



OCJPOA Appeals Guide

ONTARIO COURT OF JUSTICE GUIDE TO APPEALS IN PROVINCIAL OFFENCES CASES

This Guide provides general information about the court process for appeals under the *Provincial Offences Act*. It does not cover every circumstance that might arise in your case.

THINK ABOUT GETTING LEGAL ADVICE

This Guide does not provide legal advice. You are strongly urged to get advice from a lawyer or paralegal about appealing a provincial offences court decision. An appeal is not simply a rehearing of the evidence or submissions made at trial. A lawyer or paralegal will be able to advise you about the appeal process, possible appeal outcomes, and questions of law or procedure that may be relevant to your case.

You can be referred to a lawyer or paralegal through the Law Society Referral Service: 1-800-268-8326 toll free or 416-947-3330. The Law Society Referral Service will give you the name of a lawyer or paralegal within or near your community, who will provide a free consultation of up to 30 minutes to help you determine your rights and options.

Lawyer and Paralegal Directory: You can search on-line for lawyers and paralegals by name, city or postal code at: <http://www1.lsuc.on.ca/LawyerParalegalDirectory/index.jsp>.

You can also look for a lawyer or paralegal on the Internet or in the telephone directory.

In some limited circumstances, you may be eligible for legal aid (i.e. if there is a likelihood of a jail sentence or if you have received a jail sentence). For more information, contact Legal Aid Ontario at 1-800-668-8258 toll free or at 416-979-1446.

You may be able to get free legal advice or representation at your local community legal aid clinic or from law students at a university-based student legal aid services society (SLASS). Each clinic and SLASS has its own guidelines and financial eligibility for accepting clients, so you should contact them directly. For a list of community or SLASS clinics near you, visit: <http://www.legalaid.on.ca/en/contact/default.asp> or call Legal Aid Ontario at 1-800-668-8258 toll free or at 416-979-1446.

WHAT IS AN APPEAL?

An appeal is a request to a higher court to review a lower court trial or other decision.

Who hears appeals: Appeals from decisions by justices of the peace are heard by a judge of the Ontario Court of Justice. Appeals from decisions of judges of the Ontario Court of Justice generally are heard by a judge of the Superior Court of Justice.

Decisions that can be appealed: You may appeal against your conviction, the sentence you received (including a probation order), or against both the conviction and the sentence (including a probation order). The prosecutor also has a right to appeal. If you were acquitted at your trial, the prosecutor may appeal that decision. The prosecutor may also appeal against your sentence.

Appellant and respondent: The person who starts the appeal is the "appellant". The other side is the "respondent".

Prosecutor: The prosecutor prosecutes the charge(s) on behalf of the person who issued the certificate or laid the information. There may be more than one prosecutor in the courtroom on any day, such as the prosecutor for a municipality, the prosecutor for the federal government or the prosecutor for the provincial government.

Provincial offences appeal provisions: The *Provincial Offences Act* (Part VII) and Ontario Regulations 722/94 and 723/94 set out the rules regarding appeals, including the time you have to start your appeal. You can view the *Provincial Offences Act* and the regulations online at: <http://www.e-laws.gov.on.ca>.

STARTING AN APPEAL

Notice of Appeal: The first step to start the appeal process is to complete and file a form called a "Notice of Appeal". You can get the Notice of Appeal from the court office where your trial took place or from the appeal court office.

In the Notice of Appeal, you must state what you are appealing (for example, your conviction, your sentence, or both your conviction and your sentence). You must also briefly explain the mistakes you think were made at your trial (also called the "grounds of appeal").

Serving and filing the Notice of Appeal: If your appeal deals with a matter heard under PART I (nonparking tickets) or PART II (parking tickets) of the *Provincial Offences Act*, you must file the completed Notice of Appeal with the appeal court office. **IMPORTANT:** You have 30 days from the date of the decision you are appealing to file your appeal.

