

**Version No. 003**  
**Supreme Court (Criminal Procedure) Rules**  
**1998**

**S.R. No. 33/1998**

Version incorporating amendments as at 1 September 1999

**TABLE OF PROVISIONS**

<i>Regulation</i>	<i>Page</i>
1. Object	1
2. Authorising provisions	1
3. Commencement	1
4. New Chapter VI	1
<b>ORDER 1—PRELIMINARY</b>	<b>1</b>
1.01 Title	2
1.02 Commencement	2
1.03 Revocation	2
1.04 Application of Rules	2
1.05 Definitions	2
1.06 Registrar of Criminal Appeals	3
1.07 Calculating time	3
1.08 Extension and abridgement	3
1.09 Process in vacation	4
1.10 Content and form of documents	4
1.11 Filing of documents	4
1.12 Subpoenas	5
1.13 Authentication	5
1.14 Amendment of judgment or order	5
1.15 Effect of non-compliance	5
<b>ORDER 2—CRIMINAL APPEALS</b>	<b>6</b>
<b>PART 1—PRELIMINARY</b>	<b>6</b>
2.01 Definitions	6
2.02 Effect of non-compliance	7
2.03 Dispensing with compliance	8
<b>PART 2—COMMENCEMENT OF APPEALS</b>	<b>8</b>

<i>Regulation</i>	<i>Page</i>
2.04 Institution of appeal	8
2.05 Form of notice	8
2.06 Application for extension of time	8
2.07 No notice of appeal when leave to appeal granted	9
2.07.1 Application may be treated as appeal	9
2.08 Application to Registrar	9
2.09 Hearing by single Judge	10
2.10 Abandonment	10
2.11 Amendment of notice of appeal	10
2.12 Reference on petition of mercy	11
2.13 Certificate from trial judge	11
2.13.1 Crown appeals	12
<b>PART 3—APPEAL WHERE FINE AND IMPRISONMENT IN DEFAULT</b>	<b>12</b>
2.14 Fine paid to be retained pending appeal	12
2.15 Procedure	12
<b>PART 4—PROCEDURES</b>	<b>14</b>
2.16 Pre-hearing conference	14
2.17 Transcript of trial	14
2.18 Preservation of exhibits	15
2.19 Copies of transcript, exhibits etc.	16
2.20 Return of exhibits after hearing	16
2.21 Entitlement to hearing when restitution order made	17
2.22 Property subject to restitution order	17
2.23 Custody of property of convicted person	17
2.24 Security may be ordered	18
2.25 Stay of destruction, forfeiture order	18
2.26 Certificate of conviction	18
2.27 Report from trial judge	19
2.28 Original depositions, exhibits etc.	19
2.28.1 Attendance of appellant	20
2.28.2 Written case and argument	20
2.28.3 Crown appeals	20
<b>PART 5—MISCELLANEOUS</b>	<b>20</b>
2.29 Bail	20
2.30 Registrar to notify determination	21
2.31 Witnesses before Court of Appeal	21
2.32 Examination other than by court	22
2.33 Special commissioners	23
2.34 Transfer of prisoners	24
2.35 Duties of prison officers	25

---

<b>ORDER 3—PRISON SENTENCES (COUNTY COURT APPEALS) APPEAL RULES</b>	<b>27</b>
3.01 Definition	27
3.02 Notice of intention to apply for leave	27
3.03 No notice of appeal when leave is granted	27
3.04 Service of notice	27
3.05 Procedure on hearing	27
3.06 Application may be treated as appeal	28
3.07 Obligation of prison officers	28
 <b>ORDER 4—PRE-TRIAL CRIMINAL PROCEDURE RULES</b>	 <b>29</b>
4.01 Definitions	29
4.02 Notice by solicitor to DPP and CTLD	30
4.03 Copy presentment to be served	31
4.04 Notification of readiness for trial	32
4.05 Notice by solicitor to Prothonotary	32
4.06 Unrepresented accused person	32
4.07 Questionnaire	33
4.08 Costs liability	33
4.09 Pre-trial conference	34
4.10 Pre-trial hearing	36
 <b>ORDER 5—PAYMENT OF FINES RULES</b>	 <b>40</b>
5.01 Definitions	40
5.02 Proper officer	40
5.03 Application	40
5.04 Application operates as stay	40
5.05 Consideration of application	41
5.06 Service of copy order	41
5.07 Enforcement of fines against a natural person	41
5.08 Enforcement of fine against body corporate	42
 <b>ORDER 6—CONFISCATION OF PROPERTY</b>	 <b>42</b>
6.01 Definition	42
6.02 Application of this Order	42
6.03 Making of application to the Court	43
6.04 Notice generally	43
6.05 Application without notice	43
6.06 Notice of application	43
6.07 Filing and directions	44
6.08 Notice of opposition to an application	45
6.09 Evidence	45
6.10 Notice of order or declaration	46

---

<i>Regulation</i>	<i>Page</i>
6.11 Notice of discharge	47
6.12 Interstate order	48
<b>ORDER 7—LISTENING DEVICES RULES</b>	<b>48</b>
7.01 Definition	48
7.02 Application	48
7.03 Complaint to be in prescribed form	48
7.04 Filing and service of documents	49
7.05 Form	49
<b>ORDER 8—PROCEEDS OF CRIME RULES</b>	<b>49</b>
8.01 Definition	49
8.02 Application	49
8.03 Notice	50
8.04 Filing, service, directions	50
8.05 Examination on oath	50
<b>ORDER 9—WITNESS PROTECTION RULES</b>	<b>50</b>
9.01 Definition	51
9.02 Application	51
9.03 Application to be in prescribed form	51
9.04 Filing and service of documents	51
<b>ORDER 10—APPLICATIONS UNDER PART IIA OF THE EVIDENCE ACT 1958</b>	<b>51</b>
10.01 Definition	51
10.02 Application under section 42E	51
10.03 Application under section 42L	52
10.04 Application under section 42M	52
10.05 Application under section 42N	52
10.06 Application under section 42P	52
<hr/>	
<b>FORMS</b>	<b>54</b>
Form 6-2A—Notice of appeal	54
Form 6-2B—Notice of appeal upon the certificate of the trial judge	56
Form 6-2C—Notice of application for leave to appeal against a conviction	58
Form 6-2D—Notice of application for leave to appeal against sentence	60

<i>Regulation</i>	<i>Page</i>
Form 6-2E—Application for extension of time within which to lodge notice of appeal	62
Form 6-2F, 6-2G— <i>Revoked</i>	63
Form 6-2FA—Notification to applicant of registrar's decision under section 582A	64
Form 6-2FB—Election to have application for extension of time determined by the Court of Appeal	65
Form 6-2GA—Notification to applicant of single judge's decision under section 582	66
Form 6-2GB—Election to have application for leave to appeal against sentence determined by the Court of Appeal	67
Form 6-2H—Notice of abandonment	69
Form 6-2J—Trial Judge's certificate	70
Form 6-2K—Recognizance of appellant sentenced to pay a fine (and surety)	71
Form 6-2L—Notification of result of appeal or application	73
Form 6-2M—Appellant's application for examination of further witness(es)	74
Form 6-2N—Notice to witness to attend before examiner	75
Form 6-2P—Notice to prisoner who wishes to appeal	76
Form 6-3A—Notice of intention to apply for leave to appeal against sentence imposed under section 86 of the <b>Magistrates' Court Act 1989</b>	77
Form 6-3B—Information for persons upon whom a sentence of imprisonment has been imposed by the County Court upon appeal from the Magistrates' Court in substitution for some other sentence imposed by the Magistrates' Court	78
Form 6-4A—Notice that solicitor acts	79
Form 6-4B—Notice that solicitor has ceased to act	80
Form 6-4C—Notice of readiness for trial	81
Form 6-4D—Notice to accused person	82
Form 6-4E—Questionnaire	83
Form 6-4F—Application for pre-trial hearing	84

<i>Regulation</i>	<i>Page</i>
Form 6-5A—Application by offender who has been fined	85
Form 6-5B—Notice about the procedure for enforcement of fines	87
Form 6-5C—Consent to a community-based order	89
Form 6-5D—Community-based order in default of payment of a fine	91
Form 6-5E—Summons for failure to pay a fine	93
Form 6-5F—Notice about the procedure for enforcement of a fine (bodies corporate)	95
Form 6-6A—Application under section 16 for restraining order	96
Form 6-6B—Notice of application made under section 16	98
Form 6-6C—Notice of application to be made under section 20 for exclusion order	99
Form 6-6D—Notice of application to be made under section 26 for further orders	101
Form 6-6E—Notice of application to be made under section 32 for forfeiture order	103
Form 6-6F—Notice of application to be made under section 37 for civil forfeiture order	106
Form 6-6G—Notice of application to be made under section 45 for relief from hardship	109
Form 6-6H—Notice of application to be made under Part 6 of the Confiscation Act for exclusion order	111
Form 6-6J—Notice of application to be made under section 58 for pecuniary penalty order	113
Form 6-6K—Notice of application to be made under section 63 for pecuniary penalty order	115
Form 6-6L—Notice of application to be made under section [insert number] of the <b>Confiscation Act 1997</b>	118
Form 6-6M—Important note	120
Form 6-6N—Notice of discharge of forfeiture	121
Form 6-7A—Complaint	125
Form 6-7B—Warrant	126
Form 6-8A—Application	126
Form 6-8B—Application	127

<i>Regulation</i>	<i>Page</i>
Form 6-9A—Application	130
Form 6-10A—Notice of application under section 42L of the <b>Evidence Act 1958</b>	129
Form 6-10B—Notice of application under section 42M, 42N or 42P of the <b>Evidence Act 1958</b>	130
 <b>NOTES</b>	 <b>134</b>
1. General Information	134
2. Table of Amendments	135
3. Explanatory Details	136

---

**Version No. 003**  
**Supreme Court (Criminal Procedure) Rules**  
**1998**

**S.R. No. 33/1998**

Version incorporating amendments as at 1 September 1999

The Judges of the Supreme Court make the following Rules:

**1. *Object***

The object of these Rules is to provide certain forms and procedures for matters in the Court under the **Crimes Act 1958** and under other legislation relating to matters of a criminal, quasi-criminal or related nature.

**2. *Authorising provisions***

These Rules are made under—

- (a) section 25 of the **Supreme Court Act 1986**;
- (b) sections 366 and 583 of the **Crimes Act 1958**;
- (c) section 68 of the **Sentencing Act 1991**;
- (d) section 50 of the **Interpretation of Legislation Act 1984**—

and all other enabling powers.

**3. *Commencement***

These Rules come into operation on 30 March 1998.

**4. *New Chapter VI***

The following Rules constitute Chapter VI of the Rules of the Supreme Court—

**'ORDER 1—PRELIMINARY**

---



Rule 1.01  
substituted by  
S.R. No.  
33/1999  
rule 4(2).

**1.01 Title**

These Rules constitute Chapter VI of the Rules of the Supreme Court and are entitled the Supreme Court (Criminal Procedure) Rules 1998.

**1.02 Commencement**

These Rules come into operation on 30 March 1998.

**1.03 Revocation**

Chapter VI of the Rules of the Supreme Court entitled the Criminal Appeals and Procedures Rules 1988<sup>1</sup> is **revoked**.

**1.04 Application of Rules**

These Rules apply to all matters in the Court whenever commenced—

- (a) which are brought under the **Crimes Act 1958** or under any other Act which confers jurisdiction on the Court in its criminal jurisdiction; and
- (b) which relate to the criminal jurisdiction of the Court; and
- (c) for which provision relating to the conduct of the matter is made by these Rules.

Rule 1.05  
substituted by  
S.R. No.  
33/1999 rule 5.

**1.05 Definitions**

In these Rules—

**"Chapter I"** means Chapter I of the Rules of the Supreme Court;

**"solicitor"** has the same meaning as it has in Chapter I.

**1.06 *Registrar of Criminal Appeals***

In these Rules a reference to the Registrar of Criminal Appeals shall be taken to be a reference to the Registrar of the Court of Appeal if those two offices are for the time being held by the same person.

Rule 1.06  
substituted by  
S.R. No.  
33/1999 rule 5.

**1.07 *Calculating time***

- (1) Any period of time fixed by or under these Rules shall be calculated in accordance with this Rule.
- (2) Where a time of one day or longer is to begin on, or to be calculated from, a day or event, the day or the day of the event shall be excluded.
- (3) Where a time of one day or longer is to end on, or to be calculated to, a day or event, the day or the day of the event shall be included.
- (4) Where a period of five days or less would include a day on which the office of the Court is closed, that day shall be excluded.
- (5) Where the last day for doing any act at the office of the Court is a day on which the office is closed, the act may be done on the next day the office is open.

Rule 1.07  
substituted by  
S.R. No.  
33/1999 rule 5.

**1.08 *Extension and abridgement***

- (1) The Court may extend or abridge any time fixed by or under these Rules.
- (2) The Court may extend time under paragraph (1) before or after the time expires whether or not an application for the extension is made before the time expires.

Rule 1.08  
inserted by  
S.R. No.  
33/1999 rule 5.

Rule 1.09  
inserted by  
S.R. No.  
33/1999 rule 5.

### **1.09 *Process in vacation***

In calculating the time fixed by or under these Rules, the period from 24 December to 9 January next following shall be excluded, unless the Court otherwise orders.

Rule 1.10  
inserted by  
S.R. No.  
33/1999 rule 5.

### **1.10 *Content and form of documents***

- (1) Except to the extent that the nature of the document renders compliance impracticable, a document prepared by a party for use in the Court shall be prepared in accordance with Order 27, other than Rule 2, of Chapter I.
- (2) An affidavit shall be made in the first person and shall be prepared in accordance with Order 43 of Chapter I.

Rule 1.11  
inserted by  
S.R. No.  
33/1999 rule 5.

### **1.11 *Filing of documents***

- (1) Subject to paragraph (2), a document in a proceeding to which these Rules relate is filed by filing it—
  - (a) in the office of the Prothonotary or, where a proceeding is commenced in an office of the Court outside Melbourne, in that office; or
  - (b) with the proper officer in court.
- (2) A document in a proceeding in the Court of Appeal is filed by filing it—
  - (a) in the office of the Registrar of Criminal Appeals; or
  - (b) with the proper officer in court.
- (3) The person with whom the document is filed shall indorse on it the date and time of filing.
- (4) A document filed in a proceeding to which these Rules relate is not open for inspection unless the Court or the Prothonotary, Deputy

---

Prothonotary or Registrar (as the case requires) so directs.

**1.12 *Subpoenas***

Order 42, apart from Rule 42.10, of Chapter I applies with any necessary modification to a proceeding to which these Rules relate.

Rule 1.12  
inserted by  
S.R. No.  
33/1999 rule 5.

**1.13 *Authentication***

- (1) A judgment or order of the Court in a proceeding to which these Rules relate may be authenticated in accordance with this Rule.
- (2) Subject to paragraph (3), a judgment or order of the Court is authenticated when the judgment or order, having been drawn up, is signed by a Judge or sealed by the Prothonotary.
- (3) In a proceeding in the Court of Appeal, a judgment or order of the Court is authenticated when the judgment or order, having been drawn up, is signed by a member of the Court of Appeal or the Registrar of Criminal Appeals.

Rule 1.13  
inserted by  
S.R. No.  
33/1999 rule 5.

**1.14 *Amendment of judgment or order***

For the sake of removing doubt, it is declared that the inherent power of the Court to correct a clerical mistake in a judgment or order or an error arising in a judgment or order from any accidental slip or omission may be exercised at any time.

Rule 1.14  
inserted by  
S.R. No.  
33/1999 rule 5.

**1.15 *Effect of non-compliance***

- (1) A failure to comply with these Rules is an irregularity and does not render a proceeding

Rule 1.15  
inserted by  
S.R. No.  
33/1999 rule 5.

or step taken, or any document, judgment or order therein a nullity.

- (2) The Court may dispense with compliance with any of the requirements of these Rules, either before or after the occasion for compliance arises.

## ORDER 2—CRIMINAL APPEALS

### PART 1—PRELIMINARY

#### 2.01 *Definitions*

In this Order, unless the context or subject matter otherwise requires—

**"appeal"** means appeal under the Act and includes an application for leave to appeal and **"appellant"** includes applicant;

**"conviction"** means conviction for an indictable offence or a relevant summary offence before the Supreme Court or County Court;

**"Crown appeal"** means an appeal brought by the Director of Public Prosecutions under section 567A of the Act;

**"examiner"** means a person appointed by the Court of Appeal under section 574(b) of the Act;

**"exhibit"** includes—

- (a) all books, papers and documents and all other property connected with the proceedings against any person entitled or authorised to appeal, which were sent to the court of trial upon committal or

---

produced and read in evidence  
during trial or other proceedings;  
and

(b) any written statement delivered to  
a trial judge by the said person—

but does not include—

(c) the original depositions of  
witnesses examined at a  
preliminary examination,  
committal or before a coroner; and

(d) any indictment, presentment or  
written process against an accused  
person; and

(e) any plea filed in the court of trial;

**"indictment"** includes presentment;

**"notice"** means notice required or  
authorised by the Act or these Rules;

**"recording officer of the court of trial"**  
means the officer who has custody of  
the records of the court of trial;

**"Registrar"** means the Registrar of  
Criminal Appeals;

**"respondent"** means the person who  
defends an appeal, other than a Crown  
appeal, or who under section 577 of the  
Act appears for the Crown in an appeal  
which is not a Crown appeal;

**"the Act"** means the **Crimes Act 1958**.

## **2.02 *Effect of non-compliance***

A failure to comply with this Order or with  
any rule of practice in force under the Act  
shall not prevent the prosecution of an  
appeal or application for leave to appeal if

---

the Court considers that in the interest of justice the failure should be waived or remedied and the matter proceed.

**2.03 *Dispensing with compliance***

The Court may dispense with compliance with any of the requirements of this Order, either before or after the occasion for compliance arises.

**PART 2—COMMENCEMENT OF APPEALS**

**2.04 *Institution of appeal***

An appeal to the Court of Appeal against a conviction or sentence shall be commenced by filing with the Registrar—

- (a) a notice of appeal; or
- (b) a notice of application for leave to appeal.

