

## SOUTH AUSTRALIA

### DISTRICT COURT CRIMINAL SUPPLEMENTARY RULES 2014

The District Court Criminal Supplementary Rules 2014, dated 16 September 2014, which came into operation on 1<sup>st</sup> October 2014 (*Government Gazette* 19 September 2014, p. 5327) have been varied by District Court rules dated:

<i>Amendment #</i>		<i>Gazette</i>	<i>Date of operation</i>
1	24 March 2016	31 March 2016, p. 1094	1 May 2016
2	20 June 2016	23 June 2016, p. 2559	27 June 2016
3	18 October 2016	3 November 2016, p. 4322	1 December 2016
4	22 November 2017	28 November 2017, p. 4771	1 December 2017
5	18 May 2018	24 May 2018, p. 2040	1 June 2018
6	11 April 2019	18 April 2019, p. 1079	1 May 2019
7	9 April 2020	14 May 2020, p. 1046	18 May 2020
<b>8</b>	<b>17 December 2020</b>	<b>24 December 2020, p. 6136</b>	<b>1 January 2021</b>

By virtue and in pursuance of Section 51 of the *District Court Act 1991* and all other enabling powers, we, Geoffrey Louis Muecke, Chief Judge, and Rauf Soulio and Paul Vincent Slattery, Judges of the District Court of South Australia, make the following Rules of Court.

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## **History of Amendment**

# Chapter 1—Preliminary

## Part 1—Formal provisions

### 1—Citation

- (1) These Supplementary Rules may be cited as the *District Court Criminal Supplementary Rules 2014*.
- (2) These Supplementary Rules supplement the *District Court Criminal Rules 2014*.
- (3) These Supplementary Rules follow the Chapter and Part headings of the *District Court Criminal Rules 2014*.

### 2—Commencement

These Supplementary Rules commence on 1 October 2014.

## Part 2—Objects

[no supplementary rules]

## Part 3—Interpretation

### 3—Interpretation

- (1) Unless the contrary intention appears, expressions in these Supplementary Rules have the same meaning as in the Rules.
- (2) In these Supplementary Rules, unless the contrary intention appears—  
*FDN* means the file document number when the Registrar elects to allocate a file document number to a document filed with the Court;  
*First Directions Hearing – Call Over* – see supplementary rule 34A;  
the *Rules* means the *District Court Criminal Rules 2014*;  
*Second Directions Hearing – Call Over* – see supplementary rule 34B;  
the *Supplementary Rules* means the *District Court Criminal Supplementary Rules 2014*.
- (3) Unless the contrary intention appears, rule 5 of the Rules applies to the calculation of time under these Supplementary Rules.

### 3A—Numbering of Rules

It is intended that the numbering of these rules is to match (so far as possible) the numbering of the *Supreme Court Criminal Supplementary Rules 2014* (and thus, if any of the *Supreme Court Criminal Supplementary Rules 2014* is inapplicable in the District Court, there will be a gap in the sequential numbering of these rules).

Note - There is no equivalent to this rule in the *Supreme Court Criminal Supplementary Rules 2014*

## **Part 4—Application of Rules**

4—Note- there is no rule 4

## **Part 5—Repeal and transitional provisions**

### **5—Repeal and transitional provision**

- (1) Unless the Court otherwise directs, these Supplementary Rules apply to—
  - (a) proceedings commenced on or after the commencement date; and
  - (b) steps taken or required to be taken or matters occurring on or after the commencement date in proceedings commenced before the commencement date.
- (2) All practice directions and practice notes made before the commencement date, insofar as they applied to the criminal jurisdiction, are superseded by these Supplementary Rules.
- (3) The Court may give directions about which rule is to apply to a transitional proceeding or a particular step in a transitional proceeding.

## **Chapter 2—General procedural rules and allocation of Court business**

### **Part 1—Sittings**

*[no supplementary rules]*

### **Part 2—Public access to hearings**

*[no supplementary rules]*

### **Part 3—Court's control of procedure**

*[no supplementary rules]*

### **Part 4—Distribution of Court's business**

*[no supplementary rules]*

### **Part 5—Representation**

#### **6—Notice of acting and address for service**

- (1) A notice of acting and address for service under rule 18(3)(c) of the Rules is to be in form 5A.
- (2) A notice of acting and address for service under rule 18(4)(b) of the Rules is to be in form 5A.
- (3) A notice of acting in person and address for service by a party under rule 18(4)(a) of the Rules is to be in form 5B.
- (4) A notice of acting and address for service under rule 18(1) of the Rules is not required if a statement before arraignment is filed by the solicitor for the accused within the time specified in rule 23A of the Rules.

## Chapter 3—Initiation of criminal proceedings

### Part 1—Information

#### 7—Information

- (1) An information under rule 21(1) of the Rules is to be in form 3.
- (2) A notice of prescribed proceedings under rule 23(1) of the Rules is to be in form 4.
- (2A) An information providing the information identified in rule 21A of the Rules is to be in Form 3.
- (3) An information under rule 21(1) of the Rules is to be filed and served on the defendant’s solicitor, or the defendant if not represented, within 35 calendar days after the defendant is committed for trial pursuant to section 117 of the Act.
- (4) When a replacement information is filed in any matter, it is to be served on the defendant’s solicitor, or the defendant if not represented, accompanied by a letter setting out the effect of the replacement information compared to the previous information.

