only if you answered "I wish to be present in person" in question 24) Give reasons why you wish to be present in person at the hearing of the application for permission to appeal:

.....  
.....  
.....

(audiovisual link is the usual form of appearance at a hearing of an application for permission for persons in custody. Special reasons need to be given for the Court to direct personal attendance)

26. At the hearing of the appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

27. (answer this question only if you answered "I wish to be present in person" in question 26) Give reasons why you wish to be present in person at the hearing of the appeal:

.....

.....

.....

.....

(audiovisual link is the usual form of appearance at a hearing of an appeal for persons in custody. Reasons need to be given for the Court to direct personal attendance. The Court will usually direct personal attendance if a person requests it.)

**Extension of time** (answer "Yes" or "No" in the square)

28. The appeal is out of time.

Yes / No
----------

(answer the question below only if the answer to question 28 is "Yes")

29. The reasons for the delay and the grounds upon which the Court will be asked to extend time are:

.....

.....

.....

.....

**Date:**

(signed)

.....

Defendant/Solicitor for the defendant/Director of Public Prosecutions

(delete whichever is inapplicable)

**Rule 108(3)**

Form 43

Notice of appeal against antecedent decision

*(insert front sheet)*

**NOTICE OF APPEAL AGAINST ANTECEDENT DECISION**

**Particulars of appellant**

- 1. Full name *(if appeal is by the defendant)*  
.....
- 2. Usual residential address *(if appeal is by the defendant)*  
.....
- 3. Address for service of documents *(specify if different from above)*  
.....

**Nature of appeal** *(answer "Yes" or "No" in every square)*

- 4. Appeal by defendant against antecedent decision Yes / No
- 5. Appeal by Director of Public Prosecutions against antecedent decision Yes / No

**Judgment subject of appeal**

- 6. Court in which antecedent decision made Supreme/District/Youth
- 7. Date of antecedent decision / / 20
- 8. Judicial officer by whom antecedent decision made Justice/Judge .....
- 9. Offences subject of appeal *(show count number and name of each offence subject of appeal):*  
.....  
.....  
.....

.....

**Appeal as of right** (answer "Yes" or "No" in every square)

10. The appeal is by the Director on a question of law Yes / No

11. The trial Judge gave permission to appeal  
(If yes, provide date of grant of permission) Yes / No

/ / 20

Grounds of appeal when appeal is as of right

12. The following are the grounds of appeal when no permission is required (ie you answered "yes" to questions 10 or 11):

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Appeal requiring permission** (answer "Yes" or "No" in the square)  
(answer this section only if the answers to questions 10 and 11 are both "No")

13. Some or all grounds of appeal do not involve a question of law. Yes / No

Grounds of appeal when permission to appeal is required

14. The following are the grounds of appeal when permission to appeal is required:

.....  
.....  
.....  
.....  
.....  
.....  
.....

.....  
.....  
.....

**Orders sought**

15. The following orders are sought on the appeal:

.....  
.....  
.....  
.....  
.....

**Defendant in custody** (*answer "Yes" or "No" in the square*)

16. The appeal is by the defendant and the defendant is in custody.

Yes / No
----------

17. If in custody, state where detained:

.....  
.....

**Attendance at hearings** (*answer "Yes" or "No" or "NA" in each square*)

(*answer this section only if the answer to question 16 is "Yes"*)

18. At the hearing of the application for permission to appeal, I wish to:

(*tick 1 box only*)

be present in person

appear by audiovisual link

not appear.

19. (*answer this question only if you answered "I wish to be present in person" in question 18*) Give reasons why you wish to be present in person at the hearing of the application for permission to appeal:

.....  
.....  
.....  
.....

(audiovisual link is the usual form of appearance at a hearing of an application for permission for persons in custody. Persons in custody who wish to attend the hearing should note that special reasons need to be given for the Court to direct personal attendance)

20. At the hearing of the appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

21. (answer this question only if you answered "I wish to be present in person" in question 20) Give reasons why you wish to be present in person at the hearing of the appeal:

.....

.....

.....

.....

(audiovisual link is the usual form of appearance at a hearing of an appeal for persons in custody. Persons in custody who wish to attend the hearing should note that special reasons need to be given for the Court to direct personal attendance)

**Extension of time** (answer "Yes" or "No" in the square)

22. The appeal is out of time.

Yes / No
----------

(answer the question below only if the answer to question 22 above is "Yes")

23. The reasons for the delay and the grounds upon which the Court will be asked to extend time are:

.....

.....

.....

.....

**Date:**

(signed) .....

Defendant/Solicitor for the defendant/Director of Public Prosecutions  
(delete whichever is inapplicable)



**Rule 108(3)**

Form 44

Notice of appeal—miscellaneous

*(insert front sheet)*

**NOTICE OF APPEAL—MISCELLANEOUS**

**Particulars of appellant**

- 1. Full name *(if appeal is by the defendant)*  
.....
- 2. Usual residential address *(if appeal is by the defendant)*  
.....
- 3. Address for service of documents *(specify if different from above)*  
.....

**Nature of appeal** *(answer "Yes" or "No" in every square)*

- 4. Appeal by defendant/applicant/respondent Yes / No
- 5. Appeal by Director of Public Prosecutions Yes / No

**Judgment subject of appeal**

- 6. Court in which order made Supreme/District/Youth
- 7. Date of order / / 20
- 8. Judicial officer by whom order made Justice/Judge .....

- 9. Offences subject of appeal *(show count number and name of each offence subject of appeal):*  
.....  
.....  
.....  
.....

**Appeal as of right** (answer "Yes" or "No")

10. The appeal is as of right as to some/all grounds (delete whichever is inapplicable) because

.....  
.....  
.....

Grounds of appeal when appeal is as of right

11. The following are the grounds of appeal when no permission is required:

.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....  
.....

**Appeal requiring permission** (Answer "Yes" or "No" in the square)

12. Permission is required as to some or all grounds of appeal because

Yes / No
----------

.....  
.....  
.....

Grounds of appeal when permission to appeal is required

13. The following are the grounds of appeal when permission to appeal is required:

.....  
.....  
.....  
.....

.....  
.....  
.....  
.....  
.....  
.....

**Orders sought**

14. The following orders are sought on the appeal:

.....  
.....  
.....  
.....  
.....

**Defendant in custody** (answer "Yes" or "No" in the square)

15. The appeal is by the defendant and the defendant is in custody.

Yes / No
----------

16. If in custody, state where detained:

.....  
.....

Attendance at hearings (Answer "Yes" or "No" or "NA" in each square)

(answer this section only if the answer to question 15 is "Yes")

17. At the hearing of the application for permission to appeal, I wish to:

(tick 1 box only)

- be present in person
- appear by audiovisual link
- not appear.

18. (answer this question only if you answered "I wish to be present in person" in question 17) Give reasons why you wish to be present in person at the hearing of the application for permission to appeal:

.....  
.....

.....

*(audiovisual link is the usual form of appearance at a hearing of an application for permission for persons in custody. Persons in custody who wish to attend the hearing should note that special reasons need to be given for the Court to direct personal attendance)*

19. At the hearing of the appeal, I wish to:

*(tick 1 box only)*

- be present in person
- appear by audiovisual link
- not appear.

20. *(answer this question only if you answered "I wish to be present in person" in question 19)* Give reasons why you wish to be present in person at the hearing of the appeal:

.....  
.....

*(audiovisual link is the usual form of appearance at a hearing of an appeal for persons in custody. Persons in custody who wish to attend the hearing should note that special reasons need to be given for the Court to direct personal attendance)*

**Extension of time** *(answer "Yes" or "No" in the square)*

21. The appeal is out of time.

Yes / No
----------

*(answer the question below only if the answer to question 21 is "Yes")*

22. The reasons for the delay and the grounds upon which the Court will be asked to extend time are:

.....  
.....  
.....  
.....

**Date:**

*(signed)*

.....  
Defendant/Solicitor for the defendant/Director of Public Prosecutions  
*(delete whichever is inapplicable)*

**Rule 110(1)**

Form 45

Notice to respondent of appeal

*(insert proceeding heading)*

**NOTICE TO RESPONDENT OF APPEAL**

TO THE RESPONDENT: *(insert name of respondent)* .....

AND TO THE COURT OF TRIAL *(if trial was not in the Supreme Court)*

**Notice**

TAKE NOTICE that a notice of appeal has been filed in the Supreme Court Registry on .....

A copy of the notice of appeal is attached.

**Action required by respondent**

If you wish to be heard on any matter relating to the appeal, YOU MUST file a notice of address for service in form 5A or form 5B within 5 business days of the date of this notice, unless the respondent is the Director of Public Prosecutions.

**Date**

*(signed)* .....  
Solicitor of appellant/Appellant/Registrar *(delete whichever is inapplicable)*

Rule 114

Form 46 Originating application for permission to refer question to Full Court

(insert front sheet)

ORIGINATING APPLICATION FOR PERMISSION TO APPLY TO REFER A QUESTION TO THE FULL COURT Criminal Law Consolidation Act 1935 s 350(6)(b)(ii)

TO THE DIRECTOR OF PUBLIC PROSECUTIONS

Application

The defendant (insert name of defendant)..... applies to the Supreme Court for permission to make an application to the Full Court for an order requiring a Court to refer a relevant question to the Full Court for consideration and determination.

Particulars

- 1. Number and name of proceeding in which the relevant question arises:
2. Court against which the order is sought:
3. Date of and name of Judge making decision of Court refusing application to have the relevant question referred for consideration and determination by the Full Court:
4. Statement of the relevant question:
5. Particulars of any decision made by the Court concerning the relevant question:

**Defendant's address**

The defendant's address for service is:

Place: .....

.....

Email: .....

The defendant's address is (*place of residence or business*):

.....

.....

**Date:**

(*signed*)

.....

Solicitor for the defendant/Defendant (*delete whichever is inapplicable*)

Rule 115(1)

Form 47

Originating application to refer question to Full Court

(insert front sheet)

ORIGINATING APPLICATION TO REFER QUESTION TO FULL COURT

Criminal Law Consolidation Act 1935 s 350(5) and 350(6)

TO THE (INSERT ROLE): (insert name of other party).....

AND TO (insert names of others to whom notice of the application is to be given)

Application

(insert name of applicant)..... applies to the Full Court for an order requiring a Court to refer a relevant question to the Full Court for consideration and determination.

Particulars

- 1. Name of proceeding in which the relevant question arises:
2. Court against which the order is sought:
3. Date and name of Judge making decision of Court refusing application to have the relevant question referred for consideration and determination by the Full Court (when applicable):
4. Statement of the relevant question:
5. Particulars of any decision made by the Court concerning the relevant question:
6. Permission to make this application:



- is not required as the application is made by the Attorney-General or Director of Public Prosecutions;
- was granted by Justice/Judge .....in the..... Court on (*insert date*).....  
(*delete whichever is inapplicable*)

**Applicant’s address**

The applicant’s address for service is:

Place: .....

.....

Email: .....

The applicant’s address is (*place of residence or business*):

.....

.....

**Date:**

(*signed*) .....  
Attorney-General /Director of Public Prosecutions/Solicitor for the  
defendant/Defendant (*delete whichever is inapplicable*)

**Rule 116**

Form 48

Originating application for a sentencing guideline

*(insert front sheet)*

**ORIGINATING APPLICATION FOR A SENTENCING GUIDELINE**

*Criminal Law (Sentencing) Act 1988 s 29B*

TO THE DIRECTOR OF PUBLIC PROSECUTIONS  
AND TO THE ATTORNEY-GENERAL  
AND TO THE LEGAL SERVICES COMMISSION  
AND TO THE ABORIGINAL LEGAL RIGHTS MOVEMENT  
AND TO THE COMMISSIONER FOR VICTIMS' RIGHTS

*(delete whichever is the applicant)*

**Application**

The Director of Public Prosecutions/Attorney-General/Legal Services Commission  
*(delete whichever is inapplicable)* applies to the Full Court for the establishment/review  
*(delete whichever is inapplicable)* of a sentencing guideline.

**Particulars**

1. The Offences/Particular Class of Offences *(delete whichever is inapplicable)* in respect of which the establishment or review of a guideline is sought are:  
.....
2. Particulars of any existing relevant sentencing guideline:  
.....  
.....
3. Particulars of the sentencing guideline sought:  
.....  
.....

4. Particulars of the grounds upon which the establishment or review of a sentencing guideline is sought:

.....  
.....

5. Particulars of any evidence that will be tendered before the Full Court on the hearing of the application:

.....  
.....

**Applicant’s address**

The applicant’s address for service is:

Place: .....

Email: .....

The applicant’s address is (*place of business*):

.....  
.....

**Date:**

(*signed*)

.....  
Director of Public Prosecutions/Attorney-General/Legal Services  
Commission (*delete whichever is inapplicable*)

Rule 118(1)

Form 49

Certificate of trial Judge

*(insert proceeding heading)*

**CERTIFICATE OF TRIAL JUDGE**  
*Criminal Law Consolidation Act 1935 s 352(1)(a)(ii)*

**Particulars of conviction**

The defendant *(insert name of defendant)* .....

was tried and convicted before me in the Supreme Court/District Court *(delete whichever is inapplicable)* on ..... of the offences of:

.....  
.....

**Certification**

I CERTIFY under section 352(1)(a)(ii) of the *Criminal Law Consolidation Act 1935* that the case is a fit case for appeal against the conviction upon the following grounds:

.....  
.....  
.....  
.....