**2.05 *Form of notice***

A notice shall—

- (a) be in Form 6-2A, 6-2B, 6-2C or 6-2D (whichever is appropriate); and
- (b) state specifically and concisely and not merely in general terms the grounds of the appeal or on which it is sought to appeal; and
- (c) be signed by the appellant or the appellant's solicitor.

**2.06 *Application for extension of time***

If the time for giving notice of appeal or notice of application for leave to appeal has expired, then a notice of application for extension of time in Form 6-2E shall be filed

as well as the notice of appeal or notice of application for leave to appeal.

**2.07 *No notice of appeal when leave to appeal granted***

If the Court of Appeal gives leave to appeal, the notice of application for leave to appeal shall be a sufficient notice of appeal.

**2.07.1 *Application may be treated as appeal***

If an application for leave to appeal is made to the Court of Appeal, the Court of Appeal may treat the hearing of the application as the hearing of the appeal.

**2.08 *Application to Registrar***

Rule 2.08  
substituted by  
S.R. No.  
113/1999  
rule 5.

- (1) An application for extension of time within which notice of appeal or notice of application for leave to appeal may be given shall be made in the first instance to the Registrar, who shall notify the applicant of his decision in writing.
- (2) If an application under paragraph (1) is refused, the Registrar shall notify the applicant of his decision in Form 6-2FA and the applicant may then elect to have the application determined by the Court of Appeal.
- (3) If in the course of deciding to refuse the application the Registrar has considered an affidavit or other material from the Crown, the Registrar shall provide the applicant with a copy of that affidavit or material when notifying the applicant of the decision.
- (4) An election under paragraph (2) shall be in writing in Form 6-2FB which the Registrar



shall forward to the applicant who must return the election to the Registrar within 10 days after receiving it.

Rule 2.09  
amended by  
S.R. No.  
33/1999 rule 6,  
substituted by  
S.R. No.  
113/1999  
rule 5.

### **2.09 *Hearing by single Judge***

- (1) If an application for leave to appeal against sentence is refused by a Judge of Appeal under section 582 of the **Crimes Act 1958**, the Registrar shall notify the applicant of the decision in Form 6-2GA and the applicant may then elect to have the application determined by the Court of Appeal.
- (2) An election under paragraph (1) shall be in writing in Form 6-2GB which the Registrar shall forward to the applicant who must return the election to the Registrar within 10 days after receiving it.

### **2.10 *Abandonment***

Rule 2.10(1)  
amended by  
S.R. No.  
33/1999  
rule 7(1).

- (1) Subject to paragraph (3), an appeal (including an application for leave to appeal) or an application for extension of time may be abandoned at any time before the hearing of an appeal is commenced by filing with the Registrar a notice of abandonment in Form 6-2H.
- (2) An appeal or application shall be taken to be dismissed on the date the notice of abandonment is filed.

Rule 2.10(3)  
inserted by  
S.R. No.  
33/1999  
rule 7(2).

- (3) An application for leave to appeal against sentence may be abandoned not less than three days before the day fixed for the hearing of the application.

### **2.11 *Amendment of notice of appeal***

---

- (1) A notice of appeal or a notice of application for leave to appeal may be amended at any time before the commencement of the hearing of the appeal with the leave of the Registrar.
- (2) A notice of appeal or a notice of application for leave to appeal may be amended at any time with the leave of the Court of Appeal.
- (3) When giving leave to amend a notice, the Court of Appeal or the Registrar may impose any conditions or directions as the Court or the Registrar thinks fit.

**2.12 *Reference on petition of mercy***

- (1) If the Attorney-General refers a case to the Court of Appeal under section 584(a) of the Act, the petitioner whose case is referred shall for the purposes of the Act and this Order be taken to be a person who has obtained leave to appeal from the Court of Appeal.
- (2) If the Attorney-General refers a point under section 584(b), the point may be considered in private.

**2.13 *Certificate from trial judge***

- (1) If the trial judge considers that a person has a case for an appeal to the Court of Appeal under section 567(b) of the Act, the trial judge may, on application by the person, give a certificate in accordance with Form 6-2J.
- (2) The intending appellant shall attach the certificate to the notice of appeal and file it with the Registrar.

**2.13.1 Crown appeals**

- (1) The Director of Public Prosecutions shall file an affidavit of service as soon as practicable after giving notice of appeal.
- (2) Rules 2.10 and 2.11 apply to a Crown appeal.

**PART 3—APPEAL WHERE FINE AND IMPRISONMENT IN DEFAULT****2.14 Fine paid to be retained pending appeal**

- (1) If a person has been convicted and sentenced to pay a fine and in default of payment sentenced to imprisonment, the person authorised to receive the fine shall retain it until determination of any related appeal.
- (2) A person who has paid a fine in accordance with a sentence shall, if the appeal is successful be entitled, subject to any order of the Court of Appeal, to the return of the fine paid.
- (3) A person who remains in custody in default of payment of a fine shall be taken to be a person sentenced to imprisonment for the purposes of the Act and this Order.

**2.15 Procedure**

- (1) If a person who has been convicted and sentenced to pay a fine and in default of payment sentenced to imprisonment intends to appeal to the Court of Appeal—
    - (a) on grounds of law alone; or
    - (b) pursuant to a certificate of the trial judge given under section 567(b) of the Act—paragraphs (2) and (3) of this Rule apply.
-

- 
- (2) (a) The person convicted and sentenced shall inform the trial judge of the intention to appeal; and
- (b) the trial judge may, if of opinion that it is appropriate, order the intending appellant immediately to enter into a recognizance in Form 6-2K, with or without sureties, to prosecute the appeal; and
- (c) the person convicted and sentenced shall within fourteen days after the conviction and sentence file a notice of appeal in accordance with this Order; and
- (d) the person convicted and sentenced shall, if necessary, file an application for extension of time.
- (3) If the intending appellant fails to comply with paragraph (2)(c), the Registrar shall report the failure to the Court of Appeal which may, after notice has been given to the intending appellant and any sureties—
- (a) order forfeiture of the recognizances and payment of the amount of the recognizances to the Registrar immediately; and
- (b) issue a warrant for the arrest of the intending appellant; and
- (c) order the imprisonment of the intending appellant in default of payment of the fine; and
- (d) make any other order it thinks appropriate.
-

---

**PART 4—PROCEDURES****2.16 *Pre-hearing conference***

- (1) After a notice of appeal or application for leave to appeal has been filed the Registrar may, if of opinion that it is appropriate, conduct a pre-hearing conference.
- (2) Subject to paragraph (5), the appellant and the respondent shall attend the conference for the purposes of ascertaining the real issues in the appeal.
- (3) The grounds of appeal shall be settled at the pre-hearing conference.
- (4) The Registrar may give any directions with respect to the preparation for hearing of the appeal as the Registrar thinks appropriate for the effective, complete and prompt disposal of the appeal.
- (5) If the appellant is not represented and is in custody, the Registrar may conduct any pre-hearing conference with the parties separately.
- (6) In relation to a Crown appeal, paragraph (5) shall be read and construed as if the word "appellant" were "respondent".

**2.17 *Transcript of trial***

- (1) After settling the grounds of appeal, the Registrar may direct the shorthand writers who made notes of the trial from which the appeal or application is brought or the persons who recorded the trial by mechanical means under the **Evidence Act 1958** to provide a transcript of the whole or any part of the notes or recording of the trial.

- 
- (2) The Registrar may direct for the purposes of paragraph (1) that the transcript be made by a competent person or persons other than the person or persons who took the notes or recorded the trial.
  - (3) Any transcript required by this Rule shall be typewritten and certified in accordance with the **Evidence Act 1958**.

**2.18 *Preservation of exhibits***

- (1) The trial judge may make any order or give any direction considered appropriate for the production, custody or disposal of exhibits tendered at the trial and the recording officer of the court of trial shall keep a record of any such order or direction, but if no order is made or direction given—
  - (a) all exhibits tendered on behalf of the prosecution shall be returned to the custody of the prosecution and shall be retained pending any appeal; and
  - (b) any exhibit tendered at a trial otherwise than by the prosecution shall be retained by the Associate to the trial judge for 21 days after which the Associate shall return that exhibit to the person who produced it.
- (2) If the Registrar gives the prosecution a direction to produce an exhibit, the prosecutor shall produce the exhibit as directed.
- (3) If within 21 days the Registrar gives an Associate a direction to produce an exhibit, the Associate shall produce the exhibit as directed.

**2.19 Copies of transcript, exhibits etc.**

The appellant or the respondent or his or her solicitor or representative may obtain from the Registrar—

- (a) a copy of the transcript or such extract or extracts from the transcripts of the trial as the Registrar has directed to be printed; and
- (b) a copy of any document which was an exhibit at the trial; and
- (c) may inspect by arrangement with the Registrar any exhibit which cannot be copied—

at any time after the pre-hearing conference.

**2.20 Return of exhibits after hearing**

- (1) When an appeal is finally determined, the Court of Appeal may make orders as to the return of exhibits as it thinks appropriate.
- (2) If no order is made, each exhibit shall be returned to the person who tendered it unless it is a document of a kind kept by the recording officer of the court of trial or it is an exhibit to which section 570 of the Act applies.
- (3) The Registrar shall return to the recording officer of the court of trial when an appeal is finally determined any original depositions, exhibits, presentment, indictment, inquisition, plea or other document forming part of the record of the court of trial which was given to the Registrar for the purposes of the appeal.

---

**2.21 *Entitlement to hearing when restitution order made***

If an order for restitution of property was made at a trial—

- (a) a person against whom the order was made; and
- (b) a person in whose favour the order was made; and
- (c) with the leave of the Court of Appeal, any other person—

may be heard by the Court of Appeal at the hearing of an appeal before any order under section 570(2) of the Act is made.

**2.22 *Property subject to restitution order***

In directing the suspension or non-suspension of the operation of an order for the restitution of property, the trial judge may, if of opinion that the special circumstances of the case warrant it, give any direction considered proper to secure the production of property at an appeal or to ensure its proper custody until the determination of an appeal.

**2.23 *Custody of property of convicted person***

If the trial judge makes an order referred to in section 570 of the Act in respect of a convicted person, the judge shall give directions as to the custody, for the appeal period, of any money or other valuable property belonging to the convicted person which—

- (a) was taken from the convicted person when arrested; or



- (b) is in the possession of the prosecution at the date of conviction or the date of application for leave to appeal.

**2.24 Security may be ordered**

- (1) If the trial judge makes an order for the payment of money, the trial judge may direct that the order take effect immediately unless security is given to the satisfaction of the person in whose favour the order is made.
- (2) A direction under paragraph (1) may be given notwithstanding that the order would otherwise be suspended under section 570 of the Act or Rule 2.22.

**2.25 Stay of destruction, forfeiture order**

The destruction or forfeiture, or any order for the destruction or forfeiture, of any property connected with a prosecution shall be suspended until the expiration of the appeal period.

**2.26 Certificate of conviction**

- (1) The recording officer of a court of trial may not issue a certificate of conviction until—
  - (a) 21 days after the date of conviction; or
  - (b) if the recording officer receives notice from the Registrar that a notice of appeal or of application for leave to appeal has been filed, the determination of the appeal or dismissal of the application.
- (2) A person who seeks a certificate of conviction may obtain a certificate from the Registrar stating that no appeal or application for leave to appeal is pending.

- 
- (3) A certificate under paragraph (2) may not be given until 21 days after the date of conviction.

**2.27 Report from trial judge**

- (1) The Registrar may, and if directed by the Court to do so, shall request a trial judge to provide a written report giving the trial judge's opinion generally or on a particular point arising in the appellant's case.
- (2) The trial judge shall comply with the request under paragraph (1) promptly.
- (3) The Court of Appeal may determine an appeal without a report from the trial judge if it thinks it is appropriate to do so.
- (4) When requesting a trial judge to provide a report, the Registrar shall send the trial judge—
- (a) a copy of the notice of appeal or of application for leave to appeal; and
  - (b) any other document the Registrar thinks material; and
  - (c) any other document the Court of Appeal decides be sent to the trial judge or that the trial judge requests.

**2.28 Original depositions, exhibits etc.**

The Registrar may require the recording officer of the court of trial to provide to the Registrar the original depositions of witnesses examined before the committing magistrate or coroner, or any exhibit retained by a court, or the presentment or other written process against the appellant or an abstract or copy of the whole or part of the

presentment or inquisition or any plea filed in the court of trial.

#### **2.28.1 *Attendance of appellant***

- (1) The appellant is entitled to be present on the hearing of an appeal or an application to the Court of Appeal unless the Court of Appeal or a Judge of Appeal directs otherwise.
- (2) If the appellant does not attend court on the hearing, the appeal or the application may be heard and determined in the appellant's absence.
- (3) If the appellant so elects, he or she may attend before the Court by audio visual link, if it is practicable to do so.

Rule 2.28.1(3)  
inserted by  
S.R. No.  
113/1999  
rule 6(1).

#### **2.28.2 *Written case and argument***

- (1) The appellant may, if desired, present the case and argument in writing instead of by oral argument.
- (2) Any case or argument in writing shall be delivered by the appellant to the Registrar as soon as practicable but not less than 7 days before the hearing of the appeal.

Rule 2.28.3  
inserted by  
S.R. No.  
33/1999 rule 8.

#### **2.28.3 *Crown appeals***

In relation to a Crown appeal, Rules 2.28.1 and 2.28.2 shall be read and construed as if the word "appellant" were "respondent".

### **PART 5—MISCELLANEOUS**

#### **2.29 *Bail***

- (1) If the Court of Appeal grants an appellant bail pending the determination of an appeal,
-

---

the Court may make such orders in relation to bail as it sees fit.

- (2) An appellant who is on bail shall, when the appeal is called on before the Court of Appeal, place himself or herself in the custody of such persons as the Court directs.
- (3) Two Judges of Appeal may exercise the jurisdiction of the Court of Appeal to grant bail.

**2.30 *Registrar to notify determination***

- (1) When an appeal or any matter under section 582 of the Act is determined, the Registrar shall give notice in Form 6-2L to—
  - (a) the appellant; and
  - (b) the Director of Public Prosecutions for Victoria or the Director of Public Prosecutions of the Commonwealth (as the case may be); and
  - (c) the governor of the prison in which the appellant is imprisoned; and
  - (d) the Secretary to the Department of Justice.
- (2) The Registrar shall also notify the officer of the court of trial of the decision of the Court of Appeal and any additional orders or directions made or given by the Court of Appeal in relation to the appeal.

**2.31 *Witnesses before Court of Appeal***

- (1) If the Court of Appeal orders any witness to attend and be examined before the Court under section 574(b) of the Act, the order—

- (a) shall specify the time and place when the witness is to attend; and
  - (b) shall be served on the witness.
- (2) If an appellant is not legally represented and seeks an order under section 574(b) the appellant shall file an application in Form 6-2M with the Registrar.
- (3) The Registrar shall send a copy of an application under paragraph (2) to the solicitor for the respondent.
- (4) The oath to be administered to any witness whose evidence is to be tendered under section 574(b) of the Act shall, unless the Court otherwise permits or directs, be the voir dire oath.

**2.32 Examination other than by court**

- (1) If the Court of Appeal orders the examination of a witness to be conducted otherwise than by the Court, the order shall specify the person appointed as examiner and the witnesses to be examined.
- (2) The Registrar shall give the examiner any documents, exhibits and other material relating to the appeal which the examiner requests.
- (3) The examiner shall appoint the day, time and place for the examination and shall request the Registrar to give notice in Form 6-2N to—
  - (a) the appellant; and
  - (b) the respondent; and
  - (c) their solicitors; and

- 
- (d) if the appellant is in custody, the governor of the prison.
- (4) Every notice sent by the Registrar under paragraph (3) shall be taken to be an order of the Court.
- (5) The examiner shall administer the oath before taking evidence from any witness except where the witness would not need to be sworn if giving evidence on a trial on indictment.
- (6) Unless the Court otherwise orders, any examination under this Rule shall be in private and depositions shall be taken.
- (7) After an examination is completed the examiner shall send or cause to be sent to the Registrar the depositions and all documents, exhibits and other material provided by the Registrar.
- (8) The appellant and respondent and their legal representatives shall be entitled to be present and to take part in the examination.
- (9) A police officer, if of opinion that it is necessary, may pay travelling expenses to a witness upon whom the police officer serves an order to appear before the Court of Appeal or a notice to attend before an examiner.
- (10) Travelling expenses paid by a police officer shall be certified by the officer to the Registrar who shall certify the sum paid as part of the expenses of the prosecution.
- (11) Any order or notice required by this Rule to be served shall be served personally unless the Court otherwise orders.

**2.33 *Special commissioners***

---

- (1) An order under section 574(d) of the Act shall specify the person who is to be the special commissioner and the question referred to the special commissioner and may—
  - (a) specify whether the appellant or the respondent or their legal representatives is or are to be entitled to be present during all or part of the examination or investigation;
  - (b) specify which powers (if any) of the Court of Appeal may be exercised by the special commissioner;
  - (c) require the special commissioner to make interim reports upon the matter referred by the Court of Appeal;
  - (d) give the appellant, if imprisoned, leave to be present during the whole or any part of the examination or investigation and give the necessary directions to the governor of the prison; and
  - (e) direct the Registrar to give copies of the special commissioner's report to the appellant and the respondent or to their legal representatives.
- (2) Where an order under section 574 does not give directions as to any of the matters referred to in paragraph (1), the Court of Appeal may from time to time give directions in relation to any such matters as it thinks fit.

#### **2.34 *Transfer of prisoners***

The Secretary to the Department of Justice shall arrange to transfer the appellant to a prison near the Court of Appeal in sufficient

---

---

time before the hearing commences to enable the appellant to consult legal advisers.