**Example—**

This information dated 24 July 2016 replaces the information dated 23 June 2015 on File No DCCRM-15-75 *R v Smith*. The information dated 24 July 2016 is filed so that the defendant may enter guilty pleas as a result of negotiations between the parties.

OR

This information dated 25 June 2016 replaces the information dated 15 January 2016 on file no DCCRM-15-76 *R v Doe*. This information now joins three further defendants to this matter – John Smith, Jane Smith and Joe Bloggs.

#### 7A—Statement before arraignment

A statement before arraignment under rule 23A is to be in form 3A and is to be served on the Director.

### Part 2—Arraignment

#### 8—Timing of arraignment and listing of trials

- (1) Persons committed for trial in Adelaide, whether in custody or on bail, are to appear before the Court on the last business day of the week being a date scheduled by the order of committal for trial.
- (1a) Persons committed for sentence in Adelaide, whether in custody or on bail, are to appear before the Court on the last business day of the first week after the expiration of 56 calendar days from their committal for sentence.
- (2) Persons committed for trial or sentence at a place other than Adelaide, whether in custody or on bail, are to appear before the Court on the second business day of the first week of the next sittings being a date scheduled by the order of committal for trial or sentence.
- (3) Despite paragraphs (1) and (2), a Judge may direct that a person committed for trial or sentence is to appear before the Court at an earlier or later date.

- (3a) When a person is committed for sentence, the Director is to file and serve not less than 14 days before arraignment on the defendant's solicitor, or the defendant if not represented, a prosecution case summary setting out a summary of the facts upon which the Director intends to rely on sentencing and an antecedent report in respect of all matters.
- (4) When between committal and arraignment a person decides to change his or her plea to guilty - ,
  - (i) the person by his or her lawyer if applicable is to file as soon as practicable a notification of change of plea. The notification is to be in form 3B and is to be served on the Director.
  - (ii) the Director is as soon as reasonably practicable to file and serve on the defendant's solicitor or the defendant if not represented a prosecution case summary.

### **9—Procedure at arraignment**

- (1) Subject to subrule (2), on a plea of not guilty at arraignment, or if there is to be a disputed facts hearing, the matter will be listed for trial or a disputed facts hearing on the next available date in accordance with the principles of case flow management articulated in supplementary rules 10 and 11 and remanded to the first directions hearing in accordance with rule 27 of the Rules.
- (2) On matters committed for sentence, submissions on sentence are to be made on the arraignment day unless good reason exists for a later date to be set for submissions on sentence.
- (3) On matters committed for trial but for which a plea of guilty is entered at arraignment, a date for submissions on sentence will usually be set unless the presiding Judge directs otherwise.
- (4) If, at any time after arraignment it is agreed that a matter is to be resolved by a plea of guilty, the accused by his or her lawyer if applicable is to file as soon as practicable a notification of change of plea. The notification is to be in form 3B 3A and is to be served on the Director. The Registrar will place the matter into an arraignment list and vacate any listed hearings or trial for that matter.

## **Part 3—Listing for trial and disposition of cases**

### **10—Disposition of cases**

- (1) The system of case flow management will be administered with the aims that—
  - (a) cases for trial are disposed of or come to trial within 6 months after first arraignment and in any event by no later than 12 months after first arraignment; and
  - (b) cases committed for sentence are disposed of or sentenced within 4 months after first appearance in Court.
- (2) The system of case flow management in priority proceedings will be administered with the aims that—

- (a) cases for trial are disposed of or come to trial in Adelaide within 4 months after first arraignment and in Port Augusta and Mount Gambier within 6 months after first arraignment; and
- (b) cases committed for sentence are disposed of or sentenced within 4 months after first appearance in Court.

## **11—Listing of trials**

- (1) Unless there are exceptional circumstances, on a plea of not guilty the Court will give the matter a date for trial or disputed facts hearing at arraignment.
- (2) In priority proceedings—
  - (a) if the proceeding is to be heard at Adelaide, at arraignment the Court will fix a date for trial or disputed facts hearing within 4 months after the first arraignment;
  - (b) if the proceeding is to be heard at Port Augusta or Mount Gambier, the Court will fix a date for trial or disputed facts hearing within 6 months after the first arraignment.
- (3) Counsel accepting a brief to appear in a priority proceeding should do so on the basis that they will be able to appear at the trial or hearing within 4 months or 6 months, as the case requires, of first arraignment.
- (4) When a matter is listed for trial, the matter will be listed for a first directions hearing in accordance with rules 27 and 48(1) of the Rules so that parties can report on the status of the matter and obtain pre-trial ancillary orders of the kind described in rule 55 of the Rules.