**Date:**

*(signed)* .....  
Judge of the Supreme Court/District Court *(delete whichever is inapplicable)*

**Rule 119(5)**

Form 50

Notice of Judge’s decision to refuse application

*(insert proceeding heading)*

**NOTICE OF JUDGE'S DECISION TO REFUSE APPLICATION**  
*Supreme Court Act 1935 s 48(3)*

TO THE APPLICANT: *(insert name)* .....

**Notice**

TAKE NOTICE that a Judge of the Supreme Court having considered the application for

- (a) permission to appeal
- (b) extension of time within which notice of appeal or application for permission to appeal may be given
- (c) bail pending appeal
- (d) permission to appear before the Court in person at the hearing of the proceeding in relation to the appeal

*(delete whichever is inapplicable)*

has refused the application for *(insert which application refused)* .....  
.....

**Action required**

If the applicant desires to have the application that has been refused referred to the Full Court for determination, the applicant must complete the enclosed Application for Determination by Full Court (form 51) and return it within 5 business days of the date of this notice.

**Date:**

*(signed)* .....  
Registrar

**Rule 120(2)**

Form 51

Application for determination by the Full Court

*(insert proceeding heading)*

**APPLICATION FOR DETERMINATION BY THE FULL COURT**

**Application**

The applicant *(insert name)* ..... having received notification that his/her *(delete whichever is inapplicable)* application for

- (a) permission to appeal
- (b) extension of time within which notice of appeal or application for permission to appeal may be given
- (c) bail pending appeal
- (d) permission to appear before the Court in person at the hearing of the proceeding in relation to the appeal

*(delete whichever is inapplicable)*

has been refused, REQUESTS that the application be referred to and determined by the Full Court.

**Date:**

*(signed)* .....  
Solicitor for the applicant/Applicant *(delete whichever is inapplicable)*

**Note**

Any request by the applicant must be made within 5 business days after the date of the Notice of Judge’s Decision to Refuse Application

**Rule 120(5)**

Form 52

Notice of result of request for bail or to be present

*(insert proceeding heading)*

**NOTICE OF RESULT OF REQUEST FOR BAIL OR TO APPEAR IN PERSON**

TO THE APPLICANT: *(insert name)* .....

**Notice**

TAKE NOTICE that the Full Court of the Supreme Court having considered your application for

- (a) bail pending appeal
- (b) permission to appear before the Court in person at the hearing of the proceeding in relation to your appeal

*(delete whichever is inapplicable)*

has refused the application for *(delete if inapplicable)* .....

has granted the application for *(delete if inapplicable)* .....

**Date:**

*(signed)* .....

Registrar

**Rule 122(1)**

Form 53

Application for directions as to witnesses

*(insert front sheet)*

**APPLICATION FOR DIRECTIONS AS TO WITNESSES**

*Criminal Law Consolidation Act 1935 s 359(b)*

TO THE RESPONDENT/APPELLANT: *(delete whichever is inapplicable)* *(insert name)* .....

**Application**

The Appellant/Respondent *(delete whichever is inapplicable)* seeks the following orders or directions:

1. an order that *(insert name of witness)* attend the Court and be examined on the applicant's behalf
2. *(set out any other directions sought)*

**Particulars**

1. Name and address of witness: .....

2. The witness was examined at trial: *(answer "Yes" or "No" in the square)*

Yes / No
----------

3. If the answer to question 2 is "No", the witness was not examined at trial because:.....

4. The matters upon which I propose to examine the witness are:  
.....  
.....  
.....



- 5. The issue to which the proposed evidence is relevant and the reason it is relevant is:

.....  
 .....  
 .....

**Endorsement**

Application made pursuant to rule 122(1) of the *Supreme Court Criminal Rules 2014* and section 359(b) of the *Criminal Law Consolidation Act 1935*.

**Grounds**

The grounds relied upon for seeking the examination are as follows: (*set out sufficient particulars to give proper notice of the issues to be raised so that the other party may determine whether there will be a dispute on the relevant facts*)

.....  
 .....

**Date:**

(*signed*)

.....

Appellant/Respondent/Solicitor for the appellant/Solicitor for the respondent (*delete whichever is inapplicable*)

**Rule 125(1)**

Form 54

Notice of discontinuance of appeal

*(insert front sheet)***NOTICE OF DISCONTINUANCE OF APPEAL****Discontinuance**

The appellant *(insert name)* ..... does not intend to prosecute the appeal and HEREBY DISCONTINUES the appeal.

**Date:***(signed)*

.....  
Solicitor for the appellant/Appellant *(delete whichever is inapplicable)*

*(signed)*

.....  
Witness to signature *(complete when appellant is self-represented only)*

**Rule 127**

Form 55  
*(insert proceeding heading)*

Notice of final determination of appeal

**NOTICE OF FINAL DETERMINATION OF APPEAL**

TO THE APPELLANT: *(insert name)* .....  
AND TO THE RESPONDENT: *(insert name)*.....  
AND TO THE COURT OF TRIAL: *(insert court)*.....  
AND TO *(insert names of others to whom notice of the application is to be given)*  
.....

**Notice**

The Full Court has considered the

- (a) application for permission to appeal
- (b) application for an extension of time within which notice of appeal or application for permission to appeal may be given
- (c) appeal

*(delete whichever is inapplicable)*

and has finally determined the same by judgment and order made on .....  
in the following terms:

.....  
.....  
.....

**Date:**

*(signed)* .....  
Registrar

## South Australia

### Supreme Court Fast Track Rules Adoption Rules 2014 (Amendment No 1)

By virtue and in pursuance of section 72 of the *Supreme Court Act 1935* and all other enabling powers, We, Judges of the Supreme Court of South Australia, make the following *Supreme Court Fast Track Rules Adoption Rules 2014 (Amendment No 1)*.

1. These Rules may be cited as the *Supreme Court Fast Track Rules Adoption Rules 2014 (Amendment No 1)*.
2. The *Fast Track Rules 2014* being the Schedule to the *Supreme Court Fast Track Rules Adoption Rules 2014* are amended as set out below.
3. The Contents page is deleted and the Contents page contained in the Schedule to these Rules is inserted in its place.
4. Rule 13 is amended by:
  - (a) substituting “five” for “seven” in subrule (3);
  - (b) substituting “subrule” for “rule” in subrule (4); and
  - (c) adding at the end of subrule (5) “to which the Court has power to transfer”.
5. Rule 15(4) is deleted and the following subrule is inserted in its place:

“(4) A pleading of an action, cross action or third party action is to quantify all claims whether liquidated or unliquidated.”
6. Rule 15(5) is amended by substituting “five” for “seven”.
7. The Note at the beginning of Chapter 5 is amended by substituting ”2” for “1A”.
8. Rule 34(2) is amended by substituting “33 and 35” for “31 and 33”.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this .....25<sup>th</sup> ..... day of .....August.....2014.

**C KOURAKIS, CJ**

**T. A. GRAY, J**

**J. R. SULAN, J**

**A. M. VANSTONE, J**

**M. DAVID, J**

**P. KELLY, J**

**D. H. PEEK, J**

**M. F. BLUE, J**

**T. L. STANLEY, J**

**K. G. NICHOLSON, J**

**A. E. BAMPTON, J**

**G. J. PARKER, J**

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## South Australia

### Supreme Court Fast Track Supplementary Rules Adoption Rules 2014 (Amendment No 1)

By virtue and in pursuance of section 72 of the *Supreme Court Act 1935* and all other enabling powers, we, Judges of the Supreme Court of South Australia, make the following *Supreme Court Fast Track Supplementary Rules Adoption Rules 2014 (Amendment No 1)*.

1. These Rules may be cited as the *Supreme Court Fast Track Supplementary Rules Adoption Rules 2014 (Amendment No 1)*.
2. The *Fast Track Rules 2014* being the Schedule to the *Supreme Court Fast Track Rules Adoption Rules 2014* are amended as set out below.
3. Supplementary Rule 9–Initial Hearing is to be re-numbered as Rule 10–Initial Hearing.
4. All subsequent supplementary rules are to be re-numbered consequentially.
5. Supplementary rule 10(1), as re-numbered, is amended by substituting “four weeks after a defence or affidavit in lieu of defence is filed” for “three weeks after the prescribed date under rule 10(3) of the Rules”.
6. The title of Form FTS3 is amended by substituting “Withdrawal of Formal Offer of Settlement” for “Withdrawal of formal offer of settlement”.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this .....2<sup>nd</sup> ..... day of ...September.....2014.

**C KOURAKIS, CJ**

**T. A. GRAY, J**

**J. R. SULAN, J**

**A. M. VANSTONE, J**

**M. DAVID, J**

**P. KELLY, J**

**D. H. PEEK, J**

**M. F. BLUE, J**

**T. L. STANLEY, J**

**K. G. NICHOLSON, J**

**A. E. BAMPTON, J**

**G. J. PARKER, J**

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## **South Australia**

# **Supreme Court Special Applications Rules 2014**

**By virtue and in pursuance of section 72 of the Supreme Court Act 1935 and all other enabling powers, we, judges of the Supreme Court of South Australia, make the following Supreme Court Special Applications Rules 2014.**

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## Chapter 1—Preliminary

### Part 1—Formal provisions

#### 1—Citation

These Rules may be cited as the *Supreme Court Special Applications Rules 2014*.

#### 2—Commencement

These Rules commence on 1 October 2014.

### Part 2—Interpretation

#### 3—Interpretation

(1) In these Rules, unless the contrary intention appears, terms defined by the *Supreme Court Civil Rules 2006* have the meaning defined by those Rules.

(2) In these Rules, unless the contrary intention appears—

**Court** means the Supreme Court of South Australia;

**Director** means the Director of Public Prosecutions within the meaning of section 24 of the *Witness Protection Act 1996*;

**General Civil Rules** means the *Supreme Court Civil Rules 2006*;

**Police Commissioner** means the Commissioner of Police within the meaning of section 2(1) of the *Terrorism (Police Powers) Act 2005*, section 3(1) of the *Witness Protection Act 1996* or section 3 of the *Serious and Organised Crime (Control) Act 2008* or of the *Police Act 1998* as the requires;

**prospective witness** means a prospective witness within the meaning of section 24(1) of the *Witness Protection Act 1996*;

**relevant authority** means the Police Commissioner or such other person as is referred to in section 3(3) of the *Terrorism (Police Powers) Act 2005*;

**Registrar** means the Registrar of the Court or any other officer or employee of the Court to whom the Registrar delegates functions to be performed by the Registrar under these Rules;

**search warrant** means a warrant under section 31 of the *Independent Commissioner Against Corruption Act 2012*, section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*; section 29 of the *Australian Crime Commission (South Australia) Act 2004* or section 22 of the *Australian Crime Commission Act 2002 (Cth)*;

**Supplementary Rules** — see rule 9.

**surveillance warrant** means a warrant under section 6 or 6A of the *Listening and Surveillance Devices Act 1972*;

**warrant** means a search warrant or surveillance warrant;

**without notice** means without serving or advising another party or other person of an application to be made to the Court.

## **Part 3—Application of rules**

### **4—Application of rules**

These Rules apply to proceedings under the following Acts—

- (a) the *Australian Crime Commission (South Australia) Act 2004*;
- (b) the *Australian Crime Commission Act 2002 (Cth)*;
- (c) the *Criminal Investigation (Covert Operations) Act 2009*;
- (d) the *Independent Commissioner Against Corruption Act 2012*;
- (e) the *Listening and Surveillance Devices Act 1972*;
- (f) the *Serious and Organised Crime (Control) Act 2008*;
- (g) the *Serious and Organised Crime (Unexplained Wealth) Act 2009*;
- (h) the *Terrorism (Police Powers) Act 2005*;
- (i) the *Terrorism (Preventative Detention) Act 2005*;
- (j) the *Witness Protection Act 1996*.

### **5—Application of Supreme Court Civil Rules**

- (1) Unless the Court otherwise directs and subject to subrules (3) and (4), Chapters 1 to 4 of the General Civil Rules apply to proceedings in the Court under these Rules.
- (2) Unless the Court otherwise directs and subject to subrules (3) and (4), the General Civil Rules apply to proceedings in the Court under Chapters 5 to 7 of these Rules.
- (3) To the extent of any inconsistency between these Rules and the General Civil Rules, these Rules prevail.
- (4) Unless the Court otherwise directs, the rules in the General Civil Rules relating to pre-trial disclosure of documents, notices to admit, pre-trial questions and listing for trial do not apply to proceedings under Chapters 5 to 7 of these Rules.
- (5) Unless the Court otherwise directs, proceedings under Chapters 5 to 7 of these Rules are to proceed on affidavit rather than pleadings.

## **Part 4—Repeal and transitional provision**

### **6—Repeal**

The following rules are repealed—

- (a) the *Listening and Surveillance Devices Rules 2005*;
- (b) the *Supreme Court Independent Commissioner Against Corruption Act Rules 2013*;
- (c) the *Supreme Court Witness Protection Act Rules 2009*;
- (d) the *Terrorism (Police Powers) (Supreme Court) Rules 2006*;
- (e) the *Terrorism (Preventative Detention) (Supreme Court) Rules 2006*.

### **7—Transitional provision**

- (1) Unless the Court otherwise directs, these Rules apply to—
  - (a) proceedings commenced on or after the commencement date; and
  - (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) The Court may, if it thinks fit, direct that these Rules, or the Rules in force before these Rules were made, apply to a transitional proceeding or a particular step or matter in a transitional proceeding.
- (3) The repeal of the Rules referred to in rule 6 does not affect—
  - (a) the validity of any order made, or step taken under a repealed rule or step under an order made under it; or
  - (b) the admissibility of evidence obtained as a result of a step taken under a repealed rule or an order made under it.