**2.35 Duties of prison officers**

- (1) A prison officer who has custody of a person at the time the person is convicted on indictment shall immediately inform the person convicted that—
- (a) the person has the right to appeal against conviction to the Court of Appeal on any ground of appeal which involves a question of law alone; and
  - (b) if the person wishes to appeal against conviction on any other ground, the person may do so with the leave of the Court of Appeal or with the certificate of the trial judge; and
  - (c) if the person wishes to appeal or to obtain leave of the Court of Appeal, the person must give notice of appeal or notice of application for leave not later than 14 days after conviction and sentence; and
  - (d) if the person wishes to obtain the certificate of the trial judge, it must be obtained and notice of the application given not later than 14 days after conviction and sentence; and
  - (e) if the person wishes to appeal against the sentence, the person may do so with the leave of the Court of Appeal and must give notice of the application not later than 14 days after conviction and sentence.



Rule 2.35(2)  
amended by  
S.R. No.  
33/1999 rule 9.

(2) The prison officer shall—

Rule 2.35(2)(a)  
amended by  
S.R. No.  
113/1999  
rule 6(2).

- (a) inform the convicted person that, unless it is otherwise ordered, the person is entitled to be present at the hearing of the appeal or application for leave to appeal or, if it is practicable to do so, to attend by audio visual link; and
- (b) give the convicted person a copy of Form 6-2P; and
- (c) obtain from the convicted person a written acknowledgment that the person has received a copy of Form 6-2P and has read and understood it.

Rule 2.35(3)  
substituted by  
S.R. No.  
113/1999  
rule 6(3).

- (3) If a convicted person expresses a wish to be present in court at the hearing of an appeal or application or to attend by audio visual link, the prison officer who has the custody of the person shall inform the Registrar, who shall obtain the necessary order or make the necessary arrangements, as the case may be.
- (4) A prison officer who has custody of a convicted person shall give that person upon request the appropriate forms under these Rules and shall also inform the person that if desired he or she may present the case and argument in writing instead of orally.

---

**ORDER 3—PRISON SENTENCES (COUNTY COURT APPEALS) APPEAL RULES**

**3.01 *Definition***

In this Order—

**"the Act"** means the **Magistrates' Court Act 1989**.

**3.02 *Notice of intention to apply for leave***

- (1) A notice in writing of intention to make application for leave to appeal to the Court of Appeal under section 91(2) of the Act shall be in Form 6-3A.
- (2) The notice shall state specifically and concisely the grounds on which it is sought to appeal and shall be signed by the applicant.

**3.03 *No notice of appeal when leave is granted***

If the Court of Appeal gives leave to appeal, the notice of intention to make application for leave to appeal shall be a sufficient notice of appeal.

**3.04 *Service of notice***

Service of a notice of intention to make application for leave to appeal may be effected by sending the notice by registered post to any person intended to be served at the last known address of that person.

**3.05 *Procedure on hearing***

- (1) Upon the hearing of an application for leave to appeal under section 91(2) of the Act—
  - (a) the applicant shall be entitled to be present and to be represented by counsel; and

- (b) the informant shall be entitled to be present and to be represented by counsel; and
  - (c) with the leave of the Court the applicant or the informant may adduce evidence; and
  - (d) the Court may order the production of any document, exhibit or other thing which appears necessary for the determination of the application.
- (2) Paragraph (1) of this Rule applies with any necessary modification to the hearing of an appeal.

**3.06 *Application may be treated as appeal***

If an application for leave to appeal is made to the Court of Appeal, the Court of Appeal may treat the hearing of the application as the hearing of the appeal.

**3.07 *Obligation of prison officers***

If the County Court under section 86 of the Act substitutes a sentence of imprisonment for any other sentence imposed by the Magistrates' Court, the prison officer who first has custody of the person sentenced shall—

- (a) immediately inform that person of the right to apply for leave to appeal under section 91(2) of the Act; and
  - (b) give to that person a copy of Forms 6-3A and 6-3B; and
  - (c) obtain from that person a written acknowledgment that the person has received the forms and has read and understood them.
-

---

**ORDER 4—PRE-TRIAL CRIMINAL  
PROCEDURE RULES**

**4.01 Definitions**

- (1) In this Order, unless the context or subject matter otherwise requires—

**"accused person"** means a person—

- (a) who has been committed or remanded to the Supreme Court for trial or directed to be tried at the Supreme Court; or
- (b) in respect of whom—
  - (i) a presentment has been made; or
  - (ii) an indictment has been filed—at the Supreme Court; or
- (c) upon whom a Notice of Trial at the Supreme Court has been served;

**"accused's solicitor"** or **"solicitor"** means the solicitor who acts for the accused person and where an officer of Victoria Legal Aid so acts, includes such officer;

**"CTLD"** means the Criminal Trial Listing Directorate;

**"DPP"** means the Director of Public Prosecutions for Victoria or the Director of Public Prosecutions for the Commonwealth;

**"person"** includes the CTLD, the DPP and an officer of Victoria Legal Aid;

**"presentment"** includes indictment.

- (2) Except where otherwise provided in this Order, a document required or authorised to be served may be served by post.
- (3) Where this Order requires or authorises service by post, the envelope containing the document must be addressed to the person to be served at the last known address of that person.

#### **4.02 Notice by solicitor to DPP and CTLD**

- (1) A solicitor who commences to act for an accused person must as soon as possible after commencing so to act serve upon—
    - (a) the DPP; and
    - (b) the CTLD—a notice in Form 6-4A that the solicitor acts for the accused person.
  - (2) Subject to paragraph (3), a solicitor who ceases to act for an accused person must, as soon as possible after so ceasing to act—
    - (a) serve upon—
      - (i) the DPP; and
      - (ii) the CTLD; and
      - (iii) the accused person—a notice in writing in Form 6-4B that the solicitor has ceased so to act; and
    - (b) return to the CTLD the copy of the depositions and all other material provided by the CTLD in relation to the matter; and
    - (c) return to the DPP all materials provided by the DPP in relation to the matter.
-

- 
- (3) Where paragraph (2) applies to an officer of Victoria Legal Aid, the notice shall not be served and the materials shall not be returned until the expiration of the time for appeal against the decision to terminate legal assistance or the resolution of any such appeal (whichever last occurs) but must be respectively served and returned as soon as possible thereafter unless the decision to terminate legal assistance has been reversed.

**4.03 *Copy presentment to be served***

- (1) Before presentment is made at the Supreme Court, the DPP shall lodge the presentment with the Prothonotary who shall immediately deliver it to the Associate to the Judge before whom presentment is to be made.
- (1A) The Associate to the Judge before whom presentment has been made shall return the presentment to the Prothonotary.
- (1B) For the purposes of these Rules a presentment is taken to be filed upon presentment being made.
- (2) The DPP must, as soon as practicable after a presentment is filed—
- (a) serve or cause to be served a copy of the presentment on the accused person; and
  - (b) forward a copy of the presentment to the CTLD.
- (3) Service under paragraph (2)(a) must be by registered post or by personal service unless the accused person is represented by a solicitor.
- (4) When serving an accused person the DPP must also serve or cause to be served on the
-

accused person a notice in writing in Form 6-4D unless the DPP has notice that a legal practitioner is acting on behalf of the accused person.

#### **4.04 *Notification of readiness for trial***

The DPP must, as soon as a case is ready for trial, make presentment (if a presentment has not already been filed) and forward to the CTLD a notice of readiness for trial in Form 6-4C.

#### **4.05 *Notice by solicitor to Prothonotary***

- (1) A solicitor who acts for an accused person must file with the Prothonotary a notice in writing in Form 6-4A that the solicitor so acts—
  - (a) if the solicitor has commenced so to act before service of a copy of the presentment, within 14 days after service of the copy presentment; or
  - (b) if the solicitor commences so to act after service of a copy of the presentment, as soon as possible after commencing so to act.
- (2) A solicitor who having filed a notice under paragraph (1) ceases to act for an accused person, must as soon as possible after so ceasing to act file with the Prothonotary a notice in writing in Form 6-4B.

#### **4.06 *Unrepresented accused person***

- (1) Within 28 days of the receipt of a copy of a presentment the CTLD must, unless notified that a legal practitioner is acting for an accused person—

- 
- (a) if the accused person is on bail, contact the accused person requesting attendance at the office of the CTLD at a time fixed by the CTLD to determine what steps the accused person has taken to obtain legal representation for the trial and at the time of making such request the CTLD must inform the accused person that, if there is no attendance as requested, the Court will require the accused person to attend the Court for the same purpose; and
  - (b) if the accused person is in custody, attend personally or by a representative on the accused person at the place where the accused person is held to determine what steps the accused person has taken to obtain legal representation for the trial.
- (2) The CTLD must report to the Chief Justice any uncertainty as to the legal representation of an accused person in order to enable the Chief Justice to give directions to the CTLD as to what steps are to be taken to resolve any such uncertainty.

**4.07 *Questionnaire***

- (1) The CTLD must serve on an accused's solicitor a questionnaire in Form 6-4E at such time as the CTLD may consider appropriate.
- (2) The accused's solicitor must, within 14 days of receiving the questionnaire, serve on the CTLD adequate answers in writing to the questions in the questionnaire.

**4.08 *Costs liability***



- (1) In this Rule "**costs thrown away**" means such amount as the Judge who hears any application or before whom a case is listed for trial determines (upon such information, evidence or material as that Judge may consider appropriate) to be in all the circumstances a reasonable quantification of the costs and expenses (including witness expenses and counsel's fees) incurred by the person in whose favour an order may be made under this Rule and thrown away as a result of the relevant failure.
- (2) If a solicitor fails to comply with Rule 4.02, 4.05 or 4.07(2) and if the Court is satisfied that such a failure is not excusable, the Court may order that the solicitor pay to the DPP or to any co-accused person any costs thrown away as a result of the failure.
- (3) A solicitor who has informed the CTLD that the solicitor will act for an accused person at the accused person's trial and at the trial fails to do so, if the Court is satisfied that such failure was not excusable, may be ordered to pay to the DPP or any co-accused person any costs thrown away as a result of the failure.

#### **4.09 Pre-trial conference**

- (1) In this Rule "**Listed Date**" means the date which has been fixed by the CTLD as the date on which the trial is to be listed for hearing or, where the CTLD has fixed a period of time for that purpose, the first day of that period.
  - (2) The CTLD may, before giving notice of the Listed Date or not less than 21 days before the Listed Date, conduct a pre-trial conference.
-

- 
- (3) Written notice of a pre-trial conference must be given to—
- (a) the DPP; and
  - (b) the accused person (if unrepresented); and
  - (c) the accused's solicitor (if any)—
- not less than 7 days before the date proposed for the pre-trial conference.
- (4) At a pre-trial conference—
- (a) in order to facilitate an efficient trial, the CTLD may inquire into any of the matters listed in the Schedule to this Order; and
  - (b) the DPP and the accused person or the accused's solicitor must be prepared to answer questions or provide information to the CTLD on the matters listed in the Schedule; and
  - (c) the DPP must, subject only to any substantial consideration of the personal safety of witnesses—
    - (i) give notice of the name of any witness who may be called as a Crown witness upon the trial and whose name does not appear upon the presentment as a witness or as an additional witness; and
    - (ii) give notice of the substance of the evidence proposed to be adduced from each such witness (whether by way of provision of a copy of a statement made by the witness or otherwise); and
-

- (iii) provide to the CTLD such information as the CTLD may reasonably require as to the availability of each Crown witness; and
  - (iv) notify the CTLD and the accused person of the name of any potential Crown witness whose deposition the Crown proposes to apply to tender in evidence and the grounds of any such proposed application; and
- (d) the accused person or the accused's solicitor must be prepared to certify that the accused person is ready to proceed on the Listed Date (if any).
- (5) Nothing said by or on behalf of an accused person at a pre-trial conference, and no failure by an accused person to answer a question at a pre-trial conference, shall be used in any subsequent trial or made the subject of any comment at that trial.
- (6) Nothing in paragraph (5) of this Rule shall preclude an accused person from relying on an indication of an intention to plead guilty given at a pre-trial conference.

#### **4.10 *Pre-trial hearing***

- (1) At any time after a pre-trial conference—
    - (a) the DPP; or
    - (b) an accused person; or
    - (c) the CTLD—may apply to the Chief Justice for a pre-trial hearing to be conducted by the Court.
-

- 
- (2) An application under paragraph (1) must—
    - (a) be in Form 6-4F; and
    - (b) be filed with the Prothonotary.
  - (3) If upon consideration of any such application the Chief Justice considers that a pre-trial hearing should be conducted, the Chief Justice shall cause the Prothonotary to give notice of such hearing to such persons as the Chief Justice may direct.
  - (4) The Prothonotary shall serve notice of the pre-trial hearing upon each party specified by the Chief Justice in such manner as the Chief Justice may direct.
  - (5) A pre-trial hearing shall be conducted by the Chief Justice or such Judge as the Chief Justice shall nominate, whether or not the proposed trial judge.
  - (6) At a pre-trial hearing the Judge may—
    - (a) ask such questions of the parties; and
    - (b) give such directions with respect to the preparation for trial, readiness for trial or conduct of the trial—as the Judge thinks proper having regard to all the circumstances.
  - (7) A pre-trial hearing must be heard in court.
  - (8) The accused person must be present at a pre-trial hearing unless the Judge otherwise determines.
  - (9) Nothing said by or on behalf of an accused person at a pre-trial hearing, and no failure by an accused person to answer a question at a pre-trial hearing, shall be used in any
-

subsequent trial or made the subject of any comment at that trial.

- (10) The powers conferred by this Rule upon the Chief Justice may be exercised by any Judge authorised so to do by the Chief Justice.
- 

Rule 4.09

**SCHEDULE**

1. Are further particulars of the presentment likely to be sought by the accused?
2. Is there to be any application to sever the presentment and if so, what is the application likely to be?
3. Is there to be an application for a separate trial by any and which accused?
4. Does the accused presently intend to plead Guilty or Not Guilty to any and which count(s) in the presentment?
5. Is there any possibility of a change of plea?
6. (a) Has there been a conference between counsel for the Director of Public Prosecutions and counsel for the accused?  
  
(b) If not, is such a conference proposed?
7. Does the prosecution propose to call any additional evidence?
8. Has the prosecution notified the accused and/or his or her representatives of any additional evidence and if it intends to do so when is it proposed to furnish a proof of evidence?
9. What is the probable length of trial?  
  
(a) prosecution estimate;  
  
(b) accused estimate.
10. Is any point of law or of admissibility of evidence likely to be raised before a jury is empanelled? If yes, what are those matters and of what duration are the matters to be raised likely to take?

- 
11. Does the accused or the prosecution intend to raise a special issue? e.g. unfitness to plead; change of venue; insanity.
  12. Does the accused or the prosecution intend to raise a special plea? e.g. lack of jurisdiction; autrefois convict; autrefois acquit etc.
  13. Does the accused intend to rely upon an alibi not yet disclosed in conformity with the Crimes Act?
  14. Do the parties anticipate any problems as to the availability of witnesses? If yes, give details.
  15. (a) What admissions of fact are sought by the prosecution?  
(b) Is the accused prepared to make the admissions sought or any of them?  
(c) What admissions of fact are sought by the accused?  
(d) Is the prosecution prepared to make the admissions sought or any of them?
  16. Does any difficulty arise about photographs or plans and formal proof of them?
  17. Is any order sought for the inspection of prosecution exhibits or other evidentiary material in the possession of the prosecution as to which a question may arise in the course of the trial?
  18. Is any order sought for the preservation or detention of any document or thing relating to the trial?
  19. Is any order sought for the production before the Court of any document, tape recording or thing relating to the trial?
  20. Does any party propose to deliver to the other party a notice to admit in respect of anything not covered by question No. 15?
  21. What arrangements have been made for counsel to hear any tape recordings in the custody of the prosecution and to be provided with any transcript thereof?
  22. Does any party intend to apply for a view, and if so where and at what stage of the trial?
  23. Is there agreement as to copy exhibits to be supplied to the jury?
-

24. Will an interpreter be required during the trial?
25. Are there any other significant matters which might affect the proper and convenient trial of the issues?

## **ORDER 5—PAYMENT OF FINES RULES**

### **5.01 Definitions**

In this Order—

**"offender"** means a person on whom the Court has imposed a fine;

**"person in default"** means a person who has failed to pay a fine or an instalment under an instalment order and includes a director of a body corporate who is the subject of a declaration under section 50(6);

**"section"** means section of the Act;

**"the Act"** means the **Sentencing Act 1991**.

### **5.02 Proper officer**

For the purposes of Division 4 of Part 3 of the Act the proper officer of the Court is the Registrar of Criminal Appeals or another Master.

### **5.03 Application**

- (1) An application under section 55 by an offender shall be in Form 6-5A.
- (2) The applicant shall give reasonable notice of the application to the Director of Public Prosecutions.

### **5.04 Application operates as stay**

Unless otherwise ordered by a Judge, an application under section 55 operates as a stay of enforcement or execution of the order

---

requiring the fine to be paid from the time it is filed until it is determined.

**5.05 *Consideration of application***

In considering an application the proper officer may—

- (a) question the offender about his or her financial circumstances; and
- (b) require the offender to make an affidavit or produce any document concerning his or her financial circumstances that is reasonably accessible to the offender.

**5.06 *Service of copy order***

The proper officer shall cause a copy of the order to be delivered to the applicant personally or sent by post.

**5.07 *Enforcement of fines against a natural person***

- (1) A statement in writing under section 62(8) shall be in Form 6-5B.
- (2) A consent under section 62(7)(b) shall be in Form 6-5C.
- (3) An order under section 62(9) shall be in Form 6-5D.
- (4) A summons under section 64(1) shall be in Form 6-5E.

- (5) If a person in default—



(a) has been taken into custody in accordance with a warrant to arrest issued under section 64; and

(b) the outstanding amount of the fine specified in the warrant is paid—

the person in default may be released from custody without being taken before the Court.

### **5.08 *Enforcement of fine against body corporate***

A statement in writing under section 66(3) shall be in Form 6-5F.

Order 6  
(Heading and  
rules 6.01–  
6.09)  
substituted by  
S.R. No.  
33/1999  
rule 10.

## **ORDER 6—CONFISCATION OF PROPERTY**

Rule 6.01  
substituted by  
S.R. No.  
33/1999  
rule 10.

