

PRACTICE DIRECTIVE 9

EXCLUSION OF EVIDENCE/CHARTER S.24(2)

APPLICATION OF THE PRACTICE DIRECTIVE

9.01 This Practice Directive applies in any proceeding where an accused seeks the remedy of exclusion of evidence pursuant to s.24 (2) of the *Charter*.

FORM OF APPLICATION

9.02 In any proceeding in which Practice Directive 9 applies, the accused shall file in the appropriate court office a Notice of Application in Form 3.

CONTENTS OF APPLICATION

9.03 The Notice of Application shall contain

- (a) the trial date;
- (b) the time and place of hearing;
- (c) the Right or Freedom that is alleged to be infringed or denied;
- (d) the evidence sought to be excluded;
- (e) the grounds to be relied upon, including a concise statement of the manner in which the right or freedom is alleged to be infringed or denied and the facts and principles of law to be relied upon;
- (f) a list of the cases to be relied upon;
- (g) a copy of the Information and court record of proceedings; and
- (h) an indication of whether or not the accused is in custody and if so, the place of detention.

SERVICE AND FILING

9.04(1) The Notice of Application, along with any supporting materials, shall be served on the prosecutor who has conduct of the proceedings, not less than five days before the date of hearing.

9.04(2) The Notice of Application, along with supporting materials, shall be filed in the appropriate court office not less than five days before the date of hearing.

MATERIALS IN SUPPORT OF APPLICATION

9.05 The Notice of Application shall be accompanied by a brief containing the following:

- (a) a memorandum of law in respect of the allegations made, and the grounds relied upon; and
- (b) copies of any documents, cases or other material intended to be relied upon at the hearing of the application.