

**Version No. 020**  
**County Court Miscellaneous Rules 1999**  
**S.R. No. 78/1999**

Version incorporating amendments as at 2 January 2008

**TABLE OF PROVISIONS**

<i>Rule</i>	<i>Page</i>
<b>ORDER 1—PRELIMINARY</b>	<b>1</b>
1.01 Title	1
1.02 Object	1
1.03 Authorising provisions	1
1.04 Commencement	1
1.05 Revocation	1
1.06 Definitions	2
<b>ORDER 2—APPEALS TO COUNTY COURT UNDER SUBDIVISION 1, DIVISION 4 OF PART 4 OF THE MAGISTRATES' COURT ACT 1989 AND UNDER DIVISION 8 OF PART 3 AND DIVISION 8 OF PART 4 OF THE CHILDREN AND YOUNG PERSONS ACT 1989</b>	<b>2</b>
2.01 Application	2
2.02 Definitions	2
2.03 Notice of appeal (under section 83 of the <b>Magistrates' Court Act 1989</b> ) undertaking to prosecute and Schedule 6 clause 1(4A) statement and Notice of Appeal by Director of Public Prosecutions	2
2.04 Notice pursuant to clause 1(4B)(a) of Schedule 6 to the <b>Magistrates' Court Act 1989</b>	3
2.05 Notice of appeal (under section 116 or 197 of the <b>Children and Young Persons Act 1989</b> ) and undertaking to prosecute	3
2.06 Practitioner to notify that he or she acts	3
2.07 Notice of abandonment—imprisonment or detention	3
2.08 Notice of abandonment—other sentencing order	4
2.09 Application for leave to abandon appeal out of time	4
2.10 Notice of abandonment—Registrar to make order	4
2.11 Order striking out appeal	4
2.12 Registrar to fix appeal	5
2.13 Recording of decision	5
2.14 Copies of record	6

<i>Rule</i>	<i>Page</i>
2.15 Application to set aside order striking out appeal for failure to appear	6
2.16 Application for rehearing of appeal	6
2.17 Application for leave to apply out of time for rehearing of appeal	7
<b>ORDER 3—REMITTED AND TRANSFERRED ACTIONS</b>	<b>7</b>
3.01 Application	7
3.02 Definition	7
3.03 Proceeding remitted and proceeding tried by consent	7
3.04 Statement of cause of action	8
3.05 Time for taking any step, doing any act	8
<b>ORDER 4—PROCEEDINGS UNDER THE INSTRUMENTS ACT 1958</b>	<b>9</b>
4.01 Application	9
4.02 General	9
4.02.1 Definition	9
4.03 Form 2–4A	9
4.04 Final judgment when leave not obtained	10
4.05 Application for leave to appear and to defend and for leave to commence more than one proceeding on 2 or more bills	10
4.06 Endorsement of decision	11
4.07 Registrar to inform parties	11
4.08 Leave to defend equivalent to appearance	11
<b>ORDER 5—OFFICERS</b>	<b>11</b>
5.01 Registrar to keep seal and books	11
5.02 Registrar to permit searches in most cases	11
5.03 Registrar to have general administrative control	12
5.04 Additional powers	12
5.05 Pre-trial matters after setting down	13
5.06 Deputy registrars	13
<b>ORDER 6</b>	<b>13</b>
<b>ORDER 7—COMMERCIAL ARBITRATION</b>	<b>14</b>
7.01 Definition	14
7.02 Application of Order	14
7.03 Jurisdiction	14
7.04 Enforcement of award	14
7.05 Indorsement and service of order	15
7.06 Appeal under section 38	15
7.07 Application under section 39(1)	15
7.08 Application under section 42 or 43	16

<i>Rule</i>	<i>Page</i>
7.09 Offer of compromise	16
7.10 Form of offer	16
7.11 Time for making, accepting, payment under etc. offer	16
7.12 Effect of offer	18
7.13 Disclosure of offer	18
7.14 Failure to comply with accepted offer	18
7.15 Costs where offer not accepted	19
7.16 Hearing on costs	19
<b>ORDER 8—PAYMENT INTO COURT BY BANK GUARANTEE</b>	<b>19</b>
8.01 Application	19
8.02 Payment by way of irrevocable guarantee	19
8.03 Requirement of guarantee	20
8.04 Liability of bank	20
<b>ORDER 9—FINE ENFORCEMENT RULES</b>	<b>20</b>
9.01 Definitions	20
9.02 Proper officer	21
9.03 Application	21
9.04 Stay of enforcement or execution	22
9.05 Consideration of application	22
9.06 Order and notice	22
9.07 Enforcement of fine against a natural person	22
9.08 Enforcement of fine against body corporate	23
9.09 Undertaking to appear	23
9.10 Service of notices and orders	23
9.11 Warrant of commitment	24
<b>ORDER 10—CONFISCATION OF PROPERTY AND PROCEEDS OF CRIME</b>	<b>25</b>
10.01 Definitions	25
10.02 Application of this Order	25
10.03 Making of application to the Court	26
10.04 Notice and service generally	26
10.05 Applications for restraining orders and monitoring orders	27
10.06 Application without notice under the Act	27
10.07 Other applications generally under Commonwealth Act	27
10.08 Notice of application	28
10.09 Filing and directions	28
10.10 Notice of opposition to an application	29
10.11 Evidence	29
10.12 Notice of order or declaration	30
10.13 Notice of discharge	31

<i>Rule</i>	<i>Page</i>
<b>ORDER 10A—Revoked</b>	<b>32</b>
10A.01–10A.05 <i>Revoked</i>	32
<b>ORDER 11—PRE-TRIAL CRIMINAL PROCEDURE RULES</b>	<b>32</b>
11.01 Application	32
11.02 Definitions	32
11.03 Notice by solicitor to DPP and CTLD	33
11.04 Copy presentment to be served	34
11.05 Notification of readiness for trial	35
11.06 Notice by solicitor to Registrar	35
11.07 Unrepresented accused person	36
11.08 Questionnaire	36
11.09 Costs liability	37
11.10 Pre-trial conference	37
11.11 Pre-trial hearing	39
<b>ORDER 11A—APPLICATIONS UNDER PART IIA OF THE EVIDENCE ACT 1958</b>	<b>43</b>
11A.01 Application of Order	43
11A.02 Application under section 42E	43
11A.03 Application under section 42L	44
11A.04 Application under section 42M	44
11A.05 Application under section 42N	44
11A.06 Application under section 42P	45
<b>ORDER 12—PROCEEDINGS UNDER IMPRISONMENT OF FRAUDULENT DEBTORS ACT 1958</b>	<b>45</b>
12.01 Application	45
12.02 Filing of summons	45
12.03 Service of summons	45
12.04 Affidavit of service	45
12.05 Contents of affidavit in support	46
12.06 Witnesses	46
12.07 Warrants to be returned	46
12.08 Certificate of payment	46
12.09 Costs	46
12.10 Indorsement on warrant	47
12.11 Discharge by payment	47

<i>Rule</i>	<i>Page</i>
<b>ORDER 13—PROCEEDINGS UNDER PART IV OF THE ADMINISTRATION AND PROBATE ACT 1958</b>	<b>47</b>
13.01 Definitions	47
13.02 Application	47
13.03 Application by originating motion	48
13.04 Parties to application	48
13.05 Directions to be given	48
13.06 Summons for directions	48
13.07 Directions	49
13.08 Failure to comply with directions	49
13.09 Production of probate	50
13.10 Procedure after order for plaintiff	50
<b>ORDER 14—SUMMONS TO WITNESS IN CRIMINAL PROCEEDINGS</b>	<b>50</b>
14.01 Subpoenas	50
<b>ORDER 15—SERVICE AND EXECUTION OF PROCESS RULES</b>	<b>51</b>
15.01 Definitions	51
15.02 How application made	51
15.03 Enforcement of judgment	51
15.04 Costs	51
<b>ORDER 16—APPLICATIONS UNDER SECTION 26(4) OF THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1996</b>	<b>52</b>
16.01 Application of Order	52
16.02 Application for approval of a proposed change of name for a child	52
16.03 Order	52
16.04 Other applications	52
<b>ORDER 17—JURY SERVICE APPEALS</b>	<b>53</b>
17.01 Definitions	53
17.02 Application	53
17.03 Lodgment of appeal under section 10	53
17.04 Papers for Judge	54
17.05 Judge to consider papers	54
17.06 Hearing of appeal	54
17.07 If appellant does not appear at hearing	55

<i>Rule</i>	<i>Page</i>
<b>FORMS</b>	<b>56</b>
Form 2–2A—Notice of Appeal (Pursuant to Section 83), Undertaking to Prosecute and Acknowledgement of Schedule 6, Clause 1(4A) Notice	56
Form 2–2AA, 2–2AB— <i>Revoked</i>	59
Form 2–2B—Notice of Appeal	60
Form 2–2C—Notice Pursuant to Schedule 6 Clause 1(4B)(a) of the <b>Magistrates' Court Act 1989</b>	61
Form 2–2CA— <i>Revoked</i>	62
Form 2–2D—Notice of Appeal and Undertaking to Prosecute	63
Form 2–2E—Notice of Abandonment of Appeal	65
Form 2–2F—Notice of Abandonment of Appeal	66
Form 2–2G—Notice of Abandonment of Appeal	67
Form 2–2H—Application for Leave to Abandon Appeal from the Magistrates' Court Out of Time	68
Form 2–2J—Order Striking Out Appeal	69
Form 2–2K—Order Striking Out Appeal	70
Form 2–2L—Notice to Certain Officials of a County Court's Appeal Decision	71
Form 2–2M—Notice to Certain Officials of County Court's Appeal Decision	72
Form 2–2N—Application to Set Aside Order Striking Out Appeal for Failure to Appear	73
Form 2–2O—Application for Rehearing of Appeal	75
Form 2–2P—Application for Leave to Apply Out of Time for Rehearing of Appeal	77
Form 2–4A—Writ— <b>Instruments Act 1958</b>	79
Form 2–4B—Application for Leave to Appear and to Defend	82
Form 2–4C—Application for Leave to Commence more than One Proceeding on 2 or more Bills	84
Form 2–8A—Irrevocable Guarantee	86
Form 2–8B—Notice of Discharge and Payment into Court	87
Form 2–9A—Application	88
Form 2–9B—Notice of Hearing of Application	90

<i>Rule</i>	<i>Page</i>
Form 2–9C—Notice About the Procedure for Enforcement of Fines	91
Form 2–9D—Consent to a Community Based Order	93
Form 2–9E—Community Based Order in Default of Payment of a Fine	95
Form 2–9F—Summons for Failure to Pay a Fine	97
Form 2–9G—Warrant to Arrest for Failure to Pay a Fine	99
Form 2–9H—Notice About the Procedure for Enforcement of a Fine (Bodies Corporate)	100
Form 2–9J—Warrant of Commitment	101
Form 2–10A—Application Under Section 98 for Examination Order	102
Form 2–10B—Application Under Section [ <i>insert relevant section and relevant Act</i> ] for Restraining Order	104
Form 2–10C—Notice of Application Made Under Section 16	107
Form 2–10D—Notice of Application to be Made Under Section 20 for Exclusion Order	109
Form 2–10E—Notice of Application to be Made Under Section 26 for Further Orders	111
Form 2–10F—Notice of Application to be Made Under Section 32 for Forfeiture Order	113
Form 2–10FA—Notice of Application to be Made Under Section 37 for Civil Forfeiture Order	115
Form 2–10G—Notice of Application to be Made Under Section 45 for Relief from Hardship	117
Form 2–10H—Notice of Application to be Made Under Part 6 of the Confiscation Act for Exclusion Order	119
Form 2–10J—Notice of Application to be Made Under Section 58 for Pecuniary Penalty Order	122
Form 2–10K—Notice of Application Made Under Section 98 for Examination Order	124
Form 2–10L—Notice of Application to be Made Under Section [ <i>Insert Number</i> ] of the <b>Confiscation Act 1997</b>	125
Form 2–10M—Important Note	127
Form 2–10N—Notice of Discharge of Forfeiture	128
Form 2–10O—Application Under Section [ <i>insert relevant section and relevant Act</i> ] for Monitoring Order	130
Forms 2–10AA, 2–10AB— <i>Revoked</i>	131

<i>Rule</i>	<i>Page</i>
Form 2–11A—Notice that Solicitor Acts	132
Form 2–11B—Notice that Solicitor has Ceased to Act	133
Form 2–11C—Notice to Accused Person	134
Form 2–11D—Notice of Readiness for Trial	135
Form 2–11E—Questionnaire	137
Form 2–11F—Application for Pre-Trial Hearing	139
Form 2–11AA—Notice of Application Under Section 42L of the <b>Evidence Act 1958</b>	140
Form 2–11AB—Notice of Application Under Section 42M, 42N or 42P of the <b>Evidence Act 1958</b>	141
Form 2–12A—Affidavit in Support of a Summons to Debtor	143
Form 2–12B—Certificate of Payment	144
Form 2–16A—Notice of Application by a Child's Parent for Approval of a Proposed Change of Name of a Child	145
Form 2–16B—Affidavit in Support of Application for Approval of a Proposed Change of Name of a Child	146
Form 2–16C—Order Approving a Proposed Change of Name for a Child	148
Form 2–16D—Notice of Application	149
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<b>ENDNOTES</b>	<b>151</b>
1. General Information	151
2. Table of Amendments	152
3. Explanatory Details	153



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**Version No. 020**  
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**S.R. No. 78/1999**

Version incorporating amendments as at 2 January 2008

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

**ORDER 1**

**PRELIMINARY**

**1.01 Title**

These Rules constitute Chapter II of the Rules of the County Court and are entitled the County Court Miscellaneous Rules 1999.

**1.02 Object**

The object of these Rules is to remake with amendments the Rules that establish procedures for certain miscellaneous proceedings in the Court.

**1.03 Authorising provisions**

These Rules are made under section 78 of the **County Court Act 1958** and all other enabling powers.

**1.04 Commencement**

These Rules come into operation on 21 June 1999.

**1.05 Revocation**

Chapter II of the Rules of the County Court, the County Court Miscellaneous Rules 1989<sup>1</sup>, is **revoked**.

## 1.06 Definitions

In these Rules—

*the Act* means the **County Court Act 1958**;

*Chapter I* means the County Court Rules of Procedure in Civil Proceedings 1999.

Order 2  
(Heading and  
rules 2.01–  
2.11)  
substituted as  
Order 2  
(Heading and  
rules 2.01–  
2.17) by  
S.R. No.  
79/1999 rule 5.

## ORDER 2

### APPEALS TO COUNTY COURT UNDER SUBDIVISION 1, DIVISION 4 OF PART 4 OF THE MAGISTRATES' COURT ACT 1989 AND UNDER DIVISION 8 OF PART 3 AND DIVISION 8 OF PART 4 OF THE CHILDREN AND YOUNG PERSONS ACT 1989

Rule 2.01  
substituted by  
S.R. No.  
79/1999 rule 5.

## 2.01 Application

This Order applies to any appeal from the Magistrates' Court under Subdivision 1 of Division 4 of Part 4 of the **Magistrates' Court Act 1989** and any appeal under section 116 or section 197 of the **Children and Young Persons Act 1989**.

Rule 2.02  
substituted by  
S.R. No.  
79/1999 rule 5.

## 2.02 Definitions

In this Order—

*appeal* means an appeal to which this Order applies; and

*appellant* has a corresponding meaning.

Rule 2.03  
substituted by  
S.R. No.  
79/1999 rule 5.

## 2.03 Notice of appeal (under section 83 of the Magistrates' Court Act 1989) undertaking to prosecute and Schedule 6 clause 1(4A) statement and Notice of Appeal by Director of Public Prosecutions

- (1) Subject to paragraph (2), a notice of appeal, undertaking to prosecute an appeal and statement pursuant to clause 1(4A) of Schedule 6 to the

**Magistrates' Court Act 1989** shall be in Form 2–2A.

- (2) A notice of appeal by the Director of Public Prosecutions for the purposes of Schedule 6 to the **Magistrates' Court Act 1989**, shall be in Form 2–2B.

**2.04 Notice pursuant to clause 1(4B)(a) of Schedule 6 to the Magistrates' Court Act 1989**

Rule 2.04  
substituted by  
S.R. No.  
79/1999 rule 5.

A notice pursuant to clause 1(4B)(a) of Schedule 6 of the **Magistrates' Court Act 1989** shall be in Form 2–2C.

**2.05 Notice of appeal (under section 116 or 197 of the Children and Young Persons Act 1989) and undertaking to prosecute**

Rule 2.05  
substituted by  
S.R. No.  
79/1999 rule 5.

A notice of appeal and undertaking to prosecute an appeal under section 116 or section 197 of the **Children and Young Persons Act 1989**, for the purposes of Schedule 6 to the **Magistrates' Court Act 1989**, shall be in Form 2–2D.

**2.06 Practitioner to notify that he or she acts**

Rule 2.06  
substituted by  
S.R. No.  
79/1999 rule 5.

- (1) If a practitioner is engaged to act on behalf of an appellant or respondent, the practitioner shall without delay notify the Registrar in writing that he or she so acts and furnish an address for service.
- (2) If a practitioner ceases to act on behalf of an appellant or respondent or changes the address for service, the practitioner shall without delay so notify the Registrar in writing.

