

Authorised Version No. 003
Magistrates' Court Criminal Procedure
Rules 2009

S.R. No. 181/2009

Authorised Version incorporating amendments as at
10 July 2011

TABLE OF PROVISIONS

<i>Rule</i>	<i>Page</i>
ORDER 1—PRELIMINARY	1
1 Title and object	1
2 Authorising provisions	1
3 Commencement	1
4 Revocation	1
5 Overriding objective	1
6 Definitions	3
7 Interpretation and application	3
8 Non-compliance	4
9 Content and form of documents	5
10 Stamping of filed documents	6
ORDER 2—CRIMINAL PROCEDURE	7
PART 1—COMMENCING A PROCEEDING	7
11 Prescribed forms for commencing a criminal proceeding	7
12 Advice in other languages in a criminal proceeding	7
13 Affidavit of service	8
14 Form of notice to appear and filing	8
15 Charge-sheet and place of hearing	9
16 When the Court directs that a person be prosecuted for contempt	9
PART 2—CASE MANAGEMENT AND DISCLOSURE	9
17 Pre-hearing disclosure notice	9
18 Preliminary brief prescribed notice	10
19 Full brief prescribed notice	10

<i>Rule</i>	<i>Page</i>
PART 3—APPLICATIONS, ORDERS AND NOTICES	10
20 Adjournment of a proceeding by a registrar	10
21 Summary case conference	11
22 Request for contested summary hearing	11
23 Registrar or judicial registrar may dispense with summary case conference requirement	11
24 Witness summons in a criminal proceeding	11
25 A witness summons for the production of a document or thing—confidential communications	11
26 Notice of alibi	12
27 Objection to production and inspection of protected documents and things	12
28 Case abridgement application	12
29 Issuing of certificate to a victim of identity crime	12
30 Certifying payment to Crown witness	13
31 Application for rehearing	13
ORDER 3—WARRANTS	14
32 Form of a warrant to arrest and issue for non-appearance of the accused	14
33 Form of a search warrant	14
34 Form of a remand warrant	14
35 Form of a warrant to imprison	14
36 Form of a warrant to imprison for unpaid fines	14
37 Warrant to seize property application	14
37A Execution of warrant to seize property	14
37B Application of Supreme Court rules, practice and procedure	15
ORDER 4—COMMITTAL PROCEEDING	16
PART 1—APPEARANCE	16
38 Notice of Appearance	16
39 Prosecution to provide relevant contact details	16
40 Legal practitioner ceasing to act	17
PART 2—SERVICE	17
41 Mode of service	17
42 Copy of document served by electronic transmission to be provided upon request	17
PART 3—FILING HEARINGS	18
43 Orders and directions at filing hearing	18
PART 4—COMPULSORY EXAMINATION PROCEDURE	18
44 Form of application	18
45 Form of notice of order	18

<i>Rule</i>	<i>Page</i>
PART 5—PRE-HEARING DISCLOSURE	18
46 Notice and list of information or other documents to accompany hand-up brief	18
47 Application to permit accused to be absent from committal hearing	19
PART 6—CASE DIRECTION	19
48 Prescribed form of case direction notice	19
PART 7—COMMITTAL MENTION AND CASE CONFERENCE	19
49 Notice of committal proceeding	19
50 Application to Court to fix a longer period for the holding of a committal mention hearing	19
51 Application to Court to fix longer period for determining of committal proceedings	20
52 Closing of a committal case conference	20
PART 8—COMMITTAL HEARING	20
53 Application for a joint committal	20
54 Caution to be given to person charged	21
PART 9—DETERMINATION OF COMMITTAL PROCEEDING	21
55 Notice of election to stand trial	21
56 Committal caution	21
57 Alibi caution	21
58 Legal aid warning	21
PART 10—PROCEDURE AFTER COMMITTAL	22
59 Application to grant or revoke bail after the accused is committed to trial	22
PART 11—TAKING EVIDENCE AFTER ACCUSED COMMITTED FOR TRIAL	22
60 Form of notice of application	22
61 Response to notice of application	22
PART 12—GENERAL	22
62 Applications for summary hearing of indictable offences	22
63 Form of application	23
64 Filing of application	23
65 Service of application	23
66 Application for a special mention hearing	23
67 Parties may request registrar to cancel a special mention hearing	24
68 Statements prepared in another jurisdiction	24

<i>Rule</i>	<i>Page</i>
ORDER 5—APPEALS	25
PART 1—PRELIMINARY	25
69 Application	25
PART 2—APPEALS TO THE COUNTY COURT UNDER PART 6.1 OF CHAPTER 6 OF THE CRIMINAL PROCEDURE ACT 2009	25
70 Procedure on appeal from Magistrates' Court to County Court	25
71 Recall and cancel process when an application for a stay is granted	27
72 Application for leave following late filing of appeal to the County Court	27
73 Application to set aside an order striking out an appeal in the County Court	27
PART 3—APPEALS TO THE SUPREME COURT UNDER PART 6.2 OF CHAPTER 6 OF THE CRIMINAL PROCEDURE ACT 2009	28
74 Filing of an appeal from the Magistrates' Court to the Supreme Court on a question of law	28
75 When the Supreme Court stays a Magistrates' Court order	28
76 When the Supreme Court makes an order remitting a case for rehearing to the Magistrates' Court	28
ORDER 6—AUTHENTICATION OF ORDERS AND WARRANTS	29
77 Certified extract of an order	29
78 Particulars of warrants to be entered in the register	29
79 Authentication of warrants	29
80 Authentication of a digital recording	30
ORDER 7—TRANSFER OF SUMMARY PROCEEDINGS	31
81 Transfer of related summary proceeding on or after committal to the Supreme Court or County Court	31
82 Transfer of an offence that a Magistrate refused to hear and determine summarily	31
83 Transfer of a summary offence that is not a related summary offence to the Supreme Court or County Court	31

<i>Rule</i>	<i>Page</i>
ORDER 8—GENERAL	33
84 Last known place of residence or business for the purpose of service	33
85 Issue of some warrants to seize property	34
86 Prescribed member of a class of persons who may witness statements	34
ORDER 9—AUDIO VISUAL OR AUDIO LINKING	36
87 Definition	36
88 Request for appearance via audio visual link	36
89 When a person may appear by audio visual link or audio link	36
90 Application for the physical appearance of a person when otherwise not required	36
91 Application for appearance of a person by audio visual link where physical appearance otherwise required	37
92 Application for direction a person appear by audio visual link	37
93 Application for direction a child appear by audio visual link	37
ORDER 10—INFRINGEMENTS COURT AND FINES	38
PART 1—INFRINGEMENTS COURT	38
94 Infringements Court	38
95 Appearance by audio visual link Infringements Court	38
PART 2—FINES	38
96 Definitions	38
97 Proper officers	39
98 Application for time to pay, instalment order or variation of instalment order	39
99 Consideration of application	39
100 Determination of the application	40
101 Enforcement of fines against a natural person	41
102 Enforcement of fine against body corporate	41
103 Summons for warrant to seize property returned unsatisfied	41
104 Declaration of liability of a director for offence of body corporate	42
—————	
FORMS	43
Form 1—Charge-sheet	43
Form 2—Continuation of Charges	45
Form 3—Charge-sheet and Summons	47
Form 4—Charge-Sheet and Summons (Corporate Accused)	49

<i>Rule</i>	<i>Page</i>
Form 5—Charge-Sheet and Warrant to Arrest	51
Form 6—Do Not Ignore this Notice	53
Form 7—Notice to Appear	54
Form 8—Pre-hearing Disclosure Notice for Matters to be Determined Summarily	57
Form 9—Pre-hearing Disclosure Notice for Matters to be Determined by a Committal Proceeding	59
Form 10—Notice Accompanying Preliminary Brief	61
Form 11—Notice Accompanying Full Brief	64
Form 12—Request for Contested Summary Hearing	67
Form 13—Witness Summons	69
Form 14—Notice of Alibi	71
Form 15—Case Abridgement Application	72
Form 16—Application—Identity Crime	73
Form 17—Identity Crime Certificate	74
Form 18—Application for a Rehearing	75
Form 19—Warrant to Arrest	77
Form 20—Search Warrant	79
Form 21—Remand Warrant	81
Form 22—Warrant to Imprison (Except for unpaid fine(s))	83
Form 23—Warrant to Imprison (Unpaid fine(s))	86
Form 24—Warrant to Seize Property	88
Form 25—Notice of Appearance	90
Form 26—Application for Compulsory Examination	91
Form 27—Notice of Order	92
Form 28—Notice of Order	94
Form 29—Notice of Committal Mention date and Hand-Up Brief	95
Form 30—List of Information or Other Documents Included in Hand-up Brief	98
Form 31—Application	101
Form 32—Case Direction Notice	102
Form 33—Notice of Committal Proceeding	105

<i>Rule</i>	<i>Page</i>
Form 34—Application for the Fixing of a Longer Period for the Holding of a Committal Mention Hearing	107
Form 35—Application for the Fixing of a Longer Period for the Holding of a Committal Proceeding for a Sexual Offence	108
Form 36—Application for Joint Committal	109
Form 37—Caution to be given to person charged	111
Form 38—Election to Stand Trial without a Committal Proceeding being Conducted	112
Form 39—Committal caution	113
Form 40—Alibi Caution	113
Form 41—Notice of Application for Order that the Evidence of a Person be taken	114
Form 42—Response to Notice of application for Order that the Evidence of a person be taken	115
Form 43—Certified Extract	116
Form 44—Notice of Request for Appearance via Audio Visual Link	117
Form 45—Notice of Application under section 42L of the Evidence (Miscellaneous Provisions) Act 1958	118
Form 46—Notice of Application under section 42M, 42N or 42P of the Evidence (Miscellaneous Provisions) Act 1958	119
Form 47—Application for Time to Pay a Fine	120
Form 48—Application for Community-based Order	122
Form 49—Consent to the Making of a Community-Based Order for Unpaid Work in Lieu of Payment of a Fine	124
Form 50—Notice about the Procedures for Enforcement of Fines	126
Form 51—Notice about the Procedure for Enforcement of a Fine (Bodies Corporate)	128
Form 52—Community-Based Order in Default of Payment of a Fine	129
Form 53—Summons for Failure to Pay a Fine	131
<hr/>	
SCHEDULE 1—Revoked Statutory Rules	133
<hr/> <hr/>	

<i>Rule</i>	<i>Page</i>
ENDNOTES	134
1. General Information	134
2. Table of Amendments	135
3. Explanatory Details	136

Authorised Version No. 003
Magistrates' Court Criminal Procedure
Rules 2009

S.R. No. 181/2009

Authorised Version incorporating amendments as at
10 July 2011

The Chief Magistrate together with 2 Deputy Chief
Magistrates jointly make the following Rules:

ORDER 1—PRELIMINARY

1 Title and object

- (1) These Rules constitute Chapter III of the Rules of the Magistrates' Court and are entitled the Magistrates' Court Criminal Procedure Rules 2009.
- (2) The object of these Rules is to provide for practice and procedure in all criminal proceedings in the Magistrates' Court of Victoria.

2 Authorising provisions

These Rules are made under section 16 of the **Magistrates' Court Act 1989** and section 419 of the **Criminal Procedure Act 2009** and all other enabling powers.

3 Commencement

These Rules come into operation on 1 January 2010.

4 Revocation

The Rules set out in Schedule 1 are **revoked**.

5 Overriding objective

- (1) The overriding objective of these Rules is to enable the Court to secure the just and timely determination of every criminal proceeding.

-
- (2) Dealing with a case in a just and timely manner includes, so far as is practicable—
- (a) ensuring simplicity in procedure, fairness in administration and the elimination of unnecessary delay;
 - (b) efficiently determining all the issues in the case;
 - (c) ensuring an appropriate allocation of the Court's resources, while taking into account the needs of other cases.
- (3) The Court, where practicable, must further the overriding objective by actively case managing criminal proceedings to—
- (a) promote the early resolution of summary proceedings;
 - (b) facilitate accurate and early disclosure of the prosecution case once a proceeding is commenced;
 - (c) encourage parties to discuss issues in dispute relating to disclosure and negotiate outcomes;
 - (d) decide the order in which the issues are to be resolved;
 - (e) fix timetables or otherwise manage the progress of the case;
 - (f) make use of technology to further the overriding objective; and
 - (g) give directions to ensure that the hearing of a case proceeds in a timely manner and efficiently.
- (4) In exercising any power under these Rules or interpreting any Rule the Court must seek to give effect to the overriding objective.

-
- (5) The parties are required to assist the Court to further the overriding objective and to ensure that cases are dealt with fairly and expeditiously.
- (6) For the purpose of subrule (5) the parties are required to assist the Court to minimise delay between the date of commencement of proceedings and their final determination, other than as required to identify the factual and legal issues genuinely in dispute, and for sentencing purposes.

6 Definitions

In these Rules—

endorse means to mark on a file or document the date and venue of the Court;

Infringements Court means the venue of the Court prescribed by Rule 94;

process has the same meaning as it has in section 3 of the **Magistrates' Court Act 1989**;

register means the register of all the orders of the Court and other matters kept under section 18 of the **Magistrates' Court Act 1989**;

registrar means a registrar or deputy registrar of the Magistrates' Court;

the Court means the Magistrates' Court of Victoria.

7 Interpretation and application

- (1) These Rules apply—
- (a) to criminal proceedings commenced under the **Criminal Procedure Act 2009** on or after 1 January 2010; and

-
- (b) to every other criminal proceeding in the Court whether commenced before, on or after the commencement of these Rules, except where otherwise provided by any other Act, regulation or these Rules.
- (2) The Court may make any orders necessary to give effect to the operation of these Rules in relation to a proceeding commenced on or before the commencement of these Rules.
- (3) In exercising any power under these Rules, the Court may give any direction or impose any terms it thinks fit.
- (4) The Court may exercise any power under these Rules—
- (a) of its own motion; or
 - (b) on the application of—
 - (i) a party; or
 - (ii) any person having a sufficient interest in the proceeding.
- (5) If these Rules do not make provision or sufficient provision for a matter, the Court may give any directions or rulings about the matter that the Court considers appropriate.

8 Non-compliance

- (1) Non-compliance with a Rule does not invalidate a proceeding, unless the Court directs or orders otherwise.
- (2) If a Rule has not been complied with, the Court may—
- (a) waive the non-compliance; and
 - (b) set aside all or part of the proceeding; or
 - (c) make any other order it considers appropriate.

9 Content and form of documents

- (1) A document other than a form prescribed by these Rules prepared by a party for use in the Court must be prepared in accordance with this Rule.
- (2) A document must—
 - (a) be headed "In the Magistrates' Court of Victoria at" stating the venue of the Court in which the proceeding is to be heard and determined; and
 - (b) show any identifying number assigned by the Court to the proceeding.
- (3) A document must contain on the front sheet—
 - (a) the title of the proceeding and any identifying number;
 - (b) a short description of the document;
 - (c) the name of the party on whose behalf it is filed;
 - (d) if a legal practitioner prepares the document, the name, address, telephone number, document exchange number, code reference of the legal practitioner's firm and the legal practitioner's reference or name of an individual in the firm to whom reference can be made in respect of the proceeding;
 - (e) if the party on whose behalf the document is filed acts without a legal practitioner, the name, address and telephone number of the party.
- (4) A document must—
 - (a) be on durable paper 297 millimetres by 210 millimetres, the size known as International Paper Size A4; and
 - (b) be capable of receiving writing in ink.

-
- (5) Both sides of the paper may be used, with double spacing between the lines and a left-hand margin of at least 40 millimetres.
 - (6) The text of a document must be clear, sharp, legible and permanent.
 - (7) A document must not bear any erasure or alteration that causes material disfigurement.
 - (8) The Court may require any document in a proceeding to be prepared in any manner it thinks fit.
 - (9) Dates, amounts and other numbers must be expressed in figures and not in words.

10 Stamping of filed documents

Any document filed with the Court shall be stamped by a registrar with the date and venue of the Court.

ORDER 2—CRIMINAL PROCEDURE

PART 1—COMMENCING A PROCEEDING

11 Prescribed forms for commencing a criminal proceeding

The prescribed form for—

- (a) a charge-sheet is Form 1;
- (b) a continuation of charges is Form 2;
- (c) a charge-sheet and summons is Form 3;
- (d) a charge-sheet and summons (corporate accused) is Form 4; and
- (e) a charge-sheet and warrant to arrest is Form 5.

12 Advice in other languages in a criminal proceeding

- (1) In a criminal proceeding information in Form 6 must be included with and form part of—
 - (a) any originating process served on an accused;
 - (b) any process served on a witness; and
 - (c) any witness summons served on a person.
- (2) Information in Form 6 must be included with and form part of any originating process and any other document served on a person in a proceeding for enforcement of a fine.
- (3) Form 6 must be included in and form part of—
 - (a) any notice to appear;
 - (b) any notice accompanying a preliminary brief;
 - (c) any notice accompanying a full brief.

