

**COURT OF APPEAL OF ALBERTA
CRIMINAL NOTICE OF APPEAL - CHECK/RETURN FORM**

This checklist return form provides an itemized summary of the most common problems when filing documents in the Court of Appeal. However, this form does not include each requirement of the Alberta Rules of Court and Practice Directions. Accordingly, you should rely on the appropriate authority when preparing a document for filing in the Court of Appeal.

- A. **General Format of Document:**
Refer to the General Format - Check/Return Form for formal requirements of all documents.

- B. **Prescribed Forms:**
Form A is to be used when an Appellant is not represented by Counsel pursuant to Alberta Rule of Court (ARC) 845(1). Form B is to be used where notice is being filed by counsel for an Appellant or on behalf of the Attorney General (Crown Appeals) pursuant to ARC 845(2). These forms can be obtained from the Court of Appeal Registry, and are also available on the Court's website at www.albertacourts.ab.ca under Court of Appeal > Publications & Forms > Precedents/Sample Forms > Criminal Notice of Appeal.

- C. **Copies Required:**
The Registry will keep the original and 2 copies of the Notice of Appeal.

- D. **Backers:**
Counsel must provide a proper backer in accordance with the General Format - Check/Return form. A Notice of Appeal filed by an Appellant who is not represented will be accepted without a backer.

- E. **Trial Court Number(s):**
When filed by counsel, the trial court number(s) must be provided on the front and back of the Notice of Appeal, directly beneath the "Appeal No." area.

- F. **Service:**
When filed by counsel, the Notice of Appeal must indicate who will be served, e.g. Alberta Justice, Special Prosecutions or Public Prosecution Service of Canada.

- G. **Signature Required:**
The Notice of Appeal must be signed by the appellant or their counsel. When filed by counsel, the name of the person signing the document must be legibly printed directly beneath the signature (ARC 5.1).

- H. **Address for Service:**
When filed by counsel, the Notice of Appeal must provide either an address for service within 30 kilometres of the Registry office (ARC 5(1)(b)), or a facsimile

number located in Alberta at which a document may be served in accordance with ARC 16.1.

I. **Notice to Respondent Required on Crown Appeals:**

Crown appeals will contain a notice on the left side of the backer as follows:

To: The respondent [accused's name and address].

The Registrar of the Court of Appeal will advise you by letter at the above address of the date and time for hearing of this appeal. You should immediately notify the Registrar if the above address is not correct or of any change of address. If you retain counsel, please ask your counsel to so advise the Registrar.

You may also find out the date and time of the hearing of this appeal by contacting the Registrar at: [Insert appropriate address, phone and fax numbers.]

If you do not appear either in person or by counsel on the hearing date, the court may hear the appeal and adjudicate upon it in your absence.

J. **Appeal Period:**

Pursuant to ARC 843(1) - (4) and section 672.34 of the Criminal Code (CC), a Notice of Appeal from conviction, conviction and sentence, sentence only, acquittal, a finding of "not criminally responsible on account of mental disorder", or a finding or verdict of "unfit to stand trial" shall be filed and served within (30) days from the date of sentence.

K. **Right to Appeal - Indictable Offences:**

Pursuant to section 674 CC, only indictable offences which fall under Part XXI and XXVI are appealable to the Court of Appeal. See section 675 (conviction and sentence appeals), 676 (acquittal, etc.) & 784 (decision appeals granting or refusing prerogative relief) **Note:** Interim rulings or interlocutory matters cannot be appealed other than those set out in section 784 CC and 37.1 of the *Canada Evidence Act* (CEA). Other matters, such as section 759 CC dispositions, may also be appealed to the Court of Appeal.

L. **Summary Conviction Appeals:**

Summary conviction matters are appealable to the Court of Queen's Bench of Alberta. Some summary conviction matters, such as section 672.72 CC dispositions, may also be appealed to the Court of Appeal.

M. **Indictable and Summary Sentence Appeals Heard Together:**

If you are appealing from sentences imposed simultaneously by a trial judge in connection with both categories (indictable and summary matters), the summary matter can be included with the indictable matter in the Notice of Appeal and be filed with the Court of Appeal.

N. **Leave to Appeal Required:**

Pursuant to section 675, 676 or 676.1 CC, leave of the Court of Appeal is required:

- (i) on conviction appeals, where the ground of appeal involves a question of fact, a question of mixed law and fact, or the ground appears to the Court of Appeal to be a sufficient ground of appeal (sought at the time of hearing),
- (ii) on sentence appeals (sought at time of hearing), unless the sentence is one fixed by law,
- (iii) on summary conviction appeals, or a sentence passed with respect to a summary conviction as if the summary conviction had been a conviction in proceedings by indictment; if there has not been an appeal with respect to the summary conviction; the summary conviction was tried with an indictable offence; and there is an appeal in respect of the indictable offence, or
- (iv) to appeal an order to pay costs, or an amount of costs ordered.

Pursuant to Part F.9 of the Court of Appeal Consolidated Practice Directions (CPD), leave of the Court of Appeal is required:

- (v) in order to appeal further from the Court of Queen's Bench in a summary conviction matter on a question of law alone (sought beforehand from one justice of appeal in chambers).

O. **Copy of Indictment/Information:**

A copy of each Indictment/Information should be provided at the time of filing the Notice of Appeal.

P. **Leave to Amend Required:**

Leave of the court or a judge is required to amend a Notice of Appeal (ARC 512).

Calgary Registry: (403) 297-2206
Edmonton Registry: (780) 422-2416

Form Revised: September 25, 2008

Access this form on the Alberta Court's website at www.albertacourts.ab.ca under Court of Appeal > Publications & Forms > Check/Return Forms > Criminal Notice of Appeal