## **Chapter 4—Documents, service and hearings generally**

### **Part 1—Documents**

#### **12—Approved forms**

- (1) The forms in the Schedule to these Supplementary Rules are approved forms.
- (2) A proceeding heading is to be in form 1 and used on all documents in respect of which a front sheet is not required.
- (3) A front sheet is to be in form 2 and used on all documents to be filed or lodged by a party in Court. The text of the document itself is to start on a fresh page.
- (4) The Registrar may allocate an FDN to a document filed by a party in Court.
- (5) Where an appropriate form of delivery is provided an electronic copy of a document may be accepted by the Registrar as the original document.

#### **13—Form of documents**

- (1) Unless these Supplementary Rules otherwise provide or the Registrar otherwise directs, a document prepared for filing or lodgment in Court is to—
  - (a) be in the English language;
  - (b) be on A4 size white bond paper;
  - (c) be paginated;
  - (d) be typed or printed so as to be completely legible in no less than size 12 font except for quotations and footnotes which may be in size 10 font;
  - (e) have margins of 4 centimetres to the left and 2 centimetres to the right;
  - (f) have one and a half spacing between lines (unless the document is to be settled by the Court, in which case double spacing is to be used);
  - (g) have double spacing between paragraphs;
  - (h) have figures and amounts of money expressed in numerals and not in words; and
  - (i) have any erasures or handwritten additions authenticated.
- (2) Unless the Court otherwise directs, a document prepared for filing or lodging in Court is to be typed or printed—
  - (a) on a single side of the page if it is an original affidavit or statutory declaration (including the exhibits to an affidavit or annexures to a statutory declaration); and
  - (b) otherwise on both sides of the page if it is any other document.
- (3) If the Registrar is satisfied that a self-represented litigant is unable to comply with one or more of the above requirements, the Registrar may accept a document for filing, provided that it is legible and able to be filed conveniently.
- (4) When there is substantial non-compliance with this supplementary rule, the Registrar may refuse to accept a document for filing.

## **14—Original of affidavit**

- (1) An affidavit filed or produced in Court is to be an original bearing the original signature of the deponent and not a copy. A lawyer or self-represented party lodging or producing an affidavit to the Court impliedly undertakes to the Court that the signatures on the documents are originals and not copies.
- (2) In a case of urgency when it is impracticable for a lawyer to obtain the original of the affidavit before a hearing, the lawyer may swear an affidavit exhibiting a copy of that affidavit. A lawyer swearing such an affidavit impliedly undertakes to the Court that the lawyer will file the original of the affidavit immediately upon receipt.

## **15—Form of affidavit**

- (1) An affidavit is to state that the deponent is speaking of his or her own knowledge except when a statement is made in accordance with paragraph (2).
- (2) An affidavit made for the purpose of an application or hearing other than the trial or final hearing of a criminal proceeding or with the Court's permission may contain statements that the witness honestly believes to be true if the witness also states the source and grounds of the belief.

### **Note—**

A statement to the effect, "I know the facts deposed herein from my own knowledge except where otherwise appears", without properly identifying the sources and grounds of information and belief, is unacceptable.

- (3) The address of a deponent in an affidavit may be a business address provided it is a place where the deponent may usually be found during normal working hours.
- (4) Each page of an affidavit is to be signed by the deponent and the witness and dated.

## **16—Exhibits to affidavit**

- (1) An affidavit (including an affidavit of service) that refers to a document already on the court file or part of the court record in a proceeding or a related proceeding is not to exhibit that document but is to describe the document by reference to its FDN when applicable and proceeding number or another indication where it is to be found on the court file. The object of this supplementary rule is that a document should appear only once on a court file or set of related court files.
- (2) Unless a lawyer forms the view that there is good reason not to, documents comprising a sequence of correspondence between the same or related persons and other documents comprising a sequence of a similar kind are to be made a single exhibit instead of being marked as separate exhibits.

## **17—Binding of affidavit and exhibits**

- (1) If an affidavit with exhibits—
  - (a) comprises 50 or more pages (including the body of the affidavit and its exhibits but excluding front sheets); or

- (b) includes 5 or more exhibits,  
the exhibits are to be bound together into a volume or volumes with or separate from the body of the affidavit.
- (2) In respect of an affidavit to which paragraph (1) applies—
  - (a) each volume is to be paginated and contain an index showing the page at which each exhibit commences;
  - (b) each exhibit is to be clearly marked with its exhibit designation and tagged so that its commencement can be seen without opening the volume;
  - (c) the binding is to be of an appropriate size and allow the volume to lie flat when opened at any page;
  - (d) each volume (with any binding) is to be no more than 3 centimetres thick;
  - (e) the authorised person before whom the affidavit is made is to make a single certification that exhibits in the bundle are the exhibits produced by the deponent when making the affidavit;
  - (f) the certification is to be made on the front sheet of the volume of exhibits and, if there is more than one volume, is to be reproduced and included as a front sheet on each volume together with an index of the exhibit numbers contained in each volume.
- (3) A party may file an affidavit comprising less than 50 pages or including less than 5 exhibits in the manner required by paragraphs (1) and (2), but is not obliged to do so.

