



Australian Capital Territory

Magistrates Court

**Amended Interim Practice Direction
23 March 2020**

COVID-19 Measures (No 3)

Situation

1. The Magistrates Court recognises the unfolding circumstances associated with the COVID-19 pandemic. In particular, we recognise the importance of slowing the spread of the illness, the health and welfare of our staff and court users, the importance of the functions performed by the Court, and the uncertainty associated with the illness itself and the related preventative measures. We will continue to follow the guidance provided by health authorities.

Purpose

2. This document provides a description of the measures employed in response to the pandemic and applies until further notice.

Communication

3. In the future and depending upon internal and external factors, the Court may need to take additional measures. Changes to arrangements will be notified by further consolidated interim practice directions, available on the Court's website and notified to the Law Society and Bar Association. People with business before the Court should check the website from time to time. The amendment in this document is underlined and located at paragraph 26.

Hygiene and self-isolation

4. People attending the court precinct should practise social distancing and effective general and hand hygiene, as recommended by the Australian health authorities.
5. **Anyone required to self-isolate in accordance with government policy should not attend the court precinct.** This includes individuals on bail or subject to summonses, subpoenas or other compulsory process. Information about self-isolation is available on government websites. Individuals who will not be appearing in court in such circumstances must contact the registry in advance. They will receive advice about how the matter will proceed. For example, they may be required to appear by audio visual link (AVL) or by telephone or the matter may be adjourned to another date.

Registry: MClistings@courts.act.gov.au (02) 6205 0000

Arrangements

Remote appearances

6. Parties and their representatives are to be appear, where possible, by AVL or telephone in the following lists:
 - a. A1 – General list;
 - b. B – Childrens Court general list;
 - c. FI – Family violence list;
 - d. A2 – Bail list;
 - e. Civil applications list before a magistrate or registrar;
 - f. Civil Listing Hearings list;
 - g. Civil Settlements list;
 - h. Civil Directions list;
 - i. Civil Non-compliance list;
 - j. Return of Subpoena list;
 - k. Enforcement Hearings;
 - l. Leases (Commercial and Retail) Leases Act 2001 Case Management Meetings and conferences;
 - m. Workers Compensation Dispute Resolution Conferences;
 - n. Family violence and protection order return conferences;
 - o. Childrens Court care and protection conferences; and
 - p. *Confiscation of Criminal Assets Act 2003* lists.
7. The Court encourages parties to agree that other types of court appearances be conducted using AVL or telephone services and therefore minimise the need for individuals to physically attend court.
8. Informants required to attend Pre-Hearing Mentions in accordance with para 24 of the *Practice Direction Criminal 1 - Adult Criminal Matters* should instead be available to give evidence by phone and inform the prosecution accordingly.
9. The AVL format currently available is Cisco Webex, which can be accessed remotely using most web browsers. An information sheet explaining how to use Webex will be available on the webpage.

10. Parties or their representatives should provide the registry by email any document they intend to put before the Court.
11. Parties or their representative should, no later than 3:00 pm the day before a list contact the registry, using the details below, and provide the following information:

Registry: MClistings@courts.act.gov.au (02) 6205 0000

- Name and number of matter;
- list, date and time;
- preferred method, i.e. AVL or telephone; and
- email address and phone number.

Deferral of initial appearances by email

12. The arrangements for the deferral of summons return dates, described at para 7 of the *Practice Direction Criminal 1 - Adult Criminal Matters*, are extended by:
 - a. defendants may defer their first return date twice;
 - b. defendants who are legally represented may defer their next mention appearance, so long as they have not had more than three deferrals or mentions in total already; and
 - c. the deadline for emailing the request for a deferral is moved to 3:00 pm the day before the scheduled appearance.

Children Court first appearances

13. Police are requested to arrange for children and young persons, when in custody, to first appear before the Court by AVL from the Bimberi Youth Justice Centre.

Electronic plea indications

14. In addition to the option provided by r 4303 of the *Court Procedures Rules 2006*, and where a matter is not listed in the future for hearing or sentence date, the defendant or their representative may indicate to the Court, by email, that a plea of guilty or not guilty will be entered in the future. The Court will then, in chambers, vacate the next in court date and list the matter for a Hearing or a Pre-Hearing Mention. If the charges are only summary in nature, the defendant or their representative should provide an estimate for the hearing.
15. The email should be sent to both the registry and the DPP at the following addresses:

Registry MClistings@courts.act.gov.au; and

DPP MCadjournments@act.gov.au.

16. If the DPP disagrees with the time estimate, it may notify the Court and defendant accordingly by return email and should do so within 2 business days.

Criminal Party Conferences

17. Criminal Party Conferences, as described at para 18 of the *Practice Direction Criminal 1 - Adult Criminal Matters*, will be further postponed, at this stage until 1 July 2020.

Mentions and Pre-Hearing Mentions

18. By authority of this practice direction, all defendants who are legally represented are excused from appearing at mentions or pre-hearing mentions. This includes defendants who are on bail.

Sentencing

19. Defendants will need to appear in some form for sentencing. At this stage, defendants are required to appear in person when listed for sentencing at any time other than the morning A1 – General or FI – Family Violence lists.

Criminal in-custody matters

20. By authority of this practice direction, all defendants who are in-custody and legally represented are excused from appearing at a mention or pre-hearing mention.
21. Subject to any Corrective Services resource limitation, defendants in custody should appear at scheduled sentencing hearings preferably by AVL, or otherwise by telephone.

Remote filing

22. Parties or their representatives who are required to self-isolate may file documents with the court electronically, rather than in person, using the following email address:

Civil matters: Civil@courts.act.gov.au (02) 6205 3649

Criminal matters: MCcriminal@courts.act.gov.au (02) 6205 4902

Family violence and
personal protection
order matters: Protection@courts.act.gov.au (02) 6205 4939

Childrens Court: Childrens@courts.act.gov.au (02) 6205 4914

23. Where filing fees are payable, parties or their representative will need to discuss payment options with the registry.

Expediting criminal 'in-custody' matters

24. Court resources will be rebalanced to give increased priority to criminal matters where a defendant remains in custody (due to pending charges only). Parties are encouraged to consult each other and then contact the Listing Coordinator on the address below confirming the estimated length of a hearing and indicating an earlier range of dates that would suit the parties.

Listing Coordinator: MClistings@courts.act.gov.au (02) 6207 1386

Two weeks pause of non-essential final hearings

25. Due to the ongoing escalation of the epidemic and nature of the physical environment within Magistrates Court's courtrooms and foyers, further measures will be implemented. The Court will pause all non-essential final hearings for a period of two weeks. The measures are designed to balance the need to take timely action, with the uncertainty associated with the situation. Towards the end of the two-week period, the Court will reassess the situation.
26. Accordingly, the Court will vacate all final hearings listed from 23 March 2020 to 3 April 2020 inclusive other than criminal hearings where a defendant is in custody (including as a sentenced prisoner). ~~and hearings for family violence and personal protection orders.~~ The vacated final hearings will include:
- a. criminal hearings where the defendant is not in custody;
 - b. general civil hearings;
 - c. hearings under the *Workers Compensation ACT 1951*;
 - d. hearings under the *Leases (Commercial and Retail) Act 2001*; and
 - e. protection order hearings.
27. Each matter will be mentioned by phone on the day it was originally listed and remanded or adjourned to a future date, unless otherwise finalised.

By direction of the Acting Chief Magistrate and Magistrates



Jayne Reece
Registrar
ACT Magistrates Court

23 March 2020