

## Supreme Court of the Australian Capital Territory

### Practice Direction 1 of 2020

#### Special Arrangements in response to COVID 19

##### General

This Practice Direction applies until further notice.

Where, in relation to a proceeding, any of the following arrangements would otherwise conflict with a provision of the Court Procedures Rules 2006 (CPR) and subject to any other order of the Court, pursuant to rule 6 of the CPR the Court dispenses with the application of the provision and the following arrangements apply.

##### Attendance at the Court

All persons entering the courthouse must observe social distancing (1.5 m) and hygiene practices (frequent hand washing/sanitising).

Anyone required to self-isolate in accordance with government policy must not enter the courthouse.

If a person is required to self-isolate but has also been required to attend Court by compulsory process (e.g. on bail, in response to a subpoena or summons), the person must not attend and must contact the Registry in advance of the required attendance. The person must then comply with any Registry direction concerning the conflicting requirements.

[sclisting@courts.act.gov.au](mailto:sclisting@courts.act.gov.au) Telephone: 6205 0000

##### Persons on bail

Generally, persons on bail should attend court only for substantive hearings.

If bail conditions require attendance other than for substantive hearings, the practitioner representing the person on bail should seek the DPP's consent to the person's non-attendance and notify the Court of any agreement about non-attendance. Unless the parties are advised otherwise, they may assume that the Court has varied the bail conditions in accordance with the notified agreement.

##### Filing

The Registry will not accept over-the-counter filing of documents, except:

- Where the person filing the document cannot readily access email.
- Court of Appeal appeal books.

Critical documents are to be filed electronically. Practitioners are required to register for the portal and file all available critical documents through that platform. Where a critical document is unable to be lodged by the portal, it is to be lodged by email to [sclisting@courts.act.gov.au](mailto:sclisting@courts.act.gov.au). Critical documents are documents commencing proceedings (e.g. originating application, originating claim, notice of appeal from Magistrates Court or to Court of Appeal, committal for trial or sentence and urgent documents), documents responding to documents commencing proceedings (e.g. defence), applications in proceedings (e.g. bail application, tendency application).

Affidavits, transcripts of Magistrates Court proceedings and written submissions are not critical documents. The Registrar will make directions regarding the filing of such documents.

Usually, they will be filed by email. Such material must be kept concise and must comply with any guidelines issued by the Registrar.

### **Service**

Where the person electronically filing a document has an email address for the intended recipient or their legal representative, a critical document is to be served by email on that address at the same time as the critical document is filed electronically in Court.

The recipient is to acknowledge receipt of the critical document by email response to the electronic filer and the Court.

If the person electronically filing a document has no email address for the intended recipient or their legal representative, when the critical document is filed electronically it is to be accompanied by an application for substituted service, which will be dealt with in the Registrar's application list.

### **Information to facilitate remote contact with the Court**

Prior to or at the time of first filing a document (whether electronically or over-the-counter) or acknowledging receipt of a critical document filed by another party:

- A practitioner must also (electronically or in person, as appropriate) file a practitioner contact form and a litigant contact form, in the forms approved by the Registrar.
- If a litigant is unrepresented, the litigant must also (electronically or in person, as appropriate) file a litigant contact form, in the form approved by the Registrar.

When requested by the Sheriff to do so, a person summonsed to attend for jury duty must provide the Sheriff with a juror contact form.

### **First "appearance" date**

Within two working days of receiving an electronically filed document that requires an "appearance" and associated contact forms, the Registry will advise the parties of the "appearance" date.

### **Mediations**

All civil mediations will proceed as usual. If required because a practitioner or party is ill or isolated, AV facilities are available in mediation suites.

### **Criminal Case Conferencing**

All criminal case conferencing will proceed as usual. Persons in custody will attend. In the event the transportation becomes unavailable, they will participate from a remote room at the AMC.

### **Magistrates Court appeals**

Unless otherwise ordered, Magistrates Court appeals will be conducted by video link.

### **Civil and criminal applications**

The Registrar and Deputy Registrar will conduct their lists by video link.

Unless otherwise ordered, all pre-trial criminal applications and civil applications will be conducted by video link.

### **Civil and criminal trials**

Jury trials will proceed, provided that appropriate hygiene and social distancing standards can be met. Only two jury trials will proceed concurrently.

As only two jury trials can proceed concurrently, there will be limited changes to current listing arrangements. Judge alone trials may be brought forward, particularly where the accused is in custody. The Registrar will contact affected parties regarding proposed changes.

Proceedings involving persons in custody will be heard with priority.

Practitioners should consider whether a criminal trial could proceed before a judge alone or requires a jury, as judge alone trials are more readily accommodated.

Civil hearings will continue as listed.

### **Subpoena material**

Subpoena viewing is by appointment only. Two people will be permitted into the subpoena viewing room at a time. In circumstances where a self-represented party seeks to view material one person in addition to a supervising court staff member will be permitted into the subpoena room at a time.

Requests for an appointment should be made by email to the Registry on 6205 0000.

Practitioners and parties should only make appointments to view subpoenaed material only if the matter is scheduled for hearing in the subsequent 4 weeks or is urgent.

### **Practitioners, litigants and witnesses who are isolated**

Generally, proceedings will not be adjourned because a practitioner, litigant or witness is isolated (rather than ill). If the nature of the proceeding precludes electronic participation by the practitioner, the practitioner should arrange for another practitioner to represent the litigant. Where a litigant is isolated, the Court will accommodate their need to communicate with their practitioner. Witness evidence can be taken remotely, via the witness's smart device.

Generally, if the accused is in custody and cannot be transported to court, the trial will be adjourned. However, practitioners should consider whether the trial can proceed while the accused participates from a remote room at the AMC.

For sentence proceedings and Magistrates Court appeals involving a person in custody, if the person in custody cannot or does not wish to be transported to Court, the prisoner may participate from a remote room at the AMC.

**Practitioners, litigants and witnesses who are ill**

Where reasonably possible, ill practitioners should arrange for another practitioner to represent the litigant.

Where it is undesirable to proceed in the absence of a litigant or witness who is ill, an adjournment application should be made by email to [sclisting@courts.act.gov.au](mailto:sclisting@courts.act.gov.au) or, in the case of an urgent application (hearing scheduled to commence within 2 working days), by telephone to the Registrar on 6205 0000.

By directions of the Chief Justice and Judges

A handwritten signature in black ink, appearing to read 'Amanda Nuttall', with a long horizontal stroke extending to the right.

Amanda Nuttall

Registrar

23 March 2020