### **18—Form of list of authorities**

- (1) A list of authorities is to contain the—
  - (a) full heading of the proceeding;
  - (b) anticipated date of hearing;
  - (c) name of the Judge who will hear the case (if known).
- (2) A list of authorities is to be divided into two parts—
  - (a) PART I to be headed “Authorities to be Read” is to contain the authorities from which counsel will or may read passages to the Court;
  - (b) PART II to be headed “Authorities to be Referred To” is to contain the authorities that are relied upon but from which counsel does not expect to read.

## **19—Citations in list of authorities**

- (1) When a case is reported in an authorised series of reports such as the South Australian State Reports, Commonwealth Law Reports, Federal Court Reports, the English authorised reports (The Law Reports) or in a series of reports containing only decisions of a State or Territory Supreme Court, the citation of the case in those reports is to be used. In addition, the medium neutral citation, when available, is to be provided for all cases, whether reported or not.
- (2) Each authority in a list of authorities provided by email is to be hyperlinked to a page from which the authority can be accessed in HyperText Markup Language (*HTML*), Rich Text Format (*RTF*), Portable Document Format (*PDF*) or other comparable format, so as to facilitate access by the Court to that authority.
- (3) If alternatives are available, a searchable format of the authority is to be preferred over a non-searchable format. In the case of reports provided by Thomson Reuters (eg CLR, SASR or NSWLR) or LexisNexis (eg VLR), the link is to be to the HTML version (and not the PDF version) of the authorised report. In the case of reports sourced from Austlii (the medium neutral version), the link is to be directly to the RTF version of the report (if available).
- (4) If an online authorised series of reports is available to the party delivering the list of authorities, the hyperlink is to be to the report of the case in that series as well as to a freely available medium neutral version of the case (if available).
- (5) If hyperlinking is not possible because, for example, an electronic report of the authority is not available, the authority is to be marked in the list with the words “hyperlinking unavailable”.
- (6) If a hyperlink comprises more than 75 characters, parties should use a hyperlink shortening service such as <http://goo.gl>, <http://bit.ly> or <http://tinyurl.com> to shorten the hyperlink to a manageable form.
- (7) In all cases, the hyperlink provided is to be in addition to, and not in place of, a citation in conformity with paragraph (1).

## **20—Electronic delivery of written submission or summary of argument and list of authorities**

- (1) When a written submission or summary of argument, list of authorities, chronology or summary of evidence and facts is to be provided for any hearing, it is to be lodged with the Court by email in accordance with the following paragraphs of this supplementary rule.
- (2) The email is to be sent with the subject line required by paragraph (3) to the criminal registry at  
[ccrcs@courts.sa.gov.au](mailto:ccrcs@courts.sa.gov.au)
- (3) The email is to be sent with a subject line that contains the file number and the names of the parties only.

**Example—**

File No DCCRM- 14-123 *R v Bloggs*

- (4) Authorities are not to be provided as an attachment to the email.
- (5) In every case, a copy of the document lodged by email with the Court is to be sent simultaneously by email to each other party.
- (6) If an email address for another party is not known and cannot reasonably be ascertained, a hard copy of the document is to be served on the other party no later than 5.00 pm on the same business day as the document is emailed to the Court.

## **21—Criminal Registry**

- (1) The Registry is open for business from 9.30 am to 4.30 pm each day except on Saturdays, Sundays, Public Holidays and the Christmas vacation, which comprises the calendar days between Christmas Day and New Year’s Day.
- (2) If it is sought to file or lodge a document or arrange for an urgent hearing when the Registry is not open for business, the party should phone the after hours business number of the Registry ((08) 82040289). The number will provide the current contact details of the rostered on call officer. If that officer is satisfied about the urgency of the request, he or she will arrange for the opening of the Registry and/or for a special hearing.
- (3) Other than with the prior permission of the Judge, no lawyer or party is to contact a Judge to seek an urgent hearing.
- (4) Unless the Rules or these Supplementary Rules otherwise provide or the Court otherwise orders, a party to a proceeding may inspect or obtain copies of documents held on the Court file for that proceeding by an informal request to the Registry.

**Exception—**

Rule 75 of the Rules imposes special requirements for the inspection and copying of documents produced pursuant to a subpoena.

- (5) When the permission of the Court is required by a member of the public to inspect or obtain a copy of a court record, permission may be sought by letter or email to the Registrar without notice to any party or person interested.

## **Part 2—Service**

### **22—Address for service**

- (1) A notice of acting and address for service under rule 18(3)(c) or 18(4)(b) of the Rules is to be in form 5A.
- (2) A notice of acting in person and address for service by a party under rule 18(4)(a) of the Rules is to be in form 5B.
- (3) A notice of change of address for service under rule 33(3) of the Rules is to be in form 6.

## **Part 3—Hearings generally**

### **23—Appearance of defendant by audiovisual link**

Notice of objection to the use of an audiovisual link for a hearing under rule 36(2)(b) of the Rules is to be in form 7.

### **24—Addressing Judges**

- (1) In Court—
  - (a) the Chief Judge of the Court is to be addressed and referred to by the title Chief Judge, eg “Chief Judge Smith” and as “Your/His/Her Honour”;
  - (b) a Judge of the Court is to be addressed and referred to by the title Judge, eg “Judge Brown” and as “Your/His/Her Honour”.
- (2) In documents filed or used in the Court and in correspondence, a Judge of the Court is to be referred to as “The Chief Judge....” or as “Judge....” as the case may be.

