



Australian Capital Territory

Magistrates Court

Amended Interim Practice Direction
9 April 2020

COVID-19 Measures (No 5)

This document contains marked up amendments, from the previous version, at paragraphs 15, 19, 21, 28, 40, 40A, 40B, 40C and 40D.

Situation

1. Due to increasing uncertainty about the COVID-19 crisis, the need to protect court users and staff and an associated reduction in available court resources, the ACT Magistrates Court will transition to reduced activity arrangements from 30 March 2020.
2. It is important that during this time the Court remains available to exercise its critical functions.

Application and Purpose

3. This practice direction takes effect on 9 April 2020 and replaces all previous versions.
4. These arrangements are designed to allow the Court to operate on an ongoing basis in the current environment, while supporting the Government's response to the crisis and providing appropriate protection to court users and staff.
5. By operation of this interim practice direction the following arrangements will apply.

Hygiene and self-isolation

6. People attending the court precinct must continue to adhere to government health directions, including social distancing and hygiene practices.
7. Anyone required to self-isolate in accordance with government policy must not attend the court precinct.

Lodgement/Filing Fees

8. All fees applicable under the Court Procedures (Fee Determination) 2020 (No 1) remain payable. The process for payment of those fees can be found on the court website at <https://www.courts.act.gov.au/magistrates/fees,-fines-and-costs>

Urgent matters

9. Parties may apply for matters to be heard sooner than provided by these arrangements. Applications are to be made by email to mclistings@courts.act.gov.au and must be marked as urgent in the subject line. The application must also include the following information:

- a. the name of the matter and court proceeding number;
 - b. contact details of the party (including telephone and email address)
 - c. what is sought;
 - d. reasons why the matter is urgent; and
 - e. if known, the position of the other parties to the proceedings.
10. All correspondence to the Court must be copied to all other parties to the proceedings. This requirement does not apply to applications made under the *Family Violence Act 2016* or *Personal Violence Act 2016*.
11. Applications for these listings will ordinarily be decided in chambers and the parties will be advised on the outcome by email or telephone (if email is unavailable).
12. Parties who do not have access to email may apply in writing by leaving hardcopy documents in a sealed envelope clearly marked 'urgent' in the Magistrates Court post box in the foyer of the ACT Law Courts building.

Civil matters

13. The Registry will no longer accept over-the-counter filing of documents for civil matters.
14. Documents can be filed only by:
- a. eLodgement (where available);
 - b. post;
 - c. email, sent to mclistings@courts.act.gov.au; or
 - d. in the case of urgent matters only, by leaving hardcopy documents in a sealed envelope clearly marked 'urgent' in the Magistrates Court post box in the foyer of the ACT Law Courts building.
15. Unless otherwise notified by the court, **the following matters currently listed to commence before 1 July 2020 are vacated:**
- a. **final hearings;**
 - b. enforcement hearings;
 - c. costs assessments/taxations;
 - d. commercial leases case management conciliations;
 - e. Industrial Court workers compensation conferences; and
 - f. ~~Registrar's listing hearing list.~~

16. For all vacated matters the parties will be advised of new dates in due course.
17. All enforcement matters (not orders) are stayed until 1 July 2020.
18. The following lists will cease until further notice and the Registrar will attend to orders in chambers, if required:
 - a. return of subpoenas; and
 - b. settlements list.
19. The following lists will continue with all appearances by telephone:
 - a. Registrar's non-compliance list;
 - b. Registrar's directions list;
 - c. commercial leases case management meetings;
 - d. Registrar's civil applications list (for urgent matters only – see paragraph below);
 - e. Magistrates' civil applications list (for urgent matters only – see paragraph below); and
 - f. Registrar's listing hearing list.
20. The Registrar's and Magistrates' civil applications lists will continue for urgent matters only with all appearances by telephone or AVL. All matters currently listed will be vacated. If a party wishes to have their matter categorised as urgent and listed they are to write to the Registrar at mcregistrar@courts.act.gov.au three clear business days before the listing date. All correspondence to the Court must be copied into all other parties to the proceeding.
21. All Court ordered mediations listed up to and including 17 April 2020 will continue with all appearance by telephone or AVL only. All Court ordered mediations listed after 20 April 2020 and before 1 July 2020 are vacated. The Court now intends to list mediations where possible before 1 July 2020.
22. Inspection of subpoenaed material and registry files will be permitted only in exceptional circumstances.

Family Violence and Personal Protection order matters (protection orders)

23. The Court will continue to receive and hear applications for interim protection orders. They are to be filed either by email to protection@courts.act.gov.au or in hardcopy by leaving a copy in the Protection Unit post box in the ACT Law Courts foyer.
24. The cut-off for filing interim protection order applications remains 11:30 am. Any applications received after that time will be assessed for urgency and may not be heard on the same day.
25. All interim protection order applications will be heard by telephone.

26. Unless otherwise notified by the Court, **all final hearing currently listed to commence before 1 July 2020 are vacated.**
27. The court will inform parties in due course of future listing dates. Notification will be sent to the last known address so parties must ensure the court has current contact details including email and mobile phone numbers on file.
28. **Preliminary conferences up to and including 1 May ~~10 April~~ 2020 will be vacated.** The Court will inform parties in due course of future listing dates.
29. Preliminary conferences will then continue with all appearances by telephone. Parties should ensure the court is aware of their telephone contact details and be available to receive the phone call at the listed time.
30. Inspection of subpoenaed material and registry files will be permitted only in special or exceptional circumstances.