**2.07 Notice of abandonment—imprisonment or detention**

Rule 2.07  
substituted by  
S.R. No.  
79/1999 rule 5.

A notice of abandonment of an appeal against a sentencing order which imposed a term of imprisonment or detention shall be in Form 2–2E.

r. 2.08

Rule 2.08  
substituted by  
S.R. No.  
79/1999 rule 5.

**2.08 Notice of abandonment—other sentencing order**

A notice of abandonment of an appeal against a sentencing order which did not impose a term of imprisonment or detention shall be in Form 2–2F or Form 2–2G if the notice of abandonment of appeal concerns an appeal under section 116 or section 197 of the **Children and Young Persons Act 1989**.

Rule 2.09  
substituted by  
S.R. No.  
79/1999 rule 5.

**2.09 Application for leave to abandon appeal out of time**

An application for leave to abandon an appeal from the Magistrates' Court out of time shall be in Form 2–2H.

Rule 2.10  
substituted by  
S.R. No.  
79/1999 rule 5.

**2.10 Notice of abandonment—Registrar to make order**

When a notice of abandonment of appeal is filed or leave has been granted to abandon an appeal—

- (a) against a sentencing order; or
- (b) which concerns an appeal under section 116 or section 197 of the **Children and Young Persons Act 1989**—

the Registrar shall make an order striking out the appeal.

Rule 2.11  
substituted by  
S.R. No.  
79/1999 rule 5.

**2.11 Order striking out appeal**

- (1) An order striking out an appeal under section 86(3)(b), (3A)(b) or clause 1 of Schedule 6 to the **Magistrates' Court Act 1989** shall be in Form 2–2J or in Form 2–2K if the order concerns an appeal under section 116 or section 197 of the **Children and Young Persons Act 1989**.
- (2) If an order is made under paragraph (1) the Registrar shall cause a copy of the order to be forwarded to—
  - (a) the registrar of the Magistrates' Court at the venue of the court from which the appeal was brought; or

- (b) the registrar of the Children's Court at the venue of the court from which the appeal was brought if the appeal is under section 116 or section 197 of the **Children and Young Persons Act 1989**.

**2.12 Registrar to fix appeal**

Rule 2.12  
inserted by  
S.R. No.  
79/1999 rule 5.

- (1) The Registrar shall—
- (a) fix the date and place for hearing of the appeal; and
  - (b) notify in writing each party and each practitioner who has given notice under Rule 2.06 of the date and place of hearing a reasonable time before the hearing.
- (2) Notification in writing under paragraph (b) may be by pre-paid ordinary mail or where a practitioner for a party has facilities for the reception of documents in a document exchange by delivering the notification into those facilities.

**2.13 Recording of decision**

Rule 2.13  
inserted by  
S.R. No.  
79/1999 rule 5.

- (1) When the appeal is determined by the Court, the Associate to the Judge who heard the appeal shall in all cases, record the sentence or particulars of the decision, in quadruplicate, in Form 2–2L, or Form 2–2M if the appeal is an appeal under section 116 or section 197 of the **Children and Young Persons Act 1989**, which record shall constitute the final record of the order of the Court on the appeal.
- (2) If a number of appeals is heard together, it is not necessary to record the sentence or particulars required by paragraph (1) on separate forms for each appeal but it is necessary for the sentence or particulars of each charge to be recorded in full.

**r. 2.14**

Rule 2.14  
inserted by  
S.R. No.  
79/1999 rule 5.

## **2.14 Copies of record**

- (1) The Associate shall deliver—
  - (a) three copies of the record of the order of the Court to the Registrar who shall—
    - (i) file one copy; and
    - (ii) send one copy to the Registrar of the Magistrates' Court or Children's Court at the venue of the Court from which the appeal was brought; and
    - (iii) if the appellant is required to serve a term of imprisonment or detention, deliver one copy to the person responsible for keeping the appellant; and
  - (b) if the appellant is required to serve a sentence of imprisonment or detention, one copy of the record of the order of the Court to the prison officer responsible for conveying the appellant to the place of imprisonment or detention.
- (2) The record shall be sufficient to authorise the keeping of the appellant for the period and in the manner set out in the record.

Rule 2.15  
inserted by  
S.R. No.  
79/1999 rule 5.

## **2.15 Application to set aside order striking out appeal for failure to appear**

An application to set aside an order striking out an appeal for failure to appear shall be in Form 2–2N.

Rule 2.16  
inserted by  
S.R. No.  
79/1999 rule 5.

## **2.16 Application for rehearing of appeal**

An application for a rehearing of an appeal which has been heard and determined in an appellant's absence shall be in Form 2–2O.

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**2.17 Application for leave to apply out of time for rehearing of appeal**

Rule 2.17  
inserted by  
S.R. No.  
79/1999 rule 5.

An application for leave to apply out of time for rehearing of an appeal which has been heard and determined in an appellant's absence shall be in Form 2–2P.

**ORDER 3**

**REMITTED AND TRANSFERRED ACTIONS**

**3.01 Application**

This Order applies to any proceeding—

- (a) which is remitted or transferred to the Court by or from another court; or
- (b) which is commenced in the Supreme Court and in which the parties consent under section 37(2)(a) of the Act to its being in the Court.

**3.02 Definition**

In this Order—

*other court* means the court in which the proceeding was commenced.

**3.03 Proceeding remitted and proceeding tried by consent**

- (1) In a proceeding to which this Order applies the plaintiff or applicant shall file with the Registrar—
  - (a) in the case of a proceeding ordered to be tried in the Court, the order for remission or transfer and a copy of the originating process;

- (b) in the case of a proceeding to be tried in the Court pursuant to the consent of the parties, the written consent and a copy of the originating process.
- (2) The plaintiff or applicant shall apply to the Prothonotary or other proper officer of the other court to send to the Registrar all pleadings, affidavits and other documents filed in the other court relating to the proceeding.
- (3) The plaintiff or applicant shall also file with the Registrar a statement of the names and addresses of all parties to the proceeding and their solicitors.

**3.04 Statement of cause of action**

If no statement of the claim has been filed and served in the other court, the plaintiff or applicant shall, before taking any further steps in the proceeding, file with the Registrar together with the copy of the originating process a concise statement of the claim in accordance with the requirements of Chapter I and shall serve a copy of the statement on each other party to the proceeding within 7 days after filing the statement.

**3.05 Time for taking any step, doing any act**

- (1) If in any Rule (including a Rule of Chapter I), a time is prescribed for taking any step in a proceeding or for doing any act by reference to the date of filing a notice of appearance, the time for taking such a step or doing such an act shall be determined—
  - (a) in the case of a proceeding remitted from another court by order of a Judge of that other court, by reference to the date of the order for remission;



- (b) in the case of a proceeding commenced in the Supreme Court which the parties have consented to being tried in the County Court, by reference to the date of the written consent referred to in section 37(2)(a) of the Act;
  - (c) in the case of a proceeding transferred from the Magistrates' Court, by reference to the date of the order for transfer.
- (2) In a case where the time prescribed fixes the latest date for taking any step or doing any act, the step may be taken or the act done at any time before that date.

#### ORDER 4

#### PROCEEDINGS UNDER THE INSTRUMENTS ACT 1958

##### 4.01 Application

This Order applies to any proceeding under the **Instruments Act 1958**.

##### 4.02 General

Except as provided in this Order, a proceeding under the **Instruments Act 1958** shall be conducted in accordance with that Act and Chapter I.

##### 4.02.1 Definition

In this Order—

*bill* has the same meaning as in section 3 of the **Instruments Act 1958**.

Rule 4.02.1  
inserted by  
S.R. No.  
123/2001  
rule 5.

##### 4.03 Form 2–4A

A proceeding on a bill commenced after the same has become due may be commenced by writ in Form 2–4A.

Rule 4.03  
amended by  
S.R. No.  
123/2001  
rule 6.

**4.04 Final judgment when leave not obtained**

If the defendant does not obtain leave to defend the proceeding within the time specified in the writ the plaintiff may enter final judgment for any sum not exceeding the sum claimed in the writ with interest at the rate specified (if any) to the date of judgment together with the costs, charges and expenses fixed by the Registrar.

Rule 4.05  
(Heading)  
inserted by  
S.R. No.  
123/2001  
rule 7.

**4.05 Application for leave to appear and to defend and for leave to commence more than one proceeding on 2 or more bills**

Rule 4.05(1)  
substituted by  
S.R. No.  
123/2001  
rule 8.

- (1) An application by—
  - (a) a defendant, for leave to appear and to defend a proceeding; and
  - (b) a bearer or holder of 2 or more matured bills for leave to commence more than one proceeding in respect thereof against the same person—shall be made to a Judge without notice to any person.
- (2) An application referred to in paragraph (1) shall be—
  - (a) supported by affidavit stating the facts upon which the applicant relies;
  - (b) be in Form 2–4B or 2–4C as the case requires.
- (3) An affidavit for the purposes of this Rule may be made by the applicant or by any other person who can swear positively to the facts.

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**4.06 Endorsement of decision**

When the Judge has received an application under Rule 4.05, the Judge shall endorse the decision upon the application and return the application and affidavit to the Registrar.

**4.07 Registrar to inform parties**

When the decision of the Judge is received by the Registrar, the Registrar shall in writing give notice to the plaintiff and the defendant of the Judge's decision.

**4.08 Leave to defend equivalent to appearance**

- (1) If in any Rule a time is prescribed for taking any step or doing any act by reference to the date of filing notice of appearance, the time for taking any step or doing any act shall be determined by the date on which the Registrar gives notice under Rule 4.07.
- (2) A defendant who has been given leave to defend a proceeding to which this Order applies shall be taken to have filed a notice of appearance on the day leave was given.

**ORDER 5**

**OFFICERS**

**5.01 Registrar to keep seal and books**

The Registrar shall have the custody of the seal of the Court, and shall keep the books, including the register, as required.

**5.02 Registrar to permit searches in most cases**

- (1) The Registrar shall when requested in writing containing sufficient particulars and on payment of any prescribed fee, cause a search to be made in the books and registers in the Registrar's custody.

- 
- (2) Unless the Court otherwise orders, the Registrar shall on payment of any prescribed fee permit any person to search any documents filed in any proceeding.
  - (3) This Rule does not apply to any register or to any documents relating to any proceeding under the **Adoption Act 1984** (or any corresponding previous or subsequent enactment).
  - (4) If at any time the Registrar requires directions as to whether any search shall be made, the Registrar shall apply to a Judge and until the Judge so directs, no such search shall be made.

#### **5.03 Registrar to have general administrative control**

Subject to the Rules and to any order or direction of the Chief Judge, the Registrar shall have general administrative control over all deputy registrars and officers of the Court and may give them such directions as are necessary to ensure efficient and uniform practice throughout the entire administration of the Court.

#### **5.04 Additional powers**

For facilitating the business of the Court, the Registrar may in any proceeding in addition to exercising any other powers or functions conferred or imposed on him by the Act, the Council of Judges, the Chief Judge or the Rules—

- (a) make an order for the payment or taxation and payment of costs, including any reserved costs;
- (b) by consent of the parties—
  - (i) give judgment for the recovery of any debt or damages together with interest or damages in the nature of interest;
  - (ii) discharge any bond lodged in Court;

- (iii) strike out or dismiss any proceeding;
- (iv) make an order for the payment out of Court of moneys paid into Court other than moneys paid into Court for the benefit of a person under a disability;
- (v) make an order for a stay of execution.

#### **5.05 Pre-trial matters after setting down**

Where a proceeding has been set down for trial—

- (a) the Registrar may give notice to the parties or to their practitioners to attend before a Judge or the Registrar for a date to be fixed for the trial;
- (b) at the time and place named in the notice the Judge or the Registrar may—
  - (i) make any order or give any direction which appears to him to be necessary to ensure that the proceeding is ready for trial, notwithstanding that no application by summons is before him;
  - (ii) forthwith refers the proceeding to a Judge;
  - (iii) fix a date for the trial of the proceeding.

#### **5.06 Deputy registrars**

A deputy registrar has all the powers and functions of the Registrar under this Order except the powers and functions under Rule 5.03.

#### **ORDER 6**

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**ORDER 7**

**COMMERCIAL ARBITRATION**

**7.01 Definition**

In this Order—

*the Act* means the **Commercial Arbitration Act 1984**.

**7.02 Application of Order**

This Order applies—

- (a) to any arbitration in respect of which the Court has jurisdiction under the Act; and
- (b) to any proceeding in the Court under the Act.

**7.03 Jurisdiction**

- (1) A proceeding in the Court under the Act shall be commenced by originating motion.
- (2) A Master shall have jurisdiction under the Act except under sections 38 to 45.

**7.04 Enforcement of award**

- (1) Unless the Court otherwise orders, an application for leave under section 33(1) of the Act to enforce an award as a judgment or order of the Court shall be supported by affidavit and may be made without notice to any person.
- (2) An affidavit referred to in paragraph (1) shall—
  - (a) exhibit the arbitration agreement and the award or, in either case, a copy;
  - (b) state the extent to which the award has not been complied with at the date the application is made;

- (c) state the usual or last known place of residence or business of the person against whom it is sought to enforce the award or, when that person is a corporation, its last known registered office.
- (3) If leave is given, any party to the award may enter judgment in terms of the award.

**7.05 Indorsement and service of order**

An order of the Court giving leave to enforce an award shall—

- (a) be indorsed with a statement that the person on whom the order is served may apply within 14 days after service of the order (or, if the order is to be served out of Victoria, within such time as the Court orders) to set aside the order and until the expiration of that period or the determination of the application to set the order aside, the award cannot be enforced;
- (b) be served on the person against whom it is sought to enforce the award.

**7.06 Appeal under section 38**

An appeal under section 38 of the Act shall be brought in accordance with Order 58 of Chapter I.

**7.07 Application under section 39(1)**

In respect of an application under section 39(1) of the Act to determine a question of law arising in the course of an arbitration, the originating motion shall be filed and served within 14 days after the arbitrator or umpire has consented to the making of the application or the parties have so consented.

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**7.08 Application under section 42 or 43**

In respect of an application—

- (a) to set aside an award under section 42 of the Act; or
- (b) to remit an award under section 43 of the Act—

the originating motion shall be filed and served within 42 days after the award is made.

**7.09 Offer of compromise**

A party to an arbitration may serve on any other party an offer of compromise of a claim the subject of the arbitration on the terms specified in the offer.

**7.10 Form of offer**

An offer of compromise shall be in writing and contain a statement to the effect that it is served for the purpose of section 34 of the Act.

**7.11 Time for making, accepting, payment under etc. offer**

- (1) An offer of compromise may be served at any time before the determination of all questions of liability and the relief to be granted in respect of the claim to which the offer relates.
- (2) A party may serve more than one offer of compromise.
- (3) An offer of compromise may be expressed to be limited as to the time the offer is open to be accepted after service on the party to whom it is made, but the time expressed shall not be less than 14 days after such service.



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- (4) A party on whom an offer of compromise is served shall within three days after service serve a written acknowledgement of service on the party serving the offer.
- (5) A party on whom an offer of compromise is served may accept the offer by serving notice of acceptance in writing on the party who made the offer before—
- (a) the expiration of the time specified in accordance with paragraph (3) or, if no time is specified, the expiration of 14 days after service of the offer; or
  - (b) the determination of all questions of liability and the relief to be granted in respect of the claim to which the offer relates—
- whichever event is the sooner.
- (6) An offer of compromise shall not be withdrawn during the time it is open to be accepted, unless the Court otherwise orders.
- (7) An offer of compromise is open to be accepted within the period referred to in paragraph (5) notwithstanding that during that period the party on whom the offer is served makes an offer of compromise, to the party who served the offer of compromise, whether or not the offer made by the party served is made in accordance with this Order.
- (8) An offer of compromise providing for payment of a sum of money to a plaintiff shall, unless it otherwise provides, be taken to be an offer providing for payment of that sum within 14 days after acceptance of the offer.
- (9) An application to the Court under paragraph (6) for leave to withdraw an offer shall be made by originating motion in Form 5C of Chapter I.
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**7.12 Effect of offer**

An offer of compromise made in accordance with this Order shall be taken to be an offer of compromise made without prejudice, unless the offer otherwise provides.

**7.13 Disclosure of offer**

- (1) No statement of the fact that an offer of compromise has been made shall be contained in any pleading, affidavit or other document in the arbitration.
- (2) Where an offer of compromise has not been accepted, no communication with respect to the offer shall be made to the arbitrator or umpire until after the determination of all questions of liability and the relief to be granted in respect of the claim to which the offer relates.
- (3) Paragraphs (1) and (2) shall not apply where an offer of compromise provides that the offer is not made without prejudice.

**7.14 Failure to comply with accepted offer**

- (1) Where a party to an accepted offer of compromise fails to comply with the terms of the offer, then, unless for special cause the Court shall otherwise order, the other party shall be entitled, as he may elect, to—
    - (a) judgment in the terms of the accepted offer; or
    - (b) where the party in default is claimant, an order that the arbitration be forever stayed, and where the party in default is respondent to the claim, an order declaring the compromise constituted by the acceptance of the offer to be of no effect and that the claimant be at liberty to proceed with the arbitration.
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- (2) An application for judgment or an order under paragraph (1) shall be made to the Court by originating motion.