13 Affidavit of service

- (1) An affidavit of service must be in the first person.
- (2) An affidavit of service—
 - (a) must be signed by the deponent; and
 - (b) have the jurat completed and signed by the person before whom it is sworn.
- (3) The person before whom an affidavit of service is sworn must legibly write, type or stamp below his or her signature in the jurat—
 - (a) his or her name and address; and
 - (b) a statement of capacity in which the person has authority to take the affidavit.
- (4) In the case of personal service of a document under section 391 of the **Criminal Procedure Act 2009**, an affidavit of service of a document must state—
 - (a) who served the document and his or her occupation;
 - (b) the time, day of the week and date on which it was served;
 - (c) the place of service; and
 - (d) the manner of identification of the person served.
- (5) In any other case of service of a document under sections 392, 393 and 394 of the **Criminal Procedure Act 2009** the affidavit of service must state with relevant dates the facts constituting service.

14 Form of notice to appear and filing

- (1) A notice to appear served under section 21 of the **Criminal Procedure Act 2009** must be in Form 7.

-
- (2) A notice to appear is to be filed at the Magistrates' Court venue nominated on the notice with a charge-sheet and affidavit of service for the purposes of section 22 of the **Criminal Procedure Act 2009**.

15 Charge-sheet and place of hearing

If a proceeding is commenced by filing a charge-sheet with a registrar at a venue that is not the venue where the proceeding is to be heard for the purposes of section 11 of the **Criminal Procedure Act 2009** the informant must, within 7 days, file a copy of the charge-sheet with the registrar of the proper venue.

16 When the Court directs that a person be prosecuted for contempt

When the Court directs that a person be arrested or brought before the Court for contempt under sections 133 and 134 of the **Magistrates' Court Act 1989** the Court is to inform the accused of the contempt by providing the charge-sheet to the accused.

PART 2—CASE MANAGEMENT AND DISCLOSURE

17 Pre-hearing disclosure notice

- (1) A summons to answer to a charge or a warrant to arrest issued under section 12 or 14 of the **Criminal Procedure Act 2009** must be accompanied by a notice in the form of—
- (a) Form 8 if the charge is—
 - (i) an indictable offence that may be determined summarily and a committal proceeding has not been requested; or
 - (ii) a summary offence.

- (b) Form 9 if the charge is an indictable offence that may not be heard and determined summarily or the charge-sheet contains a request for a committal proceeding.
- (2) Where a notice to appear was served and a charge-sheet filed with the Court a notice in Form 8 or Form 9, as the case requires, must accompany a preliminary brief or full brief.

18 Preliminary brief prescribed notice

- (1) For the purposes of section 37(1)(b) of the **Criminal Procedure Act 2009** the prescribed form of notice to be included in the preliminary brief is notice in Form 10.
- (2) When serving a preliminary brief in accordance with section 24 of the **Criminal Procedure Act 2009**, an informant shall provide the accused a copy of the Notice to Appear served.

19 Full brief prescribed notice

For the purposes of section 41(1)(a) of the **Criminal Procedure Act 2009** the prescribed form of notice to be included in the full brief is notice in Form 11.

PART 3—APPLICATIONS, ORDERS AND NOTICES

20 Adjournment of a proceeding by a registrar

When an accused makes an application to a registrar to adjourn a proceeding under section 20 of the **Criminal Procedure Act 2009** the registrar may refer the matter to a Magistrate for determination.

21 Summary case conference

The parties to a summary case conference shall engage in meaningful discussion relating to pre-trial disclosure, issues in dispute and the prospects for resolution of charges.

22 Request for contested summary hearing

A request for a matter to be listed for a contested summary hearing shall be in Form 12 and filed with the registrar of the Court.

23 Registrar or judicial registrar may dispense with summary case conference requirement

The Court constituted by a registrar or judicial registrar may dispense with the requirement to conduct a summary case conference where an accused is not legally represented under section 54(6) of the **Criminal Procedure Act 2009**.

24 Witness summons in a criminal proceeding

- (1) For the purposes of section 43 of the **Magistrates' Court Act 1989**, a witness summons must be in Form 13.
- (2) A witness summons to give evidence or to give evidence and produce documents or things must be directed to one person.
- (3) Where a witness summons relates to a corporate accused it may be directed to one or more persons.

25 A witness summons for the production of a document or thing—confidential communications

- (1) A party seeking to compel another party to produce a document must do so 14 days before the proceeding, unless directed otherwise by the Court.
- (2) Where leave is granted under section 32C(2) of the **Evidence (Miscellaneous Provisions) Act 1958** the witness summons is, where possible to

be made returnable before, the Magistrate who granted leave.

26 Notice of alibi

For the purposes of section 51(5) of the **Criminal Procedure Act 2009** a notice of alibi is to be in Form 14.

27 Objection to production and inspection of protected documents and things

- (1) When a protected person produces any sealed document or other thing in answer to a subpoena in accordance with section 107 of the **Police Integrity Act 2008** a registrar must acknowledge receipt by signing the record provided.
- (2) Where a protected person gives notice of an objection to the production of any document or other thing under section 107(2) of the **Police Integrity Act 2008** and applies to the Court for the determination of the application, the matter will be listed for a directions hearing.

28 Case abridgement application

- (1) An application to abridge a court hearing date under section 331(3) of the **Criminal Procedure Act 2009** must be in Form 15.
- (2) The applicant must file the application referred to in subrule (1) with the Court and notify the respondent of the application.

29 Issuing of certificate to a victim of identity crime

- (1) An application for an identity crime certificate under section 89F **Sentencing Act 1991** must be in Form 16.
- (2) The prescribed form of identity crime certificate under section 89F **Sentencing Act 1991** is Form 17.

30 Certifying payment to Crown witness

A registrar or a deputy registrar may certify a payment of allowances and expenses to a Crown witness.

Note

See amounts fixed by regulation under section 152 of the **Evidence (Miscellaneous Provisions) Act 1958**.

31 Application for rehearing

An application for a rehearing under section 88 of the **Criminal Procedure Act 2009** must be in Form 18.

ORDER 3—WARRANTS

32 Form of a warrant to arrest and issue for non-appearance of the accused

A warrant to arrest issued under section 61 of the **Magistrates' Court Act 1989** or under the **Criminal Procedure Act 2009** must be in Form 19.

33 Form of a search warrant

A search warrant issued under section 75 of the **Magistrates' Court Act 1989** must be in Form 20.

34 Form of a remand warrant

A remand warrant issued under section 79 of the **Magistrates' Court Act 1989** must be in Form 21.

35 Form of a warrant to imprison

A warrant to imprison issued under section 68(a) or section 68(c) of the **Magistrates' Court Act 1989** must be in Form 22.

36 Form of a warrant to imprison for unpaid fines

A warrant to imprison issued under section 68(b) of the **Magistrates' Court Act 1989** must be in Form 23.

37 Warrant to seize property application

A warrant to seize property issued for the enforcement of an order made by the Court in a criminal proceeding must be in Form 24.

37A Execution of warrant to seize property

- (1) Money or bank notes belonging to a person named or described in a warrant may be seized under a warrant to seize property issued for the enforcement of an order made by the Court in a criminal proceeding but need not be sold.

Rule 37A
inserted by
S.R. No.
59/2011 rule 4.

-
- (2) Cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to the person named or described in the warrant may be seized under a warrant to seize property issued for the enforcement of an order made by the Court in a criminal proceeding and may be held as security for money due under an order or the unsatisfied part of an order.
- (3) For the purposes of property held as security for money under paragraph (2), when payment becomes due, the person to whom the warrant is directed—
- (a) may demand and receive payment of the money; and
 - (b) may sue in any proper court in the name of the defendant or in the name of any person in whose name the person named or described in the warrant might have sued for the recovery of the money secured or payable.

37B Application of Supreme Court rules, practice and procedure

Rule 37B
inserted by
S.R. No.
59/2011 rule 4.

Subject to this Order, the rules, practice and procedure of the Supreme Court which apply to or are adopted by the sheriff in the execution of warrants of execution apply, with any necessary modification, to the execution of warrants to seize property issued for the enforcement of an order made by the Court in a criminal proceeding.

ORDER 4—COMMITTAL PROCEEDING

PART 1—APPEARANCE

38 Notice of Appearance

- (1) A legal practitioner who represents an accused in a committal proceeding must file in the Court and serve on the informant and the DPP or other person or body authorised at law to prosecute in the committal proceeding a Notice of Appearance in Form 25.
- (2) The filing and service of a Notice of Appearance required by subrule (1) must take place as soon as practicable after a legal practitioner has received instructions to represent the accused.

39 Prosecution to provide relevant contact details

- (1) Within 7 days after receipt of a Notice of Appearance, the DPP or the other person or body authorised at law to prosecute in the committal proceeding must advise the legal practitioner of the following relevant contact details—
 - (a) the name and address of the prosecutor handling the matter; and
 - (b) a fax number, an email address, DX number or address of usual business for the service of documents on the DPP or the other person or body authorised at law to prosecute in the committal proceeding; and
 - (c) a fax number, an email address, DX number or address of usual business for the service of documents on the informant.

- (2) If 21 days before the committal mention date the DPP or other person or body authorised at law to prosecute in the committal proceeding has not received a Notice of Appearance, the DPP or the other person or body must advise the Court of the relevant contact details.

40 Legal practitioner ceasing to act

If a legal practitioner ceases to act for a party in a committal proceeding, the legal practitioner must as soon as possible—

- (a) file notice in the Court that he or she has ceased to act; and
- (b) serve a copy on the informant and the DPP or other person or body authorised at law to prosecute in the committal proceeding.

PART 2—SERVICE

41 Mode of service

In a committal proceeding, service of a document by a party may be effected on an accused, by fax or electronic transmission by sending the document to the fax number or email address of the accused's legal practitioner as advised in Form 25.

Note

See section 392 of the **Criminal Procedure Act 2009** for service of documents on informant or DPP.

42 Copy of document served by electronic transmission to be provided upon request

The original document, (if a copy of a document was served by fax or email), must be retained by the party serving the document and must be provided to the Court if the Court so requests.

PART 3—FILING HEARINGS

43 Orders and directions at filing hearing

At a filing hearing under section 101 of the **Criminal Procedure Act 2009**, the Court may fix a committal mention date on a day according to the listing protocols of the Court after the commencement of the proceeding or on such other day as the Court considers appropriate.

PART 4—COMPULSORY EXAMINATION PROCEDURE

44 Form of application

An application under section 103 of the **Criminal Procedure Act 2009** for a person to attend before the Court for the purpose of being examined by or on behalf of the informant or producing a document or thing or both must be in Form 26.

45 Form of notice of order

For the purposes of section 105 of the **Criminal Procedure Act 2009**, notice of an order requiring a person to attend before the Court must be—

- (a) in Form 27, if it is to be served on the accused; or
- (b) in Form 28, if it is to be served on the person to whom the order relates.

PART 5—PRE-HEARING DISCLOSURE

46 Notice and list of information or other documents to accompany hand-up brief

- (1) For the purpose of section 110(1)(a) of the **Criminal Procedure Act 2009** the prescribed form of notice is Form 29.

- (2) A list of information or other documents contained in a hand-up brief under section 110 of the **Criminal Procedure Act 2009** must be in Form 30.

47 Application to permit accused to be absent from committal hearing

- (1) An application for an accused to be absent from a committal hearing under section 135 of the **Criminal Procedure Act 2009** must be in Form 31.
- (2) An application under subrule (1) must be made 7 days before the first day of absence from the committal hearing, unless otherwise directed by the Court.

PART 6—CASE DIRECTION

48 Prescribed form of case direction notice

For the purpose of section 119(a) of the **Criminal Procedure Act 2009** the prescribed form of a case direction notice is Form 32.

PART 7—COMMITTAL MENTION AND CASE CONFERENCE

49 Notice of committal proceeding

On the conclusion of the filing hearing, the registrar must provide the accused with a notice in Form 33.

50 Application to Court to fix a longer period for the holding of a committal mention hearing

If the Court has fixed a committal mention date, an application under section 126 of the **Criminal Procedure Act 2009** for the Court to fix a longer period for the holding of a committal mention hearing must be in Form 34.

51 Application to Court to fix longer period for determining of committal proceedings

In any committal proceeding for a sexual offence to which section 99 of the **Criminal Procedure Act 2009** applies an application for the fixing of a longer period for determining the committal proceeding under section 99(3) of that Act must be in Form 35.

52 Closing of a committal case conference

- (1) If the Court directs the parties to attend a committal case conference, the legal practitioners representing the informant and the accused must attend the conference.
- (2) The purpose of the committal case conference is to assist the effective management of the committal proceeding and timely resolution of issues.
- (3) The Court may order, pursuant to section 125 of the **Magistrates' Court Act 1989**, that the whole or any part of the committal case conference be heard in closed court, if it is satisfied that this is necessary to achieve the objective set out in paragraph (2).

PART 8—COMMITTAL HEARING

53 Application for a joint committal

- (1) An application for a joint committal under section 25(4) of the **Magistrates' Court Act 1989** must be made in Form 36.
- (2) The registrar of the Court must notify the Children's Court of any application for a joint committal.
- (3) The registrar of the Court must provide a copy of an order made by the Court for a joint committal to the registrar of the Children's Court.

54 Caution to be given to person charged

For the purposes of section 141(2) of the **Criminal Procedure Act** and as provided by section 398 of the **Crimes Act 1958**, the caution set out in section 398 of the **Crimes Act 1958** and in Form 37 may be used by the Court.

PART 9—DETERMINATION OF COMMITTAL PROCEEDING

55 Notice of election to stand trial

Where an accused elects to stand trial without a committal proceeding under section 143 of the **Criminal Procedure Act 2009**, a notice in Form 38 must be filed with the Court.

56 Committal caution

For the purposes of section 144(2)(b)(iii) of the **Criminal Procedure Act 2009**, the Court may inform the accused by using the manner of caution set out in Form 39.

57 Alibi caution

For the purposes of section 144(2)(b)(i) of the **Criminal Procedure Act 2009**, the Court may inform the accused of the provisions of section 190 of the **Criminal Procedure Act 2009** by using the manner of caution set out in Form 40.

58 Legal aid warning

For the purposes of section 144(2)(a) of the **Criminal Procedure Act 2009**, the following caution or a caution to the same effect must be read to the accused—

"I am required to inform you of the importance of obtaining legal representation for the trial and that if you wish to be legally aided, it is your responsibility to make an

application to Victoria Legal Aid as soon as possible.".

PART 10—PROCEDURE AFTER COMMITTAL

59 Application to grant or revoke bail after the accused is committed to trial

An application for the granting, variation or revocation of trial bail after the date on which the committal proceedings have been concluded must—

- (a) in the case of a variation, be in Form 14 under the Bail Regulations 2003¹; and
- (b) be filed with the Court and served, unless the Court otherwise directs.

PART 11—TAKING EVIDENCE AFTER ACCUSED COMMITTED FOR TRIAL

60 Form of notice of application

For the purpose of section 149 of the **Criminal Procedure Act 2009**, notice of an application for an order that the evidence of a person be taken at a time and place fixed by the Court must be in Form 41.

61 Response to notice of application

When a party receives a notice referred to in Rule 64 a response must be given to the other party and the registrar in Form 42.

PART 12—GENERAL

62 Applications for summary hearing of indictable offences

- (1) An application for a summary hearing of an indictable offence listed for a committal hearing must be in writing, filed with the Court and served

on the informant, unless the Court otherwise directs.

- (2) If the application for a summary hearing is granted by a magistrate in relation to the hearing of an indictable offence, so far as practicable, the matter will thereafter proceed before that Magistrate.

63 Form of application

Unless otherwise provided by these Rules or by or under any Act, an application in a committal proceeding must be in Form 31.

64 Filing of application

Unless otherwise provided by these Rules or by or under any Act, an application is made by filing the application with the registrar.

65 Service of application

The applicant must serve a copy of an application on every person to whom notice of the application is to be given within a reasonable time before the hearing of the application.

66 Application for a special mention hearing

- (1) A party may apply to the Court for a special mention hearing.
- (2) An application must—
- (a) set out the purpose of the application for the special mention hearing; and
 - (b) be in Form 31.
- (3) The Court may of its own motion conduct a special mention hearing to adequately control and oversee the progress of the committal proceeding.

67 Parties may request registrar to cancel a special mention hearing

- (1) If the parties agree that a special mention hearing should be cancelled, the parties may request the registrar cancel the special mention hearing.
- (2) When the registrar is satisfied that there is no need for a special mention hearing, the registrar may cancel the special mention hearing.
- (3) A request must be made before the date of the special mention hearing.

