

SUPREME COURT OF TASMANIA

PRACTICE DIRECTION

No 2 of 2017

26 April 2017

DIRECTIONS HEARINGS IN CRIMINAL CASES

This practice direction is published by the direction of the Chief Justice, the Honourable Justice Alan Blow OAM. It applies to all criminal prosecutions. It replaces practice direction 8/2005.

The judges have resolved to change the arrangements relating to remand days and to directions hearings in criminal prosecutions, for a number of reasons. The arrangements that have existed in the past have resulted in accused persons having to come to court too frequently, have resulted in too many matters being listed for mention unnecessarily, and have not facilitated case management by judges. Bringing together large numbers of accused persons and their companions on remand days has also resulted in security difficulties on some occasions.

The Court wishes to reduce 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 will be 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.

New arrangements in Hobart

With effect from 13 June 2017, the list for the senior judge sitting in crime on the first day of each sittings will be arranged as follows:

- 10am: 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).
- 11.15am: 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 11.15am. 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 third Wednesday of each criminal sittings, one judge will deal with a miscellaneous list, which will include pleas of guilty and a limited number of directions hearings. Directions hearings and plea days may be listed at other times as well, in the discretion of the judges.

New arrangements in Launceston

With effect from 13 June 2017, on the first day of each criminal sittings in Launceston, the list will be arranged similarly to the Hobart list, as follows:

- 10am: Custody matters (video links – first appearances and subsequent directions hearings).
- To follow: First appearances and miscellaneous applications.
- 11.15am: Directions hearings.
- 12.15pm: Youth matters.

On the third Wednesday 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 will be discontinued.

New arrangements in Burnie

With effect from 13 June 2017, on the first day of each criminal sittings in Burnie, the list will be arranged as follows:

- 2pm Custody matters (video links – first appearances and subsequent directions hearings).
- 2.15pm First appearances and miscellaneous applications.
- To follow: Directions hearings.
- 3.30pm Youth matters.

As at present, each Burnie sittings will be scheduled to last for three weeks, but may be continued into a fourth week if there is sufficient business. A miscellaneous day for pleas of guilty, directions hearings and lower court appeals will be allocated during the second or third week of each sittings.

Transitional arrangements

As from today, whenever an adjournment to 13 June 2017 or any later date is sought, the date for the next appearance will be fixed so as to facilitate these new arrangements. Limits will be placed on the numbers of matters to be adjourned into each directions hearing list. Additional dates for directions hearings will be allocated as necessary.

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