**7.15 Costs where offer not accepted**

In any exercise of discretion as to costs the arbitrator or umpire shall consider whether the party serving an offer of compromise was at all material times willing and able to carry out his part of what was proposed in the offer.

**7.16 Hearing on costs**

In arbitration proceedings the arbitrator shall not make a final award with respect to costs until the parties have had an opportunity to be heard on the question of the costs of the arbitration.

**ORDER 8**

**PAYMENT INTO COURT BY BANK GUARANTEE**

**8.01 Application**

This Order applies in any proceeding in which the Court makes any of the orders referred to in Rule 8.02.

**8.02 Payment by way of irrevocable guarantee**

If the Court makes an order—

- (a) giving leave to defend conditionally upon payment of a sum of money into Court; or
- (b) requiring a party to pay money into Court as security for costs; or
- (c) requiring a party to pay money into Court pending judgment in any action or matter in the Court—

it is sufficient compliance with that order if the person ordered to pay the money into the Court

files with the Registrar an irrevocable guarantee given by a bank to pay the sum.

**8.03 Requirement of guarantee**

An irrevocable guarantee given by a bank shall be in Form 2–8A and shall be—

- (a) given by a bank approved by the Registrar;  
and
- (b) sealed by the bank or signed by an officer of the bank who has written authority from the bank to sign such a guarantee on behalf of the bank.

**8.04 Liability of bank**

- (1) A bank guarantee which is filed with the Registrar pursuant to an order under Rule 8.02 shall not be amended or revoked without the leave of the Court.
- (2) Unless the Court otherwise orders, a bank which has given a guarantee may discharge its liability under the guarantee only—
  - (a) by payment into Court of the total sum guaranteed; and
  - (b) by filing a Notice of Discharge and Payment into Court in Form 2–8B.

**ORDER 9**

**FINE ENFORCEMENT RULES**

**9.01 Definitions**

In this Order—

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

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*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);

*section* means section of the Act;

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

### **9.02 Proper officer**

- (1) For the purposes of Division 4 of Part 3 of the Act the proper officer of the Court is—
  - (a) the Judge who imposed the monetary penalty or, if that Judge so directs, the Registrar; or
  - (b) where the Judge who imposed the monetary penalty is unavailable, the Registrar.
- (2) Any direction given by a Judge under paragraph (1)(a) shall be sufficiently given if indorsed by the Judge on the application.
- (3) A Judge shall be taken to be unavailable for the purpose of paragraph (1)(b) if the Chief Judge has made an indorsement to that effect on the application.

### **9.03 Application**

- (1) An application under section 55 must be in Form 2–9A.
- (2) If the offender is a corporation, the application must be signed by the secretary of the corporation.
- (3) An application must be filed with the Registrar.
- (4) Where an application under section 55 is filed the Registrar shall appoint a time and place for the hearing of the application.

- (5) The Registrar shall cause the offender and the Director of Public Prosecutions to be notified of the time and place of the hearing, by notice in Form 2–9B.

**9.04 Stay of enforcement or execution**

Unless a Judge or the Registrar otherwise orders, an application under section 55 operates as a stay of enforcement or execution of the order requiring the monetary penalty to be paid from the time it is filed until the application is determined.

**9.05 Consideration of application**

In considering an application the proper officer may—

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

**9.06 Order and notice**

After an application under section 55 the proper officer shall cause to be given or posted to the offender within 14 days, a copy of any order made.

**9.07 Enforcement of fine against a natural person**

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

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- (5) A warrant to arrest under section 64(2) shall be in Form 2–9G.

**9.08 Enforcement of fine against body corporate**

A statement in writing under section 66(3) shall be in Form 2–9H.

**9.09 Undertaking to appear**

- (1) The Sheriff or a member of the police force who arrests a person in default under section 62(1) may, unless a Judge or Registrar has otherwise ordered, release the person in default upon that person entering into an undertaking to appear before the Court.
- (2) If a person in default—
- (a) has been taken into custody in accordance with a warrant to arrest issued under section 62; and
  - (b) the outstanding amount of the fine specified in the warrant is paid—

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

**9.10 Service of notices and orders**

Where under the Act or these Rules, an offender or person in default or the Director of Public Prosecutions is required to be notified of any matter, the notification may be effected by causing a written notice of the matter to be—

- (a) delivered personally to the offender or the person in default or the Director of Public Prosecutions; or

- (b) left at the usual or last known place of residence or business of the offender or person in default or the Director of Public Prosecutions with a person apparently over the age of sixteen years and apparently residing thereat or (in the case of a place of business) apparently in charge of or employed at that place; or
- (c) sent by post addressed to the offender or person in default or the Director of Public Prosecutions at the address for service or the usual or last known place of residence or business of the offender or person in default or the Director of Public Prosecutions.

**9.11 Warrant of commitment**

- (1) If under section 62(10)(b) 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 2–9J.
- (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.



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**ORDER 10**

**CONFISCATION OF PROPERTY AND PROCEEDS OF  
CRIME**

Order 10  
(Heading and  
rules 10.01–  
10.06)  
substituted as  
Order 10  
(Heading and  
rules 10.01–  
10.12) by  
S.R. No.  
114/1999  
rule 4,  
substituted as  
Order 10  
(Heading and  
rules 10.01–  
10.13) by  
S.R. No.  
166/2006  
rule 5.

**10.01 Definitions**

In this Order—

*the Act* means the **Confiscation Act 1997**;

*the Commonwealth Act* means the Proceeds of  
Crime Act 2002 of the Commonwealth.

Rule 10.01  
substituted by  
S.R. Nos  
114/1999  
rule 4,  
166/2006  
rule 5.

**10.02 Application of this Order**

- (1) This Order applies to a proceeding in the Court  
under the **Confiscation Act 1997**.
- (2) This Order applies, with any necessary  
modification, to a proceeding under the  
Commonwealth Act.
- (3) Unless a Judge orders or directs otherwise, or the  
Act, the Commonwealth Act or the Rules  
otherwise provide, Rules 10.03 to 10.12 apply,  
with any necessary modification, in relation to—
  - (a) an application to the Court under Part 2, 3, 4,  
5, 6, 8 or 13 of the Act (as the case requires);
  - (b) an application to the Court under the  
Commonwealth Act.

Rule 10.02  
substituted by  
S.R. Nos  
114/1999  
rule 4,  
166/2006  
rule 5.

- (4) Order 10 of the County Court Miscellaneous Rules 1999 as in force immediately before the commencement of the County Court (Chapter II Amendment No. 2) Rules 1999 continues to apply to proceedings under the **Crimes (Confiscation of Profits) Act 1986**.
- (5) Order 10A, as in force immediately before the commencement of the County Court (Chapter II Amendment No. 6) Rules 2006, continues to apply to any application or proceeding under the Proceeds of Crime Act 1987 of the Commonwealth—
  - (a) made or commenced before the commencement of the Commonwealth Act; or
  - (b) continued pursuant to the Commonwealth Act or the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Act 2002 of the Commonwealth.

Rule 10.03  
substituted by  
S.R. Nos  
114/1999  
rule 4,  
166/2006  
rule 5.

#### **10.03 Making of application to the Court**

- (1) Where, under the Act, notice of an application is required to be given, the application is taken to be made when the notice of application is filed.
- (2) An application under the Commonwealth Act is taken to have been made when it is filed.

Rule 10.04  
substituted by  
S.R. Nos  
114/1999  
rule 4,  
166/2006  
rule 5.

#### **10.04 Notice and service generally**

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

- (3) A copy of an application, a copy of an affidavit and a notice given in a proceeding under the Commonwealth Act shall be served personally or in such other manner as the Court directs.

**10.05 Applications for restraining orders and monitoring orders**

Rule 10.05  
substituted by  
S.R. Nos  
114/1999  
rule 4,  
166/2006  
rule 5.

- (1) An application for an examination order under section 98 of the Act shall be in Form 2–10A.
- (2) An application for a restraining order under the Act or the Commonwealth Act shall be in Form 2–10B with any necessary modification supported by an affidavit.
- (3) An application for a monitoring order under the Commonwealth Act may be in Form 2–10O with any necessary modification.

**10.06 Application without notice under the Act**

Rule 10.06  
substituted by  
S.R. Nos  
114/1999  
rule 4,  
166/2006  
rule 5.

- (1) An application to the Court under the Act which is made without notice to any other person shall be in writing.
- (2) Any application to the Court under the Act which is made without notice and for which a Form is not prescribed in this Order may be in Form 2–10B with any necessary modification.
- (3) If under section 17(1) of the Act the Court requires notice to be given that the application has been made, the notice shall be in Form 2–10E.

**10.07 Other applications generally under Commonwealth Act**

Rule 10.07  
inserted by  
S.R. No.  
114/1999  
rule 4,  
substituted by  
S.R. No.  
166/2006  
rule 5.

An application to the Court under the Commonwealth Act for which a Form is not prescribed in this Order may be in Form 2–10B with any necessary modification.

**r. 10.08**

Rule 10.08  
inserted by  
S.R. No.  
114/1999  
rule 4,  
substituted by  
S.R. No.  
166/2006  
rule 5.

### **10.08 Notice of application**

- (1) Notice of an application to be made—
  - (a) under section 20 of the Act for an exclusion order shall be in Form 2–10C;
  - (b) under section 26 of the Act for further orders in relation to a restraining order shall be in Form 2–10D;
  - (c) under section 32 of the Act for a forfeiture order shall be in Form 2–10E;
  - (d) under section 37 of the Act for a civil forfeiture order shall be in Form 2–10F;
  - (e) under section 45 of the Act for relief from hardship shall be in Form 2–10G;
  - (f) under section 49, 51 or 53 of the Act for an exclusion order shall be in Form 2–10H;
  - (g) under section 58 of the Act for a pecuniary penalty order shall be in Form 2–10J;
  - (h) under section 98 of the Act shall be in Form 2–10K.
- (2) Notice of any other application to be made to the Court for an order or declaration may be in Form 2–10L with any necessary modification.
- (3) Notice of an application to be made shall be given not less than five days before the day named in the notice for the hearing of the application.

Rule 10.09  
inserted by  
S.R. No.  
114/1999  
rule 4,  
substituted by  
S.R. No.  
166/2006  
rule 5.

### **10.09 Filing and directions**

- (1) In a proceeding to which this Order applies—
  - (a) in the case of a proceeding under the Act—
    - (i) an application made without notice;
    - (ii) a notice of an application or any other notice given;

- 
- (iii) an affidavit to be relied on;
  - (iv) an order made; and
  - (b) in the case of a proceeding under the Commonwealth Act—
    - (i) an application;
    - (ii) an affidavit; and
    - (iii) a copy of a notice given—
- shall be filed in the Court, unless the Court otherwise orders.
- (2) At the time when an application or notice of an application is filed, the Registrar shall insert the time and place at which the application is to be heard and such time and place shall be included in any copy which is served.
  - (3) After an application or notice of an application has been filed, a Judge may give directions for the hearing of the application, including directions for the production to the Court of any transcript of proceedings relating to a conviction relied upon in the application.

**10.10 Notice of opposition to an application**

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

Rule 10.10  
inserted by  
S.R. No.  
114/1999  
rule 4,  
substituted by  
S.R. No.  
166/2006  
rule 5.

**10.11 Evidence**

- (1) Evidence in support of an application for a restraining order under the Act shall be by affidavit, unless the application is brought on for hearing during or at the conclusion of the trial of the defendant.

Rule 10.11  
inserted by  
S.R. No.  
114/1999  
rule 4,  
substituted by  
S.R. No.  
166/2006  
rule 5.

- (2) Evidence in support of an application for a restraining order under the Commonwealth Act shall be by affidavit.
- (3) Evidence in support of an application for an exclusion order under the Act or the Commonwealth Act shall be by affidavit.
- (4) Subject to paragraphs (1), (2) and (3), evidence on the hearing of an application under the Act or the Commonwealth Act may be by affidavit and shall be by affidavit if the Court so directs.
- (5) A copy of an affidavit on which the applicant intends to rely shall be served on any person to whom notice of the application has been given.
- (6) A copy of an affidavit on which a person other than the applicant intends to rely shall be served on the applicant and any other person, if known, to whom notice of the application has been given.

Rule 10.12  
inserted by  
S.R. No.  
114/1999  
rule 4,  
substituted by  
S.R. No.  
166/2006  
rule 5.

#### **10.12 Notice of order or declaration**

- (1) Subject to paragraph (2) and Rule 10.13, where notice is required to be given to any person of an order made by the Court under the Act or the Commonwealth Act, notice shall be given—
  - (a) by serving a copy of the order on that person;  
and
  - (b) in the case of notice of an order under the Act, in accordance with section 137 of the Act.
- (2) In the case of a restraining order made under Part 2 of the Act for the purpose of automatic forfeiture, a copy of the order shall be accompanied by a notice in Form 2–10M.

- 
- (3) Where a restraining order, forfeiture order or order for civil forfeiture under the Act is made by the Court upon the application of any person, notice of the order shall be given by the applicant to—
- (a) each person who the applicant has reason to believe has an interest in any of the property which is subject to the order, unless that person was present when the order was made or was given notice of the making of the application for the order; and
  - (b) such other person as the Court directs.
- (4) Where a declaration is made by the Court—
- (a) under section 35(3) of the Act, of the date on which a person (in respect of whom a restraining order has been made) is deemed to have been convicted of a Schedule 2 offence; or
  - (b) under section 36 of the Act, that property has been forfeited—
- notice of the order containing the declaration shall be given by the applicant to—
- (c) each person who the applicant has reason to believe had an interest in any of the property which is forfeited immediately before the property was forfeited, unless that person was present when the declaration was made or was given notice of the application for the declaration; and
  - (d) such other person as the Court directs.

**10.13 Notice of discharge**

- (1) Notice under section 46(2), 47(2) or 48(2) of the Act of discharge of a forfeiture order, automatic forfeiture or a civil forfeiture order, as the case may be, shall be in Form 2–10N.

Rule 10.13  
inserted by  
S.R. No.  
166/2006  
rule 5.

- (2) If a pecuniary penalty order registered under the Service and Execution of Process Act 1992 of the Commonwealth is discharged, notice of discharge shall be given by the person who procured the registration of the order.
- (3) Notice of discharge under paragraph (2) shall be given by sending a sealed copy of the order of discharge to the, registrar or other proper officer of the court in which the order was registered.

\* \* \* \* \*

Order 10A  
(Heading and  
rules 10A.01–  
10A.05)  
inserted by  
S.R. No.  
114/1999  
rule 4,  
revoked by  
S.R. No.  
166/2006  
rule 5.

## ORDER 11

### PRE-TRIAL CRIMINAL PROCEDURE RULES

#### 11.01 Application

This Order applies to the trial of any accused person.

#### 11.02 Definitions

- (1) In these Rules, unless the context or subject-matter otherwise requires—

***accused person*** means a person—

- (a) who has been committed or remanded to the County Court for trial or directed to be tried at the County Court; or



- (b) in respect of whom—
  - (i) a presentment has been made; or
  - (ii) an indictment has been filed—  
at the County Court; or
- (c) upon whom a Notice of Trial at the  
County Court has been served;

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

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

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

***person*** includes the CTLD, the DPP and the Director of Legal Aid;

***presentment*** includes indictment.

- (2) Except where otherwise provided in these Rules, a document required or authorised to be served may be served by pre-paid ordinary post.
- (3) Where these Rules require or authorise service by post, whether registered post or otherwise, the envelope containing the document must be addressed to the person to be served at the address of that person last known to the person effecting service.

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

- (1) A solicitor who commences to act for an accused person must as soon as possible after commencing so to act serve upon—
  - (a) the DPP; and

(b) the CTLD—

a notice in Form 2–11A that the solicitor acts for the accused person.

(2) Subject to paragraph (3), a solicitor who ceases to act for an accused person must, as soon as possible after so ceasing to act—

(a) serve upon—

(i) the DPP; and

(ii) the CTLD; and

(iii) the accused person—

a notice in writing in Form 2–11B that the solicitor has ceased so to act; and

(b) return to the CTLD the copy of the depositions and all other material provided by the CTLD in relation to the matter; and

(c) return to the DPP all materials provided by the DPP in relation to the matter.

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

#### **11.04 Copy presentment to be served**

(1) Whenever presentment is made at the County Court, the Associate to the Judge before whom presentment is so made shall cause the presentment to be filed with the Registrar and for the purposes of these Rules a presentment shall be deemed to be filed immediately upon presentment being made.

- 
- (2) The DPP must, as soon as practicable after a presentment is filed—
    - (a) serve or cause to be served a copy of the presentment on the accused person; and
    - (b) forward a copy of the presentment to the CTLD.
  - (3) Service under paragraph (2)(a) must be by registered post or by personal service unless the accused person is represented by a solicitor.
  - (4) When serving an accused person the DPP must also serve or cause to be served on the accused person a notice in writing in Form 2–11C unless the DPP has notice that a practitioner is acting on behalf of the accused person.

**11.05 Notification of readiness for trial**

The DPP must, as soon as a case is ready for trial, make presentment (if a presentment has not already been filed) and forward to the CTLD a notice of readiness for trial in Form 2–11D.

