

SENTENCING HEARINGS

Summary: With effect from 1 September 2008, all sentencing in the District Court will be undertaken in the one type of list, whether the matter comes into the Court as a committal for trial or a committal for sentence. This list will be referred to as a "Sentencing Hearing".

1. Application

This Circular to Practitioners applies to the sentencing of all offenders in the District Court which occur on or after 1 September 2008.

2. Sentencing Hearings - Perth

With effect from 1 September 2008, the District Court will schedule Sentencing Hearings on Perth on Tuesdays, Thursdays and Fridays at 10.00am. More than one Judge may be undertaking Sentencing Hearings on any given day. Practitioners should not assume that all Sentencing Hearings they have listed on a particular day will be before the same Judge.

3. Committals for sentence - Perth

As is the current practice, for a committal for sentence, the Magistrate will record the plea and make any necessary orders for pre-sentence or other reports.

All matters committed for sentence to the District Court from 1 January 2009 will be listed in to a "Sentencing Mention" in the District Court on the next following Friday 7 weeks after the committal hearing. Pursuant to Practice Direction CRIM 2 of 2008 the indictment is to be filed no later than 42 days (6 weeks) after the date on which the accused is committed for sentence.

The Sentencing Mention will be before a Registrar. Practitioners are not required to robe before the Registrar.

The purpose of the Sentencing Mention is to ascertain whether the matter is ready for a Sentencing Hearing date to be allocated. No sentencing date will be allocated until an

indictment has been filed. If no indictment has been filed, the matter will be listed for a further Sentencing Mention shortly after the time at which the indictment is to be filed.

For committals for sentence, the s32 notice is required to be lodged at or before the first Sentencing Mention. The prosecution will be required to lodge the criminal history report again at or before the first Sentencing Mention. The purpose of these requirements is to enable the Court to procure all relevant files from the Magistrates Court so as to enable the sentencing hearing to proceed on the first allocated date.

Where a matter is ready to be allocated a Sentencing Hearing, it will be allocated a date at the Sentencing Mention. The date will usually be within 3 to 6 weeks of the date of the initial mention.

4. Circuit arrangements

The substantive arrangements for circuits have not changed. To ensure consistency, some hearings have been renamed. The first day of each circuit will include a Sentencing Hearing. Accused who plead guilty in a video list will be remanded to the next Sentencing Hearing. Accused who are due to go to trial in the circuit will also be sentenced in this Sentencing Hearing.

5. Materials for sentencing hearings

The Court is concerned to ensure that all relevant material is received by the Judge presiding at a Sentencing Hearing sufficiently prior to the hearing to allow the Judge adequate time to prepare for the hearing. To this end, the Court has issued Practice Direction 3 of 2008 which sets down a timetable for the filing of sentencing materials. The timetable is summarised in the Schedule to this Circular. It applies to both Perth and circuit sentencing.

George Kingsley
Acting Principal Registrar

Schedule

Timetable for Sentencing Hearings

Time when action to be taken	Party required to taken action	Source of obligation	Action required to be taken
Not less than 42 days after committal	Prosecution	Practice Direction CRIM 2 of 2008 - par2	Indictment to be filed
At or before the sentencing mention	Offender - Committed for sentence	Practice Direction CRIM 3 of 2008 Par 2	Lodge and serve Form 11 – s 32 <i>Sentencing Act</i> request.
At or before the sentencing mention	Prosecution - Committal for sentence	Practice Direction CRIM 3 of 2008 Par 4	Lodge criminal history report
At least 28 days before the sentencing hearing	Offender - Committed for trial	Practice Direction CRIM 3 of 2008 Par 2	Lodge and serve Form 11 – s 32 <i>Sentencing Act</i> request.
At least 28 days before the sentencing hearing	Offender	Practice Direction CRIM 3 of 2008 Par 3	Request the prosecution to lodge a notice pursuant to <i>Sentencing Act</i> 1995 s 79 (suspended sentence), s 84 (conditional suspended sentence) or s 129 (conditional release order or community order) to be relied on at the sentencing hearing.
At least 14 days before the sentencing hearing	Prosecution	Practice Direction CRIM 3 of 2008 Par 3	Lodge any notice pursuant to <i>Sentencing Act</i> 1995 s 79 (suspended sentence), s 84 (conditional suspended sentence) or s 129 (conditional release order or community order) to be relied on at the sentencing hearing.
At least 14 days before the sentencing hearing	Prosecution	Practice Direction CRIM 3 of 2008 Par 2	Lodge and serve Form 12 – s 32 <i>Sentencing Act</i> consent.
At least 7 days before the sentencing hearing	Prosecution	Practice Direction CRIM 3 of 2008 Par 4	Lodge: <ul style="list-style-type: none"> • submissions • criminal history report • victim impact statements (if any) • photos or videos (or excerpts) • any other materials to be relied on at the sentencing pursuant to SA s 45.
At least 2 clear days before the sentencing hearing	Offender	Practice Direction CRIM 3 of 2008 Par 5	Lodge any materials to be relied on at the sentencing pursuant to <i>Sentencing Act</i> s 45, including written submissions.