

REGISTRARS – CRIMINAL JURISDICTION

Summary: This circular sets out the District Court's practices for the exercise of criminal jurisdiction by Registrars of the Court

1. Background

By *Criminal Procedure Act 2004* (WA) (CPA) s124(5) and *Criminal Procedure Rules 2005* (WA) (CPR) r 5A, each legally qualified Registrar of the Court has been delegated jurisdiction in relation to criminal matters, including under any other written law, other than jurisdiction to:

- find a person guilty or not guilty of an offence
- discharge an accused from a charge;
- consent to the discontinuance of a charge in a case where the accused does not consent to the discontinuance;
- stay a prosecution;
- set aside a committal;
- find a person guilty of a contempt of the court.

A Registrar may refer any proceedings before him or her to a Judge who may deal with the proceedings or refer them back with or without directions (CPR r5B(1)). Pending the determination of the proceedings the Registrar may make an interim order (CPR r 5B(2)).

A reference in this Circular to Practitioners to a Registrar is to a legally qualified Registrar.

2. Sentence mention hearings

With effect from 21 April 2014 sentence mention lists will ordinarily be presided over by a Registrar.

Practitioners are not required to robe before the Registrar.

The other arrangements for sentence mention hearings set out in Circular to Practitioners CRIM 2008/3, Sentencing Hearings, continue to apply.

3. Consent orders

By CPR r 5A and r25A, the power to make a direction or order by consent is delegated to the Registrars of the Court. A registrar cannot make a consent order that would finally determine a prosecution (CPR r 25A(6)). This includes an order discontinuing a prosecution. Nor will a Registrar consider a consent order for a matter for which the Registrar would not have jurisdiction were the matter to be dealt with in open Court (see CPR r5A).

As a matter of practice, Registrars will not deal with a consent order to edit a record of interview or visually recorded interview.

The matters which Registrars will deal with by way of consent order include applications to vary bail.

The other arrangements for consent orders set out in Practice Direction CRIM 3 of 2011, Consent Orders, apply to decisions made by Registrars.

4. Other duties

The Court will advise practitioners if other duties are given to Registrars.

5. Appeals

A person dissatisfied by a decision made by a Registrar under jurisdiction delegated to a Registrar may appeal to a Judge of the court (CPA s124(6)). An appeal cannot be commenced more than 21 days after the date of the Registrar's decision, unless a Judge of the court gives leave to do so (CPA s124(7)). The appeal must be conducted in accordance with the rules of court (CPA s127(8)). The appeal is to be by way of a new hearing of the issue that was before the Registrar (CPA s124(9)).

The appeal must be commenced by filing and serving a notice that:

- (a) sets out the particulars of the Registrar's decision or that part of it to which the appeal relates; and
- (b) sets out the final orders that it is proposed the Court should make on the appeal (CPR r5C(1)).

The notice should be in the form of CPR Form 1, save that:

- (a) the words 'Appeal from a decision of a Registrar' should be inserted in place of the word 'Application' in the box in the top right hand corner; and
- (b) the information required by CPR r5C(1) should appear in the row marked 'Application details'.

The Court will ordinarily list the appeal for a hearing before a Judge in the General Duties list in the Court, with an accused in custody whose appearance is required appearing by videolink.

Appeals from decisions in circuit matters will likewise ordinarily be listed in the General Duties list in the Court in Perth, with any country practitioners and the accused appearing by videolink.

An appeal does not operate as a stay of proceeding unless a Judge orders otherwise (CPR r5C(2)).

GEORGE KINGSLEY
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