

# SOUTH AUSTRALIA

## SUPREME COURT CRIMINAL APPEAL RULES 1996

(as amended to 1 July 2011 – Amendment No. 4)

*The Supreme Court Criminal Appeal Rules dated 5 March 1996, which came into operation on 21 March 1996 (Gazette: 21 March 1996, p. 1697) have been amended by the Supreme Court Criminal Rules dated:*

		<b>Gazette</b>	<i>Date of Operation</i>
#1	31 July 2006	24 August 2006, p. 2893	24 August 2006
#2	27 August 2007	13 September 2007, p. 3695	1 October 2007
#3	15 December 2010	27 January 2011, p. 286	1 February 2011
#4	3 June 2011	23 June 2011, p. 2683	1 July 2011

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1. These Rules –
  - (a) may be cited as the "Supreme Court Criminal Appeal Rules 1996"; and
  - (b) shall come into operation on and from the 21st day of March, 1996.
2.
  - (1) The Rules of Court known as the "Supreme Court Criminal Appeal Rules 1990" made on the 1st day of September 1990, are hereby revoked as and from the 21st day of March, 1996.
  - (2) The Rules hereafter following are substituted as and from the 21st day of March, 1996 for the revoked Rules.
  - (3) Any steps taken prior to the 21st day of March, 1996 in any appeal or application instituted prior to that date shall stand if completed in accordance with the revoked Rules.

### Definitions

3. In these Rules –

"**Appellant**" means any person, including the Director of Public Prosecutions, who is given the right to appeal or make application for permission to appeal under the Criminal Law Consolidation Act.

"**Associate**" means a person holding office as Associate or Judges' Associate in the District Court".

"**District Court**" means a Court constituted of a person appointed to, and holding, judicial office under the District Court Act, 1991, when sitting in the exercise of the jurisdiction conferred on the Judge by the District Court provisions as defined in that Act.

"**Exhibits**" means all books, papers and documents and all other things admitted into evidence or marked for identification at the trial of an appellant.

"**Full Court**" means the Supreme Court constituted of an uneven number of Judges, not being less than three.

"**Judge**" means a Judge of the Supreme Court or of the District Court.

"**Notice of Appeal**" includes a notice of appeal or notice of application for permission to

appeal.

"**Respondent**" means the person who undertakes the defence of the appeal.

"**Sentence**" means any order of the Court of trial or of the Judge thereof made on or in connection with, a conviction with reference to the convicted person, or any property, or with reference to any moneys to be paid by the convicted person.

"**the Act**" means the Criminal Law Consolidation Act, 1935.

"**Court of Trial**" in relation to an appeal means the Court from which the appeal lies.

"**Trial Judge**" means the Judge who presided at the trial of the convicted person and includes the Judge who has made a decision on an issue antecedent to trial, and the Judge who has passed sentence.

### **Forms**

4. The forms set out in the Schedule to these Rules, or forms as near thereto as circumstances permit, shall be used in all cases to which forms are applicable.

### **Time for Appealing**

- 4A. A notice of appeal or notice of application for permission to appeal to the Full Court for which a time for filing or commencement is not fixed by an Act or Rule shall be filed in the Registry within 21 days of the date of the conviction, sentence, order or decision which is the subject of the appeal or application.

### **Notices of Appeal**

5.
  - (1) An appeal or application for permission to appeal to the Full Court pursuant to Section 352(1)(a) of the Act by a person convicted on information shall be commenced by filing with the Deputy Registrar (Criminal) a notice of appeal or notice of application for permission to appeal, and, where necessary, a notice of application for extension of the time within which the notice of appeal or notice of application for permission to appeal shall be given. Notice shall be given in Form No. 1.
  - (2) In completing Form No. 1 a person shall answer all questions and comply with the requirements set forth thereon.
  - (3) Subject to subrule (4) a notice in Form No. 1 shall be signed by the appellant. Any other notice required or authorised to be given for the purposes of the Act or these Rules shall be in writing and signed by the person giving the same or that person's solicitor.
  - (4) A notice in Form No. 1 may be signed on behalf of the person giving the same by the person's solicitor or authorised agent –
    - (a) where such person is unable to sign such notice in consequence of illness or other sufficient cause;
    - (b) when such person is a corporation.
  - (5) A notice of the kind referred to in subrule (1) shall contain an address for service within the State of South Australia of the appellant and any proceeding, notice or document relating to such appeal may be served upon the appellant at such address for service.

- (6) The appellant may, by written notice to the Deputy Registrar (Criminal) in Form No. 3, give notice of change of address for service, whereupon the address for service for the purposes of these Rules shall be as set out in such notice. Upon receipt of any such notice of change of address for service, the Deputy Registrar (Criminal) shall furnish a copy of the same to the Director of Public Prosecutions.
  - (7) An application for permission to appeal by the Director of Public Prosecutions pursuant to Section 352(1)(a)(iii) of the Act including any application for an extension of time within which to seek such permission shall be by notice in Form No. 2.
  - (8) An appeal or application for permission to appeal against a decision on an issue antecedent to trial by the Director of Public Prosecutions pursuant to Section 352(1)(b) of the Act, including any application for extension of time within which to appeal or seek permission shall be by notice in Form No. 1–A.
  - (9) An appeal against a decision on an issue antecedent to trial by a defendant pursuant to Section 352(1)(c)(i) of the Act, including any application for extension of time within which to appeal shall be by notice in Form No. 1–B.
  - (10) An application for permission to appeal by the Director of Public Prosecutions pursuant to s 352(i)(ab) of the Act shall be by notice in Form No 13.
  - (11) An appeal or application for permission to appeal against an order or decision made pursuant to Part 8A of the Act, including any application for an extension of time within which to appeal or to seek permission to appeal, shall be by notice in Form No 14. In completing Form No 14 the appellant shall comply, as appropriate, with subrules (2) to (5) inclusive.
  - (12) An appeal or application for permission to appeal against a decision under Division 3 of Part 2 of the Criminal Law (Sentencing) Act 1988, or under section 10 of the Child Sex Offenders Registration Act 2006, including any application for an extension of time within which to appeal or to seek permission to appeal, shall be by notice in Form No 15. In completing Form No 15, the appellant shall comply, as appropriate, with the requirements of subrules (2) to (5) inclusive.
  - (13) An appeal pursuant to s 33AB of the Criminal Law (Sentencing) Act 1988, including any application for an extension of time within which to appeal, shall be by notice in Form No 20. In completing Form No 20, the appellant shall comply, as appropriate, with subrules (2) to (5) inclusive.
- 5A** An application pursuant to s 29B of the Criminal Law (Sentencing) Act 1988 by the Director of Public Prosecutions, the Attorney General, or the Legal Services Commission shall be in Form No 16.
- 5B** An application by the Attorney General or the Director of Public Prosecutions pursuant to ss 350(5) and (6) of the Act to the Full Court for an order requiring a Court to refer a relevant question to the Full Court for consideration and determination shall be in Form No 17.
- 5C** An application pursuant to s 350(6)(b)(ii) of the Act for the permission of the Supreme Court to make an application to the Full Court for an order that a Court refer a relevant question to the Full Court for consideration and determination shall be in Form No 18.
- 5D** An application pursuant to ss 350(5) and (6) of the Act by a person to whom permission

pursuant to s 350(6)(b)(ii) of the Act has been granted to apply for an order requiring a court to refer a relevant question to the Full Court for consideration and determination shall be in Form No 19.