Adult criminal matters

31. The Registry will no longer accept over-the-counter filing of documents for adult criminal matters.
32. Documents can be filed only by:
 - a. post;
 - b. email, sent to mclistings@courts.act.gov.au; or
 - c. in the case of urgent matters only, by leaving hardcopy documents in a sealed envelope clearly marked 'urgent' in the Magistrates Court post box in the foyer of the ACT Law Courts building.
33. Defendants and the prosecution are encouraged to continue discussing these matters to either resolve issues of guilt, or to at least narrow the issues.
34. If the prosecution and defendant agree on a variation to bail conditions (including reporting conditions), the agreement should be notified by email to mclistings@courts.act.gov.au. Orders may then be made in chambers and the parties will be notified. (For example, it may not be appropriate to continue with a bail condition requiring a defendant to report to police in the current circumstances.)
35. Defendants who are in custody are not to attend the Court precinct and are to instead appear by telephone or AVL. The Court will provide the AMC with a list of which detainees need to appear when and before which courtroom by 4:00 pm the business day before.
36. All summons matters, (including those where the defendant has and has not appeared before the Court), other than when a defendant:
 - a. is in custody;
 - b. on bail; or

c. listed for sentence

are stayed until 1 July 2020. Appearance dates for those matters before 1 July 2020 are vacated. The Court will inform parties in due course of future listing dates. **This means criminal matters brought before the Court on summons where the defendant is not in custody, not on bail and not scheduled to appear before the court for sentence will not proceed at this point in time.**

37. The A1 – General, A2 – Bail and FI lists will continue, with all appearances by telephone. However, the prosecution may appear in person. These lists may be merged in the future. The Court encourages parties to progress matters in these lists.
38. Afternoon A1, A2 and FI sentencing lists will continue. At sentencing, defendants are to appear by AVL or telephone.
39. Part-heard listings will continue, subject to date changes, which will be confirmed by the relevant magistrate’s associate.
40. **The following matters (other than those vacated by paragraph 36) which are listed to commence before 1 July 2020 will be are vacated:**
 - a. **final hearings; and**
 - b. ~~listings in breach lists, (for example those that were scheduled at 2:15pm on 8 and 29 April, 20 May and 10 June 2020).~~

The hearings matters will remain listed on the same day, but for mention, at which time the hearing will be vacated and a future hearing date set. The breach matters not vacated by paragraph 36 will remain listed.

~~The Court will inform parties in due course of future listing dates.~~

41. Inspection of subpoenaed material and registry files will be permitted only in exceptional circumstances.

Electronic plea indications and applications for adjournment

- 41A. 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 sentence, hearing or a pre-hearing mention. If the charges are only summary in nature, the defendant or their representative should provide an estimate for any hearing.
- 41B. 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.
- 41C. Defendants who are remanded to appear at a mention may apply for that remand to be extended by email. The Court will, in chambers, determine whether to grant the request depending upon the number of times the matter has already been before the Court. If the remand is extended, bail will be continued.

41D. 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.

Mentions and Pre-Hearing Mentions

42. All defendants who are legally represented are excused from appearing at mentions or pre-hearing mentions. This includes defendants who are on bail. However, defendants will need to appear by telephone or AVL to enter a plea of guilty.
43. 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.

Criminal Party Conferences

44. 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.

Remote Appearances

45. Parties or their representative should, no later than 3:00 pm the business day before a list contact the registry, using the details below, and provide the following information:

Email: mclistings@courts.act.gov.au and mcchamberassociates@courts.act.gov.au

- Name and number of matter;
 - list, date and time;
 - preferred method, i.e. AVL or telephone; and
 - email address and phone number.
46. Parties or their representatives should provide the registry by email any document they intend to put before the Court.

Childrens Court

47. The Registry will no longer accept over-the-counter filing of documents for Childrens court matters.
48. Documents can be filed only by:
 - a. post;
 - b. email, sent to mclistings@courts.act.gov.au; or
 - c. in the case of urgent matters only, by leaving hardcopy documents in a sealed envelope clearly marked 'urgent' in the Magistrates Court post box in the foyer of the ACT Law Courts building.

Criminal

49. The arrangements for adult criminal matters apply, with the necessary adjustments, to Childrens Court criminal matters. This includes the staying of all summons matters, other than where the young person is in custody, on bail or listed for sentence.
50. The B – Childrens Court general list will continue, with all appearances by telephone. However, the prosecution may appear in person.
51. The Court may notify parties for particular matters that their matter will continue to be listed notwithstanding this practice direction.

Civil

52. Case management conferences for care matters will continue as currently listed with all appearances by telephone.
53. Parties should ensure the court is aware of their telephone contact details and be available to receive the phone call at the listed time.
54. Unless otherwise notified by the Court, all Childrens Court Care listing hearings and final hearings currently listed to occur before 1 July 2020 are vacated. The Court will inform parties in due course of future listing dates.

Communication

The court registry can be contacted on:

| | |
|--|----------------|
| Civil matters | (02) 6205 3649 |
| Criminal matters | (02) 6205 4902 |
| Family violence and personal protection order matters: | (02) 6205 4939 |
| Childrens Court: | (02) 6205 4914 |

By direction of the Acting Chief Magistrate and Magistrates:



Jayne Reece
Registrar
ACT Magistrates Court

9 April 2020