**11.06 Notice by solicitor to Registrar**

- (1) A solicitor who acts for an accused person must file with the Registrar a notice in writing in Form 2–11A that the solicitor so acts—
  - (a) if the solicitor has commenced so to act before service of a copy of the presentment, within 14 days after service of the copy presentment; or
  - (b) if the practitioner commences so to act after service of a copy of the presentment, as soon as possible after commencing so to act.

- (2) A solicitor who having filed a notice under paragraph (1) ceases to act for an accused person must as soon as possible after so ceasing to act file with the Registrar a notice in writing in Form 2–11B.

**11.07 Unrepresented accused person**

- (1) Within 28 days of the receipt of a copy of a presentment the CTLD must, unless notified that a practitioner is acting for an accused person—
- (a) if the accused person is on bail, contact the accused person requesting that he or she attend the office of the CTLD at a time fixed by the CTLD to determine what steps the accused person has taken to obtain legal representation for the trial and at the time of making such request the CTLD must inform the accused person that if he or she fails to attend as requested, the Court will require the accused person to attend the Court for the same purpose; and
  - (b) if the accused person is in custody, attend personally or by a representative on the accused person at the place where the accused person is held to determine what steps the accused person has taken to obtain legal representation for the trial.
- (2) The CTLD must report to the Chief Judge any uncertainty as to the legal representation of an accused person in order to enable the Chief Judge to give directions to the CTLD as to what steps are to be taken to resolve any such uncertainty.

**11.08 Questionnaire**

- (1) The CTLD must serve on an accused's solicitor a questionnaire in Form 2–11E at such time as the CTLD may consider appropriate.

- 
- (2) The accused's solicitor must, within 14 days of receiving the questionnaire, serve on the CTLD adequate answers in writing to the questions in the questionnaire.

**11.09 Costs liability**

- (1) In this Rule *costs thrown away* means such amount as the Judge who hears any application or before whom a case is listed for trial determines (upon such information, evidence or material as that Judge may consider appropriate) to be in all the circumstances a reasonable quantification of the costs and expenses (including witness expenses and counsel's fees) incurred by the person in whose favour an order may be made under this Rule and thrown away as a result of the relevant failure.
- (2) If a solicitor fails to comply with Rule 11.03, 11.06, or 11.07(2) and if the Court is satisfied that such a failure is not excusable, the Court may order that the practitioner pay to the DPP or to any co-accused person any costs thrown away as a result of the failure.
- (3) A solicitor who has informed the CTLD that the solicitor will act for an accused person at the accused person's trial and at the trial fails to do so, if the Court is satisfied that such failure was not excusable, may be ordered to pay to the DPP or any co-accused person any costs thrown away as a result of the failure.

**11.10 Pre-trial conference**

- (1) In this Rule *Listed Date* means the date which has been fixed by the CTLD as the date on which the trial is to be listed for hearing or, where the CTLD has fixed a period of time for that purpose, the first day of that period.

- 
- (2) The CTLD may, before giving notice of the Listed Date or not less than 21 days before the Listed Date, conduct a pre-trial conference.
- (3) Written notice of a pre-trial conference must be given to—
- (a) the DPP; and
  - (b) the accused person (if unrepresented); and
  - (c) the accused's solicitor (if any)—
- not less than 7 days before the date proposed for the pre-trial conference.
- (4) At a pre-trial conference—
- (a) in order to facilitate an efficient trial, the CTLD may inquire into any of the matters listed in the Schedule; and
  - (b) the DPP and the accused person or the accused's solicitor must be prepared to answer questions or provide information to the CTLD on the matters listed in the Schedule; and
  - (c) the DPP must, subject only to any substantial consideration of the personal safety of witnesses—
    - (i) give notice of the name of any witness who may be called as a Crown witness upon the trial and whose name does not appear upon the presentment as a witness or as an additional witness; and
    - (ii) give notice of the substance of the evidence proposed to be adduced from each such witness (whether by way of provision of a copy of a statement made by the witness or otherwise); and
-

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

#### **11.11 Pre-trial hearing**

- (1) At any time after a pre-trial conference—
  - (a) the DPP; or
  - (b) an accused person; or
  - (c) the CTLD—

may apply to the Chief Judge for a pre-trial hearing to be conducted by the Court.

- 
- (2) An application under paragraph (1) must—
    - (a) be in Form 2–11F; and
    - (b) be filed with the Registrar.
  - (3) If upon consideration of any such application the Chief Judge considers that a pre-trial hearing should be conducted, the Chief Judge shall cause the Registrar to give notice of such hearing to such persons as the Chief Judge may direct.
  - (3A) The Chief Judge may of his own motion at any time direct that a pre-trial hearing be conducted in relation to any accused person and shall cause the Registrar to give notice of such hearing to such persons as the Chief Judge may direct.
  - (4) The Registrar shall serve notice of the pre-trial hearing upon each party specified by the Chief Judge in such manner as the Chief Judge may direct.
  - (5) A pre-trial hearing shall be conducted by the Chief Judge or such Judge as the Chief Judge shall nominate, whether the proposed trial Judge or otherwise.
  - (6) At a pre-trial hearing the Judge who constitutes the Court may—
    - (a) ask such questions of the parties; and
    - (b) give such directions with respect to the preparation for trial, readiness for trial or conduct of the trial—as the Judge thinks proper having regard to all the circumstances.
  - (7) A pre-trial hearing must be heard in Court.
  - (8) The accused person must be present at a pre-trial hearing unless the Judge conducting the hearing otherwise determines.
-



- 
- (9) Nothing said by or on behalf of an accused person at a pre-trial hearing, and no failure by an accused person to answer a question at a pre-trial hearing, shall be used in any subsequent trial or made the subject of any comment at that trial.
- (10) The powers conferred by this Rule upon the Chief Judge may be exercised by any Judge authorised so to do by the Chief Judge.

### **SCHEDULE**

#### **RULE 11.10**

1. Are further particulars of the presentment likely to be sought by the accused?
2. Is there to be any application to sever the presentment and if so, what is the application likely to be?
3. Is there to be an application for a separate trial by any and which accused?
4. Does the accused presently intend to plead Guilty or Not Guilty to any and which count(s) in the presentment?
5. Is there any possibility of a change of plea?
6. (a) Has there been a conference between counsel for the Director of Public Prosecutions and counsel for the accused?  
(b) If not, is such a conference proposed?
7. Does the prosecution propose to call any additional evidence?
8. Has the prosecution notified the accused and/or his representatives of any additional evidence and if it intends to do so when is it proposed to furnish a proof of evidence?

- 
9. What is the probable length of trial?
    - (a) prosecution estimate
    - (b) accused estimate.
  10. Is any point of law or of admissibility of evidence likely to be raised before a jury is empanelled? If yes, what are those matters and of what duration are the matters to be raised likely to take?
  11. Does the accused or the prosecution intend to raise a special issue? e.g. unfitness to plead; change of venue; insanity.
  12. Does the accused or the prosecution intend to raise a special plea? e.g. lack of jurisdiction; autrefois convict; autrefois acquit etc.
  13. Does the accused intend to rely upon an alibi not yet disclosed in conformity with the Crimes Act?
  14. Do the parties anticipate any problems as to the availability of witnesses? If yes, give details.
  15. (a) What admissions of fact are sought by the prosecution?
    - (b) Is the accused prepared to make the admissions sought or any of them?
    - (c) What admissions of fact are sought by the accused?
    - (d) Is the prosecution prepared to make the admissions sought or any of them?
  16. Does any difficulty arise about photographs or plans and formal proof of them?
  17. Is any order sought for the inspection of prosecution exhibits or other evidentiary material in the possession of the prosecution as to which a question may arise in the course of the trial?
-

- 
18. Is any order sought for the preservation or detention of any document or thing relating to the trial?
  19. Is any order sought for the production before the Court of any document, tape recording or thing relating to the trial?
  20. Does any party propose to deliver to the other party a notice to admit in respect of anything not covered by question No. 15?
  21. What arrangements have been made for Counsel to hear any tape recordings in the custody of the prosecution and to be provided with any transcript thereof?
  22. Does any party intend to apply for a view, and if so where and at what stage of the trial?
  23. Is there agreement as to copy exhibits to be supplied to the jury?
  24. Will an interpreter be required during the trial?
  25. Are there any other significant matters which might affect the proper and convenient trial of the issues?

**ORDER 11A**

**APPLICATIONS UNDER PART IIA OF THE EVIDENCE  
ACT 1958**

**11A.01 Application of Order**

This Order applies to applications under Part IIA of the **Evidence Act 1958**.

**11A.02 Application under section 42E**

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

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**11A.03 Application under section 42L**

Unless the application is made in accordance with subsection (5)—

- (a) notice of an application under section 42L of the Act shall be in Form 2-11AA;
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

**11A.04 Application under section 42M**

Unless the application is made in accordance with subsection (5)—

- (a) notice of an application under section 42M of the Act shall be in Form 2-11AB;
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

**11A.05 Application under section 42N**

Unless the application is made in accordance with subsection (3)—

- (a) notice of an application under section 42N of the Act shall be in Form 2-11AB; and
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

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**11A.06 Application under section 42P**

Unless the application is made in accordance with subsection (5)—

- (a) notice of an application under section 42P of the Act shall be in Form 2–11AB;
- (b) a copy of the notice shall be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

**ORDER 12**

**PROCEEDINGS UNDER IMPRISONMENT OF FRAUDULENT DEBTORS ACT 1958**

**12.01 Application**

This Order applies to any proceeding under the **Imprisonment of Fraudulent Debtors Act 1958**.

**12.02 Filing of summons**

A summons to debtor shall be supported by affidavit filed when the summons is filed.

**12.03 Service of summons**

- (1) A summons to debtor shall be served personally not less than 6 days before the day the summons is listed for hearing.
- (2) The summons must be served personally unless the Court otherwise orders.

**12.04 Affidavit of service**

Unless the Court otherwise orders, an affidavit of service of the summons shall be filed not less than 3 days before the day the summons is listed for hearing.

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**12.05 Contents of affidavit in support**

An affidavit filed in support of the summons to debtor shall—

- (a) state the date and amount of the judgment;
- (b) state if the amount of the judgment has been reduced, the means of and amount of the reduction;
- (c) state the amount due on the judgment at the date of swearing the affidavit;
- (d) state whether any other form of execution is still outstanding;
- (e) be in Form 2–12A.

**12.06 Witnesses**

Any witness may be summoned to appear at the hearing of a summons to debtor.

**12.07 Warrants to be returned**

As soon as possible after filing a summons to debtor, the judgment creditor shall give notice of the filing of the summons to the sheriff or other person to whom any warrant, filed as a result of the judgment, has been issued.

**12.08 Certificate of payment**

A certificate of payment by a prisoner shall be in Form 2–12B.

**12.09 Costs**

- (1) Unless the Court otherwise orders, costs incurred by a judgment creditor in endeavouring to enforce a judgment are recoverable under an order or judgment.
- (2) Unless the Court otherwise orders, if the amount for which judgment is given is less than \$1000, no costs shall be allowed.

---

**12.10 Indorsement on warrant**

If a debtor is ordered to be committed to prison, the warrant of commitment shall be indorsed with—

- (a) the amount to be paid on the judgment;
- (b) all costs to be paid;
- (c) the period of imprisonment.

**12.11 Discharge by payment**

- (1) At any time before a debtor is delivered into the custody of the gaoler, the debtor may pay to the sheriff, bailiff, or other person to whom the warrant is issued the full amount indorsed on the warrant.
- (2) Upon payment of the full amount the debtor shall be discharged.

**ORDER 13**

**PROCEEDINGS UNDER PART IV OF THE  
ADMINISTRATION AND PROBATE ACT 1958**

**13.01 Definitions**

In this Order—

*personal representative* does not include an executor who has not proved;

*Part IV* means Part IV of the **Administration and Probate Act 1958**.

**13.02 Application**

This Order applies to any proceeding in the Court under Part IV.

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**13.03 Application by originating motion**

- (1) An application under Part IV shall be made by originating motion and, in addition to the requirement of Rule 27.02(2) of Chapter I, shall be entitled "In the matter of the estate of [*name of deceased*], deceased".
- (2) Where the application is in respect of the estate of a person who died after the commencement of Part 7 of the **Wills Act 1997** the affidavit in support of the application shall amongst other things state the acts, facts, matters and circumstances upon which the plaintiff relies to establish that the person on whose behalf the application is made is a person for whom the deceased had responsibility to make provision.

**13.04 Parties to application**

- (1) Each personal representative shall be a defendant unless he is a plaintiff.
- (2) If a plaintiff is the sole personal representative, the defendant shall be a person having a substantial interest in opposing the application.
- (3) No other person shall be a defendant to the application in the first instance.

**13.05 Directions to be given**

No step shall be taken in the proceeding after appearance until directions have been given in accordance with Rule 13.06.

**13.06 Summons for directions**

- (1) Within 7 days after the time limited for appearance the plaintiff shall apply to the Court for directions.
- (2) If the plaintiff fails to apply, the defendant may apply for directions within 14 days after the time limited for appearance.



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**13.07 Directions**

On the application for directions the Court shall—

(a) ascertain—

- (i) the nature of the relief which the plaintiff seeks; and
- (ii) the persons or classes of persons who would be affected by the grant of that relief—

and for this purpose may require the plaintiff and defendant to supply such information as the Court thinks necessary;

- (b) direct that notice of the application be served on any person;
- (c) direct what persons shall be added as defendants;
- (d) direct what persons are to represent classes of defendants;
- (e) order that any defendant be authorised to defend on behalf of or for the benefit of all persons having the same or similar interest and that all persons so interested shall be bound by any order in the proceeding;
- (f) give such other directions as the Court thinks fit.

**13.08 Failure to comply with directions**

If the plaintiff does not apply for directions or comply with any direction given, the Court may dismiss the application.

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**13.09 Production of probate**

On the trial of the proceeding the personal representative shall produce to the Court the probate of the will of the deceased or the letters of administration of his estate.

**13.10 Procedure after order for plaintiff**

- (1) If an order is made in favour of a plaintiff, the Judge's or Master's Associate shall deliver the probate or letters of administration to the Registrar.
- (2) The Registrar shall deliver the probate or letters of administration to the Registrar of Probates together with 4 copies of the order authenticated in accordance with Order 60A of Chapter I.
- (3) The Registrar of Probates shall attach to the probate or letters of administration a copy of the order and shall—
  - (a) deliver the probate or letters of administration to the personal representative or his solicitor; and
  - (b) deliver a copy of the order to the plaintiff or his solicitor.

**ORDER 14**

**SUMMONS TO WITNESS IN CRIMINAL PROCEEDINGS**

Rule 14.01  
amended by  
S.R. Nos  
55/2002 rule 4,  
120/2007  
rule 9(2).

**14.01 Subpoenas**

Order 42 of Chapter I applies with any necessary modification to any criminal proceeding in the Court.

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**ORDER 15**

**SERVICE AND EXECUTION OF PROCESS RULES**

**15.01 Definitions**

In this Order—

*the Act* means the Service and Execution of Process Act 1992 of the Commonwealth and—

*appropriate court*

*court of rendition*

*place of rendition*

have the same meanings as in Part 6 of the Act.

**15.02 How application made**

An application under section 71 or 72 of the Act shall be made by originating motion in Form 5C of Chapter I.

**15.03 Enforcement of judgment**

A person who seeks to enforce a judgment registered under the Act shall before taking any step under the Act or Chapter I for such enforcement file an affidavit stating that the judgment is capable of being enforced in or by the court of rendition or a court in the place of rendition and the extent to which it is so capable.

**15.04 Costs**

The same costs shall be allowed in relation to the enforcement of a judgment registered under the Act in a court in Victoria as are allowed upon the enforcement of a like judgment of the Victorian court.

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**ORDER 16**

**APPLICATIONS UNDER SECTION 26(4) OF THE BIRTHS,  
DEATHS AND MARRIAGES REGISTRATION ACT 1996**

**16.01 Application of Order**

This Order applies to applications to the Court under the **Births, Deaths and Marriages Registration Act 1996**.

**16.02 Application for approval of a proposed change of name for a child**

- (1) An application under section 26(4) of the Act shall be—
  - (a) by notice in Form 2–16A; and
  - (b) supported by affidavit in Form 2–16B at the time the notice is filed.
- (2) Unless the Court otherwise orders, a copy of the notice and the affidavit in support shall be served on the respondent as soon as practicable after the notice has been filed.

**16.03 Order**

An order approving a proposed change of name for a child under section 26(4) of the Act shall be in Form 2–16C.

**16.04 Other applications**

Any other application to the Court under the Act may be by notice in Form 2–16D and shall be supported by affidavit.

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**ORDER 17**

**JURY SERVICE APPEALS**

**17.01 Definitions**

In this Order—

*appellant* means any person who is aggrieved by a decision of the Juries Commissioner under section 7, 8 or 9 of the Act;

*the Act* means the **Juries Act 2000**.

**17.02 Application**

This Order applies to any proceeding in the Court under section 10 of the Act.

**17.03 Lodgment of appeal under section 10**

- (1) An appellant shall deliver or send by post to the Juries Commissioner a notice of appeal stating—
  - (a) the reasons why the appellant is aggrieved by the Juries Commissioner's decision; and
  - (b) whether the appellant wishes to have the appeal determined by the Judge without any attendance by or on behalf of the appellant.
- (2) If in the notice delivered under paragraph (1) the appellant fails to state reasons, the Juries Commissioner shall send to the appellant a notice—
  - (a) directing that the appellant within 14 days of the date of service of the notice deliver or send by post reasons in writing to the Juries Commissioner; and
  - (b) stating that if the appellant fails to do so the appeal will be taken to be abandoned.