### **Certificate of Trial Judge**

6. (1) A certificate of the Trial Judge under Section 352(1)(a)(ii) of the Act shall be in Form No. 5 and shall be filed with the Deputy Registrar (Criminal) at the time of the institution of the appeal.
- (2) Such certificate may be given without any application being made by the person convicted or on the application in writing of the person convicted made within 14 days of the date of conviction.

### **Preparation of Appeal Book**

7. (1) The Appeal Book for the use of the Full Court on an appeal or on an application for permission to appeal will be prepared in the Registry free of charge.
- (2) The Appeal Book will be prepared as directed by the Deputy Registrar (Criminal), subject to any directions from the Chief Justice.
- (3) The appellant must file with the Notice of Appeal, or the application to the Full Court for permission to appeal, a list of the material that the appellant wishes to be contained in the Appeal Book. The respondent must, within seven days of receiving the appellant's proposed contents, provide to the Deputy Registrar (Criminal) a list of any further material that the respondent wishes to be included in the Appeal Book, and details of any material that is proposed by the appellant that the respondent says should not be included in the Appeal Book.
- (4) The Deputy Registrar (Criminal) will determine the contents of the Appeal Book subject to any directions by the Chief Justice or by another Judge of the Supreme Court.

### **Witnesses Before Full Court**

8. (1) Any application pursuant to Section 359(b) of the Act shall be in Form No. 12.
- (2) Such application must specify–
  - (a) the grounds upon which it is proposed to have witnesses examined before the Full Court; and
  - (b) upon what matters any such witness is to be examined.
- (3) Unless the Full Court otherwise directs, such applications must be forwarded to the Deputy Registrar (Criminal) and served with the notice of appeal.
- (4) Upon the hearing of any appeal or application for permission to appeal to which Section 359 of the Act applies, the Full Court may make such order or give such directions as it thinks fit as to the sealing and service upon any person of any order made pursuant to Section 359(b) of the Act and as to the procedure to be followed for the examination of a witness pursuant to that Section.

### **Notice of Abandonment**

9. At any time after an appellant has filed in the Registry a notice of appeal or a notice of

application for permission to appeal, the appellant may abandon the appeal or application by filing in the Registry a notice of abandonment thereof in Form No. 9 and upon such notice being filed, the appeal shall be deemed to have been dismissed by the Full Court. A notice of abandonment may be withdrawn by permission of the Full Court.

### **Notice to Respondent**

10. Where the Deputy Registrar (Criminal) receives a notice of appeal, a notice of application for permission to appeal, a list of material to be contained in the appeal book as required by Rule 7(2), an application for further witnesses, an application by an appellant to have the application determined by the Full Court or a notice of abandonment, the Registrar shall cause a copy thereof, annexed to a notice in Form No 4, to be served upon the respondent to the appeal and, in the case of an appeal pursuant to s 33AB of the Criminal Law (Sentencing) Act 1988, upon the Director of Public Prosecutions (unless the Director is representing the Attorney-General) and upon the Commissioner for Victims' Rights.

### **Transmission of Documents to The Director of Public Prosecutions**

11. Following the institution of any appeal or application to which these Rules apply, the Deputy Registrar (Criminal) shall do all things necessary to comply with any request of the Director of Public Prosecutions for the transmission of any documents, exhibits or other things connected with the proceedings as provided in Section 362 of the Act.

### **Report of Trial Judge**

12.
  - (1) When any notice of appeal, or a notice of application for permission to appeal, or a notice of application for extension of time has been given, the Deputy Registrar (Criminal) shall enquire of the Trial Judge whether the Trial Judge desires to provide a report in writing, giving the opinion of such Judge upon the case or upon any point arising in the case.
  - (2) The Trial Judge may, and if requested by the Full Court shall, provide such a report to the Full Court.
  - (3) The Deputy Registrar (Criminal) shall in every such case furnish the Trial Judge with a copy of any notice referred to in Rule 5 together with all such documents and information as the Judge may require.
  - (4) Upon receipt of any report by the Trial Judge the Deputy Registrar (Criminal) shall furnish a copy thereof to the appellant and respondent.

### **Custody of Exhibits Used at Trial**

13.
  - (1) Subject to subrule (3), all exhibits shall upon the conclusion of any trial be retained by the Deputy Registrar (Criminal) or Associate or a person authorised, for a period of 21 days following the date upon which the trial is completed, after which, subject to subrule (3) and any order for confiscation or restitution, the Deputy Registrar (Criminal) or Associate shall, upon the application of the person producing any exhibit or the solicitor for such person, return the same to the custody of such person or solicitor.

- (2) Where an appellant has given notice of appeal or a notice of application for permission to appeal the Deputy Registrar (Criminal) or Associate shall retain in custody any exhibit which appears necessary for the proper determination of the appeal or application.
- (3) Any Judge of the Court of trial or of the Supreme Court may make such order as that Judge thinks fit for the custody, disposal or production to any person of any exhibits referred to in subrule (1).

#### **Payment of Fines and Restitution or Forfeiture of Property Pending Appeal**

14. (1) Where a person has been ordered to pay a fine and in default of payment to imprisonment, the person lawfully authorised to receive such fine shall, on receiving the same, retain it until the determination of any appeal in relation thereto.
- (2) If a person ordered to pay a fine remains in custody in default of payment of the fine, that person shall be deemed for all purposes of the Act or these Rules to be a person sentenced to imprisonment.
- (3) The Trial Judge or any other Judge of the Court of trial or of the Supreme Court may order that the obligation to pay any fine or other monetary penalty or the operation of any order for the restitution of any property to any person or the forfeiture of any property to the Crown, be suspended until the hearing and determination of any appeal, or until a specified date, or until further order, and in any case upon such terms or conditions as to prosecution of the appeal or otherwise as the Judge may seem fit: Provided that nothing in this Rule or in any other order made pursuant to this Rule shall affect or qualify the operation and application of Section 355 of the Act.

#### **Hearing by Single Judge**

15. (1) Subject to the remaining provisions of this Rule, applications which may be heard by a Judge of the Supreme Court pursuant to Section 367 of the Act, shall in all cases be heard and determined by a Judge sitting in court or in such manner as the Judge may direct, as such Judge may direct.
- (2) Notwithstanding the provisions of Rule 15(1) and subject to Rule 15A –
  - (a) if in any particular case to which this Rule applies the Judge considers that the matter should be dealt with by the Full Court the Judge may, without otherwise disposing of the same, make an order accordingly.
  - (b) no order refusing an application for permission to appeal or any other application by an appellant shall be made without the Judge hearing the same affording an opportunity to the appellant to present oral argument in open Court in support of the application.
  - (c) all applications for permission to appeal by the Director of Public Prosecutions shall be considered by the Full Court in the first instance.
  - (d) all applications for bail pending the hearing and determination of an appeal or application to which these Rules relate shall be heard and determined in open Court in accordance with the provisions of the *Bail Act, 1985*, and, subject to Rule 10A of the *Supreme Court Bail Review Rules 1985*, in the presence of the appellant.
- (3) When any application has been dealt with by a Judge pursuant to this Rule, and

whether or not the decision has been pronounced by the Judge in open Court in the presence of the appellant or the appellant's counsel, the Deputy Registrar (Criminal) shall notify the appellant of the decision by a notice in Form No. 6. In the event of the Judge refusing the application, the Deputy Registrar (Criminal) shall also forward to the appellant a notice in Form No. 7.

