

South Australia

Supreme Court Criminal Supplementary Rules 2014

(as varied to the 1 January 2021 – Amendment No. 8)

The Supreme Court Criminal Supplementary Rules 2014, dated 2nd September 2014 that came into operation on 1st October 2014 (Government Gazette 11 September 2014, p. 4958) have been varied by Supreme Court rules dated:

	<i>Date</i>	<i>Gazette</i>	<i>Date of operation</i>
#1	29 February 2016	14 April 2016, p. 1197	1 May 2016
#2	17 May 2016	23 June 2016, p. 2576	27 June 2016
#3	26 September 2016	10 November 2016, p. 4383	1 December 2016
#4	30 October 2017	28 November 2017, p. 4780	1 December 2017
#5	14 May 2018	24 May 2018, p. 2046	1 June 2018
#6	20 March 2019	18 April 2019, p. 1081	1 May 2019
#7	9 April 2020	14 May 2020, p. 1174	18 May 2020
#8	17 December 2020	24 December 2020, p. 6143	1 January 2021

By virtue and in pursuance of Section 72 of the *Supreme Court Act 1935* and all other enabling powers, we, Judges of the Supreme Court of South Australia, make the following Supreme Court Criminal Supplementary Rules 2014.

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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 *Supreme Court Criminal Supplementary Rules 2014*.
- (2) These Supplementary Rules supplement the *Supreme Court Criminal Rules 2014*.
- (3) These Supplementary Rules follow the Chapter and Part headings of the *Supreme 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;
the *Rules* means the *Supreme Court Criminal Rules 2014*;
the *Supplementary Rules* means the *Supreme 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.

Part 4—Application of Rules

4—Application of Supplementary Rules

These Supplementary Rules apply to the exercise by the Court of its original and appellate criminal jurisdiction, except appeals to a single Judge.

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 SCCRM-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 SCCRM-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 first 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 first business day of the first week being a date scheduled by the order of 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 after the expiration of 28 calendar days from their 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 defendant's lawyer or the defendant if not represented is to file and serve on the Director as soon as practicable a notification of change of plea in form 3B;
 - (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 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) names or name of the Judges or 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) When the matter is to be heard by a single Judge, the email is to be sent with the subject line required by paragraph (3)—
 - (a) to the chambers email address of the Judge who is to hear the matter (see the link to the Supreme Court on the Courts Administration Authority website (<http://www.courts.sa.gov.au>);
 - (b) if and only if the identity of the Judge is not known—to submissions@courts.sa.gov.au
- (3) When the matter is to be heard by the Full Court, the email is to be sent to submissions@courts.sa.gov.au with a subject line that contains the file number and the names of the parties only.

Example—

File No SCCRM- 2014-123 *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 afterhours business number of the Registry ((08) 8204 0289). 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 Justice of the Court is to be addressed and referred to by the title Chief Justice, eg “Chief Justice Smith” and as “Your/His/Her Honour”;
 - (b) a Judge of the Court is to be addressed and referred to by the title Justice, eg “Justice 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 Honourable Chief Justice....” or as “The Honourable Justice....” 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 Supreme 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.

35—*****

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.
- (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

36A—Making bail application

An originating application for release on bail under rule 51A(2)(b) of the Rules is to be in form 45A.

Part 4—Determination without oral hearing

[no supplementary rules]

Part 5—Proceedings at directions hearings

[no supplementary rules]

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 will usually be convened 10 business days before the trial date or at a time convenient to the trial Judge.
- (3) 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 by 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 Justice 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 Justice; 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 Supreme Court File Number for the Application for Enforcement of a Breached Bond that is to be replaced.

Example—

SCCRM-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—*****

52A—Extended supervision orders

- (1) An application by the Attorney-General under section 7(1) of the High Risk Offenders Act for an extended supervision order is to be made by originating application in form 34A.
- (2) An interim supervision order under section 9 of the High Risk Offenders Act is to be in form 34B.
- (3) An order under section 7(4) of the High Risk Offenders Act that the respondent is to be subject to an extended supervision order is to be in form 34C.
- (4) An application by the Attorney-General or the person subject to an order under section 13 of the High Risk Offenders Act to revoke or vary an extended supervision order is to be in form 34D.

52B—Continuing detention orders

- (1) An order under section 18(4) of the High Risk Offenders Act for interim detention is to be in form 34E.
- (2) An order under section 18(2) of the High Risk Offenders Act for continuing detention is to be in form 34F.
- (3) A warrant under section 18(6) of the High Risk Offenders Act committing a person to a correctional institution is to be in form 34G.
- (4) An application by the Attorney-General, the Parole Board or the person subject to an order under section 19 of the High Risk Offenders Act to revoke or vary a continuing detention order is to be in form 34H.

