Form CP27

Federal Court (Criminal Proceedings) Rule 4.27

Federal Court of Australia Act 1976 section 30CB(1)

Application for leave to refer a question of law

No.       of 20

Federal Court of Australia

District Registry: [State]

Division: General

**Commonwealth Director of Public Prosecutions[or other as appropriate]**Prosecutor

**[Name of Respondent]**Respondent

To the Respondent

**Application and court hearing**

The Prosecutor applies for leave to refer a question of law to a Full Court of the Federal Court of Australia for its determination under section 30CB(1) of the *Federal Court of Australia Act 1976*.

The Court will hear this application, or make orders for the conduct of the application, at the time, date and place shown in the Notice of Filing and Hearing attached.[Note: The Court will insert the Notice of Filing and Hearing as a coversheet when this application is accepted for filing.] If you or your lawyer do not attend, then the Court may make orders in your absence.

If you want to appear at the hearing of the application for leave, you must file in the Registry a notice of intended appearance (Form CP29) and a notice of address for service (Form CP10) as required by CP Rule 4.31.

**Question of law**

[Identify precisely the question of law]

**Accompanying affidavit**

This application must be accompanied by an affidavit stating briefly, but specifically, the facts that support the application, including the reason why the Court should consider the question of law.

The Respondent was acquitted on [date].

**Arrangements to ensure that acquitted person is properly represented**

The Prosecutor proposes the following arrangements to ensure that you will be properly represented if you want to appear at the hearing of this application or to make submissions in relation to the application for leave or in relation to the Court’s determination of the question of law:

[set out proposed arrangements]

**Arrangements to ensure that both sides will be argued**

The Prosecutor proposes the following arrangements to ensure that both sides of the issue will be argued if you do not want to make submissions in relation to the Court’s determination of the question of law:

[set out proposed arrangements]

**Information for Respondent**

The outcome of these proceedings cannot affect your status as an acquitted person. If the Court gives leave to refer a question of law, the Full Court of the Federal Court of Australia will have power to make a ruling of law for use in future cases but it will not have power to set aside your acquittal or impose a sentence upon you.

If the Court gives the Prosecutor leave to refer the question of law to a Full Court you will receive a notice of referral, which will give you information about what to do if you want to appear when the question of law is heard.

Date: [eg 19 June 20..]

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| Signed by [Name]  [Insert capacity eg For Commonwealth Director of Public Prosecutions] |

*Notes*

1. Section 30CB(1) of the Act allows the prosecutor to apply for leave to refer a question of law to a Full Court to provide guidance for future cases if a person has been acquitted following a trial on indictment.
2. An application for leave to refer a question of law, under section 30CB(1) of the Act, must be filed no later than 28 days after the acquitted person is discharged. (CP Rule 4.28(1)
3. **Service**: A stamped copy of this application and accompanying affidavit must be served personally on the acquitted person at least 5 days before the day fixed by the Court for hearing the application: (CP Rule 4.28(2)). See Part 7 of the CP Rules for rules about service.