



Australian Capital Territory

Supreme Court Amendment Rules 2004 (No 4)

Subordinate Law SL2004-53

We, Judges of the Supreme Court, make the following rules of court under the *Supreme Court Act 1933*, section 36.

Dated 1 December 2004.

T J HIGGINS
Chief Justice

K J CRISPIN
Judge

T CONNOLLY
Judge

M F GRAY
Judge



Australian Capital Territory

Supreme Court Amendment Rules 2004 (No 4)

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made under the

Supreme Court Act 1933

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1 Name of rules

These rules are the *Supreme Court Amendment Rules 2004 (No 4)*.

2 Commencement

These rules commence on 31 December 2004.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

These rules amend the *Supreme Court Rules*.

4 Order 1 rule 4, new definition of *accused person*

insert

accused person—

- (a) for order 80 (Criminal proceedings) generally—see order 80 rule 1; and
- (b) for division 80.4 (Service in criminal proceedings)—see order 80 rule 4; and
- (c) for division 80.6 (Bail)—see order 80 rule 14.

5 Order 1 rule 4, definition of *address for service*

substitute

address for service means—

- (a) for a person represented by a solicitor—
 - (i) if the solicitor has a place of business in the ACT—the business address and any other address in the ACT given in accordance with these rules; or
 - (ii) in any other case—the address of a place in the ACT; or

- (b) for a plaintiff, defendant or anyone else acting in person in a civil matter—
 - (i) if the person has a home or place of business in the ACT—the home or business address; or
 - (ii) in any other case—the address of a place in the ACT; or
- (c) for an accused person or convicted person acting in person—
 - (i) if the person is in custody—the address of the place of custody, whether in or outside the ACT; or
 - (ii) if the person is granted bail—the address given for bail, whether in or outside the ACT; or
 - (iii) in any other case—the address for service (if any) in the ACT given by the person to the registrar; or
- (d) for the director of public prosecutions—the director’s business address in the ACT and any of the following given by the director to the court:
 - (i) a document exchange box number in the ACT;
 - (ii) a postbox number at a post office in the ACT;
 - (iii) a fax number;
 - (iv) an email address.

6 Order 1 rule 4, new definitions

insert

appearance date, for order 80 (Criminal proceedings)—see order 80 rule 18.

case statement, for order 80 (Criminal proceedings)—see order 80 rule 19.

7 Order 1 rule 4, definition of *Commonwealth Evidence Act*

substitute

Commonwealth Evidence Act means the *Evidence Act 1995* (Cwlth).

8 Order 1 rule 4, new definition of *convicted person*

insert

convicted person means a person who has been convicted or found guilty of an offence.

9 Order 1 rule 4, definition of *criminal proceeding*

substitute

criminal proceeding—

- (a) includes—
 - (i) an application in relation to bail; and
 - (ii) a trial on indictment; and
 - (iii) a proceeding on indictment if a plea of guilty is intended or entered; and
 - (iv) a proceeding following a committal for sentence under the *Magistrates Court Act 1930*, section 90A; but
- (b) for division 80.5 (Representation in criminal proceedings)—see order 80 rule 9.

10 Order 1 rule 4, new definitions and note

insert

director of public prosecutions includes the director of public prosecutions under the *Director of Public Prosecutions Act 1983* (Cwlth).

Note ***Director of public prosecutions*** is defined in the Legislation Act, dict, pt 1 as the director of public prosecutions under the *Director of Public Prosecutions Act 1990*. The above definition extends the definition to include the Cwlth director of public prosecutions.

sentence, for order 80 (Criminal proceedings)—see order 80 rule 1.

solicitor, for division 80.5 (Representation in criminal proceedings)—see order 80 rule 9.

11 New order 1AB

in part 1, insert

**Order 1AB Matters arising under
Commonwealth Evidence Act**

1 Evidence of previous representation

- (1) A notice of intention to adduce evidence of a previous representation under the Commonwealth Evidence Act, section 67 (1) must be in accordance with form 1.1B.
- (2) The notice may be accompanied by an affidavit setting out the evidence of the previous representation.

- (3) However, the court may dispense with compliance with subrule (1), in whole or part.

Note 1 The Commonwealth Evidence Act, s 67 (4) provides that the court may, on the application of a party, direct that 1 or more of s 63 (2), s 64 (2) or s 65 (2), (3) or (8) is to apply despite the party's failure to give notice.

Note 2 Noncompliance with this rule does not render any proceeding void unless the court so directs (see o 69 r 1).

2 Objection to hearsay evidence—civil proceedings

- (1) A notice of objection to the tender of hearsay evidence under the Commonwealth Evidence Act, section 68 (2) must be in accordance with form 1.1C.
- (2) However, the court may dispense with compliance with subrule (1), in whole or part.

3 Tendency evidence

- (1) A notice of intention to adduce tendency evidence under the Commonwealth Evidence Act, section 97 (1) must be in accordance with form 1.1D.
- (2) However, the court may dispense with compliance with subrule (1), in whole or part.

Note The Commonwealth Evidence Act, s 100 (1) provides that the court may, on the application of a party, direct that the tendency rule is not to apply to particular tendency evidence despite the party's failure to give notice under s 97.

4 Coincidence evidence

- (1) A notice of intention to adduce coincidence evidence under the Commonwealth Evidence Act, section 98 (1) must be in accordance with form 1.1E.

- (2) However, the court may dispense with compliance with subrule (1), in whole or part.

Note The Commonwealth Evidence Act, s 100 (2) provides that the court may, on the application of a party, direct that the coincidence rule is not to apply to particular coincidence evidence despite the party's failure to give notice under s 98.

12 Order 2 rule 4 (5) (a)

substitute

- (a) a document exchange box number in the ACT;

13 Order 10 rule 4 (1) (d)

substitute

- (d) if the person's address for service includes a document exchange box number—by leaving a copy of the document addressed to the person in the exchange box or at a collection point of the document exchange for delivery to the exchange box; or

14 Order 13 rule 2 (2) (a)

substitute

- (a) a document exchange box number in the ACT;

15 Order 34 rule 1, definition of *Commonwealth Evidence Act*

omit

16 Order 39 new rule 2A

in division 39.1, insert

2A Evidence by telephone etc by consent

A party to a proceeding may consent to evidence being given by telephone, video link or another form of communication in the proceeding.

17 Division 39.10

omit

18 Division 80.1

substitute

Division 80.1 Preliminary**1 Definitions for o 80**

In this order:

accused person means a person charged with an indictable offence—

- (a) who is committed to the court for trial or sentence; or
- (b) for whom an indictment has been filed in the court.