If your appeal deals with a matter heard under PART III (summons offences) of the *Provincial Offences Act*, you must serve your Notice of Appeal on the prosecutor's office before you file it with the appeal court office. The appeal court office will require you to show proof of service on the prosecutor's office in order for you to file your Notice of Appeal. **IMPORTANT:** You have 30 days from the date of the decision you are appealing to serve your Notice of Appeal. You must then file your appeal within 5 days of serving the prosecutor.

Special grounds of appeal:

- 1) **Fresh evidence:** Generally, an appeal judge only reviews the evidence and oral arguments that were presented at the lower court trial. In very limited circumstances, an appeal judge may permit new evidence (called "fresh evidence") to be introduced for the first time on appeal. If you intend to apply to the appeal court to introduce fresh evidence, you should let both the appeal court and the prosecutor know about this well in advance of the hearing date (preferably in your Notice of Appeal). You will have to explain to the appeal judge what the new evidence is, what difference this evidence will make to the outcome of your case, whether the new evidence was available at the time of your trial, and if the evidence was available, why you did not call this evidence at trial. You should bring the new evidence with you to the appeal hearing.
- 2) **Conduct of a lawyer or paralegal:** If you intend to raise any issue about how your legal representative handled your case at trial, you must notify that person about these issues so that he or she may respond. You should also let both the appeal court office and the prosecutor know about this well in advance of the hearing date (preferably in your Notice of Appeal).

Extension of time to appeal: If you do not file a Notice of Appeal within 30 days, you must get judicial permission to file the Notice of Appeal. To ask for this judicial permission, complete and file a form called "Application for Extension of Time to Appeal". In this form, you must explain why you did not file the Notice of Appeal within the 30 day period. You can get the Application for Extension of Time to Appeal form at the court office where your trial took place, or at the appeal court office. File the completed form with the appeal court office. You may attach the Notice of Appeal to your Application for Extension of Time to Appeal. As a general rule, you are only allowed to bring one application to extend time. An application to extend time should be filed promptly.

Pay any outstanding fines: If you were fined as part of your sentence, you will have to pay the fine before you will be allowed to file your Notice of Appeal. Keep your receipt of fine payment because the appeal court office may require proof that you have paid your fine before accepting any appeal documents for filing.

You may also apply to the appeal court for permission to file your appeal without first paying the fine. In that case, you must file a form called an "Application to File an Appeal Without Paying the Fine", setting out the reasons why you are unable to pay the fine. This form is available at the court office where your trial took place, or at the appeal court office. If your Application to File an Appeal Without Paying the Fine is granted, a judge can order you

to enter into a recognizance to appear on the appeal. If you do not appear on your appeal, the amount of the recognizance is then owed.

Transcripts: Transcripts are a written record of what was said at a court hearing. Some appeal judges want a trial transcript. In some kinds of appeals (such as Part III cases), the appeal rules require you to provide a transcript of your trial to the appeal court and the prosecutor's office. Failure to do so may result in your appeal not being scheduled, or being dismissed.

The person preparing a written transcript will need time to do so. It is important that you order written transcripts promptly in order to avoid delaying the hearing of your appeal. Again, failure to provide transcripts where required by the court could result in your appeal being dismissed. If transcripts are required, the person who started the appeal is responsible for ordering and paying for three copies of all transcripts and for giving a copy to the other side and the court.

Digital trial recordings: Some courthouses permit digital recordings made at the trial to be filed instead of written transcripts. Check with the court staff when you file your appeal as to what the local courthouse requirement is, and how to arrange for the digital recording to be filed with your appeal documents if this is permitted.

BEFORE THE APPEAL HEARING DATE

Accommodation for persons with disabilities: If you have any questions about a courthouse's accessibility features, or if you require accessible court services, contact the Accessibility Coordinator at the courthouse. You can obtain more information about courthouse accessibility on the Ministry of the Attorney General's website at: http://www.attorneygeneral.jus.gov.on.ca/english/courts/Court_Addresses

Interpreters: If you require an interpreter, immediately advise the court office where your appeal is to be heard. The court office provides interpreter services for court hearings free of charge.