## Chapter 2—General procedural rules

### 8—Power of court to control procedure

- (1) The Court may, on its own initiative or on application by a party, give directions about the procedure to be followed in a particular proceeding.
- (2) A direction may be given under this rule—
  - (a) when these Rules do not address or address fully a procedural matter that arises in a proceeding; or
  - (b) to resolve uncertainty about the correct procedure to be adopted; or
  - (c) to achieve procedural fairness in the circumstances of a particular case; or
  - (d) to expedite the hearing or determination of a particular case or to avoid unnecessary delay or expense.
- (3) A direction may be given under this rule irrespective of whether it involves some departure from these Rules or the established procedures of the Court.
- (4) A direction may be given under this rule superseding an earlier direction but a step taken in a proceeding in accordance with a direction that has been superseded is to be regarded as validly taken.

### 9—Supplementary rules

- (1) It is intended that the Court make supplementary rules necessary or convenient for the regulation of proceedings in the Court (the *Supplementary Rules*).
- (2) In particular, it is intended that the Supplementary Rules may—
  - (a) supplement these Rules;
  - (b) modify these Rules in respect of a particular category of proceedings;
  - (c) give directions as to practices to be followed;
  - (d) prescribe approved forms.

### 10—Filing and retention of documents

- (1) Unless the Court otherwise orders, documents provided to or created by the Court in proceedings governed by Chapters 3 or 4 of these Rules are not to be filed or kept as records of the Court in the manner of court records kept under Chapter 4 of the General Civil Rules.
- (2) All envelopes required by these Rules to be sealed—
  - (a) are to be kept in a secure repository by the Registrar for the period written on the face of the envelope by the Judge who heard the relevant application and, if no period is written, for five years from the date on which the Registrar receives the envelope;
  - (b) are not to be opened except in accordance with an order of a Judge; and
  - (c) upon expiry of the period specified in paragraph (a), or at any time if directed by a Judge, the Registrar may return the envelope and its contents to the applicant or other person who lodged them with the Court or destroy them.



**11—Confidential material**

- (1) In any proceeding under these Rules, if a party intends to seek orders to preserve confidentiality of any material, the party is to file an affidavit in a sealed envelope, marked with a notation that it is not to be opened except by direction of a Judge, setting out—
  - (a) the orders with respect to confidentiality sought; and
  - (b) the circumstances relied upon for seeking the order.
- (2) In any proceeding under these Rules, the Court may if it thinks fit—
  - (a) give directions to maintain the confidentiality of any material;
  - (b) receive evidence and hear argument about any material in private in the absence of the other parties to the proceeding and their representatives.

**12—Provision of search warrants**

A person executing a search warrant issued under these Rules must, unless it is not reasonably practical to do so—

- (a) show the warrant to the occupier of a place or to the owner or driver of a vehicle, as the case may be, to which the warrant applies; or
- (b) on request, provide a copy of the warrant to that person.

## Chapter 3—Private applications

### Part 1—Introduction

#### 13—Application of Chapter

This Chapter applies to—

- (a) applications for a search warrant under section 22 of the *Australian Crime Commission Act 2002* (Cth), section 29 of the *Australian Crime Commission (South Australia) Act 2004*, section 31 of the *Independent Commissioner Against Corruption Act 2012* or section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*;
- (b) applications for a surveillance warrant under section 6 or 6A of the *Listening and Surveillance Devices Act 1972*;
- (c) applications for a monitoring order under section 14 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*;
- (d) applications to confirm a special powers authorisation or special area declaration under section 3 or 13 of the *Terrorism (Police Powers) Act 2005*;
- (e) applications to authorise the establishment of a new identity or restoration of the former identity of a witness under a witness protection program under section 17 of the *Witness Protection Act 1996*;
- (f) applications to authorise the making or cancellation of an entry in the Register of Births, Deaths and Marriages under section 12 or 13 of the *Criminal Investigation (Covert Operations) Act 2009*;
- (g) applications relating to disclosure of information concerning a witness under a witness protection program under section 21(3) or (4) of the *Witness Protection Act 1996*; and
- (h) disclosure and review of information under section 24 of the *Witness Protection Act 1996*.

### Part 2—Application

#### 14—Originating application

- (1) Subject to rules 15 and 16, an application or disclosure to which this Chapter applies is to be made in person to a Judge in private and initiated by originating application.
- (2) An application under section 6 of the *Listening and Surveillance Devices Act 1972* to issue, renew or vary a surveillance warrant is to be—
  - (a) in accordance with section 6 of the *Listening and Surveillance Devices Act 1972*; and
  - (b) in the appropriate form set out in Schedule 1 of the *Listening and Surveillance Devices Regulations 2003*.
- (3) Any other application to which this Chapter applies is to be—

- (a) in accordance with the relevant statutory provision; and
  - (b) in an approved form.
- (4) A disclosure by the Director under section 24(5) to (9) of the *Witness Protection Act 1996* relating to a prospective witness who is, was, or may be under a witness protection program is to be made immediately after the later of—
- (a) the first directions or other hearing before a judicial officer of the Court; or
  - (b) the Director becoming aware that a prospective witness is, was, or may be under a witness protection program.
- (5) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application.
- (6) The Registrar will appoint a time for hearing the application by a Judge.
- (7) The Registrar will make arrangements with the applicant for delivery to the Registrar in advance of the hearing of the originating application and documents in support of the application in an envelope marked “Strictly Confidential. Application under the [name] Act. Not to be opened other than by Justice .....or pursuant to the order of the Chief Justice”.
- (8) The Registrar will deliver the sealed envelope personally to the Judge. The documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.

#### **15—Email or facsimile application**

- (1) This rule applies to—
- (a) an email application under section 31(4) of the *Independent Commissioner Against Corruption Act 2012* for issue of a search warrant;
  - (b) a facsimile application under section 6A of the *Listening and Surveillance Devices Act 1972* for issue of a surveillance warrant;
  - (c) a facsimile application under section 3(5) or (6) of the *Terrorism (Police Powers) Act 2005* for confirmation that the relevant authority has or had proper grounds for issuing a special powers authorisation.
- (2) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application and to ascertain an email address or facsimile number, as the case may be, to which the documents may be sent.
- (3) The applicant is to send to the Registrar at the designated email address or facsimile number an originating application using the appropriate form prescribed by rule 14(2) or (3) together with the supporting documents required by rule 17. The documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.
- (4) An application for a surveillance warrant is to be made in accordance with section 6A of the *Listening and Surveillance Devices Act 1972*.
- (5) The Registrar will appoint a time for a Judge to hear the application as soon as practicable.

- (6) The Registrar will place the application and documents in support of the application in an envelope marked “Strictly Confidential. Application under the [name] Act. Not to be opened other than by Justice ..... or pursuant to the order of the Chief Justice”.
- (7) The Registrar will deliver the sealed envelope personally to the Judge. The documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.
- (8) The applicant is to be available to speak to the Judge by telephone and is to provide such further information as is required by the Judge.
- (9) The Judge may require the applicant to provide a further affidavit deposing to the additional information but may issue the warrant on the applicant’s undertaking to provide that affidavit.
- (10) If the applicant has undertaken to provide a further affidavit, the applicant is, as soon as practicable after issue of the warrant, to deliver to the Judge an affidavit verifying the additional information.

#### 16—Telephone application

- (1) This rule applies to a telephone application under—
  - (a) section 23 of the *Australian Crime Commission Act 2002* (Cth), section 30 of the *Australian Crime Commission (South Australia) Act 2004*, section 31(4) of the *Independent Commissioner Against Corruption Act 2012*, section 6A of the *Listening and Surveillance Devices Act 1972* or section 16(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for the issue of a warrant; or
  - (b) section 3(5) or (6) of the *Terrorism (Police Powers) Act 2005* for confirmation that the relevant authority has or had proper grounds to issue a special powers authorisation.
- (2) Before making the application, the applicant is to prepare the form of the proposed warrant or special powers authorisation.

**Note—**

Section 30(2) of the *Australian Crime Commission (South Australia) Act 2004* and section 23 of the *Australian Crime Commission Act 2002* (Cth) require the applicant to prepare an affidavit setting out the grounds on which the warrant is sought before making the application.

- (3) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application.
- (4) The Registrar will appoint a time for hearing the application by a Judge as soon as practicable.
- (5) At the hearing, the applicant is to inform the Judge of—
  - (a) the matters required by rule 17 to be addressed by a supporting affidavit;
  - (a) the circumstances giving rise to the urgency of the application; and
  - (b) the proposed terms of the warrant or the special powers authorisation as the case may be.

- (6) The applicant is to undertake to provide an affidavit verifying the facts referred to in subrule (5) and the documents that would have accompanied the application had it been a written application.
- (7) The applicant is to provide such further information as may be required by the Judge.
- (8) The Judge may require the applicant to provide an affidavit deposing to the additional information or to undertake to provide such an affidavit.
- (9) The applicant is as soon as practicable after issue of the warrant to deliver to the Judge an affidavit verifying the facts referred to in subrule (5), exhibiting the documents that would have accompanied the application had it been a written application and, if required, deposing to the additional information referred to in subrule (8). The affidavit is not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.

### **Part 3—Documents in support of application**

#### **17—Documents in support of application**

- (1) An application under rule 14 or 15 is to be accompanied by an affidavit verifying—
  - (a) the grounds of the application;
  - (b) any relevant matters required by the relevant legislation or any applicable regulations to be verified by affidavit or to be established to the satisfaction of or taken into account by the Judge; and
  - (c) in the case of an email or facsimile application when permitted by the relevant legislation, the circumstances giving rise to the urgency of the application.
- (2) When it is not practicable to obtain an affidavit from a witness who is able to speak of his or her own knowledge, an affidavit may contain statements that the witness reasonably believes to be true if the witness also states the grounds of the belief.
- (3) There is to be exhibited to the supporting affidavit—
  - (a) in the case of an application under section 6 or 6A of the *Listening and Surveillance Devices Act 1972* to issue, renew or vary a surveillance warrant, a copy of the written approval of the chief officer of the investigating agency certifying that the chief officer is satisfied that the warrant is reasonably required for an investigation as required by section 6(2) of that Act;
  - (b) in the case of an application under section 3(5) or (6) of the *Terrorism (Police Powers) Act 2005* for confirmation that the relevant authority had or has proper grounds to issue a special powers authorisation, a copy of the issued or proposed special powers authorisation referred to in regulation 4(2)(c)(i) of the *Terrorism (Police Powers) Regulations 2006*;
  - (c) in the case of an application under section 13(3) of the *Terrorism (Police Powers) Act 2005* for confirmation that issuing a special area declaration by the Police Commissioner is appropriate in the

- circumstances, a copy of the proposed special area declaration referred to in regulation 5(1)(b) of the *Terrorism (Police Powers) Regulations 2006*;
- (d) in the case of an application under section 17 of the *Witness Protection Act 1996* to authorise the establishment of a new identity or restoration of the former identity of a witness under a witness protection program, a copy of the relevant memorandum of understanding referred to in section 17(5)(b) of the *Witness Protection Act 1996*.
- (4) An application under rule 14 or 15 is to be accompanied by—
- (a) in the case of an application for a warrant—two copies, together with the number of copies needed for service, of the proposed warrant; or
- (b) in the case of any other application—minutes of order.

## Part 4—Hearing and determination

### 18—Hearing and determination of application

- (1) The hearing of an application under this Chapter will be conducted in private. The Judge may give directions concerning any other persons being present or taking a transcript or record of the proceeding.
- (2) The applicant is to provide such further information as may be required by the Judge.
- (3) Upon hearing an application for a warrant, the Judge will—
- (a) inform the applicant of the Judge’s decision; and
- (b) if satisfied of the matters required by the relevant legislation, any applicable regulations and these Rules and that it is appropriate to issue the warrant—
- (i) inform the applicant of the grounds on which the Judge relies for the issue of the warrant and of the terms of the warrant;
- (ii) sign the warrant and indicate on the warrant the date and time when the warrant is issued;
- (iii) arrange for the Court seal to be affixed to the warrant; and
- (c) if so satisfied, arrange for a copy of the warrant to be provided to the applicant—
- (i) when the application is made in person—in person;
- (ii) when the application is made by facsimile—by facsimile or, if an email address is available, by email;
- (iii) when the application is made by telephone or email—by email.
- (4) A surveillance warrant issued under the *Listening and Surveillance Devices Act 1972* is to be in the form set out in Schedule 2 of the *Listening and Surveillance Devices Regulations 2003* with such variations as are appropriate when issued in urgent circumstances under section 6A of the *Listening and Surveillance Devices Act*.
- (5) Upon hearing an application for confirmation that the relevant authority had or has proper grounds to issue a special powers authorisation or that the issue

- of a special area declaration by the Police Commissioner is appropriate in the circumstance, the Judge will—
- (a) inform the applicant of the Judge’s decision; and
  - (b) if satisfied of the matters required by the relevant legislation, any applicable regulations and these Rules, confirm that the relevant authority had or has proper grounds to issue a special powers authorisation or that the issue of a special area declaration by the Police Commissioner is appropriate in the circumstances.
- (6) Upon hearing any other application under this Chapter, the Judge will—
- (a) inform the applicant of the Judge’s decision; and
  - (b) if satisfied of the matters required by the relevant legislation, any applicable regulations and these Rules and that it is appropriate to make the order sought—
    - (i) inform the applicant of the grounds on which the Judge relies for making the order and the terms of the order;
    - (ii) draw up the order if necessary and arrange for the Court seal to be affixed to the order; and
    - (iii) arrange for a copy of the order to be provided to the applicant in person.
- (7) A copy of any order made under section 24 of the *Witness Protection Act 1996* when the substantive proceeding is in another court is to be provided to that court in a sealed envelope only to be opened by the Judge or Magistrate presiding at the trial of the proceeding.
- (8) The Judge may give any consequential directions to give effect to any decision or order and to ensure the confidentiality of the proceeding as the Judge thinks fit.
- (9) After the hearing and determination of an application under this rule, the application, affidavit, warrant issued or order made and any other documents relating to the application will be placed in an envelope that will be sealed and marked by the Judge “Not to be opened without the permission of a Judge”. The documents are otherwise to be dealt with in accordance with such directions as are given by the Court to ensure that they remain confidential.

