

Version No. 011
County Court Criminal Procedure Rules
2009

S.R. No. 183/2009

Version incorporating amendments as at
19 April 2014

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Version No. 011
County Court Criminal Procedure Rules
2009

S.R. No. 183/2009

Version incorporating amendments as at
19 April 2014

A majority of the Judges of the County Court makes the following Rules:

ORDER 1

PRELIMINARY

1.01 Object

The object of these Rules is to provide for the practice and procedure for criminal proceedings in the County Court.

1.02 Title

These Rules may be cited as the County Court Criminal Procedure Rules 2009 and constitute Chapter III of the Rules of the County Court.

1.03 Authorising provisions

These Rules are made under the **Criminal Procedure Act 2009**, section 78 of the **County Court Act 1958**, the **Children, Youth and Families Act 2005** and all other enabling powers.

1.04 Commencement

These Rules come into operation on 1 January 2010.

1.05 Definitions

In these Rules—

accused means a person—

- (a) who has been committed to the County Court for trial or directed to be tried at the County Court under section 167 of the Act; or
- (b) in respect of whom a direct indictment has been filed in the County Court;

appellant includes where an appellant is a child under the age of 15 years—

- (a) the child's parent; or
- (b) in the absence of the parent, the Secretary to the Department of Human Services;

barrister has the same meaning as it has in the **Legal Profession Act 2004**;

Note

The **Legal Profession Act 2004** defines ***barrister*** as an Australian legal practitioner who engages in legal practice solely as a barrister.

legal practitioner means the legal practitioner (as defined in section 3 of the Act) who acts for the accused and—

- (a) where an officer of Victoria Legal Aid so acts, includes such officer;
- (b) does not include a barrister, unless these Rules specifically provide otherwise;

offender means a person who has been sentenced by the Court;

person in default means an offender 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) of the **Sentencing Act 1991**;

the Act means the **Criminal Procedure Act 2009**.

1.06 Effect of noncompliance

- (1) A failure to comply with these Rules is an irregularity and does not render a proceeding or step taken, or any document, judgment or order in a proceeding 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.

1.07 Legal practitioner to notify that he or she acts

- (1) A legal practitioner who commences to act for an accused or an appellant must as soon as possible after commencing so to act—
 - (a) file with the Registrar a notice in Form 1A; and
 - (b) serve a copy of the notice on all other parties to the criminal proceeding.
- (2) A legal practitioner who ceases to act for an accused or an appellant must as soon as possible after so ceasing to act—
 - (a) file with the Registrar a notice in Form 1B; and
 - (b) serve a copy of the notice on all other parties to the criminal proceeding.

Note

See also section 249 of the Act.

r. 1.08

1.08 General applications

If a party to a criminal proceeding intends to make an application and there is no form prescribed by any Rules or by or under any Act for such an application, a general application in Form 1C may be used.

1.09 Subpoenas

Rule 1.09(1)
amended by
S.R. No.
95/2012
rules 5(1), 7.

- (1) Subject to this Rule and Rule 1.09.1, Order 42 of Chapter I of the Rules of the County Court (the County Court Civil Procedure Rules 2008¹) applies with any necessary modification to any criminal proceeding in the Court.

Rule 1.09(1A)
inserted by
S.R. No.
95/2012
rule 5(2).

- (1A) In a proceeding to which these Rules relate a subpoena shall be in accordance with Form 1D.
- (2) Leave of the Court is required to view all documents returned on a subpoena in any criminal proceeding.
- (3) A subpoena in a proceeding to which these Rules relate shall be served personally by giving a copy of the subpoena to the person to be served.

Rule 1.09(4)
inserted by
S.R. No.
95/2012
rule 5(3).

- (4) In a proceeding to which these Rules relate, the issuing party must attach to the front of a subpoena to produce to be served on the addressee a notice and declaration in accordance with Form 1E.

Rule 1.09(5)
inserted by
S.R. No.
95/2012
rule 5(3).

- (5) The addressee must—
- (a) complete the notice and declaration referred to in paragraph (4); and
 - (b) attach it to the subpoena or copy of the subpoena which accompanies the documents produced to the Court under the subpoena.

-
- (6) Subject to paragraph (7), the Registrar may, upon the expiry of four months from the conclusion of the proceeding, cause to be destroyed all the documents produced in the proceeding in compliance with a subpoena which were declared by the addressee to be copies.
- (7) The Registrar may cause to be destroyed those documents declared by the addressee to be copies which have become exhibits in the proceeding when they are no longer required in connection with the proceeding, including on any appeal.

Rule 1.09(6)
inserted by
S.R. No.
95/2012
rule 5(3).

Rule 1.09(7)
inserted by
S.R. No.
95/2012
rule 5(3).

1.09.1 Subpoenas under Trans-Tasman Proceedings Act 2010 of the Commonwealth

Rule 1.09.1
inserted by
S.R. No.
95/2012 rule 8.

- (1) In relation to a criminal proceeding to which the Trans-Tasman Proceedings Act 2010 of the Commonwealth applies, Order 7A of Chapter I applies with any necessary modification to a proceeding to which these Rules relate.
- (2) In relation to a criminal proceeding to which the Trans-Tasman Proceedings Act 2010 of the Commonwealth applies, a subpoena shall be in accordance with—
- (a) Form 1F, for a subpoena to give evidence;
 - (b) Form 1G, for a subpoena to produce documents;
 - (c) Form 1H, for a subpoena to give evidence and produce documents.
- (3) A subpoena in a criminal proceeding to which the Trans-Tasman Proceedings Act 2010 of the Commonwealth applies shall be served personally by giving a copy of the subpoena to the person to be served.

r. 1.10

1.10 Service of summons

A summons in a proceeding to which these Rules relate shall be served personally in accordance with section 391 (other than subsection (2)(c)) of the Act.

1.11 Service generally

Subject to Rules 1.09(3) and 1.10, any document that is required to be served under these Rules is to be served in accordance with Part 8.3 of Chapter 8 of the Act.

1.12 Orders in criminal proceedings

Orders in criminal proceedings must be recorded in a manner directed by the Chief Judge.

1.13 Commonwealth DPP

These Rules apply, with any necessary modification, to the Commonwealth DPP in the same manner as the Rules apply to the DPP.

Rule 1.14
revoked by
S.R. No.
31/2012
rule 12(1).

* * * * *

ORDER 2

TRIAL ON INDICTMENT RULES

2.01 Application of this Order

This Order applies to any criminal proceeding in the Court referred to in section 158 of the Act.

2.02 Filing an indictment

For the purpose of section 159(1) of the Act, an indictment is filed when it is provided to a Judge in open court.

2.03 Notice to accompany copy indictment—no legal practitioner representing accused

For the purposes of section 171(1)(b) of the Act, the form of notice is Form 2A.

2.04 Summons or warrant when direct indictment filed

- (1) A summons under section 174(2)(a) of the Act must be in Form 2B.
- (2) A warrant to arrest under section 174(2)(b) of the Act must be in Form 2C.
- (3) An application for a summons or warrant to arrest under section 174(1) of the Act must be made at the time of filing the direct indictment to which the application relates, unless the circumstances of the case require a later application.
- (4) A summons or warrant to arrest under section 174(2)(a) or (b) of the Act must be issued by a Judge.

2.05 Notice of discontinuance

- (1) A notice of discontinuance under section 177(1)(b) of the Act is filed when it is provided to a Judge in open court.

-
- (2) A notice of discontinuance under section 177(4) of the Act is filed when it is provided to the Registry.

2.06 Pre-trial conferences and directions hearings

Nothing said by or on behalf of an accused and no failure by an accused to answer a question at a directions hearing or a pre-trial conference, may be used in any subsequent trial or made the subject of any comment at that trial.

2.07 Notice of alibi

For the purposes of section 190 of the Act, a notice of alibi must be in Form 2D.

2.08 Application for order for taking evidence from a witness before trial

For the purposes of section 198 of the Act, an application for an order that the evidence of a person be taken at a time and place fixed by the Court must be in Form 2E.

2.09 Recording of date of arraignment

The date of arraignment of an accused shall be recorded in the records of the Court.

Note

See sections 210, 215 and 217 of the Act.

2.10 Notice of intention to plead guilty to remaining charges in indictment

- (1) For the purposes of section 216(1)(b) of the Act, notice of intention by the accused to plead guilty to the remaining charges in an indictment shall be in Form 2F.
- (2) The accused must sign each remaining charge to which he or she pleads guilty on the copy of the indictment attached to Form 2F.

2.11 Transfer of charge for unrelated summary offence

- (1) A party seeking to transfer a charge against an accused for a summary offence that is not a related summary offence to the Court under section 243 of the Act must apply to the Court no less than 21 days prior to the day on which the plea hearing is listed.
- (2) An application under section 243 of the Act must be in Form 2G.

2.12 Interlocutory appeals

- (1) A request for certification from a Judge under section 295(3) of the Act must be in Form 2H.
 - (2) A decision in relation to a certification must be recorded in the records of the Court.
-

ORDER 3

**APPEALS TO COUNTY COURT UNDER PART 6.1 OF
CHAPTER 6 OF THE CRIMINAL PROCEDURE ACT 2009**

3.01 Application of this Order

This Order applies to any appeal to the Court from the Magistrates' Court under Part 6.1 of Chapter 6 of the **Criminal Procedure Act 2009**.

3.02 Notice of appeal by offender

- (1) A notice of appeal and undertaking to proceed under section 255 of the Act must be in Form 3A.
- (2) A notice under section 255(6)(a) of the Act must—
 - (a) be in Form 3B; and
 - (b) be provided to the appellant prior to a notice of appeal and undertaking to proceed being accepted for filing.
- (3) The notice of appeal and undertaking to proceed must be signed by the appellant in the presence of—
 - (a) the Registrar of the Magistrates' Court with whom the notice of appeal is filed; or
 - (b) if the appellant is in a prison, youth justice centre or youth residential centre—
 - (i) the officer in charge of the prison, youth justice centre or youth residential centre; or
 - (ii) any prison officer of or above the rank of senior prison officer; or

-
- (c) if the appellant is in a police gaol, a member of the police force—
 - (i) of or above the rank of sergeant; or
 - (ii) for the time being in charge of a police station.

3.03 Appeals by DPP against sentence or failure to fulfil undertaking

- (1) A notice of appeal referred to in section 258 of the Act in respect of an appeal by the DPP under section 257 of the Act—
 - (a) must be in Form 3C; and
 - (b) must state the general grounds of appeal on which the DPP intends to rely upon the hearing of the appeal.

Rule 3.03(1)
substituted by
S.R. No.
31/2012 rule 5.

Note

Section 258(1) of the Act requires the notice of appeal to be filed within 28 days after the day on which the sentence of the Magistrates' Court is imposed.

- (1A) A notice of appeal referred to in section 261 of the Act in respect of an appeal by the DPP under section 260 of the Act—
 - (a) must be in Form 3C; and
 - (b) must state the general grounds of appeal on which the DPP intends to rely upon the hearing of the appeal.
- (2) Within 7 days after serving notice of appeal, the DPP must file—
 - (a) a copy of the notice of appeal; and
 - (b) an affidavit of service.

Rule 3.03(1A)
inserted by
S.R. No.
31/2012 rule 5.

Note

Section 258(2) of the Act requires notice of appeal against a sentence imposed by the Magistrates' Court to be served on the respondent within 7 days after the day on which the notice is filed.

Section 261(2) of the Act requires a notice of appeal for failure to fulfil an undertaking to be served on the respondent within 14 days after the day on which the notice is filed.

3.04 Registrar to fix date or hearing of appeal

The Registrar shall—

- (a) fix the date and place for hearing of the appeal; and
- (b) notify in writing each party and each legal practitioner who has given notice under Rule 1.07 of the date and place of hearing within a reasonable time before the hearing.

3.05 Abandonment of appeal

- (1) A notice of abandonment of appeal must be in Form 3D.
- (2) Subject to paragraphs (3) and (4), when a notice of abandonment of appeal is filed the Registrar must make an order striking out the appeal.
- (3) If a notice of abandonment of appeal is filed on the day on which the appeal is listed for hearing, a Judge must make an order striking out the appeal.
- (4) Where an appeal against conviction is abandoned, but an appeal against sentence is pursued under section 266(2) of the Act, the Court must not strike out the appeal.

**3.06 Written notice of abandonment of appeal—
conviction only**

Written notice under section 266(2) of the Act that an appeal against conviction is abandoned, but an appeal against sentence is pursued, must be in Form 3E.