- (4) If the appellant wishes to have an application or applications determined by the Full Court the appellant shall complete the notice in Form No. 7 and return it to the Deputy Registrar (Criminal) within 7 days of its receipt.
- (5) If the appellant fails to return the completed Form No. 7 within the prescribed time, the refusal of the application or applications by such Judge shall be final.

### **Appearance by Audio Visual Link**

- 15A.**
- (1) With the exception of those applications to which Rule 15(2)(c) and Rule 15(4) apply and subject to any contrary direction by the Court, persons in custody will appear by audio visual link on the hearing of applications for permission to appeal;
  - (2) A party to an application for permission to appeal who objects to the use of an audio visual link for the hearing of the application must give notice in writing of that objection in the application for permission to appeal or, at least three business days before the hearing, file a notice of objection using Form 24 in Schedule 1 to Supreme Court Criminal Rules 1992. A notice of objection may be determined at the discretion of the Court by a Judge at a hearing in Court at which the person in custody is present, or in chambers without the Judge hearing from any party, or at a hearing using an audio visual link (whether that be the hearing of the application for permission to appeal or otherwise);
  - (3) It may be necessary for counsel during the course of a hearing by audio visual link to take instructions on a matter which could not reasonably have been anticipated. In that event counsel will be provided with access to a private telephone which will link directly to the audio visual link facility at the custodial institution in which the person in custody is held.

### **Notifying Results of Appeals**

- 16.** On the final determination of any appeal, application for permission to appeal or application for extension of time within which to appeal, the Deputy Registrar (Criminal) shall give notice by Form No. 10 or Form No. 11 of such determination to the Trial Judge, to the appellant and to such other persons as the Deputy Registrar (Criminal) considers appropriate.

### **Notice by Deputy Registrar (Criminal) of Orders and Directions**

- 17.** Except where otherwise provided in these Rules notice of any order or directions made upon any application or otherwise shall be given by the Deputy Registrar (Criminal) to all parties.

### **Certificates of Conviction**

- 18.** (1) The Deputy Registrar (Criminal) or Associate shall not issue a certificate of the

conviction of any person for a period of 21 days after the conviction and sentence.

- (2) When application for a certificate of conviction is made to the Deputy Registrar (Criminal) or Associate, such certificate shall not be issued if there is an appeal or application for permission to appeal against such conviction or sentence then pending.
- (3) Subject to subrule (1) the Deputy Registrar (Criminal) or Associate shall supply such certificate in all cases where no appeal or application for permission to appeal against such conviction or sentence is pending.

#### **References on Petitions for Mercy**

- 19.** (1) When the Attorney-General exercises the power under Section 369(a) of the Act and refers the whole case to the Full Court, the petitioner whose case is so dealt with shall be deemed for all purposes of these Rules to be a person who has obtained from the Full Court permission to appeal and the Full Court shall proceed to deal with the case accordingly.
- (2) Where the Attorney-General refers a point to the Judges of the Supreme Court under Section 369(b) of the Act, such reference shall be dealt with in such manner as may be directed by the Chief Justice.
- (3) In the exercise of the powers pursuant to subrule (2), the Chief Justice may direct that the point be considered by a Full Court and in such other manner as the Chief Justice may direct.

#### **Failure of Appellant to Attend Hearing of Appeal**

- 20.** In the event of an appellant not being present at any hearing of the appeal by reason of the appellant's escape from custody or failure to appear in accordance with the conditions of a bail agreement entered into by the appellant, the Full Court may summarily dismiss the appeal, consider it in the appellant's absence or make such other order as may seem proper in the circumstances.

#### **Miscellaneous**

- 21.** The Full Court and any Judge of the Supreme Court shall have power to make at any time and on such terms as the Full Court or such Judge may think fit, any order or direction dispensing with compliance with these Rules giving permission to amend or giving any other order or direction of the kind referred to in Rule 3.04 of the Supreme Court Rules 1987 as though that Rule was incorporated in these Rules and as though the said Rule 3.04 applied, mutatis mutandis to proceedings to which these Rules apply.

FORM NO. 1

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

Notice of Appeal or Notice of Application for Permission to Appeal against Conviction or Sentence by a Defendant

Explanatory Note

This form is for use by a person who, pursuant to Section 352(1)(a) or Section 352(1)(c)(ii) of the Criminal Law Consolidation Act, 1935, wishes to appeal from the Supreme Court or the District Court against conviction, or to seek permission to appeal against such a conviction, to seek permission to appeal against sentence or to apply for an extension of time to do any of those things.

The procedures governing all such matters are as provided in the Rules of Court of the Supreme Court known as the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.

The full text of the relevant subsections of Section 352 of the Criminal Law Consolidation Act 1935 ("the Act") appears at the foot of this form.

A. Particulars of Appellant

- 1. Full name - .....
2. Usual residential address - .....
3. If in custody, state where detained - .....
4. Address for service of notices and other documents - .....

B. Nature of Notice. (Answer "Yes" or "No" in every square)

- 5. Appeal against conviction, no permission being required . ..... [ ]
An extension of time is sought . ..... [ ]
6. Application for permission to appeal against conviction . ..... [ ]
An extension of time is sought . ..... [ ]
7. Application for permission to appeal against sentence . ..... [ ]

An extension of time is sought .....

C. Particulars of Conviction and Sentence

8. Did your conviction follow a trial at which you pleaded "Not Guilty"? .....

9. Date of conviction (whether following trial or your plea of guilty)  
.....

10. Court in which convicted .....

11. Offence or offences for which convicted  
.....  
.....

12. Date of sentence .....

13. Particulars of sentence .....

D. Particulars of Certificate under Section 352(1)(a)(ii)

14. Did the Judge before whom you were tried give a certificate that the matter is a fit case for appeal? .....

E. Grounds of appeal against conviction (whether or not permission to appeal is required and whether or not an extension of time is sought).

15. The following are the grounds of appeal against conviction. Where permission to appeal or an extension of time or either or both those things are sought, the grounds are those upon which the appeal will be made if permission is given or an extension of time is granted as the case may be. (The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings, in any reasons for judgment and in the summing-up).

.....  
.....

F. Grounds upon which permission to appeal is sought (Answer this whether or not an extension of time is sought)

16. If the application is for permission to appeal against conviction, or permission to appeal against sentence, set out the grounds upon which such permission is sought:-

.....  
.....