## Chapter 4—Review of preventative detention orders

### 19—Application of Chapter

This Chapter applies to the review of a preventative detention order under section 17 of the *Terrorism (Preventative Detention) Act 2005*.

### 20—Interpretation

In this Chapter –

*the Act* means the *Terrorism (Preventative Detention) Act 2005*;

*applicant* means the police officer bringing the subject before the Court for review under the Act;

*subject* means the subject detained under the Act.

### 21—Application

- (1) A review to which this Chapter applies is to be initiated by originating application in an approved form.
- (2) The application is to name as defendant the subject of the preventative detention order.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the preventative detention order; and
  - (c) the order sought.
- (4) The application is to be supported by an affidavit—
  - (a) identifying the circumstances in which the preventative detention order was made and giving rise to its making; and
  - (b) exhibiting a copy of the preventative detention order and all other materials before the issuing authority.

### 22—Arrangement of hearing

- (1) The applicant is to notify the Registrar orally that an application is to be made and of the general nature of the application.
- (2) The Registrar will appoint a time for hearing the application by a Judge.
- (3) The Registrar will determine whether some or all of the documents lodged or to be lodged are to be filed in the Court or merely delivered to the Judge who is to hear the review.
- (4) When the Registrar determines that documents are to be delivered to the Judge who is to hear the review—
  - (a) the Registrar will make arrangements with the applicant for delivery to the Registrar in advance of the hearing of those documents in an envelope marked “Strictly Confidential. Documents relating to application under the *Terrorism (Preventative Detention) Act 2005*. Not to be opened other than by Justice .....or pursuant to the order of the Chief Justice”;



- (b) the Registrar will deliver the sealed envelope personally to the Judge without being filed or lodged in the Registry; and
- (c) the documents are not to be filed or lodged in the Registry and the proceeding is not to be entered in the records of the Court.

**23—Hearing and determination**

- (1) Subject to the directions of the Court, the hearing of an application to which this Chapter applies will be in private in the presence of the applicant, the subject, their lawyers and such other persons as the Court may permit.
- (2) The Court may direct that the hearing be conducted as an audio visual hearing.

**Note—**

Section 17(2) of the Act authorises the giving of such a direction.

- (3) An order made under section 17(3) of the Act may include such consequential directions to give effect to the order as the Court thinks fit. The order will be drawn up and sealed in such manner as the Court directs and provided to the applicant and to such persons and in such manner as the Court directs.

**Note—**

Section 17(3) of the Act sets out the powers that the Court may exercise on a review.

## Chapter 5—Serious and organised crime applications

### Part 1—Declared organisations

#### Division 1—Preliminary

##### 24—Application of Part

This Part applies to applications to make, register, vary, revoke or cancel declarations in relation to organisations and control orders in relation to persons under the *Serious and Organised Crime (Control) Act 2008*.

##### 25—Interpretation

In this Part –

*the Act* means the *Serious and Organised Crime (Control) Act 2008*.

##### 26—Directions

On an application to which this Part applies, the Court may give directions relating to—

- (a) joinder of any additional party;
- (b) service of an application or order on a party or any other person;
- (c) the matter proceeding in the absence of a party if satisfied that the party cannot be found or if the party fails to appear after being given reasonable notice of the application;
- (d) any other matter.

#### Division 2—Declarations

##### 27—Application for declaration

- (1) An application under section 9(1) of the Act for a declaration that an organisation is a declared organisation is to be made by originating application in an approved form.
- (2) The application is to name as defendant the organisation the subject of the application and such other persons as are necessary parties.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the organisation in respect of which the declaration is sought;
  - (c) the order sought; and
  - (d) the matters set out in section 9(2)(c) to (f) of the Act either by reference to the accompanying affidavit or in the application.
- (4) The application is to be accompanied by an affidavit by a police officer verifying the matters set out in section 9(2)(b) to (f) of the Act.
- (5) The Court may give directions relating to inspection of an application or supporting affidavit by a person.

- (6) An application under section 15(1)(e) of the Act to make submissions, or an application under section 15(1) of the Act to make written submissions, at the hearing of the application is to be made by interlocutory application in the proceeding instituted under subrule (1).

**Note 1—**

Section 10(1) of the Act requires the Police Commissioner to publish notice of the application in the Gazette and a newspaper circulating generally throughout the State.

**Note 2—**

Section 9(6) of the Act requires the Police Commissioner, subject to preserving confidentiality in criminal intelligence, to make a copy of an application and supporting affidavit available for inspection by a representative, member or former member of the organisation, person who may be directly affected by the outcome of the application and any other person whom the Court considers should be provided with an opportunity to inspect them.

**Note 3—**

Section 11(1) of the Act requires the Police Commissioner to publish notice of any declaration made by the Court in the Gazette and a newspaper circulating generally throughout the State.

**Note 4—**

Section 15(1) of the Act specifies who has standing to make submissions at the hearing.

**Note 5—**

Section 18 of the Act provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit, and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

**28—Application to revoke declaration**

- (1) An application under section 14(1) of the Act to revoke a declaration that an organisation is a declared organisation is to be made by interlocutory application in the proceeding instituted under rule 27.

**Note —**

Section 14(1) of the Act specifies who has standing to make an application.

- (2) An application under section 14(1)(b)(iii) of the Act for permission to apply to revoke a declaration that an organisation is a declared organisation is to be made in the same interlocutory application seeking the revocation.

**Note —**

Section 14(1)(b)(iii) of the Act specifies who has standing to apply for permission to make the application.

- (3) An application under section 14(2) of the Act for permission to make the application is to be made in the same interlocutory application seeking the revocation.

**Note —**

Section 14(2) of the Act provides that permission of the Court is required if a revocation application has been made within the preceding 12 months and either been refused or not finally determined.

- (4) The application is to identify—
- (a) the nature of the application;
  - (b) the order sought;
  - (c) short grounds of the application; and
  - (d) the information supporting the grounds either by reference to the accompanying affidavit or in the application.

**Note —**

Section 14(3) of the Act requires the grounds and information supporting the grounds to be set out and verified by affidavit.

- (5) The application is to be supported by an affidavit—
- (a) verifying the detailed grounds of the application and the information supporting the grounds; and
  - (b) in the case of an application for permission under section 14(1)(b)(iii) or 14(2) of the Act, verifying also the grounds on which permission is sought.

**Note 1 —**

Section 14(6) of the Act requires the application and supporting affidavit, if not made by the Police Commissioner, to be served on the Police Commissioner.

**Note 2—**

Section 14(7) of the Act requires the Police Commissioner to publish notice of the application in the Gazette and a newspaper circulating generally throughout the State.

**Note 3—**

Section 14(10) of the Act requires the Police Commissioner to publish notice of any revocation of a declaration made by the Court in the Gazette and a newspaper circulating generally throughout the State.

**Note 4—**

Section 15(1) of the Act specifies who has standing to make submissions at the hearing.

**Note 5—**

Section 18 of the Act provides that the Court is not bound by the rules of evidence but may inform itself on any matter as it thinks fit; and must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms.

### **Division 3—Application for control order**

#### **29—Application for control order**

- (1) An application under section 22(1) of the Act for a control order in relation to a person is to be made by originating application in an approved form.

- (2) The application is to name as defendant the subject of the application.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the person in respect of whom the control order is sought;
  - (c) the order sought; and
  - (d) short grounds of the application.
- (4) The application is to be accompanied by an affidavit by a police officer verifying the detailed grounds of the application.

**Note—**

Section 22(2) of the Act prescribes the matters of which the Court must be satisfied before making a control order.

**30—Application for interim control order**

- (1) An application under section 22A of the Act for an interim control order is to be made by interlocutory application in the proceeding instituted under rule 29.
- (2) The application is to be supported by an affidavit verifying the detailed grounds for an interim control order and any application to proceed without notice.
- (3) The Court may, if it thinks fit, make the order without notice.

**31—Objection when interim control order made without notice**

- (1) A notice of objection under section 22D of the Act to an interim control order made without notice is to be made by interlocutory application in the proceeding instituted under rule 29.

**Note—**

Section 22D(2) of the Act requires a notice of objection to be lodged within 14 calendar days of service of the interim control order or such longer period as the Court may allow.

- (2) Any application for an extension of time in which to lodge a notice of objection is to be made in the same interlocutory application comprising the notice of objection.
- (3) The application is to be supported by an affidavit verifying the detailed grounds of the objection.

**Note—**

Section 22D(3) of the Act requires that the Police Commissioner be served with the notice of objection by registered post.

**32—Application to revoke or vary control order**

- (1) An application under section 22C(1) of the Act to revoke or vary a control order is to be made by interlocutory application in the proceeding instituted under rule 29.
- (2) An application under section 22C(2) of the Act for permission to apply to revoke or vary a control order is to be made in the same interlocutory application seeking the revocation or variation.

- (3) The application is to be supported by an affidavit—
  - (a) verifying the detailed grounds for the revocation or variation; and
  - (b) in the case of an application under section 22C(2) of the Act, also verifying the grounds on which permission is sought.
- (4) The application and supporting affidavit need not be served on the respondent in the first instance if the applicant applies for an interim variation order without notice under section 22C(6) of the Act.

### **33—Application for interim variation order**

- (1) An application for an interim revocation order under section 22C(5) of the Act is to be made by interlocutory application in the proceeding instituted under rule 29.
- (2) The application is to be supported by an affidavit stating the grounds for the application for an interim variation order and any application to proceed without notice.
- (3) The Court may, if it thinks fit, make the order without notice.

### **34—Objection when interim variation order made without notice**

- (1) A notice of objection under section 22D of the Act to an interim variation order made without notice is to be made by interlocutory application in the proceeding instituted under rule 29.

**Note—**

Section 22D(2) of the Act requires a notice of objection to be lodged within 14 calendar days of service of the interim variation order or such longer period as the Court may allow.

- (2) Any application for an extension of time in which to lodge a notice of objection is to be made in the same interlocutory application comprising the notice of objection.
- (3) The application is to be supported by an affidavit verifying the detailed grounds of the objection.

**Note—**

Section 22D(3) of the Act requires that the Police Commissioner be served with the notice of objection by registered post.

## **Division 4—Registration of declarations and control orders under corresponding laws**

### **35—Application for registration or cancellation**

- (1) An application under section 39 or 39I of the Act to register a declaration or control order made under a corresponding law is to be made by application to the Registrar under and is to be governed by rule 308 of the General Civil Rules.
- (2) An application under section 39F, 39O or 39Q of the Act to cancel or vary registration of a declaration or control order made under a corresponding law is to be made by application to the Registrar in the proceeding instituted under subrule (1) for registration of the corresponding declaration or order and is to be governed by rule 308 of the General Civil Rules.

- (3) An application under section 39E or 39P of the Act is to be made by interlocutory application in the proceeding instituted under subrule (1) for registration of the corresponding declaration or order and is to be governed by rule 308 of the General Civil Rules.

**36—Variation of corresponding control order**

An application to register a corresponding control order referred by the Registrar to a Judge under sections 39J(2) and 39K of the Act will be heard by a Judge in the same manner as an application to vary a control order under Chapter 5 Division 3.

**Note—**

There are no rules 37 and 38.

## Chapter 6—Ancillary applications under ICAC Act

### Part 1—Introduction

#### 39—Interpretation

In this Chapter –

*the Act* means the *Independent Commissioner Against Corruption Act 2012*;

*Commissioner* means the Independent Commissioner Against Corruption;

*examiner* means an examiner within the meaning of clause 1 of Schedule 2 to the Act;

*witness* means the subject of an application to show cause why his or her passport should not be delivered to the examiner or of an application for a warrant of arrest under the Act.

#### 40—Application of Chapter

This Chapter applies to—

- (a) applications under section 32 of the Act for an extension of time for retention of a thing;
- (b) applications under clause 18 of Schedule 2 to the Act relating to delivery up of a passport; and
- (c) applications under clause 9 of Schedule 2 to the Act for a warrant of arrest.

#### 41—Directions

On an application to which this Chapter applies, a Judge may give directions relating to—

- (a) joinder of any additional party;
- (b) service of an application or order on a party or any other person;
- (c) the matter proceeding in the absence of a party if satisfied that the party cannot be found or if the party fails to appear after being given reasonable notice of the application;
- (d) any other matter.

### Part 2— Extension of time for retention

#### 42—Application to extend time for retention of thing

- (1) An application by the Commissioner under section 32 of the Act to extend time for retention of a thing seized or subject of a retention order under section 31 of the Act is to be made by originating application in an approved form.

**Note—**

Section 32 of the Act provides for retention of things for the “designated period” and defines the “designated period” to mean 6 months or such longer period as a Judge of the Supreme Court may, on application by the Commissioner, allow.



