

SUPREME COURT OF TASMANIA

PRACTICE DIRECTION

No. 1 of 2021

18 June 2021

DIRECTIONS HEARINGS IN CRIMINAL CASES

This practice direction is published by the direction of the Chief Justice, the Honourable Justice Alan Blow AO. It applies to all criminal prosecutions. It replaces Practice Direction 2/2020. The only substantial changes concern the following:

- The arrangements in Burnie, where matters are to be listed on the first scheduled day of each sittings from 11.30am instead of 2pm, and a miscellaneous day is to be scheduled for the second Wednesday of each sittings.
- Ad hoc arrangements related to the COVID-19 pandemic, including the listing of criminal trials outside scheduled sittings.

The Court wishes to minimise the number of times that pending matters are listed before trial or plea. Ideally, matters should be listed only when that is desirable for case management purposes. Similarly, accused persons should only be required to attend court when their attendance is desirable for case management purposes.

As a general rule, each new matter will be listed on the first day of a criminal sittings and the accused will be required to attend. The warnings required by s 331B(2)(c) and (d) of the *Criminal Code* as to alibi evidence and expert evidence will ordinarily be given on the first appearance.

Policy as to adjournments

After the first appearance by an accused person, directions hearings will be listed as required. Some will be listed on the first day of each sittings, but that will not be done as a matter of course. The practice of listing most pending matters on the first day of each sittings has been discontinued. Directions hearings will be listed at suitable times as considered necessary.

When an accused person appears before a judge before plea or trial, counsel will ordinarily be asked to inform the judge as to the following matters:

- Steps taken in relation to the case since the matter was last before a judge.
- Any future steps in relation to the case that have been agreed upon or proposed, and when those steps will be taken.

The judge will then give any appropriate directions and adjourn the matter to an appropriate date for either a further directions hearing, a plea, or a trial.

When an accused person has been provided with a bail consent letter pursuant to s 7(3A) of the *Bail Act* 1994, and therefore does not appear when his or her matter is listed, the judge may ask the Crown prosecutor what steps have been taken in the action, what steps have been agreed upon, and what steps are proposed. If the judge thinks fit, he or she may appoint a directions hearing in the matter, possibly earlier than the day when the accused is next required to appear. If a directions hearing is held on a day when the accused has not been remanded to appear, the accused need not attend that directions hearing unless ordered to attend.

Criminal Trials Outside Scheduled Sittings

As a result of the COVID-19 pandemic, it has become necessary to list criminal jury trials in more weeks of the year, outside scheduled sittings. Ad hoc arrangements will be made for jury trials to proceed during Court vacations and appeal terms.

If an arrangement is made for a sittings to start earlier than originally scheduled, the matters listed for the first day of the sittings as originally scheduled will not be brought forward, subject to any special arrangements that might be made for individual cases.

Arrangements in Hobart

The list for the senior judge sitting in crime on the first day of each sittings will be arranged as follows:

- 10.00am: First appearances by adult accused on bail, and miscellaneous applications (eg applications to activate suspended sentences, breach applications in relation to community service orders etc).
- 10.45am: Directions hearings (for adult accused on bail, not first appearances). Matters where adults are jointly charged with youths (under 18 years old at the time of the alleged crimes), will ordinarily be listed at the end of this directions hearing list.
- 2.15pm: Custody matters (video link appearances by all accused in custody for first appearances or subsequent directions hearings).
- 3.30pm: Youth matters. All matters where the accused are not in custody and were under 18 years old at the time of the alleged crimes, will be listed for 3.30pm, not 10am or 10.45am. The 3.30pm list will include first appearances and subsequent directions hearings.

As a general rule, the list for the first day of each sittings will include a directions hearing in relation to every trial that is expected to proceed during the sittings.

On the second and subsequent Mondays of each criminal sittings, and on the next Monday after each criminal sittings, a judge will sit, usually in one of the civil courts, to deal with miscellaneous criminal business, including directions hearings, bail matters, and possibly pleas of guilty. When a Monday is a public holiday, these arrangements will apply on the Tuesday. So long as social distancing restrictions are in place, the starting time for miscellaneous criminal business lists may be 10am, 11am or 11.15am, because courtrooms may be required for the purpose of empanelling juries. Directions hearings and plea days may be listed at other times during each criminal sittings as well, in the discretion of the judges.

Arrangements in Launceston

On the first day of each criminal sittings in Launceston, the list will be arranged similarly to the Hobart list, as follows:

- 10.00am: Custody matters (video links – first appearances and subsequent directions hearings). To follow: First appearances and miscellaneous applications.
- 10.45am: Directions hearings.
- 12.15pm: Youth matters.

On the first and third Fridays of each sittings, there will be a miscellaneous list which will include pleas of guilty and a limited number of directions hearings. Directions hearings may also be listed at other times, at the discretion of the presiding judge.

The practice of listing numerous matters for plea or mention at the end of the sittings has been discontinued.

Arrangements in Burnie

On the first day of each criminal sittings in Burnie, the list will be arranged as follows:

- 11.30am: First appearances and miscellaneous applications
- 2.pm: Custody matters (video links – first appearances and subsequent directions hearings)
- 2.30pm: Directions hearings
- 3.30pm Youth matters

With effect from July 2021, miscellaneous criminal business, including directions hearings and possibly pleas of guilty, will be dealt with on the second Wednesday of each Burnie sittings, subject to any other arrangement being directed by the circuit judge. Directions hearings, pleas of guilty, and lower court appeals may also be listed at other times, at the

discretion of the circuit judge.

Each Burnie sittings will be scheduled to last for at least four weeks.

Case management

From time to time judges will convene directions hearings in cases that have been pending for a long time, with a view to getting them finalised.

Jim Connolly
Registrar