French or bilingual appeal hearing: If you speak French, you are entitled to a bilingual appeal in relation to a provincial offence, or to a French appeal in relation to an offence under federal legislation.

APPEAL HEARING DATE

Hearing date: The appeal court office will mail you a written notice telling you the date, time, and location of your appeal. You must be prepared to appear in court at this date and time ready to argue your appeal, with or without legal representation.

What should I do if I can't attend court on a scheduled appeal hearing date? If you know ahead of the scheduled appeal date that you cannot attend court or go ahead with your appeal, immediately contact the appeal court office to ask if, and how, the date can be rescheduled. If on a scheduled court date you cannot attend or go ahead with your appeal, you or someone on your behalf will have to go to the court to ask the appeal judge if the case can be rescheduled and explain why. The appeal judge may order your appeal to be rescheduled, or may go ahead with your appeal even though you are not able to attend.

WHAT TO EXPECT AT YOUR APPEAL HEARING

Time: Typically many cases are scheduled to be heard in one courtroom at the same time. You must arrive at the courtroom on time but be prepared to wait in the likely event that other cases start before yours.

What to bring:

- (i) A pen and paper to take notes.
- (ii) Copies of your Notice of Appeal
- (iii) The transcript, if one was ordered.

Appeal arguments: Witnesses do not generally give evidence at an appeal hearing and you will not be required to testify. Instead, the appeal judge will listen to your oral arguments and those of the prosecutor. If you are the appellant, you will present your arguments first. The prosecutor will then make his or her oral arguments.

Special grounds of appeal: See above ("Starting An Appeal – Special grounds of appeal") regarding calling new evidence and raising concerns about the conduct of your lawyer or paralegal at your trial.

APPEAL DECISIONS

The appeal judge has the authority to uphold, reverse, or modify the trial decision. The appeal judge may also order a new trial. However, an appeal judge is required to show deference to the trial decision, and cannot allow an appeal simply because he or she views the evidence differently than the lower court did. An appeal judge has no power over demerit points and negative insurance consequences that may result from a conviction.

Appeals against conviction: The appeal judge may allow an appeal against conviction only if he or she is satisfied about any of the following:

- 1) the conviction at trial was unreasonable or is not supported by the trial evidence;
- 2) the trial court made a mistake with respect to the law; or
- 3) there was a miscarriage of justice.

Appeals against sentence: An appeal judge may allow an appeal against sentence only if the trial court made an error in principle, failed to consider a relevant factor, overemphasized a factor, or imposed a sentence that was clearly wrong.

Timing of appeal decision: The appeal judge may make a decision on the day of the appeal hearing. Alternatively, the appeal judge may want more time to decide the appeal. In this case, the appeal judge will either schedule another hearing date to deliver his or her oral appeal decision, or the court will send you and the prosecutor the judge's appeal decision in writing.

New trial: If the appeal judge orders a new trial, your case will be sent back to the court where your trial was first held. You will be sent a notice from the court advising you when you will be required to come back to court.

FURTHER APPEALS

The decision of an appeal judge may be appealed to the Ontario Court of Appeal within 30 days in very limited circumstances, and only with the permission of the Ontario Court of Appeal. You must bring an application (called a "leave to appeal application") to Ontario Court of Appeal to get this permission. You may represent yourself at the Ontario Court of Appeal, but it is recommended that you seek legal advice if possible.

The *Provincial Offences Act* (PART VII) and Ontario Regulation 721/94 set out the rules that apply in the Court of Appeal. You can view the *Provincial Offences Act* and the regulations online at: <http://www.e-laws.gov.on.ca>.