- (2) The application is to name as defendant—
  - (a) the person from whom the thing was seized or to whom the retention order was issued, as the case may be;
  - (b) the person with legal title to the thing; and
  - (c) any other person who is a necessary party.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the thing seized or the subject of the retention order and the date of seizure or issuing of the retention order;
  - (c) the order sought including the period of extension sought; and
  - (d) short grounds of the application.
- (4) The application is to be accompanied by an affidavit—
  - (a) exhibiting a copy of the warrant under which the thing was seized or the retention order was issued and a copy of the retention order when applicable;
  - (b) identifying the thing seized or the subject of a retention order and the date of seizure or issuing of the retention order;
  - (c) verifying the detailed grounds of the application
- (5) Unless a Judge otherwise orders, the application is to be served on the defendant before it is heard.
- (6) If a Judge makes an order without notice, the Commissioner is to cause a copy of the order to be served on the defendant in accordance with any directions of the Judge.
- (7) If a Judge makes an order without notice, the defendant may, within 21 calendar days after service of the order or such other period as the Judge may fix, apply by interlocutory summons to set aside or vary the order.

#### **43—Application for interim extension of time**

- (1) The Commissioner may apply for an interim extension of time for return of a thing seized or subject of a retention order under section 31 of the Act by interlocutory application in the proceeding instituted under rule 42.
- (2) The application is to be supported by an affidavit verifying the detailed grounds for the application for an interim extension.
- (3) A Judge may, if he or she thinks fit, make an order for an interim extension of time without notice.

### **Part 3— Delivery of passport**

#### **44—Application for order to show cause**

- (1) An application by an examiner under clause 18(1) of Schedule 2 to the Act for an order that a person appear before a Judge to show cause why he or she should not be ordered to deliver his or her passport to the examiner is to be made by originating application in an approved form.

- (2) The application is to name as defendant the witness in respect of whom the order is sought.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the order sought; and
  - (c) short grounds of the application.
- (4) The application is to be accompanied by an affidavit—
  - (a) exhibiting the summons issued to the witness;
  - (b) if the witness has given evidence, deposing to the basis on which the witness was required to attend to give further evidence or produce further documents;
  - (c) identifying briefly the subject matter of the evidence it is believed the witness could give and its relevance to the investigation; and
  - (d) deposing to a suspicion that the witness intends to leave Australia and has in his or her possession, custody or control a passport issued to him or her and the basis for that suspicion.
- (5) The application may be heard without notice.
- (6) An order requiring a witness to show cause why he or she should not be ordered to deliver his or her passport or passports to the examiner is to be in an approved form.

#### **45—Hearing**

- (1) The hearing of an application under clause 18(2) of Schedule 2 to the Act for an order that a person deliver his or her passport to the examiner is to proceed in accordance with the directions of the Judge.
- (2) If the Judge makes an order, the Commissioner is to cause a copy of the order to be served on the defendant in accordance with any directions of the Judge.

#### **46—Application to extend time for retention of passport**

- (1) An application by an examiner under clause 18(3) of Schedule 2 to the Act to extend time for retention of a passport is to be made by interlocutory application in the proceeding instituted under rule 44.
- (2) Unless a Judge otherwise orders, the application is to be served on the defendant before it is heard.
- (3) If a Judge makes an order without notice, the Commissioner is to cause a copy of the order to be served on the defendant in accordance with any directions of the Judge.
- (4) If a Judge makes an order without notice, the defendant may, within 5 business days of service of the order or such other period as the Judge may fix, apply by interlocutory summons to set aside or vary the order.

#### **47—Application to revoke order**

- (1) An application under clause 18(4) of Schedule 2 to the Act to revoke an order made under clause 18 to retain a passport issued to a person is to be made by interlocutory application in the proceeding instituted under rule 44.

- (2) The application is to be supported by an affidavit verifying the grounds for the application.

## Part 4—Warrant of arrest

### 48—Application

- (1) An application under clause 9 of Schedule 2 to the Act to issue a warrant of arrest is to be made by originating application in an approved form.
- (2) The application is to name as defendant the witness in respect of whom the warrant is sought.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the order sought; and
  - (c) short grounds of the application.
- (4) The application is to be accompanied by an affidavit verifying the detailed grounds of the application.
- (5) The application is to be accompanied by two copies of the proposed warrant.
- (6) The application may be heard without notice.

### 49—Warrant

- (1) On hearing an application under rule 48, the Judge may, if satisfied of the matters required by clause 9 of Schedule 2 to the Act, issue a warrant for the arrest of the defendant.
- (2) A warrant of arrest issued under clause 9 of Schedule 2 to the Act is to contain the following endorsements—

**“Note 1—**

If a person is apprehended under this warrant, he or she must be brought, as soon as practicable, before a Judge of the Supreme Court and the Judge may—

- (a) admit the person to bail, with such security as the Judge thinks fit, on such conditions as he or she thinks necessary to ensure the appearance of the person as a witness before the examiner; or
- (b) order the continued detention of the person for the purposes of ensuring his or her appearance as such a witness; or
- (c) order the release of the person.

**Note 2—**

If a person is under detention under clause 9 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012*, he or she must, within 14 calendar days after he or she was brought, or last brought, before a Judge of the Supreme Court in accordance with that clause, or within such shorter or longer time as a Judge has fixed upon the last previous appearance of the person before a Judge under that clause, be again brought before a Judge.”

**50—Application to set aside warrant**

- (1) The defendant may apply to set aside a warrant issued under rule 49 by interlocutory application in the proceeding instituted under rule 48.
- (2) The application is to be supported by an affidavit verifying the facts relied upon to set aside the warrant.
- (3) Unless the Judge otherwise directs, any such application may be made without the defendant surrendering under the warrant.

## Chapter 7—Enforcement applications

### Part 1—Introduction

#### 51—Interpretation

In this Chapter –

**Commissioner** means the Independent Commissioner Against Corruption; and

**examiner** means an examiner within the meaning of clause 1 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* or section 46B(1) of the *Australian Crime Commission Act 2002* (Cth) as the case may be.

#### 52—Application of Chapter

This Chapter applies to—

- (a) applications under section 15(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for an order to give evidence or produce documents or materials;
- (b) applications under section 19(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for enforcement of an unexplained wealth order;
- (c) applications under section 20 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* to make, vary or revoke a restraining order;
- (d) applications under clause 13 in Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* for a person to be dealt with for contempt; and
- (e) applications under section 26B of the *Australian Crime Commission (South Australia) Act 2004* or section 34B of the *Australian Crime Commission Act 2002* (Cth) for a person to be dealt with for contempt.

#### 53—Commencement of proceeding

- (1) Subject to subrule (2), an application to which this Chapter refers is, if a proceeding has not been started in the Court in relation to an investigation, to be made by originating application.
- (2) An application in relation to an investigation may, if a proceeding has been started in the Court in relation to the investigation, be made by interlocutory application.

#### 54—Directions

On an application to which this Chapter applies, the Court may give directions relating to—

- (a) joinder of any additional party;
- (b) service of an application or order on a party or any other person;
- (c) the matter proceeding in the absence of a party if satisfied that the party cannot be found or if the party fails to appear after being given reasonable notice of the application;

- (d) any other matter.

## Part 2—Giving evidence or production of documents

### 55—Application

- (1) An application by the Police Commissioner under section 15(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for an order that a person give evidence or produce documents or materials is to be made by originating application in an approved form.
- (2) The application is to name as defendant the person in respect of whom the order is sought.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the order sought; and
  - (c) short grounds of the application.
- (4) The application is to be accompanied by an affidavit verifying the detailed grounds of the application.

**Note—**

Section 15(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the affidavit to specify how the evidence, documents or materials to which the application relates are relevant to identifying, tracing, locating or valuing a person's wealth.

- (5) Unless the Court otherwise directs, the application is to be served on the defendant before it is heard.
- (6) If the Court makes an order without notice, the defendant may, within 5 business days of service of the order or such other period as the Court may fix, apply to the Court by interlocutory summons to set aside or vary the order.

### 56—Order

- (1) The Court may order that a person give oral or affidavit evidence to the Court on relevant questions.
- (2) The Court may order that a person produce before the Court relevant materials.
- (3) The Court may direct that evidence be given or materials be produced before a Judge, Master or the Registrar.
- (4) In this rule, *relevant questions* and *relevant materials* mean questions or documents or materials, as the case may be, relevant under section 15(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.

**Note 1—**

Section 15(3) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the Police Commissioner to ensure that a copy of the order is served on the defendant, in accordance with any directions of the Court, and that the defendant is advised that the order was made under section 15 of the Act.

**Note 2—**

Section 15(5) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* empowers the Court to make an order that the Crown pay the defendant's legal costs in connection with complying with the order (which may be costs as between solicitor and client) or costs as determined by the Court.

### Part 3—Aid of unexplained wealth order

#### 57—Application for enforcement of unexplained wealth order

- (1) An application by the Police Commissioner under section 19(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* to declare property to be property of a person for the purpose of the *Enforcement of Judgments Act 1991* is to be made by originating application in an approved form.
- (2) The application is to name as defendant—
  - (a) the subject of the relevant unexplained wealth order;
  - (b) any person whom the Police Commissioner has reason to believe may have an interest in the property; and
  - (c) any other person who is a necessary party.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the order sought; and
  - (c) short grounds of the application.
- (4) The application is to be accompanied by an affidavit verifying the detailed grounds of the application including the evidence relied on for the contention that particular property is subject to the effective control of the person the subject of the relevant unexplained wealth order.

**Note 1—**

Section 19(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the Court to be satisfied that particular property is subject to the effective control of the person the subject of the relevant unexplained wealth order.

**Note 2—**

Section 19(3) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the Police Commissioner, on applying for an order, to give written notice of the application to the person who is subject to the unexplained wealth order, any person whom the Police Commissioner has reason to believe may have an interest in the property and any other persons who should, in the opinion of the Court, be given notice of the application.

#### 58—Application for restraining order

- (1) An application by the Police Commissioner under section 20(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* for a restraining order is to be made by originating application in an approved form.
- (2) The application is to name as defendant—
  - (a) the person who has an interest in the property the disposal of which or the use of safe custody facilities in respect of which is sought to be prevented;

- (b) the person whose transactions involving safe custody facilities are sought to be prevented;
  - (c) the person who has custody of the property including, in the case of an application to prevent specified kinds of transactions involving safe custody facilities, the relevant deposit holder; and
  - (d) any other person who is a necessary party.
- (3) The application is to identify—
- (a) the nature of the application;
  - (b) the property the disposal of which is sought to be restrained or the subject of transactions involving safe custody facilities which are sought to be prevented;
  - (c) the order sought; and
  - (d) short grounds of the application.
- (4) The application is to be accompanied by an affidavit—
- (a) exhibiting the unexplained wealth order or deposing to facts relating to the prospect of an unexplained wealth order being made;
  - (b) verifying the detailed grounds of the application; and
  - (c) identifying and giving details of—
    - (i) all persons who have or may have an interest in the property the disposal of which is sought to be prevented;
    - (ii) when applicable, all persons who would otherwise have a legal entitlement to enter into the transactions involving safe custody facilities sought to be prevented;
    - (iii) all persons who have custody of the property;
    - (iv) when applicable, the relevant deposit holder; and
    - (v) any other persons to whom notice of the application should be given.

**Note—**

Section 20(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the Court to be satisfied that the order is reasonably necessary to ensure payment of an amount that is, or may become, payable under an unexplained wealth order and that the application for the order be accompanied by an affidavit setting out matters that would justify such a finding.

- (5) The application may, if the Court thinks fit, be heard without notice.

**59—Objection when restraining order made without notice**

- (1) A notice of objection under section 24 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* to a restraining order made without notice is to be made by interlocutory application in an approved form in the proceeding instituted under rule 58.

**Note—**

Section 24(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires a notice of objection to be lodged within 14 calendar days of service of the restraining order or such longer period as the Court may allow.



- (2) Any application for an extension of time in which to lodge a notice of objection is to be made in the same interlocutory application comprising the notice of objection.
- (3) The application is to be supported by an affidavit verifying the detailed grounds of the objection.

**Note—**

Section 24(3) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires that the Police Commissioner be served by registered post at least 7 calendar days before the day appointed for hearing the notice.

**60—Application to revoke or vary restraining order**

- (1) An application under section 25(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* to revoke or vary a restraining order is to be made by interlocutory application in the proceeding instituted under rule 58.
- (2) If permission to make the application is required, it is to be made in the same interlocutory application.
- (3) The application is to be supported by an affidavit verifying the detailed grounds on which the application is made and, when applicable, the grounds on which permission is sought.

**Part 4—Contempt**

**61—Application for contempt**

- (1) An application by an examiner under section 26B of the *Australian Crime Commission (South Australia) Act 2004*, section 34B of the *Australian Crime Commission Act 2002 (Cth)* or clause 13 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* for a person to be dealt with in relation to a contempt is to be commenced by originating application in an approved form.
- (2) The application is to name as defendant the person sought to be dealt with in relation to the contempt.
- (3) The application is to identify—
  - (a) the nature of the application;
  - (b) the order sought; and
  - (c) short grounds of the application.
- (4) The application is to be accompanied by an affidavit by the examiner—
  - (a) exhibiting the certificate to which section 26B(3) of the *Australian Crime Commission (South Australia) Act 2004*, section 34B(3) of the *Australian Crime Commission Act 2002 (Cth)* or clause 13(3) of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* refers; and
  - (b) verifying the grounds on which the application is made as stated in the certificate;
  - (c) deposing to or exhibiting the evidence relied upon in support of the application as stated in the certificate.