G. Presence of appellant at the hearing

17. Subject to any contrary direction by the Court, persons in custody will, instead of being brought to Court, appear by means of an audio visual link on the hearing of any application for permission to appeal which is to be heard by a single judge. However, it is possible for persons in custody to indicate that they do not wish to appear at all at the hearing of the application, or to object to appearing by audio visual link and to indicate that they wish to attend in Court in person.

This section does not apply to persons who are required by a condition of bail to attend on the hearing of the appeal.

(Answer "Yes" or "No" (Y/N) in each square)

I desire to be present –

on the hearing of the appeal .....

in person/by audio visual link [*delete whichever is inapplicable*] on the hearing of the application for permission to appeal .....

in person/by audio visual link [*delete whichever is inapplicable*] on the application for an extension of time .....

17A. I object to appearing by audio visual link on the hearing of the application for permission to appeal/application for an extension of time [*delete whichever is inapplicable*] on the following grounds:

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

H. Application for extension of time to appeal

18. If the notice of appeal, or the notice of application for permission to appeal, is out of time, and an extension of time is sought, state the reasons for the delay in giving the notice, and the grounds upon which the Court will be asked to extend time.

.....  
.....

I. Argument in Writing

19. If it is intended that the Full Court consider the appeal or application upon the basis of an argument in writing, set out the argument hereunder, or in a separate annexed document, in which event state "argument in writing annexed".

Dated this ..... day of ..... 20 .....

(signed) .....  
[signature or mark of appellant]

The Criminal Law Consolidation Act provides:–

Section 352.

(1) Appeals lie to the Full Court as follows:

- (a) if a person is convicted on information –
  - (i) the convicted person may appeal against the conviction as of right on any ground that involves a question of law alone;
  - (ii) the convicted person may appeal against the conviction on any other ground with the permission of the Full Court or on the certificate of the court of trial that it is a fit case for appeal;
  - (iii) the convicted person or the Director of Public Prosecutions may appeal against sentence passed on the conviction (other than a sentence fixed by law) on any ground with the permission of the Full Court;
- (c) if a court makes a decision on an issue antecedent to trial that is adverse to the defendant –
  - (ii) the defendant may, if convicted, appeal against the conviction under paragraph (a) asserting as a ground of appeal that the decision was wrong.

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

**Notice of appeal or notice of application for permission to appeal against decision antecedent to trial by the Director of Public Prosecutions**

Explanatory Note

*This Form is for use by the Director of Public Prosecutions who, pursuant to Section 352(1)(b) of the Criminal Law Consolidation Act, wishes to appeal or apply for permission to appeal from the Supreme Court or District Court against a decision on an issue antecedent to trial.*

*The procedures governing all such matters are provided in the Rules of Court of the Supreme Court known as the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.*

A. Particulars of Appellant.

- 1. Appellant – the Director of Public Prosecutions for the State of South Australia.
- 2. Address for service – .....

B. Particulars of Respondent.

- 3. Name – .....
- 4. Address – .....

C. Nature of Notice. (Answer "Yes" or "No" in every square)

- 5. Appeal against decision on an issue antecedent to trial, no permission being required.....
- An extension of time is sought . ....
- 6. Application for permission to appeal against decision on an issue antecedent to trial .....
- An extension of time is sought . ....

D. Details of decision appealed against.

- 7. Court that made decision – .....

- 8. Date of decision – .....
- 9. Details of Judges decision – .....  
.....  
.....
- 10. Offence/s to which decision relates – .....

E. Grounds of appeal against decision (whether or not permission to appeal is required and whether or not an extension of time is sought)

- 11. The following are the grounds of appeal against the decision on an issue antecedent to trial. Where permission to appeal or an extension of time or either or both of those things are sought, the grounds are those upon which the appeal will be made if permission is given or an extension of time is granted as the case may be. (The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings and in the reasons for judgment)  
.....  
.....

F. Grounds upon which permission to appeal is sought (Whether or not an extension of time is sought)

- 12. If the application is for permission to appeal against a decision on an issue antecedent to trial, set out the grounds upon which such permission is sought.  
.....  
.....

G. Application for an extension of time to appeal.

- 13. If the notice of appeal, or the notice of application for permission to appeal, is out of time, and an extension is sought, state the reasons for the delay in giving notice, and the grounds upon which the Court will be asked to extend time.  
.....

H. Argument in writing

- 14. If it is intended that the Full Court consider the appeal or application upon the basis of an argument in writing, set out the argument hereunder, or in a separate annexed document, in such event state "argument in writing annexed".  
.....

Dated this ..... day of ..... 20 .....

.....



FORM NO. 1 – B

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

**Notice of appeal against decision antecedent to trial  
after permission granted by the Trial Judge by defendant**

Explanatory Note

*This Form is for use by a defendant who, pursuant to Section 352(1)(c)(i) of the Criminal Law Consolidation Act, wishes to appeal from the Supreme Court or District Court against a decision on an issue antecedent to trial where the trial has not proceeded to conviction and permission to appeal has been granted by the Trial Judge.*

*The procedures governing all such matters are provided in the Rules of Court of the Supreme Court known as the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.*

A. Particulars of appellant.

- 1. Full name – .....
- 2. Usual residential address – .....  
.....
- 3. If in custody, state where detained – .....
- 4. Address for service of notices and other documents – .....  
.....

B. Nature of Notice. (Answer "Yes" or "No" in every square)

- 5. Appeal against decision on an issue antecedent to trial .....
- An extension of time is sought .....

C. Details of decision appealed against.

- 6. Court that made decision – .....
- 7. Date of decision .....
- 8. Details of Judges decision – .....

- .....
9. Date permission to appeal granted – .....
10. Offence/s to which decision relates – .....
- .....

D. Grounds of appeal against decision (whether or not an extension of time is sought)

11. The following are the grounds of appeal against the decision on an issue antecedent to trial. (The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings and in the reasons for judgment)
- .....
- .....

E. Application for an extension of time to appeal.

12. If the notice of appeal is out of time, and an extension is sought, state the reasons for the delay in giving notice, and the grounds upon which the Court will be asked to extend time.
- .....

H. Argument in writing

13. If it is intended that the Full Court consider the appeal upon the basis of an argument in writing, set out the argument hereunder, or in a separate annexed document, in such event state "argument in writing annexed".
- .....

Dated this ..... day of ..... 20 .....

(Signed) .....  
Appellant

FORM NO. 2

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

**Notice of Application for permission to appeal against sentence by the Director of Public Prosecutions**

1. The Director of Public Prosecutions applies to the Full Court for permission to appeal against the sentence pronounced by .....in the .....(Court) on the ..... day of ..... 20 ..... upon.....(name of defendant).
2. Particulars of the said sentence are: .....
3. The grounds upon which permission to appeal are sought are: .....
4. (If an extension of time within which to seek permission to appeal is required). An extension of time within which to make this application is sought on the following grounds: .....
5. (a) The last known address of the defendant is: .....  
(b) The name and address of the solicitor previously acting for the defendant is: .....

Dated the ..... day of ..... 20 .....

.....  
Director of Public Prosecutions

**FORM NO. 3**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Notice of change of address for service**

To the Deputy Registrar (Criminal),

Take Notice that the address for service of the appellant:

..... is now  
.....

Dated the ..... day of ..... 20 .....