Order 17  
(Heading and  
rules 17.01–  
17.07)  
inserted by  
S.R. No.  
77/2001 rule 4.

Rule 17.01  
inserted by  
S.R. No.  
77/2001 rule 4.

Rule 17.02  
inserted by  
S.R. No.  
77/2001 rule 4.

Rule 17.03  
inserted by  
S.R. No.  
77/2001 rule 4.

**r. 17.04**

- (3) If the appellant fails to deliver or send by post written reasons in accordance with the notice in paragraph (2), the appeal is abandoned.

Rule 17.04  
inserted by  
S.R. No.  
77/2001 rule 4.

#### **17.04 Papers for Judge**

After receiving a notice of appeal and reasons the Juries Commissioner shall without delay deliver all papers relating to the appeal to a Judge nominated by the Chief Judge.

Rule 17.05  
inserted by  
S.R. No.  
77/2001 rule 4.

#### **17.05 Judge to consider papers**

- (1) If the appellant has expressed the wish to have the appeal determined without any attendance by or on behalf of the appellant, the Judge after examining the papers may—
- (a) determine the appeal on the papers; or
  - (b) set a date, time and place for hearing the appeal.
- (2) In any other case, the Judge after examining the papers may—
- (a) allow the appeal on the papers; or
  - (b) set a date, time and place for hearing the appeal.
- (3) The Juries Commissioner shall without delay notify the appellant of the Judge's determination under this Rule.

Rule 17.06  
inserted by  
S.R. No.  
77/2001 rule 4.

#### **17.06 Hearing of appeal**

Subject to Rule 17.07, at the hearing of an appeal the Judge—

- (a) shall hear the appellant; and
- (b) may permit the Juries Commissioner to take part in the appeal; and
- (c) shall conduct the appeal in such manner as the interests of justice require.

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**17.07 If appellant does not appear at hearing**

- (1) If at the hearing of the appeal there is no attendance by or on behalf of the appellant, the Judge may determine the appeal on the papers.
  - (2) The Juries Commissioner shall without delay notify the appellant of the Judge's determination under this Rule.
- 

Rule 17.07  
inserted by  
S.R. No.  
77/2001 rule 4.

Form 2–2A

## FORMS

Rule 2.03(1)

Form 2–2A  
substituted by  
S.R. No.  
79/1999 rule 6.

### FORM 2–2A

#### NOTICE OF APPEAL (PURSUANT TO SECTION 83), UNDERTAKING TO PROSECUTE AND ACKNOWLEDGEMENT OF SCHEDULE 6, CLAUSE 1(4A) NOTICE

The name of the appellant is:

The name of the respondent is:

1. To the Registrar of the Magistrates' Court at
2. To the Registrar of the County Court at
3. To the abovenamed respondent
  - A. The proceeding(s) appealed from:
    1. Venue of the Magistrates' Court appealed from:
    2. Plea entered in the Magistrates' Court:
    3. Date of conviction(s)/order(s):
    4. Nature of offence(s)/proceeding(s):
    5. Particulars of sentencing order(s):
  - B. The appeal is to be heard by the County Court \*at                      a.m.  
[or p.m.] on [date] at                      , [or] \*at time and place to be  
fixed by the Registrar of the County Court.
  - C. General Grounds of Appeal
    - \*1.     that the Appellant is not guilty.
    - \*2.     that the punishment is excessive.
  - D.
    1. Appellant's personal address for service:
    2. Solicitor's name and address for service:
  - E. The appellant requests the Registrar of the County Court to list the appeal.

Dated:

Signature of \*Appellant/\*Solicitor for Appellant.

\* Delete if inapplicable.



## Form 2-2A

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**FURTHER INFORMATION FOR APPELLANT**

**INFORMATION CONCERNING ABANDONING AN APPEAL**

If you decide to abandon your appeal, this can only be done as of right within 30 days from the date of the Magistrates' Court decision. [Schedule 6, clause 6(2A)].

Beyond this 30 day time period you will require leave of the County Court to abandon your appeal. You may make an application seeking such leave before or after the County Court commences to hear the appeal. However, to succeed on such application the Court must be satisfied that it is in the interests of justice to do so because of exceptional circumstances. [Schedule 6, clauses 6(2A) and (2C)].

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

If you fail to appear at the appeal hearing the Court may proceed to hear the matter in your absence or may strike out your appeal or adjourn the proceedings on any terms that it thinks fit. [section 86(3A)].

**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. [section 88AA(1)].

**LEGAL ASSISTANCE**

If you wish to make application for legal assistance you must make application in writing to Victoria Legal Aid. The Court office can advise you of the address of the nearest Victoria Legal Aid office. Such application must be made forthwith because the processing of an application may take some time. It is in your interest to take all necessary steps promptly so that should you be granted aid, there will be sufficient time for advice to be given to you concerning the question of abandonment or your representation at the hearing of your appeal.

I have read the above information (signed) Appellant

\_\_\_\_\_

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2AA

\* \* \* \* \*

Forms 2-2AA,  
2-2AB  
revoked by  
S.R. No.  
79/1999 rule 6.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–2B

Rule 2.03(2)

Form 2–2B  
substituted by  
S.R. No.  
79/1999 rule 6.

**FORM 2–2B**

**NOTICE OF APPEAL**

[UNDER SECTION 84 OF THE MAGISTRATES' COURT ACT 1989]

The name of the appellant is: The Director of Public Prosecutions

The name and address of the respondent is:

1. To the Registrar of the Magistrates' Court at
2. To the Registrar of the County Court at
3. And to the abovenamed respondent
  - A. The proceeding(s) appealed from—
    1. Venue of the Magistrates' Court appealed from:
    2. Plea entered in the Magistrates' Court:
    3. Date of conviction(s)/order(s):
    4. Nature of offence(s)/proceeding(s):
    5. Particulars of sentencing order(s):
  - B. The appeal is to be heard by the County Court \*at     a.m. [*or* p.m.]  
on [date] , at     , \*[*or* at a time and place to be fixed by the  
Registrar of the County Court].
  - C. General Grounds of Appeal
    - \*1. that the Respondent is guilty.
    - \*2. that the punishment is inadequate.
  - D.
    1. Appellant's address for service:
    2. Appellant's reference is:
  - E. The Appellant requests the Registrar of the County Court to list the  
appeal.

Dated:

Signature of Appellant

\* Delete if inapplicable.

Rule 2.04

**FORM 2–2C**

Form 2–2C  
substituted by  
S.R. No.  
79/1999 rule 6.

**NOTICE PURSUANT TO SCHEDULE 6 CLAUSE 1(4B)(a) OF THE  
MAGISTRATES' COURT ACT 1989**

[**Magistrates' Court Act 1989** Schedule 6, clause 1(4B)(a) and (b)]

To the Appellant:

**TAKE NOTICE** that on your appeal from the sentencing order made against you in the Magistrates' Court, the County Court may make a sentencing order 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 of this power, namely, that on your appeal the County Court may make a sentencing order which is more severe than that which has been imposed on you by the Magistrates' Court.

**Notes:**

1. A person who, pursuant to section 83 of the Magistrates' Court Act, appeals against any sentencing order made against that person by the Magistrates' Court in a criminal proceeding conducted in accordance with Schedule 2, is required to sign the statement in the notice of appeal that he or she acknowledges that he or she is aware of the fact that on the hearing of the appeal from the sentencing order of the Magistrates' Court the County Court may make a sentencing order more severe than that which has been imposed by the Magistrates' Court. [See clause 1(4A), Schedule 6, **Magistrates' Court Act 1989**]
2. Before accepting receipt of a notice of appeal under section 83 a Registrar of the Magistrates' Court must—
  - \* give to the person seeking to file the notice of appeal a notice (this notice) in the form which has been approved by the Chief Judge of the County Court to the effect that on the appeal the County Court may make a sentencing order more severe than that sought to be appealed against. [See clause 1(4B)(a), Schedule 6, **Magistrates' Court Act 1989**]
  - \* if the person seeking to file the notice of appeal is not the proposed appellant, be satisfied that the proposed appellant has signed the statement required to be included in the notice of appeal. [See clause 1(4B)(b), Schedule 6, **Magistrates' Court Act 1989**]

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-2CA

Form 2-2CA  
revoked by  
S.R. No.  
79/1999 rule 6.

\* \* \* \* \*

Rule 2.05

**FORM 2-2D**

Form 2-2D  
substituted by  
S.R. No.  
79/1999 rule 6.

**NOTICE OF APPEAL AND UNDERTAKING TO PROSECUTE**

[under section 116 or section 197 of the **Children and Young Persons Act 1989**]

The name of the appellant is:

The name and address of the respondent is:

1. To the Registrar of the Children's Court at:
2. To the Registrar of the County Court at:
3. And to the abovenamed respondent:
  - A. The proceeding(s) appealed from—
    1. Venue of the Children's Court appealed from:
    2. Date(s) of order(s) made in the Children's Court:
    3. Particulars of order(s) [*if space insufficient attach extra page(s)*]
  - B. The appeal is to be heard by the County Court \*at     a.m. [*or p.m.*] on    [*date*]    , at     , [*or*] \*at a time and place to be fixed by the Registrar of the County Court.
  - C. General Grounds of Appeal  
[*insert particulars*]
  - D. 1. Appellant's personal address for service:  
2. Solicitor's name and address for service:
  - E. The appellant requests the Registrar of the County Court to list the appeal.

Dated:

Signature of \*Appellant/\*Solicitor for Appellant

\* Delete if inapplicable.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-2D

---

**UNDERTAKING TO PROSECUTE**

I, *[name]*

of *[address]*

UNDERTAKE to

- (i) (a) \*appear at the County Court to prosecute the appeal at      a.m.  
[or p.m.] on      *[date]* , at 223 William Street, Melbourne, to  
be present in the County Court for the duration of the appeal; and

OR

\*appear at the County Court sitting at      to prosecute the  
appeal on a day to be fixed by the Registrar of the County Court  
and to be present for the duration of the appeal; and

- (ii) to notify the Registrar of the County Court in writing of any  
change of address from that appearing in the notice of appeal.

Dated:

Signature of appellant

In the presence of:

[Qualification of witness: see clause 2(2), Schedule 6, **Magistrates' Court Act 1989** as amended by section 116 of the **Children and Young Persons Act 1989**]

\* Delete if inapplicable.

---



Rule 2.07

**FORM 2-2E**

Form 2-2E  
substituted by  
S.R. No.  
79/1999 rule 6.

**NOTICE OF ABANDONMENT OF APPEAL**

*[When sentence of imprisonment or detention imposed]*

In the County Court  
of Victoria  
at

The name of the appellant is:

The name and address of the respondent is:

1. To the Registrar of the County Court at:
2. To the abovenamed respondent:

I wish to abandon my appeal against \*conviction/\*sentence/\*order.

I give notice of the abandonment of the appeal, particulars of which are set out below:

1. Venue of Magistrates' Court at which conviction/sentence/order was imposed or made:
2. County Court appealed to:
3. Name of respondent:
4. Name of appellant:
5. Date of charge:
6. Nature of offence (state shortly):
7. Sentence or order of Magistrates' Court:

I acknowledge that the sentence or order appealed from shall take effect.

[\*and I surrender myself to the Registrar of the County Court at .]

Dated:

Signature of appellant

\* Delete if inapplicable.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-2F

Rule 2.08

Form 2-2F  
substituted by  
S.R. No.  
79/1999 rule 6.

**FORM 2-2F**

**NOTICE OF ABANDONMENT OF APPEAL**

*[Where sentencing order did not impose imprisonment or detention]*

In the County Court  
of Victoria  
at

The name of the appellant is:

The name and address of the respondent is:

1. To the Registrar of the County Court at:
2. To the abovenamed respondent:

I wish to abandon my appeal against \*conviction/\*sentence/\*order.

I give notice of the abandonment of the appeal, particulars of which are set out below:

1. Venue of Magistrates' Court at which conviction/sentence/order was imposed or made:
2. County Court appealed to:
3. Name of respondent:
4. Name of appellant:
5. Date on charge sheet:
6. Nature of offence (state shortly):
7. Sentence or order of Magistrates' Court:

I acknowledge that the sentence or order appealed from shall now take effect.

Dated:

Signature of appellant

\* Delete if inapplicable.

\_\_\_\_\_

Rule 2.08

**FORM 2-2G**

Form 2-2G  
inserted by  
S.R. No.  
79/1999 rule 6.

**NOTICE OF ABANDONMENT OF APPEAL**

[Where appeal is under section 116 or section 197 of the **Children and Young Persons Act 1989**]

In the County Court  
of Victoria  
at

The name of the appellant is:

The name and address of the respondent(s) are:

I wish to abandon my appeal against the order(s) made by the Children's Court. I give notice of the abandonment of the appeal, particulars of which are set out below:

1. Venue of Children's Court at which order(s) were made:
2. Date of order(s):
3. Particulars of order(s) [*if space insufficient attach extra page(s)*]

I acknowledge that the order(s) appealed from shall now take effect.

Dated:

Signature of appellant

\_\_\_\_\_

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-2H

Rule 2.09

Form 2-2H  
inserted by  
S.R. No.  
79/1999 rule 6.

**FORM 2-2H**

**APPLICATION FOR LEAVE TO ABANDON APPEAL FROM THE  
MAGISTRATES' COURT OUT OF TIME**

1. In the County Court of Victoria at:
2. The name of the appellant is:
3. The name and address of the respondent is:  
of:
4. To the Registrar of the County Court at \_\_\_\_\_ and  
To the abovenamed respondent:
5. I wish to abandon my appeal out of time.
6. I give notice of my application for leave to abandon the appeal out of  
time, particulars of which are set out below:
7. Date charge(s) or proceeding(s) initiated:
8. Nature of offence(s) or proceeding(s) (state shortly):
9. Date of sentencing order(s) in the Magistrates' Court:
10. Venue of Magistrates' Court where proceeding(s) heard:  
Magistrates' Court at:

Thirty (30) days having expired since the day on which the sentencing order  
of the Magistrates' Court was made, I seek leave of the County Court to  
abandon my appeal because of the existence of exceptional circumstances:  
[*state briefly the exceptional circumstances*]

Dated:

Appellant

This application for leave to abandon appeal will be listed for hearing before  
the County Court at \_\_\_\_\_ at \_\_\_\_\_ a.m./p.m.  
on \_\_\_\_\_

\*Registrar/\*Deputy Registrar

(A copy of this notice to be given to the Appellant)

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–2J

Rule 2.11(1)

**FORM 2–2J**

Form 2–2J  
inserted by  
S.R. No.  
79/1999 rule 6.

IN THE COUNTY COURT  
of Victoria  
at

County Court No.

Magistrates' Court No.

In the matter of:

**Magistrates' Court Act 1989**

and

In the matter of an appeal by:

**ORDER STRIKING OUT APPEAL**

\*JUDGE/\*REGISTRAR:

DATE MADE:

The Appellant \*failed to appear at the time listed for the hearing of the  
appeal [*or*]  
\*abandoned the appeal in accordance with clause 6(1) or (2)  
of Schedule 6 to the **Magistrates' Court Act 1989** [*or*]  
\*leave to abandon the appeal out of time has been granted by  
the Court in accordance with clauses 6(2A) and 6(2C) of  
Schedule 6 to the **Magistrates' Court Act 1989**.

The Court orders that the appeal be struck out.

[When a custodial order was imposed in the Magistrates' Court—the  
Appellant \*has/\*has not been returned to custody]

Date:

\*Judge/\*Registrar

\* Delete if inapplicable.

[A copy of this order is to be provided to:

The Magistrates' Court

The respondent or to the respondent's legal practitioner].

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-2K

Rule 2.11(1)

Form 2-2K  
inserted by  
S.R. No.  
79/1999 rule 6.

**FORM 2-2K**

**ORDER STRIKING OUT APPEAL**

In the County Court  
of Victoria  
at

In the matter of the **Children and  
Young Persons Act 1989**  
and  
In the matter of an appeal by  
[*name of appellant*]

**ORDER**

Judge:

Date made:

The Appellant \*failed to appear at the time listed for the hearing of the  
appeal [*or*]  
\*abandoned the appeal in accordance with clause 6 of  
Schedule 6 to the **Magistrates' Court Act 1989**.

The Court orders that the appeal be struck out.

[When a custodial order was imposed in the Children's Court—the Appellant  
\*has/\*has not been returned to custody]

Date:

\*Judge/\*Registrar

\* Delete if inapplicable.

[A copy of this order is to be provided to:  
The Children's Court  
The respondent or to the respondent's legal practitioner].

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–2L

Rule 2.13

**FORM 2–2L**

Form 2–2L  
inserted by  
S.R. No.  
79/1999 rule 6.