- (5) If the application is in respect of a person who has been detained under section 26D of the *Australian Crime Commission (South Australia) Act 2004*, section 34D of the *Australian Crime Commission Act 2002 (Cth)* or clause 15 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012*, the examiner is to—
- (a) include an endorsement on the originating application to that effect; and
  - (b) request, when filing the application, that it be listed before a Judge as a matter of urgency for directions under section 26D of the *Australian Crime Commission (South Australia) Act 2004*, section 34D of the *Australian Crime Commission Act 2002 (Cth)* or clause 15 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012*.
- (6) An examiner may withdraw an application under this rule by filing a notice of discontinuance. Unless the parties otherwise agree or the Court otherwise orders, the party against whom the application is discontinued is entitled to costs arising from the application up to receipt of the notice of the discontinuance.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this .....25<sup>th</sup> ..... day of .....August.....2014.

**C KOURAKIS, CJ**

**T. A. GRAY, J**

**J. R. SULAN, J**

**A. M. VANSTONE, J**

**M. DAVID, J**

**P. KELLY, J**

**D. H. PEEK, J**

**M. F. BLUE, J**

**T. L. STANLEY, J**

**K. G. NICHOLSON, J**

**A. E. BAMPTON, J**

**G. J. PARKER, J**

## **South Australia**

# **Supreme Court Special Applications Supplementary Rules 2014**

**By virtue and in pursuance of section 72 of the Supreme Court Act 1935 and all other enabling powers, we, Judges of the Supreme Court of South Australia, make the following Supreme Court Special Applications Supplementary Rules 2014.**

## **Chapter 1—Preliminary**

### **Part 1—Formal provisions**

#### **1—Citation**

These Supplementary Rules may be cited as the *Supreme Court Special Applications Supplementary Rules 2014*.

#### **2—Commencement**

These Supplementary Rules commence on 1 October 2014.

## **Chapter 2—General Procedural Rules**

### **3—Approved forms**

The forms contained in the Schedule to these Supplementary Rules are approved forms for the purposes shown.

GIVEN under our hands and the Seal of the Supreme Court of South Australia

this .....2<sup>nd</sup> ..... day of ...September.....2014.

**C KOURAKIS, CJ**

**T. A. GRAY, J**

**J. R. SULAN, J**

**A. M. VANSTONE, J**

**M. DAVID, J**

**P. KELLY, J**

**D. H. PEEK, J**

**M. F. BLUE, J**

**T. L. STANLEY, J**

**K. G. NICHOLSON, J**

**A. E. BAMPTON, J**

**G. J. PARKER, J**

**South Australia**  
**Supreme Court Special Applications**  
**Supplementary Rules 2014**

**SCHEDULE—APPROVED FORMS**

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**Rule 14(3)**

Form SA1

Originating application for search warrant

**ORIGINATING APPLICATION FOR SEARCH WARRANT**

*Independent Commissioner Against Corruption Act 2012 s 31*  
*Serious and Organised Crime (Unexplained Wealth) Act 2009 s 16*  
*Australian Crime Commission (South Australia) Act 2004 s 29*  
*Australian Crime Commission Act 2002 (Cth) s 22*

The plaintiff (*name of plaintiff*) applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is
  - an investigator appointed/seconded (*delete whichever is inapplicable*) under section 14 of the *Independent Commissioner Against Corruption Act 2012 (SA)*
  - the Commissioner of Police
  - an eligible person within the meaning of the *Australian Crime Commission Act 2002 (Cth)*  
(*delete whichever is inapplicable*).
  
2. The plaintiff applies for issue of a warrant under
  - section 31 of the *Independent Commissioner Against Corruption Act 2012*
  - section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*
  - section 29 of the *Australian Crime Commission (South Australia) Act 2004*
  - section 22 of the *Australian Crime Commission Act 2002 (Cth)*  
(*delete whichever is inapplicable*).
  
3. The plaintiff applies for a warrant for the purposes of an investigation by (*insert body*) into .....

*(set out details of the investigation).*

- 4. The plaintiff applies for a warrant authorising  
.....  
.....

*(set out details of the authorisation sought).*

- 5. The plaintiff seeks to be able to exercise the warrant during the following hours of the day or night...../at any time of the day or night *(delete whichever is inapplicable).*

- 6. The plaintiff applies for a warrant on the following grounds:  
.....  
.....  
.....

*(set out grounds on which the warrant is reasonably required for the purpose of the investigation).*

- 7. The detailed grounds are set out and verified in the accompanying affidavit.

- 8. The urgent circumstances making it appropriate for the application to be made by email/facsimile *(delete whichever is inapplicable)* are  
.....  
.....

*(to be completed only in relation to applications made by email or facsimile).*

- 9. The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought).*



**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Investigator appointed/seconded (*delete whichever is inapplicable*) by the Independent Commissioner Against Corruption

Commissioner of Police

Eligible person within the meaning of the *Australian Crime Commission Act 2002* (Cth)

(*delete whichever is inapplicable*)

Form SA2

**Rule 14(3)**  
Originating application for monitoring order

**ORIGINATING APPLICATION FOR MONITORING ORDER**  
*Serious and Organised Crime (Unexplained Wealth) Act 2009 s 14*

The plaintiff (*name of plaintiff*) the Commissioner of Police applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is the Commissioner of Police.
  
2. The plaintiff applies for a monitoring order under section 14 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*.
  
3. The plaintiff applies for a monitoring order on the following grounds:  
*(set out short grounds upon which the order is reasonably required for the purpose of the investigation).*  
.....  
.....  
.....  
.....
  
4. The detailed grounds are set out and verified in the accompanying affidavit.
  
5. The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

**Rule 14(3)**

Form SA3                      Originating application for confirmation of special powers authorisation

**ORIGINATING APPLICATION FOR CONFIRMATION OF SPECIAL  
POWERS AUTHORISATION**

*Terrorism (Police Powers) Act 2005 s 3 and s 19*

The plaintiff (*name of plaintiff*) applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1.     The plaintiff is (*insert rank*) acting in accordance with section 3 of the *Terrorism (Police Powers) Act 2005*.
  
2.     (*delete if inapplicable*)
  - The Commissioner
  - The Deputy Commissioner
  - An Assistant Commissioner(*delete whichever is inapplicable*)  
is/are or was/were (*delete whichever is inapplicable*) unavailable to issue the special powers authorisation that the plaintiff proposes to issue/has issued (*delete whichever is inapplicable*) under section 3 of the *Terrorism (Police Powers) Act 2005*.
  
3.     The plaintiff proposes to issue/has issued (*delete whichever is inapplicable*) of a special powers authorisation under section 3 of the *Terrorism (Police Powers) Act 2005*.
  
4.     The plaintiff applies for confirmation that the plaintiff has/had (*delete whichever is inapplicable*) proper grounds for issuing the special powers authorisation under section 3(1)/(2) (*delete whichever is inapplicable*) of the *Terrorism (Police Powers) Act 2005*.
  
5.     (*delete if inapplicable*) The plaintiff believes that
  - (a)   a terrorist act is imminent, whether in or outside this State and

(b) the exercise of powers under the Act will substantially assist in the prevention of the terrorist act

on the following grounds:

.....  
.....  
.....  
.....

*(set out the grounds upon which the relevant beliefs are held).*

6. *(delete if inapplicable)* The plaintiff believes that

(a) a terrorist act is being or has been committed, whether in or outside this State and

(b) the exercise of powers under the Act will substantially assist in the investigation of the terrorist act

on the following grounds:

.....  
.....  
.....  
.....

*(set out the grounds upon which the relevant beliefs are held).*

7. *(delete if inapplicable)* The plaintiff was satisfied that it was necessary to issue the authorisation without confirmation because of the urgency of the circumstances, namely

.....  
.....  
.....  
.....

*(set out the grounds of urgency).*

8. The grounds set out in this application are verified in the accompanying affidavit, which exhibits the proposed *(delete if inapplicable)* special powers authorisation.

9     *(delete if inapplicable)* The circumstances of urgency making it appropriate for the application to be made by email/facsimile *(delete whichever is inapplicable)* are

.....

.....

.....

.....

10.   The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is *(place of business)*.

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

.....  
 Signed by *(full name)*  
*(insert position and rank)*

**Rule 14(3)**

Form SA4

Originating application for confirmation of special area declaration

**ORIGINATING APPLICATION FOR CONFIRMATION OF SPECIAL  
AREA DECLARATION***Terrorism (Police Powers) Act 2005 s 13 and 19*

The plaintiff (*name of plaintiff*) the Commissioner of Police applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is the Commissioner of Police acting in accordance with section 13 of the *Terrorism (Police Powers) Act 2005*.
2. The plaintiff proposes to issue a special area declaration under section 13 of the *Terrorism (Police Powers) Act 2005*.
3. The plaintiff applies for confirmation that issuing the special area declaration is appropriate in the circumstances under section 13(3) of the *Terrorism (Police Powers) Act 2005*.
4. The plaintiff is satisfied that:
  - (a) the area is:
    - the site of an airport, train station, bus station, tram station or ship or ferry terminal
    - the site of a special event
    - an area that is a public area where persons gather in large numbers

*(delete whichever is inapplicable)*
  - and
  - (b) the declaration is required because of the nature of the site or area and the risk of occurrence of a terrorist acton the following grounds:

.....  
 .....  
 .....

*(set out the grounds upon which the relevant beliefs are held).*

- 5. The grounds set out in this application are verified in the accompanying affidavit, which exhibits the proposed special area declaration.
- 6. The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought)*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is *(place of business)*.

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

.....  
Signed by *(full name)*

Commissioner of Police



Rule 14(3)

Form SA5

Originating application in respect of protected witness

**ORIGINATING APPLICATION IN RESPECT OF PROTECTED WITNESS**

*Witness Protection Act 1996 s 17*

The plaintiff (*name of plaintiff*) of the Commissioner of Police applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is the Commissioner of Police acting in accordance with section 17 of the *Witness Protection Act 1996*.
2. The plaintiff applies for an order:
  - establishing a new identity for (*insert name of the person in respect of whom the orders are sought*)
  - restoring the former identity of (*insert name of the person in respect of whom the orders are sought*) who has been provided with a new identity pursuant to section 17 of the Act  
(*delete whichever is inapplicable*).
3. (*delete if inapplicable*) The witness has entered into a memorandum of understanding within the meaning of section 17(5)(b) of the Act.
4. (*delete if inapplicable*) The plaintiff believes that:
  - (a) the making of the orders sought is necessary and reasonable to protect the safety and welfare of the witness and
  - (b) the witness is likely to comply with the memorandum of understanding on the following grounds:

.....

.....

.....

.....

*(set out the grounds upon which the relevant beliefs are held).*

- 5. *(delete if inapplicable)* The plaintiff believes that:
  - (a) protection and assistance to the witness under the relevant witness protection program has been terminated and
  - (b) it is desirable that the former identity of the witness be restored
 on the following grounds:

.....

.....

.....

.....

*(set out the grounds upon which the relevant beliefs are held).*

- 6. The grounds set out in this application are verified in the accompanying affidavit. The affidavit exhibits the memorandum of understanding into which the witness has entered *(delete if inapplicable)*.
- 7. The order sought is set out in the minutes of order accompanying this application.
- 8. The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought)*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

**Rule 14(3)**

Form SA6

Originating application in respect of assumed identity

**ORIGINATING APPLICATION IN RESPECT OF ASSUMED IDENTITY**

*Criminal Investigation (Covert Operations) Act 2009 s 12, 13*

The plaintiff (*name of plaintiff*) applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is
  - the Commissioner of Police
  - the Chief Executive Officer of the Australian Crime Commissioner
  - the Independent Commissioner Against Corruption

*(delete whichever is inapplicable)*  
 acting in accordance with section 12 or 13 of the *Criminal Investigation (Covert Operations) Act 2009*.
  
2. The plaintiff applies for an order to the Registrar of Births, Deaths and Marriages to
  - make an entry in the Register of Births, Deaths and Marriages in relation to the acquisition of an assumed identity for (*insert name of the person in respect of whom the orders are sought*) being (*insert name of assumed identity*)
  - cancel an entry in the Register of Births, Deaths and Marriages in relation to an assumed identity being (*insert name of assumed identity*)

*(delete whichever is inapplicable)*.
  
3. *(delete if inapplicable)* The plaintiff believes that the order is justified having regard to the nature of the activities undertaken or to be undertaken by the person the subject of the application on the following grounds:  
 .....  
 .....

.....  
 .....  
 (set out the grounds upon which the relevant beliefs are held).

4. (delete if inapplicable) The plaintiff cancelled the authority for the assumed identity on (insert date).
5. The grounds set out in this application are verified in the accompanying affidavit.
6. The order sought is set out in the minutes of order accompanying this application.
7. The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

(set out briefly but specifically the orders sought)

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (place of business).

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

Chief Executive Officer of the Australian  
Crime Commission

The Independent Commissioner Against  
Corruption

*(delete whichever is inapplicable)*

**Rule 14(3)**

Form SA7      Originating application to authorise disclosure in respect of protected witness

**ORIGINATING APPLICATION TO AUTHORISE DISCLOSURE IN  
RESPECT OF PROTECTED WITNESS**  
*Witness Protection Act 1996 s 21(3) and (4)*

The plaintiff (*name of plaintiff*) applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1.      The plaintiff is (*insert position or role*).
  
2.      The plaintiff applies for an order authorising the following disclosure in respect of (*insert name of the protected witness in respect of whom the order is sought*):  
.....  
.....  
.....  
.....  
(*set out the disclosure in respect of which authorisation is sought*).
  
3.      The plaintiff makes the application on the following grounds:  
.....  
.....  
.....  
.....  
(*set out the grounds upon which the relevant beliefs are held*).
  
4.      The grounds set out in this application are verified in the accompanying affidavit.
  
5.      The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought)*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is *(place of business)*.