3.07 Application to set aside an order striking out appeal for failure to appear

- (1) An application under section 267(3) of the Act to set aside an order striking out an appeal for failure to appear must be in Form 3F.
- (2) The Registrar must immediately forward a copy of the application to the court where the original sentence or order was imposed.

3.08 Recording and notification of result of appeal

- (1) The Court must record the result of an appeal in Form 3G.
 - (2) The Registrar must forward the result of appeal to—
 - (a) the court where the original sentence or order was imposed;
 - (b) the parties; and
 - (c) any person or authority concerned with the administration of any sentence or order originally imposed in the Magistrates' Court, or any sentence or order imposed by the Court on appeal.
 - (3) If a number of appeals are heard together, it is not necessary to record the sentence on a separate result of appeal, but the sentence or particulars of each charge must be recorded in full.
 - (4) Where the Court has imposed a sentence of imprisonment or detention, the result of appeal shall be sufficient to authorise the keeping of the appellant for the period and in the manner set out in the record.
-

ORDER 4

**APPEALS TO COUNTY COURT UNDER PART 5.4 OF
CHAPTER 5 OF THE CHILDREN, YOUTH AND FAMILIES
ACT 2005**

4.01 Application of this Order

This Order applies to any appeal to the Court under Part 5.4 of Chapter 5 of the **Children, Youth and Families Act 2005**.

4.02 Notice of appeal by offender

- (1) A notice of appeal and undertaking to proceed under section 425 of the **Children, Youth and Families Act 2005** must be in Form 4A.
- (2) The notice of appeal and undertaking to proceed must be signed by the appellant in the presence of—
 - (a) the Registrar of the Children's Court with whom the notice of appeal is filed; or
 - (b) if the appellant is in a prison, youth justice centre or youth residential centre—
 - (i) the officer in charge of the prison, youth justice centre or youth residential centre; or
 - (ii) any prison officer of or above the rank of senior prison officer; or
 - (c) if the appellant is in a police gaol, a member of the police force—
 - (i) of or above the rank of sergeant; or
 - (ii) for the time being in charge of a police station.

4.03 Appeals by DPP against sentence

- (1) A notice of appeal by the DPP under section 427 of the **Children, Youth and Families Act 2005** must be in Form 4B.

Note

Section 428 of the **Children, Youth and Families Act 2005** provides for the notice of appeal to be filed in the Children's Court within 28 days after the Children's Court imposes the sentence and requires the notice of appeal to be transmitted to the appellate court.

- (2) Within 7 days after serving notice of appeal, the DPP must file—
 - (a) a copy of the notice of appeal; and
 - (b) an affidavit of service.

Note

Section 428(2) of the **Children, Youth and Families Act 2005** requires the notice of appeal against a sentence imposed by the Children's Court to be served on the respondent within 7 days after the day on which the notice is filed.

4.04 Registrar to fix date or hearing of appeal

The Registrar shall—

- (a) fix the date and place for hearing of the appeal; and
- (b) notify in writing each party and each legal practitioner who has given notice under Rule 1.07 of the date and place of hearing within a reasonable time before the hearing.

4.05 Abandonment of appeal

- (1) A notice of abandonment of appeal must be in Form 4C.
- (2) Subject to paragraphs (3) and (4), when a notice of abandonment of appeal is filed the Registrar must make an order striking out the appeal.

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- (3) If a notice of abandonment of appeal is filed on the day on which the appeal is listed for hearing, a Judge must make an order striking out the appeal.
 - (4) Where an appeal against conviction is abandoned, but an appeal against sentence is pursued under section 430C of the **Children, Youth and Families Act 2005**, the Court must not strike out the appeal.

**4.06 Written notice of abandonment of appeal—
conviction only**

Written notice under section 430C(3) of the **Children, Youth and Families Act 2005** that an appeal against conviction is abandoned, but an appeal against sentence is pursued, must be in Form 4D.

**4.07 Application to set aside an order striking out appeal
for failure to appear**

- (1) An application under section 430D(3) of the **Children, Youth and Families Act 2005** to set aside an order striking out an appeal for failure to appear must be in Form 4E.
- (2) The Registrar must immediately forward a copy of the application to the court where the original sentence or order was imposed.

4.08 Recording and notification of result of appeal

- (1) The Court must record the result of an appeal in Form 4F.
- (2) The Registrar must forward the result of appeal to—
 - (a) the court where the original sentence or order was imposed;
 - (b) the parties; and

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- (c) any person or authority concerned with the administration of any sentence or order originally imposed in the Magistrates' Court, or any sentence or order imposed by the Court on appeal.
- (3) If a number of appeals are heard together, it is not necessary to record the sentence on a separate result of appeal, but the sentence or particulars of each charge must be recorded in full.
- (4) Where the Court has imposed a sentence of imprisonment or detention, the result of appeal shall be sufficient to authorise the keeping of the appellant for the period and in the manner set out in the record.
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ORDER 5

FINE ENFORCEMENT RULES

PART 1—SENTENCING ACT 1991

5.01 Proper officer

Rule 5.01
amended by
S.R. No.
14/2014 rule 5.

For the purposes of Part 3B of the **Sentencing Act 1991**, the proper officer of the Court is—

- (a) a Registrar; or
- (b) a Judge.

5.02 Application

Rule 5.02(1)
amended by
S.R. No.
14/2014 rule 6.

- (1) An application under section 57, 60, 61 or 65 of the **Sentencing Act 1991** must be—
 - (a) in Form 5A; and
 - (b) accompanied by an affidavit of financial circumstances in a form approved by the Chief Judge.
- (2) If the offender is a corporation, the application and accompanying affidavit must be signed by an authorised officer of the corporation.
- (3) An application must be filed with the Registrar by—
 - (a) attending in person during normal business hours at the Court; or
 - (b) sending the application by post to the proper officer if the offender—
 - (i) resides outside Victoria; or
 - (ii) is held in a prison, police gaol or youth training centre; or
 - (iii) is unable to attend personally because of illness, infirmity or distance from the Court.

(4) When an application under section 57, 60, 61 or 65 of the **Sentencing Act 1991** is filed with the Registrar, the Registrar may—

Rule 5.02(4)
amended by
S.R. No.
14/2014 rule 6.

- (a) deal with the application at the time of filing or
- (b) appoint a time and place for the hearing of the application and notify the offender.

5.03 Stay of enforcement or execution

Rule 5.03
amended by
S.R. No.
14/2014 rule 6.

Unless a Judge or the Registrar otherwise orders, the filing of an application under section 57, 60, 61 or 65 of the **Sentencing Act 1991** operates as a stay until the application is determined.

5.04 Consideration of application

In considering an application the proper officer may—

- (a) question the offender about the offender's financial circumstances; and
- (b) require the offender to make an affidavit or produce any document concerning the offender's financial circumstances.

5.05 Order and notice

- (1) After the determination of an application under section 57, 60, 61 or 65 of the **Sentencing Act 1991**, the proper officer must cause to be given or posted to the offender within 14 days, a copy of any order made.
- (2) Upon granting an application, a copy of the order must be forwarded to the prosecuting agency.

Rule 5.05(1)
amended by
S.R. No.
14/2014 rule 6.

r. 5.06

5.06 Enforcement of fine against a natural person

Rule 5.06(1)
substituted by
S.R. No.
31/2012 rule 6,
amended by
S.R. No.
14/2014
rule 7(1).

- (1) An order under section 65 of the **Sentencing Act 1991** must be in Form 5B.

Rule 5.06(1A)
inserted by
S.R. No.
31/2012 rule 6,
amended by
S.R. No.
14/2014
rule 7(2).

- (1A) An order under section 69D(2) or 69H(2)(a) of the **Sentencing Act 1991** must be in Form 5BA.

Rule 5.06(2)
amended by
S.R. No.
14/2014
rule 7(3).

- (2) A statement in writing under section 69C(3) of the **Sentencing Act 1991** must be in Form 5C.

Rule 5.06(2A)
inserted by
S.R. No.
104/2012
rule 10,
amended by
S.R. No.
14/2014
rule 7(4).

- (2A) An application under section 68 or 69J of the **Sentencing Act 1991** must be in Form 5CA.

Rule 5.06(3)
amended by
S.R. No.
14/2014
rule 7(5).

- (3) A warrant to arrest under section 69M(2) of the **Sentencing Act 1991** must be in Form 5D.

Rule 5.06(4)
amended by
S.R. No.
14/2014
rule 7(6).

- (4) A summons under section 69M(1) of the **Sentencing Act 1991** must be in Form 5E.

Rule 5.07
amended by
S.R. No.
14/2014 rule 8.

5.07 Enforcement of fine against body corporate

A statement in writing under section 69Y(3) of the **Sentencing Act 1991** must be in Form 5F.

5.08 Bail—undertaking to attend

- (1) The Sheriff or a member of the police force who arrests a person in default in accordance with a warrant issued under section 69(1) of the **Sentencing Act 1991** may, unless a Judge or Registrar has otherwise ordered, release the person in default upon that person entering into an undertaking of bail to attend before the Court.
- (2) An offender in default may be released from custody without being taken before the Court if the offender—
 - (a) has been taken into custody in accordance with a warrant to arrest issued under section 69(1) of the **Sentencing Act 1991**; and
 - (b) the outstanding amount of the fine specified in the warrant is paid.

Rule 5.08(1)
amended by
S.R. No.
14/2014
rule 9(1).

Rule 5.08(2)(a)
amended by
S.R. No.
14/2014
rule 9(2).

5.09 Warrant of commitment

- (1) If under section 69H(2)(b) of the **Sentencing Act 1991** the Court orders that a person in default be imprisoned, the Court must direct the Registrar to issue a warrant of commitment committing the person to prison for the term specified by the Court.
- (2) A warrant of commitment must be in Form 5G.
- (3) A warrant of commitment—
 - (a) may be recalled and cancelled by the Registrar; and
 - (b) may be issued or executed on a Sunday; and
 - (c) is not void by reason of a defect or error in it.

Rule 5.09(1)
amended by
S.R. No.
14/2014
rule 10.

PART 2—APPLICATIONS UNDER THE SHERIFF ACT 2009

5.10 Application for reinstatement of certain money warrants

- (1) An application under section 28 of the **Sheriff Act 2009** for reinstatement of an executed money warrant as a money warrant shall be made by summons in the proceeding in Form 5H.

Note

Section 28(3) of the **Sheriff Act 2009** provides that this application is to be made within 28 days after the person named or described in the relevant money warrant receives notice from the Sheriff under section 27(9) of that Act that a third party has paid the whole of the amount payable under that warrant.

- (2) A summons under paragraph (1) shall be supported by an affidavit—
- (a) stating the facts on which the application is made;
 - (b) giving particulars of the executed money warrant; and
 - (c) exhibiting the notice served on the applicant under section 27(9) of the **Sheriff Act 2009**.

5.11 Filing and service of summons

- (1) A summons under Rule 5.10 shall be filed with the Registrar.
- (2) The summons and a copy of the supporting affidavit shall be served on—
- (a) the Sheriff; and
 - (b) the third party who paid the whole of the amount payable under the executed money warrant.
-

ORDER 6

MAJOR CRIME INVESTIGATIVE POWERS RULES

6.01 Definition

In this Order, *the Act* means the **Major Crime (Investigative Powers) Act 2004**.

6.02 Application to determine legal professional privilege

An application by the Chief Examiner under section 42 of the Act may be in Form 6A.

6.03 Warrant for arrest

A warrant for arrest issued by the Court under section 46 of the Act may be in Form 6B.

6.04 Filing for documents

Unless the Court otherwise orders, an application and any affidavit in support shall—

- (a) be filed before the application is made with the Registrar within 7 days after lodgement of the sealed document or other thing; and
 - (b) not be available for inspection by any person.
-

ORDER 7

IDENTITY CRIME RULES

7.01 Identity crime certificate

An identity crime certificate issued under section 89F of the **Sentencing Act 1991** may be in Form 7A.

7.02 Notice to prosecutor to assist

Notice under section 89H(2) of the **Sentencing Act 1991** directed to a person who prosecuted an identity crime offence within the meaning of that Act to appear at the hearing of an application for an identity crime certificate to provide assistance to the Court in relation to the application may be in Form 7B.

ORDER 8
SENTENCING ACT 1991 RULES

Order 8
(Heading and
rule 8.01)
inserted by
S.R. No.
31/2012 rule 7.

**8.01 Application to deal with community correction
order under section 48M of Sentencing Act 1991**

Rule 8.01
inserted by
S.R. No.
31/2012 rule 7.

An application under section 48N(1) of the
Sentencing Act 1991 to deal with a community
correction order under section 48M of that Act
may be in Form 8A.