53—Detention of person unable or unwilling to control sexual instincts

An originating application by the Attorney-General for an order detaining a person in custody until further order under rule 96(1) of the Rules is to be in form 29.

54—Suspension of reporting obligations

An originating application to suspend reporting obligations under rule 97(1) of the Rules is to be in form 29.

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—Bail reviews

56—Application for review

- (1) An originating application for review of a decision of a bail authority under rule 100(1) of the Rules is to be in form 35.
- (2) An originating application for review of a decision of a Magistrate on a review of a decision of a bail authority and for permission under rule 100(2) of the Rules is to be in form 36.
- (3) An originating application for review of a decision of a Magistrate under rule 100(3) of the Rules is to be in form 37.

Chapter 12A—Appellate proceedings—single Judge

Part 1—Introduction

[no supplementary rules]

Part 2—Permission to appeal

[no supplementary rules]

Part 3—Institution of appeal

Division 1—Time to appeal

[no supplementary rules]

Division 2—Appeals

56A—Institution

A notice of appeal under rule 104H of the Rules is to be in form 37A.

56B—Institution of cross appeal

A notice of cross appeal under rule 104J of the Rules is to be in form 37B.

56C—Notice of alternative contention

A notice of alternative contention under rule 104K of the Rules is to be in form 37C.

56D— Institution of case stated

A notice of case stated to single Judge under rule 104M of the Rules is to be in form 37D.

Part 4—Preparation for and listing of appeal

[no supplementary rules]

Part 5—Hearing and determination of appeals

[no supplementary rules]

Chapter 12B—Appellate proceedings—permission to appeal to Court of Appeal from single Judge on appeal

56E—Commencement of appeal

A notice of appeal under rule 104AB of the Rules is to be in form 37E.

Chapter 13—Appellate proceedings

Part 1—Introduction

[no supplementary rules]

Part 2—Commencement of appeal

57—How to commence appeal

- (1) A notice of appeal against a judgment other than of acquittal under rule 108(3) of the Rules is to be in form 38.
- (2) A notice of appeal being a second appeal against conviction under rule 108(3) of the Rules is to be in form 39.
- (3) A notice of appeal against acquittal under rule 108(3) of the Rules is to be in form 40.
- (4) A notice of appeal against sentence under rule 108(3) of the Rules is to be in form 41.
- (5) A notice of appeal against a sentencing decision under rule 108(3) of the Rules is to be in form 42.
- (6) A notice of appeal against an antecedent decision under rule 108(3) of the Rules is to be in form 43.
- (7) A notice appeal in any other case under rule 108(3) of the Rules is to be in form 44.

58—Notification of appeal

Notification to the respondent of the filing of a notice of appeal under rule 110(1) of the Rules is to be in form 45.

Part 3—Effect of filing notice of appeal

[no supplementary rules]

Part 4—Reservation of question for Full Court

59—Application for permission to apply to reserve question

An originating application for permission to apply to the Full Court for an order that a court refer a relevant question to the Full Court for consideration and determination under rule 114 of the Rules is to be in form 46.

60—Reservation of question

An originating application for an order of the Full Court requiring a court to refer a relevant question to the Full Court for consideration and determination under rule 115(1) of the Rules is to be in form 47.

Part 5—Permission to appeal

62—Certificate of trial judge

A certificate of the trial Judge under rule 118(1) of the Rules is to be in form 49.

63—Hearing by single Judge

- (1) The Judge before whom an application comes in the first instance under rule 119(1) of the Rules will usually continue to deal with the application until it has been granted, refused or referred to the Full Court.
- (2) If the respondent concedes in writing that an application for permission to appeal should be granted before the hearing of the application, permission to appeal may be granted by a Judge without the attendance of the parties.
- (3) If the respondent concedes in writing that an application for an extension of time in which to appeal should be granted before the hearing of the application, the extension may be granted by a Judge without the attendance of the parties.
- (4) At the first listing of an application governed by this supplementary rule—
 - (a) if all parties are ready to argue the application, or have previously informed the Court that they will be ready to argue the application on the first listing date—the Judge will hear and determine the application;
 - (b) otherwise—the Judge will set a date by which settled grounds are to be filed and served and list the application for argument;
 - (c) if the application is listed for argument, it will usually be listed at least 14 calendar days in the case of a conviction or acquittal appeal and at least 5 business days in the case of any other appeal after the date when settled grounds are to be filed and served.
- (5) If settled grounds are not filed and served in accordance with a direction given by a Judge, unless the respondent agrees, the application will not be heard on the date fixed for hearing and on that date a new date will be fixed for hearing.
- (6) A Judge hearing an application for permission to appeal is deciding whether there is an arguable case. The parties should not argue the application for permission as if it were a preview of the hearing of the appeal.
- (7) Notification to the appellant under rule 119(5) of the Rules of a decision of the Judge to refuse an application will be in form 50.
- (8) The Judge will hear and determine any application by the parties to alter the page limit for written submissions on appeal or the time limit for oral submissions for sentence appeals.

