



IN THE TERRITORIAL COURT OF YUKON

PRACTICE DIRECTION
APP-1

Applications in Criminal Law Matters

All applications in criminal law matters shall be made in the Notice of Application form.

Where the accused is self-represented, the form may be amended to reflect an appearance 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 Order form and consent orders in the Consent Order form.

Nothing in this Practice Direction shall be interpreted as derogating from the right of an accused to make an application at any point in the trial, but the failure 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.

Applications other than *Charter* applications

In applications not made pursuant to the *Canadian Charter of Rights and Freedoms*, and in applications not otherwise governed by statute, reasonable notice shall be given to the other party by delivering a filed copy of the Notice of Application, together with copies of any materials or authorities the applicant intends to rely upon at the hearing. The Notice of Application shall set out the precise relief sought on the application and the grounds on which the applicant relies. Reasonable notice shall generally be considered to be not less than two (2) clear days' notice, unless the Court orders otherwise.

***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*, other than s. 11(b); or
- to exclude evidence under s. 24(2) of the *Charter*, where the grounds for the application are known in advance of trial,

the Notice of Application shall set out the nature of the application in sufficient detail to inform the other party of the case they have to meet. In particular, such applications shall include a statement of the *Charter* provision(s) at issue and a general indication of the evidence, grounds and case authorities to be relied upon. When the applicant intends to tender evidence, the Notice of Application should provide an outline of what that evidence will be, including any potential witnesses. Such applications shall be on reasonable notice to the other party, which shall generally be considered to be not less than seven (7) days before the hearing date, unless the Court orders otherwise.

In applications to exclude evidence under s. 24(2) of the *Charter*, where the grounds 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.

In applications made under s. 11(b) of the *Charter*, a hearing date shall be set at least 30 days before any scheduled date for trial, and materials relating to the application must be provided by the applicant to the respondent and the court at least seven (7) days before the hearing date. The materials should include the Record of Proceedings from the back of the Information and any Indictment, but transcripts are generally not required where the Record of Proceedings is clear with respect to what transpired at a particular appearance. Where a transcript of a key appearance is required, only that portion relating to discussions about scheduling and adjournments needs to be included.

Chief Judge K. Ruddy
April 6, 2018