Note For applications in relation to bail, see also the definitions of ***accused person*** in the following rules:

- r 4 (Meaning of ***accused person*** for div 80.4—bail applications)
- r 14 (Meaning of ***accused person*** for div 80.6).

appearance date—see rule 18.

case statement—see rule 19.

sentence means an order, decision or other sentence (however described) imposed by the court on a person—

- (a) after the person has been convicted or found guilty; or
- (b) after the person has pleaded guilty to an indictable offence under the *Magistrates Court Act 1930*, section 90A (7) (Plea of guilty in committal proceedings).

Examples of sentences

- 1 a reparation order under the *Crimes Act 1900*, section 350 (Reparation orders)
- 2 a person released on conditions under the *Crimes Act 1900*, section 403 (Conditional release of offenders)
- 3 a treatment order under the *Drugs of Dependence Act 1989*, section 123 (Treatment orders)

Note An example is part of the rules, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Division 80.2 Dispensing with compliance— criminal proceedings

2 Dispensing with compliance with o 80

The court may dispense with compliance with any requirement of this order, before or after the time for compliance arises and on the conditions (if any) the court considers appropriate.

Division 80.3 Application of pt 2 to criminal proceedings

3 Application of civil rules to criminal proceedings

- (1) In this rule:

applied civil rules means the following:

- order 39 rule 2A (Evidence by telephone etc by consent)

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- division 39.2 (Taking evidence at trial from outside ACT by audiovisual link or audio link)
 - order 39A (Exhibits, documents and objects)
 - division 40.1 (Affidavits generally), other than rule 1
 - order 54 (Motions) rules 10 to 15
 - order 62 (Seals, filing, searches etc)
 - order 63 (Offices of the court)
 - order 64 rule 1 (Certain days not reckoned)
 - order 64 rule 2 (Time expiring on Sunday or when offices closed)
 - order 64 rule 3 (Time not reckoned)
 - order 64 rule 4 (Time for proceedings where security ordered)
 - order 64 rule 8 (Reckoning of time)
 - division 66.1 (Style)
 - division 66.2 (Refusal to accept documents for filing), other than order 66 rule 10A (2)
 - order 69 (Effect of noncompliance).
- (2) The applied civil rules apply to a criminal proceeding as if—
- (a) a reference to a *proceeding* were a reference to a criminal proceeding; and
 - (b) the reference in order 40 rule 2 (1) (Form of affidavits generally) to *form 1.49A* were a reference to form 4.1; and
 - (c) the reference in order 40 rule 4 (3) (Annexures and exhibits) to *form 1.49B* were a reference to form 4.2; and
 - (d) the reference in order 40 rule 4 (9) to *form 1.49C* were a reference to form 4.3; and
 - (e) any other necessary changes were made.

Division 80.4 Service in criminal proceedings

4 Meaning of *accused person* for div 80.4—bail applications

In this division:

accused person includes—

- (a) for an application under the *Bail Act 1992*, division 6.2 (Review of decisions by courts)—a person who is an accused person for that division; and
- (b) for any other application in relation to bail—a convicted person.

Note See also r 1, def *accused person*.

5 Application of o 10 to criminal proceedings

Order 10, other than rule 5, rule 6 and rule 15, applies to a criminal proceeding as if—

- (a) a reference to a proceeding were a reference to a criminal proceeding; and
- (b) a reference to a defendant were a reference to an accused person; and
- (c) any other necessary changes were made.

6 Service on accused person by filing if no address for service

- (1) This rule applies if an accused person in a criminal proceeding—
 - (a) is not in custody; and
 - (b) is not represented by a solicitor.

- (2) If the accused person does not have an address for service, a document for which personal service is not necessary may be served on the person by—
 - (a) filing it; and
 - (b) sending a copy by prepaid post addressed to the accused person at the person's last-known address.
- (3) A document filed under subrule (2) (a) must have endorsed on its first page a statement that it is filed under the paragraph.

7 Service if no-one found at accused person's address for service

- (1) This rule applies if—
 - (a) an accused person in a criminal proceeding—
 - (i) is not in custody; and
 - (ii) is not represented by a solicitor; and
 - (iii) has an address for service; and
 - (b) no-one can be found at the address.
- (2) Any document in the proceeding (including a document for which personal service is otherwise necessary) may be served on the accused person by leaving a copy at the person's address for service.

8 Service of documents when unrepresented accused person in custody

- (1) This rule applies if an accused person in a criminal proceeding—
 - (a) is in custody; and
 - (b) is not represented by a solicitor.

- (2) A document required or permitted to be served by the accused person for the proceeding may be served on the registrar for service by the registrar on another party to the proceeding.
- (3) A document required or permitted to be served on the accused person for the proceeding may be served by leaving the document with the person in charge of the place where the accused person is in custody.
- (4) If a document mentioned in subrule (3) is served by or on behalf of the registrar, the document may be served—
 - (a) by sending a copy by prepaid post to the place where the accused person is in custody, addressed to the person in charge of the place; or
 - (b) if the place has a postbox at a post office—by sending a copy by prepaid post to the postbox, addressed to the person in charge of the place; or
 - (c) if the place has a fax machine—by sending a copy by fax to the place, addressed to the person in charge of the place; or
 - (d) if the person in charge of the place has an email address—by sending a copy by electronic communication to the email address.

Division 80.5 Representation in criminal proceedings

9 Definitions for div 80.5

In this division:

criminal proceeding does not include an application in relation to bail.

Note See also o 1 r 4, def *criminal proceeding*.

solicitor—to remove any doubt, *solicitor* includes a firm of solicitors.

10 Notice of solicitor acting

- (1) If a solicitor begins acting for an accused person in a criminal matter after the matter becomes a criminal proceeding in the court, the solicitor must, as soon as practicable after, but within 14 days after the day, the solicitor begins acting—
 - (a) lodge a notice in accordance with form 4.4 for filing; and
 - (b) serve a copy of the notice on—
 - (i) the director of public prosecutions; and
 - (ii) any solicitor who was acting for the accused person immediately before the notice was lodged for filing.
- (2) A notice under subrule (1) must contain an address for service.
- (3) If a solicitor acts for 2 or more accused people in the same proceeding and at the same time, the solicitor must lodge for filing a single notice under subrule (1) that lists all the people the solicitor acts for in the proceeding.
- (4) If a solicitor lodges for filing a notice under subrule (1) in relation to an accused person, the solicitor is taken to act for the accused person until—
 - (a) another solicitor lodges a notice under subrule (1) for filing in relation to the accused person; or
 - (b) the solicitor is given leave to withdraw under rule 12, and complies with rule 12 (5).

11 Solicitor's instructions to act for accused person ended

- (1) This rule applies to a solicitor if the solicitor's instructions to act for an accused person in a criminal proceeding are ended before the proceeding is finally disposed of in the court.

Note Order 86 r 64 applies to a solicitor if the solicitor's instructions to act for a convicted person who is a party to an application or appeal in the Court of Appeal are ended.