64—Referral to Full Court

- (1) An application under rule 120 of the Rules to refer to the Full Court an application for permission to appeal, for an extension of time in which to appeal, for bail pending an appeal or to appear before the Court in person at the hearing of an appeal that has been refused by a Judge is to be in form 51.
- (2) The Registrar will notify the applicant under rule 120(5) of the Rules of the decision of the Full Court on an application for bail pending an appeal or to appear before the Court in person at the hearing of an appeal in form 52.

65—Consideration by Full Court

- (1) If permission to appeal or an extension of time is not required, or if the Judge grants permission to appeal on all grounds and an extension of time if required, the appeal will be heard by the Full Court in the usual way.
- (2) If an application for permission to appeal on any ground or for an extension of time in which to appeal is to be heard by the Full Court, the application will be heard at the same time as the hearing of the merits of grounds on which an appeal lies as of right or on which permission has been. The appellant and respondent must be ready to argue all grounds on the merits in full.
- (3) Counsel appearing before the Full Court in a matter that is or includes a renewed or referred application for permission to appeal or an extension of time in which to appeal should prepare the summary of argument and for the oral hearing as if the application for permission to appeal or an extension of time in which to appeal had been granted to enable the Full Court to hear the argument in full on all issues.

Part 6—Preparation for hearing of appeal

66—Address for service

- (1) A notice of acting and address for service under rule 111(2)(a) of the Rules is to be in form 5A.
- (2) A notice of change of address for service under rule 111(1)(b) or 111(2)(b) of the Rules is to be in form 6.

67—Witnesses before Full Court

An application for an order requiring a witness to be examined for the purpose of an appeal under rule 122(1) of the Rules is to be in form 53.

68—Discontinuance of appeal

A notice of discontinuance of an appeal under rule 125(1) of the Rules is to be in form 54.

69—Lodgment and service of written submission and list of authorities

- (1) Subject to paragraph (6), the appellant's written submission, list of authorities and any chronology or summary of evidence and facts are to be lodged with the Court by emailing them to submissions@courts.sa.gov.au and simultaneously served on the respondent no later than 4.30 pm 6 clear business days before the listed hearing date.

- (2) Subject to paragraph (6), the respondent’s written submission, list of authorities and any chronology or summary of evidence and facts are to be lodged with the Court by emailing them to submissions@courts.sa.gov.au and simultaneously served on the appellant no later than 4.30 pm 4 clear business days before the listed hearing date.
- (3) If the appellant intends at the hearing of the appeal to raise a new point as a result of the respondent’s written submission not identified in the appellant’s written submission that will embarrass the respondent if advance notice is not given, the appellant is to lodge with the Court a written submission articulating that point by emailing it to submissions@courts.sa.gov.au and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.
- (4) If the respondent delivers a summary of evidence and facts in accordance with paragraph (2) and the appellant intends at the hearing of the appeal to challenge or supplement the respondent’s summary of evidence and facts, the appellant is to lodge a summary of evidence and facts identifying any items disputed and why and any additional items by emailing it to submissions@courts.sa.gov.au and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.
- (5) The appellant may lodge a written submission in reply to a respondent’s written submission not exceeding 4 pages by emailing it to submissions@courts.sa.gov.au and simultaneously serving it on the respondent no later than 4.30 pm 2 clear business days before the listed hearing date.
- (6) A party may apply to the Court to vary the timetable prescribed by this supplementary rule—
 - (a) if there is a hearing under rule 119 of the Rules—at the hearing; or
 - (b) otherwise—within 14 calendar days after the filing of the appeal.
- (7) The email, written submission, list of authorities and any chronology or summary of evidence and facts governed by this supplementary rule are to be prepared, lodged and served in compliance with supplementary rules 18, 19, 20 and 70.

