# SUPREME COURT OF TASMANIA

## PRACTICE DIRECTION

**No. 3 of 2017**                                                 **31 May 2017**

The following Practice Direction is published by direction of the Chief Justice, the Honourable Justice A M Blow OAM.

This Practice Direction replaces Practice Direction 1 of 2014. The time limits for lodging and serving written submissions have been changed. See clause 3 below.

## WRITTEN SUBMISSIONS TO THE FULL COURT AND THE COURT OF CRIMINAL APPEAL

1. Written submissions are required in all appeals heard by the Full Court or the Court of Criminal Appeal.

2. Written submissions should be prepared in accordance with the following guidelines:

    2.1 **General**

        2.1.1 The written submissions required are not full submissions and will supplement, not displace, oral argument. They are to be regarded as a skeleton of the oral submission, stating carefully and concisely the propositions to be argued, and the authorities to be relied upon in support of them, plus, where appropriate, references to the transcript, exhibits or other documents. They are <u>not</u> to be a mere paraphrase of the notice of appeal.

        2.1.2 Assume that the judgment or summing up and the notice of appeal have already been read.

        2.1.3 Give notice of any grounds of appeal which will not be supported in argument and of any proposed amendments to the grounds of appeal.

        2.1.4 Submissions should be linked by cross-reference to the grounds of appeal under which they are raised.

2.2 **Submissions of law**

    2.2.1    Specify the ruling or direction being challenged and locate it by page and line reference in the appeal book.

    2.2.2    Indicate the ruling or direction which according to the submission ought to have been made or given.

    2.2.3    Formulate the proposition or several propositions upon which the submission is based.

    2.2.4    Identify the authorities relied on to support the propositions with full citation and page and line reference to the beginning and the end of the passage. Reproduction of passages from reports and text books is quite unnecessary.

2.3 **Submissions on the evidence**

    2.3.1    Identify the finding under challenge by page and line reference to the appeal book.

    2.3.2    Specify if it is submitted

        (i)    that there is no evidence to support the finding, or

        (ii)    that a finding by a judge is wrong or a jury finding is perverse.

        (iii)    in the latter case summarise the nature of the evidence giving page and line references in the light of which the finding is submitted to be wrong or perverse.

    2.3.3    In the case of a discretionary finding, specify the nature of the error which is said to have occurred.

2.4 **Unsafe or unsatisfactory verdict**

Where a ground of appeal against a conviction is to the effect that the weight of the evidence was such that a jury properly instructed would not have returned a verdict of guilty or that the verdict was unsafe and unsatisfactory, the written submissions shall identify the ingredients of the crime in respect of which it is alleged proof was deficient and the evidence relating to those ingredients and particularise the deficiencies of that evidence.

### 2.5 Overruling previous decision

If any party proposes to argue that a previous decision of the Court should not be followed notice that leave will be sought to do so must be included in the written submissions.

## 3. Procedure

The appellant's submissions must be lodged at the Court and served on the respondent's solicitors 10 clear business days before the commencement of the relevant Appeal Term, or a fixed date for the hearing of the appeal.

The respondent's submissions must be lodged and served within 4 business days of service of the appellant's submissions.

Departure from the above timetables requires the permission of the Chief Justice or the senior puisne judge available.

"Service" means service on solicitors or their agents.

Failure to comply will result in the appeal being unlisted. Complaints of delay, and procedural problems arising (such as in for example cross appeals) may be taken up with the Chief Justice or the senior puisne judge available.

J A Connolly
REGISTRAR