- (2) The solicitor must file and serve on each party to the proceeding (including the accused person) written notice that the solicitor is no longer acting for the accused person.
- (3) The solicitor must file and serve the notice as soon as practicable after, but within 14 days after the day, the solicitor's instructions are ended.
- (4) In this rule:

accused person includes a person who has been convicted of an offence and is awaiting sentence for the offence in the court.

Note See also r 1, def *accused person*.

court does not include the Court of Appeal.

12 Withdrawal of solicitor

- (1) A solicitor may withdraw from acting for an accused person only with the court's leave.
- (2) The application must be made by motion on notice in accordance with form 4.9.
- (3) However, if the solicitor wants to withdraw from acting for the accused person during the person's trial or sentence hearing, the application may be made orally to the court.
- (4) The notice must—
 - (a) state the solicitor moving the motion; and

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- (b) state the date and time when, and place where, the motion is to be made; and
 - (c) if the court makes an order under subrule (6)—state the terms of the order; and
 - (d) state briefly the order sought.
- (5) A copy of the notice must be served—
- (a) on the accused person—
 - (i) personally; or
 - (ii) by registered letter addressed to the person’s last-known address; or
 - (iii) if the court orders another way of service—as ordered; and
 - (b) on the director of public prosecutions.
- (6) Unless the court otherwise orders, there must be at least 2 clear days between the day of service of the notice and the day stated in the notice for hearing the motion.
- (7) The court may order service of the notice on anyone it considers appropriate.
- (8) If the court gives the solicitor leave to withdraw, the solicitor must—
- (a) lodge a notice in accordance with form 4.5 (Notice of solicitor ceasing to act) for filing; and
 - (b) serve a copy of the notice on the accused person personally, or by registered letter addressed to the person’s last-known address; and
 - (c) serve a copy of the notice on the director of public prosecutions.

13 Handing over depositions

If a solicitor ceases to act for an accused person, the solicitor must, as soon as practicable after ceasing to act, give the depositions (if any) the solicitor has received under the *Magistrates Court Act 1930*, section 108 (Copies of depositions may be obtained by accused) to—

- (a) if the solicitor has received a notice under rule 10 (Notice of solicitor acting) from another solicitor—the other solicitor; or
- (b) if the solicitor has not received a notice under rule 10—the accused person.

Division 80.6 Bail

14 Meaning of *accused person* for div 80.6

In this division:

accused person—

- (a) for an application under the *Bail Act 1992*, division 6.2 (Review of decisions by courts)—means a person who is an accused person for that division; and

Note to par (a) *Accused person* is defined for that division in the *Bail Act 1992*, dict.

- (b) for any other application in relation to bail—includes a convicted person.

Note to par (b) See also r 1, def *accused person*.

15 Application in relation to bail by accused person

- (1) An application in relation to bail by an accused person must be made by motion on notice in accordance with form 4.6.
- (2) Unless the court otherwise orders, the notice must—
 - (a) state the accused person's name; and

- (b) state the date and time when, and place where, the motion is to be made; and
 - (c) if the court makes an order under subrule (6)—state the terms of the order; and
 - (d) state briefly the order (or orders) sought; and
 - (e) state briefly particulars of the grounds relied on in support of the order (or orders) sought.
- (3) The motion must be supported by an affidavit stating—
- (a) the charges (if any) outstanding against the accused person; and
 - (b) if the accused person has been committed for sentence or trial to the court—that fact, and the date the person was committed; and
 - (c) if the accused person has been convicted or found guilty of an offence relevant to the application—that fact, the offence and the date the person was convicted or found guilty; and
 - (d) if the accused person has been sentenced for an offence relevant to the application—that fact, the sentence and the date the person was sentenced; and
 - (e) if bail has previously been refused for an offence relevant to the application—the reasons bail was refused; and
 - (f) the accused person’s date of birth; and
 - (g) whether the accused person has a criminal record; and
 - (h) if the accused person is in custody—the day the person was placed in custody; and
 - (i) the day the matter is next listed before a court; and
 - (j) the informant’s name; and

- (k) if the *Bail Act 1992*, section 9C (Bail for murder), section 9D (Bail for serious offence committed while charge for another pending or outstanding) or section 9E (Bail for person sentenced to imprisonment) applies in relation to the application—the special or exceptional circumstances that exist favouring the grant of bail; and
- (l) if a court has made a decision in relation to an application for bail by the accused person and the application is a further application for bail—
 - (i) whether the accused person was represented by a lawyer at the hearing of the person’s first application to a court for bail in relation to the offence with which the person is charged; or
 - (ii) any significant change in circumstances relevant to the granting of bail since the most recent application to a court for bail; or
 - (iii) any fresh evidence or information of material significance to the granting of bail that was unavailable on the most recent application to a court for bail; and

Note See the *Bail Act 1992*, s 19 (General provisions relating to court bail).
- (m) if the application is for review of a decision in relation to bail—
 - (i) any significant change in circumstances relevant to the granting of bail; or
 - (ii) the availability of fresh evidence or information of material significance to the granting of bail that was unavailable on the most recent application to the court for bail; and

Note See the *Bail Act 1992*, s 43 (Power of Supreme Court to review).
- (n) the conditions (if any) on which bail is sought.

-
- (4) The supporting affidavit must be in accordance with form 4.7.
 - (5) The accused person must lodge the notice and supporting affidavit for filing and serve a copy on the director of public prosecutions.
 - (6) Unless the court otherwise orders, there must be at least 2 clear days between the day of service of the notice and the day stated in the notice for hearing the motion.
 - (7) The court may order service of the notice and supporting affidavit on anyone it considers appropriate.

16 Application in relation to bail by informant

- (1) An application in relation to bail by an informant must be made by motion on notice in accordance with form 4.6.
- (2) Unless the court otherwise orders, the notice must—
 - (a) state the accused person's name; and
 - (b) state the date and time when, and place where, the motion is to be made; and
 - (c) if the court makes an order under subrule (5)—state the terms of the order; and
 - (d) state briefly the order (or orders) sought; and
 - (e) state briefly particulars of the grounds relied on in support of the order (or orders) sought.
- (3) The motion must be supported by an affidavit.
- (4) The informant must lodge the notice and supporting affidavit for filing and serve a copy on the accused person.
- (5) Unless the court otherwise orders, there must be at least 2 clear days between the day of service of the notice and the day stated in the notice for hearing the motion.

- (6) The court may order service of the notice and supporting affidavit on anyone it considers appropriate.

Division 80.7 Pre-trial procedure

17 Application of div 80.7

This division applies if an accused person is committed to the court for trial or sentence.

18 Appearance of accused person

The accused person must appear before the court on the date (the *appearance date*) set as a condition of bail or by the court or Magistrates Court.

