



Supreme Court of Victoria

Practice Note SC Gen 8

Appeals from Associate Judges

1. INTRODUCTION

- 1.1 The Chief Justice has authorised the issue of the following Practice Note.
- 1.2 The purpose of this Practice Note is to set out procedures in relation to appeals from Associate Judges.

2. COMMENCEMENT

- 2.1 This Practice Note commences on 10 July 2018 and will apply to all appeals commenced on or after that date.

3. DEFINITIONS

- 3.1 In this Practice Note:
Rules of Court means the Rules made under s 25 of the *Supreme Court Act 1986*

4. AVENUES OF APPEAL

- 4.1 An appeal from a decision of an Associate Judge lies either to a Judge of the Trial Division or the Court of Appeal as set out in the Rules of Court.
- 4.2 Appeals from a decision of an Associate Judge to the Court of Appeal are subject to the Practice Notes applicable to appeals to the Court of Appeal. The remainder of this Practice Note applies to appeals to a Judge of the Trial Division.

5. DOCUMENTS TO BE FILED IN ADDITION TO THE NOTICE OF APPEAL

- 5.1 Within seven days of filing the Notice of Appeal the appellant shall file and serve an appeal book containing copies of the Notice of Appeal and the orders appealed from plus any other documents which are relevant to the hearing and determination of the appeal. Subject always to relevance, such additional documents may include:

- (a) The process before the Associate Judge (summons);
 - (b) Any written submissions before the Associate Judge;
 - (c) All evidence before the Associate Judge on the initial hearing;
 - (d) A transcript of the hearing before the Associate Judge; and
 - (e) The reasons for decision of the Associate Judge.
- 5.2 The Appeal Book should be paginated in the top right hand corner.
- 5.3 If either the transcript or reasons for judgment are not available by the time the appeal book is to be filed, they are to be added to the appeal book as soon as possible after they become available appropriately paginated.

6. TRANSCRIPT

- 6.1 Digital recordings are made of hearings before Associate Judges. Parties may order a transcript of the hearing by contacting the Preferred Supplier as defined in Practice Note SC Gen 7.

7. LISTING OF APPEALS

Common Law Division

- 7.1 Appeals in Common Law proceedings will be listed for directions before the Associate Judge in Charge of Listing or before the Judge in the Practice Court if the matter requires urgent disposition (within two business days).
- 7.2 The appellant must provide an estimate of the time required to hear the appeal and a list of preferred hearing dates.
- 7.3 The appellant will be notified of the hearing date by the Principal Registry.
- 7.4 In the event a cross-appeal or notice of contention is filed, the party filing them should notify Principal Registry as soon as practicable.
- 7.5 In the event a party intends not to pursue an appeal they should contact Principal Registry as soon as practicable.

Commercial Court

- 7.6 Appeals in Commercial Court proceedings which are within a specialist List will normally be heard by the Judge assigned to that List. The appellant should contact the Associate to the Judge assigned to the List to obtain a date for hearing.
- 7.7 Appeals in Commercial Court proceedings which have not been entered into a specialist List will be allocated either to a Commercial Court List Judge or the Commercial Court Duty Judge depending upon the circumstances and urgency of the matter.
- 7.8 The appellant will be notified of the hearing date following the allocation of the appeal.
- 7.9 The appellant must provide an estimate of the time required to hear the appeal and a list of preferred hearing dates.
- 7.10 In the event a cross-appeal or notice of contention is filed, the party filing them should notify an Assistant Registrar of the Commercial Court as soon as practicable.

7.11 In the event a party intends not to pursue an appeal they should contact an Assistant Registrar of the Commercial Court as soon as practicable.

8. Submissions

8.1 The appellant's submissions are to be filed and served no later than five days before the date listed for hearing. The respondent's submissions are to be filed and served no later than two days before the date listed for hearing.

9. Contact

9.1 Enquiries in relation to procedural matters may be directed to:

Principal Registry
Phone 9603 9300

Commercial Court Registry
commercialcourt@supcourt.vic.gov.au
Phone: 9603 4105

AMENDMENT HISTORY

30 January 2017: This Practice Note was issued on 30 January 2017 and replaced Practice Note No 4 of 2012

10 July 2018: This Practice Note was reissued with amendments to paragraphs 2, 6 and 9 replacing the version issued on 30 January 2017.

Vivienne Macgillivray
Executive Associate to the Chief Justice
10 July 2018