REOPENING A PROCEEDING

(Note: A reopening application is not an appeal. It is simply a procedure to ask the court to strike out a conviction and order a trial.)

If you are convicted in respect of a ticket without a hearing, you can apply to have your conviction struck out and a new trial scheduled. You must apply for this "reopening" within fifteen days of becoming aware of the conviction. Contact the court office shown on the back of your ticket to obtain information about how to apply.

A justice of the peace can "reopen" your case and strike out your conviction if he or she is satisfied by your sworn affidavit that:

- you were unable to attend the hearing or a meeting with the prosecutor, where applicable, through no fault of your own; or
- a notice or document relating to the offence was not delivered.

There is no appeal from a refusal to reopen your case. However, if your reopening application is denied, you may still try to appeal your conviction and/or sentence.

une telle autorisation. Vous pouvez vous représenter vous-même à la Cour d'appel de l'Ontario, mais il est recommandé que vous obteniez des conseils juridiques si cela est possible.

La *Loi sur les infractions provinciales* (PARTIE VII) et le règlement de l'Ontario 721/94 énoncent les règles qui s'appliquent à la Cour d'appel. La *Loi sur les infractions provinciales* et les règlements sont disponibles en ligne à : <http://www.e-laws.gov.on.ca>.

RÉOUVERTURE D'UNE INSTANCE

(Remarque : Une demande de réouverture n'est pas un appel. Il s'agit simplement d'une procédure permettant de demander au tribunal de radier une déclaration de culpabilité et d'ordonner la tenue d'un procès.)

Si vous êtes déclaré(e) coupable relativement à une contravention sans audience, vous pouvez demander que votre déclaration de culpabilité soit radiée et que la date d'un nouveau procès soit fixée. Vous devez déposer votre demande dans un délai de 15 jours après avoir été avisé(e) de la déclaration de culpabilité. Communiquez avec le greffe indiqué au verso de votre contravention pour en savoir plus sur la façon de présenter la demande.

Un juge de paix peut « rouvrir » votre cause et radier votre déclaration de culpabilité s'il est convaincu, grâce à votre affidavit fait sous serment :

- soit que vous étiez dans l'incapacité d'assister à l'audience ou à une réunion avec le poursuivant, le cas échéant, sans faute de votre part;
- soit qu'un avis ou un document se rapportant à l'infraction n'a pas été remis.

Le refus de rouvrir une cause n'est pas susceptible d'appel. Cependant, si votre demande de réouverture est rejetée, vous pouvez tout de même tenter d'interjeter appel de votre déclaration de culpabilité ou de votre peine.

NOTICE OF APPEAL UNDER SECTION 116 OF THE PROVINCIAL OFFENCES ACT
AVIS D'APPEL INTERJETÉ EN VERTU DE L'ARTICLE 116 DE LA LOI SUR LES INFRACTIONS
PROVINCIALES

ONTARIO COURT OF JUSTICE
COUR DE JUSTICE DE L'ONTARIO
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO

(Part III)
(Partie III)

Form / Formule 1
Courts of Justice Act
Loi sur les tribunaux judiciaires
O.Reg. / Règl. de l'Ont. 723/94