### **25—Barristers’ attire**

- (1) The dress of a barrister appearing in court is to be black court coat or bar jacket, white jabot and gown (silk for Queen’s Counsel and Senior Counsel and stuff for junior counsel), dark trousers for men and dark skirt or slacks/trousers for women. As an alternative to the jabot, white bands may be worn with white shirt and winged collar.
- (2) Wigs will be worn when the Court is hearing criminal proceedings (not including appeals).
- (3) Barrister’s attire is not required for directions hearings or for any other matter not heard in open court.
- (4) A barrister’s attire is at all times to be in a clean and neat condition.

### **26—Noting of appearances of counsel and solicitors**

The counsel or solicitor appearing in a case listed before the Court is to inform the Judge’s associate before the hearing of his or her name, the party for whom he or she appears and, when applicable, the name of his or her instructing solicitor.

### **27—Interpreters in court**

- (1) An interpreting service to the Courts is provided by the Interpreting and Translation Centre, a branch of the Office of Multicultural & Ethnic Affairs.
- (2) The service provides interpreting facilities during court hearings for persons accused of criminal offences and witnesses giving evidence.
- (3) The service does not provide interpreters for lawyers taking instructions from clients or for parties to communicate with their lawyers.
- (4) A lawyer or self-represented party is to notify the listing section of the Court of the requirement for interpreting services at a directions hearing or trial at the earliest possible time to allow the maximum possible time for arrangements to be made.

## **28—Copies of authorities**

- (1) The Court discourages the provision of hard copies of authorities readily available in the District Court library or available electronically.
- (2) Unless the client consents or the Court so directs, the cost of copying such authorities is not to be charged to the client.
- (3) Notwithstanding paragraph (1), if a party proposes to rely on an authority not contained in the list of authorities, the party should provide a hard copy to the Court and to any other parties.
- (4) Unless the client consents or the Court so directs, the cost of copying such authorities is not to be charged to the client.
- (5) Only in exceptional cases should a hard copy of an authority in Part II of the list of authorities be provided to the Court.

## **29—Information for reporters**

- (1) A party is to give a copy of any list of authorities, or summary of argument when there is no list of authorities, to the reporters in court before commencement of the hearing to ensure the reporters have the correct details for any authority cited during the hearing.
- (2) A party calling a witness is to give the name of the witness to the reporters in court before the witness is called.

## **30—Record of proceedings**

- (1) As soon as practicable after a judicial officer has pronounced an order or direction, its contents are to be entered into the Court's computer system.
- (2) A hard copy as signed by the judicial officer, the associate or a person delegated by the judicial officer for that purpose is to be placed onto a hard copy court file.

## **Part 4—Hearings for interstate courts**

*[no supplementary rules]*

## **Chapter 5—Election for trial by Judge alone**

### **31—Manner of making election**

- (1) An election for trial by Judge alone made by a defendant under rule 40(1) of the Rules is to be in form 8A.
- (2) An election for trial by Judge alone made by counsel under rule 40(2) of the Rules is to be in form 8B.

### **32—Practitioner’s certificate**

A practitioner’s certificate under rule 41(2) or 44(2) of the Rules is to be in form 9.

### **33—Revocation of election**

A revocation of election for trial by Judge alone made by a defendant under rule 44(2) of the Rules is to be in form 10.

## **Chapter 6—Pre-trial applications and directions**

### **Part 1—Matters before first directions hearing**

#### **34—Representation of defendants**

- (1) A legal representation certificate under rule 46(2) of the Rules is to be in form 11.
- (2) A written assurance under rule 46(3) of the Rules is to be in form 12.
- (3) A trial preparation statement under rule 47(2) of the Rules is to be in form 11A.

#### **34A—First Directions Hearing**

- (1) A First Directions Hearing – Call Over will be convened when the proceeding has been referred upon arraignment to a First Directions Hearing – Call Over under rule 27.
- (2) The First Directions Hearing – Call Over will usually be listed 10 weeks after arraignment.
- (3) The First Directions Hearings – Call Over will usually be listed on a Wednesday morning at 9.00 am to 10.00 am.
- (4) If a trial preparation statement has been filed in the approved form and the parties agree, the Court may in its discretion cancel the first directions hearing.

#### **34B—Second Directions Hearing**

- (1) A Second Directions Hearing – Call Over will be convened when the proceeding has been referred to a Second Directions Hearing – Call Over from a First Directions Hearing – Call Over.
- (2) The Second Directions Hearing – Call Over will usually be listed 4 weeks before the trial date.
- (3) The Second Directions Hearings – Call Over will usually be listed on the last sitting day of the week at 10.00 am.

#### **34C—Pre-trial directions hearing**

- (1) A pre-trial directions hearing will usually be convened by the trial Judge or in exceptional circumstances by another Judge.
- (2) The pre-trial directions hearing will usually be convened 10 business days before the trial date or at a time convenient to the trial Judge.
- (3) A pre-trial directions hearing will usually be listed at 9.00 am to 10.00 am.
- (4) Pre-Trial Directions Hearings will generally be listed 10 business days before the trial date, subject to the convenience of the trial Judge - unless the trial Judge is unavailable and then at the convenience of the Court.