68 Statements prepared in another jurisdiction

For the purposes of section 112(1)(c) of the **Criminal Procedure Act 2009**, a statement made in another jurisdiction of Australia is in the prescribed form and is attested to in the prescribed manner if it has been made and attested to in accordance with the law for making and attesting statements in committal proceedings in that other jurisdiction.

ORDER 5—APPEALS

PART 1—PRELIMINARY

69 Application

These Rules apply to any appeal from the Magistrates' Court—

- (a) to the County Court under Part 6.1 of Chapter 6 of the **Criminal Procedure Act 2009**; and
- (b) to the Supreme Court under Part 6.2 of Chapter 6 of the **Criminal Procedure Act 2009**.

Note

Refer to the County Court Rules or the Supreme Court Rules for prescribed forms relating to appeals and how an appeal may be abandoned.

**PART 2—APPEALS TO THE COUNTY COURT UNDER
PART 6.1 OF CHAPTER 6 OF THE CRIMINAL PROCEDURE
ACT 2009**

**70 Procedure on appeal from Magistrates' Court to
County Court**

- (1) The registrar must record in the register the filing of a notice of appeal under section 255, section 258 or section 261 of the **Criminal Procedure Act 2009**.
- (2) When a notice of appeal is filed the registrar must contact the County Court to obtain a date of hearing for the appeal.
- (3) The registrar must recall and cancel any process in relation to the sentence to which the appeal relates, subject to section 29 of the **Road Safety Act 1986**.

-
- (4) If bail pending appeal is granted under section 265 of the **Criminal Procedure Act 2009** the registrar must recall and cancel any process in relation to a custodial sentence to which the appeal relates.
- (5) The registrar must forward the following to the County Court when a notice of appeal is filed—
- (a) a copy of the notice of appeal filed;
 - (b) the original charge-sheet;
 - (c) the undertaking of bail by the appellant and surety, if any;
 - (d) the affidavit of justification or declaration of justification made by the surety for bail, if any;
 - (e) the certified extract of the Court order;
 - (f) the exhibit sheet and witness cost sheet; and
 - (g) the address and telephone number of the Court where the sentence or conviction was made.
- (6) A copy of the charge-sheet, undertaking of bail, affidavit of justification or declaration of justification made by the surety for bail, exhibit sheet, witness cost sheet and the digital recording of the proceeding that imposed the sentence must be retained by the registrar in a Court file.
- (7) The registrar must forward a copy of the notice of appeal, certified extracts of the Court order, and the notification of appeal to the DPP when an appeal is commenced under section 255 of the **Criminal Procedure Act 2009**.

Note

The County Court Rules prescribe the form of the notice of appeal.

71 Recall and cancel process when an application for a stay is granted

- (1) If the Court grants an application for a stay under section 29(2) of the **Road Safety Act 1986** the registrar must notify the Roads Corporation and the County Court.
- (2) The registrar must recall and cancel any process in relation to the sentence to which the stay was ordered.

72 Application for leave following late filing of appeal to the County Court

- (1) When a notice of appeal is filed more than 28 days after the day on which the sentence of the Court was imposed the registrar must record in the register that an application for leave to appeal has been made under section 263 of the **Criminal Procedure Act 2009**.
- (2) When an application for leave to appeal is recorded under subrule (1) the registrar must recall and cancel any process issued to give effect to a sentence that is the subject of the appeal.

Note

A stay of sentence applies to an application for leave to appeal, as if it were an appeal, see section 3 and section 264 of the **Criminal Procedure Act 2009**.

73 Application to set aside an order striking out an appeal in the County Court

The registrar must record in the register that an application to the County Court to set aside an order striking out an appeal under section 267(3) of the **Criminal Procedure Act 2009** has been granted when notified by the County Court.

**PART 3—APPEALS TO THE SUPREME COURT UNDER
PART 6.2 OF CHAPTER 6 OF THE CRIMINAL PROCEDURE
ACT 2009**

**74 Filing of an appeal from the Magistrates' Court to
the Supreme Court on a question of law**

The registrar must record in the register when a copy of the notice of appeal filed in the Supreme Court is delivered to the registrar.

**75 When the Supreme Court stays a Magistrates'
Court order**

- (1) When informed that the Supreme Court has ordered a stay of an order made by the Magistrates' Court under section 272(11) of the **Criminal Procedure Act 2009** the registrar must recall any process issued to give effect to that order.
- (2) Where the Supreme Court has ordered a stay of the operation of an order under section 29(2) of the **Road Safety Act 1986** the registrar must notify the Roads Corporation.

**76 When the Supreme Court makes an order remitting
a case for rehearing to the Magistrates' Court**

When informed that the Supreme Court has made an order under section 272 of the **Criminal Procedure Act 2009** remitting to the Court a case for rehearing, the registrar must re-list the matter before the Court.

**ORDER 6—AUTHENTICATION OF ORDERS AND
WARRANTS**

77 Certified extract of an order

A certified extract of an order of the Court issued under section 18(5) of the **Magistrates' Court Act 1989** must be in Form 43.

78 Particulars of warrants to be entered in the register

For the purposes of section 57(2) of the **Magistrates' Court Act 1989**, the following particulars are prescribed—

- (a) type of warrant issued;
- (b) date of issue of warrant;
- (c) in the case of a warrant to seize property or a warrant to imprison issued for non-payment of a fine—
 - (i) the sum in respect of which the warrant is issued; and
 - (ii) the person to whom the warrant is directed for execution.

79 Authentication of warrants

For the purposes of section 57(9) of the **Magistrates' Court Act 1989** the execution copy of a warrant produced by a computer data storage and retrieval system may be authenticated by the person who issued the warrant including on that copy—

- (a) his or her name; and
- (b) the date of issue of the warrant.

80 Authentication of a digital recording

- (1) When a request is made under section 65(6) of the **Evidence Act 2008** to produce a digital recording of a representation made in the Court a registrar must file a written request for consideration by the Chief Magistrate.
 - (2) Where a request is approved by the Chief Magistrate the registrar must authenticate the digital recording by endorsing it with the Magistrates' Court case file number and date of the evidence.
-

ORDER 7—TRANSFER OF SUMMARY PROCEEDINGS

81 Transfer of related summary proceeding on or after committal to the Supreme Court or County Court

The registrar must forward the following for a transfer of a related summary offence under section 145 of the **Criminal Procedure Act 2009** to the Supreme Court or County Court as the case requires—

- (a) the Magistrates' Court case file number;
- (b) the original charge-sheet;
- (c) the address and telephone number of the Court where the proceeding for the summary offence was commenced;
- (d) where the accused has been admitted to bail, the undertaking, and a surety's affidavit of justification or declaration of justification.

82 Transfer of an offence that a Magistrate refused to hear and determine summarily

The registrar must notify the County Court or Supreme Court of any order of a Magistrate that a charge is not appropriate to be heard and determined summarily for the purposes of a transfer under section 168 of the **Criminal Procedure Act 2009**.

83 Transfer of a summary offence that is not a related summary offence to the Supreme Court or County Court

- (1) When notified of an order to transfer a summary offence that is not a related summary offence to the Supreme Court or County Court under section 243 of the **Criminal Procedure Act 2009** the registrar must forward the following to the relevant court—
 - (a) the Magistrates' Court case file number;

-
- (b) the original charge-sheet;
 - (c) the address and telephone number of the Court where the proceeding for the summary offence was commenced;
 - (d) where the accused has been admitted to bail, the undertaking, and a surety's affidavit of justification or declaration of justification.
- (2) The registrar must record in the register when a summary offence that is not a related summary offence has been transferred under section 243 of the **Criminal Procedure Act 2009**.
-

ORDER 8—GENERAL

84 Last known place of residence or business for the purpose of service

For the purposes of section 394 of the **Criminal Procedure Act 2009**, the last known place of residence or business of an accused is to be ascertained as follows—

- (a) the address given by the accused during the investigation of the offence; or
- (b) the address of the accused appearing on any valid licence, registration or authority held by the accused and issued under any other Act under which the accused is to be charged; or
- (c) if the alleged offence arises out of the driving or use of a motor vehicle, the address of the accused appearing on—
 - (i) the driver licence produced by the accused at the time of or during the investigation of the offence; or
 - (ii) the certificate of registration of the motor vehicle issued under the **Road Safety Act 1986** or under any corresponding Act or law of any other State or Territory; or
- (d) if the alleged offence arises out of the use of a vessel within the meaning of the **Marine Act 1988**, the address of the accused appearing on the certificate of registration of the vessel as prescribed under the **Marine Act 1988** or under any corresponding Act or law of any other State or Territory.

85 Issue of some warrants to seize property

For the purposes of section 73(3AA) of the **Magistrates' Court Act 1989** the prescribed particulars are—

- (a) the direction of the warrant to the sheriff;
and
- (b) the sum in respect of which the warrant is issued.

86 Prescribed member of a class of persons who may witness statements

For the purposes of clause 30 of Schedule 3 to the **Criminal Procedure Act 2009** the following person, or member of a class of persons who may witness statements in a preliminary brief, full brief or hand-up brief are—

- (a) an officer at Australian Public Service Level 5 or higher who is an investigator in the Commonwealth Department of the Environment, Water, Heritage and the Arts;
- (b) a person employed by the Registry of Births, Deaths and Marriages at the Victorian Public Service Grade 5 or higher with the delegated authority of the registrar under the **Births, Deaths and Marriages Registration Act 1996**;
- (c) an officer of a Commonwealth Government Department or Agency at or equivalent to Australian Public Service Level 5 or higher who has an investigatory role or function;

Rule 86(c)
amended by
S.R. No.
18/2011
rule 4(a).

(d) an inspector appointed under the **Legal Profession Act 2004**.

Rule 86(d)
inserted by
S.R. No.
18/2011
rule 4(b).

Note

Refer to Schedule 3 to the **Criminal Procedure Act 2009** for other persons who may witness statements in a preliminary brief, full brief or hand-up brief.

ORDER 9—AUDIO VISUAL OR AUDIO LINKING

87 Definition

In this Order, *the Act* means the **Evidence (Miscellaneous Provisions) Act 1958**.

88 Request for appearance via audio visual link

Notice of a request for the appearance of an accused via audio visual link under section 42K of the Act must be—

- (a) filed with the Court Coordinator; and
- (b) in Form 44.

89 When a person may appear by audio visual link or audio link

Unless the Court otherwise directs, an application under section 42E(1) of the Act must be made in accordance with Order 16A of the Magistrates' Court Civil Procedure Rules 2009².

90 Application for the physical appearance of a person when otherwise not required

Unless the application is made in accordance with section 42L(5) of the Act—

- (a) notice of an application under section 42L of the Act must be in Form 45; and
- (b) a copy of the notice must be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

91 Application for appearance of a person by audio visual link where physical appearance otherwise required

Unless the application is made in accordance with section 42M(5) of the Act—

- (a) notice of an application under section 42M of the Act must be in Form 46; and
- (b) a copy of the notice must be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

92 Application for direction a person appear by audio visual link

Unless the application is made in accordance with section 42N(3) of the Act—

- (a) notice of an application under section 42N of the Act must be in Form 46; and
- (b) a copy of the notice must be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

93 Application for direction a child appear by audio visual link

Unless the application is made in accordance with section 42P(5) of the Act—

- (a) notice of an application under section 42P of the Act must be in Form 46; and
- (b) a copy of the notice must be served as soon as practicable after the notice has been filed; and
- (c) service may be by pre-paid post.

ORDER 10—INFRINGEMENTS COURT AND FINES

PART 1—INFRINGEMENTS COURT

94 Infringements Court

The venue of the Court prescribed under section 16(1A)(m) of the **Magistrates' Court Act 1989** at which any particular proceeding or class of proceeding or procedure set out in the **Infringements Act 2006** is to be brought is 444 Swanston Street Carlton.

95 Appearance by audio visual link Infringements Court

Notice of the appearance of an accused via audio visual link under section 42K of the **Evidence (Miscellaneous Provisions) Act 1958** must be—

- (a) filed with the Court Coordinator; and
- (b) in Form 44.

PART 2—FINES

96 Definitions

In this Part—

offender means a person on whom the Court has imposed a fine;

person in default means a person who has failed to pay a fine or an instalment under an instalment order and includes a director of a body corporate who is the subject of a declaration under section 91 of the **Infringements Act 2006**;

regional manager, in relation to an intensive correction order or a community-based order, means the person appointed under Part 4 of the **Corrections Act 1986** to be the Regional Manager of the region in which the

community corrections centre specified in the order is located.

97 Proper officers

For the purposes of Division 4 of Part 3 of the **Sentencing Act 1991**, all registrars and deputy registrars are proper officers of the Court.

98 Application for time to pay, instalment order or variation of instalment order

An application under section 55 of the **Sentencing Act 1991** by an offender must be made by—

- (a) making an oral application to the proper officer during normal business hours and, in the case of an application under section 55(1)(d) of that Act, filing a completed Form 48 with the proper officer; or
- (b) if the offender—
 - (i) is resident outside Victoria; or
 - (ii) is held in a prison, police gaol or youth justice centre; or
 - (iii) is unable to attend personally because of illness, infirmity or distance from the Court—

by sending, in the case of an application under section 55(1)(a), 55(1)(b) or 55(1)(c) of that Act, a completed Form 47; and

- (c) in the case of an application under section 55(1)(d) of that Act, a completed Form 48 by post to the proper officer.

99 Consideration of application

- (1) The proper officer must consider an application under section 55(1) or 55(2) of the **Sentencing Act 1991** as soon as practicable.

-
- (2) In considering an application the proper officer may—
- (a) question the offender about his or her financial circumstances; and
 - (b) require the offender to produce any document concerning his or her financial circumstances that is reasonably accessible to the offender.
- (3) The proper officer may—
- (a) adjourn an application for a total period not exceeding 28 days from the day on which the application is considered by the proper officer; and
 - (b) stay execution of the fine during the adjournment.

100 Determination of the application

- (1) An order made under section 55(1)(a) of the **Sentencing Act 1991** for time to pay a fine must include the date by which the fine is to be paid.
- (2) An instalment order or variation of an instalment order made under section 55(1)(b) or 55(1)(c) of the **Sentencing Act 1991** must include—
 - (a) the total amount to be paid; and
 - (b) the amount of each instalment; and
 - (c) the date on which each instalment must be paid.
- (3) A community-based order made under section 55(1)(d) of the **Sentencing Act 1991** must be in Form 50.
- (4) The proper officer must cause a copy of the order to be delivered to the applicant personally or by post without delay.

101 Enforcement of fines against a natural person

- (1) The prescribed form for a consent under section 62(7)(b) of the **Sentencing Act 1991** to the making of a community-based order requiring a person in default to perform unpaid community work is Form 49.
- (2) The statement in writing required by section 62(8) of the **Sentencing Act 1991** must be in Form 50.
- (3) A community-based order under section 62(9) of the **Sentencing Act 1991** requiring a person in default to perform unpaid community work must be in Form 52.

102 Enforcement of fine against body corporate

A statement in writing required by section 66(3) of the **Sentencing Act 1991** to be delivered by the person making a demand for payment to a body corporate in default—

- (a) must be in Form 51; and
- (b) may be served by leaving it at the registered office of the body corporate.

103 Summons for warrant to seize property returned unsatisfied

- (1) The form of a summons issued under section 64(1) of the **Sentencing Act 1991** is Form 53.
- (2) A summons under section 64(1) of the **Sentencing Act 1991** may be issued by a registrar of the Court under the direction of a magistrate.
- (3) If the last known address of the person in default is within Victoria, a summons issued under paragraph (2) may be served by post directed to that address.

(4) If a person in default—

- (a) has been taken into custody in accordance with a warrant to arrest issued under section 64 of the **Sentencing Act 1991**; and
- (b) the outstanding amount of the fine specified in the warrant is paid—

the person may be released from custody without being taken before the Court.

104 Declaration of liability of a director for offence of body corporate

The informant or police prosecutor must give notice of an application for a declaration under section 50(6) of the **Sentencing Act 1991** to any person who was a director of the body corporate at the time of the commission of the offence by—

- (a) not less than 14 days before the date of hearing of the application posting a true copy of the application addressed to the director at his or her last known place of residence or business; or
- (b) not less than 5 days before the date of hearing of the application—
 - (i) delivering to the director personally a true copy of the application; or
 - (ii) leaving a true copy of the application for the director at his or her last known place of residence or business with a person who apparently resides or works there and who is apparently not less than 16 years old.

FORMS

FORM 1

Rule 11

CHARGE-SHEET

To the Accused

Date of Hearing
M F

Date of Birth

Registration No. State
Licence No. State

You have been charged with an offence.

Read these pages to see what you must do.

Details of the charge against you

1. What is the charge?

(Description of offence)

Under what law?