**8.02 Application for review of direction by Secretary
under Division 3 of Part 3C of the Sentencing
Act 1991**

Rule 8.02
inserted by
S.R. No.
110/2013
rule 5.

An application under section 83AY of the
Sentencing Act 1991 may be in Form 8B.

Form 1A

FORMS

RULE 1.07

FORM 1A

IN THE COUNTY COURT CASE No.:
OF VICTORIA
AT

IN THE MATTER OF:

NOTICE THAT LEGAL PRACTITIONER ACTS

THIS FORM IS FILED ON BEHALF OF:

ADDRESS:

THIS MATTER IS NEXT LISTED ON: *[date]* FOR .

CONTACT DETAILS

[If represented, please complete the legal practitioner details below]

Contact No.: Email address:

Address for service:

Firm: Practitioner's Name:

Solicitor Code: Ref.:

TAKE NOTICE that the legal practitioner (or firm) indicated above acts for the person named.

I **HAVE/*HAVE NOT* been instructed to accept personal service of documents on behalf of the accused.

Date:

[Signed]

**delete if not applicable.*

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1A

Note

This notice must be sent to the DPP and any other party to the criminal proceeding and filed with the County Court Registry immediately after a practitioner commences to act for an accused.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1B

RULE 1.07

FORM 1B

IN THE COUNTY COURT CASE No.:
OF VICTORIA
AT

IN THE MATTER OF:

NOTICE THAT LEGAL PRACTITIONER HAS CEASED TO ACT
THIS FORM IS FILED ON BEHALF OF:
ADDRESS:

THIS MATTER IS NEXT LISTED ON: [date] FOR .

CONTACT DETAILS

Contact No.: Email address:
Address for service:
Firm: Practitioner's Name:
Solicitor Code: Ref.:

TAKE NOTICE that the legal practitioner (or firm) indicated above no longer acts for the person named.

FORMER CLIENT'S CONTACT DETAILS (if known)

New Practitioners' name:

OR

Address for service:
Contact No.: Email address:
Date:

[Signed]

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1B

Note

This notice must be served on—

- the DPP/Respondent, and
- the County Court Registry—

immediately after a legal practitioner has ceased to act for an accused.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1C

Date:

*[Signature of Applicant/
Applicant's Legal Practitioner]*

LISTING OF APPLICATION

This application is listed for hearing before the County Court at *[place]* at *[time]* a.m./p.m. on *[date]*.

Date:

*Registrar/*Deputy Registrar

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1D

Form 1D
inserted by
S.R. No.
95/2012 rule 6,
amended by
S.R. No.
110/2013
rule 6.

RULE 1.09(1A)

FORM 1D

CASE No.:

IN THE COUNTY COURT
OF VICTORIA
AT

BETWEEN:

*THE QUEEN/*THE DIRECTOR OF PUBLIC
PROSECUTIONS

Prosecution

AND

ACCUSED #1
(and others according to the Schedule of Parties)

Accused

SUBPOENA

Date of Document:

Solicitors Code:

Filed on behalf of:

Telephone:

Prepared by:

DX:

Ref:

To *[name]*:

of *[address]*:

YOU ARE ORDERED:

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

**Select one only of these three options*

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

The last day for service of this subpoena is:

(See Note 1)

Please read Notes 1 to 13 at the end of this subpoena.

[Seal of the Court]

Date:

Issued at the request of [*name of party*], whose address for service is:

A. Details of subpoena to attend to give evidence only

Date, time and place at which you must attend to give evidence:

Date: [*insert date*] or, if notice in writing of a later date is given to you by the [*identify issuing party*] or by the solicitor for that party, the later date.

Time:

Place:

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

Alternatively, if notice of a later day is given to you by a member of the police or the Solicitor for Public Prosecutions, you must attend on that day until you are excused from further attending.

B. Details of subpoena to produce only

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below so that they are received not less than three days before the day specified for attendance and production. (See Notes 5 to 9)

Alternatively, if notice of a later day is given to you by a member of the police or the Solicitor for Public Prosecutions, you must attend and produce the subpoena, or a copy of it, with the required documents or things on that day until you are excused from further attending.

Form 1D

Date, time and place at which to attend to produce the subpoena or a copy of it and the documents or things:

Date: [*insert date*] or, if notice in writing of a later date is given to you by the [*identify issuing party*] or by the solicitor for that party, the later date.

Time:

Place:

Address to which the subpoena (or copy) and documents or things may be delivered or sent by post:

The Registrar

[County Court of Victoria
venue]

SCHEDULE

The documents and things you must produce are as follows:

[*If insufficient space attach list*]

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

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows:

Date: [*insert date*] or, if notice in writing of a later date is given to you by the [*identify issuing party*] or by the solicitor for that party, the later date.

Time:

Place:

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

Alternatively, if notice of a later day is given to you by a member of the police or the Solicitor for Public Prosecutions, you must attend on that day until you are excused from further attending.

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

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or

-
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to the Registrar at the address below so that they are received not less than three days before the day specified for attendance and production. (*See Notes 5 to 9*)

Alternatively, if notice of a later day is given to you by a member of the police or the Solicitor for Public Prosecutions, you must attend and produce the subpoena, or a copy of it, with the required documents or things on that day until you are excused from further attending.

Date, time and place at which to attend to produce the subpoena or a copy of it and the documents or things:

Date: [*insert date*] or, if notice in writing of a later date is given to you by the [*identify issuing party*] or by the solicitor for that party, the later date.

Time:

Place:

Address to which the subpoena or a copy of it and documents or things must be delivered or sent by post:

The Registrar

[County Court of Victoria
venue]

SCHEDULE

The documents and things you must produce are as follows:

[*If insufficient space attach list*]

NOTES

Last day for service

1. Subject to Note 2, you need not comply with the subpoena unless it is served on you on or before the day specified in the subpoena as the last day for service of the subpoena.
2. Even if this subpoena has not been served personally on you, you must, nevertheless, comply with its requirements, if you have, by the last day for service of the subpoena, actual knowledge of the subpoena and of its requirements.

Form 1D

Addressee a corporation

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

Conduct money

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

Production to the Registrar

5. In so far as this subpoena requires production of the subpoena or a copy of it and a document or thing, instead of attending to produce the subpoena or a copy of it and the document or thing, you may comply with the subpoena by delivering or sending the subpoena or a copy of it and the document or thing to the Registrar at the address specified in the subpoena for the purpose so that they are received not less than three days before the day specified in the subpoena for attendance and production.
6. You may object to a document or thing produced by you in response to the subpoena being inspected by a party to the proceeding. Even if you do not object, leave of the Court is required for the parties to the proceeding to inspect a document or thing produced by you in response to the subpoena.
7. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
8. If you produce more than one document or thing, you must, if requested by the Registrar, produce a list of the documents or things produced.
9. If the subpoena requires you to produce a document, you may produce a copy of the document unless the subpoena specifically requires you to produce the original.
- 9A. The copy of a document may be—
 - (a) a photocopy; or
 - (b) in PDF format on a CD-Rom.

Applications in relation to subpoena

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

Loss or expense of compliance

11. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness expenses) in respect of the loss or expense, including legal costs reasonably incurred in complying with the subpoena.

Contempt of court—arrest

12. Failure to comply with a subpoena without lawful excuse is a contempt of court and may be dealt with accordingly.
13. Note 12 is without prejudice to any power of the Court under any Rules of the County Court (including any Rules of the County Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

SCHEDULE OF PARTIES

THE QUEEN/DIRECTOR OF
PUBLIC PROSECUTIONS

Prosecution

and

ACCUSED #1	CASE No. 00-00000
ACCUSED #2	CASE No. 00-00000
ACCUSED #3	CASE No. 00-00000
ACCUSED #4	CASE No. 00-00000
ACCUSED #5	CASE No. 00-00000
ACCUSED #6	CASE No. 00-00000

Form 1E

Form 1E
inserted by
S.R. No.
95/2012 rule 6.

RULE 1.09(4)

FORM 1E

NOTICE TO ADDRESSEE AND DECLARATION

[heading as in originating process]

To: *[name of person to whom the subpoena is addressed and who will be the recipient of the subpoena]*

of *[address]*:

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

- (a) a photocopy; or
- (b) in PDF format on a CD-Rom.

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

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

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

DECLARATION BY ADDRESSEE (SUBPOENA RECIPIENT)

[tick the relevant option below, provide your address as appropriate, sign and date]

- All** of the material I am providing to the Court in compliance with the attached subpoena is copies of documents. I acknowledge that the Court will destroy the copies once they are no longer required, without further notice to me.
- Some or all** of the material I am providing to the Court in compliance with the attached subpoena is an **original** document. Once the material is no longer required, all of the material should be returned to me at the following address—

[insert address for return of material].

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1E

Date:

[signature of addressee]

[name of addressee]

Form 1F

Form 1F
inserted by
S.R. No.
95/2012 rule 9
(as amended
by
S.R. No.
110/2013
rule 11).

RULE 1.09.1(2)(a)

FORM 1F

SUBPOENA TO GIVE EVIDENCE (NEW ZEALAND)

CASE No.:

IN THE COUNTY COURT
OF VICTORIA
AT

BETWEEN:

*THE QUEEN/*THE DIRECTOR OF PUBLIC
PROSECUTIONS

Prosecution

AND

ACCUSED #1
(and others according to the Schedule of Parties)

Accused

Notice to Witness

Trans-Tasman Proceedings Act 2010

This Notice is very important.

Please read it and the attached document or documents very carefully.

**If you have any trouble understanding these documents you should get
legal advice as soon as possible.**

Attached to this notice is a subpoena.

The subpoena has been issued by the County Court of Victoria.

The subpoena may be served in New Zealand under New Zealand law
(see section 163 of the Evidence Act 2006 (New Zealand)).

This notice:

- sets out your rights relating to the subpoena; and
- sets out your obligations relating to the subpoena; and
- includes information about the way in which you may make an application to have the subpoena set aside.

Filed on behalf of [*name and role of party*]

Prepared by [*name of person/lawyer*]

Law firm *[if applicable]*

Tel

Fax

Email

Address for service
[include State and postcode]

Your rights

1. You are entitled to receive payment of an amount equal to the reasonable expenses you incur in complying with the subpoena.
2. An amount of money, or money and vouchers that is sufficient to meet your reasonable expenses of complying with the subpoena must be given to you within a reasonable time before the date for compliance with the subpoena (see below: '**Your obligations**').
3. If, in complying with the subpoena, you incur expenses that are more than the amount that was given to you before you complied, you may obtain an order from the County Court of Victoria that you be paid the additional amount you incurred.
4. You may apply to the County Court of Victoria to have the subpoena wholly or partly set aside. If you wish to apply to have the subpoena set aside you should get legal advice as soon as possible.
5. An application can be made and determined by that Court without you having to go to Australia, or to retain Australian lawyers. All the necessary arrangements can be made in New Zealand.

Note: Details of some of the grounds on which a subpoena can be set aside and the procedures for setting aside a subpoena are set out at the end of this notice.

Your obligations

1. Unless the subpoena is set aside, you must comply with the attached subpoena if:
 - (a) when the subpoena was served on you, or at some reasonable time before the date specified in the subpoena for compliance with it, you were offered or given either:
 - (i) enough money to meet your reasonable expenses in complying with it, including any travel and accommodation expenses; or
 - (ii) a combination of money and vouchers (for example, travel tickets) to meet those expenses; and

Form 1F

- (b) you were given with the subpoena a copy of an order by a judge giving leave to serve the subpoena in New Zealand; and
- (c) the subpoena was served on you before or on the date specified in the order as the last day on which the subpoena may be served; and
- (d) service of the subpoena complied with any other conditions specified in the order; and
- (e) you are 18 years of age or older.

Failure to comply with the subpoena

If you do not comply with the subpoena you may be arrested and taken before the High Court of New Zealand. Unless the High Court is satisfied that failure to comply should be excused, a fine not exceeding NZ\$10 000 may be imposed.