19 Appearance when committed for sentence

If the accused person is committed for sentence, the court may, on the appearance date—

- (a) ask the accused person about the person's representation, including legal aid; and
- (b) if the accused person pleaded guilty in the Magistrates Court—confirm the accused person's plea of guilty; and
- (c) direct the director of public prosecutions to lodge with the court a statement of the facts (the *case statement*) on which the prosecution relies; and
- (d) direct the director of public prosecutions to give a copy of the case statement to the accused person or, if the accused person is represented by a lawyer, the person's lawyer by the date set by the court; and
- (e) ask the parties if the matter is urgent; and
- (f) set a date for sentence; and
- (g) make orders in relation to pre-sentence reports; and

-
- (h) ask if any variation of bail is sought; and
 - (i) deal with any application to suppress the accused person's name; and
 - (j) give any other directions that the court considers appropriate.

20 Appearance when committed for trial

If the accused person is committed for trial, the court may, on the appearance date—

- (a) ask the accused person about the person's representation, including legal aid; and
- (b) ask the accused person whether the person has decided to have the trial by judge alone; and

Note See the *Supreme Court Act 1933*, s 68B (Trial by judge alone in criminal proceedings).

- (c) direct the director of public prosecutions to lodge with the court—
 - (i) a draft indictment; and
 - (ii) the case statement; and
 - (iii) a list of proposed prosecution witnesses; and
- (d) direct the director of public prosecutions to give a copy of the draft indictment, case statement and list of proposed prosecution witnesses to the accused person or, if the accused person is represented by a lawyer, the person's lawyer by the date set by the court; and
- (e) direct the parties to complete and lodge with the court a pre-trial questionnaire in accordance with form 4.8 by the date set by the court; and
- (f) ask the parties if the matter is urgent; and
- (g) ask about any unusual features of the matter; and

- (h) ask about the length of the trial; and
- (i) ask if any variation of bail is sought; and
- (j) deal with any application to suppress the accused person's name; and
- (k) give any other directions that the court considers appropriate.

21 Pre-trial questionnaire

If the parties are directed to complete a pre-trial questionnaire—

- (a) the director of public prosecutions must—
 - (i) complete the column of the questionnaire headed 'DPP'; and
 - (ii) give the completed questionnaire to the accused person or, if the accused person is represented by a lawyer, the person's lawyer—
 - (A) at least 7 days before the day the questionnaire must be lodged with the court; or
 - (B) if the court sets another date—by that date; and
- (b) the accused person or the person's lawyer must—
 - (i) complete the column of the questionnaire headed 'Accused'; and
 - (ii) lodge the completed questionnaire with the court by the date set by the court.

22 Pre-arraignment conference

- (1) After the pre-trial questionnaire is completed by the accused person or the person's lawyer, and lodged with the court, the registrar must—
 - (a) set a date and time for a pre-arraignment conference; and

-
- (b) tell the parties the date and time for the conference.
- (2) At the pre-arraignment conference, the registrar may—
- (a) give directions about matters raised in the pre-trial questionnaire, including a direction that the matter be listed before a judge; and
 - (b) ask the parties about the length of the trial; and
 - (c) consider whether it is appropriate for the matter to be dealt with as a reserve trial and, if so, give appropriate directions; and
 - (d) set a date, at least 14 days after the day of the pre-arraignment conference, for arraignment of the accused person before the court; and
 - (e) adjourn the conference to another date.
- (3) The registrar may refer a matter to a judge, if a party does not comply with directions made by the registrar or the court.

23 Arraignment

- (1) On the arraignment of the accused person, the director of public prosecutions may present an indictment in relation to the person to the court.
- (2) If an indictment is presented by the director of public prosecutions, the accused person must enter a plea.

Note The *Crimes Act 1900*, s 282 provides that if a person refuses to plead, the court may order a plea of not guilty to be entered on behalf of the person, and the plea has the same effect as if the person had pleaded not guilty.

- (3) If the accused person enters a plea of guilty, the court must set a date for sentence.

- (4) If the accused person enters a plea of not guilty, the court must—
 - (a) allocate a date for trial; and
 - (b) set a date for the pre-trial directions hearing; and
 - (c) order the accused person to appear before the court on the date set for the pre-trial directions hearing.

24 Pre-trial directions hearing

At the pre-trial directions hearing, the court may—

- (a) confirm the trial length; and
- (b) hear and decide any preliminary or other matters.

Division 80.8 Pre-trial applications

25 Applications to set aside or stay proceedings

- (1) An accused person may apply to set aside or stay any criminal proceeding against the person.
- (2) The application must be made and heard before the accused person is arraigned.
- (3) If the application is dismissed, the accused person may make a further application under subrule (1) in relation to the same or similar charges only if—
 - (a) there has been a significant change of circumstances; and
 - (b) the application is limited to the change of circumstances.

26 Applications for separate trials

An accused person may apply for—

- (a) separate trials of different charges alleged against the person in the same indictment; and

- (b) a separate trial from that of someone else committed for trial and charged in the same indictment.

27 Other pre-trial applications

An application made in the course of a criminal proceeding must be made in writing if—

- (a) the application—
 - (i) is made before the prosecution's case opens or witnesses are called; and
 - (ii) raises any question about the admissibility of evidence, or any other question of law affecting the conduct of the trial, or
- (b) the application would postpone or delay a trial that has been listed for hearing if it were granted; or
- (c) the application cannot reasonably be made without notice to other parties; or
- (d) the application is directed by a judge to be in writing.

28 Applications under r 25, r 26 and r 27

- (1) An application under rule 25, rule 26 or rule 27 must be made by motion on notice in accordance with form 4.9.
- (2) Unless the court otherwise orders, the notice must—
 - (a) state the party moving the motion; and
 - (b) state the date and time when, and place where, the motion is to be made; and
 - (c) if the court makes an order under subrule (3)—state the terms of the order; and
 - (d) state briefly the order (or orders) sought; and

- (e) state briefly particulars of the grounds relied on that are sufficient for any other party to decide whether to call evidence to resolve the issues raised; and
 - (f) state briefly any questions of law; and
 - (g) be supported by an affidavit lodged for filing with the notice stating—
 - (i) any evidence necessary to establish the grounds of the application; and
 - (ii) any evidence that the applicant wants the court to receive.
- (3) Unless the court otherwise orders—
- (a) the notice and any supporting affidavits must be served on all other parties as soon as possible after the notice is lodged for filing but at least 14 days before the date set for the trial to which the notice relates; and
 - (b) there must be at least 2 clear days between the day of service of the notice and the day stated in the notice for hearing the motion.
- (4) The court may order service of the notice on anyone it considers appropriate.
- (5) This rule is subject to rule 25 (2) (Applications to set aside or stay proceedings).
- (6) The registrar—
- (a) must endorse the notice with the date, time and place of hearing; and
 - (b) if the trial date has been set, may endorse the notice to be heard by the court immediately before the trial begins.