State Act Act or Regulation No. Section or Clause (Full Ref.)

Commonwealth Regulation Other—specify

Are there more charges? No Yes—see 2 below

Type of offence Summary offence Indictable offence

Request for committal proceeding No Yes

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 1

2. What is the charge?

(Description of offence)

Under what law?	<input type="checkbox"/> State	<input type="checkbox"/> Act	Act or Regulation No.	Section or Clause (Full Ref.)
	<input type="checkbox"/> Commonwealth	<input type="checkbox"/> Regulation		
		<input type="checkbox"/> Other—specify		
Are there more charges?	<input type="checkbox"/> No		<input type="checkbox"/> Yes—see "Continuation of Charges" attached	
Type of offence	<input type="checkbox"/> Summary offence		<input type="checkbox"/> Indictable offence	
Request for committal proceeding	<input type="checkbox"/> No		<input type="checkbox"/> Yes	

Who filed the charge-sheet(s)?

(Informant):

Agency and Address:

Phone:

Email:

Fax No.:

Agency Ref.:

Signature of Informant:

Date:

Filed at:

Date:

FORM 2

Rule 11

CONTINUATION OF CHARGES

Page No.

Person charged:

(Description of offence)

<input type="checkbox"/> State	<input type="checkbox"/> Act	Act or Regulation No.	Section or Clause (Full Ref.)
<input type="checkbox"/> Commonwealth	<input type="checkbox"/> Regulation		
	<input type="checkbox"/> Other— specify		
<input type="checkbox"/> Summary offence		<input type="checkbox"/> Indictable offence	
Request for committal proceeding	<input type="checkbox"/> No		<input type="checkbox"/> Yes

(Description of offence)

<input type="checkbox"/> State	<input type="checkbox"/> Act	Act or Regulation No.	Section or Clause (Full Ref.)
<input type="checkbox"/> Commonwealth	<input type="checkbox"/> Regulation		
	<input type="checkbox"/> Other— specify		
<input type="checkbox"/> Summary offence		<input type="checkbox"/> Indictable offence	
Request for committal proceeding	<input type="checkbox"/> No		<input type="checkbox"/> Yes

Are there more charge(s)? No Yes—see page No.

Signature of Informant:

Agency and Address:

Phone:

Email:

Fax No.:

Agency Ref.:

Signature of Registrar:

Date:

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 2

Filed at:

Date:

FORM 3

Rule 11

CHARGE-SHEET AND SUMMONS

To the
Accused

M F Date of Birth

Registration No. State

Licence No. State

You have been charged with an offence.
Read these pages to see what you must do.

Details of the charge against you

What is the charge?

(Description of offence)

Under what law? State Act Act or Regulation No. Section or Clause (Full Ref.)

Commonwealth Regulation Other—specify

Are there more charges? No Yes—see "Continuation of Charges" attached

Type of offence Summary offence Indictable offence

Request for committal proceeding No Yes

Who filed the charge-sheet(s)?
(Informant)

Agency and Address:

Phone:

Email:

Fax No.:

Agency Ref.:

Signature of Informant:

Date:

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 3

Filed at:

Date:

Where will the case be heard?

The Magistrates' Court at [*venue*]

Address

Phone

When

Time

Day

Month

Year

Details about this summons

Issued at:

Date:

Registrar:

Magistrate:

Member of the police force:

Prescribed person:

FORM 4

Rule 11

**CHARGE-SHEET AND SUMMONS
(CORPORATE ACCUSED)**

To the
Corporate Accused:

Registration No. State
Licence No. State

You have been charged with an offence.

Read these pages to see what you must do.

Details of the charge against you

What is the charge?

(Description of offence):

If you do not appear in answer to a summons and the charge is an indictable offence that may be determined summarily the Magistrates' Court may hear and determine the charge in your absence.

If you do not appear in answer to a summons for an indictable offence the Magistrates' Court may conduct a committal proceeding in your absence.

Under what law?	<input type="checkbox"/> State	<input type="checkbox"/> Act	Act or Regulation No.	Section or Clause (Full Ref.)
	<input type="checkbox"/> Commonwealth	<input type="checkbox"/> Regulation		
		<input type="checkbox"/> Other—specify		
Are there more charges?	<input type="checkbox"/> No		<input type="checkbox"/> Yes—see "Continuation of Charges" attached	
Type of offence	<input type="checkbox"/> Summary offence		<input type="checkbox"/> Indictable offence	
Request for committal proceeding	<input type="checkbox"/> No		<input type="checkbox"/> Yes	

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 4

Who filed the charge-sheet(s)?
(Informant)

Agency and Address:

Phone:

Email:

Fax No.:

Agency Ref.:

Signature of Informant:

Date:

Filed at:

Date:

Where will the case be heard?

The Magistrates' Court at [*venue*]

Address

Phone

When

Time

Day

Month

Year

Details about this summons

Issued at:

Date:

Registrar:

Magistrate:

Member of the police force:

Prescribed person:

FORM 5

Rule 11

CHARGE-SHEET AND WARRANT TO ARREST

To the
Accused

M	F	Co.	Date of Birth
Registration No.			State
Licence No.			State

You have been charged with an offence.

Read these pages to see what you must do.

Details of the charge against you

What is the charge?

(Description of offence):

Under what law?	<input type="checkbox"/> State	<input type="checkbox"/> Act	Act or Regulation No.	Section or Clause (Full Ref.)
	<input type="checkbox"/> Common- wealth	<input type="checkbox"/> Regulation		
	<input type="checkbox"/> Other— specify			

Type of offence Summary offence Indictable offence

Request for committal proceeding No Yes

Who filed charge(s)?
(Informant)

Agency and Address:

Phone:

Email:

Fax No.:

Agency Ref.:

Signature of Informant:

Date:

Charge-sheet filed at:

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 5

Date:

Request for Issue of a Warrant to Arrest

I apply for the issue of a warrant to arrest on the following grounds:

Warrant to arrest

To all members of the police force

You are authorised to break, enter and search any place where the person named in this warrant is suspected to be, to arrest that person and bring him or her before a Bail Justice or the Court as soon as practicable to be dealt with according to law or cause the person to be released on bail in accordance with the endorsement on this warrant.

I am satisfied by the evidence before me that a Warrant should be issued on the following grounds:

- it is probable the person will not answer a summons
- the person has absconded or is likely to abscond
- the person is avoiding the service of a summons
- the warrant is required authorised by another Act namely
- other

Issued at

Date

Before

Registrar

Magistrate

FORM 6

Rule 12

DO NOT IGNORE THIS NOTICE

Do not ignore this notice.

If you do not understand this notice, you should get someone to interpret it for you immediately.

Seek legal advice.

A legal practitioner can help you decide what steps you need to take.

For free legal information or to speak to a legal practitioner call:

Victoria Legal Aid [*insert telephone number*]

Federation of Community Legal Centres to find the centre closest to you [*insert telephone number*]

Victoria Aboriginal Legal Service [*insert telephone number*]

(Information to the effect of this advice to be printed in English, Arabic, Cambodian, Chinese, Greek, Italian, Polish, Russian, Spanish, Turkish and Vietnamese languages.)

Form 7

FORM 7

Rule 14

NOTICE TO APPEAR

(Section 21 of the **Criminal Procedure Act 2009**)

Person served:

Family name:

First name(s):

Street name and number:

Suburb/Town:

Postcode:

Date of birth:

YOU ARE REQUIRED TO APPEAR BEFORE THE MAGISTRATES'
COURT AT

[Full street address of the venue of the court]

ON

AT

[Date]

[Time]

YOU ARE SUSPECTED OF HAVING COMMITTED THE FOLLOWING
OFFENCES

[These are general particulars of the offence(s) only]

THE SUSPECTED OFFENCES WERE COMMITTED IN THE
FOLLOWING MANNER:

[General terms of the circumstances of the suspected offences]

Member of the police force or person authorised to act:

Agency and address:

Phone:

Email:

Fax No.:

Agency ref.:

Date:

IMPORTANT INFORMATION—DO NOT IGNORE THIS NOTICE—
SEEK LEGAL ADVICE

You must appear on [date] at [venue] Magistrates' Court if you get a copy of a charge-sheet and a preliminary brief. This means you have been charged with an offence. You will get a copy of the charge-sheet and preliminary brief within 21 days of getting this notice.

You should immediately seek advice from your legal practitioner, Victoria Legal Aid [*insert address and telephone number*] or a community legal service.

If you do not appear at court, the magistrate may:

- hear and decide your case and may impose a penalty based on the information in the preliminary brief; or
- order that you be arrested and brought before the Court.

If a charge is not filed with the Court within 14 days of this notice being given to you the notice will lapse, and you will not have to appear at the Magistrates' Court. Written notice of this will be provided to you 7 days after the notice lapses.

AFFIDAVIT OF SERVICE THAT A COPY OF THIS NOTICE WAS
SERVED PERSONALLY ON THE ABOVE NAMED PERSON

I [full name] of [address], [authorised officer]*swear/declare that I served a true copy of this notice to appear on [date] at [time] by—

*giving it to the person personally at [address]

*putting it down in the person's presence and telling the person the nature of the document.

*I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

*Sworn/Declared at
[place]
in the State of Victoria
on [date]
*Before:

}

[Name and address in legible writing, typing or stamp below signature]

*a person authorised under section 107A(1) of the **Evidence (Miscellaneous Provisions) Act 1958** to witness the signing of a statutory declaration.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 7

*a person authorised under section 123C(1) of the **Evidence (Miscellaneous Provisions) Act 1958** to take an affidavit.

*Delete if not applicable.

FORM 8

Rule 17

**PRE-HEARING DISCLOSURE NOTICE FOR MATTERS TO BE
DETERMINED SUMMARILY**

(Section 13 of the **Criminal Procedure Act 2009**)

You have been charged with an offence that can be heard summarily.
You should speak to a legal practitioner (a lawyer) immediately.

How can you get more information about your charge:

Your charge-sheet will have some information about the charge. If you want more information, at any time you or your legal practitioner can make a request in writing to the informant (the person who charged you) for—

- a preliminary brief;
- a full brief (if you have been served with a Notice to Appear, you can ask only for a full brief after a summary case conference); and
- information or copies of what is listed in the preliminary or full brief at least 7 days (or more) before the next court date.

What the informant must do:

When the informant receives a request for more information from you or your legal practitioner he or she has—

- 14 days to give you a preliminary brief; or
- at least 14 days to give you a full brief before your contest mention or summary hearing; and
- 7 days to respond to your request.

The informant also must give you a list or copy of any new information that is relevant to the charge as soon as it is available to him or her.

In some cases, the informant can refuse to give you information.

The informant must give you a notice in writing that explains why your request has been refused. Some of the reasons the informant may refuse your request are that disclosure of the information would—

- prejudice the investigation, enforcement or proper administration of the law; or
- prejudice a fair hearing of a charge or impartial adjudication of a particular case; or
- enable a person to ascertain the identity of a confidential source of information in relation to the enforcement or administration of law;
or

Form 8

- disclose methods or procedures of preventing, detecting, investigating contraventions or evasions of the law, the disclosure of which would be reasonably likely to prejudice the effectiveness of those methods or procedures; or
- endanger the life or physical safety of persons or their families, engaged in, or in connection with, law enforcement or persons who have provided confidential information in relation to the enforcement or administration of the law; or
- endanger the life or physical safety of a person referred to in section 43(1)(a) of the **Criminal Procedure Act 2009** or of a family member, as defined in the **Family Violence Protection Act 2008**, of such a person; or
- the informant may refuse disclosure of any information, document or thing that is requested under section 43(1)(d) of the **Criminal Procedure Act 2009** on any ground for refusal of a witness summons; or
- the informant may refuse to disclose the particulars of any previous conviction of any witness who the informant intends to call at the hearing if the previous conviction because of its character is irrelevant to the proceeding.

What can you do if the informant refuses to give you information?

You can apply to the Magistrates' Court for an order if you—

- get a written notice from the informant that they refuse to give you the requested information; or
- believe there is information that has not been disclosed that is relevant to your case.

Your legal practitioner can advise of how to apply for an order of the Magistrates' Court that the information be disclosed.

Get legal advice before you go to court

A legal practitioner can help you understand the charges and decide what steps you need to take.

For free legal information or to speak to a legal practitioner call:

Victoria Legal Aid [*insert telephone number*]

Federation of Community Legal Centres to find the centre closest to you [*insert telephone number*]

Victoria Aboriginal Legal Service [*insert telephone number*]

If you are eligible you have a right to legal aid under the **Legal Aid Act 1978**. Contact Victoria Legal Aid [*insert address and telephone number*].

FORM 9

Rule 17

**PRE-HEARING DISCLOSURE NOTICE FOR MATTERS TO BE
DETERMINED BY A COMMITTAL PROCEEDING**

(Section 13 of the **Criminal Procedure Act 2009**)

You have been charged with an indictable offence.
You should speak to a legal practitioner (a lawyer) immediately.

How can you get information about your charge?

Your charge-sheet will have some information about the charge. More information about the charge will be provided to you when the informant (the person who charged you) gives you a hand-up brief or plea brief.

Hand-up Brief:

The informant must give you a hand-up brief and a statement that you have no previous convictions or a copy of your criminal record at least 42 days before the committal mention hearing.

Plea Brief:

If you have decided to plead guilty to the charge the informant may give you a plea brief. The informant may only give you a plea brief if you have given your written consent.

Continuing obligation of disclosure:

The informant has an obligation to disclose to you any information, document or thing that comes into their possession after a hand-up brief is given to you. The informant must give you a copy of the information or list of things as soon as possible after it comes into their possession.

Inspection of exhibits

You may inspect any of the items listed in a hand-up brief at a time and place agreed with the informant.

Get legal advice before you go to court

A legal practitioner can help you understand the charges and decide what steps you need to take.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 9

For free legal information or to speak to a legal practitioner call:

Victoria Legal Aid [*insert telephone number*]

Federation of Community Legal Centres to find the centre closest to you [*insert telephone number*]

Victoria Aboriginal Legal Service [*insert telephone number*]

If you are eligible you have a right to legal aid under the **Legal Aid Act 1978**. Contact Victoria Legal Aid [*insert address and telephone number*].

FORM 10

Rule 18

NOTICE ACCOMPANYING PRELIMINARY BRIEF

(Section 37 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of
Victoria at [*venue*]

Date of hearing:

To the Accused:

Family name:

First names:

Address:

Postcode:

The attached preliminary brief contains the following information, document or thing available at the time of preparation:

- A copy of the charge-sheet setting out the charges against you
- A copy of the Notice to Appear
- A statement made by the informant (the person who charged you) personally sworn, signed or attested
- A copy of your criminal record or a statement that you have no previous convictions
- Any evidentiary certificate issued under any Act
- A list of any other orders that are or will be sought
- Any information, document or thing that is relevant to the alleged offence that may assist you to understand the evidence against you that is available to the prosecution

Specify:

- A written notice that the informant refuses to disclose any information, document or thing (Note: In some cases, the informant can refuse to give you information, but they must explain why by giving you a notice in writing)

Police Member/
Authorised Officer

Name/Rank/Number:

Agency and Address:

Phone:

Form 10

Email:

Fax:

Date:

Signature:

DO NOT IGNORE THIS NOTICE

Are you charged with a summary offence or an indictable offence?

To find out whether your offence is a summary offence or an indictable offence, check which box has been ticked on your charge-sheet.

Get legal advice before you go to court

This notice should have a preliminary brief with it.

A legal practitioner (a lawyer) can help you decide what steps you need to take in relation to your charge and the preliminary brief given to you.

If you are eligible, you have a right to legal aid under the **Legal Aid Act 1978**. Contact Victoria Legal Aid [*insert address and telephone number*].

IF YOU ARE CHARGED WITH A SUMMARY OFFENCE AND DO NOT APPEAR AT COURT

If you have been charged with a summary offence, and you do not appear at court on the date on your summons or Notice to Appear, the magistrate may—

- make a decision without you about your case and issue a penalty based on the information in the preliminary brief;
- order that you be arrested and brought before the court;
- if you have been charged and released on bail you must attend at court, or you may be arrested and charged with an additional offence.

HOW THE MAGISTRATE MAKES A DECISION WITHOUT YOU FOR A SUMMARY OFFENCE

The magistrate may base the decision on the information in the preliminary brief, if the brief—

- was given to you at least 14 days before the date of the hearing; and
- stated the offence with which you have been charged.

The magistrate cannot use your criminal record to decide if you are guilty or not, but can consider your criminal record when deciding what your penalty will be.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 10

There are some penalties that a magistrate cannot give you without you being at court. If the magistrate is considering these penalties, the hearing must be adjourned and you may be arrested and brought to court.