(signed) .....  
Appellant

**FORM NO. 4**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Notice to Respondent**

To:

Attached hereto is a copy of the notice filed in the Registry on the

..... day of ..... 20 .....

Dated the ..... day of ..... 20 .....

.....  
For and on behalf of the Deputy

Registrar (Criminal)

FORM NO. 5

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

**Certificate of Trial Judge pursuant to Section 352(1)(a)(ii)**

Whereas the abovenamed  
was tried and convicted before me, the undersigned, in the Supreme Court/District Court  
on the ..... day of ..... 20 ..... of the offence of

I do hereby certify pursuant to Section 352(1)(a)(ii) of the Criminal Law Consolidation Act,  
1935 that the case is a fit case for appeal against the said conviction upon the following  
grounds:-

Dated the ..... day of ..... 20 .....

.....  
Judge of the Supreme  
Court/District Court

FORM NO. 6

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

**Notice to Appellant of Judge's decision under Section 367**

I Hereby Give You Notice that a Judge of the Supreme Court having considered your application for:

- (a) permission to appeal
- (b) extension of time within which notice of appeal or application for permission to appeal may be given

has refused the application for

has granted the application for

If you desire to have any application which has been refused determined by the Full Court, you are required to fill up the enclosed Form No. 7 and return it forthwith.

Dated the ..... day of ..... 20 .....

.....  
For and on behalf of the Deputy

Registrar (Criminal)

To the abovenamed: .....

FORM NO. 7

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v. \_\_\_\_\_

**Application by Appellant to have application determined by the Full Court**

I, ..... having received your notification that my application for –

- (a) permission to appeal
- (b) extension of time within which notice of appeal or of application for permission to appeal may be given
- (c) permission to be present at the hearing of any proceedings in relation to my appeal or application [*strike out whichever is inapplicable*]

has been refused, do hereby request that the said application be considered and determined by the Full Court.

Dated the ..... day of ..... 20 .....

(Signed) .....  
Appellant

(The appellant will be informed by the Deputy Registrar (Criminal) of the date and time of the hearing of the application by the Full Court. Under Rule 7 of the Supreme Court Criminal Appeal Rules 1996 where you seek permission to appeal you must file with this Form a list of the material which you wish to be contained in the Appeal Book which is to go to the Full Court.)

To the Deputy Registrar (Criminal),  
Supreme Court,  
1 Gouger Street,  
Adelaide S.A. 5000

**FORM NO. 8**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Notice of refusal of request to be present**

To:

TAKE NOTICE that your application to be present at the hearing of your appeal or application herein was considered by the Full Court on the ..... day of ..... 20 ....., and was thereupon refused.

Dated the ..... day of ..... 20 .....

.....  
For and on behalf on the Deputy

Registrar (Criminal)

**FORM NO. 9**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Notice of Abandonment of Appeal**

I, ....., having brought the within appeal do hereby give you notice that I do not intend further to prosecute my appeal, and I hereby abandon all further proceedings in regard thereto as from the date hereof.

Dated the ..... day of ..... 20 .....

(Signed) .....  
Appellant

(Signed) .....  
Witness to signature

**FORM NO. 10**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Notice to Appellant of Final Determination of Appeal**

To the abovenamed .....

The Full Court has considered your –

- (a) application for permission to appeal
- (b) application for permission to extend the time within which you may give notice of appeal or of application for permission to appeal
- (c) appeal

and has finally determined the same, by judgment and order made on the ..... day of ..... 20 ....., in the following terms:

.....  
.....

Dated the ..... day of ..... 20 .....

.....  
For and on behalf of the Deputy

Registrar (Criminal)

**FORM NO. 11**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Notice to Respondent of final determination of appeal**

To the abovenamed .....

The Full Court has considered the –

- (a) application for permission to appeal by the Director of Public Prosecutions.
- (b) application for permission to extend the time within which the Director of Public Prosecutions may apply for permission to appeal
- (c) appeal of the Director of Public Prosecutions

and has finally determined the same, by judgment and order made on the ..... day of ....., 20....., in the following terms:

.....  
.....

Dated the ..... day of ..... 20 .....

Registrar (Criminal)

.....  
For and on behalf of the Deputy

**FORM NO. 12**

**South Australia**

**Criminal Law Consolidation Act, 1935**

**In the Supreme Court**

SCCRM - -

R. v. \_\_\_\_\_

**Appellant's application for further witnesses**

I

having brought the within appeal do hereby give you notice that I desire that the said Court shall order the witness(es) hereinafter specified to attend the Court and be examined on my behalf.

Dated the ..... day of ..... 20 .....

(Signed) .....  
Appellant

You are required to complete the following form and sign the same:

1. Name and address of witness: .....
2. Whether such witness has been examined at trial:  
.....
3. If not, state the reasons why the witness was not so examined:  
.....
4. On what matters do you wish the witness to be examined on the appeal?  
.....  
.....  
.....

To the Deputy Registrar (Criminal),  
Supreme Court,  
Adelaide.

FORM NO 13

South Australia

Criminal Law Consolidation Act 1935  
(Section 352(1)(ab))

In the Supreme Court

SCCRM - -

R v \_\_\_\_\_

**Notice of Application by the Director of Public Prosecutions for Permission to Appeal  
against a Verdict of Acquittal in a Trial by a Judge Sitting Alone**

1. The Director of Public Prosecutions applies to the Full Court for permission to appeal against a verdict of acquittal reached by ..... in the .....  
Court on the ..... day of ..... 20.....
2. The counts upon which the accused was acquitted are:  
.....
3. The grounds upon which permission to appeal is sought are:  
.....
4. (If an extension of time within which to seek leave permission is required).  
An extension of time in which to make this application is sought on the following grounds:  
.....
5. (a) The last known address of the acquitted accused is:  
.....  
(b) The name and address of the solicitor previously acting for the acquitted accused is:  
.....

Dated the ..... day of ..... 20 .....

.....  
Director of Public Prosecutions

Form No 14

South Australia

Criminal Law Consolidation Act 1935

In the Supreme Court

SCCRM - -

R v \_\_\_\_\_

Notice of Appeal or Notice of Application for Permission to Appeal against a Declaration, Decision or Order made pursuant to Part 8A of the Criminal Law Consolidation Act 1935

Explanatory Note

This Form is for use in appeals brought pursuant to section 269Y of the Criminal Law Consolidation Act 1935. The procedures governing all such matters are as provided in the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.

The full text of the relevant subsections of section 269Y appears at the foot of this form..

A. Particulars of Appellant.

- 1. Is the appellant the Director of Public Prosecutions? (Answer "Yes" or "No" (Y/N) in the square)..... [ ]
2. If not the Director of Public Prosecutions:
(a) Full Name of the Appellant .....
(b) Usual Residential Address.....
(c) If in custody or detention, state where detained.....
(d) Name and address of solicitor .....
(e) Address for service of notices and other documents .....