**NOTICE TO CERTAIN OFFICIALS OF A COUNTY COURT'S  
APPEAL DECISION**

To the Registrar of the County Court at:

To the Registrar of the Magistrates' Court at:

To the Officer in charge of the prison at:

To the Superintendent of the Youth Training Centre at:

Regarding an Appeal from a conviction(s)—recorded at the Magistrates'  
Court at                      on *[date]*

a sentence(s)

an order

<i>Appellant</i>	<i>Respondent</i>
------------------	-------------------

The details are as follows:

<i>Registrar's Number</i>	<i>Order/Conviction appealed against</i>	<i>Sentence appealed against</i>	<i>Result of Appeal</i>
-------------------------------	--	--------------------------------------	-----------------------------

[When a custodial sentence was imposed (confirmed)—the Appellant  
\*has/\*has not been returned to custody]

Before His/Her Honour Judge              at              on *[date]* .              Associate  
Registrar

\* Delete if inapplicable.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–2M

Rule 2.13

Form 2–2M  
inserted by  
S.R. No.  
79/1999 rule 6.

**FORM 2–2M**

**NOTICE TO CERTAIN OFFICIALS OF COUNTY COURT'S  
APPEAL DECISION**

To the Registrar of the County Court at:

To the Registrar of the Children's Court at:

Regarding an Appeal from order(s)—recorded at the Children's Court at  
on [date]

*Appellant*

*Respondent*

The details are as follows:

*Registrar's Number*

*Order(s) Appealed  
Against*

*Result of Appeal*

[When a custodial sentence was imposed (confirmed)—the Appellant  
\*has/\*has not been returned to custody]

Before His/Her Honour Judge      at      on [date]      .      Associate  
Registrar

\* Delete if inapplicable.



Rule 2.15

**FORM 2–2N**

Form 2–2N  
inserted by  
S.R. No.  
79/1999 rule 6.

**APPLICATION TO SET ASIDE ORDER STRIKING OUT APPEAL  
FOR FAILURE TO APPEAR**

[section 89A of the **Magistrates' Court Act 1989**]

To: The Registrar of the County Court                      Appeal No: [date]  
at

and

To: The Respondent  
of

Appellant's name  
Address

**MAGISTRATES' COURT APPEALED FROM:**

I hereby apply for an order setting aside an order made on    /    /    striking  
out my appeal for my failure to appear.

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

Dated:

Signature of Appellant

[Notice of this application must be served on the respondent a reasonable  
time before making of the application and in the same way as a notice of  
appeal—section 89]

If the County Court grants the application it must order the reinstatement of  
the appeal subject to the payment of any costs that the Court thinks fit. The  
Court may also require the appellant to give a further undertaking to  
prosecute the appeal.

[Office use only]

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-2N**

- 
- To: 1. The Appellant  
2. Criminal Trial Listing Directorate  
3. Prosecuting Agency

The Application for reinstatement is listed for \_\_\_\_\_ at \_\_\_\_\_ a.m.  
Registrar

Rule 2.16

**FORM 2–20**

Form 2–20  
inserted by  
S.R. No.  
79/1999 rule 6.

**APPLICATION FOR REHEARING OF APPEAL**

[Where an appeal has been heard in the absence of the appellant]

To: The Registrar of the County Court                      Appeal No: [date]  
at  
and

To: The Respondent  
of  
Appellant's name  
Address

**MAGISTRATES' COURT APPEALED FROM**

I hereby apply for a rehearing of my appeal which was heard on    /    /    in  
my absence. The application is made on the grounds that the appellant's  
failure to appear was not due to fault or neglect on the part of the appellant—  
section 89A(6)

*(reasons for non-appearance must be endorsed herein—section 89A(4)(a))*

Dated:

Signature of Appellant

[Notice of this application must be served on the respondent a reasonable  
time before the making of the application and in the same way as a notice of  
appeal—section 89A(4)(b)]

If the County Court grants the application it must order the reinstatement of  
the Magistrates' Court order and reinstatement of the appeal subject to the  
payment of any costs that the Court thinks fit. The Court may also require  
the appellant to give a further undertaking to prosecute the appeal—  
section 89A(5)(a) and (b).

The granting of the application for rehearing acts as a stay of the sentencing  
order of the Magistrates' Court—section 89A(5)(c)

[Office use only]

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-20**

- 
- To: 1. The Appellant  
2. Criminal Trial Listing Directorate  
3. Prosecuting Agency  
4. The Registrar of the Magistrates' Court at

The Application for rehearing is listed for \_\_\_\_\_ at \_\_\_\_\_ a.m.  
\_\_\_\_\_  
Registrar

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–2P

Rule 2.17

**FORM 2–2P**

Form 2–2P  
inserted by  
S.R. No.  
79/1999 rule 6.

**APPLICATION FOR LEAVE TO APPLY OUT OF TIME FOR  
REHEARING OF APPEAL**

To: The Registrar of the County Court                      Appeal No: [date]  
at  
and

To: The Respondent  
of

Appellant's name  
Address

**MAGISTRATES' COURT APPEALED FROM**

I hereby apply for leave to file this application outside the prescribed period  
of 30 days from the date of hearing of the appeal.

My appeal was heard on    /    /    in my absence.

The application is made on the grounds that the appellant's failure to apply  
for a rehearing of the appeal within 30 days after being notified in writing of  
the determination of the appeal is due to the following exceptional  
circumstances—section 89A(3).

*State here the exceptional reasons for not applying for rehearing within  
30 days of being notified of determination*

Dated:

Signature of Appellant

[Notice of this application must be served on the respondent a reasonable  
time before the making of the application and in the same way as a notice of  
appeal—section 89A(4)(b)]

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-2P**

---

[Office use only]

- To: 1. The Appellant  
2. Criminal Trial Listing Directorate  
3. Prosecuting Agency  
4. Registrar of the Magistrates' Court at

The Application for Leave is listed for \_\_\_\_\_ at \_\_\_\_\_ a.m.

Registrar.

**FORM 2-4A**

Form 2-4A  
amended by  
S.R. No.  
123/2001  
rule 9.

In the County Court  
of Victoria  
at

19 No.

A.B.	Plaintiff
and	
C.D.	Defendant

TAKE NOTICE that this proceeding has been brought against you by the plaintiff for the claim set out in this writ.

IF YOU INTEND TO DEFEND the proceeding YOU MUST GIVE NOTICE of your intention by first obtaining the leave of the Court to file an appearance and then filing an appearance within the proper time for appearance stated below.

YOU OR YOUR LEGAL PRACTITIONER may file the appearance. An appearance is filed by—

- (a) filing a "Notice of Appearance" in the Registrar's office in the County Court, William Street, Melbourne, or, where the writ has been filed in the office of another Registrar, in the office of that Registrar; and
- (b) on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff's address for service, which is set out at the end of this writ.

IF YOU FAIL to obtain the leave of the Court to file an appearance within the proper time and to file an appearance within that time, the plaintiff may ENTER JUDGMENT AGAINST YOU on the claim without further notice.

THE PROPER TIME FOR OBTAINING LEAVE TO FILE AN APPEARANCE AND FOR FILING AN APPEARANCE is as follows—

- (a) where you reside within 80 kilometres of the post office corner of Bourke and Elizabeth Streets, Melbourne, within 16 days after service;
- (b) where you reside beyond that distance, within 21 days after service.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-4A**

If you pay the amount claimed, namely, \$        and \$        for legal costs to the plaintiff or his legal practitioner within the proper time stated above, this proceeding will come to an end. Notwithstanding the payment you may have the costs taxed by the Court.

APPLICATION FOR LEAVE TO DEFEND must be made within the proper time stated above to the Court. It is not necessary to give notice of the application to the plaintiff.

THE COURT MAY GIVE LEAVE TO DEFEND if you—

- (a) pay into the Court the amount claimed, namely, \$        ; or
- (b) file affidavits satisfactory to the Court which disclose—
  - (i) facts which disclose defence; or
  - (ii) such facts as would make it incumbent on the holder to prove consideration; or
  - (iii) such other facts as the Court considers sufficient to support the application.

FILED [e.g. 15 June 19    ].

Registrar

THIS WRIT is to be served within one year from the date it is filed or within such further period as the Court orders.

The plaintiff claims \$        principal and interest [*or* \$        balance of principal and interest] due to the plaintiff as the payee [*indorsee or bearer*] of a bill of exchange [*promissory note or order for the payment of money*] of which the following is a copy:

*[Here copy bill and all indorsements on it]*

Complete as follows:

1. Place of trial—  
(If no place of trial is specified, trial will be at Melbourne.)
2. Mode of trial—  
(If trial before a Judge and jury is not specified, trial will be before a Judge sitting alone.)
3. \* This writ was filed—
  - (a) by the plaintiff in person;
  - (b) for the plaintiff by [*name or firm of legal practitioner*], legal practitioner, of [*business address of legal practitioner*]



County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-4A

---

(c) for the plaintiff by [*name or firm of legal practitioner*], legal practitioner, of [*business address of legal practitioner*] as agent for [*name or firm of principal legal practitioner*], legal practitioner, of [*business address of principal*].

4. The address of the plaintiff is—

5. The address for service of the plaintiff is—

*[Where the plaintiff sues by a legal practitioner, the address for service is the business address of the legal practitioner or, where the legal practitioner acts by an agent, the business address of the agent. Where the plaintiff sues without a legal practitioner, the address for service is stated in 4, but, where that address is outside Victoria, the plaintiff must state an address for service within Victoria.]*

6. The address of the defendant is—

\* [Complete or strike out as appropriate.]

\_\_\_\_\_

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–4B

Rule 4.05

Form 2–4B  
inserted by  
S.R. No.  
123/2001  
rule 10.

**FORM 2–4B**

**APPLICATION FOR LEAVE TO APPEAR AND TO DEFEND**  
**(Instruments Act 1958)**

In the County Court  
at

Court ref:

A.B. Plaintiff

and

C.D. Defendant

**PART 1—PARTICULARS OF APPLICATION**

THE DEFENDANT seeks the leave of the Court to file an appearance to the writ and to defend the proceeding.

\*1. On *[date]* the sum of \$ (being the sum claimed in the writ) was paid into court by the defendant.

\*1. The affidavit(s) of *[name of deponents]* setting out the facts upon which the defendant relies in this application are filed herewith.

2. The date of service of the writ was *[insert date]*.

Date—

*[Signature]*

\*Defendant

\*Defendant's legal practitioner

---

**PART 2—PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the County Court at [address] on [date] at [time].

[Registrar]

\*delete if inapplicable

---

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–4C

Rule 4.05

Form 2–4C  
inserted by  
S.R. No.  
123/2001  
rule 10.

FORM 2–4C

APPLICATION FOR LEAVE TO COMMENCE MORE THAN ONE  
PROCEEDING ON 2 OR MORE BILLS

(Instruments Act 1958)

In the County Court  
at

Court ref:

A.B. Plaintiff

and

C.D. Defendant

PART 1—PARTICULARS OF APPLICATION

THE PLAINTIFF seeks the leave of the Court to commence the following further proceeding under the **Instruments Act 1958** against [*name of defendant*].

The following is a copy of the proposed writ in the further proceeding—

[*Here attach copy of proposed writ*]

The plaintiff has previously commenced the following proceedings(s) under the **Instruments Act 1958** in respect of matured bills against the defendant—

[*Here set out details of the proceeding(s) and in respect of each proceeding include its title, relevant court reference, amount claimed and amount outstanding*]

Date—

[*Signature*]

---

**PART 2—PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the County Court at *[address]* on *[date]* at *[time]*.

*[Registrar]*

---

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-8A

Rule 8.03

**FORM 2-8A**

**IRREVOCABLE GUARANTEE**

In the County Court 19 No.

at

Between

A.B. Plaintiff  
and  
C.D. Defendant

The [*name of bank*] of [*address*] undertakes to  
hold itself responsible for the payment into Court of \$ ordered to be  
paid by the \*plaintiff/\*defendant in the above matter by order of His Honour  
Judge [*or Master*] on [*date of order*].

The bank acknowledges that this undertaking can be amended or revoked  
only with the leave of the Court or discharged by payment of the sum of  
\$ into Court.

Dated this day of 19 .

[*Scaled by the bank*

or

\* *Signed by an officer of the bank  
authorised in writing.*]

\* Delete whichever is inapplicable.

---

Rule 8.04(2)(b)

**FORM 2-8B**

**NOTICE OF DISCHARGE AND PAYMENT INTO COURT**

*[heading as in Form 2-8A]*

The *[name of bank]* of *[address]* which  
guaranteed the payment of \$ into Court on behalf of the  
\*plaintiff/\*defendant in the above matter hereby discharges the guarantee and  
pays into Court the total sum of money so guaranteed.

Dated this day of 19 .

*[Sealed by the bank*

*or*

*\* Signed by an officer of the bank  
authorised in writing.]*

\* Delete whichever is inapplicable.

---

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-9A

Rule 9.03(1)

**FORM 2-9A**

IN THE COUNTY COURT  
OF VICTORIA  
AT

BETWEEN:

v.

**APPLICATION FOR \*TIME TO PAY A FINE  
\*INSTALMENT ORDER  
\*VARIATION OF INSTALMENT  
ORDER**

1. I (*Full name*) of (*address*) (*occupation*) apply to the  
proper office of the Court at  
for—

- \*an order that time be allowed for payment of the fine
- \*an order that the fine be paid by instalments
- \*an order for the variation of the terms of an instalment order.

2. On I was ordered to pay a fine.

3. The Court ordered that I pay \$ in fines and costs.

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

5. The Court ordered that the fines and costs be paid—

- \*by / /19
- \*by instalments of \$ to be paid on the day of each
- \*week/\*fortnight/\*month
- \*did not make any order about payment

6. I have made the following payments under the order—  
(*here set out details of payments made*)

7. I now want to pay the money I owe by (*date*) /\*by  
instalments of \$ on the day of each \*fortnight/\*month  
starting on (*date*).

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

9. My weekly expenses are \$

10. This leaves me with \$



County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-9A**

---

Dated 19

*(Signature of Applicant)*

\* Delete if inapplicable.

---

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-9B

Rule 9.03(5)

**FORM 2-9B**

IN THE COUNTY COURT  
OF VICTORIA  
AT

No:

BETWEEN:

v.

**NOTICE OF HEARING OF APPLICATION**

To the offender \_\_\_\_\_ of \_\_\_\_\_,  
and to the Director of Public Prosecutions.

TAKE NOTICE that the offender has filed an application for—

- \*Time to pay a fine
- \*An Instalment Order
- \*Variation of an Instalment Order

The application will be heard before the Proper Officer of the County Court  
of Victoria at 223 William Street, Melbourne, on  
\_\_\_\_\_ at \_\_\_\_\_ (a.m. *or* p.m.) or so soon afterwards  
as the business of the Court allows.

Dated:

Registrar

Rule 9.07(1)

**FORM 2-9C**

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

A warrant to arrest has been issued to the Sheriff for non-payment of the fine(s) imposed against you in the 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 ON WHICH THIS DEMAND IS MADE IN WHICH TO PAY THE AMOUNT OUTSTANDING, OR TO OBTAIN AN INSTALMENT ORDER OR TIME TO PAY, OR TO CONSENT TO THE MAKING OF A COMMUNITY-BASED ORDER** (*see below*). Payment must be made to the Registrar of the County Court where the penalty was imposed.

**IF YOU CANNOT PAY**

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

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

You can obtain a consent form from the County Court where the penalty was imposed.

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

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

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

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-9C**

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

Rule 9.07(2)

**FORM 2-9D**

IN THE COUNTY COURT  
OF VICTORIA  
AT  
BETWEEN

v.

**CONSENT TO A COMMUNITY BASED ORDER**

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

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

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

**Conditions of the order**

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

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

- \* not commit another offence punishable by imprisonment
- \* report to a Community Corrections Centre specified by the Court
- \* report to, and receive visits from, a Community Corrections Officer
- \* notify an officer at the specified Community Corrections Centre of any change of address or employment within 2 clear working days after the change
- \* not leave Victoria except with the permission of an officer at the specified Community Corrections Centre
- \* obey all lawful instructions and directions of Community Corrections Officers
- \* perform unpaid community work as directed by the Regional Manager for a period determined by the Court.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-9D

---

Dated at , / /19 .

Witnessed by

*(Signature of person in default)*

*(Print name)*

**TO THE PERSON IN DEFAULT**

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

\_\_\_\_\_

Rule 9.07(3)

**FORM 2-9E**

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

To        Ref. No.  
of

Date of Birth        /        /        .

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

**UNPAID AMOUNTS**

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

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

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

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

The Magistrates' Court at        will supervise this order.

The conditions of this order are that you must—

- \* not commit another offence for which you could be imprisoned during the time that the order is in force;
- \* report to the above Community Corrections Centre within 2 clear working days of the order starting;
- \* report to, and receive visits from, a Community Corrections Officer;
- \* notify an officer at the above Community Corrections Centre of any change of your address or employment within 2 clear working days after the change;
- \* not leave Victoria without first obtaining permission to do so from an officer at the above Community Corrections Centre;

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-9E**

- 
- \* obey all lawful instructions and directions given to you by Community Corrections Officers;
  - \* perform unpaid community work as directed by the Regional Manager of the Office of Corrections for the period determined by the Court.

This order was made on     /     /19     at     .

*Signature of Proper Officer*

\_\_\_\_\_



Rule 9.07(4)

**FORM 2-9F**

IN THE COUNTY COURT  
OF VICTORIA  
AT

Court Ref:

**SUMMONS FOR FAILURE TO PAY A FINE**

BETWEEN

v.