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

-----  
Signed by *(full name)*

*(insert position)*



**Rule 14(3)**

Form SA8

Originating application in respect of protected witness

**ORIGINATING APPLICATION IN RESPECT OF PROTECTED WITNESS**

*Witness Protection Act 1996 s 24(5), (8) and (9)*

The plaintiff (*name of plaintiff*) applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is:

- the Director of Public Prosecutions
- the Deputy Director of Public Prosecutions
- the Crown Counsel

*(delete whichever is inapplicable).*

2. (*insert name of protected witness or prospective protected witness*) is to be a witness in the following criminal proceedings for an indictable offence/summary offence punishable by imprisonment (*delete whichever is inapplicable*):

.....

.....

.....

.....

*(set out the Court in which the criminal proceedings are to be heard, the proceedings number and names of the parties).*

3. The prospective witness:

- is a participant in a witness protection program
- is a former participant in a witness protection program and retains a new identity provided under the program
- is the subject of steps taken with a view to including the person in a witness protection program

*(delete whichever is inapplicable).*

- 3. The plaintiff discloses the following information relating to the prospective witness and his or her participation or possible participation in the witness protection program that may be relevant to
  - the prospective witness’s credibility as a witness in the proceeding
  - the protection of the prospective witness’s safety and the integrity of the witness protection program:

.....  
 .....  
 .....

*(set out the disclosure).*

- 4. The plaintiff proposes that the following orders be made relating to disclosure to defendant or the defendant’s legal representative and the use of the information:

.....  
 .....  
 .....

*(set out proposed orders).*

- 5. The matters set out in this application are verified in the accompanying affidavit.

- 6. The plaintiff proposes that the Court retain documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought)*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 17 of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

---

Signed by (*full name*)

the Director of Public Prosecutions

the Deputy Director of Public Prosecutions

the Crown Counsel

(*delete whichever is inapplicable*)

**Rule 18(3)**

Form SA9

Warrant for search and seizure

**WARRANT FOR SEARCH AND SEIZURE**

*Independent Commissioner Against Corruption Act 2012 s 31*  
*Serious and Organised Crime (Unexplained Wealth) Act 2009 s 16*  
*Australian Crime Commission (South Australia) Act 2004 s 29*  
*Australian Crime Commission Act 2002 (Cth) s 22*

1. On an application made on *(insert date)* by:
- an investigator appointed/seconded *(delete whichever is inapplicable)* under section 14 of the *Independent Commissioner Against Corruption Act 2012 (SA)*
  - the Commissioner of Police
  - an eligible person within the meaning of the *Australian Crime Commission Act 2002 (Cth)*
- (delete whichever is inapplicable),*

I ....., a Judge of the Supreme Court of South Australia, am satisfied that there are proper grounds for the issue of a warrant under

- section 31 of the *Independent Commissioner Against Corruption Act 2012*
  - section 16 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009*
  - section 29 of the *Australian Crime Commission (South Australia) Act 2004*
  - section 22 of the *Australian Crime Commission Act 2002 (Cth)*
- (delete whichever is inapplicable).*

2. This warrant authorises *(insert name and position)*
- to enter and search *(set out details of private place and/or private vehicle)*
  - to seize *(set out details)*
  - to search *(set out details)* and to seize *(set out details)*

- to enter (*set out details*), search (*set out details*) and seize (*set out details*)  
(*delete whichever is inapplicable*).

**Date:**

---

(Judge of the Supreme Court)

**Note**

The Act under which the warrant is issued prescribes the powers that may be exercised under the warrant.

**Rule 21**

Form SA10

Originating application for review of preventative detention order

**ORIGINATING APPLICATION FOR REVIEW OF PREVENTATIVE  
DETENTION ORDER***Terrorism (Preventative Detention) Act 2005 s 17*

The plaintiff (*name of plaintiff*) applies for the relief set out in this application.

The Court will hear this application at a time and place to be advised.

**Application**

1. The plaintiff is (*insert rank*) acting in accordance with section 17 of the *Terrorism (Preventative Detention) Act 2005*.
2. (*insert name of subject*) has been detained under a preventative detention order made under section 6 of the *Terrorism (Preventative Detention) Act 2005*, a copy of which is exhibited to the accompanying affidavit.
3. The subject is being detained at (*set out location*).
4. The plaintiff applies for a review of the preventative detention order under section 17 of the Act.
5. The circumstances in which the preventative detention order was made and giving rise to its making are set out in the accompanying affidavit, which exhibits all the documents and other materials before the issuing authority.
6. The plaintiff proposes that the Court retain the documents associated with this application for at least .....years before returning them to the plaintiff or destroying them.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought including any directions sought under section 18 of the Act).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in and exhibiting the documents referred to in rule 21(4) of the *Supreme Court Special Applications Rules 2014*.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is not intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

(*insert rank*)

**Rule 27(1)**

Form SA11

Originating application for declaration that declared organisation

**ORIGINATING APPLICATION FOR DECLARATION THAT  
DECLARED ORGANISATION***Serious and Organised Crime (Control) Act 2008 s 9*TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), the Commissioner of Police, applies for the relief set out in this Application.

**Action required**

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence and without further notice.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before ..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).



**Application**

1. The plaintiff is the Commissioner of Police.
  
2. The plaintiff applies for a declaration that (*set out name or identity of organisation*) is a declared organisation under section 9 of the *Serious and Organised Crime (Control) Act 2008*.
  
3. The organisation is identified as follows:  
*(identify whether specified by the name of the organisation or the name by which it is commonly known or by providing other particulars identifying it)*.
  
4. The nature of the organisation (including its distinguishing characteristics) is  
*(set out nature of the organisation and its distinguishing characteristics)*.
  
5. The short grounds on which the declaration is sought are  
.....  
.....  
.....  
.....  
*(set out the short grounds on which the declaration is sought)*.
  
6. The detailed grounds on which the declaration is sought are set out in the accompanying affidavit.
  
7. There has been/not been (*delete whichever is inapplicable*) a previous application in respect of the organisation.  
*(set out details of any previous application for a declaration in respect of the organisation and the outcome of that application)*.

**Order sought**

The Plaintiff seeks the following orders:  
*(set out briefly but specifically the orders sought)*.

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the matters set out in section 9(2)(b) to (f) of the *Serious and Organised Crime (Control) Act 2008*.

**Plaintiff's address**

The Plaintiff's address for service is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is intended to serve this application on the Defendant.

It is intended to publish notice of this application in the Gazette and a newspaper circulating generally throughout the State.

**Date:**

-----  
Signed by (*full name*)  
Commissioner of Police

**Rule 29(1)**

Form SA12

Originating application for control order

**ORIGINATING APPLICATION FOR CONTROL ORDER***Serious and Organised Crime (Control) Act 2008 s 22*TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), the Commissioner of Police, applies for the relief set out in this Application.

**Action required**

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before ..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

**Application**

- 1. The plaintiff is the Commissioner of Police.
- 2. The plaintiff applies for a control order in respect of *(set out full name of defendant)* under section 22 of the *Serious and Organised Crime (Control) Act 2008*.
- 3. The short grounds on which the order is sought are:  
.....  
.....  
.....  
.....  
*(set out the short grounds on which the order is sought).*
- 4. The detailed grounds on which the order is sought and information supporting the grounds are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:  
*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application and the information supporting the grounds.

**Plaintiff's address**

The Plaintiff's address for service is:  
Place:  
Email:  
The Plaintiff's address is *(place of business)*.

**Service on the Defendant**

It is intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

**Rule 31, 34**

Form SA13

Notice of objection—interim control/variation order

**NOTICE OF OBECTION—INTERIM CONTROL/VARIATION ORDER**  
*Serious and Organised Crime (Control) Act 2008 s 22D*

TO THE PLAINTIFF (*name*) of (*address*).

The Court will hear this application at a time and place to be advised.

**Application**

The defendant (*name*) applies for the following orders or directions:

1. On (*insert date*) the Court made an interim control/variation order (*delete whichever is inapplicable*) under the *Serious and Organised Crime (Control) Act 2008* in respect of the defendant.

2. The defendant objects to the order/the following parts of the order (*delete whichever is inapplicable*):  
.....  
.....  
(*if the objection is to particular parts of the order, identify those parts*).

3. The grounds of objection are:  
(*set out grounds*).  
.....  
.....  
.....  
.....

4. The defendant relies on the following affidavit in support of the objection:  
.....  
.....  
(*identify affidavit*).

5. *(delete if inapplicable)* The defendant seeks an extension of time in which to lodge a notice of objection on the grounds set out in the accompanying affidavit.

**Endorsements**

Application made pursuant to section 22D of the *Serious and Organised Crime (Control) Act 2008* and rule 31/34 *(delete whichever is inapplicable)* of the *Supreme Court Special Applications Rules 2014*.

You will be notified separately of the time and place of the hearing of the application.

**Date:**

-----  
Signed by *(name)*

Defendant/Solicitor for the defendant *(deleted  
whichever is inapplicable)*

**Rule 42(1)**

Form SA15

Originating application to extend time of retention

**ORIGINATING APPLICATION TO EXTEND TIME OF RETENTION***Independent Commissioner Against Corruption Act 2012 s 32(4)*TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), the Independent Commissioner Against Corruption, applies for the relief set out in this Application.

**Action required**

A Judge will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Judge may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before Justice..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).



**Application**

1. The plaintiff is the Independent Commissioner Against Corruption.
  
2. The plaintiff applies for an order under section 32(1) of the *Independent Commissioner Against Corruption Act 2012* extending the time for
  - the retention of things seized
  - a retention order to remain in force
 (*delete whichever is inapplicable*).
  
3. (*delete if inapplicable*) The things sought to be retained are (*set out details of things*) seized on (*insert date*).
  
4. (*delete if inapplicable*) The retention order sought to be extended was issued by (*insert name*) to (*insert name*) on (*insert date*).
  
5. The extension of time is sought until (*insert date*).
  
6. The person who had legal title to the things seized at the time of seizure/issue of the retention order (*delete whichever is inapplicable*) is (*insert name*).
  
7. The person from whom the things were seized/had custody of the things when the retention order was issued (*delete whichever is inapplicable*) is (*insert name*).
  
8. The short grounds on which the order is sought are:
 

.....

.....

.....

.....

(*set out the short grounds on which the order is sought*).
  
9. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff's address**

The Plaintiff's address for service is:

Place:

Email:

The Plaintiff's address is *(place of business)*.

**Service on the Defendant**

*(delete whichever is inapplicable)*

It is intended to serve this Application on all Defendants.

It is intended to serve this Application on the following Defendants:

*(name of each defendant on whom application is to be served)*

It is not intended to serve this Application on any Defendant.

**Date:**

---

Signed by *(full name)*

Independent Commissioner Against  
Corruption

## Rule 44(1)

Form SA16

Originating application for delivery of passport

**ORIGINATING APPLICATION FOR DELIVERY OF PASSPORT***Independent Commissioner Against Corruption Act 2012 Sch 2 cl 18*TO THE DEFENDANT (*name*) of (*address*).The plaintiff (*name of plaintiff*)

- the Independent Commissioner Against Corruption
- the Deputy Commissioner
- an examiner appointed by the Independent Commissioner Against Corruption  
(*delete whichever is inapplicable*)

applies for the relief set out in this application.

**Action required**

A Judge will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Judge may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before Justice..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

**Application**

1. The plaintiff is the Independent Commissioner Against corruption/the Deputy Commissioner/an examiner appointed by the Independent Commissioner Against Corruption under section 14 of the *Independent Commissioner Against Corruption Act 2012* (*delete whichever is inapplicable*).
  
2. The plaintiff applies for an order under clause 18 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* that the defendant appear before a Judge to show cause why he or she should not be ordered to deliver his or her passport to the examiner.
  
3. The short grounds on which the order is sought are:  
.....  
.....  
.....  
.....  
(*set out the short grounds on which the order is sought*).
  
4. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:  
(*set out briefly but specifically the orders sought*).

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff's address**

The Plaintiff's address for service is:  
Place:  
Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

(*delete whichever is inapplicable*)

It is intended to serve this Application on all Defendants.

It is intended to serve this Application on the following Defendants:

(*name of each defendant on whom application is to be served*).

It is not intended to serve this Application on any Defendant.

**Date:**

-----  
Signed by (*full name*)

The Independent Commissioner Against  
Corruption

The Deputy Commissioner

Examiner appointed by the Independent  
Commissioner Against Corruption

(*delete whichever is inapplicable*)

**Rule 44(6)**

Form SA17

Order to show cause against delivery of passport

**ORDER TO SHOW CAUSE AGAINST DELIVERY OF PASSPORT**  
*Independent Commissioner Against Corruption Act 2012 Sch 2 cl 18*

TO THE DEFENDANT (*name*) of (*address*).

YOU ARE ORDERED to appear before a Justice of the Supreme Court of South Australia at the time and place stated below to show cause why you should not be ordered under clause 18 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* to deliver your passport to the plaintiff.

The grounds upon which you are required to show cause are set out in the originating application and affidavit of the plaintiff which accompany this order.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

Time and date for hearing: .....

Place: .....

**Date:**

.....  
(Judge of the Supreme Court)

**Rule 48(1)**

Form SA18

Originating application for warrant of arrest

**ORIGINATING APPLICATION FOR WARRANT OF ARREST**

*Independent Commissioner Against Corruption Act 2012 Sch 2 cl 9*

The plaintiff (*name of plaintiff*)

- the Independent Commissioner Against Corruption
  - the Deputy Commissioner
  - an examiner appointed by the Independent Commissioner Against Corruption
- (delete whichever is inapplicable)*

applies for the relief set out in this application.