IF YOU ARE CHARGED WITH AN INDICTABLE OFFENCE AND DO NOT APPEAR AT COURT

If you have been charged with an indictable offence, you must appear at court on the date on your Summons or Notice to Appear.

The magistrate cannot hear and decide your case without you (unless the charges are against a corporation) and may order that you be arrested and brought before the court. If you have been charged and released on bail and do not attend court, you may be arrested and charged with an additional offence.

FURTHER INFORMATION

Contact the registrar at your local Magistrates' Court for further information.

FORM 11

Rule 19

NOTICE ACCOMPANYING FULL BRIEF
(Section 41 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of
Victoria at [*venue*]

Date of hearing:

To the Accused:

Family name:

First names:

Address:

Postcode:

The attached full brief contains the following information, document or thing available at the time of preparation:

- A copy of the charge-sheet setting out the charges against you
- A copy of your criminal record or a statement that you have no previous convictions

It also contains any information the prosecution intends to use at the hearing:

- A copy of any statement(s) that you have signed
- Your record of interview
- A copy of any audiovisual recording or transcript relating to the taking of a forensic procedure
- A list of witnesses at the hearing and copies of their statements
- Legible copies of any documents
- A list of any exhibits (objects) and detailed descriptions—if these cannot be described, a clear photograph must be included
- Details of any forensic procedure, examination or test that has not been completed
- Any evidentiary certificate issued under any Act that is likely to be relevant to the alleged offence

It also contains anything else relevant to the alleged offence that the prosecution does not intend to use at hearing:

- A list of the people who have made written statements and copies of their statements
- A list of the people who have provided information and summaries of what they said
- A list of any exhibits and detailed descriptions or clear photographs
- A copy of medical examination records or results of forensic procedures that have been conducted
- A written notice of any information, document or thing. (Note: In some cases, the informant (the person who charged you) can refuse to give you information, but they must explain why by giving you a notice in writing)

Police Member/
Authorised person

Name/Rank/Number:

Agency and Address:

Phone:

Email:

Fax:

Date:

Signature:

DO NOT IGNORE THIS NOTICE

Are you charged with a summary offence or an indictable offence?

To find out whether your offence is a summary offence or an indictable offence, check which box has been ticked on your charge-sheet.

Get legal advice before you go to court

This notice should have a full brief with it.

A legal practitioner (a lawyer) can help you decide what steps you need to take in relation to your charge and the full brief given to you.

Form 11

If you are eligible, you have a right to legal aid under the **Legal Aid Act 1978**. Contact Victoria Legal Aid [*insert address and telephone number*].

IF YOU ARE CHARGED WITH A SUMMARY OFFENCE AND DO NOT APPEAR AT COURT

If you have been charged with a summary offence, and you do not appear at court on the date on your summons or Notice to Appear, the magistrate may—

- make a decision without you about your case and issue a penalty based on the information in the full brief;
- order that you be arrested and get the police to bring you to court;
- if you have been charged and released on bail you must attend at court, or you may be arrested and charged with an additional offence.

HOW THE MAGISTRATE MAKES A DECISION WITHOUT YOU FOR A SUMMARY OFFENCE

The magistrate may base the decision on the information in the full brief, if the brief—

- was given to you at least 14 days before the date of the hearing; and
- stated the offence with which you have been charged.

The magistrate cannot use your criminal record to decide if you are guilty or not, but can consider your criminal record when deciding what your penalty will be.

There are some penalties that a magistrate cannot give you without you being at court. If the magistrate is considering these penalties, the hearing must be adjourned and you may be arrested and brought to court.

IF YOU ARE CHARGED WITH AN INDICTABLE OFFENCE AND DO NOT APPEAR AT COURT

If you have been charged with an indictable offence, you must appear at court on the date on your Summons or Notice to Appear.

The magistrate cannot hear and decide your case without you (unless the charges are against a corporation) and may order that you be arrested and brought before the court. If you have been charged and released on bail and do not attend court, you may be arrested and charged with an additional offence.

FURTHER INFORMATION

Contact the registrar at your local Magistrates' Court for further information.

FORM 12

Rule 22

REQUEST FOR CONTESTED SUMMARY HEARING

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

BETWEEN: [*name of informant*]

v.

[*name of accused*]

TAKE NOTICE that—

- The accused is represented by:
- The accused is not legally represented

Estimated Hearing Time: [*insert number of hour(s)/day(s)*]

A Summary Case Conference has been held: Yes/No

**WITNESSES
REQUIRED**

ISSUES IN DISPUTE

Prosecution:		Factual Argument	Yes/No
Informant	Yes/No	Question of Law	Yes/No
Corroborator	Yes/No	Self Defence	Yes/No
Other Police	Yes/No	Alibi	Yes/No
Civilian	Yes/No	Voire Dire	Yes/No
Expert	Yes/No	Admissions/Concessions	Yes/No
Child	Yes/No	If yes, provide description:	
Protected Witness	Yes/No		
Accused:			
Informant	Yes/No		
Corroborator	Yes/No		
Other Police	Yes/No		
Civilian	Yes/No		
Expert	Yes/No		

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 12

Child Yes/No

Protected Witness Yes/No

OFFENCES

Co-offenders: Yes/No

If yes, names of co-offenders if known:

Is it an alleged sexual offence: Yes/No

Is it alleged that the offence arises out of an act of family violence: Yes/No

RESOURCES REQUIRED

Audiovisual link Yes/No Interpreter Yes/No

Remote Witness Facility Yes/No If yes, language required:

In-Court screens Yes/No DVD/Video/TV Yes/No

REQUEST MATTER BE LISTED FOR A CONTESTED HEARING

[*Signature of Legal Practitioner of Accused or Accused*]

[*Signature of Police Prosecutor*]

Note if the accused is not legally represented this form is to be completed by the prosecution relevant to the information in their possession.

FORM 13

Rule 24

WITNESS SUMMONS

In the Magistrates' Court of
Victoria at [venue]

Court Reference:

To the Witness

DETAILS OF THE CASE

Name of person charged: [Accused]

Summary of the charges:

Who filed the charges? [Informant]

Agency and address:

Email Address:

Phone No.:

WHAT YOU HAVE TO DO

You must bring this summons with you and

- come to court to give evidence in the proceeding
- come to court to give evidence and also produce at the hearing the following documents or things that are in your possession or control
- produce at the hearing the following documents or things that are in your possession or control

If you are required to give evidence, you must attend at the hearing.

If you fail to attend the hearing or give evidence in accordance with this document a warrant for your arrest may be issued.

You may produce this summons and the documents or things referred to above to the registrar of the Magistrates' Court at [venue] by hand or by post, in either case so that the registrar receives them not later than 2 days (excluding Saturdays, Sundays or other holidays) before the date on which you are required to attend.

WHERE WILL THE CASE BE HEARD?

The Magistrates' Court at [venue]

Address:

Phone:

When

Time

Day

Month

Year

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 13

Details about this summons

Issued at:

Date:

Issued by:

Registrar:

Magistrate:

Summons filed by: [*identify party*]

FORM 14

Rule 26

NOTICE OF ALIBI

(Section 51 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

To the prosecutor or the informant

Informant: [*full name*]

Accused: [*full name*]

Charge-sheet filed on: [*date*]

Nature of offence:

On [*date*] in the Magistrates' Court at [*venue*] the accused will appear for the above offence.

Take notice that the accused intends to adduce evidence at the hearing in support of an alibi and provides the following information in support of the alibi: [*If space insufficient attach a separate sheet.*]

- (a) [*State the name of each witness the accused proposes to call*];
- (b) [*State the current address of each witness, if known to the accused*];
- (c) [*Last known address of each witness. If the name and address of a witness is not known, the accused must state any information which might be of material assistance in finding the witness*];
- (d) [*State the facts on which the accused relies*].

This notice may be given to the prosecutor or informant, by handing it to them at a hearing in relation to the charge, or by sending it by prepaid ordinary post to a nominated business address, by sending it to a nominated fax or email address, or by leaving the notice at the nominated business address with a person who appears to work there or in any other manner agreed with the informant or prosecutor.

If the accused is in a prison or a police gaol, the officer in charge of the prison or police gaol will arrange for this notice, when completed by the accused, to be given or sent to the prosecutor or informant.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 15

FORM 15

Rule 28

CASE ABRIDGEMENT APPLICATION

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Applicant:

Date of application:

Name of accused:

Date of birth:

Current date of hearing:

Abridgement date:

Reason for abridgement:

Abridged by consent: Yes/No

Accused in custody: Yes/No

Notice given to central prison records: Yes/No

Signature of applicant:

Date:

FORM 16

Rule 29

APPLICATION—IDENTITY CRIME

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

This application is made by:

- the victim
- a person on behalf of the victim
- the prosecutor of the identity crime offence

Name of Applicant:

In the matter of: [*Prosecuting Agency*] and [*Offender*]

I [*name of applicant*] apply *on behalf of [*name of victim*]*as a victim of identity crime, for a certificate under section 89F of the **Sentencing Act 1991**.

[*Accused*] was found guilty of an identity crime offence under Division 2AA of Part I of the **Crimes Act 1958** on [*date of conviction*].

Victim:

Name:

Date of birth:

Address:

Informant:

Agency and address:

Phone:

Email:

Fax No.:

This application relates to the following identity crime offence(s):
[*State identity crime*]

Date of offence(s):

Particulars of offence(s):

Signature of Applicant:

Date:

*Delete if not applicable

Form 17

FORM 17

Rule 29

IDENTITY CRIME CERTIFICATE

In the Magistrates' Court of

Victoria at [venue]

Court Reference:

IN THE MATTER of an application under section 89F of the **Sentencing Act 1991** for an identity crime certificate

The Magistrates' Court issues this identity crime certificate under section 89F of the **Sentencing Act 1991**.

On [date] the Court found [name of offender] guilty of an identity crime offence.

1. The identity crime offence to which this certificate relates is [specify identity crime offence and date of offence]
2. The name of the victim of the identity crime offence is [name of victim]
- *3. The Court considers the following other matters are relevant: [specify any other relevant matters, for example address of victim, date of birth, gender]

Date:

[Signature of Magistrate]

*Delete if not applicable

FORM 18

Rule 31

APPLICATION FOR A REHEARING
(Section 88 of the **Criminal Procedure Act 2009**)

Informant's name	Date of birth
Agency	Licence No.
Accused's name	Phone No.
Address	Postcode

THIS APPLICATION WAS FILED BY: *THE ACCUSED/*THE
INFORMANT ON BEHALF OF THE ACCUSED

On [*date*] the Magistrates' Court at [*venue*] found the accused
guilty of

and ordered:

The order was made in the absence of the accused. The reason for the
accused's non-attendance was:

[*specify reasons*]

The charge-sheet was served personally by post other

On [*date*] the accused intends to apply to the Magistrates' Court at [*venue*] for
an order that the sentencing be set aside and the charge to be reheard.

Signature of Applicant:

Date:

APPLICATION FOR STAY OF ORDER (If the order affected the driver's
licence)

On [*date*] the accused intends to apply to the Magistrates' Court at [*venue*] for
an order that the order affecting the driver's licence be stayed and that the
licence holder be allowed to drive until the decision of the re-hearing.

Signature of Applicant:

Date:

Form 18

NOTES FOR INFORMATION

If the application is made by the accused

1. You **must** serve a copy of this notice of intention to apply for re-hearing on the person who charged you. This is done by—
 - (a) giving a copy of this application to the informant or a person representing the informant at a hearing in relation to the charge; or
 - (b) by sending a copy of the application by prepaid ordinary post addressed to the informant at the business address nominated by the informant; or
 - (c) by sending a copy of the application by fax or email addressed to the informant at the fax number or email address nominated by the informant; or
 - (d) by leaving a copy of the application for the informant at the informant's business address with a person who appears to work there.

Once you have served the document you must fill in the "Affidavit of Service" and give it to the Registrar of the Court at the venue where your case was heard. This must be done at least 7 days before the date for the Application for re-hearing.

2. If you are making an application for a stay of order you **must** serve a copy on the person who charged you 7 days before the court date for that application.
3. If you are in custody only because of the order that is the subject of this application, you may apply for bail pending the re-hearing.

If the application is made by the informant on behalf of the accused you must serve a copy of the notice in the same manner as a summons may be served.

FORM 19

Rule 32

WARRANT TO ARREST

(Section 61 of the **Magistrates' Court Act 1989**)
(**Criminal Procedure Act 2009**)

Name of person to be arrested	Court Ref.
Address	M F
Postcode	Date of Birth

Statement of reasons for this warrant

- What is the reason? the accused failed to appear before the Court in answer to a charge and summons.
- the accused failed to attend before the Court in accordance with his or her bail.
- the accused failed to appear before the Court in answer to a notice to appear.
- the person was served with a witness summons and failed to attend before the Court on in answer to that witness summons.
- Other—give details.

The accused was charged with

Who filed the charges?

Agency and address

WARRANT TO ARREST

To all members of the police force

or

You are authorised to:

- * break, enter and search, if necessary, any place where the person named or described in this warrant is suspected to be;
- * arrest the person named or described in this warrant;

AND TO

bring him or her before a bail justice or the Court as soon as practicable to be dealt with according to law.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 19

OR

release him or her on bail in accordance with the endorsement below.

The person named in the warrant may be discharged on bail under section 10 of the **Bail Act 1977**.

Issued at

Date

Issued by

Registrar*/Magistrate*:

[*signature*]

CERTIFICATE OF BAIL

Bail was granted on the following conditions:

The person named may be released upon entering an undertaking of bail to appear at the Magistrates' Court at _____ on the following conditions:

Magistrate

Date

*Delete if not applicable

FORM 20

Rule 33

SEARCH WARRANT

(Section 75 of the **Magistrates' Court Act 1989**)

Court Ref.

Name and/or description of person or article, thing or material

Place/vehicle located in a public place where search will be conducted for
article, thing or material

Number and name of street and suburb

Identifying details of vehicle

Reason for search/Suspected offence

This Warrant authorises

Name, Rank, No.

Agency and Address

Or all members of the police force:

Search for a person

to break, enter and search any place where the person named or described
in this warrant is suspected to be;

and

to arrest the person named or described in this warrant.

Search for any article, thing or material of any kind

to break, enter and search any *place/*specified vehicle located in a
public place named or described in this warrant for any article, thing or
material of any kind described in this warrant;

and

to bring the article, thing or material before the Court so that the matter
may be dealt with according to law;

and

to arrest any person apparently having possession, custody or control of
the article, thing or material.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 20

If person arrested

You must also cause the person named or described in the warrant, or apparently having possession, custody or control of any article, thing or material named or described in the warrant, when arrested—

to be brought before a bail justice or the Court as soon as practicable to be dealt with according to law;

or

to be released on bail in accordance with the endorsement on this warrant.

This warrant is authorised by section _____ of the _____ Act
Issued at _____ a.m./p.m. on _____ by _____ Magistrate

*Delete if not applicable.

FORM 21

Rule 34

REMAND WARRANT

(Section 79 of the **Magistrates' Court Act 1989**)

Name of accused
(or Witness)

Court Ref.

Address

M F

Postcode

Date of Birth

- The accused (or witness) has been
- remanded in custody
 - returned to the custody of the Secretary to the Department of Human Services
- The proceeding has been adjourned and the accused is to be brought before the Magistrates' Court at _____ at 10.00 a.m. on _____
- The accused has been committed to stand trial.

The Charge

What is the charge?
[*brief description*]

Who filed the charge?

Agency and address

- The charge is filed
- at the Magistrates' Court at _____
 - with the Bail Justice making this order

AUTHORITY AND DIRECTIONS

To all members of the police force, or all prison officers, or [*insert name*]

You must take and safely convey the person named in this warrant to

- a prison a police gaol a youth justice centre
and deliver the person to the officer in charge of that facility.

To the Secretary to the Department of Justice, the Chief Commissioner of Police or the Secretary to the Department of Human Services (as the case may be), or any other person into whose custody the person is transferred.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 21

You must receive the person named in this warrant into custody and safely keep that person—

- (a) for the period specified, or in the circumstances described, in this warrant; or
 - (b) until that person is otherwise removed or discharged from custody by due course of law.
- The accused has consented to an adjournment of the proceeding for more than 8 clear days. The accused has also been granted bail. If the accused has not been admitted to bail at the end of 8 days the person who has custody of the accused must bring him or her before the Magistrates' Court at [*venue*] or to the Melbourne Assessment Prison or to [*name of other place*] where facilities exist to enable the accused to appear before the Court by means of audio visual link.

