

## SUPREME COURT OF YUKON

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PRACTICE DIRECTION  
CRIMINAL-4

*Applications in Criminal Law Matters*

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All applications in criminal law matters shall be made in the Notice of Application form attached as Appendix A.

Where the accused is self-represented, the Notice of Application form may be amended to reflect a case management date to schedule the application rather than the date of the application itself.

An order of the Court may be drawn up by any party and attached to the Notice of Application for endorsement by the judge. Contested orders should be in the form attached as Appendix B, and consent orders in the form attached as Appendix C.

Any affidavits filed in support of an application shall be in the Affidavit form attached as Appendix D.

An Affidavit of Delivery shall be completed and filed in the form attached as Appendix E. Copies of the front page of each document delivered shall be attached as separate exhibits.

Nothing in this Practice Direction shall be interpreted as preventing an accused from making an application at any point in the trial, but the failure of the accused to give timely notice for such an application may be taken into account by the trial judge in determining

- whether to hear the application forthwith or to adjourn the trial to hear it; and
- on what terms the judge will hear the application.

### ***Charter applications***

- In *Charter* applications challenging the constitutional validity of a Yukon enactment or an enactment of Canada, the Notice of Application shall be delivered to the required parties at least thirty (30) days before the hearing date, pursuant to the *Constitutional Questions Act*, R.S.Y. 2002, c. 39.
- In applications:
  - for a remedy under s. 24(1) of the *Charter* on account of an infringement or denial of any right or freedom guaranteed by the *Charter*; or

- to exclude evidence under s. 24(2) of the *Charter*, where the grounds for the application are known before trial,

the Notice of Application shall be delivered to the required parties at least seven (7) days before the hearing date, unless the Court orders otherwise.

- to exclude evidence under s. 24(2) of the *Charter*, where the grounds for the application are not known before trial, or the full basis for the application is not established until evidence emerges at trial, the trial judge will manage the application process.

### ***Applications under statutes***

In applications governed by statute, the notice requirement set out in the statute should be followed.

### ***Other applications***

In any other applications, reasonable notice shall be given to the other party by delivering a filed copy of Notice of Application, together with copies of any materials or authorities the applicant intends to rely upon at the hearing. Reasonable notice shall be considered to be not less than two (2) clear days' notice, unless the Court orders otherwise.

Duncan C.J.  
September 3, 2021

Appendix A

S.C. No. \_\_\_\_\_

**SUPREME COURT OF YUKON**

Between

**HER MAJESTY THE QUEEN**

Applicant/Respondent

and

**(Name of accused)**

Applicant/Respondent

**NOTICE OF APPLICATION**

TAKE NOTICE that an application will be made by \_\_\_\_\_  
to the court on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at the hour of \_\_\_\_\_ in the courthouse in \_\_\_\_\_, Yukon, for an order:

- Granting a remedy pursuant to s. 24(1) of the Charter, specifically:  
\_\_\_\_\_  
\_\_\_\_\_
- Granting the exclusion of evidence pursuant to s. 24(2) of the Charter  
(specify evidence to be excluded): \_\_\_\_\_  
\_\_\_\_\_
- Granting other relief (specify): \_\_\_\_\_  
\_\_\_\_\_
- Declaring the following enactment constitutionally invalid: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This application is based upon: (specify the sections of the Charter, Criminal Code,  
other statutory or common law source of authority upon which the application is based)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
- ...

**In support of this application, the applicant relies upon the following:**

**(a) evidence:** (set out documents, e.g. affidavits, transcripts, etc., and any potential witnesses upon which you intend to rely)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
- ...

**(b) grounds:** (set out a brief description of your argument)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
- ...

**(c) case authorities:** (list case law on which you intend to rely)

It is expected that the application will take \_\_\_\_\_ hours.

Dated at \_\_\_\_\_ this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature [Applicant or Counsel]

[set out name, address, telephone and fax numbers (if applicable)]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Appendix B

S.C. No. \_\_\_\_\_

**SUPREME COURT OF YUKON**

Between

**HER MAJESTY THE QUEEN**

Applicant/Respondent

and

Applicant/Respondent

**ORDER**

BEFORE THE HONOURABLE )  
CHIEF JUSTICE/JUSTICE ) day, the  
 day of , 20\_\_

THE APPLICATION of \_\_\_\_\_, coming  
on for hearing at Whitehorse, Yukon, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_,  
and on hearing \_\_\_\_\_, lawyer for the  
\_\_\_\_\_, and \_\_\_\_\_, lawyer for the  
\_\_\_\_\_.

THIS COURT ORDERS that:

- 1.
- 2.
- 3.

By the Court

\_\_\_\_\_  
Justice

**SUPREME COURT OF YUKON**

Between

**HER MAJESTY THE QUEEN**

Applicant/Respondent

and

Applicant/Respondent

**CONSENT ORDER**

BEFORE A JUDGE OF THE COURT    )            day, the  
  )            day of                   , 20

THE APPLICATION of \_\_\_\_\_, without  
a hearing and by consent.

THIS COURT ORDERS that:

- 1.
- 2.
- 3.

By the Court

\_\_\_\_\_

Justice

Consented to and Approved:

\_\_\_\_\_  
Applicant [*Signature*]

\_\_\_\_\_  
Respondent [*Signature*]

\_\_\_\_\_  
Applicant [*Print Name*]

\_\_\_\_\_  
Respondent [*Print Name*]

**SUPREME COURT OF YUKON**

Between

**HER MAJESTY THE QUEEN**

and

\_\_\_\_\_

**AFFIDAVIT**

I, [*name, address, and occupation of deponent*] \_\_\_\_\_, MAKE

OATH (OR SOLEMNLY AFFIRM) AND SAY THAT:

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

...

SWORN (OR AFFIRMED) before  
me at \_\_\_\_\_, in  
\_\_\_\_\_ on this  
\_\_\_ day of \_\_\_\_\_, 20 \_\_\_

\_\_\_\_\_  
A Notary Public in and for the  
Yukon

\_\_\_\_\_  
Deponent

**SUPREME COURT OF YUKON**

Between

HER MAJESTY THE QUEEN

and

\_\_\_\_\_

**AFFIDAVIT OF DELIVERY**

I, \_\_\_\_\_, of \_\_\_\_\_, in Yukon,  
MAKE OATH AND SAY AS FOLLOWS:

I DELIVERED:

*[list of each document delivered]* \_\_\_\_\_  
\_\_\_\_\_

attached and marked as exhibits \_\_\_\_\_ by leaving

a copy of the documents with *[name of person or party]* \_\_\_\_\_

on *[date and time when documents delivered]* \_\_\_\_\_

at *[complete address where documents delivered]* \_\_\_\_\_  
\_\_\_\_\_

Sworn before me at the \_\_\_\_\_ of  
\_\_\_\_\_, in the Yukon,  
this \_\_\_ day of \_\_\_\_\_, 20\_\_\_

\_\_\_\_\_  
Notary Public In and For the Yukon

\_\_\_\_\_  
Signature