1. Ontario Court of Justice / Cour de justice de l'Ontario at / à
CITY OF WINDSOR
2. Appellant is / La partie appelante est
 Defendant le défendeur (la défenderesse) Attorney General le procureur général Prosecutor le poursuivant
3. Name of Appellant: YOUR NAME
Nom de l'appelant(e) :
Address for service: YOUR ADDRESS
Domicile élu :
4. Counsel for Appellant: Name: YOUR LAWYER'S NAME - IF APPLICABLE
Avocat(e) de l'appelant(e) : Nom :
Address for service: YOUR LAWYER'S ADDRESS
Domicile élu :
5. Name of respondent (if known): NAME OF THE CROWN ATTORNEY
Nom de l'intimé(e) (s'il est connu) :
Address for service: CROWN ATTORNEY'S ADDRESS
Domicile élu :
6. Counsel for respondent (if known):
Nom de l'avocat(e) de l'intimé(e) (s'il est connu) :
Address for service:
Domicile élu :
7. Decision of Ontario Court of Justice / Décision rendue par la Cour de justice de l'Ontario :
(Include name of Judge or Justice of Peace appealed from, if known); / inscrire le nom du juge ou du juge de paix dont la décision est portée en appel, s'il est connu) :
NAME OF THE JUSTICE OF THE PEACE WHO IMPOSED THE CONVICTION/SENTENCE/DISMISSAL
8. Date of decision: / Date de la décision : DATE OF CONVICTION/SENTENCE/DISMISSAL
9. The Appellant appeals against: / L'appelant(e) interjette appel :
 conviction / de la déclaration de culpabilité
 dismissal / du rejet de l'accusation
 finding as to ability to conduct a defense / de la conclusion quant à la capacité du défendeur (de la défenderesse)
d'assurer sa défense
 sentence / de la sentence
 order (s. 161 of the P.O.A.) / de l'ordonnance (art. 161 de la L.I.P.)
 any other order as to costs.
- by the Ontario Court of Justice / de la Cour de justice de l'Ontario
at _____
à/au _____ (address of court / adresse du tribunal)

FOR INFORMATION ON ACCESS
TO ONTARIO COURTS
FOR PERSONS WITH DISABILITIES, CALL
1-800-387-4456
TORONTO AREA 416-326-0111



POUR PLUS DE RENSEIGNEMENTS SUR L'ACCÈS
DES PERSONNES HANDICAPÉES
AUX TRIBUNAUX DE L'ONTARIO, COMPOSEZ LE
1-800-387-4456
RÉGION DE TORONTO 416-326-0111

10. If Defendant is in custody, place where held: NAME OF THE JAIL WHERE YOU ARE HELD - IF APPLICABLE
Si l'appelant(e) est sous garde, lieu de détention :
11. (a) Description of offence¹: / *Description de l'infraction*¹
DESCRIBE THE OFFENCE
- (b) Information number (if known): CASE NUMBER
Numéro de la dénonciation (s'il est connu) :
12. (1) Statute²: / *Loi*²: NAME OF THE STATUTE
- (2) Section³: / *Article*³: DESCRIPTION OF OFFENCE
13. Date of offence: / *Date de l'infraction* : DATE OF OFFENCE
14. Plea at trial: / *Plaidoyer au procès* : WHAT WAS THE PLEA AT TRIAL: GUILTY/NOT GUILTY/UNKNOWN
15. The grounds for appeal are: / *Moyens d'appel* :
 (specify the question of law or issue where the appeal is from conviction or acquittal or finding as to ability to conduct a defense or specify the ground for appeal against sentence / *préciser la question de droit ou la question en litige lorsqu'il est interjeté appel de la déclaration de culpabilité, de l'acquiescement ou de la conclusion quant à la capacité de la partie défenderesse d'assurer sa défense, ou préciser les moyens d'appel contre la sentence*)
WHAT ARE YOUR REASONS FOR THE APPEAL
16. In support of this appeal, the Appellant relies upon the following:
À l'appui du présent appel, l'appelant(e) se fonde sur les documents suivants :
 (set out documents such as transcript, etc. upon which the Appellant relies / *indiquer les documents, tels que les transcriptions, sur lesquels se fonde l'appelant(e)*)
LEGAL CLAIM OR ARGUMENT
17. The relief sought is: WHAT ARE YOU LOOKING TO HAVE DONE
Mesure de redressement demandée :
18. The Appellant intends: / *Intention de l'appelant(e)* :
 to be present in person or by counsel and to present the issues and the Appellant's arguments orally.
comparaître en personne ou par l'entremise d'un(e) avocat(e) et débattre les questions en litige et présenter ses arguments oralement.
 not to be present in person or by counsel and to present the issues and the Appellant's arguments in writing.
ne comparaître ni en personne ni par l'entremise d'un(e) avocat(e) et débattre les questions en litige et présenter ses arguments par écrit.
19. Does the Appellant intend to make a motion for an order that the appeal be heard by way of a new trial in the appeal court?
L'appelant(e) a-t-Il(elle) l'intention de présenter une motion en vue d'obtenir une ordonnance prévoyant la tenue de l'appel sous forme d'un nouveau procès devant le tribunal d'appel?
 Yes / *Oui* No / *Non*
20. Date: TODAYS DATE
21. Signature of Appellant or Counsel: _____
Signature de l'appelant(e) ou de son avocat(e) :