### **6.01 *Definition***

In this Order—

**"the Act"** means the **Confiscation Act 1997**.

Rule 6.02  
substituted by  
S.R. No.  
33/1999  
rule 10.

### **6.02 *Application of this Order***

- (1) This Order applies to a proceeding in the Court under the **Confiscation Act 1997**.
- (2) Rules 6.03 to 6.10 apply in relation to an application to the Court under Part 2, 3, 4, 5, 6 or 8 of the Act (as the case requires) unless a Judge orders or directs otherwise.
- (3) Order 6 of the Criminal Appeals and Procedures Rules 1998 as in force immediately before the commencement of the Supreme Court (Chapter VI Amendment No. 1) Rules 1999 continues to apply to

proceedings under the **Crimes (Confiscation of Profits) Act 1986**.

**6.03 *Making of application to the Court***

An application to the Court is taken to be made when the application is first brought on before a Judge for hearing or for directions.

Rule 6.03  
substituted by  
S.R. No.  
33/1999  
rule 10.

**6.04 *Notice generally***

Where notice is required by or under the Act or this Order to be given to any person, it shall be in writing and served on that person in accordance with section 137 of the Act.

Rule 6.04  
substituted by  
S.R. No.  
33/1999  
rule 10.

**6.05 *Application without notice***

- (1) An application to the Court which is made without notice to any other person shall be in writing.
- (2) An application under section 16 of the Act for a restraining order shall be in Form 6-6A supported by an affidavit.
- (3) Any other application to the Court which is made without notice may be in Form 6-6A with any necessary modification.
- (4) If under section 17(1) of the Act the Court requires notice to be given that the application has been made, the notice shall be in Form 6-6B.

Rule 6.05  
substituted by  
S.R. No.  
33/1999  
rule 10.

**6.06 *Notice of application***

- (1) Notice of an application to be made—
  - (a) under section 20 of the Act for an exclusion order shall be in Form 6-6C;
  - (b) under section 26 of the Act for further orders in relation to a restraining order shall be in Form 6-6D;

Rule 6.06  
substituted by  
S.R. No.  
33/1999  
rule 10.

- (c) under section 32 of the Act for a forfeiture order shall be in Form 6-6E;
  - (d) under section 37 of the Act for a civil forfeiture order shall be in Form 6-6F;
  - (e) under section 45 of the Act for relief from hardship shall be in Form 6-6G;
  - (f) under section 49, 51 or 53 of the Act for an exclusion order shall be in Form 6-6H;
  - (g) under section 58 of the Act for a pecuniary penalty order shall be in Form 6-6J;
  - (h) under section 63 of the Act for a pecuniary penalty order shall be in Form 6-6K.
- (2) Notice of any other application to be made to the Court for an order or declaration may be in Form 6-6L with any necessary modification.
- (3) Notice of an application to be made shall be given not less than five days before the day named in the notice for the hearing of the application.

Rule 6.07  
substituted by  
S.R. No.  
33/1999  
rule 10.

#### **6.07 Filing and directions**

- (1) In a proceeding to which this Order applies—
- (a) an application made without notice;
  - (b) a notice of an application or any other notice given;
  - (c) an affidavit to be relied on;
  - (d) an order made—

shall be filed in the Court, unless the Court otherwise orders.

- (2) At the time when an application or notice of an application is filed, the Prothonotary shall insert the time and place at which the application is to be heard and such time and place shall be included in any copy which is served.
- (3) After an application or notice of an application has been filed, a Judge may give directions for the hearing of the application, including directions for the production to the Court of any transcript of proceedings relating to a conviction relied upon in the application.

**6.08 Notice of opposition to an application**

A person who intends to oppose an application for an order or declaration shall give notice to the applicant of the grounds on which the application will be opposed.

Rule 6.08  
substituted by  
S.R. No.  
33/1999  
rule 10.

**6.09 Evidence**

- (1) Evidence in support of an application for a restraining order shall be on affidavit, unless the application is brought on for hearing during or at the conclusion of the trial of the defendant.
- (2) Evidence in support of an application for an exclusion order shall be on affidavit.
- (3) Subject to paragraphs (1) and (2), evidence on the hearing of an application may be on affidavit and shall be on affidavit if the Court so directs.
- (4) A copy of an affidavit on which the applicant intends to rely shall be served on any person

Rule 6.09  
substituted by  
S.R. No.  
33/1999  
rule 10.

to whom notice of the application has been given.

- (5) A copy of an affidavit on which a person other than the applicant intends to rely shall be served on the applicant and any other person, if known, to whom notice of the application has been given.

Rule 6.10  
inserted by  
S.R. No.  
33/1999  
rule 10.

**6.10 Notice of order or declaration**

- (1) Subject to paragraph (2) and Rule 6.11, where notice is required to be given to any person of an order made by the Court under the Act, notice shall be given by serving a copy of the order on that person in accordance with section 137 of the Act.
- (2) In the case of a restraining order made under Part 2 of the Act for the purpose of automatic forfeiture, a copy of the order shall be accompanied by a notice in Form 6-6M.
- (3) Where a restraining order, forfeiture order or order for civil forfeiture is made by the Court upon the application of any person, notice of the order shall be given by the applicant to—
- (a) each person who the applicant has reason to believe has an interest in any of the property which is subject to the order, unless that person was present when the order was made or was given notice of the making of the application for the order; and
  - (b) such other person as the Court directs.

- (4) Where a declaration is made by the Court—
-

(a) under section 35(3) of the Act, of the date on which a person (in respect of whom a restraining order has been made) is deemed to have been convicted of an automatic forfeiture offence; or

(b) under section 36 of the Act, that property has been forfeited—

notice of the order containing the declaration shall be given by the applicant to—

(c) each person who the applicant has reason to believe had an interest in any of the property which is forfeited immediately before the property was forfeited, unless that person was present when the declaration was made or was given notice of the application for the declaration; and

(b) such other person as the Court directs.

**6.11 *Notice of discharge***

(1) Notice under section 46(2), 47(2) or 48(2) of the Act of discharge of a forfeiture order, automatic forfeiture or a civil forfeiture order, as the case may be, shall be in Form 6-6N.

(2) If a pecuniary penalty order registered under the Service and Execution of Process Act 1992 of the Commonwealth is discharged, notice of discharge shall be given by the person who procured the registration of the order.

(3) Notice of discharge under paragraph (2) shall be given by sending a sealed copy of the order of discharge to the Prothonotary,

Rule 6.11  
inserted by  
S.R. No.  
33/1999  
rule 10.

Rule 6.12  
inserted by  
S.R. No.  
33/1999  
rule 10.

Registrar or other proper officer of the court  
in which the order was registered.

#### **6.12 *Interstate order***

- (1) For the purposes of section 125(4) of the Act, registration of an interstate order shall be effected by filing a sealed copy of the order in the Court.
- (2) For the purposes of section 125(5) of the Act, a facsimile copy of an interstate order or of any amendments to an interstate order shall be taken to be certified if it contains—
  - (a) a facsimile copy of the seal of the court which made the order; or
  - (b) a facsimile copy of a statement purporting to be signed by the Prothonotary, Registrar or other proper officer to the effect that the copy is a true copy of the order of the court.

### **ORDER 7—LISTENING DEVICES RULES**

#### **7.01 *Definition***

In this Order—

**"the Act"** means the **Listening Devices Act 1969**.

#### **7.02 *Application***

This Order applies to all proceedings in the Court under the Act.

#### **7.03 *Complaint to be in prescribed form***

A complaint by a member of the police force seeking authorisation, by warrant, for the use of a listening device shall—

- (a) be in Form 6-7A; and

- (b) be accompanied by an affidavit or affidavits in support of the complaint.

**7.04 Filing and service of documents**

A complaint and any affidavits in support shall, unless the Court otherwise orders—

- (a) be filed before the application is made with the Associate to the Judge from whom authorisation is sought; and
- (b) not be available for inspection by any person.

**7.05 Form**

A warrant authorising the use and retrieval of a listening device shall be in Form 6-7B.

**ORDER 8—PROCEEDS OF CRIME RULES**

Order 8  
(Heading and  
rules 8.01,  
8.02)  
substituted by  
S.R. No.  
33/1999  
rule 11.

**8.01 Definition**

In this Order—

"the Act" means the Proceeds of Crime Act 1987 of the Commonwealth.

Rule 8.01  
substituted by  
S.R. No.  
33/1999  
rule 11.

**8.02 Application**

- (1) An application under the Act for—
  - (a) a forfeiture order;
  - (b) a claim to an interest in property in respect of which a forfeiture order has been made or is applied for;
  - (c) a pecuniary penalty order;

Rule 8.02  
substituted by  
S.R. No.  
33/1999  
rule 11.



- (d) an order that property is available to satisfy a pecuniary penalty order—

shall be in Form 6-8A adapted as the circumstances of the case require.

- (2) An application for a restraining order shall be in Form 6-8B adapted as the circumstances of the case require.

Rule 8.03  
inserted by  
S.R. No.  
33/1999  
rule 11.

### **8.03 Notice**

Where notice is required by or under the Act to be given it shall be in writing.

Rule 8.04  
inserted by  
S.R. No.  
33/1999  
rule 11.

### **8.04 Filing, service, directions**

- (1) An application, an affidavit and a copy of a notice given in a proceeding under the Act shall be filed in the Court unless the Court otherwise orders.
- (2) A copy of an application, a copy of an affidavit and a notice given in a proceeding under the Act shall be served personally or in such other manner as the Court directs.
- (3) An application is taken to have been made when it is filed.
- (4) After an application has been filed, a Judge may give directions for the hearing of the application, including directions for the production to the Court of any transcript of proceedings relating to a conviction relied upon in the application.

Rule 8.05  
inserted by  
S.R. No.  
33/1999  
rule 11.

### **8.05 Examination on oath**

An examination the subject of an order made under section 48(1)(c) of the Act shall be conducted before a Master.

---

## **ORDER 9—WITNESS PROTECTION RULES**

---

---

**9.01 *Definition***

In this Order—

**"the Act"** means the **Witness Protection Act 1991**.

**9.02 *Application***

This Order applies to all proceedings in the Court under the Act.

**9.03 *Application to be in prescribed form***

An application under section 6 of the Act shall—

- (a) be in Form 6-9A; and
- (b) be accompanied by an affidavit or affidavits in support of the application.

**9.04 *Filing and service of documents***

An application and any affidavits in support shall, unless the Court otherwise orders—

- (a) be filed before the application is made with the Associate to the Judge to whom the application is to be made; and
- (b) not be available for inspection by any person.

**ORDER 10—APPLICATIONS UNDER PART IIA  
OF THE EVIDENCE ACT 1958**

**10.01 *Definition***

In this Order—

**"the Act"** means the **Evidence Act 1958**.

**10.02 *Application under section 42E***

---

An application under section 42E(1) of the Act shall be made in accordance with Order 41A of Chapter I.

**10.03 *Application under section 42L***

Unless the application is made in accordance with sub-section (5)—

- (a) notice of an application under section 42L of the Act shall be in Form 6-10A;
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by post.

**10.04 *Application under section 42M***

Unless the application is made in accordance with sub-section (5)—

- (a) notice of an application under section 42M of the Act shall be in Form 6-10B;
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by post.

**10.05 *Application under section 42N***

Unless the application is made in accordance with sub-section (3)—

- (a) notice of an application under section 42N of the Act shall be in Form 6-10B; and
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by post.

**10.06 *Application under section 42P***

---

---

Unless the application is made in accordance with sub-section (5)—

- (a) notice of an application under section 42P of the Act shall be in Form 6-10B;
  - (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
  - (c) service may be by post.
-

**FORMS****FORM 6-2A**

Form 6-2A  
amended by  
S.R. Nos  
33/1999  
rule 12(a)-(d),  
113/1999  
rule 7(1)(a)(b).

In the Supreme Court of Victoria  
at Melbourne

19      No.

The Queen

v.

A.B.

**NOTICE OF APPEAL**

(Question of Law Only)

To the Registrar of Criminal Appeals:

I, *[full name]* am convicted of the offence of *[description of offence]* and I am  
\*a prisoner at *[place]*/\*living at *[place of residence]* and I give you Notice of  
Appeal against my conviction (particulars of which are set out below) to the  
Court of Appeal on a ground of appeal which involves a question of law.

The ground(s) of my appeal are: *[state specifically and concisely and not  
merely in general terms the grounds of the appeal.]*

Date: *[e.g. 15 June, 19      ]*

*[Signed by Appellant]*

*[Signed by Witness]*

*[Address of Witness]*

**PARTICULARS**

1. Appellant's name:
  2. Offence for which convicted and in relation to which it is sought to appeal:
  3. Convicted at: *[place and court]*
  4. Trial Judge:
  5. Date of conviction:
  6. Sentence:
  7. Date of sentence:
  8. Name and address of solicitor who represented appellant at trial:
  9. Name of counsel (if any) who represented appellant at trial:
-

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

**Form 6-2A**

- 
10. Were the questions of law set out above raised at the trial?
  11. State whether you wish to be present at the hearing of this proceeding:
  12. State whether you wish to attend by audio visual link at the hearing of this proceeding.

**IMPORTANT NOTES:**

1. Unless the Court directs otherwise, you may, if you wish, be present in Court at the hearing of your appeal, or attend by audio visual link if that is practicable. If you wish to do either of these things, you should complete paragraphs 11 and 12 accordingly or otherwise notify the Registrar in writing of your wish.
2. The Court of Appeal will, if you wish, consider your case and your argument in writing. If you wish to present your case and argument in writing instead of orally, set out fully your case and argument and cause the same to be delivered to the Registrar not less than 7 days before the hearing.
3. An appeal may be abandoned **at any time before the hearing of the appeal** by filing with the Registrar a notice of abandonment in the appropriate form.

---

\* Delete if not applicable

---

Form 6-2B  
amended by  
S.R. Nos  
33/1999  
rule 13(a)–(c),  
113/1999  
rule 7(2)(a)(b).

Rule 2.05

**FORM 6-2B***[heading as in Form 6-2A]***NOTICE OF APPEAL UPON THE CERTIFICATE OF THE  
TRIAL JUDGE**

To the Registrar of Criminal Appeals:

I, *[full name]* am convicted of the offence of *[description of offence]* and I am  
\*a prisoner at *[place]*/\* living at *[place of residence]* and I give you Notice of  
Appeal against my conviction (particulars of which are set out below) to the  
Court of Appeal.

The appeal is brought upon the Certificate of the Judge before whom I was  
tried that the case is a fit case for appeal against my conviction on the  
ground(s) set out in the certificate.

Date: *[e.g. 15 June, 19     ]*

*[Signed by Appellant]*

*[Signed by Witness]*

*[Address of Witness]*

**PARTICULARS**

1. Appellant's name:
2. Offence for which convicted:
3. Convicted at: *[place and court]*
4. Trial Judge:
5. Date of conviction:
6. Sentence:
7. Date of sentence:
8. Name and address of solicitor who represented appellant at trial:
9. Name of counsel (if any) who represented appellant at trial:
10. State whether you wish to be present at the hearing of this proceeding:
11. State whether you wish to attend by audio visual link at the hearing of  
this proceeding.

---

IMPORTANT NOTES:

1. Unless the Court directs otherwise, you may, if you wish, be present in Court at the hearing of your appeal, or attend by audio visual link if that is practicable. If you wish to do either of these things, you should complete paragraphs 10 and 11 accordingly or otherwise notify the Registrar in writing of your wish.
2. The Court of Appeal will, if you wish, consider your case and your argument in writing. If you wish to present your case and argument in writing instead of orally, set out fully your case and argument and cause the same to be delivered to the Registrar not less than 7 days before the hearing.
3. You must attach to this notice the certificate given by the Judge who tried you.
4. An appeal may be abandoned **at any time before the hearing of the appeal** by filing with the Registrar a notice of abandonment in the appropriate form.

---

\* Delete if not applicable

---



Form 6-2C  
amended by  
S.R. Nos  
33/1999  
rule 14(a)-(c),  
113/1999  
rule 7(3)(a)(b).

Rule 2.05

**FORM 6-2C***[heading as in Form 6-2A]***NOTICE OF APPLICATION FOR LEAVE TO APPEAL  
AGAINST A CONVICTION**

To the Registrar of Criminal Appeals:

I, *[full name]* am convicted of the offence of *[description of offence]* and I am  
\*a prisoner at *[place]*/\*living at *[place of residence]* and I wish to appeal  
against my conviction (particulars of which are set out below) to the Court of  
Appeal.

TAKE NOTICE that I apply to the Court of Appeal for leave to appeal  
against my conviction on the ground(s): *[State specifically and concisely and  
not merely in general terms the grounds upon which you wish to appeal  
against the conviction.]*

Date: *[e.g. 15 June, 19     ]**[Signed by Applicant]**[Signed by Witness]**[Address of Witness]***PARTICULARS**

1. Appellant's name:
2. Offence for which convicted and in relation to which it is sought to appeal:
3. Convicted at: *[place and court]*
4. Trial Judge:
5. Date of conviction:
6. Sentence:
7. Date of sentence:
8. Name and address of solicitor who represented appellant at trial:
9. Name of counsel (if any) who represented appellant at trial:
10. State whether you wish to be present at the hearing of this proceeding:
11. State whether you wish to attend by audio visual link at the hearing of this proceeding.

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Form 6–2C

---

IMPORTANT NOTES:

1. Unless the Court directs otherwise, you may, if you wish, be present in Court at the hearing of your application, or attend by audio visual link if that is practicable. If you wish to do either of these things, you should complete paragraphs 10 and 11 accordingly or otherwise notify the Registrar in writing of your wish.
2. The Court of Appeal will, if you wish, consider your case and your argument in writing. If you wish to present your case and argument in writing instead of orally, set out fully your case and argument and cause the same to be delivered to the Registrar not less than 7 days before the hearing.
3. The Court of Appeal may treat the hearing of this application as the hearing of the appeal.
4. An application for leave to appeal against conviction may be abandoned **at any time before the hearing of the application** by filing with the Registrar a notice of abandonment in the appropriate form.

---

\* Delete if not applicable

---

Form 6-2D  
amended by  
S.R. Nos  
33/1999  
rule 15(a)–(c),  
113/1999  
rule 7(3)(a)(b).

