

Authorised Version No. 002
**Children's Court (Evidence - Audio Visual
and Audio Linking) Rules 2008**

S.R. No. 11/2008

Authorised Version incorporating amendments as at
20 February 2013

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ORDER 1—PRELIMINARY

1.01 Object

The object of these Rules is to facilitate applications to the Court under Part IIA of the **Evidence Act 1958**.

1.02 Authorising provisions

These Rules are made under section 589 of the **Children, Youth and Families Act 2005** and all other enabling powers.

1.03 Commencement

These Rules come into operation on 1 March 2008.

1.04 Revocation

The Children's Court (Evidence - Audio Visual and Audio Linking) Rules 1998¹ are **revoked**.

**ORDER 2—APPLICATIONS UNDER PART IIA OF THE
EVIDENCE ACT 1958**

2.01 Definition

In this Order *the Act* means the **Evidence Act 1958**.

2.02 Notice of application

Notice of an application for a direction under section 42E(1) of the Act must be in Form 2A.

2.03 Filing

Unless the Court otherwise directs, the applicant for a direction under section 42E(1) of the Act must file the notice at least 7 days before the person the subject of the application is due to appear before or give evidence or make a submission to the Court.

2.04 Service

As soon as practicable after the filing of the notice, the applicant must serve a copy on every other party.

2.05 Duty of applicant

If, whether before or after a direction has been given, an applicant no longer requires the person the subject of the application to appear before or give evidence or make a submission to the Court by audio visual link or audio link, the applicant must notify the Registrar forthwith.

2.06 Payment of costs

Unless the Court otherwise orders, the appropriate amount prescribed by the regulations under section 42H(1) of the Act shall be paid in the first instance by the applicant.

2.07 Application under section 42L

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 2B; 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.

2.08 Application under section 42M

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 2C; 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.

2.09 Application under section 42N

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 2C; 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.

2.10 Application under section 42P

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 2C; 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.
-

Form 2A

FORMS

Rule 2.02

FORM 2A

**NOTICE OF APPLICATION UNDER SECTION 42E(1) OF
THE EVIDENCE ACT 1958**

[heading as in originating process]

PART 1—PARTICULARS OF APPLICATION

I, *[name of applicant]*

of *[address of applicant or firm of solicitor for applicant]*

request an *audio visual/*audio link in accordance with the following details—

1. *Audio visual/*Audio link
From *[originating city/town]*
To *[receiving city/town]*
2. Type of hearing *[e.g. *Hearing/*Protection Application/*Other]*
3. Number of persons to appear before, or give evidence by *audio visual/*audio link—
4. Suggested time *(if any)* for link
5. Estimate of duration of link
6. Is this application being made with the consent of the parties to the proceeding?
7. If the answer to question 6 is No, what parties have not given consent?
8. If a hearing date has been fixed, what is the date of the hearing?

I undertake to pay, in the first instance, the appropriate amount prescribed by the regulations under section 42H(1) of the Act.

Date

[Signature]

PART 2—PARTICULARS OF HEARING

(to be completed by the Registrar)

The application will be heard before the Children's Court at
on [e.g. 20 June 20] at a.m. [or p.m.] or so soon afterwards as the
business of the Court allows.

FILED [e.g. 10 June 20].

*strike out if inapplicable.

Form 2B

Rule 2.07

FORM 2B

**NOTICE OF APPLICATION UNDER SECTION 42L OF THE
EVIDENCE ACT 1958**

In the Children's Court

at

The Queen

v.

[name of accused person]

PARTICULARS OF APPLICATION

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

Type of hearing *[insert details]*

Date of hearing *[insert details]*

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

Date

[Signature]

Rules 2.08, 2.09
and 2.10

FORM 2C

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

In the Children's Court

at

The Queen

v.

[name of accused person]

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 person 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 person 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 _____,
on *[e.g. 20 June 20]* at _____ a.m. *[or p.m.]* or so soon afterwards as the
business of the Court allows.

FILED *[e.g. 10 June 20]*.

Children's Court (Evidence - Audio Visual and Audio Linking) Rules 2008
S.R. No. 11/2008

Form 2C

Dated: 27 February 2008

PAUL D. GRANT,
President of the Children's Court of Victoria

KAY H. MACPHERSON,
Magistrate

PETER T. POWER,
Magistrate

ENDNOTES

1. General Information

The Children's Court (Evidence - Audio Visual and Audio Linking) Rules 2008, S.R. No. 11/2008 were made on 27 February 2008 by the President together with two magistrates for the Court under section 589 of the **Children, Youth and Families Act 2005**, No. 96/2005 and came into operation on 1 March 2008: rule 1.03.

The Children's Court (Evidence - Audio Visual and Audio Linking) Rules 2008 will sunset 10 years after the day of making on 27 February 2018 (see section 5 of the **Subordinate Legislation Act 1994**).

Endnotes

2. Table of Amendments

There are no amendments made to the Children's Court (Evidence - Audio Visual and Audio Linking) Rules 2008 by statutory rules, subordinate instruments and Acts.

3. Explanatory Details

¹ Rule 1.04: S.R. No. 18/1998.