Grounds for setting aside a subpoena

1. The Court must set aside the subpoena if the subpoena requires you to attend at a place in Australia and:
 - (a) you do not have necessary travel documents and cannot reasonably get them within the time allowed for compliance with the subpoena; or
 - (b) if you complied with the subpoena—you would be liable to be detained for the purpose of serving a sentence; or
 - (c) you are being prosecuted or you are liable to prosecution for an offence in Australia; or
 - (d) you are liable to imposition of a penalty in civil proceedings in Australia (other than proceedings under the Australian Consumer Law); or
 - (e) you are subject to a restriction on your movements imposed by law or an order of a Court that is inconsistent with you complying with the subpoena (for example, bail conditions, release conditions or terms of a community based sentence).
2. The grounds on which the Court may set aside the subpoena include:
 - (a) the evidence you would give in the proceedings can be obtained satisfactorily by other means without significantly greater expense;
 - (b) compliance with the subpoena would cause you hardship or serious inconvenience;

-
- (c) if the subpoena requires you to produce a document or thing and:
- (i) that document or thing should not be taken out of New Zealand; and
 - (ii) satisfactory evidence of the contents of the document or satisfactory evidence of the thing can be given by other means.

Note: The above list does not include all the matters the Court will consider in an application to set aside a subpoena, but if any of the matters in the list apply to you they should be included in your application.

Procedure for applying to set aside a subpoena

1. Application must be made to the County Court of Victoria.
2. You may fax your application to that Court on fax number [*fax number of the Court*].
3. Your application must contain an address for service in New Zealand or Australia. Any documents to be served on you will be delivered, faxed or posted to you at that address.
4. The Registrar will arrange for service of your application and of any affidavit you lodge with the Court with your application.
5. The Court may determine your application without a hearing unless you, or the person who requested that the subpoena be issued, asks for a hearing.
6. If there is a hearing the Court can direct that it be held by video link (that is, a conference television link) or telephone. In that case you or your lawyer can take part in the hearing by video link or by telephone from a place in New Zealand.
7. If, in your application or within a reasonable time after lodging your application, you request that the hearing be held by video link or telephone, the Court must hold a hearing by video link or telephone. However, in such a case, the Court will determine which of video link or telephone will be used.

Form 1F

SUBPOENA TO GIVE EVIDENCE (NEW ZEALAND)

TO: [*name and address*]

You are ordered to attend to give evidence. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest and the imposition of a fine under section 165 of the Evidence Act 2006 (New Zealand).

Please read Notes 1 to 8 at the end of this subpoena.

The last date for service of this subpoena is [*date*]. (See Note 2)

Date:

Signed by Registrar

Issued at the request of [*name of party*], whose address for service is:

Place:

Email:

Details of subpoena

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

Date:

Time:

Place:

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

Notes

Leave to serve subpoena

1. You need not comply with this subpoena unless it is accompanied by:
 - (a) a copy of the order giving leave to serve this subpoena in New Zealand; and
 - (b) a notice in the prescribed form that:
 - (i) sets out your rights and obligations in relation to this subpoena; and

-
- (ii) includes information about the way in which an application to have this subpoena set aside may be made.

Last day for service

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

Informal service

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

Addressee a corporation

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

Applications in relation to subpoena

5. You have the right to apply to the Court for an order with respect to any claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of this subpoena.

Loss or expense of compliance

6. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with this subpoena.

Contempt of court—arrest

7. Failure to comply with this subpoena without lawful excuse may result in your arrest and the imposition of a fine under section 165 of the Evidence Act 2006 (New Zealand).
8. Note 7 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

*Delete if not applicable.

Form 1F

SCHEDULE OF PARTIES

THE QUEEN/DIRECTOR OF PUBLIC PROSECUTIONS	Prosecution
and	
ACCUSED #1	CASE No.-00-00000
ACCUSED #2	CASE No.-00-00000
ACCUSED #3	CASE No.-00-00000
ACCUSED #4	CASE No.-00-00000
ACCUSED #5	CASE No.-00-00000
ACCUSED #6	CASE No.-00-00000

RULE 1.09.1(2)(b)

FORM 1G

SUBPOENA TO PRODUCE DOCUMENTS (NEW ZEALAND)

CASE No.:

IN THE COUNTY COURT
OF VICTORIA
AT

Form 1G
inserted by
S.R. No.
95/2012 rule 9
(as amended
by
S.R. No.
110/2013
rule 12).

BETWEEN:

*THE QUEEN/*THE DIRECTOR OF PUBLIC
PROSECUTIONS

Prosecution

AND

ACCUSED #1
(and others according to the Schedule of Parties)

Accused

Notice to Witness

Trans-Tasman Proceedings Act 2010

This Notice is very important.

Please read it and the attached document or documents very carefully.

**If you have any trouble understanding these documents you should get
legal advice as soon as possible.**

Attached to this notice is a subpoena.

The subpoena has been issued by the County Court of Victoria.

The subpoena may be served in New Zealand under New Zealand law
(see section 163 of the Evidence Act 2006 (New Zealand)).

This notice:

- sets out your rights relating to the subpoena; and
- sets out your obligations relating to the subpoena; and
- includes information about the way in which you may make an application to have the subpoena set aside.

Filed on behalf of [*name and role of party*]

Prepared by [*name of person/lawyer*]

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 1G

Law firm *[if applicable]*

Tel

Fax

Email

Address for service
[include State and postcode]

Your rights

1. You are entitled to receive payment of an amount equal to the reasonable expenses you incur in complying with the subpoena.
2. An amount of money, or money and vouchers, that is sufficient to meet your reasonable expenses of complying with the subpoena must be given to you within a reasonable time before the date for compliance with the subpoena (see below: '**Your obligations**').
3. If, in complying with the subpoena, you incur expenses that are more than the amount that was given to you before you complied, you may obtain an order from the County Court of Victoria that you be paid the additional amount you incurred.
4. You may apply to the County Court of Victoria to have the subpoena wholly or partly set aside. If you wish to apply to have the subpoena set aside you should get legal advice as soon as possible.
5. An application can be made and determined by that Court without you having to go to Australia, or to retain Australian lawyers. All the necessary arrangements can be made in New Zealand.

Note: Details of some of the grounds on which a subpoena can be set aside and the procedures for setting aside a subpoena are set out at the end of this notice.

Your obligations

1. Unless the subpoena is set aside, you must comply with the attached subpoena if:
 - (a) when the subpoena was served on you, or at some reasonable time before the date specified in the subpoena for compliance with it, you were offered or given either:
 - (i) enough money to meet your reasonable expenses in complying with it, including any travel and accommodation expenses; or
 - (ii) a combination of money and vouchers (for example, travel tickets) to meet those expenses; and

-
- (b) you were given with the subpoena a copy of an order by a judge giving leave to serve the subpoena in New Zealand; and
 - (c) the subpoena was served on you before or on the date specified in the order as the last day on which the subpoena may be served; and
 - (d) service of the subpoena complied with any other conditions specified in the order; and
 - (e) you are 18 years of age or older.

- 2. If the subpoena only requires you to produce documents or things, it must specify the date on which the documents or things are required for production in the court or tribunal that issued the subpoena.

You may comply with the subpoena by producing the documents or things at a registry of the High Court of New Zealand at least 10 days before the date specified in the subpoena.

When you produce the documents or things at the registry you will be required to produce the subpoena and to pay the cost of sending the documents or things to the court or tribunal that issued the subpoena. You will be able to pay that cost out of the money given to you to meet your reasonable expenses of complying with the subpoena.

Failure to comply with the subpoena

If you do not comply with this subpoena you may be arrested and taken before the High Court of New Zealand. Unless the High Court is satisfied that failure to comply should be excused, a fine not exceeding NZ\$10 000 may be imposed.

Grounds for setting aside a subpoena

- 1. The Court must set aside the subpoena if the subpoena requires you to attend at a place in Australia and:
 - (a) you do not have necessary travel documents and cannot reasonably get them within the time allowed for compliance with the subpoena; or
 - (b) if you complied with the subpoena—you would be liable to be detained for the purpose of serving a sentence; or
 - (c) you are being prosecuted or you are liable to prosecution for an offence in Australia; or
 - (d) you are liable to imposition of a penalty in civil proceedings in Australia (other than proceedings under the Australian Consumer Law); or

Form 1G

- (e) you are subject to a restriction on your movements imposed by law or an order of a Court that is inconsistent with you complying with the subpoena (for example, bail conditions, release conditions or terms of a community based sentence).
- 2. The grounds on which the Court may set aside the subpoena include:
 - (a) the evidence you would give in the proceedings can be obtained satisfactorily by other means without significantly greater expense;
 - (b) compliance with the subpoena would cause you hardship or serious inconvenience;
 - (c) if the subpoena requires you to produce a document or thing and:
 - (i) that document or thing should not be taken out of New Zealand; and
 - (ii) satisfactory evidence of the contents of the document or satisfactory evidence of the thing can be given by other means.

Note: The above list does not include all the matters the Court will consider in an application to set aside a subpoena, but if any of the matters in the list apply to you they should be included in your application.

Procedure for applying to set aside a subpoena

1. Application must be made to the County Court of Victoria.
2. You may fax your application to that Court on fax number [*fax number of the Court*].
3. Your application must contain an address for service in New Zealand or Australia. Any documents to be served on you will be delivered, faxed or posted to you at that address.
4. The Registrar will arrange for service of your application and of any affidavit you lodge with the Court with your application.
5. The Court may determine your application without a hearing unless you, or the person who requested that the subpoena be issued, asks for a hearing.
6. If there is a hearing the Court can direct that it be held by video link (that is, a conference television link) or telephone. In that case you or your lawyer can take part in the hearing by video link or by telephone from a place in New Zealand.

7. If, in your application or within a reasonable time after lodging your application, you request that the hearing be held by video link or telephone, the Court must hold a hearing by video link or telephone. However, in such a case, the Court will determine which of video link or telephone will be used.

SUBPOENA TO PRODUCE DOCUMENTS (NEW ZEALAND)

TO: [*name and address*]

You are ordered to produce this subpoena or a copy of it and the documents or things specified in the Schedule. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest and the imposition of a fine under section 165 of the Evidence Act 2006 (New Zealand).

Please read Notes 1 to 16 at the end of this subpoena.

The last date for service of this subpoena is [*date*]. (See Note 2)

Date:

Signed by Registrar

Issued at the request of [*name of party*], whose address for service is:

Place:

Email:

Details of subpoena

You must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to:
 - (i) the Registrar at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified in the subpoena for attendance and production; or
 - (ii) the Registrar of the High Court of New Zealand at the address specified in the subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 10 clear days before the date specified in the subpoena for attendance and production.
(See Notes 6–12)

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

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Date, time and place at which you must attend to produce the subpoena or a copy of it and documents or things:

Date:

Time:

Place:

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

Registrar

County Court of Victoria

[*address*]

SCHEDULE

The documents and things you must produce are as follows:

[*If insufficient space attach list*]

Notes

Leave to serve subpoena

1. You need not comply with this subpoena unless it is accompanied by:
 - (a) a copy of the order giving leave to serve the subpoena in New Zealand; and
 - (b) a notice in the prescribed form that:
 - (i) sets out your rights and obligations in relation to this subpoena; and
 - (ii) includes information about the way in which an application to have this subpoena set aside may be made.

Last day for service

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

Informal service

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

Addressee a corporation

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

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

5. In so far as this subpoena requires production of this subpoena or a copy of it and a document or thing, instead of attending to produce this subpoena or a copy of it and the document or thing, you may comply with this subpoena by delivering or sending this subpoena or a copy of it and the document or thing to:
 - (a) the Registrar at the address specified in this subpoena for the purpose, or if more than one address is specified, at any of those addresses, so that they are received not less than 2 clear business days before the date specified in this subpoena for attendance and production; or
 - (b) the Registrar of the High Court of New Zealand at the address specified in this subpoena for the purpose, or if more than one address is specified, at any of those addresses, so that they are received not less than 10 clear days before the date specified in this subpoena for attendance and production.
6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to this subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

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

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that the subpoena requires you to produce.

Form 1G

- 9A. The copy of a document may be:
- (a) a photocopy; or
 - (b) in an electronic form that the issuing party has indicated will be acceptable.

Return or destruction of documents or copies

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

Applications in relation to subpoena

- 12. You have the right to apply to the Court for an order with respect to any claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of this subpoena.

Loss or expense of compliance

- 13. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with this subpoena.

Banker's book

- 14. In so far as this subpoena requires production of this subpoena or a copy of it and a banker's book, if section 19 and other applicable provisions of the Evidence Act 2006 (New Zealand) would have applied if this subpoena has been issued in a New Zealand proceeding, instead of producing the banker's book, you may produce proof of the relevant entries in accordance with the applicable provisions of the Evidence Act 2006 (New Zealand).

Contempt of court—arrest

- 15. Failure to comply with this subpoena without lawful excuse may result in your arrest and the imposition of a fine under section 165 of the Evidence Act 2006 (New Zealand).
- 16. Note 15 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

*Delete if not applicable.