Rule 2.05

**FORM 6-2D***[heading as in Form 6-2A]***NOTICE OF APPLICATION FOR LEAVE TO APPEAL  
AGAINST SENTENCE**

To the Registrar of Criminal Appeals:

I, *[full name]* am convicted of the offence of *[description of offence]* and I am  
\*a prisoner at *[place]*/\*living at *[place of residence]* and I wish to apply to  
the Court of Appeal for leave to appeal to the Court against the sentence  
imposed upon me (particulars of which are set out below).

TAKE NOTICE that I apply to the Court of Appeal for leave to appeal  
against the sentence imposed on me on the ground(s): *[State specifically and  
concisely and not merely in general terms the grounds upon which you wish  
to appeal against the sentence.]*

Date: *[e.g. 15 June, 19     ]*

*[Signed by Applicant]*

*[Signed by Witness]*

*[Address of Witness]*

**PARTICULARS**

1. Appellant's name:
2. Offence for which convicted and in relation to which it is sought to appeal:
3. Convicted at: *[place and court]*
4. Sentencing Judge:
5. Date of conviction:
6. Sentence:
7. Date of sentence:
8. Name and address of solicitor who represented appellant at trial:
9. Name of counsel (if any) who represented appellant at trial:
10. State whether you wish to be present at the hearing of this proceeding:
11. State whether you wish to attend by audio visual link at the hearing of this proceeding.

---

IMPORTANT NOTES:

1. Unless the Court directs otherwise, you may, if you wish, be present in Court at the hearing of your application, or attend by audio visual link if that is practicable. If you wish to do either of these things, you should complete paragraphs 10 and 11 accordingly or otherwise notify the Registrar in writing of your wish.
2. The Court of Appeal will, if you wish, consider your case and your argument in writing. If you wish to present your case and argument in writing instead of orally, set out fully your case and argument and cause the same to be delivered to the Registrar not less than 7 days before the hearing.
3. The Court of Appeal may treat the hearing of this application as the hearing of the appeal.
4. You should be aware that the Court of Appeal has the power under section 568 of the **Crimes Act 1958**, if it quashes the sentence passed below and substitutes a different sentence, to impose a sentence which is **more or less severe** than the sentence which is quashed.
5. An application for leave to appeal against sentence may be abandoned **not less than three days before the day fixed for the hearing of the application** by filing with the Registrar a notice of abandonment in the appropriate form.

---

\* Delete if not applicable

---

Rule 2.06

**FORM 6-2E**

*[heading as in Form 6-2A]*

**APPLICATION FOR EXTENSION OF TIME WITHIN WHICH  
TO LODGE NOTICE OF APPEAL**

To the Registrar of Criminal Appeals

I, *[full name]* am convicted of the offence of *[description of offence]* and I am  
\*a prisoner at *[place]*/\*living at *[place of residence]* and I wish to apply to  
the Supreme Court for an extension of time within which to lodge notice of  
appeal or notice of application for leave to appeal to the Court of Appeal  
against \*conviction/\*and sentence (particulars of which are set out below).

The reasons I failed to lodge a notice within the prescribed time and the  
ground(s) upon which I make this application are: *[State specifically and  
concisely and not merely in general terms the grounds of the application.]*

Date: *[e.g. 15 June, 19     ]*

*[Signed by Applicant]*

**PARTICULARS**

1. Applicant's name:
2. Offence for which convicted:
3. Convicted at: *[place and Court]*
4. Trial or sentencing Judge:
5. Date of conviction:
6. Sentence:
7. Date of sentence:

**IMPORTANT NOTE:**

This notice must accompany notice of appeal or notice of application for  
leave to appeal.

---

\* Delete if not applicable

---

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

<b>Form 6–2F</b>
------------------

---

\*

\*

\*

\*

\*

**Forms 6–2F,  
6–2G  
revoked by  
S.R. No.  
113/1999  
rule 8.**

Form 6-2FA  
inserted by  
S.R. No.  
113/1999  
rule 8.

Rule 2.08(2)

**FORM 6-2FA**

*[heading as in Form 6-2A]*

**NOTIFICATION TO APPLICANT OF REGISTRAR'S  
DECISION UNDER SECTION 582A**

To *[name of applicant]*

I GIVE YOU NOTICE that after consideration of your application for extension of time for giving notice of appeal or notice of application for leave to appeal your application has been refused.

If you wish to have the refused application determined by the Court of Appeal, complete the form below and return it to me within 10 DAYS after you receive this notification.

Date: *[e.g. 15 June, 19     ]*

*[Signed]*

\* Delete if not applicable

---

Rule 2.08(4)

**FORM 6-2FB**

*[heading as in Form 6-2A]*

Form 6-2FB  
inserted by  
S.R. No.  
113/1999  
rule 8.

**ELECTION TO HAVE APPLICATION FOR EXTENSION OF  
TIME DETERMINED BY THE COURT OF APPEAL**

To the Registrar of Criminal Appeals:

I *[full name]*, having received your notification that my application for extension of time within which notice of appeal or application for leave to appeal may be given has been refused, GIVE NOTICE that I wish to have my application determined by the Court of Appeal.

I wish \*to be present at the hearing of my application;

\*to attend by audio visual link.

Date: *[e.g. 15 June, 19   ]*

*[Signed by Applicant]*

*[Signed by Witness]*

\* Delete if not applicable

NOTE: You must include any reasons additional to those set out in your original application which you wish to have considered by the Court of Appeal. Attach additional material if you wish.

\_\_\_\_\_



Form 6-2GA  
inserted by  
S.R. No.  
113/1999  
rule 8.

Rule 2.09(1)

**FORM 6-2GA**

*[heading as in Form 6-2A]*

**NOTIFICATION TO APPLICANT OF SINGLE JUDGE'S  
DECISION UNDER SECTION 582**

To *[name of applicant]*

I GIVE YOU NOTICE that after consideration of your application for leave to appeal against sentence your application has been refused by *[insert name of Judge]* acting under section 582 of the **Crimes Act 1958**.

If you wish to have your application for leave to appeal determined by the Court of Appeal, complete the enclosed form and return it to me within 10 DAYS after you receive this notification.

Date: *[e.g. 15 June, 19     ]*

*[Signed]*

\* Delete if not applicable

---

Rule 2.09(2)

**FORM 6-2GB**

[heading as in Form 6-2A]

Form 6-2GB  
inserted by  
S.R. No.  
113/1999  
rule 8.

**ELECTION TO HAVE APPLICATION FOR LEAVE TO  
APPEAL AGAINST SENTENCE DETERMINED BY THE  
COURT OF APPEAL**

To the Registrar of Criminal Appeals:

I [*full name*], having received your notification that my application for leave to appeal against sentence has been refused by a single Judge of Appeal under section 582 of the **Crimes Act 1958**, GIVE NOTICE that I wish to have my application determined by the Court of Appeal.

I wish \*to be present at the hearing of my application;

\*to attend by audio visual link.

Date: [*e.g.* 15 June, 19    ]

[*Signed by Applicant*]

[*Signed by Witness*]

\* Delete if not applicable

**IMPORTANT NOTES:**

1. You must include any reasons additional to those set out in your original application for leave to appeal which you wish to have considered by the Court of Appeal. Attach additional material if you wish.
2. The Court of Appeal will, if you wish, consider your case and your argument in writing. If you wish to present your case and argument in writing instead of orally, set out fully your case and argument and cause the same to be delivered to the Registrar not less than 7 days before the hearing.
3. The Court of Appeal may treat the hearing of the application for leave to appeal as the hearing of the appeal.
4. You should be aware that the Court of Appeal has the power under section 568 of the **Crimes Act 1958**, if it quashes the sentence passed below and substitutes a different sentence, to impose a sentence which is **more or less severe** than the sentence which is quashed.

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

5. An application for leave to appeal against sentence may be abandoned **not less than three days before the day fixed for the hearing of the application** by filing with the Registrar a notice of abandonment in the appropriate form.
-

Rule 2.10

**FORM 6-2H**

*[heading as in Form 6-2A]*

**NOTICE OF ABANDONMENT**

To the Registrar of Criminal Appeals:

I, *[full name]* \*a prisoner at *[place]*/\*living at *[place of residence]* give notice that I wish to abandon my \*appeal/\*application for leave to appeal dated against \*conviction/\*and sentence/\*and my application for an extension of time within which to lodge notice of appeal or to apply for leave to appeal dated .

Date: *[e.g. 15 June, 19   ]*

*[Signed by Appellant/*

*Applicant]*

*[Signed by Witness]*

*[Address of Witness]*

---

\* Delete if not applicable

\_\_\_\_\_

Rule 2.13

**FORM 6-2J**

**TRIAL JUDGE'S CERTIFICATE**

[*The appellant*] was tried and convicted before me in the Court on  
[e.g. 15 June 19 ] on a \*presentment/\*indictment charging \*him/\*her with  
[*offences*] and was sentenced by me to [*details of sentence imposed*].

I hereby certify that this case is a fit case for an appeal by [*appellant*] to the  
Court of Appeal against conviction upon the following ground(s):

[*State specifically and concisely and not merely in general terms the  
ground(s) upon which the certificate is granted.*]

Date: [e.g. 15 June, 19 ]

[*Signed by Judge*]

---

\* Delete if not applicable

---

Rule 2.15(2)(b)

**FORM 6-2K**

**RECOGNIZANCE OF APPELLANT SENTENCED TO PAY A  
FINE (AND SURETY)**

WHEREAS

1. [full name] of [address] was on [date] convicted of [offences] and was sentenced to pay the sum of \$ as a fine by the \*Supreme/\*County Court; and
2. \*He/\*She has indicated a wish to appeal against the conviction on \*a question of law alone /\*the certificate of the trial judge that the case is fit for appeal; and
3. The Court considers that the appellant may instead of payment of the fine be ordered to enter into a recognizance of bail for the sum of \$ with [number] sureties each for the sum of \$ to prosecute the appeal before the Court of Appeal.

NOW [full name] of [address] acknowledges \*himself/\*herself to owe to Our Lady the Queen the sum of \$ to be satisfied by or out of \*his/\*her goods, chattels, lands and tenements, if the said [full name] breaches the condition(s) set out below.

Taken and acknowledged on [date] at the \*Supreme/\*County Court, before [name of Judge]

[Signed]

Associate to Judge.

The condition(s) of the recognizance are that if [full name] of [address]—

1. shall personally appear before the Court of Appeal at every hearing of the appeal and at its final determination and prosecute the appeal and abide by the judgment of the Court and not be absent from any hearing without leave and pay to the Registrar of Criminal Appeals the sum of \$ , or such sum as the Court may order; and
2. [Insert any other conditions.]

then this recognizance shall be void; but otherwise it shall be of full force and effect.

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

RECOGNIZANCE OF SURETY

On [date] [insert name(s) and address(es) of surety(ies)]  
personally come before [name of Judge] and individually  
acknowledged themselves to owe Our Lady the Queen [insert sum in respect  
of which surety is bound] to be satisfied by or out of their respective goods,  
chattels, lands and tenements if [name of appellant] now before the Court  
breaches the condition(s) set out above.

Taken and acknowledged on [date] at the \*Supreme/\*County Court,  
before [name of Judge]

[Signed]

Associate to Judge

---

\* Delete if not applicable

\_\_\_\_\_

Rule 2.30

**FORM 6-2L**

*[heading as in Form 6-2A]*

**NOTIFICATION OF RESULT OF APPEAL OR APPLICATION**

In the case of R v. *[name of appellant]*

TAKE NOTICE that the Court of Appeal has considered—

- \* the appeal and has decided *[complete appropriately]*;
- \* the application for—
  - \* leave to appeal to the Court;
  - \* extension of time for giving notice of appeal or application for leave to appeal;
  - \* bail

and has decided *[complete appropriately]*

Date [*e.g.* 15 June, 19     ]

*[Signed]*

Registrar of Criminal Appeals.

---

\* Delete if not applicable

---



Rule 2.31(2)

**FORM 6-2M**

[heading as in Form 6-2A]

**APPELLANT'S APPLICATION FOR EXAMINATION OF  
FURTHER WITNESS(ES)**

To the Registrar of Criminal Appeals:

I [*name of appellant*] an appellant in the Court of Appeal, request you to take notice that I desire that the Court order the witness(es) named below to attend the Court and be examined on my behalf.

**PARTICULARS**

1. State name(s) and address(es) of witness(es).
2. Was the witness, or if more than one, which ones, examined at the trial?
3. If the answer to question 2 is "no", give reasons why the witness or witnesses were not examined.
4. What do you want the witness(es) to be examined on?

State clearly the evidence you think the witness(es) can give.

Date: [e.g. 15 June, 19     ]

[Signed]

Appellant

---

Rule 2.32(3)

**FORM 6-2N**

*[heading as in Form 6-2A]*

**NOTICE TO WITNESS TO ATTEND BEFORE EXAMINER**

To *[name of witness or person to whom notice is to be given]*

The Court of Appeal has ordered that *[name(s) of witness(es)]* be examined as \*a witness/\*witnesses upon the appeal of *[name of appellant]* and that depositions are to be taken for the use of the Court.

You, *[name of witness]*, are to attend at *[place]*, at *[time]* on *[date]* to be examined.

You must bring with you to the appeal any books, papers or other material which you have received notice to produce.

Date: *[e.g. 15 June, 19   ]*

*[Signed]*

Registrar of Criminal Appeals.

\* Delete if not applicable

Rule 2.35(2)

**FORM 6-2P**

**NOTICE TO PRISONER WHO WISHES TO APPEAL**

1. If a person convicted in the Supreme Court or the County Court wishes to appeal to the Court of Appeal against *conviction*, the person must lodge a Notice of Appeal or Notice of Application for Leave to Appeal against conviction in the prescribed form with the Registrar of Criminal Appeals of the Supreme Court *not later than 14 days* after conviction and sentence.
  2. The Notice of Appeal or Notice of Application for Leave to Appeal must state specifically and not merely in general terms the grounds upon which it is desired to appeal.
  3. A person who has been sentenced and who wishes to appeal against the *sentence* must lodge a Notice of Application for Leave to Appeal against sentence in the prescribed form with the Registrar of Criminal Appeals of the Supreme Court *not later than 14 days* after sentence.
  4. Separate Notices must be lodged for (a) an appeal against *conviction* and (b) an appeal against *sentence*.
-

Rule 3.02(1)

**FORM 6-3A**

In the Supreme Court of Victoria  
at

19 No.

Between

A.B.

Appellant

and

C.D.

Respondent

**NOTICE OF INTENTION TO APPLY FOR LEAVE TO  
APPEAL AGAINST SENTENCE IMPOSED UNDER  
SECTION 86 OF THE MAGISTRATES' COURT ACT 1989**

To the Registrar of Criminal Appeals:

I, *[full name]* am convicted of the offence of *[description of offence]* and I am a prisoner at *[name of prison]*.

TAKE NOTICE that I intend to apply to the Court of Appeal for leave to appeal to the Court of Appeal against the sentence of *[details of sentence]* passed upon me by the County Court.

The grounds on which I intend to make application are:

*[set out specifically and concisely and not merely in general terms the grounds on which you intend to appeal].*

**PARTICULARS**

1. Name of applicant:
2. Offence for which convicted and in relation to which it is sought to appeal:
3. Originally convicted at the Magistrates' Court at *[place of Court]* and sentenced to *[sentence or other order imposed by the Magistrates' Court]*;
4. Sentence substituted by County Court:
5. Sentencing Judge:
6. Date sentence of County Court imposed:

Dated *[e.g. 15 June, 19 ]*

*[Signed by Applicant]*

Rule 3.07(b)

**FORM 6-3B**

**INFORMATION FOR PERSONS UPON WHOM A SENTENCE  
OF IMPRISONMENT HAS BEEN IMPOSED BY THE  
COUNTY COURT UPON APPEAL FROM THE  
MAGISTRATES' COURT IN SUBSTITUTION FOR SOME  
OTHER SENTENCE IMPOSED BY THE  
MAGISTRATES' COURT**

1. If—

- (a) a person has appealed to the County Court from the Magistrates' Court against a conviction, a sentence or other order of the Magistrates' Court; and
- (b) the County Court has substituted on that person a sentence of imprisonment instead of the sentence imposed by the Magistrates' Court; and
- (c) the sentence originally imposed by the Magistrates' Court was not a sentence of imprisonment—

that person may apply to the Court of Appeal for leave to appeal to the Court of Appeal against the sentence imposed by the County Court.

2. If you wish to appeal against the sentence imposed by the County Court then within 14 days after that sentence has been imposed, you or your solicitor must serve or cause to be served a NOTICE OF INTENTION TO APPLY FOR LEAVE TO APPEAL AGAINST SENTENCE IMPOSED UNDER SECTION 86 OF THE **MAGISTRATES' COURT ACT 1989** upon each of—

- (a) the informant; and
- (b) the Director of Public Prosecutions—

and must file or cause to be filed a copy of the notice with the Registrar of Criminal Appeals.

3. The notice must be in Form 6-3A. A copy of such a Form must be given to you with this notice.

\_\_\_\_\_

Rules 4.02(1), 405

**FORM 6-4A**

In the Supreme Court of Victoria  
at

The Queen

v.

[*name of accused*]

**NOTICE THAT SOLICITOR ACTS**

Date of committal for trial: [*if any*]

Committed for trial on [*charges on which accused person committed*]

Date of notice of trial: [*if any*]

Charges indicated by Notice of Trial:

TAKE NOTICE that the solicitor (or firm) indicated below acts for the accused [*name(s)*] in this matter.

Date: [*e.g.* 14 September, 19     ].

[*Signed*]

Name of Solicitor (or firm):

Address of Solicitor (or firm):

Telephone number:

Name of person handling matter:

Present address of accused person:

**NOTES**

- (1) This notice must be sent to the DPP and to the Criminal Trial Listing Directorate as soon as possible after a solicitor commences to act for an accused person.
- (2) This notice must be filed with the Prothonotary after a copy of a presentment has been served.