ENDORSEMENTS

- The accused did not apply for bail.
- I certify that the accused's application for bail was refused.
The reasons for my refusal are:

- I certify that bail was granted and the accused is to be released from custody when he or she signs an undertaking with the conditions which are endorsed below:

- The accused was legally represented by

Signed at _____ on _____ by _____
Magistrate/Bail Justice/Registrar

FORM 22

Rule 35

**WARRANT TO IMPRISON
(Except for unpaid fine(s))**

(Section 68 of the **Magistrates' Court Act 1989**)

WARRANT TO IMPRISON (Except for unpaid fine)	Court Ref.		
Offender's Name	M F		
Address	Date of Birth		
Where proceeding heard	the Magistrates' Court at		
Who filed the charges? (informant)	Agency		
Imprisonment order summary			
Date sentence imposed			
Effective total term	Years	Months	Days
Minimum term before becoming eligible for parole	Years	Months	
Finding that minimum term inappropriate under section 11 of the Sentencing Act 1991 <input type="checkbox"/> Yes <input type="checkbox"/> No			
Time spent in custody	Years	Months	Days
Taken into account	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Eligible for pre-release	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Sentences imposed in this case to be—			
cumulative upon other sentences presently being served	<input type="checkbox"/> Yes <input type="checkbox"/> No		
part concurrent with other sentences presently being served	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Concurrent portion of sentence	Years	Months	Days
cumulative on any period owed to the Parole Board	<input type="checkbox"/> Yes <input type="checkbox"/> No		
part concurrent with any period owed to the Parole Board	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Concurrent portion of sentence	Years	Months	Days

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 22

Authority and directions

To all members of the police force, all prison officers or

You are authorised to break, enter and search any place where the person named in this warrant is suspected to be and to take and safely convey the person named in this warrant to—

a prison a prison or police gaol a youth justice centre

and to deliver the person to the officer in charge of the prison, police gaol or youth justice centre.

To the Commissioner of Correctional Services or the Chief Commissioner of Police (as the case requires) or any other person into whose custody the person named in this warrant is transferred:

You are directed and authorised to receive that person into custody and safely keep that person for the period specified, or in the circumstances described in this warrant or until that person is otherwise removed or discharged from custody by due course of law.

Issued by	Registrar	Date
[Signature]	Magistrate	

Schedule to Warrant to Imprison

Offender	Court Ref.
	Page Number

Codes

- S Offence is against State law
- C Offence is against Commonwealth law
- G Plea of guilty
- NG Plea of not guilty
- XP Ex parte hearing, accused did not appear in court
- AGG Sentence imposed on this charge is an aggregate sentence under section 4K(4) of the Crimes Act 1914 (Commonwealth) and the aggregate term to be served in relation to all AGG sentences in this case is the period in the "Imprisonment" column beside the first AGG sentence
- BAS The base sentence for the purposes of cumulative and part concurrent sentences in this case
- CUM A sentence to be served cumulatively upon the base sentence and upon all other cumulative and part concurrent sentences in this case

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 22

- DFR Court directed release under section 20(1)(b) of the Crimes Act 1914 (Commonwealth) after service of the period shown in the column "Portion of term to be served"
- PCO Sentence to be served part concurrently with other sentences in this case. The non-current balance of the sentence shown in the column "Portion of term to be served"
- PSU The term imposed by the Court was partially suspended under section 27 of the **Sentencing Act 1991**. The period not suspended is shown in the column "Portion of term to be served".

Schedule to Warrant to Imprison

Accused					Case Number				
Code Table					Page Number				
Charge Number	Date of Offence	S C	G NG XP	Brief description of offence	Act and Section	Imprisonment (Detention) Term	Portion of term to be served (where app.)	Sentence (Period) Code	Min. Term C'with only

There are more pages No Yes — pages

Registrar

Warrant Execution Details

Police Station Warrant executed by me on at a.m./p.m.

Name Rank and Number

Form 23

FORM 23

Rule 36

**WARRANT TO IMPRISON
(Unpaid fine(s))**

Court Ref.

Offender's Name: M F

Address:

Who filed the charges? Agency:

DETAILS OF THE FINE

On *[date]* the Magistrates' Court at *[venue]*
convicted and fined the offender.

	Charge	Total penalty imposed	Fine	Amount unpaid		Default Period
				Statutory Costs	Costs	
1						
2						
3						
4						
5						
6						
7						
8						
9						
0						

Total amount unpaid \$

AUTHORITY AND DIRECTIONS

To all members of the police force, all prison officers, the Sheriff or

You are to demand payment of the amount unpaid from the person
named in this warrant. If this amount is paid you must send it
immediately to the Principal Registrar.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 23

If the amount is not paid

You are authorised to break, enter and search any place where the person named in this warrant is suspected to be and to take and safely convey the person named in this warrant to

a prison or police gaol

a youth justice centre

and to deliver the person to the officer in charge of the prison, police gaol or youth training centre.

To the Commissioner of Correctional Services or the Chief Commissioner of Police (as the case requires) or any other person into whose custody the person named in the warrant is transferred:

You are directed and authorised to receive that person into custody and safely keep that person for the period specified in the warrant or until otherwise removed or discharged from custody by due course of law.

If the amount unpaid is paid you are to release the person named in this warrant and immediately send the amount to the Principal Registrar.

If the amount is partly paid you must reduce the term of imprisonment using the formula set out in section 71(1)(b) of the **Magistrates' Court Act 1989**, amend the execution copy of the warrant, receive the payment and forward it without delay to the Principal Registrar.

Issued by:

Registrar:
[signature]

Date:

Magistrate:
[signature]

Date:

Form 24

FORM 24

Rule 37

WARRANT TO SEIZE PROPERTY

Court Ref.

Who was ordered to pay

M F Co

Address

Date of birth

ACN

Registration No.
State

Licence No.
State

Amount ordered to be paid

On (date) the Magistrates' Court at (venue) ordered

	Fine	Statutory Costs	Other Costs
Payment of	\$	\$	\$
Since then payments made were:	\$	\$	\$
This leaves a balance of	\$	\$	\$

Now outstanding and payable is \$ or personal property of the person named may be seized and sold.

The amount was ordered to be paid because:

the person named was found guilty of and fined. The charges were filed by

(name/agency)

the person named had to pay witness costs.

the case was adjourned.

the case was dismissed.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 24

WARRANT

To all members of the police force the Sheriff

The person named was ordered to pay money to the Court and has failed to comply with the order.

You are directed and authorised to:

1. Seize the personal property of the person named in this warrant.
2. Sell the personal property seized if the sums named in the warrant and all lawful costs for executing the warrant are not paid.
3. Pay all money recovered to the Registrar of the Magistrates' Court at the venue of the Court where this warrant was issued.

Issued at: [*venue*]

Issued by:

Registrar:
[*signature*]

Date:

Magistrate:
[*signature*]

Date:

Form 25

FORM 25

Rule 38

NOTICE OF APPEARANCE

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

BETWEEN: [*name of informant*]

v.

[*name of accused*]

Committal mention date:

APPEARANCE

TAKE NOTICE THAT the legal practitioner (or firm) indicated below has been instructed to represent the accused.

[*name(s) of accused(s)*]

I **have/**have not been instructed to accept personal service of documents on behalf of the accused.

Date:

[*Signed*]

Name of legal practitioner (*or firm*):

Address of legal practitioner (*or firm*):

Telephone number:

Fax number for service of documents:

Email address for service of documents electronically (*if available*):

Name of person handling the matter:

Present address of accused:

This notice of appearance is to be filed with the Court, served on the informant and DPP if applicable.

FORM 26

Rule 44

APPLICATION FOR COMPULSORY EXAMINATION

(Section 103 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

TO: [*name of person who is to attend*]

THE APPLICANT [*insert name*] applies for an order—

TAKE NOTE: In relation to the person sought to be examined:

- * the prosecution asked the person to make a statement and he or she refused to do so;
- * the informant is aware he or she has obtained legal advice;
- * he or she has been a suspect with respect to the matter;
- * he or she has been made aware of this application.

The Committal Mention Date in this committal proceeding is: [*date*].

The application will be heard at the Magistrates' Court at [*venue*] on [*date*]
at a.m. [or p.m.] or so soon afterwards as the business of the Court
allows.

Date:

[*registrar*]

This application was filed by: [*name of informant*]

*delete if inapplicable

FORM 27

Rule 45

NOTICE OF ORDER
(to be served on the accused)

In the Magistrates' Court of

Victoria at [venue]

Court Reference:

TO: [name of accused]

An order requiring that [name of person to whom order relates] attend before the Court in this committal proceeding has been made by the Court on the application of the informant under section 103 of the **Criminal Procedure Act 2009**.

THE COURT HAS ORDERED that [name of person to whom order relates] attend before the Court for the purpose of—

*being examined by or on behalf of the informant;

*producing a document or thing, namely—

[describe the document or thing];

*being examined by or on behalf of the informant and producing a document or thing or both [describe the document or thing];

(a) at [venue of Court] Magistrates' Court;

(b) at 10.00 a.m. [or as the case requires] on [date] and until [name of person to whom order relates] is excused from further attending.

Date:

Signature of informant

NOTES TO THE ACCUSED

- (1) Any question concerning this Notice should be addressed to the informant not to the Court.
- (2) You may wish to seek legal advice in which case you should contact your legal representative or Victoria Legal Aid immediately.
- (3) You may attend Court on the above date and you may be legally represented.
- (4) You may not cross-examine a witness attending the Court under an order made under section 103 of the **Criminal Procedure Act 2009**.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 27

-
- (5) If you attend Court and, if the Court determines there are exceptional circumstances, you may address the Court on the proceeding personally or through a legal practitioner representing you.

*delete if inapplicable

FORM 28

Rule 45

NOTICE OF ORDER

(to be served on person to whom order relates)

In the Magistrates' Court of

Victoria at [venue]

Court Reference:

TO: [name of person to whom order relates]

An order requiring that [name of person to whom order relates] attend before the Court in this committal proceeding has been made by the Court on the application of the informant under section 105 of the **Criminal Procedure Act 2009**.

THE COURT HAS ORDERED that [name of person to whom order relates] attend before the Court for the purpose of—

*being examined by or on behalf of the informant;

*producing a document or thing, namely—

[describe the document or thing];

*being examined by or on behalf of the informant and producing a document or thing or both [describe the document or thing];

(a) at [venue of Court] Magistrates' Court;

(b) at 10.00 a.m. [or as the case requires] on [date] and until [name of person to whom order relates] is excused from further attending.

Date:

Signature of informant:

NOTES TO PERSON TO WHOM ORDER RELATES

- (1) If you do not comply with the order you may be arrested.
- (2) Any question concerning this Notice should be addressed not to the Court but to the informant.
- (3) You have the right to be legally represented at the proposed examination.
- (4) You may wish to seek legal advice in which case you should contact your legal representative or Victoria Legal Aid immediately.

*delete if inapplicable

FORM 29

Rule 46

NOTICE OF COMMITTAL MENTION DATE AND HAND-UP BRIEF

(Section 110 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

TO: [*accused(s)*]

of [*address(es)*]

Informant's contact details—[*insert name and contact details*]

COMMITTAL MENTION DATE

You have been charged with *a criminal offence/*criminal offences. A copy of the charge-sheet is attached to this notice.

There will be a committal mention hearing in relation to *the charge/*those charges at the Magistrates' Court at [*venue*] on [*date*] at [*time*].

You must attend court on that date.

WHAT IS A COMMITTAL PROCEEDING?

A committal proceeding is a proceeding in the Magistrates' Court. That court will examine the evidence relating to the charge or charges against you to decide whether there is sufficient evidence to send you for trial in the County Court or the Supreme Court.

The evidence will include the documents and other things that are contained in the hand-up brief of evidence which is attached to this notice.

Depending on the nature of the case and of the witnesses, you may be able to ask the court's permission for you or your lawyer to cross-examine some or all of the witnesses about their statements.

DISCUSSION OF ISSUES WITH THE PROSECUTOR

At least 7 days before the committal mention date you or your lawyer must discuss your case with the prosecutor. (If you or your lawyer have not already been notified of the prosecutor's contact details, you or your lawyer should be notified of those details no later than 14 days before the committal mention date.)

The purpose of the discussion is to find out matters including—

- (a) whether you propose to plead guilty or not guilty;
- (b) whether you will be arguing that there is insufficient evidence for the case to go to trial before a jury;
- (c) whether you will be asking to cross-examine any of the witnesses whose statements are contained in the hand-up brief of evidence, and whether the prosecutor opposes that cross-examination;
- (d) whether you will be calling any of your own witnesses to give evidence;
- (e) whether you want to inspect any things that are listed in the hand-up brief of evidence, and whether the informant objects to that inspection;
- (f) if a charge is to be heard and determined summarily, whether you will be applying to the court to have the charge tried by a Magistrate in the Magistrates' Court rather than by a judge and jury in the County Court or Supreme Court.

THE COMMITTAL MENTION HEARING

A committal mention hearing is one of the stages of a committal proceeding. At a committal mention hearing the court may—

- (a) offer or determine any application for a charge to be tried summarily in the Magistrates' Court;
- (b) hear and determine an application for leave to cross-examine a witness;
- (c) fix a date for a committal hearing;
- (d) hear and determine any objection to disclosure of material;
- (e) fix another date for a committal mention hearing. If the court is considering fixing another date for a committal mention hearing to enable an accused to obtain legal representation the court must have regard to whether the accused has made reasonable attempts to obtain legal representation;
- (f) make any other order or give any direction that the court considers appropriate;
- (g) immediately hear and determine the committal proceeding (in other words, it may examine all of the evidence and decide whether or not you should be tried by a judge and jury in the County Court or Supreme Court);
- (h) if the Court decides that you should be tried by a judge and jury in the County Court or Supreme Court, ask you whether or not you plead guilty or not guilty to the charge or charges against you.

THIS IS AN IMPORTANT DOCUMENT. DO NOT IGNORE IT.

If you do not have a lawyer, you should contact a legal practitioner, Victoria Legal Aid or a registrar of the Magistrates' Court as soon as possible.

[*Telephone number for Law Institute of Victoria Referral Service—insert details*]

[*Address and telephone number for Victoria Legal Aid—insert details*]

[*Address and telephone number of registrar of Magistrates' Court—insert details*]

If you come to the committal mention hearing without a lawyer the court will not delay the hearing to enable you to get a lawyer unless you have already made reasonable efforts to get a lawyer.

AFFIDAVIT OF SERVICE

I [*full name*]

of [*address*]

a member of the police force in the State of Victoria *make oath and say/*declare that I served on the accused a hand-up brief containing this notice and the enclosures referred to in this notice by delivering a true copy to the accused personally at [*address*] on [*day of week*] [*date*] at [*time*].

*I acknowledge that this declaration is true and correct and I make it in the belief that a person making a false declaration is liable to the penalties of perjury.

*Sworn/Declared at [*place*]

in the State of Victoria

on [*date*] [*time*]

Before

[*Name and address in legible writing, typing or stamp below signature*]

*a person authorised under section 107A(1) of the **Evidence (Miscellaneous Provisions) Act 1958** to witness the signing of a statutory declaration.

*a person authorised under section 123C(1) of the **Evidence (Miscellaneous Provisions) Act 1958** to take an affidavit.

FORM 30

Rule 46

**LIST OF INFORMATION OR OTHER DOCUMENTS INCLUDED IN
HAND-UP BRIEF**

(Section 110 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

1. A Notice of Committal Mention Date and Hand-up Brief and a copy of the charge-sheet relating to the alleged offence.
2. A statement of the material facts relevant to the charge is attached.
- *3. Order(s) were made for the examination of [*names of persons*] under section 104 of the **Criminal Procedure Act 2009** and transcript(s) of the examination(s) *is/are *attached/*not attached.

OR

- *3. No orders were made for the examination of any person under section 104 of the **Criminal Procedure Act 2009**.

OR

- *3. There are no forensic procedures, examinations or tests on which the prosecutor intends to rely as tending to establish the guilt of the accused that are not yet completed.

OR

- *3. The following forensic procedures, examinations or tests on which the prosecutor intends to rely as tending to establish the guilt of the accused are not yet completed [*describe here any forensic procedures, examinations or tests that are not yet completed*].

- *4. The following is a list of other statements that are capable of being admitted in evidence relevant to the charge available to the informant but on which the informant does not intend to rely.

[*list statement(s) here*]

OR

- *4. There is no other statement that is capable of being admitted in evidence relevant to the charge available to the informant but on which the informant does not intend to rely.