To:

1. On     /     /19     you were found guilty of an offence and the Court ordered you to pay the following amount(s):

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

TOTAL AMOUNT PAYABLE \$

2. 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.
3. YOU ARE DIRECTED TO APPEAR BEFORE THE COURT  
AT                      AT                      AM/PM ON                      , 19 TO  
BE EXAMINED CONCERNING YOUR FAILURE TO PAY THE  
ABOVE AMOUNT(S).

Issued at

Dated                      19     .

*Registrar*

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 appear at Court. If you do not pay before the hearing of this summons, the Court may order you to pay additional costs.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-9F**

- 
2. Payments must be made personally or posted to the Registrar. You must quote the Court reference at the top of this summons.
  3. If you do not pay the amount due or appear at Court as directed by this summons, a warrant for your arrest may be issued.
-

Rule 9.07(5)

**FORM 2-9G**

IN THE COUNTY COURT  
OF VICTORIA  
AT

**WARRANT TO ARREST FOR FAILURE TO PAY A FINE**

BETWEEN

v.

*Defendant*

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

Whereas [*name of person in default*] of [*Address*] has failed to comply with the order of the County Court at [*place*] where he/she was fined the sum of [*amount*] for the offence of [*state offence*].

You are authorised to break, enter and search any place where the defendant is suspected to be and to arrest \*him/her and cause the defendant 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 released on bail in accordance with the following provisions.

That the defendant be released upon his own undertaking in writing to appear at the County Court at                      on the                      at  
[a.m./p.m.]

or

[*Here insert any other bail provisions*]

Date                      19                      .

*Registrar*

may be issued.

**FORM 2-9H**

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Rule 9.11(2)

**FORM 2-9J**

IN THE COUNTY COURT  
AT

No.

THE QUEEN

v.

**WARRANT OF COMMITMENT**

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 or any other prison  
more accessible or more convenient:

of

has failed for a period of one month to pay the—

\*monetary penalty imposed on him or her on ;

\*instalment payable under the order made by  
on —

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

You the Sheriff and members of the Police Force are authorised and required  
to take and safely convey him or her to the above-mentioned prison or any  
other prison which is more accessible or more convenient, 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  
into your custody in such  
prison and there to imprison him or her for the term of

Dated 19 .

*Registrar.*

\* Delete if inapplicable.

\_\_\_\_\_

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–10A

Rule 10.05(1)

Form 2–10A  
substituted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(1).

**FORM 2–10A**

IN THE COUNTY COURT OF VICTORIA

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

and

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

and

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

**APPLICATION UNDER SECTION 98 FOR EXAMINATION ORDER**

**TO:** The Registrar of the County Court of Victoria

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

("the Applicant")

**MAKES APPLICATION** under section 98 of the **Confiscation Act 1997** ("the **Confiscation Act**") for an **ORDER** for the **EXAMINATION** before the Court of the persons listed in Part 3 of this application in respect of the nature and location of any property in which the said XY has or may have an interest or any property which the applicant for the order believes, on reasonable grounds, to be tainted property within the meaning of the Confiscation Act.

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

**PARTICULARS OF APPLICATION**

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

- \* has been charged with
- \* has been convicted of

[*state offence and, if relevant, details of conviction*]

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

- \* a Schedule 1 offence
- \* a Schedule 2 offence

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10A

- 
- \* a court has made a restraining order against property under section 18 of the Confiscation Act in relation to a Schedule 2 offence.
2. THE APPLICANT is a "relevant person" within the meaning of section 98 and is—
- \* the Director of Public Prosecutions
  - \* a prescribed person
  - \* a person belonging to a prescribed class of persons, namely  
[identify class].
3. THE APPLICANT seeks to examine the following persons—[name and address of person(s) who are sought to be examined].
4. THE GROUNDS on which this application is made are as follows—  
[set out in detail the grounds of the application].
5. THE APPLICANT RELIES upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the [number] Court, 250 William Street, Melbourne on [date] at [time].

[Signed by Registrar]

---

\* Delete if not applicable

---

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10B

Rules 10.05(2), 10.06(2) and 10.07

Form 2-10B  
inserted by  
S.R. No.  
114/1999  
rule 5,  
substituted by  
S.R. No.  
166/2006  
rule 6(2).

**FORM 2-10B**

IN THE COUNTY COURT OF VICTORIA

IN THE MATTER of the **\*Confiscation Act 1997/ \*Proceeds of Crime Act 2002** of the Commonwealth

and

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

\*a suspect, CD [*name in full*]

\*the property [*insert details*]

and

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

**APPLICATION UNDER SECTION [*insert relevant section and relevant Act*] FOR RESTRAINING ORDER**

**TO:** the Registrar of the County Court of Victoria

**TAKE NOTICE THAT** [*name of the person making the application*]  
("the Applicant")

**MAKES APPLICATION** under

- \* section \*16(1), \*16(2)(a), \*16(2)(b), \*16(2)(c) or \*16(2)(d) of the **Confiscation Act 1997 ("the Confiscation Act") FOR A RESTRAINING ORDER** in respect of property in which the said XY has an interest or which is tainted property within the meaning of the Confiscation Act.
- \* section \*17, \*18, \*19 or \*20 of the Proceeds of Crime Act 2002 of the Commonwealth ("**the Commonwealth Act**") **FOR A RESTRAINING ORDER** in respect of property which may be the subject of a restraining order under that Act [*insert relevant details*].

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



---

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because—
    - \* XY has been charged with
    - \* within the next 48 hours, XY will be charged with
    - \* XY has been convicted of  
*[state offence and, if relevant, details of conviction]*and that offence is, within the meaning of the Confiscation Act—
    - \* a Schedule 1 offence
    - \* a Schedule 2 offence
    - \* in the case of an application under section 16(2)(a) of the Confiscation Act, a member of the police force suspects on reasonable grounds that property is tainted property in relation to a Schedule 2 offence.
    - \* pursuant to the Commonwealth Act *[insert relevant details]*
  2. THE APPLICANT is—
    - \* the Director of Public Prosecutions
    - \* a prescribed person
    - \* a person belonging to a prescribed class of persons, namely *[identify class]*
    - \* in the case of an application under the Commonwealth Act, the Director of Public Prosecutions within the meaning of the Commonwealth Act.
  3. THE APPLICATION IS IN RESPECT OF the following property—  
*[describe the property in detail]*
  4. THE GROUNDS on which this application is made are as follows—  
*[set out in detail the grounds of the application]*
  5. THE PURPOSE OF THE ORDER SOUGHT is so that—
    - \* in the case of an application under the Confiscation Act, the property the subject of the order will be available—
      - \* to satisfy any forfeiture order that may be made under Division 1 of Part 3 of the Confiscation Act
-

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10B

- \* to satisfy automatic forfeiture of property that may occur under Division 2 of Part 3 of the Confiscation Act
- \* to satisfy any civil forfeiture order that may be made under Part 4 of the Confiscation Act
- \* to satisfy any pecuniary penalty order that may be made under Part 8 of the Confiscation Act
- \* to satisfy any order for restitution or compensation that may be made under the **Sentencing Act 1991**
- \* in the case of an application under the Commonwealth Act, to satisfy *[insert relevant details]*

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

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

This application will be heard—

by \*the Judge in the Practice Court/\*the trial Judge  
in the *[number]* Court at 250 William Street, Melbourne,  
on *[date]* \*at *[time]*/\*after sentence.

*[Signed by Registrar]*

\* Delete if not applicable

Rule 10.08(1)(a)

**FORM 2-10C**

*[heading as in Form 2-10A]*

**NOTICE OF APPLICATION MADE UNDER SECTION 16**

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

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

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

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

THE HEARING of this application will be resumed—

by \*the trial Judge/\*the Judge in the Practice Court  
at the *[number]* Court, 250 William Street, Melbourne, on  
*[date]* at *[time of day or the occasion]*.

*[Signed by Registrar]*

AS A PERSON TO WHOM THIS NOTICE IS GIVEN—

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

Date:

*[Signed by Applicant]*

Form 2-10C  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(3).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-10C**

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

---

\* Delete if not applicable

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Rule 10.08(1)(b)

**FORM 2-10D**

Form 2-10D  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(4).

IN THE COUNTY COURT OF VICTORIA

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

and

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

BETWEEN:

AB Applicant

and

CD Respondent

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

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

("the Respondent(s)")

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

("the Applicant")

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

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

**PARTICULARS OF APPLICATION**

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

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10D

3. THE RESPONDENT(S) to this application is/are—

- \* a person who the Applicant has reason to believe has an interest in the property in respect of which exclusion is sought
- \* the applicant for the abovementioned Restraining Order.

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

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

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

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the *[number]* Court, 250 William Street, Melbourne on *[date]* at *[time]*.

*[Signed by Registrar]*

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

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

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

\* Delete if not applicable

Rule 10.08(1)(c)

**FORM 2–10E**

*[heading as in Form 2–10D]*

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

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

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

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

**("the Applicant")**

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

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

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

**PARTICULARS OF APPLICATION**

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

Form 2–10E  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(5).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10E

---

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

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

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

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the *[number]* Court, 250 William Street, Melbourne on *[date]* at *[time]*.

*[Signed by Registrar]*

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

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

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

---

\* Delete if not applicable

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Rule 10.08(1)(d)

**FORM 2–10F**

*[heading as in Form 2–10D]*

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

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

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

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

**("the Applicant")**

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

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

**PARTICULARS OF APPLICATION**

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

Form 2–10F  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(6).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10F

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

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

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the [number] Court, 250 William Street, Melbourne on [date] at [time].

[Signed by Registrar]

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

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

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

\* Delete if not applicable

Rule 10.08(1)(g)

**FORM 2–10FA**

*[heading as in Form 2–10D]*

Form 2–10FA  
inserted by  
S.R. No.  
166/2006  
rule 6(7).

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

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

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

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

**("the Applicant")**

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

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

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because XY has been charged with the offence of *[describe the offence]* which is a Schedule 2 offence within the meaning of the Confiscation Act and a Restraining Order under section 18(2) was made by the *[name]* Court on *[date]*.
2. THE APPLICANT is—
  - \* the Director of Public Prosecutions
  - \* a prescribed person within the meaning of section 37
  - \* a person belonging to a prescribed class of persons, namely:  
*[identify class]*
3. THE RESPONDENT(S) to this application is/are—
  - \* the person who has been charged with a Schedule 2 offence
  - \* the person in respect of whose property the Order is sought
  - \* a person who the Applicant has reason to believe has an interest in the property

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–10FA

- \* the applicant for the Restraining Order which is in force
  - \* a person to whom the Court has required that notice be given
4. THE GROUNDS on which this application will be made are as follows—
- [set out in detail the grounds of the application]
5. HAS ANY PREVIOUS APPLICATION been made under section 37(1) of the Confiscation Act in relation to the same Schedule 2 offence?
- \* No such application has been made
  - \* Such an application was made on [date] but that application has not been finally determined
  - \* Such an application was made on [date] and has been finally determined, but the Applicant will seek the leave of the Court to make this further application
- \***THE APPLICANT WILL RELY** upon the affidavit(s) made by [name of deponent(s)] filed in support of this application and to be served herewith.
- Date:
- [Signed by Applicant]

**PARTICULARS OF HEARING**

This application will be heard—

by \*the trial Judge/\*the Judge in the Practice Court  
at the [number] Court, 250 William Street, Melbourne, on  
date] at [time of day or occasion].

[Signed by Registrar]

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

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

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

\* Delete if not applicable.

Rule 10.08(1)(e)

**FORM 2-10G**

*[heading as in Form 2-10D]*

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

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

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

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

**("the Applicant")**

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

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

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

**PARTICULARS OF APPLICATION**

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

- \* property has been forfeited under a forfeiture order made in respect of XY on *[date]* on the application of *[name]*
- \* application has been made by *[name]* for a forfeiture order in respect of XY.

2. THE APPLICANT *\*is/\*is not* a person under the age of 18 years.

3. THE RESPONDENT to this application *\*was/\*is* the applicant for the forfeiture order *\*made/\*sought* in respect of XY.

Form 2-10G  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(8).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10G

4. THE GROUNDS on which this application will be made are as follows—  
*[set out in detail the grounds of the application, including the facts relied upon to establish that the payment sought is reasonably necessary to prevent hardship to the person for whose benefit the application is made].*

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

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the Judge in the Practice Court at the *[number]* Court, 250 William Street, Melbourne on *[date]* at *[time]*.

*[Signed by Registrar]*

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

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

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

\* Delete if not applicable

Rule 10.08(1)(f)

**FORM 2–10H**

*[heading as in Form 2–10D]*

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

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

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

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

**("the Applicant")**

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

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

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because certain property—
  - \* has been forfeited, or is sought to be forfeited, under a forfeiture order
  - \* has been forfeited under section 35 of the Confiscation Act.
2. THE APPLICANT is—
  - \*(a) in the case of an application under section 49 or 51, a person (other than the defendant) who claims an interest in the property or claims to have had an interest in the property immediately before it was forfeited;
  - \*(b) in the case of an application under section 53, a person (other than a person who is suspected to have committed the Schedule 2 offence in relation to which a restraining order was made against the property) who claims an interest in the property or claims to have had an interest in the property immediately before it was forfeited.

Form 2–10H  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(9).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10H

3. THE RESPONDENT(S) to this application is/are—
- \* the applicant for the forfeiture order
  - \* the Director of Public Prosecutions
  - \* a person who the Applicant has reason to believe has an interest in the property or had an interest in the property immediately before it was forfeited.
4. THE GROUNDS on which this application will be made are as follows—  
[set out in detail the grounds of the application].
5. IF a forfeiture order has already been made or property has been forfeited under section 35, **A TIME LIMIT APPLIES** under section 49(2) or 51(2) of the Confiscation Act and this application will be made—
- \* within the period of 60 days after the day on which the forfeiture order was made or the property was forfeited (as the case may be)
  - \* after the end of that period of 60 days, but **the Applicant will seek the leave of the Court** to make this application out of time.

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

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before the \*trial Judge/\*Judge in the Practice Court at the [number] Court, 250 William Street, Melbourne on [date] at [time].

[Signed by Registrar]

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

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



County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-10H**

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

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\* Delete if not applicable

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Form 2–10J

Rule 10.08(1)(g)

Form 2–10J  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(10).

**FORM 2–10J**

*[heading as in Form 2–10D]*

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

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

**("the Respondent")**

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

**("the Applicant")**

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

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

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because (or when) XY has been convicted in the County Court of Victoria at *[place]* of the offence of *[describe the offence]* which, within the meaning of the **Confiscation Act 1997** ("the **Confiscation Act**"), is—
  - \* a Schedule 2 offence
  - \* a Schedule 1 offence other than a Schedule 2 offence.
2. THE APPLICANT is the Director of Public Prosecutions.
3. THE RESPONDENT to this application is the person who has been convicted of (or if not yet convicted, has been charged with) the offence described above.
4. THE GROUNDS on which this application will be made are as follows—  
*[set out in detail the grounds of the application]*.
5. IF the Respondent has already been convicted of the offence described above, A TIME LIMIT APPLIES under section 58(3) of the Confiscation Act and this application will be made—
  - \* before the end of the relevant period (as defined by the Confiscation Act) in relation to the conviction
  - \* after the end of the relevant period (as so defined), but **the Applicant will seek the leave of the Court** to make this application out of time.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10J

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

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

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

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

Date:

[Signed by Applicant]

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before \*the trial Judge/\*the Judge in the Practice Court at the [number] Court, 250 William Street, Melbourne on [date] at [time].

[Signed by Registrar]

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

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

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

\* Delete if not applicable

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10K

Rule 10.07(1)(g)

Form 2-10K  
inserted by  
S.R. No.  
114/1999  
rule 5.

**FORM 2-10K**

*[heading as in Form 2-10D]*

**NOTICE OF APPLICATION MADE UNDER SECTION 98 FOR  
EXAMINATION ORDER**

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

**TAKE NOTICE THAT APPLICATION HAS BEEN MADE** to the County Court of Victoria under section 98 of the **Confiscation Act 1997** ("**the Confiscation Act**") for an **EXAMINATION** of the persons listed in Part 3 of the application in respect of the nature and location of any property in which the said XY has or may have an interest or any property which the applicant for the order believes, on reasonable grounds, to be tainted property within the meaning of the Confiscation Act.

**A COPY OF THE APPLICATION IS ATTACHED**

Date:

*[signed by Applicant]*

THIS APPLICATION will be heard before the Judge in the Practice Court at the *[number]* Court, 223 William Street, Melbourne on *[date]* at *[time]*.

*[signed by Registrar]*

Rule 10.08(2)

**FORM 2-10L**

*[heading as in Form 2-10D]*

**NOTICE OF APPLICATION TO BE MADE UNDER SECTION  
[INSERT NUMBER] OF THE CONFISCATION ACT 1997**

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

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

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

**("the Applicant")**

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

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

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

**PARTICULARS OF APPLICATION**

1. THE JURISDICTION to make the order(s) sought arises because *[set out circumstances giving rise to the jurisdiction, e.g. XY was convicted on [date] in the [name] Court of the offence of [describe] which is a Schedule 2 offence within the meaning of the Confiscation Act OR XY will be charged within 48 hours with an offence which is a Schedule 2 offence OR in respect of a Schedule 2 offence, a member of the police force suspects on reasonable grounds that the property of XY is tainted property in relation to that offence OR the County Court of Victoria made a Restraining Order on [date] in relation to the property of XY OR application has been made to the County Court of Victoria for a Restraining Order in relation to the property of XY, OR as the case requires]*
2. THE APPLICANT is *[describe the standing of the Applicant to make the application, e.g. the Director of Public Prosecutions OR a person who has an interest in the property which is subject to a Restraining Order made on [date] OR a person who is caused hardship by the forfeiture of property under an order made on [date] in respect of the property of XY, OR as the case requires]*.
3. \*THE APPLICATION IS IN RESPECT OF the following property—*[describe the property in detail]*.