## **Part 2—Convening directions hearings**

*[no supplementary rules]*

## **Part 3—Pre-trial applications**

### **36—Written applications**

- (1) An application for directions under rule 49(1) of the Rules is to be in form 13.
- (2) A written application for directions to adduce evidence or make submissions by audiovisual means under rule 49(1)(i) of the Rules is to be in form 14.
- (3) All applications for directions under rule 49 (including those made under rule 52) are to be filed with the Court electronically via [ccrcs@courts.sa.gov.au](mailto:ccrcs@courts.sa.gov.au).
- (4) A sealed copy of the application received under subrule (3) will be sent to the parties upon receipt by the Registry.

## **Part 3A—Bail applications**

### **36AA—Making bail application**

An originating application for release on bail under rule 51A(2)(b) of the Rules is to be in form 13E.

## **Part 4—Determination without oral hearing**

*[no supplementary rules]*

## **Part 5—Proceedings at directions hearings**

### **36A—First Directions Hearing – Call Over**

- (1) At the First Directions Hearing – Call Over the Court will —
  - (a) confirm or alter the trial date;
  - (b) determine any application for an extension of time under sub-rule 49(1)(c) or list the application for argument;
  - (c) list any application made under sub-rules 49(1)(d) and 49(1)(e) for argument;
  - (d) determine any application made under sub-rule 49(1)(i);
  - (e) determine any application made under sub-rule 49(1) if it is appropriate in the circumstances or list any application made under sub-rule 49(1) for argument before an appropriate Judge;
  - (f) determine any vulnerable witness applications made pursuant to rules 49 or 50;
  - (g) list any discreditable conduct notices made pursuant to sub-rule 61(1)(a) for argument before or at trial;

- (h) make orders for any interpreters which may be required for the trial; and
  - (i) make any other ancillary orders as necessary.
- (2) Upon the conclusion of the First Directions Hearing – Call Over, the matter will be referred to a Second Directions Hearing – Call Over.

### **36B—Second Directions Hearing – Call Over**

At the Second Directions Hearing – Call Over the Court will—

- (a) expect counsel to attend with a full brief of instructions and address pre-trial issues and evidentiary questions raised by the presiding Judge.

**Note –**

This may include, but is not limited to, applications for a voir dire, vulnerable witness order, interpreter, discreditable conduct order, notice to admit fact order and other pre-trial orders that may be required.

- (b) make any further pre-trial orders necessary or desirable to enable the trial to proceed on the trial date, including determining applications made under sub-rule 49(1) of the Rules on a date to be fixed when the Court considers it appropriate to do so.

## **Part 6—Special directions hearings**

### **37—Special directions hearings**

- (1) The decision to refer a proceeding to a special directions hearing is in the discretion of the Court and may be exercised by the Registrar.
- (2) The decision to refer a proceeding to a special directions hearing will depend in part on the nature of the charges.
- (3) A proceeding will only be referred to a special directions hearing when the defendant is legally represented.
- (4) If a proceeding is to be referred to a special directions hearing, it will only be referred when the requirements of rule 57 are complied with.

## **Part 6A—Vulnerable witnesses**

### **37A—Pre-trial special hearing**

- (1) An application under section 12AB(1) of the *Evidence Act 1929* for a pre-trial special hearing is to be in form 13A.
- (2) An objection under section 12AB(8) of the *Evidence Act 1929* to an application for a pre-trial special hearing is to be in form 13B.

### **37B—Admission of audio visual record of evidence**

- (1) An application under section 13BA(1) of the *Evidence Act 1929* for admission of evidence of a witness in the form of an audio visual record made under section 12AB of the *Evidence Act 1929* is to be in form 13C.

- (2) An application under section 13BA(1) of the *Evidence Act 1929* for admission of evidence of a witness in the form of an audio visual record made under section 74EB of the *Summary Offences Act 1953* is to be in form 13D.

## **Part 7—Pre-trial directions hearings**

### **37AA—Pre-trial directions hearing**

- (1) Each matter listed for trial will be called on by the trial Judge for a pre-trial directions hearing, unless the trial Judge is satisfied that a pre-trial directions hearing is unnecessary.
- (2) The pre-trial directions hearing may be convened or conducted by any Judge if the trial Judge is unavailable.

## **Part 8—Outcome of directions hearings**

*[no supplementary rules]*

## **Chapter 7—Notice of and dispensing with evidence**

### **Part 1—Notice of evidence**

#### **38—Evidence of discreditable conduct**

- (1) Notice of intention to adduce evidence of discreditable conduct under—
  - (a) rule 61(1)(a) of the Rules is to be in form 15;
  - (b) rule 61(1)(b) of the Rules is to be in form 16.
- (2) Notice of intention to object to the admission of proposed evidence of discreditable conduct under rule 61(2) of the Rules is to be in form 17.

