

SUPREME COURT OF TASMANIA

CIRCULAR TO PRACTITIONERS

No. 2 of 2010

28 January 2010

CRIMINAL PROCEDURE: DATES FOR COMMITTAL AND REMAND

At a meeting involving the Chief Justice, the Chief Magistrate, the Director of Public Prosecutions, the Acting Commissioner for Police, and representatives from the Legal Aid Commission and the Law Society it was suggested that the progress of indictable matters from the Court of Petty Sessions to the Supreme Court and from Police Prosecutions to the Office of the Director of Public Prosecutions could be improved if the timing of different stages of this process was adjusted. Specifically it was suggested that more time is required between the order committing a matter for trial and its first appearance in the Supreme Court. If this was done at the same time as a shortening of the time between the first and second appearances of the accused in the Court of Petty Sessions there would not be any increase in the overall time taken to prosecute a matter.

Two things need to be done to make these changes:

1. An amendment to section 55(5) of the *Justices Act* 1959 so that the time between first and second appearances in the Court of Petty Sessions is shortened to a period not exceeding four weeks, rather than seven weeks; and
2. Pursuant to section 60(1) of the *Justices Act* 1959 the Supreme Court must fix a longer period between committal order and first appearance in the Supreme Court for matters where there has been a plea of not guilty entered.

The first of these tasks is done by the *Justice and Related Legislation (Further Miscellaneous Amendments) Act* 2009 which amends section 55(5) of the *Justices Act* 1959 so that the time between the first and second appearances in the Court of Petty Sessions is "a period not exceeding 4 weeks" rather than 7 weeks. This amendment will commence on proclamation. It is anticipated that the commencement date will be 1 February.

The second task is done by the attached document (which takes effect from the date of commencement of Part 5) whereby the Supreme Court fixes the day for committal of defendants to the Supreme Court and for remand to the Supreme Court at the conclusion of preliminary proceedings pursuant to section 60(1) and 61(11) of the *Justices Act* 1959. The period of time for matters committed for trial between committal and appearance in the Supreme Court is to be lengthened to not less than 7 weeks. There is to be no change to the dates fixed for matters committed for sentence, or for the time between the conclusion of a preliminary proceeding and return to the Supreme Court.

This circular replaces Circular 3 of 2008.

E A Knight
REGISTRAR



Consequent upon the amendments made to the *Justices Act 1959 (Tas)* by the *Justice and Related Legislation (Further Miscellaneous Amendments) Act 2009*, the Judges of the Supreme Court hereby publish the following information to take effect from the date of commencement of Part 5 of that Act.

1. *Committal of Defendant to Supreme Court*

Section 60(1) of the *Justices Act 1959* requires that the Supreme Court fix a day for committal of defendants to the Supreme Court. The day fixed by the Supreme Court is as follows:

- In cases where justices commit a defendant to the Supreme Court for sentence then he or she is to be committed to appear in the Supreme Court on the first day of the next occurring criminal sittings not less than 7 days from the date that the order of committal is made.
- In cases where justices commit a defendant to the Supreme Court for trial then he or she is to be committed to appear in the Supreme Court on the first day of the next occurring criminal sittings not less than 7 weeks from the date that the order of committal is made.

The time for the committal order is 10 am for committals to the Supreme Court in Hobart and Launceston and 2.15 pm for committals to the Supreme Court in Burnie.

2. *Remand date at the conclusion of a Preliminary Proceeding*

Section 61(11) of the *Justices Act 1959* requires the Supreme Court to fix a day for defendants to be remanded to appear before the Supreme Court at the conclusion of preliminary proceedings. The day fixed by the Supreme Court is the first day of the next occurring criminal sittings not less than four weeks from the date of the order of remand.

The time for the order is 10 am for remand to the Supreme Court in Hobart and Launceston and 2.15 pm for remand to the Supreme Court in Burnie.