Form CP28

Federal Court (Criminal Proceedings) Rule 4.30

Federal Court of Australia Act 1976 section 30CB

Notice of referral of 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

The Prosecutor refers a question of law to a Full Court of the Federal Court of Australia for its determination under section 30CB of the *Federal Court of Australia Act 1976*.

**Court hearing**

The Court will make orders for the conduct of the proceedings, 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 question of law, you must file in the Registry a notice of intended appearance (Form CP30) and a notice of address for service (Form CP10) as required by CP Rule 4.31.

**Question of law**

The Prosecutor was given leave on [date] to refer the following question of law to a Full Court of the Federal Court of Australia:

[state the question of law that has been referred]

**Facts of the case**

[insert a concise statement of the facts of the case. Use an annexure if the facts are lengthy]

**Arrangements to ensure that each party is properly represented**

[Select one of the following and delete the other]

[Either]The Court has made the following orders to ensure that you will be properly represented if you wish to appear at the hearing of or to make submissions about the question of law.

[Or]The Prosecutor proposes the following arrangements to ensure that you are properly represented if you wish to appear at the hearing or to make submissions about the question of law:

[set out Court orders or proposed arrangements]

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

[Select one of the following and delete the other]

[Either]The Court has made the following orders to ensure that both sides of the issue will be argued if you do not want to make submissions.

[Or]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:

[set out Court orders or proposed arrangements]

**Information for Respondent**

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

**Attachments**

The following documents are attached to this notice:

* a copy of the order granting leave to refer the question of law; and
* any documents necessary to enable the Court to decide the question of law.

Date: [eg 19 June 20..]

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

*Notes*

1. Under section 30CB of the Act, if leave is granted to refer a question of law to the Full Court, both the prosecutor and the acquitted person may make submissions in relation to the determination of the question of law. (see Note under CP Rule 4.31)
2. This notice must be filed within 28 days after the day on which leave was granted. (CP Rule 4.30(2))
3. **Service**: A stamped copy of this notice must be served personally on the acquitted person within 5 days after the day the notice is filed: (CP Rule 4.30(3)). See Part 7 of the CP Rules for rules about service.