



CHIEF INDUSTRIAL MAGISTRATE'S COURT PRACTICE NOTE NO. 1 of 2005

ISSUED: 24 JUNE 2005

Re-issued pursuant to section 27 Local Court Act 2007

LISTING PROCEDURE FOR WORKCOVER AND OTHER SUMMARY PROSECUTIONS IN THE CHIEF INDUSTRIAL MAGISTRATE'S COURT COMMENCED ON OR AFTER 1 JULY 2005

The procedures outlined in this Practice Note apply to all prosecutions for indictable offences to be heard summarily and all other summary prosecutions commenced on or after 1 July 2005. The objects to the Practice Note are to ensure that summary defended hearings are heard within the Chief Industrial Magistrates Court published Time Standards and to avoid prosecution witnesses not required for cross examination unnecessarily attending Court to give evidence.

1. On the first appearance date a brief order must be made by the Court unless a plea of guilty is entered or the defendant fails to appear.
2. (a) The Court where the prosecution brief **has been served** prior to or on the first appearance date will adjourn the matter for **not more than six weeks** for reply.

(b) The Court where the prosecution brief **has not been served** will adjourn the matter for **not more than ten weeks** allowing not more than four weeks for service of the brief and not more than six weeks for reply.

The date to which the matter is adjourned is hereafter referred to as the **reply date**.

3. A Court Listing Advice listing the statements contained within the brief is to be served by the prosecution with the brief. The form of the Court Listing Advice is that attached to this Practice Note.
4. The period of six weeks for reply is to be utilised by the defendant and /or legal representatives to consider the evidence and the prosecution witnesses required for cross-examination.
5. All requests for particulars or representations for withdrawal by the defendant must be served on the prosecution **no later than 14 days** prior

to the reply date. Failure to comply with this requirement **will not entitle** the defendant to an adjournment on the reply date.

6. The parties have liberty to restore the matter to the list prior to the reply date for a plea of guilty to be entered.
7. Service of the prosecution brief is to be effected upon the defendant in accordance with the Part 4 Clause 21 Local Courts (Criminal and Applications Procedure) Rule 2003.
8. **Case Management on the reply date**
On the reply date the defendant **must** enter a plea (if not previously entered).
9. On the reply date, the Court must
 - (a) proceed to hear a plea of guilty or allocate a date for hearing of the plea
 - (b) where a plea of not guilty is adhered to or is entered, allocate a date for hearing
 - (c) where no plea is entered allocate a date for hearing
10. Where the defendant fails to appear on the reply date, the Court may proceed to hear and determine the matter in the absence of the defendant or allocate a date for a hearing in accordance with section 196 Criminal Procedure Act 1986 in the absence of the defendant.

11. Further Case Management Directions

The following is to apply only **where the defendant is represented by a barrister or a solicitor:**

- (a) to assist in the prompt and effective service of the prosecution brief the legal representative of the defendant at the time of the making of the brief order is to complete, sign and hand to the prosecutor and to the Court a Notice of Appearance. The form of the Notice of Appearance is that attached to this Practice Note.
- (b) on the reply date, in the event that a plea of not guilty is entered, the legal representative of the defendant is to hand to the Court and to the prosecutor a completed Local Court Listing Advice.
- (c) The prosecution is required only to call at the hearing those witnesses nominated for cross-examination on the Listing Advice Form. A notation on the Listing Advice Form by the legal representative of the defendant that a witness is not required to be called for cross examination does not prevent the prosecution calling that witness in the prosecution case if the prosecutor is of the opinion the

witness if required. The remainder of the brief of evidence must be tendered by the prosecution in its case.

- (d) The legal representative of the defendant is to notify the prosecutor of any changes in the witnesses nominated for cross-examination **no later** than 14 days prior to the date of hearing.

This Practice Note does not operate to make a written statement or any part of the written statement admissible if it is not otherwise admissible.

12. There are to be **no more than** two mentions before a Registrar, after which the matter must be referred to the Chief Industrial Magistrate

13. Adjournments

No adjournments of the above procedural time table will be granted unless compelling circumstances exist in the interests of justice.

Failure by a party to comply with orders made by the Court may result in a costs order against that party.

This Practice Note commences on 1 July 2005.

Judge D Price
CHIEF MAGISTRATE
OF NEW SOUTH WALES

Magistrate G Hart
CHIEF INDUSTRIAL
MAGISTRATE