

## APPENDIX 4 NOTICE OF APPEAL PRECEDENT

South Australia

Criminal Law Consolidation Act, 1935

In the Supreme Court

SCCRM - -

R. v.

Notice of Appeal or Notice of Application for Permission to Appeal  
against Conviction or Sentence by a Defendant

Explanatory Note

This form is for use by a person who, pursuant to Section 352(1)(a) or Section 352(1)(c)(ii) of the Criminal Law Consolidation Act, 1935, wishes to appeal from the Supreme Court or the District Court against conviction, or to seek permission to appeal against such a conviction, to seek permission to appeal against sentence or to apply for an extension of time to do any of those things.

The procedures governing all such matters are as provided in the Rules of Court of the Supreme Court known as the Supreme Court Criminal Appeal Rules 1996 as amended from time to time.

The full text of the relevant subsections of Section 352 of the Criminal Law Consolidation Act 1935 ("the Act") appears at the foot of this form.

A. Particulars of Appellant

1. Full name –
2. Usual residential address –
3. If in custody, state where detained –
4. Address for service of notices and other documents –

B. Nature of Notice. (Answer "Yes" or "No" in every square)

5. Appeal against conviction, no permission being required . •  
An extension of time is sought . •
6. Application for permission to appeal against conviction . •  
An extension of time is sought . •
7. Application for permission to appeal against sentence . •  
An extension of time is sought . •

C. Particulars of Conviction and Sentence

8. Did your conviction follow a trial at which you pleaded "Not Guilty"? •
9. Date of conviction (whether following trial or your plea of guilty)
10. Court in which convicted
11. Offence or offences for which convicted
12. Date of sentence

13. Particulars of sentence

D. Particulars of Certificate under Section 352(1)(a)(ii)

14. Did the Judge before whom you were tried give a certificate that the matter is a fit case for appeal? •

E. Grounds of appeal against conviction (whether or not permission to appeal is required and whether or not an extension of time is sought).

15. The following are the grounds of appeal against conviction. Where permission to appeal or an extension of time or either or both those things are sought, the grounds are those upon which the appeal will be made if permission is given or an extension of time is granted as the case may be. (The grounds of appeal must be particularised and reference is to be made to the page numbers of relevant passages in the evidence, in any legal argument, in any rulings, in any reasons for judgment and in the summing-up).

F. Grounds upon which permission to appeal is sought (Answer this whether or not an extension of time is sought)

16. If the application is for permission to appeal against conviction, or permission to appeal against sentence, set out the grounds upon which such permission is sought:—

G. Presence of appellant at the hearing (Answer "Yes" or "No" in each square)

17. Subject to any contrary direction by the Court, persons in custody will, instead of being brought to Court, appear by means of an audio visual link on the hearing of any application for permission to appeal which is to be heard by a single judge. However, it is possible for persons in custody to indicate that they do not wish to appear at all at the hearing of the application, or to object to appearing by audio visual link and to indicate that they wish to attend in Court in person.

I desire to be present–

on the hearing of the appeal •

in person/by audio visual link [delete whichever is inapplicable] on the hearing of the application for permission to appeal •

in person/by audio visual link [delete whichever is inapplicable] on the application for an extension of time •

17A. I object to appearing by audio visual link on the hearing of the application for permission to appeal/application for an extension of time [delete whichever is inapplicable] on the following grounds:

H. Application for extension of time to appeal

18. If the notice of appeal, or the notice of application for permission to appeal, is out of time, and an extension of time is sought, state the reasons for the delay in giving the notice, and the grounds upon which the Court will be asked to extend time.

I. Argument in Writing

19. If it is intended that the Full Court consider the appeal or application upon the basis of an argument in writing, set out the argument hereunder, or in a separate annexed document, in which event state "argument in writing annexed".

Dated this      day of    20

(signed)

[signature or mark of appellant]

The Criminal Law Consolidation Act provides:–

Section 352.

(1) Appeals lie to the Full Court as follows:

- (a) if a person is convicted on information –
  - (i) the convicted person may appeal against the conviction as of right on any ground that involves a question of law alone;
  - (ii) the convicted person may appeal against the conviction on any other ground with the permission of the Full Court or on the certificate of the court of trial that it is a fit case for appeal;
  - (iii) the convicted person or the Director of Public Prosecutions may appeal against sentence passed on the conviction (other than a sentence fixed by law) on any ground with the permission of the Full Court;
- (c) if a court makes a decision on an issue antecedent to trial that is adverse to the defendant –
  - (ii) the defendant may, if convicted, appeal against the conviction under paragraph (a) asserting as a ground of appeal that the decision was wrong.