I request a _____ language interpreter for the appeal.
Je demande les services _____ (leave blank if inapplicable / à remplir, le cas échéant) pour l'appel.
d'un interprète de langue

NOTES:

- (1) If Appellant's address for service is that of the Appellant's Counsel, state Counsel's full address and Appellant's own full address.
- (2) Please notify the clerk of the court in writing immediately of any change of address. The court will communicate with you by mail at the address shown by you in this notice unless you notify the court of a change in your address.
- (3) This court of appeal must be filed with the local registrar of the Superior Court of Justice or Ontario Court of Justice.

REMARQUES :

- 1) Si le domicile élu de l'appelant(e) est celui de son avocat(e), indiquer l'adresse au complet de l'avocat(e) de même que l'adresse au complet de l'appelant lui-même (elle-même).
- 2) En cas de changement d'adresse, en aviser immédiatement le greffier du tribunal par écrit. Si le tribunal n'est pas avisé, il communiquera avec vous par courrier à l'adresse indiquée au présent avis.
- 3) Le présent avis d'appel doit être déposé auprès du greffier local de la Cour supérieure de justice ou de la Cour de justice de l'Ontario.

¹ for example, careless driving / *par exemple, conduite imprudente*

² for example, Highway Traffic Act / *par exemple, Code de la route*

³ for example, Section 130 / *par exemple, article 130*

APPLICATION FOR EXTENSION OF TIME TO APPEAL
DEMANDE DE PROROGATION DU DÉLAI D'APPEL

Under Section 85 of the Provincial Offences Act
Aux termes de l'article 85 de la Loi sur les Infractions provinciales

I / Je soussigné(e), YOUR NAME

of / de YOUR ADDRESS

was convicted in the Ontario Court of Justice at
ai été déclaré(e) coupable par le juge siégeant à la Cour de justice de l'Ontario à CITY OF WINDSOR

on the DAY day of MONTH yr YEAR
le DAY jour de MONTH an YEAR

of the offence of:
d'avoir commis l'infraction suivante: DESCRIBE THE OFFENCE

contrary to STATUTE section SECTION NUMBER
contrairement à STATUTE article SECTION NUMBER

and was sentenced to pay a fine of \$ FINE AMOUNT (including costs);
et le tribunal m'a ordonné de payer une amende de FINE AMOUNT \$ (y compris les frais).

Reason for failure to appeal within allotted time:
Motifs du défaut d'interjeter appel dans le délai imparti:

WHY YOU DID NOT FILE YOUR APPEAL WITHIN THE REGULATED TIME PERIOD

Dated at / Fait à

this DAY day of MONTH yr YEAR
ce DAY jour de MONTH an YEAR

YOUR SIGNATURE

Applicant's Signature / Signature de l'auteur de la demande

Extension consented to Consentement de prorogation	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Hearing Requested Audition demandée	<input type="checkbox"/>	<input type="checkbox"/>

Comments / commentaires :

Dated at

Fait à
this DAY day of MONTH yr YEAR
ce DAY jour de MONTH an YEAR

Signature of Prosecutor / Signature de la couronne

Extension granted
Prorogation accordée

(Appeal to be filed within 15 days of approval date)
(L'appel doit être déposé dans les 15 jours de la date d'approbation)