SCHEDULE OF PARTIES

THE QUEEN/DIRECTOR OF PUBLIC PROSECUTIONS	Prosecution
and	
ACCUSED #1	CASE No.-00-00000
ACCUSED #2	CASE No.-00-00000
ACCUSED #3	CASE No.-00-00000
ACCUSED #4	CASE No.-00-00000
ACCUSED #5	CASE No.-00-00000
ACCUSED #6	CASE No.-00-00000

Form 1H

Form 1H
inserted by
S.R. No.
95/2012 rule 9
(as amended
by
S.R. No.
110/2013
rule 13).

RULE 1.09.1(2)(c)

FORM 1H

**SUBPOENA TO GIVE EVIDENCE AND PRODUCE DOCUMENTS
(NEW ZEALAND)**

IN THE COUNTY COURT
OF VICTORIA
AT

BETWEEN:

*THE QUEEN/*THE DIRECTOR OF PUBLIC PROSECUTIONS Prosecution

AND

ACCUSED #1 Accused
(and others according to the Schedule of Parties)

Notice to Witness

Trans-Tasman Proceedings Act 2010

This Notice is very important.

Please read it and the attached document or documents very carefully.

If you have any trouble understanding these documents you should get legal advice as soon as possible.

Attached to this notice is a subpoena.

The subpoena has been issued by the County Court of Victoria.

The subpoena may be served in New Zealand under New Zealand law (see section 163 of the Evidence Act 2006 (New Zealand)).

This notice:

- sets out your rights relating to the subpoena; and
- sets out your obligations relating to the subpoena; and
- includes information about the way in which you may make an application to have the subpoena set aside.

Filed on behalf of [*name and role of party*]

Prepared by [*name of person/lawyer*]

Law firm *[if applicable]*

Tel

Fax

Email

Address for service
[include State and postcode]

Your rights

1. You are entitled to receive payment of an amount equal to the reasonable expenses you incur in complying with the subpoena.
2. An amount of money, or money and vouchers, that is sufficient to meet your reasonable expenses of complying with the subpoena must be given to you within a reasonable time before the date for compliance with the subpoena (see below: '**Your obligations**').
3. If, in complying with the subpoena, you incur expenses that are more than the amount that was given to you before you complied, you may obtain an order from the County Court of Victoria that you be paid the additional amount you incurred.
4. You may apply to the County Court of Victoria to have the subpoena wholly or partly set aside. If you wish to apply to have the subpoena set aside you should get legal advice as soon as possible.
5. An application can be made and determined by that Court without you having to go to Australia, or to retain Australian lawyers. All the necessary arrangements can be made in New Zealand.

Note: Details of some of the grounds on which a subpoena can be set aside and the procedures for setting aside a subpoena are set out at the end of this notice.

Your obligations

1. Unless the subpoena is set aside, you must comply with the attached subpoena if:
 - (a) when the subpoena was served on you, or at some reasonable time before the date specified in the subpoena for compliance with it, you were offered or given either:
 - (i) enough money to meet your reasonable expenses in complying with it, including any travel and accommodation expenses; or
 - (ii) a combination of money and vouchers (for example, travel tickets) to meet those expenses; and

Form 1H

- (b) you were given with the subpoena a copy of an order by a judge giving leave to serve the subpoena in New Zealand; and
 - (c) the subpoena was served on you before or on the date specified in the order as the last day on which the subpoena may be served; and
 - (d) service of the subpoena complied with any other conditions specified in the order; and
 - (e) you are 18 years of age or older.
2. If the subpoena only requires you to produce documents or things, it must specify the date on which the documents or things are required for production in the court or tribunal that issued the subpoena.

You may comply with the subpoena by producing the documents or things at a registry of the High Court of New Zealand at least 10 days before the date specified in the subpoena.

When you produce the documents or things at the registry you will be required to produce the subpoena and to pay the cost of sending the documents or things to the court or tribunal that issued the subpoena. You will be able to pay that cost out of the money given to you to meet your reasonable expenses of complying with the subpoena.

Failure to comply with the subpoena

If you do not comply with this subpoena you may be arrested and taken before the High Court of New Zealand. Unless the High Court is satisfied that failure to comply should be excused, a fine not exceeding NZ\$10 000 may be imposed.

Grounds for setting aside a subpoena

1. The Court must set aside the subpoena if the subpoena requires you to attend at a place in Australia and:
 - (a) you do not have necessary travel documents and cannot reasonably get them within the time allowed for compliance with the subpoena; or
 - (b) if you complied with the subpoena—you would be liable to be detained for the purpose of serving a sentence; or
 - (c) you are being prosecuted or you are liable to prosecution for an offence in Australia; or
 - (d) you are liable to imposition of a penalty in civil proceedings in Australia (other than proceedings under the Australian Consumer Law); or

-
- (e) you are subject to a restriction on your movements imposed by law or an order of a Court that is inconsistent with you complying with the subpoena (for example, bail conditions, release conditions or terms of a community based sentence).
2. The grounds on which the Court may set aside the subpoena include:
- (a) the evidence you would give in the proceedings can be obtained satisfactorily by other means without significantly greater expense;
 - (b) compliance with the subpoena would cause you hardship or serious inconvenience;
 - (c) if the subpoena requires you to produce a document or thing and:
 - (i) that document or thing should not be taken out of New Zealand; and
 - (ii) satisfactory evidence of the contents of the document or satisfactory evidence of the thing can be given by other means.

Note: The above list does not include all the matters the Court will consider in an application to set aside a subpoena, but if any of the matters in the list apply to you they should be included in your application.

Procedure for applying to set aside a subpoena

1. Application must be made to the County Court of Victoria.
2. You may fax your application to that Court on fax number [*fax number of the Court*].
3. Your application must contain an address for service in New Zealand or Australia. Any documents to be served on you will be delivered, faxed or posted to you at that address.
4. The Registrar will arrange for service of your application and of any affidavit you lodge with the Court with your application.
5. The Court may determine your application without a hearing unless you, or the person who requested that the subpoena be issued, asks for a hearing.
6. If there is a hearing the Court can direct that it be held by video link (that is, a conference television link) or telephone. In that case you or your lawyer can take part in the hearing by video link or by telephone from a place in New Zealand.

Form 1H

7. If, in your application or within a reasonable time after lodging your application, you request that the hearing be held by video link or telephone, the Court must hold a hearing by video link or telephone. However, in such a case, the Court will determine which of video link or telephone will be used.

**SUBPOENA TO GIVE EVIDENCE AND PRODUCE DOCUMENTS
(NEW ZEALAND)**

TO: [*name and address*]

You are ordered to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule.

See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest and the imposition of a fine under section 165 of the Evidence Act 2006 (New Zealand).

Please read Notes 1 to 16 at the end of this subpoena.

The last date for service of this subpoena is [*date*]. (See Note 2)

Date:

Signed by Registrar

Issued at the request of [*name of party*], whose address for service is:

Place:

Email:

Details of subpoena to give evidence

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

Date:

Time:

Place:

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

Details of subpoena to produce documents

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

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule below to:
 - (i) the Registrar at the address specified in this subpoena for the purpose, or if more than one address is specified, at any of those addresses, so that they are received not less than 2 clear business days before the date specified in this subpoena for attendance and production; or
 - (ii) the Registrar of the High Court of New Zealand at the address specified in the subpoena for the purpose, or if more than one address is specified, at any of those addresses, so that they are received not less than 10 clear days before the date specified in this subpoena for attendance and production. (See Notes 6–12)

Date, time and place at which you must attend to produce this subpoena or a copy of it and documents or things:

Date:

Time:

Place:

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

Registrar
County Court of Victoria
[address]

SCHEDULE

The documents and things you must produce are as follows:

[If insufficient space attach list]

Notes

Leave to serve subpoena

1. You need not comply with this subpoena unless it is accompanied by:
 - (a) a copy of the order giving leave to serve this subpoena in New Zealand; and
 - (b) a notice in the prescribed form that:
 - (i) sets out your rights and obligations in relation to this subpoena; and
 - (ii) includes information about the way in which an application to have this subpoena set aside may be made.

Last day for service

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

Informal service

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

Addressee a corporation

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

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

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

-
- (a) the Registrar at the address specified in this subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified in this subpoena for attendance and production; or
 - (b) the Registrar of the High Court of New Zealand at the address specified in this subpoena for the purpose, or if more than one address is so specified, at any one of those addresses, so that they are received not less than 10 clear days before the date specified in this subpoena for attendance and production.
 6. If you object to a document or thing produced in response to this subpoena being inspected by a party to the proceeding or any other person, you must, at the time of production, notify the Registrar in writing of your objection and of the grounds of your objection.
 7. Unless the Court otherwise orders, if you do not object to a document or thing produced by you in response to this subpoena being inspected by any party to the proceeding, the Registrar may permit the parties to the proceeding to inspect the document or thing.

Production of a number of documents or things

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

Production of copy instead of original

9. You may, with the consent of the issuing party, produce a copy, instead of the original, of any document that this subpoena requires you to produce.
- 9A. The copy of a document may be:
 - (a) a photocopy; or
 - (b) in an electronic form that the issuing party has indicated will be acceptable.

Return or destruction of documents or copies

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

Form 1H

Applications in relation to subpoena

12. You have the right to apply to the Court for an order with respect to any claim for privilege, public interest immunity or confidentiality in relation to any document or thing the subject of this subpoena.

Loss or expense of compliance

13. If you are not a party to the proceeding, you may apply to the Court for an order that the issuing party pay an amount (in addition to conduct money and any witness's expenses) in respect of the loss or expense, including legal costs, reasonably incurred in complying with this subpoena.

Banker's book

14. In so far as this subpoena requires production of this subpoena or a copy of it and a banker's book, if section 19 and other applicable provisions of the Evidence Act 2006 (New Zealand) would have applied if this subpoena has been issued in a New Zealand proceeding, instead of producing the banker's book, you may produce proof of the relevant entries in accordance with the applicable provisions of the Evidence Act 2006 (New Zealand).

Contempt of court—arrest

15. Failure to comply with this subpoena without lawful excuse may result in your arrest and the imposition of a fine under section 165 of the Evidence Act 2006 (New Zealand).
16. Note 15 is without prejudice to any power of the Court under any rules of the Court (including any rules of the Court providing for the arrest of an addressee who defaults in attendance in accordance with a subpoena) or otherwise, to enforce compliance with a subpoena.

*Delete if not applicable.

SCHEDULE OF PARTIES

THE QUEEN/DIRECTOR OF PUBLIC PROSECUTIONS	Prosecution
and	
ACCUSED #1	CASE No.-00-00000
ACCUSED #2	CASE No.-00-00000
ACCUSED #3	CASE No.-00-00000
ACCUSED #4	CASE No.-00-00000
ACCUSED #5	CASE No.-00-00000
ACCUSED #6	CASE No.-00-00000

Form 2A

RULE 2.03

FORM 2A

IN THE COUNTY COURT
OF VICTORIA
AT

The Queen

v.

[*name of accused*]

**NOTICE TO ACCUSED UNDER SECTION 171 OF THE CRIMINAL
PROCEDURE ACT 2009**

The Director of Public Prosecutions does not have any notice that you are represented by a legal practitioner in relation to the charges set out in the copy of the indictment which accompanies this notice.

You should seek legal representation as soon as possible and you have the right, if eligible, to legal aid under the **Legal Aid Act 1978**.

You should take this notice and the indictment to your legal practitioner or to Victoria Legal Aid without delay.

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

Victoria Legal Aid can be contacted at [*insert contact details*].

[*If the accused is to be indicted on a sexual offence the following paragraph must also be included in the notice.*]

AS YOU ARE CHARGED WITH A SEXUAL OFFENCE YOUR TRIAL MUST BE COMMENCED WITHIN 3 MONTHS (SUBJECT TO ANY EXTENSION OF TIME GRANTED UNDER SECTION 247 OF THE CRIMINAL PROCEDURE ACT 2009) OF [INSERT DATE OF COMMITTAL OR FILING OF INDICTMENT OR NOTICE OF TRIAL]. TO ENSURE THAT THE PERSON WHO WILL REPRESENT YOU AT YOUR TRIAL HAS ADEQUATE TIME TO PREPARE YOUR DEFENCE, YOU SHOULD CONTACT A LEGAL PRACTITIONER OR VICTORIA LEGAL AID AT THE EARLIEST OPPORTUNITY.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2A

Note

Section 356 of the **Criminal Procedure Act 2009** prohibits a protected witness from being cross-examined by an accused in person. You are strongly encouraged to seek legal advice.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2B

RULE 2.04

FORM 2B

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:
INDICTMENT No.:

SUMMONS

To the accused:

Address of accused:

Date of birth of accused: Male Female

Details of Case

A direct indictment has been filed against you in relation to the following charges:

A copy of the indictment is attached to this summons.