Rules 4.02(2), 4.05

**FORM 6-4B**

[heading as in Form 6-4A]

**NOTICE THAT SOLICITOR HAS CEASED TO ACT**

Date of committal for trial: [if any]

Committed for trial on [charges on which accused person committed]

Date of notice of trial: [if any]

Charges indicated by Notice of Trial:

TAKE NOTICE that the solicitor (or firm) indicated below has ceased to act for the accused [name(s)] in this matter.

Filed: [e.g. 14 September, 19     ].

[Signed]

**NOTES:**

- (i) This notice must be served on—
  - the DPP, and
  - the CTLD, and
  - the former client—

as soon as possible after a solicitor has ceased to act for an accused person.

- (ii) As soon as possible after ceasing to act for an accused person, the solicitor must return—
  - to the CTLD, the copy depositions,
  - the DPP, all materials provided by the DPP—

in relation to the matter.

- (iii) If a Notice under Rule 4.02(1) has been filed with the Prothonotary, this notice must be filed with the Prothonotary as soon as possible after a solicitor ceases to act for an accused person.

\_\_\_\_\_

Rule 4.04

**FORM 6-4C**

[heading as in Form 6-4A]

**NOTICE OF READINESS FOR TRIAL**

To: Criminal Trial Listing Directorate

DPP file No.:

Charges:

Accused: [names and addresses] Surety(ies): [names and addresses]

Presentment filed on: [date]

Preparation officer: Telephone No.:

Co-ordinator: Telephone No.:

Team Leader: Telephone No.:

Practitioners for accused person(s)

Accused	Solicitor (or firm)	Barrister (if known)
	[names of solicitor and counsel]	

Witnesses: Civilians: Police: Interpreter:

Availability: [set out details of witnesses' availability]

Listing comments:

[Indicate whether the DPP understands that the matter will be a trial or a plea]

Co-accused previously dealt with by: Judge [name] on [date].

Time limits:

Trial to commence by: [date]

Estimated duration of Crown case:

Re-committal: [date]

Re-trial: A previous trial of this matter before Judge [name] concluded on [date]. (\*Mistrial/\*Disagreement/\*Conviction set aside)

[Signed] Solicitor to the Director of Public Prosecutions

\* Delete if not applicable



Rule 4.03(4)

**FORM 6-4D**

**NOTICE TO ACCUSED PERSON**

The Director of Public Prosecutions has not received any notice that you have instructed a solicitor to act for you in relation to the charges set out in the copy presentment which accompanies this notice.

You should take this notice and the presentment to your solicitor or to Victoria Legal Aid *without delay*.

If you wish to be legally aided in this matter, your solicitor or Victoria Legal Aid will be able to assist in your application for legal aid.

You will soon receive notification from the Criminal Trial Listing Directorate of a date on which this matter will be listed for hearing. You should note that the Court can commence the hearing on this date whether or not you believe you are ready to proceed. An adjournment or other delay in commencing the hearing will not necessarily be permitted to allow you time to obtain legal representation.

*[If the accused person is to be presented on a charge of rape the following paragraph must also be included in the notice].*

As you are charged with an offence of rape your trial must be commenced within 3 months (subject to any extension of time granted by the Supreme Court) of *[insert date of committal or Notice of Trial]*. To ensure that the person who will represent you at your trial has an adequate time to prepare your defence, you should contact a solicitor or Victoria Legal Aid *at the earliest opportunity*.

---

Rule 4.07

**FORM 6-4E**

[heading as in Form 6-4A]

**QUESTIONNAIRE**

To [solicitor for accused person]

The trial of [name of accused person] is now—

- \* [if a bail case] ready to be listed;
- \* [if a rape case] required to be commenced by [insert date];
- \* [if a remand case] proposed to be listed not later than [date];
- \* proposed to be listed for hearing [insert date].

Under Rule 4.07 of Chapter VI of the Supreme Court Rules YOU ARE REQUIRED WITHIN 14 DAYS to answer the following questions and to return the answers to the Criminal Trial Listing Directorate.

1. Is your firm acting for [name of accused person]? YES/NO
2. Have you (or your firm made arrangements satisfactory to you (or your firm) for payment of legal costs in relation to this matter? YES/NO
3. Will your firm represent [accused person] on the trial? YES/NO
4. If NO to question 1:
  - (a) do you understand that [accused person] has other legal representation? YES/NO  
If YES, please state the name and address of that other practitioner (if known);
  - (b) When did your firm cease to act for [accused person]?
5. If NO to question 2:
  - (a) Has application been made by your firm or by [names of any other persons] for legal assistance on behalf of [accused person]? YES/NO  
If YES, give the date of such application (if known);
  - (b) If NO to (a), has [accused person] been advised by your firm to apply for legal assistance? YES/NO.

Director,  
Criminal Trial Listing Directorate

Rule 4.10(2)(a)

**FORM 6-4F**

[heading as in Form 6-4A]

**APPLICATION FOR PRE-TRIAL HEARING**

1. This application is made by—
    - \* The Director of Public Prosecutions
    - \* The Criminal Trial Listing Directorate
    - \* The accused person [name]
  2. The applicant applies for a pre-trial hearing in this matter.
  3. The ground(s) on which this application is made *\*is/\*are* [set out grounds]
  4. The applicant seeks [set out details of directions or orders sought]
- Date: [e.g. 14 September, 19    ].

[signed by applicant or  
solicitor for applicant]

**NOTICE OF PRE-TRIAL HEARING**

TAKE NOTICE that a pre-trial hearing in the above matter will be held at the Supreme Court at                      on                      at                      a.m. [or p.m.].

Date: [e.g. 14 September, 19    ].

Prothonotary

To: [names of parties to be served]

\_\_\_\_\_

Rule 5.03(1)

**FORM 6-5A**

IN THE SUPREME COURT  
OF VICTORIA  
AT  
BETWEEN

A.B.  
and  
C.D.

**APPLICATION FOR \*TIME TO PAY A FINE**

**\*INSTALMENT ORDER**

**\*VARIATION OF INSTALMENT  
ORDER**

**\*COMMUNITY-BASED ORDER**

1. I, (*Full name*), of (*address*) (*occupation*) apply to the  
proper officer of the Court at for—  
\*an order that time be allowed for payment of the fine.  
\*an order that the fine be paid by instalments.  
\*an order for the variation of the terms of an instalment order.  
\*a community based order.
2. On I was ordered to pay a fine.
3. The Court ordered that I pay \$ in fines and costs.
4. I \*was/\*was not present when the order was made.
5. The Court ordered that the fines and costs be paid—  
\*by / /19 .  
\*by instalments of \$ to be paid on the day of each  
\*week/\*fortnight/\*month.  
\*did not make any order about payment.
6. I have made the following payments under the order—  
[*here set out details of payments made*].
7. \*I now want to pay the money I owe—  
\*by [date]

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

\*by instalments of \$        on the        day of each week/\*fortnight/  
\*month starting on [*date*].

[*or where application is for a community-based order*]

\*I now apply for a community-based order requiring me to perform unpaid community work as directed by a Regional Manager of the Office of Corrections, instead of paying the fine. I agree to comply with such an order.

8. At present I receive \$        each week after tax has been deducted.

9. My weekly expenses are \$        .

10. This leaves me with \$        .

Dated        19        .        (*Signature of Applicant*)

---

\* Delete if inapplicable

\_\_\_\_\_

Rule 5.07(1)

**FORM 6-5B**

**NOTICE ABOUT THE PROCEDURE FOR ENFORCEMENT  
OF FINES**

A warrant to arrest has been issued to the Sheriff for non-payment of the fine(s) imposed against you in the Supreme Court. A summary of the fine(s) and the total amount still outstanding is attached.

You may obtain further details of the penalties from the Court. To do so, you must supply the Court reference which is also on the attached summary.

YOU HAVE 7 DAYS FROM THE DATE ON WHICH THIS DEMAND IS MADE IN WHICH TO PAY THE AMOUNT OUTSTANDING, OR TO OBTAIN AN INSTALMENT ORDER OR TIME TO PAY, OR TO CONSENT TO THE MAKING OF A COMMUNITY-BASED ORDER [*see below*]. Payment must be made to The Prothonotary, [*insert address*].

**IF YOU CANNOT PAY**

You may apply to the proper officer of the Court for an order that the fine be paid by instalments, or an order that you be allowed time to pay the fine.

If you do not pay the fine and do not make an application to the proper officer you may consent to the Court making a community-based order requiring you to perform unpaid community work instead of paying the fine. You may be required to perform one hour of unpaid work for each \$20 or part of \$20 of each fine outstanding. A minimum of 8 hours work under the direction of the Office of Corrections must be performed, irrespective of the amount outstanding, up to a maximum of 500 hours.

You can obtain a consent form from the person making this demand.

**IF YOU DO NOT PAY OR TAKE ANY ACTION**

If you do not take any action, you will be arrested and brought before the Court. If the Court is satisfied that you have defaulted in payment for more than one month, it may—

- \* make a community-based order requiring you to perform unpaid community work under the direction of the Office of Corrections for one hour for each \$20 or part of \$20 then remaining unpaid with a minimum of 8 and a maximum of 500 hours. You may also be ordered to pay additional costs;

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

- 
- \* order that you be imprisoned for one day for each \$100 or part of \$100 then remaining unpaid with a maximum of 24 months, and may order you to pay additional costs;
  - \* order that the amount of the fine then unpaid be levied under a warrant to seize property;
  - \* vary any existing order for payment of the fine by instalments;
  - \* adjourn the hearing or further hearing of the matter for up to 6 months on any terms that the Court thinks fit.
-

Rule 5.07(2)

**FORM 6-5C**

IN THE SUPREME COURT  
OF VICTORIA  
AT  
BETWEEN

A.B.  
and  
C.D.

**CONSENT TO A COMMUNITY-BASED ORDER**

I consent to the making by the Court of a community-based order requiring me to perform unpaid community work as directed by a Regional Manager of the Office of Corrections, instead of paying a total penalty of \$ .

**RATE OF CONVERSION OF AMOUNT(S) TO UNPAID COMMUNITY WORK**

I understand that the amount(s) that I owe for each unpaid fine will be converted into hours of unpaid community work at the rate of 1 hour for each \$20 or part of \$20 which I owe, with a minimum of 8 hours and a maximum of 500 hours work to be performed by me.

**CONDITIONS OF THE ORDER**

I understand that the following conditions will apply to the order and I agree to comply with them:

During the period of the community-based order I must—

- \* not commit another offence punishable by imprisonment
- \* report to a Community Corrections Centre specified by the Court
- \* report to, and receive visits from, a community corrections officer
- \* notify an officer at the specified community corrections centre of any change of address or employment within 2 clear working days after the change
- \* not leave Victoria except with the permission of an officer at the specified community corrections centre
- \* obey all lawful instructions and directions of community corrections officers



*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

\* perform unpaid community work as directed by the Regional Manager for  
a period determined by the Court.

Dated at \_\_\_\_\_, 19 \_\_\_\_.

Witnessed by

[Signature of person in default]

[Print name]

TO THE PERSON IN DEFAULT

The Court will send you a notice of the making of a community-based order  
and its conditions.

\_\_\_\_\_

Rule 5.07(3)

**FORM 6-5D**

**COMMUNITY-BASED ORDER IN DEFAULT OF PAYMENT  
OF A FINE**

TO  
of

Ref. No.

Date of birth    /    /

On    /    /   , with your signed consent, this community-based order is made against you requiring you to perform unpaid community work in respect of the unpaid fine set out below which was imposed by the Supreme Court at on    /    /   .

**UNPAID AMOUNTS**

<i>Fine</i>	<i>Statutory Costs</i>	<i>Costs</i>	<i>Hours of work ordered</i>	<i>How hours to be served</i>
-------------	------------------------	--------------	----------------------------------	-----------------------------------

Where the hours are stated as being served cumulatively, they are to be performed cumulatively, or in addition to any other community-based order made in respect of unpaid fines. A minimum of 8 hours unpaid community work is required to be performed.

This order commences on    /    /    and ends on    /    /   .

You must attend    [address of Community Corrections Centre] within 2 clear working days after    /    /   .

The Magistrates' Court at    will supervise this order.

The conditions of this Order are that you must—

- \* not commit another offence for which you could be imprisoned during the time that the order is in force;
- \* report to the above Community Corrections Centre within 2 clear working days of the order starting;
- \* report to, and receive visits from, a community corrections officer;
- \* notify an officer at the above Community Corrections Centre of any change of your address or employment within 2 clear working days after the change;

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

- 
- \* not leave Victoria without first obtaining permission to do so from an officer at the above Community Corrections Centre;
  - \* obey all lawful instructions and directions given to you by community corrections officers;
  - \* performed unpaid community work as directed by the Regional Manager of the Office of Corrections for the period determined by the Court.

This order was made on    /    /    at

[Signature of Judge]

\_\_\_\_\_

Rule 5.07(4)

FORM 6-5E

**SUMMONS FOR FAILURE TO PAY A FINE**

IN THE SUPREME COURT  
OF VICTORIA  
AT  
BETWEEN

A.B.  
and  
C.D.

TO  
of

Ref. No.

Date of birth    /    /

1. On                      you were found guilty of an offence and the Court ordered you to pay the following amount(s):

<i>Act/section</i>	<i>Fine</i>	<i>Statutory Costs</i>	<i>Costs/Other amount(s)</i>	<i>Paid</i>	<i>Unpaid</i>
	\$	\$	\$	\$	\$

TOTAL AMOUNT NOW PAYABLE \_\_\_\_\_

2. The Court records show that you have not paid the above amount payable and a warrant to seize your property to recover that amount has been returned unsatisfied.
3. YOU ARE DIRECTED TO APPEAR BEFORE THE COURT AT  
at                      a.m./p.m. ON                      , 19                      TO BE  
EXAMINED CONCERNING YOUR FAILURE TO PAY THE ABOVE  
AMOUNT(S).

Issued at                      on

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

Prothonotary

NOTES

1. If you pay the above amount to the Prothonotary on or before the date for hearing of this summons, you will not be required to appear at Court. If you do not pay before the hearing of this summons, the Court may order you to pay additional costs.
  2. Payments may be made personally or posted to the Prothonotary. You must quote the Court reference at the top of this summons.
  3. If you do not pay the amount due or appear at Court as directed by this summons, a warrant for your arrest may be issued.
-

Rule 5.08

**FORM 6-5F**

**NOTICE ABOUT THE PROCEDURE FOR ENFORCEMENT  
OF A FINE (BODIES CORPORATE)**

A warrant to seize property owned by the company has been issued to satisfy the amount of a fine or instalment under an instalment order imposed on the company by the Supreme Court, and all lawful costs of execution. The attached document sets out a summary of the details and the total amount outstanding. You may obtain further details of the penalty from the Court. To do so, you must supply the Court reference which is also on the attached summary.

THE COMPANY HAS 7 DAYS FROM THE DATE ON WHICH THIS DEMAND IS MADE TO PAY THE AMOUNT OUTSTANDING OR TO OBTAIN AN INSTALMENT ORDER OR TIME TO PAY ORDER [*see below*]. Payment must be made to The Prothonotary, [*insert address*].

**IF THE COMPANY CANNOT PAY**

It may apply to the proper officer of the Court for an order that the fine be paid by instalments or for an order that the company be allowed time to pay the fine.

**IF THE COMPANY DOES NOT PAY OR TAKE ANY ACTION**

If the company does not pay or take any action, the Sheriff is required to seize and sell property belonging to the company to satisfy the amount outstanding.

Form 6-6A  
substituted by  
S.R. No.  
33/1999  
rule 16.

Rule 6.05(2) and (3)

**FORM 6-6A**

IN THE SUPREME COURT OF VICTORIA

IN THE MATTER of the **Confiscation Act 1997**

and

IN THE MATTER of an offender or alleged offender, XY [*name in full*]

and

IN THE MATTER of an Application by AB [*name in full*]                      Applicant

**APPLICATION UNDER SECTION 16 FOR RESTRAINING  
ORDER**

**TO:** the Prothonotary of the Supreme Court of Victoria

**TAKE NOTICE THAT** [*name of the person making the application*]

**("the Applicant")**

**MAKES APPLICATION** under section 16 of the Confiscation Act 1997  
**("the Confiscation Act") FOR A RESTRAINING ORDER** in respect of  
property in which the said XY has an interest or which is tainted property  
within the meaning of the Confiscation Act.

**THE ADDRESS FOR SERVICE** of the Applicant is: [*insert address*]

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because  
XY—

- \* has been charged with
  - \* within the next 48 hours will be charged with
  - \* has been convicted of
- [*state offence and, if relevant, details of conviction*]

and that offence is, within the meaning of the Confiscation Act—

- \* a civil forfeiture offence
- \* an automatic forfeiture offence
- \* a forfeiture offence which is neither a civil forfeiture offence nor  
an automatic forfeiture offence

2. THE APPLICANT is—

---

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

**Form 6-6A**

- 
- \* the Director of Public Prosecutions
  - \* a prescribed person
  - \* a person belonging to a prescribed class of persons, namely  
[identify class]
3. THE APPLICATION IS IN RESPECT OF the following property—  
[describe the property in detail]
4. THE GROUNDS on which this application is made are as follows—  
[set out in detail the grounds of the application]
5. THE PURPOSE OF THE ORDER SOUGHT is so that the property the subject of the order will be available—
- \* to satisfy any forfeiture order that may be made under Division 1 of Part 3 of the Confiscation Act
  - \* to satisfy automatic forfeiture of property that may occur under Division 2 of Part 3 of the Confiscation Act
  - \* to satisfy any civil forfeiture order that may be made under Part 4 of the Confiscation Act
  - \* to satisfy any pecuniary penalty order that may be made under Part 8 of the Confiscation Act
  - \* to satisfy any order for restitution or compensation that may be made under the **Sentencing Act 1991**

**THE APPLICANT RELIES** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the Judge in the Practice Court/\*the trial Judge  
in the [number] Court at 210 William Street, Melbourne, on  
[date] \*at [time] /\*after sentence.

[Signed by Prothonotary]

---

\* Delete if not applicable

---



Form 6-6B  
substituted by  
S.R. No.  
33/1999  
rule 16.