Division 80.9 Criminal proceedings—other provisions**29 Arraignment dates**

The registrar must publish a list of arraignment dates for each year.

30 Production of person in custody

- (1) The court may make the following orders:
 - (a) an order requiring the production of a person who is in custody;
 - (b) an order about the continuing custody of a person who is in custody.
- (2) The court may order that the person in custody be produced—
 - (a) in person; or
 - (b) by audiovisual link or audio link in accordance with the *Evidence (Miscellaneous Provisions) Act 1991*, part 3 (Use of audiovisual links and audio links).
- (3) The registrar may exercise the jurisdiction of the court for subrule (1) (a) or (2).
- (4) An order under this rule may be made on the application of a party or on the court's initiative.
- (5) An order under this rule may, but need not, be in accordance with form 4.10.

31 Defence response to prosecutor's opening address

If an accused person, or the person's lawyer, makes an opening response to the prosecutor's opening address in a trial, the response—

- (a) must identify the acts, facts, matters and circumstances with which issue is taken in the prosecutor's opening address and the basis on which issue is taken; and
- (b) must not state facts that cannot be supported by evidence to be presented, or that has been presented, at the trial.

32 Execution of documents

The registrar or a justice of the peace may witness any recognisance or other document required or permitted to be entered into under an order, decision or other sentence (however described) of the court in a criminal proceeding.

33 Inspection of registry files

- (1) During office hours, anyone may search the registry for, inspect, or take a copy of, any document filed in the registry in a criminal proceeding.

Note A fee may be determined under the *Court Procedures Act 2004* for this rule.

- (2) However, a person who is not a party to a matter may search the registry for, inspect, or take a copy of, any of the following documents about the matter only with the court's leave:
 - (a) a judgment, order, transcript of a proceeding, or any other document, that the court has ordered to be kept confidential;
 - (b) an affidavit that has not been read in court;
 - (c) a part of an affidavit ruled to be inadmissible in evidence;
 - (d) an admission that has not been admitted into evidence;
 - (e) a subpoena, or a document filed with the registrar in answer to a subpoena for production of documents;
 - (f) a deposition taken before an examiner;

-
- (g) a document filed in support of an application made in the absence of a party;
 - (h) a written submission that has not been read in court;
 - (i) an unsworn statement of evidence;
 - (j) a draft indictment lodged with the court by the prosecution;
 - (k) a case statement filed by the prosecution until read in court;
 - (l) a questionnaire completed by the parties;
 - (m) a document that the registrar decides should be confidential to the parties to the matter in the interests of justice.
- (3) Also, a party to a matter may search the registry for, inspect, or take a copy of, a subpoena issued at the request of another party only with the court's leave.
- (4) Further, a party to a matter may search the registry for, inspect, or take a copy of, a document filed to support any of the following applications only with the court's leave:
- (a) an application for a document, evidence or thing to be kept confidential;
 - (b) an application for a document or thing to be granted privilege from production.
- (5) In this rule:

document—to remove any doubt, **document** includes a document kept electronically or in any other way.

Note The Legislation Act, dict, pt 1, defines **document** to mean any record of information, and includes—

- (a) anything on which there is writing; or
- (b) anything on which there are figures, marks, numbers, perforations, symbols or anything else having a meaning for persons qualified to interpret them; or

- (c) anything from which images, sounds, messages or writings can be produced or reproduced, whether with or without the aid of anything else; or
- (d) a drawing, map, photograph or plan.

34 Certificate of conviction

- (1) For a criminal proceeding, the registrar may issue a certificate of conviction.

- (2) In this rule:

conviction, for a person who has been found guilty at a trial on an indictment or pleaded guilty to an offence charged in an indictment, means—

- (a) a conviction recorded by the court for the person; or
- (b) a finding of guilt recorded by the court for the person.

35 Preparation of judgments

- (1) In this rule:

judgment means sentence or other order.

- (2) At any time after a judgment has been given in a criminal proceeding, a party may give a draft of the judgment to the registrar.
- (3) If an appeal is made from the judgment, or an application is made in relation to the judgment, the appellant or applicant must give a draft of the judgment to the registrar, unless the judgment has been already entered.
- (4) The registrar—
 - (a) may approve a draft of the judgment given to the registrar, with or without amendment; and
 - (b) must, on the filing of the engrossed judgment with the approved draft, enter the judgment.

- (5) The registrar may file a minute of a judgment on the registrar's own initiative.
- (6) A draft judgment must be in accordance with form 4.11.

19 Division 80.3

omit

20 Order 80

renumber divisions and rules when rules next republished under Legislation Act

21 Order 86 rule 48, definitions of *convicted person* and *director of public prosecutions*

omit

22 Schedule 1, new part 1.1A

before part 1.1, insert

Part 1.1A

General forms

Form 1.1B

Notice of intention to adduce evidence of previous representation

(see o 1AB r 1)

In the Supreme Court of the Australian Capital Territory

*[**Criminal jurisdiction**]

No of (*year*)

(*for civil matters*)

(*name/s*)

Plaintiff[s]*

(name/s)

Defendant[s]*

(for criminal matters)

THE QUEEN

AND

(name of accused person)

To *(name)* of *(address)*

Under the *Evidence Act 1995* (Cwlth), section 67 (1), I, *(name)* give notice that I intend to adduce evidence of a previous representation.

I intend to rely on the *Evidence Act 1995* (Cwlth), section *(specify particular provisions of division 2 relied on)* in arguing that the hearsay rule does not apply to the evidence.

The substance of the evidence of a previous representation that I intend to adduce is as follows:

(substance of that evidence—note that it is sufficient compliance to refer to an accompanying affidavit)

(if a copy of a document, or of a portion of a document, is attached to this notice, it is sufficient compliance to specify in the notice, or in the copy of the document or portion of the document attached to the notice, the representation evidence intended to be adduced—see the Evidence Regulations (Cwlth), reg 5 (6))

The substance of all other relevant representations made by the person who made that previous representation, so far as they are known to me, is as follows:

(substance of those other representations)

Particulars of—

- (a) the date, time, place and circumstances at or in which each of the representations was made; and

- (b) the names of the persons by whom, and the persons to whom, each of those representations were made; and

(in a civil proceeding—

- *[(c) the address of each person so named]);

so far as they are known to me, are as follows:

(particulars)

(if it is intended to rely on the Evidence Act 1995 (Cwlth), section 63 (2) (a) or (b), section 65 (2) (a) (b) or (d), section 65 (3)(a) or (b) or section 65 (8) (a) or (b)) *[Particulars of the facts on the basis of which it is alleged that the person who made a representation referred to in this notice is not available to testify concerning the fact to be proved by adducing evidence of that representation are as follows:

(particulars)]

(If it is intended to rely on the Evidence Act 1995 (Cwlth), section 64 (2) (a) or (b)) *[It would *[cause undue expense/ cause undue delay/ not be reasonably practicable] to call the person who made the representation to give evidence. Particulars of the facts that I will rely on to establish *[that ground/ those grounds] are as follows:

(particulars)]

(If a previous representation referred to is in writing:

- (a) *a copy of the document, or of the relevant portion of the document, containing the representation must be attached to the notice; and*
- (b) *the notice must identify the document unless:*
- (i) *a copy of the document is attached to the notice; and*
 - (ii) *the identity of the document is apparent on the face of the copy— see the Evidence Regulations (Cwlth), reg 5 (5)*

Date:

(signature of party or party's lawyer)

(name of party or party's lawyer)

(address)

**(delete if, or whichever is, inapplicable)*

**Form 1.1C Notice of objection to tender of
hearsay evidence**

(see o 1AB r 2)

In the Supreme Court of the Australian Capital Territory

No of *(year)*

(name/s)

Plaintiff[s]*

(name/s)

Defendant[s]*

To *(name)* of *(address)*

Under the *Evidence Act 1995* (Cwlth), section 68 (1), I, *(name)* give notice that I object to the tender of *[the/ a part of the] evidence referred to in the notice of intention to adduce evidence of previous representation dated *(date)* given to me by *(name)*.

*[The part of the evidence to which I object is as follows:

(specify part of evidence)]

The grounds on which the objection is made are as follows:

(grounds)

Date:

(signature of party or party's lawyer)

(name of party or party's lawyer)

(address)

**(delete if, or whichever is, inapplicable)*

**Form 1.1D Notice of intention to adduce
tendency evidence**

(see o 1AB r 3)

In the Supreme Court of the Australian Capital Territory

***[Criminal jurisdiction]**

No of *(year)*

(for civil matters)

(name/s)

Plaintiff[s]*

(name/s)

Defendant[s]*

(for criminal matters)

THE QUEEN

AND

(name of accused person)

To *(name)* of *(address)*

Under the *Evidence Act 1995* (Cwlth), section 97 (1), I, *(name)* give notice that I intend to adduce evidence of ***[the * [character/ reputation/ conduct] of**

(name)/ a tendency that *(name)* *[has/had]] to prove that *[he/she] *[has/had] a tendency to *[act in a particular way/ have a particular state of mind].

The substance of the evidence of the kind referred to in that subsection that I intend to adduce is as follows:

(substance of the evidence)

Particulars of the *[character/ reputation/ conduct/ tendency] of which evidence is to be adduced are as follows:

(particulars)

(if that evidence consists of, or includes, evidence of the conduct of a person)

*[Particulars of—

- (a) the date, time, place and circumstances at or in which the conduct occurred; and
- (b) the names of each person who saw, heard or otherwise perceived the conduct; and

(in a civil proceeding—

*[(c) the address of each person so named]);

so far as they are known to me, are as follows:

(particulars)]

Particulars of the tendency sought to be proved by the evidence are as follows:

(particulars)

Date:

(signature of party or party's lawyer)

(name of party or party's lawyer)

(address)

**(delete if, or whichever is, inapplicable)*

Form 1.1E **Notice of intention to adduce
coincidence evidence**

(see o 1AB r 4)

In the Supreme Court of the Australian Capital Territory

*[**Criminal jurisdiction**]

No of (*year*)

(*for civil matters*)

(*name/s*)

Plaintiff[s]*

(*name/s*)

Defendant[s]*

(*for criminal matters*)

THE QUEEN

AND

(*name of accused person*)

To (*name*) of (*address*)

Under the *Evidence Act 1995* (Cwlth), section 98 (1), I, (*name*) give notice that I intend to adduce evidence that (*number*) related events occurred to prove that, because of the improbability of the events occurring coincidentally, (*name*)

*[did a particular act/ had a particular state of mind].

The substance of the evidence that I intend to adduce is as follows:

(*substance of the evidence*)

Particulars of—

- (a) the date, time, place and circumstances at or in which each of those events occurred; and
- (b) the names of each person who saw, heard or otherwise perceived each of those events; and

(in a civil proceeding—

**[(c) the address of each person so named]);*

so far as they are known to me, are as follows:

(particulars)

Particulars of any additional evidence to be relied on to establish the improbability of the events having occurred coincidentally are as follows:

(particulars)

Particulars of the **[act/ state of mind]* sought to be proved by the evidence are as follows:

(particulars)

Date:

(signature of party or party's lawyer)

(name of party or party's lawyer)

(address)

**(delete if, or whichever is, inapplicable)*

23 Schedule 1, forms 1.2 and 1.7

omit

Australian Document Exchange Box No:*

substitute

Document exchange box no:*

24 Schedule 1, forms 1.46 to 1.49

omit

25 Schedule 1, new forms 4.1 to 4.11

after part 1.4 heading, insert

Form 4.1 Form of affidavit—criminal proceedings

(see o 80 r 3)

In the Supreme Court of the Australian Capital Territory
Criminal jurisdiction

No of (*year*)

THE QUEEN

AND

(*name of accused person*)

On (*date, eg 14 June 2005*), I (*name, address and occupation*) *[say on oath/solemnly affirm]—

1

2

(*etc*)

(*signature of person making affidavit*)

*[Sworn/Affirmed] at

before me:

(*signature of person before whom affidavit is taken*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

**(delete whichever is inapplicable)*

**Form 4.2 Annexures to affidavit—information
on first page**

(see o 80 r 3)

This (and the following (*number*) page/s) is the annexure marked ‘(*appropriate letter ie ‘A’ for the 1st annexure, ‘B’ for the 2nd annexure etc*)’ mentioned in the affidavit of (*name of person making affidavit*) *[sworn/affirmed] at (*place*) on (*date eg 14 June 2005*) before me:

(*signature of person before whom affidavit is taken*)

*[Justice of the Peace/Barrister/Solicitor/(*other*)]

**(delete whichever is inapplicable)*

Form 4.3 Certificate identifying exhibit

(see o 80 r 3)

In the Supreme Court of the Australian Capital Territory
Criminal jurisdiction

No of (*year*)

THE QUEEN

AND

(*name of accused person*)

This is the exhibit marked (*initials of person and identifying number eg ABC 1*) shown to me when (*name of person making the affidavit*) made *[his/her] affidavit on (*date*).

(signature of person before whom affidavit is taken)

[Justice of the Peace/Barrister/Solicitor/(other)*]

**(delete whichever is inapplicable)*

Form 4.4 Notice of solicitor acting

(see o 80 r 10)

In the Supreme Court of the Australian Capital Territory

Criminal jurisdiction

No of *(year)*

THE QUEEN

AND

(name of accused person)

Date committed for trial or sentence: *(if any)*

Charges on which accused person
committed:

I act for *(name)* in this matter.