The indictment was filed at *[place]* County Court on *[date]*.

Date:

*[Signature of DPP/
Crown Prosecutor]*

Listing of Case

You must attend at the County Court at *[place]* on *[date]* at *[time]* a.m./p.m.

Address of Court:

Court contact number:

Details about this summons

Issued at *[place]*

On *[date]*

[Signature of Judge]

RULE 2.04

FORM 2C

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:
INDICTMENT No.:

WARRANT TO ARREST

To the accused:

Address of accused:

Date of birth of accused: Male Female

Details of Case

A direct indictment has been filed against you in relation to the following charges:

A copy of the indictment is attached to this Warrant.

The indictment was filed at *[place]* County Court on *[date]*.

Date:

*[Signature of DPP/
Crown Prosecutor]*

Warrant to arrest

To all members of the police force or

You are authorised to break, enter and search any place where the person named in this warrant is suspected to be, to arrest that person and bring him or her before the Court as soon as practicable to be dealt with according to law.

I am satisfied by the evidence before me that a Warrant should be issued on the following grounds:

- *it is probable the person will not answer a summons
- *the person has absconded or is likely to abscond
- *the person is avoiding the service of a summons
- *the warrant is *required/*authorised by another Act/*other good cause

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2C

Details about this Warrant

Issued at

On *[date]*

*delete if not applicable

[Signature of Judge]

RULE 2.07

FORM 2D

NOTICE OF ALIBI

IN THE COUNTY COURT

CASE No.:

OF VICTORIA

INDICTMENT No.:

AT

The Queen

v.

[*name of accused*]

NOTICE OF ALIBI

I, [*name and address of accused*], give notice of alibi in accordance with section 190 of the **Criminal Procedure Act 2009**.

1. Particulars as to time and place of alibi: [*insert details*]
2. Name and last known address of any witness to the alibi: [*insert names and addresses of witnesses to alibi*]
3. **[If name and last address of any witness to the alibi is not known]* the following information might be of material assistance in finding the witness [*insert details*].

Date:

[*Signature of accused*]

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2E

RULE 2.08

FORM 2E

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:
INDICTMENT No.:

IN THE MATTER OF:

**APPLICATION FOR ORDER TO TAKE EVIDENCE FROM A
WITNESS BEFORE TRIAL**

THIS FORM IS FILED ON BEHALF OF:

ADDRESS:

THIS MATTER IS NEXT LISTED ON: [date] FOR

CONTACT DETAILS

[If represented, please complete the legal practitioner details below]

Contact No.:

Email address:

Address for service:

*I have Legal Representation *[complete below]*

*I do not have Legal Representation

*I represent the applicant

Firm:

Practitioner's Name:

Solicitor Code:

Ref.:

TO the Registrar of the County Court at:

AND TO the Respondent: [name] of [address]

I wish to apply for an order that evidence to be taken from the following
witness before trial.

Name of Witness:

Dates Witness Available:

This application is sought on the following grounds: *[insert grounds]*

(see section 198(2) of the **Criminal Procedure Act 2009**):

This application is *by consent/*contested.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2E

Date:

*[Signature of Applicant/
Applicant's Legal Practitioner]*

LISTING OF APPLICATION

This application is listed for hearing before the County Court at *[place]* at *[time]* on *[date]*.

Date:

Registrar/Deputy Registrar

*delete if not applicable

Form 2F

RULE 2.10

FORM 2F

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:
INDICTMENT No.:

IN THE MATTER OF:

**NOTICE OF INTENTION TO PLEAD GUILTY TO ONE OR MORE
REMAINING CHARGES IN INDICTMENT**

**BEFORE THIS FORM IS PROVIDED TO THE COURT THE
ACCUSED MUST HAVE:**

- 1. PLEADED GUILTY TO AT LEAST ONE CHARGE IN THE
INDICTMENT IN OPEN COURT.**
- 2. INDICATED AN INTENTION TO PLEAD GUILTY TO
ONE OR MORE REMAINING CHARGES IN THE
INDICTMENT.**

**PARTS 1, 2 and 3 OF THIS FORM MUST BE COMPLETED BEFORE
PLEAS OF GUILTY IN WRITING ARE EFFECTIVE.**

PART 1—to be signed by the accused personally

I [*name of accused*], plead guilty to the charges [*insert relevant charge numbers*] as set out in the indictment attached to this Notice:

Note

The accused must sign on the copy of the indictment next to each remaining charge for which a plea of guilty is being entered.

Date:

[*Signature of Accused*]

PART 2—to be signed on behalf of the DPP

The prosecution consents under section 216(2)(a) of the **Criminal Procedure Act 2009** to the accused entering pleas of guilty as listed above in writing.

Date:

[*Signature of Prosecutor*]

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2F

PART 3—to be signed by the presiding Judge

I am satisfied in accordance with section 216(2)(b) of the **Criminal Procedure Act 2009** that it is appropriate for guilty pleas to be entered by the accused in writing.

Date:

[Signature of Judge]

DETAILS OF SUMMARY OFFENCE/S

Number of charges application relates to:

[attach charge details to application]

Summary charge custody status: *Remand/*Bail/*Summons

Magistrates' Court Case Number:

Charge No./s:

Next listed date at Magistrates' Court: *[date]* at *[place]*

**[repeat for each case number]*

This application is *by consent/*contested.

I confirm that all charges referred to in this application are summary offences.

Date:

*[Signature of Applicant/
Applicant's Legal Practitioner]*

LISTING OF APPLICATION

This application is listed for hearing before the County Court at *[place]* at *[time]* a.m./p.m. on *[date]*.

Date:

Registrar/Deputy Registrar

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 2H

This application is made on the following grounds [*state grounds*—see section 295(3) of the **Criminal Procedure Act 2009**]

Trial has been listed to commence on: [*insert date*]

Note

For time limits applying to interlocutory appeals—see sections 296(2) and 298(1) of the **Criminal Procedure Act 2009**.

Date:

[*Signature of Appellant/
Appellant's Legal Practitioner*]

*delete if not applicable

Reason for Appeal

I am appealing against:

*conviction and sentence

*sentence alone

STATEMENT REGARDING IMPOSITION OF MORE SEVERE SENTENCE

I have been advised and I am aware that on the hearing of my appeal, the County Court may impose a more severe sentence than the one imposed by the Magistrates' Court and I have been given a copy of the information in Form 3B.

Date:

[Signature of Appellant]

UNDERTAKING TO PROCEED WITH APPEAL

I *[name]*

of *[address]* undertake to:

- (a) appear at the County Court sitting at *[place]* which is located at *[address]* on *[date]* at *[time]* a.m./p.m. and to appear at the County Court for the duration of the appeal.
- (b) notify the County Court in writing of any change of address or representation.

Date:

[Signature of Appellant]

In the presence of:

[Signature of Registrar/Prison Officer/Police Officer]

*delete if not applicable

RULE 3.02

FORM 3B

INFORMATION FOR APPELLANT

Notice under section 255 of the Criminal Procedure Act 2009

To the Appellant:

TAKE NOTICE that in relation to your appeal, the County Court may impose a sentence which is more severe than that which has been imposed on you by the Magistrates' Court.

ALSO TAKE NOTICE THAT you must sign the acknowledgement contained in your notice of appeal that you have been advised that on your appeal, the County Court may impose a sentence which is more severe than that which has been imposed on you by the Magistrates' Court.

FURTHER INFORMATION FOR APPELLANT

A copy of the notice of appeal must be served on the respondent within 7 days after the day on which the notice is filed. The notice must be served:

- (a) by giving a copy of the document to—
 - (i) the informant; or
 - (ii) a person representing the informant at a hearing in relation to the charge; or
- (b) by sending a copy of the document by prepaid ordinary post addressed to the informant at the business address nominated by the informant under section 18 of the **Criminal Procedure Act 2009**; or
- (c) by sending a copy of the document by fax or email addressed to the informant at the fax number or email address nominated by the informant under section 18 of the Act; or
- (d) by leaving a copy of the document for the informant at the informant's business address with a person who appears to work there; or
- (e) in any other manner agreed between the informant and the party serving the document.

INFORMATION CONCERNING ABANDONING AN APPEAL

If you decide to abandon your appeal against both conviction and sentence, you must file a notice of abandonment of appeal in accordance with Form 3D of the County Court Criminal Procedure Rules.

If you decide to abandon your appeal against conviction but pursue your appeal against sentence alone you must file a written notice of abandonment of appeal—conviction only in Form 3E of the County Court Criminal Procedure Rules.

You should contact the County Court for further information.

**INFORMATION CONCERNING FAILURE TO APPEAR AT
AN APPEAL**

If you fail to appear at the appeal hearing the Court may strike out your appeal or adjourn the proceedings on any terms the Court thinks appropriate.

INFORMATION CONCERNING COSTS OF AN APPEAL

If the Court strikes out or dismisses your appeal, it may order you to pay all or a specified portion of the respondent's costs if it is satisfied that the appeal was brought vexatiously or frivolously or in abuse of process.

APPLICATION FOR LEAVE TO APPEAL

If your notice of appeal has been filed more than 28 days after you were sentenced, your appeal is deemed to be an application for leave to appeal. The Court will consider your application prior to an appeal hearing commencing. If your application is granted, the Court may continue to hear your appeal on that day or adjourn the matter to a future date.

LEGAL ASSISTANCE

If you wish to make application for legal assistance you must make application in writing to Victoria Legal Aid (Melbourne—9269 0120) (Rural Areas—1800 677 402). The Court office can advise you of the address of the nearest Victoria Legal Aid office. Such application must be made immediately because it may take some time to process. You should take all necessary steps promptly so that, if you are granted legal aid, there will be enough time for advice to be given to you by your lawyer about the appeal.

Form 3C

Form 3C
amended by
S.R. Nos
31/2012 rule 8,
110/2013
rule 7.

RULE 3.03

FORM 3C

**NOTICE OF APPEAL BY DPP AGAINST *SENTENCE IMPOSED BY
MAGISTRATES' COURT/*FAILURE OF PERSON TO FULFIL
UNDERTAKING**

To the Registrar of the Magistrates' Court:

I, [*full name*], the DPP wish to appeal

*under section 257 of the **Criminal Procedure Act 2009** against a sentence imposed by the Magistrates' Court on [*name of offender*] of [*address*]

*under section 260 of the **Criminal Procedure Act 2009** against a lesser sentence imposed by the Magistrate's Court on [*name of offender*] of [*address*]

TAKE NOTICE that I apply to the County Court on the ground(s) set out below:

The ground(s) of my appeal are: [*state the general grounds of the appeal*]

*In the case of an appeal under section 257 of the Act, I am satisfied that the appeal should be brought in the public interest.

*In the case of an appeal under section 260 of the Act, the offender was convicted of an indictable offence that was heard and determined summarily by the Magistrates' Court, received a lesser sentence and that person has failed to fulfil an undertaking given to assist law enforcement authorities after sentencing.

Date:

[*Signed by or on behalf of DPP*]

PARTICULARS

1. Name of offender on whom sentence imposed:
2. Offence for which offender convicted and sentenced to which this appeal relates:
3. Convicted at: [*place and court*]
4. Magistrate:
5. Date of conviction:

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 3C

-
6. Sentence:
 7. Date of sentence:
 8. Name and address of legal practitioner who represented offender at summary proceeding:
 9. Name of counsel (if any) who represented offender at summary proceeding:

LISTING OF APPEAL

This appeal is listed for hearing before the County Court at [*venue*] at [*time*]
*a.m./*p.m. on [*date*].

Date:

*Registrar/*Deputy Registrar

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 3D

Date:

[Signature of Appellant]

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 3E

Date:

[Signature of Appellant]

*delete if not applicable

Reasons for application

The application is made on the grounds that the failure to appear was not due to fault or neglect on the part of the appellant. My reasons are: *[give details]*

Date:

*[Signature of Applicant/
Applicant's Legal Practitioner]*

Notice of this application must be served on the respondent a reasonable time before the hearing of the application. Under section 392 of the **Criminal Procedure Act 2009**, the notice must be served:

- (a) by giving a copy of the document to—
 - (i) the informant; or
 - (ii) a person representing the informant at a hearing in relation to the charge; or
- (b) by sending a copy of the document by prepaid ordinary post addressed to the informant at the business address nominated by the informant under section 18 of that Act; or
- (c) by sending a copy of the document by fax or email addressed to the informant at the fax number or email address nominated by the informant under section 18 of that Act; or
- (d) by leaving a copy of the document for the informant at the informant's business address with a person who appears to work there; or
- (e) in any other manner agreed between the informant and the party serving the document.