70—Form and content of written submissions

- (1) A written submission on an appeal against conviction or acquittal is not to exceed 20 pages without the prior permission of the Court.
- (2) A written submission on an appeal against sentence is:
 - (a) not to exceed 10 pages without the prior permission of the Court;
 - (b) for the appellant, is to be in form 56A;
 - (c) for the respondent, is to be in form 56B;
 - (d) for the applicant in a Crown appeal, is to be in form 56C.

- (3) A written submission is to—
 - (a) contain a concise statement of the issues raised by the appeal;
 - (b) provide the Court with an outline of the steps in the argument to be presented on each issue;
 - (c) provide each other party with notice of the contentions to be advanced by that party;
 - (d) comprise a written submission in the appeal with each contention followed by a reference to the authorities (giving paragraph or page numbers), legislation (giving section numbers) and relevant passages of the evidence, exhibits and/or the reasons for the judgment under appeal (giving paragraph or page numbers);
 - (e) if a party intends to challenge any finding of fact—
 - (i) identify the relevant finding or failure to make a finding;
 - (ii) state concisely why the finding or failure to make a finding is contended to be erroneous;
 - (iii) identify the finding that the party contends should have been made; and
 - (iv) give references to the evidence to be relied upon in support of the argument; and
 - (f) identify any grounds of appeal not to be pursued.
- (4) Except when necessary to identify error at first instance, a written submission should not set out passages from reasons for judgment under appeal, evidence or authorities, but is instead to be a guide to these materials.

71—Reference to authority

- (1) A written submission is to cite each authority in the manner required by supplementary rule 18 for a list of authorities.
- (2) A written submission is to hyperlink each authority as required by supplementary rule 18 for a list of authorities.

72—Summary of evidence

On an appeal in which a ground of appeal is that the verdict is unsafe or unsatisfactory, counsel is expected to provide a written summary of the relevant evidence, including references to transcript pages.

73—Chronology

Counsel will usually be expected to provide a chronology in criminal appeals.

74—Skeleton of oral argument

- (1) A party may, but unless the Court otherwise directs is not required to, lodge with the Court a skeleton outline of the propositions that the party intends to advance in oral argument.

- (2) A skeleton outline is to—
 - (a) be lodged with the Court no later than the commencement of the hearing;
 - (b) be given to all other parties at the same time as to the Court;
 - (c) be no longer than 3 pages;
 - (d) state propositions sequentially in the order they are intended to be addressed in oral argument;
 - (e) cross refer to the party’s written submission.

75—Suppression order

An application to vary or revoke a suppression order made by the Supreme Court on appeal from another court is to be treated as an interlocutory application in the matter of the appeal.

Part 7—Hearing and determination of appeal

76—*****

76A—Notifying result of appeal

The notice of final determination of an appeal under rule 127 of the Rules is to be in form 55.

76B—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 Justice 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 Justice; and
 - (b) any other person except the other parties to, and a person having an interest in, the outcome of the action.

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 *Supreme 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 are in **bold**

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
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(1)(a)	ins am 5	1 June 2018
8(2)	am am 5	1 June 2018
8(3)(a)	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 am 4	1 December 2017
25(2)	am am 4	1 December 2017
34(3)	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
Part 3A – Bail Applications	ins am 8	1 January 2021
37	sub am 3	1 December 2016
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
43(4)	ins am 5	1 June 2018
Chapter 8 Part 3	ins am 4	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
52	del am 5	1 June 2018
52A	ins am 1	1 May 2016
52B	ins am 1 sub am 4	1 May 2016 1 December 2017
Chapter 12A	ins am 7 sub am 8	18 May 2020 1 January 2021
Chapter 12B	ins am 8	1 January 2021

Rules	Amendments	Date of Operation
am = amended; del = deleted; ins = inserted; ren = renumbered; sub = substituted		
61	del am 5	1 June 2018
63(8)	ins am 4	1 December 2017
69 heading	am am 4	1 December 2017
69(1)	am am 4	1 December 2017
69(2)	am am 4	1 December 2017
69(3)	am am 4	1 December 2017
69(5)	am am 4	1 December 2017
69(7)	am am 4	1 December 2017
70	sub am 4	1 December 2017
71(1)	am am 4	1 December 2017
71(2)	am am 4	1 December 2017
74(2)	am am 4	1 December 2017
76	del am 4	1 December 2017
76A	ins am 4	1 December 2017
76B	ins am 4	1 December 2017