Rule 6.05(4)

**FORM 6-6B***[heading as in Form 6-6A]***NOTICE OF APPLICATION MADE UNDER SECTION 16**TO: *[name and address of person(s) to whom this notice is to be given]*

TAKE NOTICE THAT APPLICATION HAS BEEN MADE to the Supreme Court of Victoria under section 16 of the **Confiscation Act 1997** for a Restraining Order in respect of certain property belonging to *[name in full]*.

**A copy of the application is attached.**

THIS NOTICE is given to you as a person who may have an interest in the property which is the subject of the application. This Notice is given by the Applicant pursuant to an Order of the Supreme Court made in this proceeding on *[date]*.

THE HEARING of this application will be resumed—

by \*the trial Judge/\*the Judge in the Practice Court  
at the *[number]* Court, 210 William Street, Melbourne, on  
*[date]* at *[time of day or the occasion]*.

*[Signed by Prothonotary]*

AS A PERSON TO WHOM THIS NOTICE IS GIVEN—

1. You are entitled to appear and to give evidence at the hearing of the application, but your absence will not prevent the Court from making the order which is being sought.
2. If you propose to contest this application for an exclusion order, the Rules of the Supreme Court require you to give the Applicant notice of the grounds on which the application is to be contested. The Rules also provide that evidence may be given by affidavit. You must serve on the application any affidavit(s) on which you intend to rely.

Date:

*[Signed by Applicant]*

NOTE: If a Restraining Order is made under the **Confiscation Act 1997** then in certain events the property in respect of which the Order is made may be taken by the State and any interest you have in that property may be lost.

---

\* Delete if not applicable

---

Rule 6.06(1)(a)

**FORM 6-6C**

Form 6-6C  
substituted by  
S.R. No.  
33/1999  
rule 16.

IN THE SUPREME COURT OF VICTORIA

IN THE MATTER of the **Confiscation Act 1997**

and

IN THE MATTER of an offender or alleged offender, XY [*name in full*]

BETWEEN:

AB

Applicant

and

CD

Respondent

**NOTICE OF APPLICATION TO BE MADE UNDER  
SECTION 20 FOR EXCLUSION ORDER**

**TO:** [*name and address of the person(s) on whom this application is to be served*]

**("the Respondent(s)")**

**TAKE NOTICE THAT** [*name of the person making the application*]

**("the Applicant")**

**INTENDS TO APPLY** under section 20 of the **Confiscation Act 1997** ("**the Confiscation Act**") for an Order excluding from a Restraining Order the following property: [*describe in detail the property which it is sought to exclude from the Restraining Order*]

**THE ADDRESS FOR SERVICE** of the Applicant is [*insert address*]

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order sought arises because (or when) a Restraining Order has been made under section 18 of the Confiscation Act in relation to the property of [*name in full*] on the application of [*name of applicant for Restraining Order*]
2. THE APPLICANT is a person claiming an interest in the following property which is otherwise subject to the Restraining Order, that is to say: [*describe in detail the property in respect of which exclusion is sought*]
3. THE RESPONDENT(S) to this application is/are—

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

- 
- \* a person who the Applicant has reason to believe has an interest in the property in respect of which exclusion is sought
  - \* the applicant for the abovementioned Restraining Order
4. THE GROUNDS on which this application will be made are as follows—  
[set out in detail the grounds of the application]

**THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 210 William Street, Melbourne, on  
[date] at [time of day or the occasion].

[Signed by Prothonotary]

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given on affidavit. You must serve on the Applicant any affidavit(s) on which you intend to reply.

---

\* Delete if not applicable

---

Rule 6.06(1)(b)

**FORM 6-6D**

*[heading as in Form 6-6C]*

**NOTICE OF APPLICATION TO BE MADE UNDER  
SECTION 26 FOR FURTHER ORDERS**

**TO:** *[name and address of the person(s) on whom this application is to be served]*

**("the Respondent(s)")**

**TAKE NOTICE THAT** *[name of the person making the application]*

**("the Applicant")**

**INTENDS TO APPLY** under section 26 of the Confiscation Act 1997 ("**the Confiscation Act**") **FOR FURTHER ORDER(S)** in relation to property to which a Restraining Order relates, that is to say—

*[set out in detail the order(s) sought]*

**THE ADDRESS FOR SERVICE** of the Applicant is: *[insert address]*

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because in relation to the property of XY—
  - \* application has been made to the Supreme Court of Victoria for a Restraining Order
  - \* the Supreme Court of Victoria made a Restraining Order on *[date]*
2. THE APPLICANT is: *[describe the standing of the Applicant to make the application, e.g. the applicant for the Restraining Order OR a person who claims an interest in property to which the Restraining Order relates OR the person to whose property the Restraining Order relates OR otherwise as specified in s.26(2) of the Confiscation Act]*
3. THE APPLICATION IS IN RESPECT of the following property—  
*[describe in detail the property to which the further order(s) sought will relate]*

## Supreme Court (Criminal Procedure) Rules 1998

S.R. No. 33/1998

- 
4. THE RESPONDENT(S) to this application is/are each a person referred to in paragraphs (a) to (d) of subsection (2) of section 26 of the Confiscation Act who could have applied for the Order(s) which is/are sought on this application.
5. THE GROUNDS on which this application will be made are as follows—  
[set out in detail the grounds of the application]

**\*THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 210 William Street, Melbourne, on  
[date] at [time of day or the occasion].

[Signed by Prothonotary]

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to rely.

---

\* Delete if not applicable

---

Rule 6.06(1)(c)

**FORM 6-6E**

[heading as in Form 6-6C]

**NOTICE OF APPLICATION TO BE MADE UNDER  
SECTION 32 FOR FORFEITURE ORDER**

**TO:** [name and address of the person(s) on whom this application is to be served]

**("the Respondent(s)")**

**TAKE NOTICE THAT** [name of the person making the application]

**("the Applicant")**

**INTENDS TO APPLY** under section 32(1) of the Confiscation Act 1997 (**"the Confiscation Act"**) **FOR A FORFEITURE ORDER** with respect to the following property: [describe in detail the property in respect of which the forfeiture order is sought]

**THE ADDRESS FOR SERVICE** of the Applicant is: [insert address]

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order sought arises because (or when) XY has been convicted in the [name] Court on [date] of the offence of [describe the offence] which is a forfeiture offence within the meaning of the Confiscation Act.
2. THE APPLICANT is—
  - \* the Director of Public Prosecutions
  - \* an appropriate officer within the meaning of the Confiscation Act
3. THE RESPONDENT(S) to this application is/are—
  - \* the person in respect of whose property the Order is sought
  - \* a person who the Applicant has reason to believe has an interest in the property
  - \* a person to whom the Court has required that notice be given
4. THE GROUNDS on which this application will be made are as follows—

## Supreme Court (Criminal Procedure) Rules 1998

S.R. No. 33/1998

---

[set out in detail the grounds of the application]

5. IF the Respondent has already been convicted of the offence described above, A TIME LIMIT APPLIES under section 32(2) of the Confiscation Act and this application will be made—
- \* before the end of the relevant period (as defined by the Confiscation Act) in relation to the conviction
  - \* after the end of the relevant period (as so defined), but **the Applicant will seek the leave of the Court** to make this application out of time
6. HAS ANY PREVIOUS APPLICATION been made under section 32(1) of the Confiscation Act in relation to the same conviction?
- \* No such application has been made
  - \* Such an application was made on [date] but that application has not been finally determined
  - \* Such an application was made on [date] and has been finally determined, but **the Applicant will seek the leave of the Court** to make this further application

**\*THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

### PARTICULARS OF HEARING

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 210 William Street, Melbourne, on  
[date] at [time of day or the occasion].

[Signed by Prothonotary]

### NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

**Form 6–6E**

---

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provides that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to reply.

---

\* Delete if not applicable

---



Form 6-6F  
inserted by  
S.R. No.  
33/1999  
rule 16.

Rule 6.06(1)(d)

**FORM 6-6F**

[heading as in Form 6-6C]

**NOTICE OF APPLICATION TO BE MADE UNDER SECTION 37  
FOR CIVIL FORFEITURE ORDER**

**TO:** [name and address of the person(s) on whom this application is to be served]

("the Respondent(s)")

**TAKE NOTICE THAT** [name of the person making the application]

("the Applicant")

**INTENDS TO APPLY** under section 37(1) of the Confiscation Act 1997 ("the Confiscation Act") **FOR A CIVIL FORFEITURE ORDER** with respect to the following property: [describe in detail the property in respect of which the forfeiture order is sought]

**THE ADDRESS FOR SERVICE** of the Applicant is: [insert address]

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because XY has been charged with the offence of [describe the offence] which is a civil forfeiture offence within the meaning of the Confiscation Act and a Restraining Order was made by the [name] Court on [date].
2. THE APPLICANT is—
  - \* the Director of Public Prosecutions
  - \* a prescribed person within the meaning of section 37
  - \* a person belonging to a prescribed class of persons, namely: [identify class]
3. THE RESPONDENT(S) to this application is/are—
  - \* the person who has been charged with a civil forfeiture offence
  - \* the person in respect of whose property the Order is sought
  - \* a person who the Applicant has reason to believe has an interest in the property
  - \* the applicant for the Restraining Order which is in force
  - \* a person to whom the Court has required that notice be given
4. THE GROUNDS on which this application will be made are as follows—

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Form 6-6F

---

*[set out in detail the grounds of the application]*

5. IF a Restraining Order is in force under Part 2 of the Confiscation Act, A TIME LIMIT APPLIES under section 37(3) of the Confiscation Act and this application will be made within the period of 7 days after the making of the Restraining Order.
6. IF the charge against XY has been withdrawn or finally determined, A TIME LIMIT APPLIES under section 37(3A) of the Confiscation Act and this application will be made—
  - \* within the period of 6 months after the day on which the charge was withdrawn or finally determined, as the case may be
  - \* after the end of that period, but **the Applicant will seek the leave of the Court** to make this application out of time
7. HAS ANY PREVIOUS APPLICATION been made under section 37(1) of the Confiscation Act in relation to the same civil forfeiture offence?
  - \* No such application has been made
  - \* Such an application was made on *[date]* but that application has not been finally determined
  - \* Such an application was made on *[date]* and has been finally determined, but **the Applicant will seek the leave of the Court** to make this further application

**\*THE APPLICANT WILL RELY** upon the affidavit(s) made by *[name of deponent(s)]* filed in support of this application and to be served herewith.

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the *[number]* Court, 210 William Street, Melbourne, on  
*[date]* at *[time of day or occasion]*.

*[Signed by Prothonotary]*

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS  
SERVED**

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to rely.

---

\* Delete if not applicable

---

Rule 6.06(1)(e)

**FORM 6-6G**

[heading as in Form 6-6C]

**NOTICE OF APPLICATION TO BE MADE UNDER  
SECTION 45 FOR RELIEF FROM HARDSHIP**

**TO:** [name and address of the person(s) on whom this application is to be served]

**("the Respondent(s)")**

**TAKE NOTICE THAT** [name and address of the person making the application]

**("the Applicant")**

**INTENDS TO APPLY** under section 45 of the Confiscation Act 1997 ("the Confiscation Act") **FOR THE FOLLOWING ORDERS—**

- (a) an order that an amount of [specify sum] be paid to [name of payee] out of the property forfeited in order to prevent hardship to [name of person for whose benefit this application is being made]
- (b) (if the person to benefit is under 18 years of age) such ancillary orders as will ensure that the amount so paid is properly applied

**THE ADDRESS FOR SERVICE** of the Applicant is: [insert address]

**PARTICULARS OF APPLICATION**

1. **THE JURISDICTION** to make the order(s) sought arises because—
  - \* property has been forfeited under a forfeiture order or a civil forfeiture order made in respect of XY on [date] on the application of [name]
  - \* application has been made by [name] for a forfeiture order or a civil forfeiture order in respect of XY
2. **THE APPLICANT** \*is/\*is not a person under the age of 18 years.
3. **THE RESPONDENT** to this application \*was/\*is the applicant for the forfeiture order \*made/\*sought in respect of XY.
4. **THE GROUNDS** on which this application will be made are as follows—

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

*[set out in detail the grounds of the application, including the facts relied upon to establish that the payment sought is reasonably necessary to prevent hardship to the person for whose benefit the application is made]*

**\*THE APPLICANT WILL RELY UPON** the affidavit(s) made by *[name of deponent(s)]* filed in support of this application and be served herewith.

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the *[number]* Court, 210 William Street, Melbourne, on  
*[date]* at *[time of day or the occasion]*.

*[Signed by Prothonotary]*

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to rely.

---

\* Delete if not applicable

---

Rule 6.06(1)(f)

**FORM 6-6H**

[heading as in Form 6-6C]

**NOTICE OF APPLICATION TO BE MADE UNDER PART 6  
OF THE CONFISCATION ACT FOR EXCLUSION ORDER**

**TO:** [name and address of the person(s) on whom this application is to be served]

**("the Respondent(s)")**

**TAKE NOTICE THAT** [name and address of the person making the application]

**("the Applicant")**

**INTENDS TO APPLY** under section \*49/\*51/\*53 of the Confiscation Act 1997 ("**the Confiscation Act**") **FOR THE EXCLUSION FROM FORFEITURE** of the following property: [describe in detail the property which it is sought to have excluded from forfeiture]

**THE ADDRESS FOR SERVICE** of the Applicant is: [insert address]

**PARTICULARS OF APPLICATION**

1. **THE JURISDICTION** to make the order(s) sought arises because certain property—
  - \* has been forfeited, or is sought to be forfeited, under a forfeiture order
  - \* has been forfeited under section 35 of the Confiscation Act
  - \* has been forfeited under section 38 of the Confiscation Act
2. **THE APPLICANT** is a person (other than the defendant) who claims an interest in the property or claims to have had an interest in the property immediately before it was forfeited.
3. **THE RESPONDENT(S)** to this application is/are—
  - \* the applicant for the forfeiture order
  - \* the Director of Public Prosecutions
  - \* a person who the Applicant has reason to believe has an interest

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

in the property or had an interest in the property immediately before it was forfeited

4. THE GROUNDS on which this application will be made are as follows—

*[set out in detail the grounds of the application]*

5. IF a forfeiture order has already been made or property has been forfeited under section 35 or 38, A TIME LIMIT APPLIES under section 49(2), 51(2) or 53(2) of the Confiscation Act and this application will be made—

- \* within the period of 60 days after the day on which the forfeiture order was made or the property was forfeited (as the case may be)
- \* after the end of that period of 60 days, but **the Applicant will seek the leave of the Court** to make this application out of time

**THE APPLICANT WILL RELY** upon the affidavit(s) made by *[name of deponent(s)]* filed in support of this application and to be served herewith.

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the *[number]* Court, 210 William Street, Melbourne, on  
*[date]* at *[time of day or the occasion]*.

*[Signed by Prothonotary].*

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to rely.

---

\* Delete if not applicable

---

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

**Form 6-6H**



Form 6-6J  
inserted by  
S.R. No.  
33/1999  
rule 16.

Rule 6.06(1)(g)

**FORM 6-6J***[heading as in Form 6-6C]*

**NOTICE OF APPLICATION TO BE MADE UNDER  
SECTION 58 FOR PECUNIARY PENALTY ORDER**

TO: *[full name and address of XY]*

("the Respondent")

TAKE NOTICE THAT *[name of the person making the application]*

("the Applicant")

**INTENDS TO APPLY FOR A PECUNIARY PENALTY ORDER** under  
section 58 of the Confiscation Act 1997 ("**the Confiscation Act**").

THE ADDRESS FOR SERVICE of the Applicant is: *[insert address]***PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because (or when) XY has been convicted of the offence of *[describe the offence]* which, within the meaning of the Confiscation Act 1997 ("**the Confiscation Act**"), is—
  - \* an automatic forfeiture offence
  - \* a forfeiture offence other than an automatic forfeiture offence
2. THE APPLICANT is the Director of Public Prosecutions.
3. THE RESPONDENT to this application is the person who has been convicted of (or if not yet convicted, has been charged with) the offence described above.
4. THE GROUNDS on which this application will be made are as follows—
 

*[set out in detail the grounds of the application]*
5. IF the Respondent has already been convicted of the offence described above, A TIME LIMIT APPLIES under section 58(3) of the Confiscation Act and this application will be made—
  - \* before the end of the relevant period (as defined by the Confiscation Act) in relation to the conviction
  - \* after the end of the relevant period (as so defined), but **the Applicant will seek the leave of the Court** to make this application out of time

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Form 6-6J

6. HAS ANY PREVIOUS APPLICATION been made under section 58 of the Confiscation Act in relation to the same conviction?

- \* No such application has been made
- \* Such an application was made on [date] but that application has not been finally determined
- \* Such an application was made on [date] and has been finally determined, but **the Applicant will seek the leave of the Court** to make this further application

\*7. THE APPLICANT will seek to have section 68 of the Confiscation Act applied in the assessment of the value of the benefits derived.

**\*THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 210 William Street, Melbourne, on  
[date] at [time of day or occasion].

[Signed by Prothonotary]

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to rely.

\* Delete if not applicable

Form 6-6K  
inserted by  
S.R. No.  
33/1999  
rule 16.

Rule 6.06(1)(h)

**FORM 6-6K**

[heading as in Form 6-6C]

**NOTICE OF APPLICATION TO BE MADE UNDER  
SECTION 63 FOR PECUNIARY PENALTY ORDER**

**TO:** [full name and address of XY]

**("the Respondent")**

**TAKE NOTICE THAT** [name of the person making the application]

**("the Applicant")**

**INTENDS TO APPLY FOR A PECUNIARY PENALTY ORDER** under  
section 63(1) of the **Confiscation Act 1997 ("the Confiscation Act")**.