The filing of this application does not stay the original sentence.

LISTING OF APPLICATION

This application is listed for hearing before the County Court at *[place]* at *[time]* a.m./p.m. on *[date]*

Date:

Registrar/Deputy Registrar

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 4A

Reason for Appeal

I am appealing against:

*conviction and sentence

*sentence alone

STATEMENT REGARDING IMPOSITION OF MORE SEVERE SENTENCE

I am aware that on the hearing of my appeal, the County Court may impose a more severe sentence than the one imposed by the Children's Court.

Date:

[Signature of Appellant]

UNDERTAKING TO PROCEED WITH APPEAL

I *[name]*

of *[address]* undertake to:

- (a) appear at the County Court sitting at *[place]* which is located at *[address]* on *[date]* at *[time]* a.m./p.m. and to appear at the County Court for the duration of the appeal.
- (b) notify the County Court in writing of any change of address or representation.

Date:

[Signature of Appellant]

In the presence of:

[Signature of Registrar/Prison Officer/Police Officer]

*delete if not applicable

RULE 4.03

FORM 4B

**NOTICE OF APPEAL BY DPP AGAINST SENTENCE IMPOSED BY
CHILDREN'S COURT**

To the Registrar of the Children's Court:

I, *[full name]*, the DPP wish to appeal under section 427 of the **Children, Youth and Families Act 2005** against a sentence imposed by the Children's Court on *[name of offender]* of *[address]*.

TAKE NOTICE that I apply to the County Court on the ground(s) set out below:

The ground(s) of my appeal are: *[state the general grounds of the appeal]*

I am satisfied that the appeal should be brought in the public interest.

Date:

[Signed by or on behalf of DPP]

PARTICULARS

1. Name of offender on whom sentence imposed:
 2. Offence for which offender convicted and sentenced to which this appeal relates:
 3. Convicted at Children's Court: *[place]*
 4. Children's Court Magistrate:
 5. Date of conviction:
 6. Sentence:
 7. Date of sentence:
 8. Name and address of legal practitioner who represented offender at summary proceeding:
 9. Name of counsel (if any) who represented offender at summary proceeding:
-

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 4C

I acknowledge that the *conviction/*sentence/*order appealed will take effect immediately upon lodging this form.

Date:

[Signature of Appellant]

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 4D

Date:

[Signature of Appellant]

Reasons for application

The application is made on the grounds that the failure to appear was not due to fault or neglect on the part of the appellant. My reasons are: *[give details]*

This notice must be served in the same way as a notice of appeal is served.

Date:

*[Signature of Applicant/
Applicant's Legal Practitioner]*

The filing of this application does not stay the original sentence.

LISTING OF APPLICATION

This application is listed for hearing before the County Court at *[place]* at *[time]* a.m./p.m. on *[date]*.

Date:

Registrar/Deputy Registrar

*delete if not applicable

RULE 5.02

FORM 5A

Form 5A
amended by
S.R. Nos
31/2012 rule 9,
14/2014
rule 11.

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:
INDICTMENT No.:

IN THE MATTER OF:

APPLICATION FOR

***TIME TO PAY ORDER**

***INSTALMENT ORDER**

***VARIATION OR CANCELLATION OF
INSTALMENT ORDER**

***FINE CONVERSION ORDER**

APPLICANTS NAME:

ADDRESS:

CONTACT DETAILS

Contact No.:

Email address:

Address for service:

I, [*name*] apply to the Court at [*place*] 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 or cancellation of an instalment order.

*an order to complete unpaid community work instead of paying the fine.

DETAILS OF FINE

Date of fine order:

Date of previous instalment order (if applicable):

Amount of fine: \$

I *was/*was not present when the order was made.

I have made payments equalling \$ so far and \$ remains
owing.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5A

DETAILS OF REQUESTED ORDER

I now wish to pay the amount owing

- by *[date]*
- by instalments of \$ _____ each *week/*fortnight/*month
- by unpaid community work.

My current occupation is _____

I currently receive the amount of \$ _____ each *week/*fortnight/*month

My expenses for each *week/*fortnight/*month equal \$ _____

Date: _____

*delete if not applicable

[Signature]

Office Use Only	_____
Decision: <input type="checkbox"/> Granted <input type="checkbox"/> Refused	Judge/Registrar

RULE 5.06(1)

FORM 5B

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:

IN THE MATTER OF:

**FINE CONVERSION ORDER
UNDER SENTENCING ACT 1991**

To: *[name]*

Date of Birth:

Of: *[address]*

Form 5B
substituted by
S.R. Nos
31/2012
rule 10,
104/2012
rule 11,
amended by
S.R. No.
14/2014
rule 12.

On *[date]*, this Fine Conversion Order was made against you, requiring you to perform unpaid community work in respect of the unpaid fines set out below which were imposed by the County Court at *[venue]* on *[date]* for the offence(s) of

UNPAID AMOUNTS

Fine	Statutory Cost	Costs	Hours of work ordered	Duration of order	How hours to be served
\$	\$	\$	00 hours	00 months	As directed

Where the hours are stated as being served cumulatively they are to be served in addition to any other fine conversion order/fine default unpaid community work order made in respect of unpaid fines. A minimum of 8 hours unpaid community work is required to be performed.

This order commences on *[date]*.

You must attend at *[place, address, phone number]* within 2 clear working days with a copy of this order. Being on or before the *[date]*.

The terms of this fine conversion order are that you must—

- not commit, whether in or outside Victoria, during the period of the order, an offence punishable by imprisonment;
- comply with any obligation or requirement prescribed by the Sentencing Regulations 2011;
- report to, and receive visits from the Secretary (or delegate) during the period of the order;

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5B

- report to the community corrections centre specified in the order within 2 clear working days after the order comes into force;
- notify the Secretary (or delegate) of any change of address or employment within 2 clear working days after the change;
- not leave Victoria except with the permission, either generally or in relation to a particular case, of the Secretary (or delegate);
- comply with any direction given by the Secretary (or delegate) that it is necessary for the Secretary (or delegate) to give to ensure that the offender complies with the order.

This order was made on *[date]* at *[place]*.

[Signature of Offender]

[Signature of Judge/Registrar]

RULE 5.06(1A)

FORM 5BA

IN THE COUNTY COURT CASE No.:
OF VICTORIA
AT
IN THE MATTER OF:

**FINE DEFAULT UNPAID COMMUNITY WORK ORDER
UNDER SENTENCING ACT 1991**

To: *[name]* Date of Birth:
Of: *[address]*

Form 5BA
inserted by
S.R. No.
31/2012
rule 10,
substituted by
S.R. No.
104/2012
rule 11,
amended by
S.R. No.
14/2014
rule 12.

On *[date]*, this Fine Default Unpaid Community Work Order was made against you, requiring you to perform unpaid community work in respect of the unpaid fines set out below which were imposed by the County Court at *[venue]* on *[date]* for the offence(s) of

UNPAID AMOUNTS

Fine	Statutory Cost	Costs	Hours of work ordered	Duration of order	How hours to be served
\$	\$	\$	00 hours	00 months	As directed

Where the hours are stated as being served cumulatively they are to be served in addition to any other fine conversion order/fine default unpaid community work order made in respect of unpaid fines. A minimum of 8 hours unpaid community work is required to be performed.

This order commences on *[date]*.

You must attend at *[place, address, phone number]* within 2 clear working days with a copy of this order. Being on or before the *[date]*.

The terms of this fine default unpaid community work order are that you must—

- not commit, whether in or outside Victoria, during the period of the order, an offence punishable by imprisonment;
- comply with any obligation or requirement prescribed by the Sentencing Regulations 2011;
- report to, and receive visits from the Secretary (or delegate) during the period of the order;

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5BA

- report to the community corrections centre specified in the order within 2 clear working days after the order comes into force;
- notify the Secretary (or delegate) of any change of address or employment within 2 clear working days after the change;
- not leave Victoria except with the permission, either generally or in relation to a particular case, of the Secretary (or delegate);
- comply with any direction given by the Secretary (or delegate) that it is necessary for the Secretary (or delegate) to give to ensure that the offender complies with the order.

This order was made on *[date]* at *[place]*.

[Signature of Offender]

[Signature of Judge/Registrar]

RULE 5.06(2)

FORM 5C

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

Form 5C
amended by
S.R. Nos
104/2012
rule 12,
14/2014
rule 13.

A warrant to arrest has been issued to the Sheriff for non-payment of the fine(s) imposed against you in the County 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 YOU RECEIVE THIS
NOTICE:**

- To pay the amount outstanding in full; or
- To obtain an Instalment Order or a Time to Pay Order; or
- To apply for and consent to the making of a Fine Conversion Order.

OTHERWISE YOU MAY BE ARRESTED.

**PAYMENT MUST BE MADE TO THE REGISTRAR OF THE
COUNTY COURT WHERE THE PENALTY WAS IMPOSED
(see attached summary).**

IF YOU CANNOT PAY

You may apply to the proper officer of the Court for an order that the fine be paid by instalments, that you be allowed additional time to pay the fine or that you perform unpaid community work in lieu of payment.

If you are granted a Fine Conversion Order in lieu of payment, your fine(s) will be converted into hours of unpaid community work under the direction of the Office of Corrections at the rate of 1 hour for each 0.2 of a penalty unit or part thereof which is owed, with a minimum of 8 hours and a maximum of 500 hours work to be performed. The current value of a penalty unit may be obtained by contacting the Court.

An application form may be obtained from the Court.

**ANY APPLICATION MUST BE SUBMITTED TO THE REGISTRAR
OF THE COUNTY COURT WHERE THE PENALTY WAS
IMPOSED.**

Form 5C

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 Fine Default Unpaid Community Work Order requiring you to perform unpaid community work under the direction of the Office of Corrections for one hour for each 0·2 penalty unit or part of 0·2 penalty unit remaining unpaid with a minimum of 8 hours and a maximum of 500 hours. You may also be ordered to pay additional costs.
 - order that you be imprisoned for one day for each penalty unit or part of a penalty unit 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.
-

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5CA

Date: ___/___/___

Signature of Applicant

LISTING OF APPLICATION

This application is listed for hearing before the County Court at
on ___/___/___ at ___ am/pm.

Date: ___/___/___

Deputy Registrar

RULE 5.06(3)

FORM 5D

IN THE COUNTY COURT
OF VICTORIA
AT

WARRANT No.:
OBLIGATION No.:
CASE No.:

Form 5D
amended by
S.R. Nos
104/2012
rule 14,
110/2013
rule 8,
14/2014
rule 14.

WARRANT TO ARREST FOR FAILURE TO PAY FINE

Name of person to be arrested:

Address of person to be arrested:

To the Sheriff and all members of the Police Force in Victoria.

On [*date*] the above named person was fined at the [*place*] County Court for the offence of

*He/*she has failed to pay the amount owing for a period of more than one month.

You are authorised to demand the amount of:

FINE	\$
COSTS	\$
LESS AMOUNT PAID	\$
<u>TOTAL OWING</u>	\$

If the above named person fails to pay the money owing within 7 days of a demand being made and they have not made an application for time to pay or signed a consent to the making of a Fine Conversion Order then YOU ARE AUTHORISED to break, enter and search any place where the offender is suspected to be and to arrest *him/her and cause the offender when arrested—

- (a) to be brought before the County Court as soon as practicable to be dealt with according to Law; or
- (b) to be conveyed to a police station to be released on bail in accordance with the following provisions:

[*Insert bail provisions*]

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5D

Details about this Warrant

Issued at:

On *[date]*

[Signature of Registrar]

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5E

RULE 5.06(4)

FORM 5E

IN THE COUNTY COURT
OF VICTORIA
AT

WARRANT No.:
OBLIGATION No.:
CASE No.:

Form 5E
amended by
S.R. Nos
110/2013
rule 8,
14/2014
rule 15.

IN THE MATTER OF:

SUMMONS FOR FAILURE TO PAY FINE

To: *[name]*

Of: *[address]*

On *[date]* you were found guilty and fined at the *[place]* County Court for the offence of:

You were order to pay the following amount:

FINE	\$
COSTS	\$
LESS AMOUNT PAID	\$
<u>TOTAL OWING</u>	\$

The Court records show that you have not paid the above amount and a warrant to seize your property to recover this amount has been returned unsatisfied.