#### **39—Evidence of self-defence or other designated matters**

- (1) An application to require the defence to give to the Director notice of intention to adduce evidence of a certain kind under rule 62(1) of the Rules is to be in form 13.
- (2) An order requiring the defence to notify the Director of an intention to adduce evidence under rule 62(2) of the Rules is to be in form 22.
- (3) Notice of the defence’s intention to adduce evidence in response to an order under rule 62(3) of the Rules is to be in form 23.

#### **40—Expert or alibi evidence**

Notice of intention by the defence to introduce expert or alibi evidence under rule 63 of the Rules is to be in form 24.

### **Part 2—Admissions**

#### **41—Dispensing with prosecution witnesses**

- (1) An application to require the defence to give to the Director notice whether it consents to dispensing with calling certain prosecution witnesses under rule 64(1) of the Rules is to be in form 13.
- (2) An order requiring the defence to notify the Director whether it consents to dispensing with calling certain prosecution witnesses under rule 64(2) of the Rules is to be in form 18.
- (3) Notice whether the defence consents to dispensing with calling certain prosecution witnesses in response to an order under rule 64(3) of the Rules is to be in form 19.

**42—\*\*\*\*\***

### **Part 3—Subpoenas**

#### **43—Subpoenas**

- (1) A subpoena under rule 68 of the Rules:
  - (a) to attend to give evidence is to be in form 26A;
  - (b) to produce any document or thing is to be in form 26B;

- (c) to do both those things is to be in form 26C.
- (2) A notice and declaration to be attached to the front of a subpoena to produce under rule 76(3) and (4) of the Rules is to be in form 27.
  - (3) The Registrar may issue a subpoena under Rule 67(4)(b) if the subpoena is accompanied with an affidavit confirming consent of all parties in the proceeding for the subpoena to be issued.
  - (4) An application to a Judge or Master for the issue of a subpoena is to be made in Form 13.

## **Chapter 8—Trial**

### **Part 1—Evidence**

#### **44—Evidence to be taken interstate or overseas**

A request to a foreign court to take evidence under rule 81(1) of the Rules is to be in form 25.

#### **45—Evidence by vulnerable witnesses**

- (1) A party calling a witness who is to give evidence by audiovisual link from a location remote from the courtroom is to make arrangements with the Sheriff's office for the witness to be brought into the building and to the witness room.
- (2) When counsel wishes to ask questions of a witness giving evidence by audiovisual link from a remote location relating to a document or thing, counsel is to give sufficient notice to court staff to allow appropriate arrangements to be made for the document or thing to be displayed electronically to the witness or taken to the remote location by court staff.

#### **46—Conduct of trials**

- (1) This supplementary rule applies subject to any contrary direction by the trial Judge.
- (2) Defence counsel will sit at the end of the bar table closer to the dock.
- (3) The Judge will be present on the Bench when—
  - (a) an accused enters the dock;
  - (b) the jury enters and leaves the courtroom;
  - (c) a witness enters or leaves the courtroom while the accused is in the dock.
- (4) When a jury is about to be empanelled, an accused will enter the dock in the presence of the Judge and the jury panel. If counsel seeks a direction to the contrary, it should be requested before the jury panel is brought to the courtroom.

#### **47—Conduct of views**

- (1) This supplementary rule applies subject to any contrary direction by the trial Judge.
- (2) A view is part of the trial and is under the control of the trial Judge.
- (3) Any person may attend on a view, but this supplementary rule does not authorise any such person to trespass on private property.
- (4) When a view takes place in a confined space, the trial Judge may limit the persons to enter that space.
- (5) No member of the media or the public is to be in such proximity to jurors as to be able to overhear what is said between them.
- (6) No member of the media or the public is to be in such proximity to the trial Judge or counsel as to be able to overhear private conversations.

- (7) Jurors are not to be filmed, photographed or sketched.
- (8) Witnesses are not to be filmed or photographed.
- (9) If there is no suppression order relating to the identity of an accused, he or she may be filmed, photographed and sketched from a distance, but not so as to show that he or she is in custody or under restraint or in any way that might suggest guilt.
- (10) There is to be no sound recording at a view other than by the court reporter.

#### **48—Witness identification**

- (1) A witness in a criminal proceeding is required to submit his or her address in writing for inclusion in court records. A lawyer calling a witness is to arrange for the witness to write out his or her address and hand it to the Judge's associate when taking the oath or affirmation.
- (2) A witness in a criminal proceeding will not be asked when taking the oath or affirmation to state his or her address or occupation.
- (3) This supplementary rule does not restrict the right of counsel for either party to ask a witness to state his or her address or occupation if the address or occupation, as the case may be, is relevant to an issue or to credit.

#### **Part 2—Exhibits**

*[no supplementary rules]*

#### **Part 3—Publication of reasons for judgment**

##### **48A—Publication of reasons for judgment**

- (1) The Court aims to deliver judgment in routine cases within 3 months of reservation of judgment. However, there will be particular cases in which the target is not appropriate and other cases in which, due to workloads and other matters, it will not be practicable for a Judge to observe a target.
- (2) When judgment is not delivered within 3 months of reservation of judgment, a party may by letter addressed to the Chief Judge inquire about progress of the judgment.
- (3) The party making such an inquiry is to deliver a copy of the letter to all other parties to the action.
- (4) The identity of a party making such an inquiry is not to be disclosed to—
  - (a) a judicial officer other than the Chief Judge; and
  - (b) any other person except the other parties to, and a person having an interest in, the outcome of the action.