-
5. The following information, document or thing on which the prosecution intends to rely in the committal proceeding are—
- *copy of any statement relevant to the charge signed by the accused, or a record of interview of the accused, that is in the possession of the informant
 - *a copy or statement of any other evidentiary material that is in the possession of the informant relating to a confession or admission made by the accused relevant to the charge
 - *a list of the persons who have made statements that the informant intends to tender at the committal hearing, together with copies of those statements
 - *a legible copy of any document which the prosecution intends to produce as evidence
 - *a list of any things the prosecution intends to tender as exhibits
 - *a clear photograph, or a clear copy of such a photograph, of any proposed exhibit that cannot be described in detail in the list
 - *copy, or a transcript, of any audio-recording or audiovisual recording required under Subdivision (30A) of Division 1 of Part III of the **Crimes Act 1958**
 - *a transcript of any audio or audiovisual recording for the purposes of section 368 of the **Criminal Procedure Act 2009**
 - *list of any things the prosecution intends to tender as exhibits
6. Any other information, document or thing in the possession of the prosecution that is capable of being admitted in evidence relevant to the charge but on which the prosecutor does not intend to rely are—
- *a list of the persons (including experts) who have made statements relevant to the alleged offence and a copy of the statement made by each person or written summary of any evidence likely to be given by that person
 - *a copy of records of any medical examination of the accused
 - *a copy of reports of any forensic procedure or forensic examination conducted on the accused
 - *a copy of the results of any tests carried out on behalf of the prosecution and relevant to the alleged offence
 - *if the committal proceeding relates to a charge for a sexual offence, a copy of every statement made by the complainant to any member of the police force that relates to the alleged offence and contains an acknowledgement of its truthfulness

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 30

- *running sheets
- *prisoner's register
- *attendance register
- *expert witness notes
- *witnesses' prior convictions
- *notes (prosecution witness)
- *photos or photocopies where it is impractical to produce extra sets
- *video files or video recordings
- *audio files or audio recordings
- *notes (e.g.) surveillance logs, crime scene notes, exhibit logs, diaries (official or otherwise)
- *other documents (provide details).

Signature of informant:

Date:

NOTE

This Form is to be completed by the informant and included in any hand-up brief.

*delete if inapplicable

FORM 31

Rules 47, 63, 66

APPLICATION

In the Magistrates' Court of

Victoria at [venue]

Court Reference:

TO: [identify party (if any) to whom notice of application is to be given]

THE APPLICANT [insert name] applies—

*1. for an order that a special mention hearing takes place

[set out purpose of special mention hearing, as required by Rule 57].

*2. for leave to cross-examine [insert name of witness], after the expiry of the period for giving notice of cross-examination under section 120 of the **Criminal Procedure Act 2009**.

*3. for the following orders—

[set out details of order(s) sought. Also set out the grounds for the application]

The Committal Mention Date in this committal proceeding is: [date].

The application will be heard at the Magistrates' Court at [venue] on [date] at a.m. [or p.m.] or so soon afterwards as the business of the Court allows.

Signature of applicant or applicant's legal practitioner:

Date:

Registrar:

This application was filed by:

*delete if inapplicable

FORM 32

Rule 48

CASE DIRECTION NOTICE

(Section 119 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

TO: the registrar

*TAKE NOTICE that—

- the *accused/*accused's legal practitioner has read the brief of evidence;
- the DPP or informant has read the brief of evidence;
- the accused and the DPP or informant have discussed whether this matter can be resolved by *a plea/*pleas of guilty and, if so, on what charge(s);
- the accused and the DPP or informant propose that this committal proceeding be dealt with as follows—

*TAKE NOTICE that no legal practitioner has served a notice of appearance on the DPP or informant in this matter, the DPP or informant is not aware of any legal practitioner representing the accused and the accused has not participated in any discussion or other activity in connection with the preparation of this notice.

- *1. The court should determine the committal proceeding at the committal mention hearing.

At the committal mention hearing, will the accused submit that the accused should not be committed for trial? *Yes/*No

If committed for trial, how does the accused intend to plead?

*Guilty/*Not guilty/*Not applicable (charge to be withdrawn)

[if there is more than one charge, and the answers to these questions are not the same for all charges, list the charges separately or in groups and provide answers in relation to each charge or group of charges]

*Basis of indication of intention to plead

[If the accused indicates an intention to plead on a particular basis or bases, briefly indicate that basis or those bases. For example—

The indication is made without prejudice in the course of negotiations to settle the matter.

The indication is made on the basis that the informant will withdraw particular charges.]

2. The parties seek a committal case conference. The issues identified by the parties to be addressed at the committal case conference are—[insert brief description of issues]*

*3. The accused will apply for a summary hearing of the following charge(s).

Charge	Proposed plea
<i>[list each charge for which there will be an application for a summary hearing]</i>	*Guilty
	*Not guilty

*4. The accused will apply for leave to cross-examine the following witness or witnesses.

Name of witness:

Does the informant oppose leave being granted? *Yes/*No

Issue, relevance and justification

[indicate the issue or issues identified by the accused to which the proposed questioning relates, why the accused considers that evidence of the witness is relevant to that issue or those issues and why the accused considers that cross-examination on that issue or those issues is justified]

Opposition *[indicate why the informant opposes leave being granted]*

*5. The particulars of previous convictions of any witness on whose evidence the prosecution intends to rely in the committal proceeding.

*6. The accused seeks the production of an item or items listed in the hand-up brief and the informant objects to the production of the item or items—

Item *[describe the item(s)]*

Ground for objection *[indicate the informant's ground for objecting to producing the item]*

*7. The accused seeks the production of an item or items not included in the hand-up brief

*8. The accused is *prepared/*not prepared to proceed with the committal hearing while a forensic procedure, examination or test described in the hand-up brief remains incomplete.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 32

*9. The accused and the DPP or informant seek an adjournment of the committal proceeding.

Reason(s) for adjournment [*indicate the reason(s) for the proposed adjournment*]

Date:

Signature of *accused/*accused's legal practitioner:

Date:

Signature (*for or on behalf of the DPP or informant*):

*delete if not applicable

FORM 33

Rule 49

NOTICE OF COMMITTAL PROCEEDING

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

TO: [*accused(s)*]

of [*address(es)*]

Date charge-sheet filed:

Informant's contact details: [*insert contact details*]

COMMITTAL MENTION DATE

You have been charged with *a criminal offence/*criminal offences.

There will be a **committal mention hearing** in relation to the charge or charges at the Magistrates' Court at [*venue*] on [*date*] at [*time*].

You must attend court on that date.

WHAT IS A COMMITTAL PROCEEDING?

A committal proceeding is a proceeding in the Magistrates' Court. That court will examine the evidence relating to the charge or charges against you to decide whether there is sufficient evidence to send you for trial in the County Court or the Supreme Court.

WHAT WILL HAPPEN BETWEEN NOW AND THE COMMITTAL MENTION DATE?

At least 42 days before the committal mention hearing, the person who charged you (the informant) will provide you (or your legal practitioner, if you have a legal practitioner) with a hand-up brief. The hand-up brief will set out the evidence relating to the charge or charges against you. This will include statements made by witnesses.

You or your legal practitioner will be notified of the prosecutor's contact details. You or your legal practitioner must discuss the case with the prosecutor before the committal mention hearing.

Depending on the nature of the case and of the witnesses, you may be able to ask the court's permission for you or your lawyer to cross-examine some or all of the witnesses about their statements.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 33

You will receive further information about the process when you receive the hand-up brief of evidence.

THIS IS AN IMPORTANT DOCUMENT. DO NOT IGNORE IT.

If you do not have a lawyer, you should contact a solicitor, Victoria Legal Aid or a registrar of the Magistrates' Court as soon as possible.

[telephone number for Law Institute of Victoria Referral Service]

[address and telephone number for Victoria Legal Aid]

[address and telephone number of registrar of Magistrates' Court]

If you come to the committal mention hearing without a lawyer the court will not delay the hearing to enable you to get a lawyer unless you have already made reasonable efforts to get a lawyer.

Date:

Registrar:

*delete if not applicable

FORM 34

Rule 50

**APPLICATION FOR THE FIXING OF A LONGER PERIOD FOR
THE HOLDING OF A COMMITTAL MENTION HEARING**

(Section 126 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of
Victoria at [venue]

Court Reference:

TO: [*identify party to whom notice of application is to be given*]

THE APPLICANT [*insert name*] applies to the Court for the Court to fix a longer period for the holding of a committal mention hearing than that set out in section 126 of the **Criminal Procedure Act 2009**.

The Committal Mention Date in this committal proceeding is: [*date*].

The application will be heard at the Magistrates' Court at [venue] on [*date*]
at a.m. [*or p.m.*] or so soon afterwards as the business of the Court
allows.

A statement*/affidavit* in support has*/has not* been filed with the Court.

Signature of Applicant or Applicant's legal practitioner:

Date:

Registrar:

This application was filed by:

*delete if inapplicable

Form 35

FORM 35

Rule 51

**APPLICATION FOR THE FIXING OF A LONGER PERIOD FOR
THE HOLDING OF A COMMITTAL PROCEEDING FOR A
SEXUAL OFFENCE**

(Section 99(3) of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

TO: [*identify party to whom notice of application is to be given*]

THE APPLICANT [*insert name*] applies to the Court for the Court to fix a longer period for the holding of a committal mention hearing than that set out in section 126 of the **Criminal Procedure Act 2009**.

The Committal Mention Date in this committal proceeding is: [*date*].

The application will be heard at the Magistrates' Court at [*venue*] on [*date*] at a.m. [*or p.m.*] or so soon afterwards as the business of the Court allows.

A statement*/affidavit* in support has*/has not* been filed with the Court.

Signature of Applicant or Applicant's legal practitioner:

Date:

Registrar:

This application was filed by:

*delete if inapplicable

FORM 36

Rule 53

APPLICATION FOR JOINT COMMITTAL
(Section 25 of the **Magistrates' Court Act 1989**)

In the Magistrates' Court of
Victoria at [*venue*]

Court Reference:

To: [*name*]

*Male/*Female

Date of Birth:

Address:

Children's Court Case File No.:

DETAILS OF THIS APPLICATION

The applicant is charged with offence(s) that include:

- murder attempted murder manslaughter arson causing death
 culpable driving causing death other

The matter is listed at the [*venue*] of the Magistrates' Court for a committal mention on [*date*].

This application is for a joint committal with [*name of co-accused*] who has a matter listed at the [*venue*] Children's Court on [*date*].

An application for joint committal in the Magistrates' Court

- has been made (attach copy of order)
 has not been made
 is listed in the Children's Court on [*date*]

This application is appropriate because the charges against each accused could properly be joined in the same indictment; and

the co-accused is a child aged [*include age*] years (must be 15 or over at the time the criminal proceeding is commenced).

Applicant's name:

[*Signature*]

Agency and address:

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 36

Phone:

Date:

DETAILS OF THE HEARING

A hearing of this application will be held at [*time*] on [*date*] at the Magistrates' Court at [*venue*].

* Delete if not applicable

NOTE: An order for joint committal must be made in both the Children's and Magistrates' Courts before a joint proceeding can be held (see section 25(3) of the **Magistrates' Court Act 1989** and section 516A of the **Children, Youth and Families Act 2005**).

FORM 37

Rule 54

CAUTION TO BE GIVEN TO PERSON CHARGED

(Section 141(2) of the **Criminal Procedure Act 2009**
and section 398 of the **Crimes Act 1958**)

"You now have the right to answer the charge against you and must choose either:

- (a) to give sworn evidence, that is, to enter the witness box, take the oath or make an affirmation and say what you want to say in answer to the charge. This is known as giving sworn evidence. When you have given your evidence you may be asked to respond to questions about it by the prosecution or the Court;
- (b) you may say nothing in answer to the charge.

In either case you may call any witness or witnesses to give sworn evidence for you. What do you desire to do?"

FORM 38

Rule 55

**ELECTION TO STAND TRIAL WITHOUT A COMMITTAL
PROCEEDING BEING CONDUCTED**

(Section 143 **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

The person who filed the charges:

[*Informant*]

Accused:

of [*address*]

To the Registrar of the Magistrates' Court of Victoria

at [*venue*]

and

the Informant

of [*address*]

Details of the charge(s) filed—

TAKE NOTICE I elect to stand trial for the above named offence pursuant to section 143 of the **Criminal Procedure Act 2009**.

I understand the consequences of making this election are—

- (a) that when I appear before the Magistrates' Court I must be committed for trial;
- (b) that any statement or documents, copies of which have been served on me by the informant, may be used in evidence upon my trial in all respects as if they were depositions taken and exhibits tendered at a committal proceeding;
- (c) that on being committed for trial, I must be either remanded in custody until the trial or granted bail until the trial.

Date:

at:

Accused:

[*signature of accused*]

FORM 39

Rule 56

COMMITTAL CAUTION

(Section 144 of the **Criminal Procedure Act 2009**)

You may plead guilty or not guilty. If you plead guilty to all the charges or some of the charges today or at any time before or during your trial, the sentencing judge may take into account whether you pleaded guilty and the stage in the proceedings at which you pleaded guilty or indicated an intention to plead guilty. It is also your right to plead not guilty to all of the charges or some of them. Whatever you say will be recorded and may be given in evidence if you appear before a judge. Do you plead guilty or not guilty?

FORM 40

Rule 57

ALIBI CAUTION

(Section 190 of the **Criminal Procedure Act 2009**)

I caution you that your right to call evidence at trial in support of an alibi is restricted.

To be allowed to call alibi evidence you must give written notice to the Court now or to the DPP not later than 14 days after the end of this committal proceeding.

The notice must contain—

- (a) particulars as to time and place of the alibi;
- (b) the name of any witness to the alibi;
- (c) last known address of the witness;
- (d) if the name and address of a witness are not known, any information which might be of material assistance in finding the witness—

in support of your alibi.

FORM 41

Rule 60

**NOTICE OF APPLICATION FOR ORDER THAT THE EVIDENCE
OF A PERSON BE TAKEN**

(Section 149 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of
Victoria at [*venue*]

Court Reference:

TO: *the DPP/*the accused

AND TO: the registrar

THE *accused/*DPP—

intends to apply to the Court for an order that the evidence of [*name of person(s)*] be taken at a time and place to be fixed by the Court.

An issue to which the proposed questioning relates and a reason as to why the evidence is relevant to the issue are set out as follows:

[*insert details*]

The accused has been committed for trial at [*name of court*] at [*place*] on [*trial date*].

The application will be heard at the Magistrates' Court at [*venue*] on [*date*] at a.m. [*or p.m.*] or so soon afterwards as the business of the Court allows.

Date:

Signature:

*of accused/*accused's legal practitioner

Date:

[*registrar*]

This notice of application was filed by: [*insert name*].

*delete if inapplicable

FORM 42

Rule 61

**RESPONSE TO NOTICE OF APPLICATION FOR ORDER THAT
THE EVIDENCE OF A PERSON BE TAKEN**

(Section 149 of the **Criminal Procedure Act 2009**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

TO: *the accused/co-accused

AND TO: the registrar

THE DPP—

*CONSENTS to an order that the evidence of [*name of person(s)*] be taken at a time and place to be fixed by the Court.

or

*OPPOSES an order for the evidence of [*name of person(s)*] be taken at a time and place to be fixed by the Court for the following reasons:

[*set out reasons*]

[*signature*]

Signature *for or on behalf of the DPP

Date:

[*registrar*]

This Response to Notice of application was filed by: [*insert name*].

*delete if inapplicable

Form 43

FORM 43

Rule 77

CERTIFIED EXTRACT

(Section 18 of the **Magistrates' Court Act 1989**)

In the Magistrates' Court of
Victoria at [*venue*]

Court Reference:

On [*date*] the Magistrates' Court at [*venue*]
made the following entries in the register:

Accused

Informant, Plaintiff

or Complainant

Case No.	Nature of Charge or Civil Proceeding	Court Order
----------	--------------------------------------	-------------

Fees	\$	Magistrate
------	----	------------

Remarks

- | | | |
|--|--|--|
| <input type="checkbox"/> Plea not guilty | <input type="checkbox"/> Appeared | <input type="checkbox"/> Blood Alcohol |
| <input type="checkbox"/> Plea guilty | <input type="checkbox"/> Did not appear | |
| <input type="checkbox"/> No plea | <input type="checkbox"/> Consented to summary jurisdiction | <input type="checkbox"/> Speed |

Legal Representative for accused

Legal Representative for informant/plaintiff/complainant

I am a registrar of the Magistrates' Court at [*venue*] and I certify that in my opinion this information is a true extract from the register of the Court.

Date

Signature

FORM 44

Rules 88, 95

**NOTICE OF REQUEST FOR APPEARANCE VIA
AUDIO VISUAL LINK**

(Section 42K of the **Evidence (Miscellaneous Provisions) Act 1958**)

In the Magistrates' Court of
Victoria at [*venue*]

Court Reference:

To Central Prison Records

Accused Witness: [*full name*]

Accused Witness CRN No.:

Prison: [*full name*]

Date of Hearing:

Purpose of hearing:

Time of appearance:

Take notice that the Accused is required to appear at the hearing in the
Magistrates' Court via audio visual link.