Extension denied
Prorogation refusée

Dated at

Fait à
this DAY day of MONTH yr YEAR
ce DAY jour de MONTH an YEAR

Judge / Juge

**APPLICATION TO FILE APPEAL WITHOUT PAYING THE FINE
DEMANDE D'AUTORISATION D'INTERJETER APPEL SANS PAYER L'AMENDE**

ONTARIO COURT OF JUSTICE
COUR DE JUSTICE DE L'ONTARIO
PROVINCE OF ONTARIO
PROVINCE DE L'ONTARIO

*Provincial Offences Act, s.111
Loi sur les infractions provinciales, s.111
(Part I, II and III)
(Partie I, II ou III)*

OFFENCE NUMBER
Court File No. / N° du dossier de la Cour

1. I, YOUR NAME
Je soussigné(e),
of YOUR ADDRESS
de (Address / Adresse)

was convicted in the Ontario Court of Justice at CITY OF WINDSOR
ai été déclaré(e) coupable par le juge siégeant à la Cour de justice de l'Ontario à

on the DAY day of MONTH, yr. YEAR, of the offence of
le jour de *an* *d'avoir commis l'infraction suivante*

DESCRIBE OFFENCE.

contrary to STATUTE section SECTION NUMBER
contrairement à (statute or regulation / loi ou règlement) *article*

and was sentenced to pay a fine of \$ TOTAL FINE AMOUNT (including applicable costs, fees, surcharges).
et le tribunal m'a ordonné de payer une amende de \$ (y compris les dépens, frais, suramendes).

2. Reason for application: / *Motif de ma demande d'autorisation d'interjeter appel :*
DESCRIBE WHY YOU CANNOT PAY THE TOTAL AMOUNT PRIOR TO FILING YOUR APPEAL

I request a LANGUAGE OTHER THAN ENGLISH language interpreter.
Je demande les services d'un (leave blank if inapplicable / à remplir, le cas échéant) *Interprète de langue*

Copies given to: Prosecutor (in person or by mail)
Copies remises à : *Poursuivant(e) (en personne ou par la poste)*

Clerk of the court (in person)
Greffier de la cour (en personne)

Prosecutor's Date Stamp
(if given to prosecutor in person)
Timbre dateur du(de la) poursuivant(e)
(si remises en personne au (à la) poursuivant(e))

Court's Date Stamp
Timbre dateur du tribunal

Signature of Defendant / *Signature du(de la) requérant(e)*

TODAY'S DATE

Date

Note: Section 111 of the *Provincial Offences Act* provides:

- (1) A notice of appeal by a defendant shall not be accepted for filing if the defendant has not paid in full the fine imposed by the decision appealed from.
- (2) A judge may waive compliance with subsection (1) and order that the appellant enter into a recognizance to appear on the appeal, and the recognizance shall be in such amount, with or without sureties, as the judge directs.
- (3) A defendant may file an application to waive compliance with subsection (1) at the same time as the notice of appeal.
- (4) The defendant shall give the prosecutor notice of any application to waive compliance with subsection (1) and the prosecutor shall have an opportunity to make submissions in the public interest in respect of the application.

Remarque : L'article 111 de la Loi sur les infractions provinciales se lit comme suit :

- 1) *l'avis d'appel d'un défendeur n'est pas accepté pour dépôt s'il n'a pas payé intégralement l'amende imposée par la décision portée en appel.*
- 2) *Un juge d'appel peut dispenser l'appelant de se conformer au paragraphe (1) et lui ordonner de consentir un engagement à comparaître en appel. Le juge décide du montant de l'engagement, avec ou sans caution.*
- 3) *Le défendeur peut déposer une demande de dispense de conformité au paragraphe (1) en même temps que l'avis d'appel.*
- 4) *Le défendeur donne avis au poursuivant de toute demande de dispense de conformité au paragraphe (1), auquel cas le poursuivant a la possibilité de présenter, dans l'intérêt public, des observations concernant la demande.*

For further information, please visit the website <http://www.e-laws.gov.on.ca/index.html>.