**THE ADDRESS FOR SERVICE** of the Applicant is [insert address]

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because XY has been charged with the offence of [describe the offence] which is a civil forfeiture offence within the meaning of the Confiscation Act.
2. THE APPLICANT is—
  - \* the Director of Public Prosecutions
  - \* a prescribed person within the meaning of section 63 of the Confiscation Act
  - \* a person belonging to a prescribed class of persons, namely [identify class]
3. THE RESPONDENT to this application is the person who has been charged with the offence which is a civil forfeiture offence within the meaning of the Confiscation Act.
4. THE GROUNDS on which this application will be made are as follows—

[set out in detail the grounds of the application]
5. IF a Restraining Order is in force under Part 2 of the Confiscation Act, A TIME LIMIT APPLIES under section 63(3) and this application will be made—
  - \* within the period of 7 days after the making of the Restraining Order by the [name] Court on [date]

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Form 6-6K

- 
- \* after the expiry of that period of 7 days, but **the Applicant will seek the leave of the Court** to make this application out of time
6. IF the charge against XY has been withdrawn or finally determined, A TIME LIMIT APPLIES under section 63(3A) of the Confiscation Act and this application will be made—
- \* within the period of 6 months after the day on which the charge was withdrawn or finally determined, as the case may be
- \* after the end of that period, but **the Applicant will seek the leave of the Court** to make this application out of time
7. HAS ANY PREVIOUS APPLICATION been made under section 63(1) of the Confiscation Act in relation to the same civil forfeiture offence?
- \* No such application has been made
- \* Such an application was made on [date] but that application has not been finally determined
- \* Such an application was made on [date] and has been finally determined, but **the Applicant will seek the leave of the Court** to make this further application
- \*8. THE APPLICANT will seek to have section 68 of the Confiscation Act applied in the assessment of the value of the benefits derived.

**\*THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 210 William Street, Melbourne, on  
[date] at [time of day or occasion].

[Signed by Prothonotary]

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested. The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the Applicant any affidavit(s) on which you intend to rely.

---

\* Delete if not applicable

---

Rule 6.06(2)

**FORM 6-6L**

[heading as in Form 6-6C]

**NOTICE OF APPLICATION TO BE MADE UNDER SECTION  
[insert number] OF THE CONFISCATION ACT 1997**

**TO:** [name and address of the person(s) on whom this application is to be served]

**("the Respondent(s)")**

**TAKE NOTICE THAT** [name of the person making the application]

**("the Applicant")**

**INTENDS TO APPLY** under section [number] of the Confiscation Act 1997 ("**the Confiscation Act**") **FOR THE FOLLOWING ORDER(S)**—

[set out in detail the order(s) sought]

**THE ADDRESS FOR SERVICE** of the Applicant is: [insert address]

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because [set out circumstances giving rise to the jurisdiction, e.g. XY was convicted on [date] in the [name] Court of the offence of [describe] which is an automatic forfeiture offence within the meaning of the Confiscation Act OR XY will be charged within 48 hours with an offence which is a civil forfeiture offence OR the Supreme Court of Victoria made a Restraining Order on [date] in relation to the property of XY OR application has been made to the Supreme Court of Victoria for a Restraining Order in relation to the property of XY, OR as the case requires]
2. THE APPLICANT is [describe the standing of the Applicant to make the application, e.g. the Director of Public Prosecutions OR a person who has an interest in the property which is subject to a Restraining Order made on [date] OR a person who is caused hardship by the forfeiture of property under an order made on [date] in respect of the property of XY, OR as the case requires]

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

3. \*THE APPLICATION IS IN RESPECT OF the following property—  
[describe the property in detail]
4. THE RESPONDENT(S) to this application is/are—  
[describe the standing of the person(s) to whom notice is given, e.g. the person who obtained the Restraining Order (or the Forfeiture Order, as the case may be) in respect of XY OR a person who the Applicant has reason to believe has an interest in the property or the Director of Public Prosecutions, OR as the case requires]
5. THE GROUNDS on which this application will be made are as follows—  
[set out in detail the grounds of the application]
6. A TIME LIMIT \*does/\*does not apply in respect of this application. [If a time limit does apply, state what that time limit is and whether it has been observed and, if not, state **whether leave is sought** to make the application out of time and on what grounds]

**\*THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 210 William Street, Melbourne, on  
[date] at [time of day or occasion].

[Signed by Prothonotary]

**NOTES FOR THE PERSON(S) ON WHOM THIS NOTICE IS SERVED**

You are entitled to appear and to give evidence at the hearing of the application, but your absence on that occasion will not prevent the Court from making an order.

If you propose to contest this application, you are required to give the Applicant notice of the grounds on which the application is to be contested.

The Rules of the Supreme Court also provide that evidence may be given by affidavit. You must serve on the application any affidavit(s) on which you intend to rely.

---

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

**Form 6-6L**

---

\* Delete if not applicable

---



Form 6-6M  
inserted by  
S.R. No.  
33/1999  
rule 16.

Rule 6.10(2)

**FORM 6-6M***[heading as in Form 6-6C]***IMPORTANT NOTE**

TO: *[name and address of person being served with copy of Restraining Order]*

Enclosed is a copy of a Restraining Order made by the Supreme Court of Victoria on *[date]* in relation to the property of XY.

The Order was made under Part 2 of the **Confiscation Act 1997** of the State of Victoria. It was made for the purpose of satisfying automatic forfeiture of property that may occur under Division 2 of Part 3 of that Act.

Accordingly, the restrained property is forfeited to the State on the expiry of 60 days after the making of this restraining order or (if later) the conviction of XY of the automatic forfeiture offence in reliance upon which, or by reference to the charging or proposed charging of which, this Restraining Order was made **UNLESS WITHIN THAT PERIOD OF 60 DAYS** an application has been made for an exclusion order under section 22 of the **Confiscation Act 1997**.

The circumstances in which the Court may make an exclusion order, excluding property from the operation of the Restraining Order, are set out in section 22. If you wish to make such an application, you should act promptly.

Date:

*[Signed]*

**[Whenever a Restraining Order is made by the Court under Part 2 of the Confiscation Act 1997 for the purpose of automatic forfeiture, the above IMPORTANT NOTE, or a note to like effect, is to accompany a copy of the Court's order when it is being served.]**

---

Rule 6.11(1)

**FORM 6-6N**

IN THE SUPREME COURT OF VICTORIA

Proceeding No.

IN THE MATTER OF THE **Confiscation Act 1997**

and

IN THE MATTER of an offender or alleged offender, XY [*name in full*]

**NOTICE OF DISCHARGE OF FORFEITURE**

**TO:** [*name and address of person(s) to whom this notice is to be given*]

**TAKE NOTICE** that—

- \* a forfeiture order which was made by the Supreme Court of Victoria on [*date*] under Division 1 of Part 3 of the **Confiscation Act 1997** has been discharged under section 46 of the Act
- \* the automatic forfeiture of property under Division 2 of Part 3 of the **Confiscation Act 1997** has been discharged under section 47 of the Act
- \* a civil forfeiture order made by the Supreme Court of Victoria on [*date*] under Part 4 of the **Confiscation Act 1997** has been discharged under section 48 of the Act

otherwise than by payment in accordance with section 56 or 57 of the Act.

**THIS NOTICE** is given by—

- \* in the case of a forfeiture order or a civil forfeiture order, the person on whose application the order was made
- \* in the case of automatic forfeiture, the Director of Public Prosecutions

**THIS NOTICE** is given to you as—

- \* a person who the person giving this notice has reason to believe may have had an interest in the property immediately before it was forfeited
- \* a person to whom notice of the application for the civil forfeiture order was given under Part 4 of the Act

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

---

\* a person to whom, or as one within a class of persons to whom,  
the [name] Court has required that notice be given

**If you claim an interest in the property which was forfeited, you may  
make an application to the Minister under section 55 of the Act for the  
return of the property or its value.**

Date:

[Signed]

---

\* Delete if not applicable

Rule 7.03

**FORM 6-7A**

IN THE SUPREME COURT  
OF VICTORIA  
AT

In the matter of the  
**Listening Devices Act**  
**1969**; and in the matter  
of an application for a  
warrant pursuant to the  
Act

**COMPLAINT**

I, *[name of member of police force]*, *[rank of member]* of Police of *[station to which member is attached]* make complaint that I \*suspect/\*believe that—

(a) an offence \*has been/\*is about to be/\*is likely to be committed; and

(b) that for the purpose of—

\* an investigation into that offence,

\* enabling evidence to be obtained of the commission of that offence,

\* enabling evidence to be obtained of the identity of the offender,

the use of a listening device is necessary.

The complaint is made upon the facts and matters set out and deposed to in the affidavit of AB sworn on *[date]* in support of this complaint.

Date:

*[signed]*

\* Delete if not applicable.

Rule 7.05

**FORM 6-7B**

IN THE SUPREME COURT  
OF VICTORIA  
AT

In the matter of the  
**Listening Devices Act 1969**;  
and in the matter of an  
application for a warrant  
pursuant to the Act

**WARRANT**

The Court, being satisfied that there are reasonable grounds for the suspicion or belief of [*name of member of police force making complaint*], [*rank of member*] of Police, of [*station to which member is attached*] that—

- (a) an offence \*has been/\*is about to be/\*is likely to be committed; and
- (b) that for the purpose of—

- \*an investigation of that offence,

- \*enabling evidence to be obtained of the commission of that offence,

- \*enabling evidence to be obtained of the identity of the offender,

the use of a listening device is necessary—

1. Authorises the \*installation/\*use of a listening device and specifies the following:

- (a) The warrant is granted in respect of [*name of offence*];
- (b) The warrant authorises the recording of or listening to the private conversation(s) of [*name of person(s)*];<sup>(1)</sup>
- (c) The period for which the warrant is in force is from [*date (and time if applicable) for commencement of warrant*] to [*date (and time if applicable) or termination of warrant*], both inclusive;
- (d) The listening device may be used by:
  - (i) [*name(s) of person(s) who may use the device*]; and by
  - (ii) [*name(s) of person(s) who may use the device on behalf of person(s) named in (i)*] on \*his/\*her/\*their behalf;
- (e) \*The listening device is to be installed in [*description of premises*]/\*used at [*description of place*];

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Form 6–7B

- 
- (f) The conditions upon which the said premises may be entered or a listening device may be used are—

*[specify conditions];*

- (g) *[Person(s) authorised to use warrant]* \*is/\*are required to report under section 5 of the **Listening Devices Act 1969** to the Minister administering the **Police Regulation Act 1958** on or before *[time within which person must report]*.

2. Authorises and requires the retrieval of the listening device and authorises entry to *[description of premises]* for the purposes of installation and retrieval.<sup>(2)</sup>

Date:

*[signature of Judge authorising use of device]*

---

\* Delete if not applicable.

[Notes: 1. Item (b) should be completed if it is practicable to do so.

2. Paragraph 2 must be completed if the warrant authorises installation of a listening device.].
-

Form 6-8A  
inserted by  
S.R. No.  
33/1999  
rule 17.

Rule 8.02(1)

**FORM 6-8A**

IN THE SUPREME COURT OF VICTORIA

IN THE MATTER of the Proceeds of Crime Act 1987 (Commonwealth)

and

IN THE MATTER of a person convicted, CD [*name in full*]

BETWEEN:

AB      Applicant

and

CD      Respondent

**APPLICATION**

TO: [*Respondent*]

You have been convicted, or are taken to have been convicted, in the  
Supreme Court of Victoria [*or insert name of other court*] at [*place*]  
of [*set out details of conviction*].

TAKE NOTICE that the Applicant applies for the following orders against  
you: [*set out in detail the orders sought*]

Directions as to hearing of this application will be given by the Court [*state  
the date or the occasion, e.g. after sentence*]

Dated: [*e.g. 15 June, 19*]

[*Signed by Applicant*]

The address for service of the Applicant is: [*insert address*]

[*The form is to include, in a Schedule if necessary, details of any property in  
respect of which an order is sought.*]

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Form 6-8B

Form 6-8B  
inserted by  
S.R. No.  
33/1999  
rule 17.

Rule 8.02(2)

**FORM 6-8B**

IN THE SUPREME COURT OF VICTORIA

IN THE MATTER of the Proceeds of Crime Act 1987 (Commonwealth)

and

IN THE MATTER of an offender or alleged offender, CD [*name in full*]

BETWEEN:

AB      Applicant

and

CD      Respondent

**APPLICATION**

TO: [*Respondent*]

You have been \*convicted of/ \*charged with / \*are about to be charged with  
an indictable offence [*state offence(s)*]

TAKE NOTICE that the Applicant applies for the following orders against  
you: [*set out in detail the orders sought*]

Directions as to the hearing of this application will be given by the Court on  
[*state the date or occasion, e.g. after sentence*]

Dated: [e.g. 15 June, 19      ]

[*Signed by Applicant*]

The address for service of the Applicant is: [*insert address*]

[*This form is to include, in a Schedule if necessary, details of any property in  
respect of which an order is sought.*]

\* Delete if not applicable



Rule 9.03

**FORM 6-9A**

IN THE SUPREME COURT  
OF VICTORIA  
AT

In the matter of the  
**Witness Protection Act 1991**;  
and in the matter of an application  
for an application for an order  
under section 6 of the Act.

**APPLICATION**

I, [*name* ], Chief Commissioner of Police for Victoria HEREBY  
APPLY, pursuant to section 6 of the **Witness Protection Act 1991**, for an  
order authorizing [*name of member of police force*], [*rank of member*] of  
Police of [*station to which member is attached*] to make a new entry in the  
Register maintained under Part 7 of the **Births, Deaths and Marriages  
Registration Act 1996** in respect of [*name of witness and any other person  
in respect of whom a new entry is proposed*].

Date:

[*signed*].

---

---

Rule 10.03

**FORM 6-10A**

**NOTICE OF APPLICATION UNDER SECTION 42L OF THE  
EVIDENCE ACT 1958**

In the Supreme Court  
at

The Queen

v.

[*name of accused*]

**PARTICULARS OF APPLICATION**

TAKE NOTICE that the applicant, [*name of applicant*], intends to apply to the Court for a direction that the accused appear, or be brought, physically before it.

Type of hearing—[*insert details*].

Date of hearing—[*insert details*].

The grounds on which this application are made are—[*set out grounds*].

Date—

[*Signature*]

\_\_\_\_\_

Rules 10.04, 10.05 and 10.06    **FORM 6-10B**

**NOTICE OF APPLICATION UNDER SECTION 42M, 42N or  
42P OF THE EVIDENCE ACT 1958**

In the Supreme Court  
at

The Queen

v.

[*name of accused*]

**PART 1—PARTICULARS OF APPLICATION**

TAKE NOTICE that the applicant, [*name of applicant*], intends to apply to the Court for a direction that the accused appear before it by audio visual link.

1. Type of hearing—[*insert details*].
2. Date of hearing—[*insert details*].
3. The grounds on which this application is made are—[*set out grounds*].
4. Is this application being made with the consent of the parties to the proceeding?—
5. If the answer to question 4 is No, what parties have not given consent?—
6. If the accused is in custody, do facilities exist for an audio visual link?—

Date—

[*Signature*]

**PART 2—PARTICULARS OF HEARING**

(*to be completed by the Prothonotary*)

The application will be heard before the Judge in the Practice Court, Supreme Court, William Street, Melbourne, on [*e.g.* 20 June, 19    ] at a.m. [*or* p.m.] or so soon afterwards as the business of the Court allows.

FILED [*e.g.* 15 June, 19    ]'.

---

Dated: 26 March 1998

J. H. PHILLIPS, *C.J.*  
JOHN WINNEKE, *P.*  
ROBERT BROOKING, *J.A.*  
R. C. TADGELL, *J.A.*  
W. F. ORMISTON, *J.A.*  
JOHN D. PHILLIPS, *J.A.*  
J. M. BATT, *J.A.*  
PETER BUCHANAN, *J.A.*  
BARRY BEACH, *J.*  
G. HAMPEL, *J.*  
F. H. R. VINCENT, *J.*  
P. D. CUMMINS, *J.*  
ALLAN W. McDONALD, *J.*  
DAVID ASHLEY, *J.*  
JOHN J. HEDIGAN, *J.*  
J. A. COLDREY, *J.*  
DAVID BYRNE, *J.*  
D. L. HARPER, *J.*  
G. M. EAMES, *J.*  
H. R. HANSEN, *J.*  
PHILIP MANDIE, *J.*  
ROSEMARY BALMFORD, *J.*  
E. W. GILLARD, *J.*  
MURRAY B. KELLAM, *J.*

---

---

## NOTES

### 1. General Information

The Supreme Court (Criminal Procedure) Rules 1998, S.R. No. 33/1998 were made on 26 March 1998 by the Judges of the Supreme Court under section 25 of the **Supreme Court Act 1986**, No. 110/1986, sections 366 and 583 of the **Crimes Act 1958**, No. 6231/1958, section 68 of the **Sentencing Act 1991**, No. 49/1991, section 50 of the **Interpretation of Legislation Act 1984**, No. 10096/1984 and came into operation on 30 March 1998: rule 3.

The Supreme Court (Criminal Procedure) Rules 1998 will sunset 10 years after the day of making on 26 March 2008 (see section 5 of the **Subordinate Legislation Act 1994**).

The name of these Rules was changed from the Criminal Appeals and Procedures Rules 1998 to the Supreme Court (Criminal Procedure) Rules 1998 by rule 4(1) of the Supreme Court (Chapter VI Amendment No. 1) Rules 1999, S.R. No. 33/1999.

*Supreme Court (Criminal Procedure) Rules 1998*

*S.R. No. 33/1998*

Notes
-------

---

**2. Table of Amendments**

This Version incorporates amendments made to the Supreme Court (Criminal Procedure) Rules 1998 by statutory rules, subordinate instruments and Acts.

---

Supreme Court (Chapter VI Amendment No. 1) Rules 1999, S.R. No. 33/1999

*Date of Making:* 25.3.99

*Date of Commencement:* 25.3.99

Supreme Court (Chapter VI Amendment No. 2) Rules 1999, S.R. No. 113/1999

*Date of Making:* 26.8.99

*Date of Commencement:* 1.9.99: rule 3

---

### **3. Explanatory Details**

<sup>1</sup> Rule 1.03: S.R. No. 127/1988 as amended by S.R. Nos 46/1989, 124/1990, 104/1991, 156/1991, 209/1992, 261/1992, 182/1993, 71/1995, 57/1996, 119/1996, 60/1997 and 139/1997.