The application will be heard before Justice..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

**Application**

1. The plaintiff is the ICAC/the Deputy Commissioner/an examiner appointed by the Independent Commissioner Against Corruption under section 14 of the *Independent Commissioner Against Corruption Act 2012 (delete whichever is inapplicable)*.
2. The plaintiff applies for an order under clause 9 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012* for the issue of a warrant of arrest of the defendant.
3. The short grounds on which the order is sought are:  
.....  
.....  
.....  
.....  
*(set out the short grounds on which the order is sought)*.

4. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is *(place of business)*.

**Service on the Defendant**

It is not intended to serve this Application on the Defendant.

**Date:**

-----  
Signed by *(full name)*

The Independent Commissioner Against  
Corruption

The Deputy Commissioner

Examiner appointed by the Independent  
Commissioner Against Corruption

*(delete whichever is inapplicable)*



**Rule 55(1)**

Form SA19      Originating application for giving evidence or production of documents

**ORIGINATING APPLICATION FOR GIVING EVIDENCE OR  
PRODUCTION OF DOCUMENTS***Serious and Organised Crime (Unexplained Wealth) Act 2009 s 15(1)*TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), the Commissioner of Police, applies for the relief set out in this Application.

**Action required**

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before ..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

**Application**

1. The plaintiff is the Commissioner of Police.
  
2. The plaintiff applies for an order requiring the defendant to
  - give oral/affidavit (*delete whichever is inapplicable*) evidence on questions;
  - produce documents or other materials;
 (*delete whichever is inapplicable*)  
 to the Court relevant to identifying, tracing, locating or valuing the wealth of (*set out full name of person*) under section 15 of the *Serious and Organised Crime (Unexplained Wealth) Act 2008*.
  
3. The short grounds on which the order is sought are:  
 .....  
 .....  
 .....  
 .....  
 (*set out the short grounds on which the order is sought*).
  
4. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:  
(*set out briefly but specifically the orders sought*).

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff's address**

The Plaintiff's address for service is:  
Place:  
Email:  
The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

## Rule 57(1)

Form SA20

Originating application to declare property of a person

**ORIGINATING APPLICATION TO DECLARE PROPERTY OF A  
PERSON***Serious and Organised Crime (Unexplained Wealth) Act 2009 s 19(2)*TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), the Commissioner of Police, applies for the relief set out in this Application.

**Action required**

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before ..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

**Application**

- 1. The plaintiff is the Commissioner of Police.
  
- 2. The plaintiff applies for an order under section 19(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2008* declaring that the following property is subject to the effective control of the defendant and is taken to be the defendant’s property for the purpose of the *Enforcement of Judgments Act 1991*:

*(set out full details of the property).*

- 3. The short grounds on which the order is sought are:

.....  
 .....  
 .....  
 .....

*(set out the short grounds on which the order is sought).*

- 4. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:

*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff’s address**

The Plaintiff’s address for service is:

Place:

Email:

The Plaintiff’s address is *(place of business)*.

**Service on the Defendant**

It is intended to serve this application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

**Rule 58(1)**

Form SA21

Originating application for restraining order

**ORIGINATING APPLICATION FOR RESTRAINING ORDER***Serious and Organised Crime (Unexplained Wealth) Act 2009 s 20(1)*TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), the Commissioner of Police, applies for the relief set out in this Application.

**Action required**

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before ..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

**Application**

1. The plaintiff is the Commissioner of Police.
  
2. The plaintiff applies for an order under section 20(1) of the *Serious and Organised Crime (Unexplained Wealth) Act 2008* preventing
  - the disposal of specified property
  - specified kinds of transactions involving safe custody facilities
 (*delete whichever is inapplicable*).
  
3. (*delete if inapplicable*) The property the disposal of which is sought to be restrained is (*set out details of property*).
  
4. (*delete if inapplicable*) The transactions involving safe custody facilities sought to be prevented are (*set out details of transactions and safe custody facilities*).
  
5. The short grounds on which the order is sought are:
 

.....

.....

.....

.....

 (*set out the short grounds on which the order is sought*).
  
6. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:  
*(set out briefly but specifically the orders sought).*

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff's address**

The Plaintiff's address for service is:



Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

(*select one of these three options and delete the others*)

It is intended to serve this application on all Defendants.

It is intended to serve this application on the following Defendants:

(*name of each defendant on whom application is to be served*).

It is not intended to serve this application on any Defendant.

**Date:**

-----  
Signed by (*full name*)

Commissioner of Police

**Rule 59**

Form SA22

Notice of objection—restraining order

**NOTICE OF OBJECTION—RESTRAINING ORDER**  
*Serious and Organised Crime (Unexplained Wealth) Act 2009 s 24*

TO THE PLAINTIFF (*name*).

The defendant (*name*) applies for the following orders or directions:

**Application**

1. On (*insert date*) the Court made a restraining order under the *Serious and Organised Crime (Unexplained Wealth) Act 2009* in respect of the defendant.

2. The defendant objects to the order/the following parts of the order (*delete whichever is inapplic the able*).

.....  
.....

(*if the objection is to particular parts of the order, identify those parts*).

3. The grounds of objection are:

.....  
.....  
.....  
.....

(*set out grounds fully and in detail*)

4. The defendant relies on the following affidavit in support of the objection:

.....  
.....

(*identify affidavit*).

5. (*delete if inapplicable*) The defendant seeks an extension of time in which to lodge a notice of objection on the grounds set out in the accompanying affidavit.

**Endorsements**

Application made pursuant to section 24 of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* and rule 59 of the *Supreme Court Special Applications Rules 2014*.

You will be notified separately of the time and place of the hearing of the application.

**Date:**

-----  
Signed by (*name*)

Defendant/Solicitor for the defendant (*delete  
whichever is inapplicable*)

**Note**

Section 24(2) of the *Serious and Organised Crime (Unexplained Wealth) Act 2009* requires the grounds of objection to be stated fully and in detail in the notice of objection

Form SA23 Rule 61(1)  
Originating application for person to be dealt with for contempt

**ORIGINATING APPLICATION FOR PERSON TO BE DEALT WITH  
FOR CONTEMPT**

*Independent Commissioner Against Corruption Act 2012 Sch 2 cl 13*  
*Australian Crime Commission (South Australia) Act 2004 s 26B*  
*Australian Crime Commission Act 2002 (Cth) s 34B*

TO THE DEFENDANT (*name*) of (*address*).

The plaintiff (*name of plaintiff*), examiner, applies for the relief set out in this Application.

**Action required**

The Court will hear this application, or make orders for the conduct of the proceeding, at the time and place stated below. If you or your lawyer do not attend, the Court may make orders in your absence.

You must file a Notice of Address for Service (form 16 or 17 in the General Supplementary Rules) in the Registry before attending Court or taking any other steps in the proceeding. If you do not have a solicitor, you may attend personally at a Registry to do this. A list of the Registry addresses may be obtained through the website of the Courts Administration Authority ([www.courts.sa.gov.au](http://www.courts.sa.gov.au)) or by telephoning the Registry of the Court (8204 0289).

The application will be heard before ..... in the Supreme Court at 1 Gouger Street, Adelaide on ..... at ..... or so soon afterwards as the business of the Court allows.

The courtroom in which the application will be heard will be published:

- on the Courts Administration Authority website the day before;
- in the Advertiser on the day; and
- on the notice board at the Courts Building.

The Court ordered that the time for serving this application be abridged to (*Court to insert date, if applicable*).

**Application**

1. The plaintiff is an examiner appointed by
  - the Independent Commissioner Against Corruption under section 14 of the *Independent Commissioner Against Corruption Act 2012*
  - the Governor-General under section 46B of *Australian Crime Commission Act 2002 (Cth)*
 (*delete whichever is inapplicable*).

2. The plaintiff applies for an order under
  - clause 1 of Schedule 2 to the *Independent Commissioner Against Corruption Act 2012*.
  - section 26B of the *Australian Crime Commission (South Australia) Act 2004*.
  - section 34B of the *Australian Crime Commission Act 2002 (Cth)*.
 (*delete whichever is inapplicable*)

for the defendant to be dealt with in relation to a contempt.

3. The short grounds on which the order is sought are:
 

.....

.....

.....

.....

(*set out the short grounds on which the order is sought*).

4. The detailed grounds on which the order is sought are set out in the accompanying affidavit.

**Order sought**

The Plaintiff seeks the following orders:  
(*set out briefly but specifically the orders sought*).

**Accompanying documents**

This application must be accompanied by an affidavit setting out and verifying the detailed grounds of the application.

**Plaintiff's address**

The Plaintiff's address for contact is:

Place:

Email:

The Plaintiff's address is (*place of business*).

**Service on the Defendant**

It is intended to serve this Application on the Defendant.

**Date:**

-----  
Signed by (*full name*)

Examiner appointed by the Independent  
Commissioner Against Corruption

Governor-General

(*delete whichever is inapplicable*)

## HOUSING IMPROVEMENT ACT 1940

NOTICE is hereby given that the South Australian Housing Trust Board Delegate in the exercise of the powers conferred by the Housing Improvement Act 1940, does hereby declare the houses described in the table hereunder to be substandard for the purposes of Part 7 of the Housing Improvement Act 1940.

No. of House and Street	Locality	Allotment, Section, etc.	Certificate of Title	
			Volume	Folio
14 Chabrel Road	Glossop	Allotment 2 in Deposited Plan 27602 in the area named Glossop Berri Irrigation Area	5986	191
26 Daly Street	East Moonta	Allotment 1 in Deposited Plan 35222, Hundred of Wallaroo	5117	841
434 Grand Junction Road	Mansfield Park	Allotment 81 in Filed Plan 126249, Hundred of Yatala	5421	762
13 John Street	Burnside	Allotment 22 in Deposited Plan 638, Hundred of Adelaide	5565	417
30 Karingal Road	Dernancourt	Allotment 5 in Deposited Plan 7467, Hundred of Yatala	5189	20
11 Stormore Street	Davoren Park	Allotment 12 in Deposited Plan 42501, Hundred of Munno Para	5276	436
5 Tidworth Road	Elizabeth North	Allotment 619 in Deposited Plan 6445, Hundred of Munno Para	5322	290
4 Warwick Street	Enfield	Allotment 45 in Deposited Plan 2976, Hundred of Yatala	5906	710

Dated at Adelaide, 11 September 2014.

R. HULM, Director, Corporate Services, Housing SA (Delegate SAHT)

## HOUSING IMPROVEMENT ACT 1940

WHEREAS by notice published in the *Government Gazette* on the dates mentioned in the following table the South Australian Housing Trust Board Delegate did declare the houses described in the said table to be substandard for the purposes of Part 7 of the Housing Improvement Act 1940, the South Australian Housing Trust Board delegate in the exercise of the powers conferred by the said Part, does hereby fix as the maximum rental per week which shall be payable subject to Section 55 of the Residential Tenancies Act 1995, in respect of each house described in the following table the amount shown in the said table opposite the description of such house and this notice shall come into force on the date of this publication in the *Gazette*.

Address of House	Allotment, Section, etc.	Certificate of Title		Date and page of <i>Government Gazette</i> in which notice declaring house to be substandard published	Maximum rental per week payable in respect of each house \$
		Volume	Folio		
15 Colliver Street, Norwood	Unit 1, Strata Plan 5216, Hundred of Yatala	5015	856	26.1.89, page 227	325.00
3 Fifth Street, Gladstone	Allotment 525 in Filed Plan 187847, Hundred of Booyoolie	5428	524	17.7.14, page 3241	56.00
387 Tarcoola Street, Renmark West	Allotment 52 in Deposited Plan 49186, Renmark Irrigation District	5565	346	5.6.14, page 2223	102.00

Dated at Adelaide, 11 September 2014.

R. HULM, Director, Corporate Services, Housing SA (Delegate SAHT)

## HOUSING IMPROVEMENT ACT 1940

WHEREAS by notice published in the *Government Gazette* on the dates mentioned in the following table the South Australian Housing Trust Board Delegate did declare the houses described in the said table to be substandard for the purposes of Part 7 of the Housing Improvement Act 1940, and whereas the South Australian Housing Trust Board delegate is satisfied that each of the houses described hereunder has ceased to be substandard, notice is hereby given that, in exercise of the powers conferred by the said Part, the South Australian Housing Trust does hereby revoke the said declaration in respect of each house.

Address of House	Allotment, Section, etc.	Certificate of Title		Date and page of <i>Government Gazette</i> in which notice declaring house to be substandard published
		Volume	Folio	
42 Birkinshaw Avenue, Tranmere	Allotment 80 in Deposited Plan 3100, Hundred of Adelaide	5804	135	27.6.13, page 2706
5 Underdown Road, Elizabeth South	Allotment 362 in Deposited Plan 6003, Hundred of Munno Para	5384	783	10.9.09, page 4392

Dated at Adelaide, 11 September 2014.

R. HULM, Director, Corporate Services, Housing SA (Delegate SAHT)

## HOUSING IMPROVEMENT ACT 1940

*Erratum*

IN *Government Gazette* No. 63 dated 21 August 2014, on page 4074, was printed in error and should not appear in the *Government Gazette*.

No. of House and Street	Locality	Allotment, Section, etc.	Certificate of Title	
			Volume	Folio
Entry on 21 August 2014				
18 High Street	Cheltenham	Allotment 2 in Deposited Plan 84428, Hundred of Yatala	6066	273
Dated at Adelaide, 11 September 2014.		R. HULM, Director, Corporate Services, Housing SA (Delegate SAHT)		