## **Chapter 9—Juries**

*[no supplementary rules]*

## **Chapter 10—Sentencing**

### **49—Application to fix non-parole period**

An application to fix a non-parole period under rule 92(1) of the Rules is to be in form 28.

**49A—\*\*\*\*\***

### **49B—Applications for enforcement of a breached bond**

- (1) When a replacement Application for Enforcement of a Breached Bond is filed, the Director is to make an oral application, at the next hearing, for the original Application for Enforcement of a Breached Bond to be dismissed.
- (2) That oral application is to include reference to the District Court File Number for the Application for Enforcement of a Breached Bond that is to be replaced.

**Example—**

DCCRM-15-75.

- (3) When a replacement Application for Enforcement of a Breached Bond is filed, it is to be served on the defendant’s solicitor, or the defendant if not represented, accompanied by a letter setting out the effect of that Application for Enforcement of a Breached Bond compared to the previous Application for Enforcement of a Breached Bond.

### **50—Mental impairment detention**

A warrant committing the defendant to detention under rule 93 of the Rules is to be in form 30.

## **Chapter 11—Statutory applications**

### **51—Mental impairment**

- (1) An originating application to revoke, vary or revise a supervision order under rule 94(1) of the Rules is to be in form 29.
- (2) A warrant committing the defendant to detention under rule 94(4) of the Rules is to be in form 30.
- (3) A warrant committing the defendant to an appropriate form of custody under rule 94(5) of the Rules is to be in form 31 or form 32 as applicable.

**52—Note-** there is no rule 52

**53—Note-** there is no rule 53

**54—Note-** there is no rule 54

### **55—Confiscation order**

An application under the Confiscation Acts—

- (a) if made in existing criminal proceedings under rule 98(2)(a) of the Rules—is to be in form 13; or
- (b) if an originating application under rule 98(2)(b) of the Rules—is to be in form 29.

## **Chapter 12—Note- there is no Chapter 12**

**56—Note- there is no rule 56**

## **Chapter 13—Note- there is no Chapter13**

**Note-** there are no rules 57-76

## **Chapter 14—Contempt of Court**

### **Part 1—Contempt committed in face of Court**

*[no supplementary rules]*

### **Part 2—Court initiated proceedings for contempt—other cases**

#### **77—Summons to appear**

A summons requiring the accused to appear before the Court at the nominated time and place under rule 130(7)(a) of the Rules is to be in form 55 of Schedule 3 to the *District Court Civil Supplementary Rules 2014*.

### **Part 3—Contempt proceedings by party to proceeding**

*[no supplementary rules]*

### **Part 4—Hearing of charge of contempt**

*[no supplementary rules]*

# History of Amendment

New entries appear in **bold**

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
3(2)	ins am 3	1 December 2016
6(4)	ins am 5	1 June 2018
7(2A)	ins am 6	1 May 2019
7(3)	ins am 3 am am 5	1 December 2016 1 June 2018
7(4)	ins am 3	1 December 2016
7A	ins am 3	1 December 2016
8(1)	sub am 3 sub am 5	1 December 2016 1 June 2018
8(1a)	ins am 5	1 June 2018
8(2)	am am 5	1 June 2018
8(3a)	ins am 5	1 June 2018
8(4)	ins am 3 sub am 5	1 December 2016 1 June 2018
9	sub am 3	1 December 2016
10(2)	am am 3	1 December 2016
11	sub am 3	1 December 2016
12(5)	ins am 5	1 June 2018
20	am am4	1 December 2017
20(1)	am am4	1 December 2017
25(2)	am am4	1 December 2017
34(3)	ins am 3	1 December 2016
34A	ins am 3	1 December 2016
34A(4)	ins am 5	1 June 2018
34B	ins am 3	1 December 2016
34C	ins am 3	1 December 2016
35	del am 3	1 December 2016
36(3)	ins am 3	1 December 2016
36(4)	ins am 3	1 December 2016
36A	ins am 3	1 December 2016
36B	ins am 3	1 December 2016
37	sub am 3	1 December 2016
<b>Chapter 6 Part 3A</b>	<b>ins am 8</b>	<b>1 January 2021</b>
Chapter 6 Part 6A	ins am 2	27 June 2016
37A	ins am 2	27 June 2016
37B	ins am 2	27 June 2016
37AA	ins am 3	1 December 2016
40	am am 5	1 June 2018
42	del am 5	1 June 2018
43(1)	sub am 1	1 May 2016
43(3)	ins am 5	1 June 2018

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
43(4)	ins am 5	1 June 2018
Chapter 8 Part 3	ins am4	1 December 2017
49A	ins am 3 am am 5 del am 7	1 December 2016 1 June 2018 18 May 2020
49B	ins am 3	1 December 2016