

SUPREME COURT OF TASMANIA PRACTICE DIRECTION

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NEW ARRANGEMENTS RELATING TO COVID-19

This practice direction is published at the direction of the Chief Justice, the Honourable Justice Alan Blow AO.

Alternatives to face-to-face appearances

The Supreme Court of Tasmania is actively changing the way it operates in response to the COVID-19 pandemic. In both the criminal and civil jurisdictions, to the greatest extent possible, cases will be dealt with without face-to-face appearances.

Where possible, judges will preside in cases without entering a courtroom, participating by telephone or by some form of audio visual link, such as Skype.

As a general rule, legal practitioners will be permitted to appear in Court by telephone or by means of audio visual technology. Land lines should be used in preference to mobiles.

So far as possible, steps will be taken to avoid the need for accused persons to attend Court.

All of the arrangements set out below will apply unless a judge directs otherwise in a particular case.

All of these arrangements are being kept under constant review.

Practitioners' communication resources

All practitioners intending to participate in proceedings in the Court must provide details of their communication resources to the Court. The information required is as follows:

- Practitioner's email address
- Practitioner's direct land line number.
- Practitioner's mobile phone number.
- Practitioner's audio visual communication resources (eg Skype, Zoom or video link facilities).

Practitioners should email this information to Christine.Parker@supremecourt.tas.gov.au.

Contact details of accused persons

Practitioners are requested to provide the mobile phone numbers and other contact details of clients with matters pending in the criminal court. These details should be emailed to the associate of the judge before whom each client's matter is next listed.

Bail cases

The judges will continue to hear bail appeals under s 125C of the *Justice Act* 1959 and bail applications under s 304 of the *Criminal Code* as expeditiously as possible.

Bail applications may be lodged electronically at : supremecourt@supremecourt.tas.gov.au

Prisoners will not be brought to Court unless a judge directs otherwise.

Written materials to be relied upon by the Crown must be emailed to the associate of the judge hearing the case, and to the prison [TPS.Warrants@justice.tas.gov.au]. Arrangements have been made for these materials to be printed at the prison and handed to the appellant or applicant. The materials in question include summaries of pending charges, complaints, records of proceedings, facts for the prosecutor, and records of prior convictions.

Criminal matters currently listed

The judges will continue to deal with pleas of guilty, when they are ready, as much as possible. Otherwise steps will be taken by individual judges to identify and adjourn as many cases as possible.

Where possible, information about the progress of a case will be obtained by the judge's associate by email, a new listing date will be arranged through an exchange of emails, and the Crown will be asked to provide a bail consent letter in accordance with s 7(3A) of the *Bail Act* 1994.

Alternatively, a judge may conduct a telephone directions hearing (which the accused person need not attend) discuss the case with counsel, and re-schedule the next listing of the matter.

These arrangements will be used to re-schedule most matters listed in the current sittings, as well as most matters that have been adjourned to subsequent sittings.

Criminal trial matters

Jury trials will not resume in Tasmania until at least 21 July 2020. Cases that are expected to go to trial will be adjourned to various dates between that day and the end of the year.

Prisoners pleading guilty

The judges will continue to deal with pleas of guilty by persons in custody. The arrangements will vary from case to case, as considered appropriate by the presiding judges. Prisoners pleading guilty will not be brought to Court unless a judge so directs.

Pleas of guilty by persons on bail

The judges will continue to deal with some pleas of guilty by accused persons who are on bail. Arrangements will be made on a case by case basis in the discretion of the sentencing judges.

Applications for preliminary proceedings

As far as possible, the judges will continue to deal with applications under s331B(2) of the *Criminal Code* for orders requiring witnesses to give evidence on oath in preliminary proceedings. Such applications should be sent to the Registry by email. [supremecourt@supremecourt.tas.gov.au].

If consent orders are agreed upon, counsel for both sides should advise the registry by email of the order sought and the date when the preliminary proceedings are to be conducted in the lower court. A consent order will then be made by a judge in chambers without the attendance of counsel, and both counsel will be notified of that.

If consent orders are not agreed upon, practitioners should request the listing of a telephone directions hearing.

Pre-recording of evidences

The pre-recording of evidence under the *Evidence (Children and Special Witnesses) Act 2001* will proceed once technological solutions are found in relation to the preparation of recordings suitable for use at trial with judges and counsel participating from remote locations. In each case it will be necessary for a room to be found for the witness that is both suitable and compliant with social distancing requirements. These cases will continue to be managed by individual judges at directions hearings. Any queries should be directed to the associate of the judge responsible for the management of the case.

Robes

When practitioners are appearing in courtrooms, the Court's usual practice as to the wearing of robes and wigs will continue to apply, even if the judge is not in the courtroom. Practitioners appearing by any form of audio visual link need not robe, but must wear business attire. Judges participating by audio visual link will normally wear business attire, but may wear robes.

Transportation of prisoners

Unless otherwise directed, prisoners will not be required to be transported to Launceston or Burnie for any type of appearance. Video links will be arranged to the places where they are held.

The first appearances after committal

At the moment there are only 9 or 10 days each year when accused persons appear for the first time in the Supreme Court after the making of committal orders by magistrates. Arrangements will be made for first appearances to be spread over a number of days in each criminal sittings.

Listing times

Steps will be taken to stagger listing times, to reduce or eliminate the need for multiple accused persons to appear at the same time.