B. Nature of Notice (Answer "Yes" or "No" (Y/N) in every square).

- 3. Appeal against declaration that appellant is liable to supervision under Part 8A, no permission being required..... [ ]
An extension of time is sought.. ..... [ ]
4. Application for permission to appeal against a declaration that the appellant is liable to supervision under Part 8A..... [ ]

- An extension of time is sought. ....
5. Application for permission to appeal against a supervision order. ....
- An extension of time is sought. ....
6. Application for permission to appeal against a decision that the appellant was mentally competent to commit the offence charged. ....
- An extension of time is sought. ....
7. Application for permission to appeal against a decision that the defendant was not mentally unfit to stand trial. ....
- An extension of time is sought. ....
8. Application for permission to appeal against a decision that the objective elements of an offence were established. ....
- An extension of time is sought. ....
9. Application by the Director for permission to appeal against a decision that the defendant was not mentally competent to commit the offence charged. ....
- An extension of time is sought. ....
10. Application by the Director for permission to appeal against a decision that the defendant was mentally unfit to stand trial. ....
- An extension of time is sought. ....

C. Particulars of Court and Decision

12. Court in which Order or Decision was made. ....
13. Date of Decision or Order. ....
14. If reasons were published, the citation of the reasons. ....

D. Particulars of Certificate under section 352(1)(a)(ii)

15. Did the trial judge give a certificate that the matter is a fit case for appeal? .....

E. Grounds of Appeal (whether or not permission to appeal is required and whether or not an extension of time is required)

16. The following are the grounds of appeal. When permission to appeal or an extension of time or both of those things are sought, the grounds are those upon which the appeal will be made if permission is given or an extension of time is

granted, as the case may be. (The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings, and in any reasons for decision).

.....  
.....

F. Grounds upon which Permission to Appeal is sought. (Answer this whether or not an extension of time is sought)

17. If the application is for permission to appeal, set out the grounds upon which such permission is sought.

.....  
.....

G. Presence of Appellant at the Hearing (not applicable in the case of appeals by the Director of Public Prosecutions).

18. Subject to any contrary direction by the Court, persons in custody will, instead of being brought to Court, appear by means of an audio visual link on the hearing of any application for permission to appeal which is to be heard by a single judge. However, it is possible for persons in custody to indicate that they do not wish to appear at all at the hearing of the application, or to object to appearing by audio visual link and to indicate that they wish to attend in Court in person.

This section does not apply to persons who are required by a condition of bail to attend on the hearing of the appeal.

(Answer “Yes” or “No” (Y/N) in each square)

I desire to be present-

on the hearing of the appeal.....

in person/by audio visual link [*delete whichever is inapplicable*] on the hearing of the application for permission to appeal .....

in person/by audio visual link [*delete whichever is inapplicable*] on the hearing of the application for an extension of time .....

18A. I object to appearing by audio visual link on the hearing of the application for permission to appeal/application for an extension of time [*delete whichever is inapplicable*] on the following grounds:

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

H. Application for extension of time to appeal

19. If the notice of appeal, or the notice of application for permission to appeal, is out of time, and an extension of time is sought, state the reasons for the delay in filing the notice, and the grounds upon which the Court will be asked to extend time.

.....  
.....

I. Argument in Writing

20. If it is intended that the Full Court consider the appeal or application upon the basis of an argument in writing, set out the argument hereunder, or in a separate annexed document, in which event state "argument in writing annexed".

.....

Dated this ..... day of ..... 20 .....

.....  
Director of Public Prosecutions (delete as applicable)                      Signature or Mark of Appellant

Section 269Y (1) to (4) of the Criminal Law Consolidation Act 1935 provide as follows:

- (1) An appeal lies to the appropriate appellate court against a declaration that a defendant is liable to supervision under this Part in the same way as an appeal against a conviction.
- (2) An appeal lies to the appropriate appellate court against a supervision order in the same way as an appeal against sentence.
- (3) An appeal lies with the permission of the court of trial or the appropriate appellate court against a key decision by the court of trial.
- (4) A "key decision" is-
  - (a) a decision that the defendant was, or was not, mentally competent to commit the offence charged against the defendant; or
  - (b) a decision that the defendant is, or is not, mentally unfit to stand trial;or
  - (c) a decision that the objective elements of an offence are established against the defendant.

FORM NO 15

South Australia

Criminal Law (Sentencing) Act 1988

Child Sex Offenders Registration Act 2006

In the Supreme Court

SCCRM - -

R v \_\_\_\_\_

**Notice of Appeal or Notice of Application for Permission to Appeal Against a Decision Under Division 3 of Part 2 of the Criminal Law (Sentencing) Act 1988 or Under Section 10 of the Child Sex Offenders Registration Act 2006**

Explanatory Note

*This Form is for use in appeals brought pursuant to section 27A of the Criminal Law (Sentencing) Act 1988 against decisions concerning persons said to be incapable of controlling, or unwilling to control, their sexual instincts, and for appeals against the making of a child sex offender registration order under the Child Sex Offenders Registration Act.*

*The procedures governing all such matters are as provided in the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.*

*The full text of section 27A(1) to (5) of the Criminal Law (Sentencing) Act 1988 and of section 10 of the Child Offenders Registration Act 2006 are set out below.*

A. Particulars of appellant.

1. Is the appellant the Director of Public Prosecutions? (Answer “Yes” or “No” (Y/N) in the square).....
2. If not the Director of Public Prosecutions
  - (a) Full name of Appellant - .....
  - (b) Usual residential address – .....
  - (c) If in custody, state where detained – .....
  - (d) Address for service of notices and other documents – .....

B. Nature of Notice. (Answer "Yes" or "No" (Y/N) in every square)

3. Appeal against a decision to discharge an order for detention under Division 3.....
- An extension of time is sought .....
4. Appeal against a decision to release a person on license under Division 3 .....
- An extension of time is sought. ....
5. Appeal against a decision refusing an extension of the period of detention (section 24(11)).....
- An extension of time is sought. ....
6. Appeal against a decision refusing to discharge an order for detention under Division 3.....
- An extension of time is sought... ..
7. Appeal against a decision refusing to release the appellant on license under Division 3.....
- An extension of time is sought. ....
8. Appeal against a decision extending the order of detention (section 24(11)) ....
- An extension of time is sought. ....
9. Application for permission to appeal the making of a Child Sex Offender Registration Order .....
- An extension of time is sought .....

C. Particulars of Court and Decision.

10. Court in which order or decision was made .....
11. Date of decision .....
12. If reasons were published, the citation of the reasons .....

D. Particulars of Certificate under section 352(1)(a)(ii).

13. Did the trial judge give a Certificate that the matter is a fit case for appeal? ....

E. Grounds of appeal. (Whether or not permission to appeal is required and whether or not an extension of time is required)

14. The following are the grounds of appeal. When permission to appeal or an extension of time or both of those things are sought, the grounds of those upon which the appeal will be made if permission is given or an extension of time is granted, as the case may be. (The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings, and in any reasons for decision).

.....

F. Grounds upon which permission to appeal is sought (applicable in respect of appeals under section 10 of the Child Sex Offenders Registration Act 2006). (Answer this whether or not an extension of is sought)

15. If the application is for permission to appeal, set out the grounds upon which such permission is sought.....

.....