Solicitor's full name:

Solicitor's full business address:

Solicitor's telephone no:

Current address of accused person:

Address for service:

*Document exchange box no:

*Postal address (*if different from address for service*):

*Fax no:

*Email address:

Date:

(solicitor's signature)

(solicitor's name)

**(delete if inapplicable)*

Form 4.5 Notice of solicitor ceasing to act

(see o 80 r 12)

In the Supreme Court of the Australian Capital Territory

Criminal jurisdiction

No of (*year*)

THE QUEEN

AND

(name of accused person)

Date of committal for trial or sentence: (*if any*)

Charges on which accused person
committed:

(Name of solicitor) has on *(date)* been given leave to withdraw from acting for *(name)* in this matter.

The last-known address of the accused *(name)* is: *(address)*

Date:

(solicitor's signature)

(solicitor's name)

Form 4.6 **Notice of motion—bail application**

(see o 80 r 15 and r 16)

In the Supreme Court of the Australian Capital Territory

Criminal jurisdiction

No of *(year)*

In the matter of an application in relation to the grant of bail to
(name of accused person)

Take notice that the Court at Knowles Place, Canberra will be moved by
**(accused person/informant)* on *(date)* at 9:30 am (or as soon after that as this
motion can be heard) for the following orders:

1 **(if the application is for bail, including for review of a decision to
refuse bail)* that the applicant be granted bail **[on the conditions (if any)
set out in the applicant's supporting affidavit];*

OR

1 **(if the application is by the informant)* *(set out the order (or orders)
sought)*

2 any other orders that the Court considers appropriate.

These orders are sought on the following grounds (*set out briefly, but specifically, grounds relied on*):

This application is supported by the affidavit of **(accused person/informant)*
**[sworn/affirmed]* on (*date affidavit sworn/affirmed*)

**(if the court made an order under o 80 r 15 (6) (Application in relation to bail by accused person) or o 80 r 16 (6) (Application in relation to bail by informant))*

On (*date*), (*name of judge*) ordered that this notice of motion be served on (*date*).

Date:

(*signature of accused person or accused person's lawyer*)
(*name of accused person or accused person's lawyer*)

To:

**[Director of Public Prosecutions/(accused person/accused person's lawyer)]*
(*address for service*)

**(delete if, or whichever is, inapplicable)*

Form 4.7 **Form of affidavit—bail application by
accused person**

(see o 80 r 15)

In the Supreme Court of the Australian Capital Territory
Criminal jurisdiction

No of (*year*)

In the matter of an application in relation to the grant of bail to
(*name of accused person*)

On (*date eg 31 October 2005*), I (*name*) of (*address—if in custody, state
address of remand centre*), in (*name of place eg the Australian Capital
Territory*), *[say on oath/solemnly affirm]—

1 I am the applicant. I seek *[bail/review of bail/variation of bail].

2 *(*for an accused person who has been committed for sentence or trial to
the court*) I was committed to the Supreme Court for [trial/sentence] on
(*date*).

OR

2 *(*for an accused person who has been convicted or found guilty of an
offence*) I was *[convicted/found guilty] of (*state what you were
convicted or found guilty of*) on (*date*).

OR

2 *(*for an accused person who has been sentenced for an offence*) I was
sentenced for (*state your sentence*) on (*date*).

3 *(if bail has previously been refused by a court) I applied for bail *[in the Supreme/Magistrates Court] on (date) and *[Justice/Magistrate] (name of judge or magistrate) refused bail for the following reasons: (set out briefly the reasons bail was refused)

OR

3 *(if bail has previously been refused by an authorised officer) (Name of authorised officer) refused bail on (date) for the following reasons: (set out briefly the reasons bail was refused)

4 My date of birth is (date).

5 *I have the following charges outstanding against me:

Charges	Charge number (if known)

6 *Annexed and marked ‘A’ are the charge sheets for the charges. (if you cannot provide these documents, state the reason)

7 *Annexed and marked ‘B’ is the statement of facts for the charges. (if you cannot provide these documents, state the reason)

8 I *[have/do not have] a criminal record.

9 *(if you are in custody) I have been in custody since (date).

10 *(for an accused person)* The matter is next in the *Court/Magistrates Court for *[mention/sentence/trial] on *(date)*.

OR

10 **(for an accused person who has been sentenced for an offence)* My appeal is next before the Supreme Court on *(date)*.

11 The police officer in charge of my case is *(name of police officer)*.

12 **(if the Bail Act 1992, section 9C (Bail for murder), section 9D (Bail for serious offence committed while charge for another pending or outstanding) or section 9E (Bail for person sentenced to imprisonment) applies to the application)* The special or exceptional circumstances that exist favouring the grant of bail are as follows:
(state special or exceptional circumstances).

13 I seek *[bail/review of bail/variation of bail] for the following reasons:
**(if the Bail Act 1992, section 9C, section 9D or section 9E applies to this application)* The special or exceptional circumstances that exist favouring the grant of bail are as follows:
(state special or exceptional circumstances).

(if a court has made a decision in relation to an application for bail by you and this application is a **further application for bail, state:*

- (a) whether you were represented by a lawyer at the hearing of your first application to a court for bail in relation to the offence with which you are charged; or*
- (b) any significant change in circumstances relevant to the granting of bail since your most recent application to a court for bail; or*
- (c) any fresh evidence or information of material significance to the granting of bail that was unavailable on the most recent application to a court for bail).*

- *(if this application is for **review** of a decision in relation to bail, state:*
- (a) any significant change in circumstances relevant to the granting of bail; **or***
 - (b) the availability of fresh evidence or information of material significance to the granting of bail that was unavailable on the most recent application to **the court** for bail).*

14 *I seek bail with the following conditions:

Example of conditions

- 1 live at *(address)*
- 2 report to the officer in charge of the *(name)* police station between the hours of *(times)* on *(days)*
- 3 accept supervision of the director of corrective services
- 4 enter the residential program at *(place)* (Evidence of acceptance into program to be annexed to affidavit)
- 5 not to approach the following people *(list people)*

(signature of person making affidavit)

*[Sworn/Affirmed] at

before me:

(signature of person before whom affidavit is taken)

[Justice of the Peace/Barrister/Solicitor/(other)*]

* *(delete if, or whichever is, inapplicable)*

Form 4.8 **Pre-trial questionnaire**

(see o 80 r 20)

In the Supreme Court of the Australian Capital Territory

Criminal jurisdiction

No of (*year*)

THE QUEEN

AND

(*name of accused person*)

Date of committal:

Charges:

Accused person's solicitor:

Name of solicitor handling matter:

Solicitor's address:

Solicitor's telephone no:

Solicitor's fax no:

Solicitor's email address:

Current address of accused person:

Accused person's counsel for trial (if known):

Counsel's address:

Counsel's telephone no:

Counsel's fax no:

Counsel's email address:

Prosecution lawyer handling matter:

Prosecuting counsel:

If it is intended to brief counsel but this has not been done, give reasons:

Accused person:

DPP:

Completed by:

Accused person

DPP

Item	Question	Accused person	DPP
1	Are there co-accused? If so, identify them.		
2	Have the prosecution and the accused person or accused person's representatives conferred?		
3	Is there a possibility that the matter will be resolved by the acceptance of a plea of guilty to a lesser or other charge(s)?		
4	Is there likely to be any change in the indictment?		
5	Is there likely to be any challenge to the indictment? If so, provide particulars.		

