

(insert front sheet)

APPLICATION FOR PRE-TRIAL SPECIAL HEARING

TO THE *(INSERT ROLE): (insert name of other party)*.....

AND TO *(insert names of any others to whom notice of the application is to be given)*.....

.....

Application

The Director of Public Prosecutions/Defendant *(insert name) (delete whichever is inapplicable)* seeks the following orders:

1. That *(insert name)* give evidence at a pre-trial special hearing.

2. That the hearing be convened as a proceeding preliminary to the trial for the purpose of taking the evidence of the witness:
 - in a courtroom

 - at a location to be approved by the court *(insert details if another specific location is sought)*
(delete whichever is inapplicable).

3. That the hearing be convened for the following purposes:
 - a. examination of the witness;

 - b. cross-examination of the witness;

 - c. re-examination of the witness
(delete any if inapplicable).

4. That the evidence be taken in the following way to facilitate the taking of evidence from the witness or to minimise the witness's embarrassment or distress, namely (*insert manner*).
5. That the following measures be taken to prevent the witness and the defendant from directly seeing or hearing each other before, during or after the hearing, namely (*insert measures*).
6. That the witness be accompanied at the hearing by (*insert name of relative/friend/other person*) for the purpose of providing emotional support.
7. That the taking of the evidence at the hearing be transmitted to the defendant by means of closed circuit television.
8. That the evidence be taken with the following communication assistance due to the witness's complex communication needs, namely (*insert communication assistance*).
9. That an audio visual record of the evidence be made.
10. (*Insert details of any other orders sought*).

Endorsements

Application made pursuant to rule 57A of the *District Court Criminal Rules 2014* and section 12AB of the *Evidence Act 1929*.

Grounds

The grounds relied upon are as follows: (*set out sufficient particulars to give proper notice of the issues to be raised so that the other party may determine whether to object and whether there will be a dispute on the relevant facts*).

1. The evidence of the witness is necessary for the purpose of the trial of the offence of (*insert offence*) because (*insert reasons*).

Note: the offence must be:

- a “serious offence against the person”;
- contravening or failing to comply with an intervention order under the *Intervention Orders (Prevention of Abuse) 2009*; or
- contravening or failing to comply with a restraining order under the *Summary Procedure Act 1921*.

2. The witness is a witness to whom section 12AB applies because he/she is:
- a child under the age of 14 years having been born on *(insert date of birth)*;
 - a person with a disability that adversely affects his/her capacity to give a coherent account of his/her experiences or to respond rationally to questions.
- (delete whichever is inapplicable).*

Note: if the application is made on the ground of disability, the application must be supported by an affidavit addressing the disability.

3. The application is made for the witness to give evidence at a pre-trial special hearing because *(insert why order is sought)*.
4. The witness has a physical disability or cognitive impairment, namely *(insert details)* *(delete if inapplicable)*.
5. The witness has complex communication needs and requires communication assistance, namely *(insert details)* *(delete if inapplicable)*.

It is proposed that the communication assistance be provided by *(insert name)*, who:

- is/is not *(delete whichever is inapplicable)* to be called as a witness in the trial of the charge;
- is a communication partner for the purposes of the *Evidence Act 1929*;
- should be/is *(delete whichever is inapplicable)* approved by the Court to provide such assistance because *(insert details)*

(delete whichever is inapplicable).

Date:

(signed)

Director of Public Prosecutions

(or)

Defendant

(or)

Solicitor for the defendant

IMPORTANT NOTICE TO RESPONDENT

If you wish to oppose the application, you **MUST** file and serve a Notice of Objection (form 13B) within 14 days of service of this application on you. Otherwise the Court must make the order sought without reference to you.

If you file and serve a Notice of Objection within 14 days of service of this application on you, the application will be listed for hearing before a Judge. You will be notified by the Court of the date and time of the hearing.