G. Presence of appellant at the hearing (not applicable in the case of appeals by the Director of Public Prosecutions).

16. Subject to any contrary direction by the Court, persons in custody will, instead of being brought to Court, appear by means of an audio visual link on the hearing of any application for permission to appeal which is to be heard by a single judge. However, it is possible for persons in custody to indicate that they do not wish to appear at all at the hearing of the application, or to object to appearing by audio visual link and to indicate that they wish to attend in Court in person.

This section does not apply to persons who are required by a condition of bail to attend on the hearing of the appeal.

(Answer “Yes” or “No” (Y/N) in each square)

I desire to be present –  
on the hearing of the appeal.....

in person/by audio visual link [*delete whichever is inapplicable*] on the hearing of the application for permission to appeal .....

in person/by audio visual link [*delete whichever is inapplicable*] on the hearing of the application for an extension of time .....

16A I object to appearing by audio visual link on the hearing of the application for permission to appeal/application for an extension of time [*delete whichever is inapplicable*] on the following grounds:

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

H. Application for extension of time to appeal.

17. If the notice of appeal, or the notice of application for permission to appeal, is out of time, and an extension of time is sought, state the reasons for the delay in giving the notice, and the grounds upon which the Court will be asked to extend time .....

I. Argument in writing.

18. If it is intended that the Full Court consider the appeal or application upon the basis of an argument in writing, set out the argument below, or in a separate annexed document, in which event state “argument in writing annexed” .....

Dated this ..... day of ..... 20 .....

..... Signed.....  
Director of Public Prosecutions ..... Signature or Mark of Appellant  
(delete as applicable)

Section 27A(1) to (5) of the Criminal Law (Sentencing) Act 1988 provide as follows:

- (1) An appeal lies to the Full Court against-
  - (a) a decision of the Supreme Court on an application to discharge an order for detention under this Division;
  - (b) a decision of the Supreme Court on an application to release a person on licence under this Division;
  - (c) a decision of the Supreme Court on an application by the Director of Public Prosecutions under section 24(11).
- (2) An appeal under this section may be instituted by the Director of Public Prosecutions or by the person to whom the particular decision relates.
- (3) Subject to a contrary order of the Full Court, an appeal cannot be commenced after 10 days from the date of the decision against which the appeal lies.
- (4) On an appeal, the Full Court may-
  - (a) confirm, reverse or annul the decision subject to appeal;
  - (b) make any order that it considers should have been made in the first instance;
  - (c) make any consequential or ancillary orders.
- (5) Subject to subsection (6), where-
  - (a) the Supreme Court decides—

- (i) to discharge an order for detention under this Division; or
  - (ii) to release a person on licence under this Division; or
  - (iii) to refuse an application by the Director of Public Prosecutions under section 24(11); and
- (b) counsel appearing on behalf of the Director of Public Prosecutions gives immediate notice that an appeal against the decision will be instituted, the decision has no force or effect pending the outcome of the appeal.

Section 10 of the Child Sex Offenders Registration Act 2006 provides as follows:

- (1) If a court makes a child sex offender registration order, an appeal lies against the making of that order in the same way as an appeal against a sentence imposed by the court.
- (2) On an appeal, the appellate court may-
  - (a) confirm, vary or quash the order; and
  - (b) make ancillary orders and directions.

**Form No 16**

**South Australia**

**Criminal Law (Sentencing) Act 1988**

**In the Supreme Court**

SCCRM - -

**Application for a Sentencing Guideline (Section 29B of the Criminal Law (Sentencing) Act 1988)**

The Director of Public Prosecutions/the Attorney General/the Legal Services Commission (delete as appropriate) applies to the Full Court for the establishment/review of a sentencing guideline.

1. The Offences or Particular Class of Offences in respect of which the establishment or review of a guideline is sought. ....
2. The Offenders or Particular Class of Offenders in respect of which the establishment or review of a guideline is sought. ....
3. Particulars of any existing relevant sentencing guideline. ....
4. Particulars of the sentencing guideline which is sought. ....
5. Particulars of the grounds upon which the establishment or review of a sentencing guideline is sought. ....
6. Particulars of any evidence which will be tendered before the Full Court on the hearing of the application. ....

To : The Director of Public Prosecutions  
: The Attorney General  
: The Legal Services Commission  
: The Aboriginal Legal Rights Movement  
: The Commissioner for Victims' Rights

(Delete the name of the applicant).

The above application will be heard on a date and time to be fixed by the Full Court.

Dated the ..... day of ..... 20 .....

.....  
Director of Public Prosecutions/Attorney General/Legal Services Commission  
(Delete as appropriate)

**Form No 17**

**South Australia**

**Criminal Law Consolidation Act 1935**  
**Section 350(5) and (6)**

**In the Supreme Court**

SCCRM - -

R v .....

The Attorney General/the Director of Public Prosecutions (delete as appropriate) applies to the Full Court for an order requiring a Court to refer a relevant question to the Full Court for consideration and determination.

1. The Court against which the order is sought. ....
2. Particulars of any decision made by the Court concerning the relevant question.  
.....
3. Statement of the relevant question including any particulars. ....
4. Name of proceedings in which the relevant question arises. ....
5. The last known address of the defendant is .....
6. The name and address of the solicitor acting for the defendant is. ....

Dated the ..... day of ..... 20 .....

.....

Attorney General/ Director of Public Prosecutions  
(Delete as appropriate)

**Form No 18**

**South Australia**

**Criminal Law Consolidation Act 1935**  
**Section 350(5) and (6)**

**In the Supreme Court**

SCCRM - -

R v .....

The above named defendant applies to the Supreme Court for permission to make an application to the Full Court for an order requiring a Court to refer a relevant question to the Full Court for consideration and determination.

1. The Court against which the order is sought.
2. Particulars of any decision made by the Court concerning the relevant question.
3. Statement of the relevant question including any particulars.
4. Name of proceedings in which the relevant question arises.
5. Particulars of the decision of the primary court on the application to have the relevant question referred for consideration and determination by the Full Court.
6. Name and address of solicitor for the applicant.

Dated the ..... day of ..... 20 .....

.....

Signature/Mark of the Appellant.

Section 350(5) and (6) of the Criminal Law Consolidation Act 1935 provides as follows:

- (5) The Full Court may, on application under subsection (6), require a court to refer a relevant question to it for consideration and determination.
- (6) An application for an order under subsection (5) may be made by—
  - (a) the Attorney-General or the Director of Public Prosecutions; or
  - (b) a person who—
    - (i) has applied unsuccessfully to the primary court to have the question referred for consideration and determination by the Full Court; and
    - (ii) has obtained the permission of the primary court or the Supreme Court to make the application.

**Form No 19**

**South Australia**

**Criminal Law Consolidation Act 1935**

**Section 350(5)( and (6)**

**In the Supreme Court**

SCCRM - -

R v .....

.....(insert name of applicant) applies to the Full Court for an order requiring a Court to refer a relevant question to the Full Court for consideration and determination.

1. The Court against which the order is sought. ....
2. Particulars of any decision made by the Court concerning the relevant question.  
.....
3. Statement of the relevant question including any particulars. ....
4. Name of proceedings in which the relevant question arises. ....
5. The last known address of the defendant is .....
6. The name and address of the solicitor acting for the defendant is. ....
7. Permission to make this application was granted by Judge .....  
in the..... Court on .....(insert date).