Item	Question	Accused person	DPP
6	Is there to be an application to sever the indictment?		
7	Is there to be an application for a separate trial?		
8	Has a statement of the prosecution case been given to the accused person?		
9	(a) Has the prosecution provided to the accused person: (i) a list of witnesses it proposes to call? (ii) all statements of those witnesses? (b) If not, when will they be supplied?	(a) (i) (ii) (b)	(a) (i) (ii) (b)

Item	Question	Accused person	DPP
10	(a) Does the prosecution propose to call additional evidence? (b) If so, has the prosecution told the accused person or the accused person's representatives? (c) If so, have copies of the additional evidence been supplied to the accused person? (d) If not, when will they be supplied?	(a) (b) (c) (d)	(a) (b) (c) (d)
11	Are there any issues relating to disclosure that require resolution?		

Item	Question	Accused person	DPP
12	(a) Has any legal aid application on behalf of the accused person been dealt with? (b) Has legal aid been granted? (c) Is it anticipated that there will be difficulty in obtaining legal aid?	(a) (b) (c)	(a) (b) (c)
13	(a) Have admissions of fact been sought by the prosecution? If so, a copy of the admissions sought must be attached. (b) By reference to the copy attached, what additional admissions should be made?	(a) (b)	(a) (b)

Item	Question	Accused person	DPP
14	(a) Have admissions of fact been sought by the accused person? If so, a copy of the admissions sought must be attached. (b) By reference to the copy attached, what additional admissions should be made?	(a) (b)	(a) (b)
15	Is there likely to be any issue as to the accused person's fitness to plead?		
16	(a) Will any of the following defences be raised: (i) alibi (ii) self-defence (iii) substantial impairment of mental responsibility	(a) (i) (ii) (iii)	(a) (i) (ii) (iii)

Item	Question	Accused person	DPP
	(iv) automatism	(iv)	(iv)
	(v) claim of right	(v)	(v)
	(vi) duress (identifying the source)	(vi)	(vi)
	(vii) non self-induced intoxication leading to inability to form the required intention.	(vii)	(vii)
	(b) Will any other defence be raised? If so, state the defence.	(b)	(b)
17	How long is the trial likely to take?		

Item	Question	Accused person	DPP
18	(a) Is this a matter that could be brought on for trial at short notice to fill a gap in the trial list? (b) If so, how much notice do you need?	(a) (b)	(a) (b)
19	Has there been an election for trial by judge alone?		
20	Are there any preliminary issues or applications that should be dealt with before the jury is empanelled? If yes, provide details and an estimate of time.		
21	(a) Will there be an application to set aside, or for a stay of, proceedings? (b) If so, on what grounds?	(a) (b)	(a) (b)

Item	Question	Accused person	DPP
22	Will there be an application for— (a) use of closed-circuit television? (b) use of a witness screen? (c) use of video equipment? (d) use of audio equipment? (e) evidence to be taken by telephone? (f) a view?	(a) (b) (c) (d) (e) (f)	(a) (b) (c) (d) (e) (f)
23	Will an interpreter be required?	(a) the accused person's language (b) witness's language	(a) the accused person's language (b) witness's language

Item	Question	Accused person	DPP
24	State any limits on prosecution witnesses' availability.		
25	State any limits on defence witnesses' availability.		
26	State any limits on availability of counsel.		
27	State any dates counsel cannot appear.		
28	Any general comments		

Form 4.9 **Notice of motion—criminal proceedings**

(see o 80 r 12 and r 28)

In the Supreme Court of the Australian Capital Territory
Criminal jurisdiction

No of (*year*)

THE QUEEN

AND

(*name of accused person*)

Take notice that the Court at Knowles Place, Canberra will be moved by (*party*) on (*date*) at 10 am (or as soon after that as this motion can be heard) for the following orders:

- 1 (*state briefly orders sought*);
- 2 any other orders that the Court considers appropriate.

*[These orders are sought on the following grounds:

(*set out briefly particulars of the grounds relied on that are sufficient for any other party to decide whether to call evidence to resolve the issues raised*)]

*[The nature of any question of law to be raised is as follows:

(*set out particulars*)]

*[This application is supported by the affidavit of (*accused person*)
*[sworn/affirmed] on (*date affidavit sworn/affirmed*)]

(*if the court made an order under o 80 r 12 (6) (Withdrawal of solicitor) or
o 80 r 28 (3) (Applications under r 25, r 26 and r 27)*)

On (*date*), (*name of judge*) ordered that this notice of motion be served
on (*date*).

Date:

(*signature of applicant or applicant's lawyer*)
(*name of applicant or applicant's lawyer*)

*(*delete if, or whichever is, inapplicable*)

Form 4.10 Order for production of person in custody

(see o 80 r 30)

In the Supreme Court of the Australian Capital Territory

Criminal jurisdiction

No of (*year*)

THE QUEEN

AND

(*name of accused person*)

The Court orders that:

- 1 The superintendent (*or as the case may be*) must bring (*name*) (the **person in custody**) before the Court to be present during the hearing of (*state the proceedings*) in relation to the person in custody and then returned to custody.

2 The first day the person in custody must be before the Court is
(eg 8 June 2005, at 10 am) at (address of court).

Date:

Registrar

**(delete if, or whichever is, inapplicable)*

Form 4.11 Judgment

(see o 80 r 35)

In the Supreme Court of the Australian Capital Territory

Criminal jurisdiction

No of (year)

THE QUEEN

AND

(name of accused person)

Judge:

Date of judgment:

Originating process:

How obtained:

Attendance:

Other matters:

The court orders that:

1

2

Date entered:

Registrar

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renumber forms when rules next republished under Legislation Act

Endnotes

Republications of amended laws

1 For the latest republication of amended laws, see www.legislation.act.gov.au.

Notification

2 Notified under the Legislation Act on 2 December 2004.
(see www.legislation.act.gov.au)

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