Pour en savoir davantage, visitez le site Web <http://www.e-laws.gov.on.ca/index.html>.

For Court Administration Use Only / *Réservé à l'administration du tribunal*

This matter will be heard on _____, 20____, at _____
L'audience de cette question aura lieu le _____, à _____

Courtroom No. _____
Salle d'audience n°

Dated on the _____ day of _____, 20____
Fait le _____ *jour de* _____

Clerk of the court / *Greffier*

APPLICATION TO WAIVE COMPLIANCE WITH SECTION 112 OF THE PROVINCIAL OFFENCES ACT

Date: TODAY'S DATE

Name: YOUR NAME

Address: YOUR ADDRESS

Date of Birth: YOUR DATE OF BIRTH

Driver's Licence #: YOUR DRIVER'S LICENCE NUMBER

Information No.: 0860 999 YOUR OFFENCE NUMBER

1 I was convicted by Justice of the Peace on DATE OF CONVICTION
of the offence of DESCRIBE THE OFFENCE
and sentence to pay a fine of \$ TOTAL FINE AMOUNT

2 I desire to appeal the conviction and hereby make application to have the conviction stayed, pending the appeal.

3 My present address is as stated above and I am **HOW OLD ARE YOU** years old

Dated at / Fait à CITY OF WINDSOR
This DAY day of MONTH yr
Le jour de an YEAR

Signature of the Appellant

ORDER

Upon reading the above application, it is hereby ordered that the conviction is stayed pending Appeal.

Dated at / Fait à _____
This _____ day of _____ yr
Le _____ jour de _____ an

Judge's Signature / Signature du Juge

AFFIDAVIT OF SERVICE OF NOTICE OF APPEAL
AFFIDAVIT DE SIGNIFICATION DE L'AVIS D'APPEL INTERJETÉ

ONTARIO COURT OF JUSTICE
Cour de Justice de l'Ontario
PROVINCE OF ONTARIO
Province de l'Ontario

UNDER SUBSECTION 5(5) OF ONTARIO REGULATION 723/94
UNDER THE COURTS OF JUSTICE ACT
En vertu du paragraphe 5(5) des règlements de l'Ontario 723/94
sous la Loi sur les tribunaux judiciaires

COURTS OF JUSTICE ACT
Loi sur les tribunaux judiciaires

I, YOUR NAME, of YOUR HOME TOWN
Je soussigné(e) (full name / nom au complet), du (de la) (City, village etc./ Ville, village etc.)

MAKE OATH AND SAY (or AFFIRM)
déclare sous serment (ou affirme solennellement)

on THE DATE YOU SERVED THE PROSECUTOR
le (date)

I served the Prosecutor PROSECUTOR'S NAME
j'ai signifié la couronne (Name of Prosecutor / nom de la couronne)

with the Notice of Appeal by leaving a copy with him (or her) at
le document ci-joint en lui remettant copie au

PROSECUTORS ADDRESS OR PLACE OF BUSINESS
(Address of service / adresse où s'est effectuée la signification)

I was able to identify the person by means of
J'ai pu identifier le destinataire de la signification par le fait que

HOW YOU IDENTIFIED THE PROSECUTOR OR HIS PLACE OF BUSINESS

Sworn before me at CITY OF WINDSOR
Assermenté (ou affirmé solennellement) devant moi dans le (la) _____

YOUR SIGNATURE
Signature _____

this DAY day of MONTH yr YEAR
ce jour de _____ année _____

COMMISSIONER'S SIGNATURE

Commissioner for Taking Affidavits
Commissaire à l'assermentation