Dated the ..... day of ..... 20 .....

.....

Section 350(5) and (6) of the Criminal Law Consolidation Act 1935 provides as follows:

- (5) The Full Court may, on application under subsection (6), require a court to refer a relevant question to it for consideration and determination.
- (6) An application for an order under subsection (5) may be made by—
  - (a) the Attorney-General or the Director of Public Prosecutions; or
  - (b) a person who—
    - (i) has applied unsuccessfully to the primary court to have the question referred for consideration and determination by the Full Court; and
    - (ii) has obtained the permission of the primary court or the Supreme Court to make the application.

South Australia

Criminal Law (Sentencing) Act 1988

In the Supreme Court

SCCRM- .....

Attorney-General v .....

.....v Attorney-General

(Delete whichever is inapplicable)

Notice of Appeal Against a Decision made Pursuant to Section 33A of the Criminal Law (Sentencing) Act 1988

Explanatory Note

This Form is in use for appeals brought pursuant to section 33AB of the Criminal Law (Sentencing) Act 1988. The procedures governing all such matters are as provided in the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.

The full text of section 33AB appears at the foot of this Form.

A Particulars of Appellant

- 1. Is the appellant the Attorney-General? Answer yes/no in the square
2. If not the Attorney-General: (a) full name of the appellant (b) the prison in which the appellant is detained (c) name and address of solicitor (d) address for service of notices and other documents

B Nature of Notice (Answer "Yes" or "No" (Y/N) in every square)

- 3. Appeal against a declaration and order made under section 33A of the Criminal Law (Sentencing) Act 1988 An extension of time is sought

4. Appeal against a decision not to make a declaration and order under section 33A of the Criminal Law (Sentencing) Act 1988 .....   
 An extension of time is sought .....

**C Particulars of Decision**

5. Name of Judge making the decision .....  
 6. Date of decision .....  
 7. If reasons were published, the citation of the reasons .....

**D Grounds of Appeal (Whether or not an extension of time is required)**

8. The following are the grounds of appeal. When an extension of time is sought, the grounds are those upon which the appeal will be made if the extension of time is granted. The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings, and in any reasons for decision.  
 .....  
 .....

**E Application for Extension of Time to Appeal**

9. If the Notice of Appeal is out of time, and an extension of time is sought, state the reasons for the delay in filing the Notice, and the grounds upon which the Court will be asked to extend time.  
 .....  
 .....

**F Argument in Writing**

10. If it is intended that the Full Court consider the appeal or application upon the basis of an argument in writing, set out the argument hereunder, or in a separate annexed document, in which event state "Argument in Writing annexed".  
 .....  
 .....

dated this .....day of .....20 ....

..... Signature or mark of appellant  
 Attorney-General (delete as applicable) .....

Section 33AB of the Criminal Law (Sentencing) Act 1988 provides as follows:

**“33AB—Appeal**

- (1) An appeal lies to the Full Court against a decision by the Supreme Court—
  - (a) to make a declaration and order under this Division; or
  - (b) not to make a declaration and order under this Division.
- (2) An appeal under this section may be instituted by the Attorney-General or by the person to whom the particular decision relates.
- (3) Subject to a contrary order of the Full Court, an appeal cannot be commenced after 10 days from the date of the decision against which the appeal lies.
- (4) On an appeal, the Full Court may—
  - (a) confirm or annul the decision subject to appeal;
  - (b) remit the decision subject to appeal to the Supreme Court for further consideration or reconsideration;
  - (c) make consequential or ancillary orders.”

## History of amendment

<b>Rules</b>	<b>Amendments</b>	<b>Date of Operation</b>
am = amended; ins = inserted; rev = revoked; ren = renumbered; sub = substituted		
3	am am2	1 October 2007
4A	ins am2	1 October 2007
5(1)	am am2	1 October 2007
5(3)	am am2	1 October 2007
5(5)	am am2	1 October 2007
5(6)	am am2	1 October 2007
5(7)	am am2	1 October 2007
5(8)	am am2	1 October 2007
5(9)	am am2	1 October 2007
5(10)	ins am2	1 October 2007
5(11)	ins am2	1 October 2007
5(12)	ins am2	1 October 2007
5(13)	ins am2	1 October 2007
5A	ins am2	1 October 2007
5B	ins am2	1 October 2007
5C	ins am2	1 October 2007
5D	ins am2	1 October 2007
6(1)	am am2	1 October 2007
7	sub am1	24 August 2006
7(1)	am am2	1 October 2007
7(2)	am am2	1 October 2007
7(3)	am am2	1 October 2007
7(4)	am am2	1 October 2007
8(3)	am am2	1 October 2007
8(4)	am am2	1 October 2007
	am am2	1 October 2007
10	am am2	1 October 2007
11	am am2	1 October 2007
12(1)	am am2	1 October 2007
12(3)	am am2	1 October 2007
12(4)	am am2	1 October 2007
13(1)	am am2	1 October 2007
13(2)	am am2	1 October 2007
15(1)	am am2	1 October 2007
15(2)	am am3	1 February 2011
15(2)(b)	am am2	1 October 2007

<b>Rules</b>	<b>Amendments</b>	<b>Date of Operation</b>
am = amended; ins = inserted; rev = revoked; ren = renumbered; sub = substituted		
15(2)(c)	am am2	1 October 2007
15(3)	am am2	1 October 2007
15(4)	am am2	1 October 2007
15(6)	rev am1	24 August 2006
15(7)	rev am1	24 August 2006
15(8)	rev am1	24 August 2006
15A	ins am3	1 February 2011
16	am am2	1 October 2007
17	am am2	1 October 2007
18(1)	am am2	1 October 2007
18(2)	am am2	1 October 2007
18(3)	am am2	1 October 2007
19(1)	am am2	1 October 2007
21	am am2	1 October 2007
Form 1	am am2 am am3 am am4	1 October 2007 1 February 2011 1 July 2011
Form 1A	am am2	1 October 2007
Form 1B	am am2	1 October 2007
Form 2	am am2	1 October 2007
Form 3	am am2	1 October 2007
Form 4	am am2	1 October 2007
Form 6	am am2	1 October 2007
Form 7	am am1 am am2	24 August 2006 1 October 2007
Form 8	am am2	1 October 2007
Form10	am am2	1 October 2007
Form 11	am am2	1 October 2007
Form 12	am am2	1 October 2007
Form 13	ins am2	1 October 2007
Form 14	ins am2 am am3 am am4	1 October 2007 1 February 2011 1 July 2011
Form 15	ins am2 am am3 am am4	1 October 2007 1 February 2011 1 July 2011
Form 16	ins am2	1 October 2007
Form 17	ins am2	1 October 2007
Form 18	ins am2	1 October 2007

<b>Rules</b>	<b>Amendments</b>	<b>Date of Operation</b>
am = amended; ins = inserted; rev = revoked; ren = renumbered; sub = substituted		
Form 19	ins am2	1 October 2007
Form 20	ins am2	1 October 2007