Listing of Case

You must attend at the County Court at *[place]* on *[date]* at *[time]* a.m./p.m.

Address of Court:

Court contact number:

Details about this summons

Issued at:

On *[date]*

[Signature of Registrar]

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5E

Notes

1. If you pay the above amount to the Registrar on or before the date for hearing of this summons, you will not be required to attend at Court. If you do not pay before the hearing of this summons, the Court may order you to pay additional costs.
 2. Payments must be made personally or posted to the Registrar. You must quote the CASE No. at the top of this summons.
 3. If you do not pay the amount due or attend at Court as directed by this summons, a warrant for your arrest may be issued.
-

RULE 5.07

Form 5F
amended by
S.R. No.
14/2014
rule 16.

FORM 5F

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

(BODIES CORPORATE)

A warrant to seize property owned by the company has been issued to the Sheriff to satisfy the amount remaining unpaid on a fine imposed by the County Court on the company and all lawful costs of execution. 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 YOU RECEIVE THIS
NOTICE:**

- To pay the amount outstanding in full; or
- To obtain an Instalment Order or a Time to Pay Order.

OTHERWISE THE SHERIFF MAY SEIZE AND SELL PROPERTY.

**PAYMENT MUST BE MADE TO THE REGISTRAR OF THE
COUNTY COURT WHERE THE PENALTY WAS IMPOSED
(see attached summary).**

IF THE COMPANY CANNOT PAY

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

An application form may be obtained from the Court.

**ANY APPLICATION MUST BE SUBMITTED TO THE REGISTRAR
OF THE COUNTY COURT WHERE THE PENALTY WAS
IMPOSED.**

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.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5G

Form 5G
amended by
S.R. Nos
110/2013
rule 8,
14/2014
rule 17.

RULE 5.09

FORM 5G

IN THE COUNTY COURT
OF VICTORIA
AT

WARRANT No.:
OBLIGATION No.:
CASE No.:

IN THE MATTER OF:

WARRANT OF COMMITMENT

Name of offender:

Address of offender:

To the Sheriff and to all members of the Police Force of the State of Victoria and to the Officer in Charge of the prison at which the above person is held, the above offender has failed for a period of one month to pay the:

*monetary penalty imposed on him or her on [date]

or

*instalment payable under an order made by the [place] County Court on [date]

and having been this day ordered by this Court to be imprisoned for a term of .

You are authorised and required to take and safely convey him or her to a convenient prison, and there deliver him or her to the Officer in Charge together with this warrant.

And you, the Officer in Charge, are authorised and required to receive [name of offender]

into your custody in such prison and there to imprison him or her for the term of .

*delete if not applicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 5G

Details about this Warrant

Issued at:

On *[date]*

[Signature of Registrar]

Form 5H

RULE 5.10

FORM 5H

IN THE COUNTY COURT
OF VICTORIA
AT

**SUMMONS—APPLICATION UNDER SECTION 28 OF THE
SHERIFF ACT 2009**

TO:

THE SHERIFF:

*And [name and address of third party who paid amount under executed
money warrant to which this application relates]*

You are summoned to attend before the Court on the hearing of an
application under section 28 of the **Sheriff Act 2009** by *[name and address
of applicant]* for the reinstatement of an executed money warrant as a money
warrant.

The application relates to the following executed money warrant: *[specify
details]*

If you are the third party who paid the whole of the amount payable under the
executed money warrant to which this application relates, you may attend but
are not required to attend.

The application will be heard before the Court,
County Court, William Street, Melbourne,
on *[insert date]* at *[insert time]* or so soon afterwards as the business of the
Court allows.

FILED: *[date]*.

This summons was filed by *[identify applicant or applicant's legal
representative]*.

RULE 6.02

FORM 6A

IN THE COUNTY COURT OF VICTORIA 20 Case No.

AT

IN THE MATTER of the **Major Crime (Investigative Powers) Act 2004**

and

IN THE MATTER of an application by the Chief Examiner, the applicant,
under section 42 of that Act to determine legal professional privilege.

**APPLICATION TO DETERMINE LEGAL PROFESSIONAL
PRIVILEGE**

I, [*name*], Chief Examiner, apply under section 42 of the **Major Crime
(Investigative Powers) Act 2004** for a determination whether or not
[*describe document or thing*] is the subject of legal professional privilege.

*THIS APPLICATION is made on the following grounds: [*insert reasons
and specify grounds for making the application*].

*I RELY upon the acts, facts, matters and circumstances set out in my
affidavit made on [*date of affidavit*] in support of this application.

Date:

Chief Examiner

*delete if not applicable

Form 6B

RULE 6.03

FORM 6B

IN THE COUNTY COURT
OF VICTORIA
AT

CASE No.:
INDICTMENT No.:

IN THE MATTER OF a witness summons issued by the Chief Examiner
under section 15 of the **Major Crime (Investigative Powers) Act 2004**

WARRANT FOR ARREST OF WITNESS

To *[name]*:

Address of witness:

Details

On *[date]* the Chief Examiner issued a witness summons to you under
section 15 of the **Major Crime (Investigative Powers) Act 2004**.
An application under section 46 of that Act has been made by a member of
the police force *[insert name and details of applicant]* for the issue of a
warrant for your arrest because there are reasonable grounds to believe:

- *1 that you have absconded or are likely to abscond; or
- *2 that you are otherwise attempting, or are otherwise likely to attempt,
to evade service of the summons; or
- *3 that you have committed an offence under section 37(1) of that Act or
are likely to do so.

A copy of the witness summons is attached to this Warrant.

Dated:

*[Signature of DPP/
Crown Prosecutor]*

Warrant to arrest

To all members of the police force or

You are authorised to break into and enter any premises, vessel, aircraft or
vehicle where the person named in this warrant is suspected to be, to arrest
that person and bring him or her before the Court as soon as practicable to be
dealt with according to law or cause the person to be released on bail in
accordance with the endorsement on this warrant.

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 6B

I am satisfied by the evidence before me that a warrant of arrest should be issued on the following grounds:

- *1 that the person has absconded or is likely to abscond; or
- *2 that the person is otherwise attempting, or is otherwise likely to attempt, to evade service of the summons; or
- *3 that the person has committed an offence under section 37(1) of that Act or is likely to do so.

Details about this Warrant

Issued at

On *[date]*

[Signature of Judge]

*Delete if not applicable

Form 7A

RULE 7.01

FORM 7A

IN THE COUNTY COURT

OF VICTORIA

AT

IN THE MATTER of an application under section 89F of the **Sentencing Act 1991** for an identity crime certificate

IDENTITY CRIME CERTIFICATE

The County Court issues this identity crime certificate under section 89F of the **Sentencing Act 1991**.

On *[date]* the Court found *[name of offender]* guilty of an identity crime offence.

1. The identity crime offence to which this certificate relates is *[specify identity crime offence and date of offence]*
2. The name of the victim of the identity crime offence is *[name of victim]*
- *3. The Court considers the following other matters are relevant: *[specify any other relevant matters, for example address of victim, date of birth, gender]*

Date

[Signature of Judge]

*delete if inapplicable

RULE 7.02

FORM 7B

IN THE COUNTY COURT OF VICTORIA

CASE No.

AT

IN THE MATTER of an application under section 89F of the **Sentencing Act 1991** for an identity crime certificate

Form 7B
amended by
S.R. No.
110/2013
rule 9.

**NOTICE TO APPEAR UNDER SECTION 89H OF THE
SENTENCING ACT 1991**

TO: *[name and address of person who prosecuted the identity crime offence which is the subject of the application]*

TAKE NOTICE THAT you are directed to appear at the hearing of the application to provide assistance to the Court in relation to the application.

PARTICULARS:

1. Date of hearing
2. Place of hearing *[address of Court]*
3. The identity crime offence to which this application relates is *[specify identity crime offence]*
4. The name of the victim of the identity crime offence is *[name of victim]*
5. The Court found *[name of offender]* guilty of the identity crime offence on *[date]*
- *6. Other relevant matters are: *[specify any other relevant matters]*
- *7. You may appoint another person to appear on your behalf at the hearing. If you wish to do so, specify the name and contact details of that person.

Date

[Signature]

*delete if inapplicable

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 8A

Form 8A
inserted by
S.R. No.
31/2012
rule 11.

RULE 8.01

FORM 8A

**APPLICATION UNDER SECTION 48N(1) OF THE SENTENCING
ACT 1991**

CASE No.:

This application is being made by
of

To:

Information about the community correction order

Which Court made the order? The Court at .

When was the order made? It was made on / / .

It started on / / . It ends on / / .

Information about this application

I want the community correction order cancelled/varied to—
[specify changes required]

I want the order cancelled/varied for the following reasons—

NOTICE OF APPLICATION

To:

The above application is being made to the Court at

The application will be heard on Day Month Year

at a.m./p.m.

Signature of Applicant

Dated: Day Month Year

RULE 8.02

FORM 8B

Form 8B
inserted by
S.R. No.
110/2013
rule 10.

**APPLICATION UNDER SECTION 83AY OF THE SENTENCING
ACT 1991 FOR REVIEW OF A DECISION OF THE SECRETARY**

CASE No.:

IN THE COUNTY COURT

OF VICTORIA

AT

IN THE MATTER OF:

THIS FORM IS FILED ON BEHALF OF:

ADDRESS:

CONTACT DETAILS

(If represented, please complete the legal practitioner details below)

Contact No.:

Email address:

Address for service:

- I have Legal Representation (complete below)
- I represent the applicant
- I do not have Legal Representation

Firm:

Practitioner's Name:

Solicitor Code:

Ref:

To the Registrar of the County Court at:

AND TO the Respondent: Community Correctional Services at

SENTENCING ORDER

On _____ the County Court at _____ the applicant was sentenced to a
community correction order. The community correction order commences
on _____ and expires on _____.

DECISION ON REVIEW

On _____ Community Correctional Services at _____ held an
Administrative Review Hearing. At the hearing a decision was made that the
applicant:

County Court Criminal Procedure Rules 2009
S.R. No. 183/2009

Form 8B

P. D. JENKINS	F. MILLANE
J. R. BOWMAN	S. S. DAVIS
R. A. LEWITAN	F. P. HAMPEL
G. G. HICKS	J. G. MORRISH
J. A. SMALLWOOD	J. P. LECKIE
S. M. COHEN	D. A. PARSONS
M. E. SEXTON	S. E. PULLEN
A. J. HOWARD	C. A. THORNTON
L. A. HANNAN	P. M. TAFT
M. D. MURPHY	F. SACCARDO
M. E. KENNEDY	M. A. GAMBLE
C. M. O'NEILL	H. MASON
D. L. ALLEN	G. P. MULLALY
K. L. BOURKE	T. J. GINNANE
P. M. E. WISCHUSEN	K. E. KINGS
P. G. LACAVA	J. L. PARRISH
F. R. GUCCIARDO	

ENDNOTES

1. General Information

The County Court Criminal Procedure Rules 2009, S.R. No. 183/2009 were made on 17 December 2009 by a majority of the Judges of the County Court under the **Criminal Procedure Act 2009**, No. 7/2009, section 78 of the **County Court Act 1958**, No. 6230/1958 and the **Children, Youth and Families Act 2005**, No. 96/2005 and came into operation on 1 January 2010: rule 1.04.

The County Court Criminal Procedure Rules 2009 will sunset 10 years after the day of making on 17 December 2019 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the County Court Criminal Procedure Rules 2009 by statutory rules, subordinate instruments and Acts.

County Court (Chapter III Amendment No. 1) Rules 2012, S.R. No. 31/2012

Date of Making: 9.5.12

Date of Commencement: 14.5.12: rule 3

County Court (Chapter III Criminal Subpoenas Amendment) Rules 2012,
S.R. No. 95/2012 (as amended by S.R. No. 110/2013)

Date of Making: 30.8.12

Date of Commencement: Rules 5, 6 on 17.9.12: rule 3(1); rules 7–9 on
11.10.13: rule 3(2)(a)

County Court (Miscellaneous Amendments) Rules 2012, S.R. No. 104/2012

Date of Making: 20.9.12

Date of Commencement: Rules 10–14 on 1.10.12: rule 3

County Court (Chapter III Amendment No. 2) Rules 2013, S.R. No. 110/2013

Date of Making: 27.8.13

Date of Commencement: Rules 5–10 on 2.9.13: rule 3

County Court (Chapter III Amendment No. 3) Rules 2014, S.R. No. 14/2014

Date of Making: 10.4.14

Date of Commencement: 19.4.14: rule 3

Endnotes

3. Explanatory Details

¹ Rule 1.09(1): S.R. No. 148/2008.