Time of audio visual link (as provided or notified by a Court Coordinator):

Form 45

FORM 45

Rule 90

**NOTICE OF APPLICATION UNDER SECTION 42L OF THE
EVIDENCE (MISCELLANEOUS PROVISIONS) ACT 1958**

(Section 42L of the **Evidence (Miscellaneous Provisions) Act 1958**)

In the Magistrates' Court of
Victoria at [*venue*]

Court Reference:

[The Queen]

v.

[*name of accused*]

PARTICULARS OF APPLICATION

TAKE NOTICE that the applicant, [*name of applicant*], intends to apply to the Court for a direction that the accused appear, or be brought, physically before it.

Type of hearing [*insert details*]

Date of hearing [*insert details*]

The grounds on which this application are made are [*set out grounds*]

Date:

[*Signature*]

FORM 46

Rules 91, 92, 93

**NOTICE OF APPLICATION UNDER SECTION 42M, 42N
OR 42P OF THE EVIDENCE (MISCELLANEOUS PROVISIONS)
ACT 1958**

(Section 42M, 42N or 42P of the **Evidence (Miscellaneous
Provisions) Act 1958**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

[The Queen]

v.

[*name of accused*]

PART 1—PARTICULARS OF APPLICATION

TAKE NOTICE that the applicant, [*name of applicant*], intends to apply to the Court for a direction that the accused appear before it by audio visual link.

1. Type of hearing [*insert details*]
2. Date of hearing [*insert details*]
3. The grounds on which this application is made are [*set out grounds*]
4. Is this application being made with the consent of the parties to the proceeding?
5. If the answer to question 4 is No, what parties have not given consent?
6. If the accused is in custody, do facilities exist for an audio visual link?

Date:

[*Signature*]

PART 2—PARTICULARS OF HEARING

(*to be completed by the Registrar*)

The application will be heard before the Court at [*venue*], on [*date*] at [*time*]
or so soon afterwards as the business of the Court allows.

FILED [*date*]

FORM 47

Rule 98

APPLICATION FOR TIME TO PAY A FINE
(Section 55(1) of the **Sentencing Act 1991**)

In the Magistrates' Court of
Victoria at [venue]

Court Reference:

INSTALMENT ORDER
VARIATION OF
INSTALMENT ORDER

APPLICATION [date]

In the case against me by [set out details] on [date] I was ordered to pay a fine.

I [full name]

of [address and occupation]

now apply to the proper officer of the Magistrates' Court at [venue] for—

- an order that time be allowed for payment of the fine
- an order that the fine be paid by instalments
- an order for the variation of the terms of an instalment order.

DETAILS OF THE COURT ORDER

The Court ordered that I pay \$ in fines and costs.

I was was not present when the order was made.

The Court ordered that the fines and costs be paid—

- by [date]
- by instalments of \$ to be paid on the day of each
 week fortnight month.
- did not make any order about payment.

DETAILS OF PAYMENTS MADE BY ME

[Set out details of payments made]

FUTURE PAYMENTS

I now want to pay the money I owe

by / /

by instalments of \$ on the day of each
 week fortnight month starting on [date].

DETAILS OF MY INCOME AND EXPENSES

At present I receive \$ each week after tax has been deducted.

My weekly expenses are \$

This leaves me with \$

[To be completed by the proper officer]

I received this application on [date].

[Signature]

[Print name]

NOTE: The registrar who deals with this application will notify you in writing of the decision.

Tick whichever applies

FORM 48

Rule 98

APPLICATION FOR COMMUNITY-BASED ORDER

(Section 55(1) of the **Sentencing Act 1991**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

APPLICATION

In the case against me by [*set out details*]

on [*date*] I was ordered to pay a fine.

I, [*full name*]

of [*address and occupation*]

now apply to the proper officer of the Magistrates' Court at [*venue*] for a community-based order requiring me to perform unpaid community work as directed by a regional manager, instead of paying the fine. I agree to comply with such an order.

DETAILS OF THE COURT ORDER

The Court ordered that I pay \$ in fines and costs.

I was was not present when the order was made.

The Court ordered that the fines and costs be paid—

by [*date*]

by instalments of \$ to be paid on the day of each
 week fortnight month

The Court did not make any order about payment.

DETAILS OF PAYMENTS MADE BY ME

[*Set out details of payments made*]

RATE OF CONVERSION OF AMOUNT(S) TO UNPAID COMMUNITY WORK

I understand that the amount(s) that I owe for each unpaid fine together with the amount of warrant costs included by the proper officer will be converted into hours of unpaid community work at the rate of 1 hour for each 0.2 penalty unit or part of 0.2 penalty unit which I owe, with a minimum of 8 hours and a maximum of 500 hours work to be performed by me.

CONDITIONS OF THE ORDER

I understand that the following conditions will apply to the order and I agree to comply with them:

During the period of the community-based order I must—

- not commit another offence punishable by imprisonment.
- report to a community corrections centre as specified by the Court.
- report to, and receive visits from, a community corrections officer.
- notify an officer at the specified community corrections centre of any change of address or employment within 2 clear working days after the change.
- not leave Victoria except with the permission of an officer at the specified community corrections centre.
- obey all lawful instructions and directions of community corrections officers.
- perform unpaid community work as directed by the regional manager for a period determined by the Court.

Tick whichever applies

Dated at *[place]* on *[date]*

[Signature of person in default]

Witnessed by

[Signature of witness]

[Print name of witness]

NOTE: The registrar who deals with this application will notify you in writing of the decision.

[To be completed by the proper officer]

I received this application on *[date]*

The amount of warrant costs to be included is \$

[Signature]

[Print name]

FORM 49

Rule 101

**CONSENT TO THE MAKING OF A COMMUNITY-BASED ORDER
FOR UNPAID WORK IN LIEU OF PAYMENT OF A FINE**

(Section 62(7)(b) of the **Sentencing Act 1991**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Name [*full name*]

of [*address*]

CONSENT TO A COMMUNITY-BASED ORDER

I consent to the making by the Court of a community-based order requiring me to perform unpaid community work as directed by a regional manager, instead of paying a total penalty of \$.

RATE OF CONVERSION OF AMOUNT(S) TO UNPAID COMMUNITY WORK

I understand that the amount(s) that I owe for each unpaid fine will be converted into hours of unpaid community work at the rate of 1 hour for each 0.2 penalty unit or part of 0.2 penalty unit which I owe, with a minimum of 8 hours and a maximum of 500 hours work to be performed by me.

CONDITIONS OF THE ORDER

I understand that the following conditions will apply to the order and I agree to comply with them:

During the period of the community-based order I must—

- not commit another offence punishable by imprisonment.
- report to a community corrections centre specified by the Court.
- report to, and receive visits from, a community corrections officer.
- notify an officer at the specified community corrections centre of any change of address or employment within 2 clear working days after the change.
- not leave Victoria except with the permission of an officer at the specified community corrections centre.
- obey all lawful instructions and directions of community corrections officers.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 49

-
- perform unpaid community work as directed by the regional manager for a period determined by the court.

Dated at *[place]* on *[date]*

[Signature of person in default]

[Print name]

Witnessed by—

[Signature of witness]

[Print name]

TO THE PERSON IN DEFAULT

The Court will send you a notice of the making of a community-based order and its conditions.

FORM 50

Rules 100, 101

**NOTICE ABOUT THE PROCEDURES FOR ENFORCEMENT OF
FINES**

(Section 62(8) of the **Sentencing Act 1991**)

A warrant to arrest has been issued to the sheriff for non-payment of the fine(s) imposed against you in the Magistrates' Court. A summary of the fine(s) and the total amount still outstanding is attached.

You may obtain further details of the penalties from any venue of the Magistrates' Court. To do so, you must supply the Court reference which is also on the attached summary.

YOU HAVE 7 DAYS FROM THE DATE ON WHICH THIS DEMAND IS MADE IN WHICH TO PAY THE AMOUNT OUTSTANDING, OR TO OBTAIN AN INSTALMENT ORDER OR TIME TO PAY ORDER, OR TO CONSENT TO THE MAKING OF A *COMMUNITY-BASED ORDER

Payment must be made to the sheriff, [*insert address*]

IF YOU CANNOT PAY

You may apply to the registrar at any venue of the Magistrates' Court for an order that the fine be paid by instalments, or an order that you be allowed time to pay the fine.

If you do not pay the fine and do not make an application to a registrar you may consent to the Court making a *community-based order requiring you to perform unpaid community work instead of paying the fine. You may be required to perform one hour of unpaid work for each 0.2 penalty unit or part of 0.2 penalty unit of each fine outstanding. A minimum of 8 hours work under the direction of the Office of Corrections must be performed, irrespective of the amount outstanding, up to a maximum of 500 hours.

You can obtain a consent form from the person making this demand.

*Section 62(13) of the **Sentencing Act 1991** provides that a person may not consent to the making of a community-based order if the fine was imposed in respect of an offence heard and determined by the Court as a result of the revocation of an enforcement order within the meaning of, or the making of an application under section 68(1) the **Infringements Act 2006**.

IF YOU DO NOT PAY OR TAKE ANY ACTION

If you do not take any action, you will be arrested and brought before the Court. If the Court is satisfied that you have defaulted in payment for more than one month, it may—

- make a community-based order requiring you to perform unpaid community work under the direction of a regional manager for one hour for each 0.2 penalty unit or part of 0.2 penalty unit then remaining unpaid with a minimum of 8 and a maximum of 500 hours. You may also be ordered to pay additional costs.
- order that you be imprisoned for one day for each penalty unit or part of a penalty unit then remaining unpaid with a maximum of 24 months, and may order you to pay additional costs.
- order that the amount of the fine then unpaid be levied under a warrant to seize property.
- vary any existing order for payment of the fine by instalments.
- adjourn the hearing or further hearing of the matter for up to 6 months on any terms that the Court thinks fit.

FORM 51

Rule 102

**NOTICE ABOUT THE PROCEDURE FOR ENFORCEMENT OF A
FINE (BODIES CORPORATE)**

(Section 66(3) of the **Sentencing Act 1991**)

A warrant to seize property owned by the company has been issued to satisfy the amount of a fine or instalment under an instalment order imposed on the company by the Magistrates' Court, and all lawful costs of execution.

The attached document sets out a summary of the details and the total amount outstanding. You may obtain further details of the penalty from the Magistrates' Court. To do so, you must supply the Court reference which is also on the attached summary.

THE COMPANY HAS 7 DAYS FROM THE DATE ON WHICH THIS DEMAND IS MADE TO PAY THE AMOUNT OUTSTANDING OR TO OBTAIN AN INSTALMENT ORDER OR TIME TO PAY ORDER [see below]. Payment must be made to the sheriff, [*insert address*].

IF THE COMPANY CANNOT PAY

It may apply to a registrar of the Magistrates' Court for an order that the fine be paid by instalments or for an order that the company be allowed time to pay the fine.

IF THE COMPANY DOES NOT PAY OR TAKE ANY ACTION

If the company does not pay or take any action, the sheriff is required to seize and sell property belonging to the company to satisfy the amount outstanding.

FORM 52

Rule 101

**COMMUNITY-BASED ORDER IN DEFAULT OF PAYMENT OF A
FINE**

(Section 62(9) of the **Sentencing Act 1991**)

In the Magistrates' Court of
Victoria at [*venue*]

Court Reference:

TO
of

Date of birth [*date*]

On [*date*], with your signed consent, this community-based order is made against you requiring you to perform unpaid community work in respect of the unpaid fine set out below which was imposed by the Magistrates' Court at [*venue*] on [*date*].

<i>Charge</i>	<i>Unpaid amounts</i>			<i>Hours of work ordered</i>	<i>How hours to be served</i>
	<i>Fine</i>	<i>Statutory costs</i>	<i>Costs</i>		

Where the hours are stated as being served cumulatively, they are to be performed cumulatively, or in addition to any other community-based order made in respect of unpaid fines. A minimum of 8 hours unpaid community work is required to be performed.

This order commences on [*date*] and ends on [*date*].

You must attend [*address of community corrections centre*] within 2 clear working days after [*date*].

The Magistrates' Court at [*venue*] will supervise this order.

The conditions of this Order are that you must:

- not commit another offence for which you could be imprisoned during the time that the order is in force.
- report to the above community corrections centre within 2 clear working days of the order starting.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 52

- report to, and receive visits from, a community corrections officer.
- notify an officer at the above community corrections centre of any change of your address or employment within 2 clear working days after the change.
- not leave Victoria without first obtaining permission to do so from an officer at the above community corrections centre.
- obey all lawful instructions and directions given to you by community corrections officers.
- perform unpaid community work as directed by the regional manager for the hours of work specified in this order.

This order was made on [date] at [venue].

[*Signature of magistrate/*proper officer]

*Delete if not applicable

FORM 53

Rule 103

SUMMONS FOR FAILURE TO PAY A FINE

(Section 64(1) of the **Sentencing Act 1991**)

In the Magistrates' Court of

Victoria at [*venue*]

Court Reference:

Date of birth

Informant

of

TO:

1. On [*date*] you were found guilty of an offence and the Court ordered you to pay the following amount(s):

<i>Charge No.</i>	<i>Act/section</i>	<i>Fine</i>	<i>Statutory Costs</i>	<i>Costs/Other amount(s)</i>	<i>Paid</i>	<i>Unpaid</i>
		\$	\$	\$	\$	\$

TOTAL AMOUNT NOW PAYABLE _____

2. The Court records show that you have not paid the above amount and a warrant to seize your property to recover this amount has been returned unsatisfied.
3. YOU ARE DIRECTED TO APPEAR BEFORE THE MAGISTRATES' COURT AT [*place*] ON [*date and time*] TO BE EXAMINED CONCERNING YOUR FAILURE TO PAY THE ABOVE AMOUNT(S).

Issued at [*place*] on [*date*]

NOTES

1. If you pay the above amount to any registrar of the Magistrates' Court on or before the date for hearing of this summons, you will not be required to appear at Court. If you do not pay before the hearing of this summons, the Court may order you to pay additional costs.
2. Payments may be made personally or posted to the registrar. You must quote the Court reference at the top of this summons.

Magistrates' Court Criminal Procedure Rules 2009
S.R. No. 181/2009

Form 53

3. If you do not pay the amount due or appear at Court as directed by this summons, a warrant for your arrest may be issued.
-

SCHEDULE 1

Rule 4

REVOKED STATUTORY RULES

<i>S.R. No.</i>	<i>Title</i>
55/2006	Magistrates' Court (Criminal Procedure) Rules 2006
72/2006	Magistrates' Court (Criminal Procedure) (Amendment) Rules 2006
179/2006	Magistrates' Court (Criminal Procedure) (Further Amendment) Rules 2006
33/2007	Magistrates' Court (Criminal Procedure) (Infringements Court Venue) Rules 2007
57/2007	Magistrates' Court (Criminal Procedure) (Amendment) Rules 2007
118/2007	Magistrates' Court (Criminal Procedure) (Prescribed Venue) Rules 2007
6/2008	Magistrates' Court Criminal Procedures (Evidence - Audio Visual and Audio Linking) Rules 2008
84/2008	Magistrates' Court (Criminal Procedure) Amendment Rules 2008
83/2009	Magistrates' Court (Committals) Rules 2009

Dated: 15 December 2009

DANIEL J. MULING,
Acting Chief Magistrate

FELICITY ANNE BROUGHTON,
Deputy Chief Magistrate

PETER HENRY LAURITSEN,
Deputy Chief Magistrate

ENDNOTES

1. General Information

The Magistrates' Court Criminal Procedure Rules 2009, S.R. No. 181/2009 were made on 15 December 2009 by the Chief Magistrate together with 2 Deputy Chief Magistrates jointly under section 16 of the **Magistrates' Court Act 1989**, No. 51/1989 and section 419 of the **Criminal Procedure Act 2009**, No. 7/2009 and came into operation on 1 January 2010: rule 3.

The Magistrates' Court Criminal Procedure Rules 2009 will sunset 10 years after the day of making on 15 December 2019 (see section 5 of the **Subordinate Legislation Act 1994**).

2. Table of Amendments

This Version incorporates amendments made to the Magistrates' Court Criminal Procedure Rules 2009 by statutory rules, subordinate instruments and Acts.

Magistrates' Court Criminal Procedure (Amendment No. 1) Rules 2011,
S.R. No. 18/2011

Date of Making: 13.4.11
Date of Commencement: 22.4.11: rule 3

Magistrates' Court Criminal Procedure (Amendment No. 2) Rules 2011,
S.R. No. 59/2011

Date of Making: 7.7.11
Date of Commencement: 10.7.11: rule 3

Endnotes

3. Explanatory Details

¹ Rule 59(a): S.R. No. 1/2003. Reprint No. 1 as at 15 August 2006. Reprinted to S.R. No. 104/2006. Subsequently amended by S.R. Nos 155/2009 and 121/2010.

² Rule 89: S.R. No. 49/2009.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2011 is \$122.14.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.