Form 2-10L  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(11).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10L

4. THE RESPONDENT(S) to this application is/are—

*[describe the standing of the person(s) to whom notice is given, e.g. the person who obtained the Restraining Order (or the Forfeiture Order, as the case may be) in respect of XY OR a person who the Applicant has reason to believe has an interest in the property or the Director of Public Prosecutions, OR as the case requires].*

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

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

6. A TIME LIMIT \*does/\*does not apply in respect of this application. *[If a time limit does apply, state what that time limit is and whether it has been observed and, if not, state **whether leave is sought** to make the application out of time and on what grounds].*

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

Date:

*[Signed by Applicant]*

**PARTICULARS OF HEARING**

THIS APPLICATION will be heard before \*the trial Judge/\*the Judge in the Practice Court at the *[number]* Court, 250 William Street, Melbourne on *[date]* at *[time]*.

*[Signed by Registrar]*

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

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

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

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

\* Delete if not applicable

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–10M

Rule 10.12(2)

**FORM 2–10M**

*[heading as in Form 2–10D]*

**IMPORTANT NOTE**

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

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

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

Accordingly, the restrained property is forfeited to the State on the expiry of 60 days after the making of this restraining order or (if later) the conviction of XY of the Schedule 2 offence in reliance upon which, or by reference to the charging or proposed charging of which, this Restraining Order was made **UNLESS WITHIN THAT PERIOD OF 60 DAYS** an application has been made for an exclusion order under section 22 of the **Confiscation Act 1997**.

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

Date:

*[Signed]*

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

Form 2–10M  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(12).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2–10N

Rule 10.13(1)

Form 2–10N  
inserted by  
S.R. No.  
114/1999  
rule 5,  
amended by  
S.R. No.  
166/2006  
rule 6(13).

**FORM 2–10N**

IN THE COUNTY COURT OF VICTORIA

Proceeding No.

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

and

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

**NOTICE OF DISCHARGE OF FORFEITURE**

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

**TAKE NOTICE** that—

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

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

**THIS NOTICE** is given by—

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

**THIS NOTICE** is given to you as—

- \* a person who the person giving this notice has reason to believe may have had an interest in the property immediately before it was forfeited
- \* a person to whom, or as one within a class of persons to whom, the [*name*] Court has required that notice be given.



County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-10N

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

Date:

[Signed]

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\* Delete if not applicable.

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County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-100

Rule 10.05(3)

Form 2-100  
inserted by  
S.R. No.  
166/2006  
rule 6(14).

**FORM 2-100**

IN THE COUNTY COURT OF VICTORIA

IN THE MATTER of the Proceeds of Crime Act 2002 of the Commonwealth  
and

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

**APPLICATION UNDER SECTION *[insert relevant section and relevant Act]* FOR MONITORING ORDER**

**TO:** the Registrar of the County Court of Victoria

**TAKE NOTICE THAT** *[name of the person making the application]*  
("the Applicant")

**MAKES APPLICATION** under

section 219 of the Proceeds of Crime Act 2002 of the Commonwealth ("**the Commonwealth Act**") **FOR A MONITORING ORDER** directing a financial institution to give to *[insert details of enforcement agency]* information in respect of transactions conducted during a particular period through an account held by *[specify details of account]*.

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

**PARTICULARS OF APPLICATION**

1. **THE JURISDICTION** to make the order(s) sought arises because—  
*[specify details which support the making of the application]*
  2. **THE APPLICANT** is an authorised officer of an enforcement agency within the meaning of the Commonwealth Act.
  3. **THE APPLICATION IS IN RESPECT OF** the following account—  
*[insert relevant details]*
  4. **THE GROUNDS** on which this application is made are as follows—  
*[set out in detail the grounds of the application]*
- \* **THE APPLICANT RELIES** upon the affidavit(s) made by *[name of deponent(s)]* filed in support of this application.

Date:

*[Signed by Applicant]*

---

**PARTICULARS OF HEARING**

This application will be heard—

by \*the Judge in the Practice Court/\*the trial Judge in the [*number*]  
Court at 250 William Street, Melbourne, on [*date*] \*at [*time*]/\*after  
sentence.

[*Signed by Registrar*]

---

\* Delete if not applicable

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\* \* \* \* \*

Forms  
2-10AA,  
2-10AB  
inserted by  
S.R. No.  
114/1999  
rule 5,  
revoked by  
S.R. No.  
166/2006  
rule 6(15).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-11A

Rule 11.03(1), 11.06(1)

**FORM 2-11A**

IN THE COUNTY COURT  
OF VICTORIA  
AT

The Queen

v.

[*name of accused*]

**NOTICE THAT SOLICITOR ACTS**

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

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

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

Charges indicated by Notice of Trial:

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

Date: [*e.g.* 14 September 19     ].

[*Signed*]

Name of Solicitor (or firm):

Address of Solicitor (or firm):

Telephone number:

Name of person handling matter:

Present address of accused person:

**NOTES:**

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

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Rule 11.03(2), 11.06(2)

**FORM 2-11B**

*[heading as in Form 2-11A]*

**NOTICE THAT SOLICITOR HAS CEASED TO ACT**

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

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

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

Charges indicated by Notice of Trial:

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

Filed: *[e.g. 14 September 19   ]*.

*[Signed]*

**NOTES:**

- (i) This notice must be served on—

—the DPP, and  
—the CTLD, and  
—the former client—

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

- (ii) As soon as possible after ceasing to act for an accused person, the solicitor must return—

—to the CTLD, the copy depositions,  
—to the DPP, all materials provided by the DPP—

in relation to the matter.

- (iii) If a Notice under Rule 11.03(1) or 11.06(1) has been filed with the Registrar this notice must be filed with the Registrar as soon as possible after a solicitor ceases to act for an accused person.
-

Rule 11.04

**FORM 2-11C**

**NOTICE TO ACCUSED PERSON**

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

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

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

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

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

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

---

Rule 11.05

**FORM 2-11D**

*[heading as in Form 2-11A]*

**NOTICE OF READINESS FOR TRIAL**

To: Criminal Trial Listing Directorate

*DPP File No.:*

*Charges:*

*Accused: [names and  
addresses]*

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

*Presentment filed on: [date]*

*Preparation officer:*

*Telephone No.:*

*Co-ordinator:*

*Telephone No.:*

*Team Leader:*

*Telephone No.:*

*Practitioners for accused person(s)*

*Accused*

*Solicitor (or firm)*

*Barrister (if known)*

*[names of solicitor and counsel]*

*Witnesses: Civilians:*

*Police:*

*Interpreter:*

*Availability: [set out details of witnesses' availability]*

*Listing comments:*

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

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

*Time limits:*

*Trial to commence by: [date]*

*Estimated duration of Crown case:*

*Re-committal: [date]*

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

**Form 2-11D**

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

[*Signed*] Solicitor to the Director of Public Prosecutions

\* Delete if not applicable.

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Rule 11.08

**FORM 2-11E**

[heading as in Form 2-11A]

**QUESTIONNAIRE**

To [solicitor for accused person]

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

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

Under Rule 11.08 of Chapter II of the County Court Rules YOU ARE REQUIRED WITHIN 14 DAYS to answer the following questions and to return the answers to the Criminal Trial Listing Directorate.

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

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-11E

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(b) If NO to (a), has [*accused person*] been advised by  
your firm to apply for legal assistance? YES/NO

Director,  
Criminal Trial Listing Directorate

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County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-11AA

Rule 11A.03

**FORM 2-11AA**

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

In the County Court

at

The Queen

v.

*[name of accused]*

**PARTICULARS OF APPLICATION**

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

Type of hearing—*[insert details]*.

Date of hearing—*[insert details]*.

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

Date—

*[Signature]*

\_\_\_\_\_

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Rules 11A.04, 11A.05 and 11A.06

**FORM 2–11AB**

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

In the County Court  
at

The Queen

v.

[*name of accused*]

**PART 1—PARTICULARS OF APPLICATION**

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

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

Date—

[*Signature*]

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-11AB

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PART 2—PARTICULARS OF HEARING

*(to be completed by the Registrar)*

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

FILED [*e.g.* 15 June, 19   ].

\_\_\_\_\_

**FORM 2-12A**

19 No.

# AFFIDAVIT IN SUPPORT OF A SUMMONS TO DEBTOR

I, *A.B.*, of \_\_\_\_\_ make oath and say, as follows:

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, I  
obtained judgment in this Court for the sum of \$ \_\_\_\_\_ (and costs)  
against the defendant *C.D.*, and the same is unsatisfied.
2. The amount of the judgment has been partly satisfied by the defendant  
by payment of the following amounts on the following dates, namely  
(or by such other means as the defendant has partly satisfied the  
judgment).
3. There is still due on the said judgment the sum of \$ \_\_\_\_\_.
4. *(Set out whether any and if so, what form of execution on the judgment  
is still outstanding.)*
5. The defendant *C.D.* lives at \_\_\_\_\_,  
and carries on the business of a \_\_\_\_\_.

Sworn *etc.*

## Form 2-12B

**FORM 2-12B**

## CERTIFICATE OF PAYMENT

Amount of Judgment (or Order) made on the	19	\$	.
Taxed (or Fixed) costs		\$	.
Interest at the rate of	per centum		
per annum		\$	.
Cost of fruitless writs of execution and levies thereunder		\$	.
Costs of Summons to Debtor (and examination)		\$	.
		\$	.

Registrar of the said Court

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Rule 16.02(a)

**FORM 2-16A**

**NOTICE OF APPLICATION BY A CHILD'S PARENT FOR  
APPROVAL OF A PROPOSED CHANGE OF NAME OF A CHILD**

(Section 26(4) of the **Births, Deaths and Marriages Registration Act 1996**)

In the County Court  
at

A.B. Applicant

and

C.D. Respondent

**PART 1—PARTICULARS OF APPLICATION**

To the Respondent—

1. TAKE NOTICE that the applicant, a parent of [*set out full name[s] of child/children whose name[s] is/are sought to be changed*] intends to apply to the Court for approval for the name[s] of—

[*insert name[s] of child/children*]

to be changed to—

[*insert proposed name[s] for child/children*].

2. The Respondent is the other parent of the child/children referred to in paragraph 1.

[*If approval is sought for changing the name of more than one child and the Respondent is not the other parent of that child, a separate application must be made*]

Date—

[Signature]

**PART 2—PARTICULARS OF HEARING**

(*to be completed by the Registrar*)

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

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

Rule 16.02(b)

**FORM 2-16B**

**AFFIDAVIT IN SUPPORT OF APPLICATION FOR APPROVAL OF  
A PROPOSED CHANGE OF NAME OF A CHILD**

*[heading as in application]*

1. I, *[name of applicant]*, c/o the Registrar, County Court at \_\_\_\_\_ [or  
*insert address of applicant*], *[occupation]*, am a parent of *[insert full  
name[s] of child/children whose name[s] \*is/\*are sought to be  
changed]*.
2. The date of birth of *[name of child]* is—  
*[Insert extra name[s] and dates[s] of birth if application is for more than  
one child and the Respondent is the other parent of the other  
child/children]*
3. The other parent of the \*child/\*children is the Respondent in these  
proceedings whose full name and address is—  
*[Insert details]*
- \*4. That I was married to the Respondent at \_\_\_\_\_ on *[insert date]*.  
*or*
- \*4. That I had a de facto relationship with the Respondent from *[insert  
date]*.
5. That I last resided with the Respondent on *[insert date]*.
6. *[If applicable]* That I was divorced from the Respondent in the Family  
Court of Australia at \_\_\_\_\_ on *[insert date]*.
7. I \*have made/\*can make the following attempts to contact the  
Respondent about this application—  
*[Insert details]*
8. The Respondent last \*had/\*sought personal contact with the  
\*child/\*children on—  
*[Insert details]*
9. The Respondent last contributed to the financial support of the  
\*child/\*children on *[insert date]*.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-16B

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\*10. The following order was made by the \_\_\_\_\_ Court at \_\_\_\_\_ on  
[insert date] with respect to the \*residence of and parental contact with/  
\*custody of and access to the \*child/\*children—

or

\*10. No Court orders have been made with respect to the residence of and  
\*parental contact with/\*custody of and access to the \*child/\*children.

11. I believe that it is in the best interests of the \*child/\*children that the  
name[s] of the \*child/\*children be changed for the following reasons—

[Set out reasons]

\*delete if inapplicable

Sworn etc.

\_\_\_\_\_

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-16C

Rule 16.03

**FORM 2-16C**

**ORDER APPROVING A PROPOSED CHANGE OF NAME FOR A  
CHILD**

JUDGE [*or* MASTER]:

DATE MADE:

HOW OBTAINED:

Application dated \_\_\_\_\_, 19\_\_\_\_ supported by affidavit sworn \_\_\_\_\_ 19\_\_\_\_.

ORDER:

The Court being satisfied that the proposed change of name is in the child's best interests APPROVES of the proposal of the applicant that the name of [*full name of child*] who was born on [*insert date*] be changed to [*insert proposed name*].

*[If order is for approval for changing the names of more than one child, a separate order is required for each child].*

\_\_\_\_\_

Rule 16.04

**FORM 2-16D**

**NOTICE OF APPLICATION**

(Section       of the **Births, Deaths and Marriages Registration Act 1996**)

In the County Court

at

A.B.	Applicant
and	
*C.D.	*Respondent

**PART 1—PARTICULARS OF APPLICATION**

\*To the Respondent—

TAKE NOTICE that the applicant intends to apply to the Court for the following orders under the above Act—

*[set out orders sought]*

**PART 2—PARTICULARS OF HEARING**

*(to be completed by the Registrar)*

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

FILED *[e.g. 15 June, 19    ]*.

\* Delete where no respondent.

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

Form 2-16D

Dated: 21 June 1999

G. R. D. WALDRON, <i>CJ</i>	STUART CAMPBELL
P. U. RENDIT	DAVID MORROW
F. G. DYETT	M. G. McINERNEY
JOHN K. NIXON	T. G. WODAK
FRANK WALSH	F. J. SHELTON
L. S. OSTROWSKI	WILLIAM R. WHITE
T. A. NEESHAM	B. R. DOVE
J. R. HANLON	TIMOTHY HOLT
M. HIGGINS	CAROLYN DOUGLAS
F. B. LEWIS	TIM WOOD
M. J. STRONG	G. R. ANDERSON
J. MEAGHER	P. D. JENKINS
B. STOTT	K. WILLIAMS
FRED DAVEY	

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## ENDNOTES

### 1. General Information

The County Court Miscellaneous Rules 1999, S.R. No. 78/1999 were made on 21 June 1999 by a majority of the Judges of the County Court under section 78 of the **County Court Act 1958**, No. 6230/1958 and came into operation on 21 June 1999: rule 1.04.

The County Court Miscellaneous Rules 1999 will sunset 10 years after the day of making on 21 June 2009 (see section 5 of the **Subordinate Legislation Act 1994**).

County Court Miscellaneous Rules 1999  
S.R. No. 78/1999

<b>Endnotes</b>
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## 2. Table of Amendments

This Version incorporates amendments made to the County Court Miscellaneous Rules 1999 by statutory rules, subordinate instruments and Acts.

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County Court (Chapter II Amendment No. 1) Rules 1999, S.R. No. 79/1999

*Date of Making:* 22.6.99

*Date of Commencement:* 1.7.99: rule 3

County Court (Chapter II Amendment No. 2) Rules 1999, S.R. No. 114/1999

*Date of Making:* 31.8.99

*Date of Commencement:* 31.8.99

County Court (Chapter II Amendment No. 3) Rules 2001, S.R. No. 77/2001

*Date of Making:* 30.7.01

*Date of Commencement:* 1.8.01: rule 3

County Court (Chapter II Amendment No. 4) Rules 2001, S.R. No. 123/2001

*Date of Making:* 20.11.01

*Date of Commencement:* 1.12.01: rule 3

County Court (Chapter II Amendment No. 5) Rules 2002, S.R. No. 55/2002

*Date of Making:* 26.6.02

*Date of Commencement:* 1.7.02: rule 3

County Court (Chapter II Amendment No. 6) Rules 2006, S.R. No. 166/2006

*Date of Making:* 23.11.06

*Date of Commencement:* 1.1.07: rule 3

County Court (Chapter I Amendment No. 21) Rules 2007, S.R. No. 120/2007

*Date of Making:* 25.10.07

*Date of Commencement:* Rule 9(2) on 2.1.08: rule 3

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### **3. Explanatory Details**

<sup>1</sup> Rule 1.05: S.R. No. 181/1989 as amended by S.R. Nos 106/1990, 191/190, 69/1991, 131/1991, 217/1992, 286/1992, 42/1993, 82/1993, 145/1994, 146/1995, 165/1996, 129/1997, 37/1998 and 157/1998.