



# Supreme Court of Victoria

## Practice Note SC CL 12

### Confiscation and Proceeds of Crime List

#### 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 provide guidance on the operation of the Confiscation and Proceeds of Crime List, a case management list within the Common Law Division of the Court.

#### 2 DEFINITIONS

- 2.1 In this Practice Note:

*Judge* means the Judge in Charge of the List.

*List directions day* means the regular day on which the Court sits to give directions in the List as published on the List page on the Court's website.

*Registry Lawyer* means the registry lawyer assisting in the management of the List.

#### 3 COMMENCEMENT

- 3.1 This Practice Note was issued and commences on 1 December 2018, as revised, and will apply to all proceedings in the List whenever commenced.

#### 4 PROCEEDINGS SUITABLE FOR INCLUSION IN THE LIST

- 4.1 Proceedings under:
  - a) the *Confiscation Act 1997* (Vic);
  - b) the *Proceeds of Crime Act 2002* (Cth); or
  - c) any other Victorian and Commonwealth legislation providing for the restraint or forfeiture of property connected with criminal activity,should be initiated in the List.
- 4.2 No additional fees will be payable for the inclusion of a proceeding in the List.

## **5 INITIATION OF PROCEEDINGS<sup>1</sup>**

- 5.1 Applications initiating a proceeding should continue to be made via the Registry Lawyer (during business hours) or via the Practice Court Coordinator (outside of business hours), who will make arrangements for the application to be heard by the Judge or in the Practice Court (Common Law).
- 5.2 Proceedings should be initiated in the List by endorsing the heading of the originating process "Confiscation and Proceeds of Crime List". The heading of all subsequent documents filed in the proceeding should also be endorsed "Confiscation and Proceeds of Crime List".
- 5.3 In case of doubt as to whether a proposed proceeding is suitable for inclusion in the List, the proposed applicant should contact the Registry Lawyer.
- 5.4 If at any time after the initiation of a proceeding it appears to the Court that it is appropriate to have the proceeding managed in the List, the proceeding may be transferred into the List on the Court's own motion.
- 5.5 Conversely, a proceeding initiated in the List may be transferred out of the List on the Court's own motion if it appears to the Court that it is appropriate to do so for the proper management of the proceeding.
- 5.6 For the avoidance of doubt, any transfer of proceedings suitable for inclusion in the List from the County Court of Victoria to this Court must be made under the *Courts (Case Transfer) Act 1991 (Vic)*.

## **6 DIRECTIONS HEARINGS**

- 6.1 Following the first hearing of an application initiating a proceeding, the proceeding will be listed for further directions before the Judge within approximately three months. The purpose of the directions hearing is to provide for the future management of the proceeding taking into account the progress of related criminal proceedings and any further applications made or proposed to be made in the proceeding.
- 6.2 Directions hearings will be held on a List directions day at 9:30am or such other date and time as the Court advises.
- 6.3 Where a practitioner anticipates that a matter set down for a directions hearing will exceed 30 minutes, the practitioner should advise the Registry Lawyer as soon as practicable. Where necessary the Registry Lawyer may re-schedule the hearing of that matter. Both the urgency of the matter and the Court's business will be taken into account in fixing a new date.

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<sup>1</sup> Conviction-based applications may also be made to the Court as constituted when sentencing a relevant person. Conviction based orders, such as forfeiture and pecuniary orders are frequently appropriately and efficiently dealt with and made by the sentencing Judge. The establishment of the List will not affect this practice in the majority of cases, but where appropriate conviction based applications may also be initiated in or transferred to the List.

## **7 INTERLOCUTORY APPLICATIONS**

- 7.1 Unless otherwise provided by law, any interlocutory application should be made on notice. Prior to filing the application, the proposed applicant should contact the Registry Lawyer via [confiscation@supcourt.vic.gov.au](mailto:confiscation@supcourt.vic.gov.au) to obtain a return date. In circumstances of urgency outside of business hours the Practice Court Coordinator may be contacted.
- 7.2 In all circumstances practitioners must notify the Court immediately upon becoming aware that:
- a) a hearing is no longer required;
  - b) an application is no longer contested;
  - c) an application has become a consent matter; or
  - d) a hearing estimate has been revised.

## **8 CONSENT ORDERS**

- 8.1 Minutes of proposed consent orders in both signed PDF and editable form should be emailed to [confiscation@supcourt.vic.gov.au](mailto:confiscation@supcourt.vic.gov.au), copying [orders@supcourt.vic.gov.au](mailto:orders@supcourt.vic.gov.au) at the earliest opportunity, and in any event no later than 48 hours prior to the relevant hearing or such other time as may be specified in a Court notice. The above timeframe does not detract from practitioners' obligations under paragraph 7.2(c) of this Practice Note.
- 8.2 The Court will then advise the parties whether attendance at the relevant hearing is required.
- 8.3 Where possible, any proposed consent orders should be drawn from the template orders available on the [List webpage](#) on the Court's website, adapted as appropriate.

## **9 TRANSCRIPT**

- 9.1 Practice Note SC Gen 7 is applicable to the requirements for transcript in relation to proceedings in the List.
- 9.2 A 'running' transcript is required for trials unless the presiding judicial officer directs otherwise.
- 9.3 Subject to any contrary direction by the presiding judicial officer, transcript is not required for directions hearings and interlocutory applications.

## **10 USE OF TECHNOLOGY**

- 10.1 The provisions of Practice Note SC Gen 5 "Guidelines for the Use of Technology" apply to proceedings in the List.
- 10.2 For the purposes of paragraph 9.11 of that Practice Note, documentary evidence in excess of 1500 pages is to be considered a large amount of documentary evidence.

## **11 COMMUNICATIONS WITH THE COURT**

11.1 Communications with the Court should be by email to [confiscation@supcourt.vic.gov.au](mailto:confiscation@supcourt.vic.gov.au) with a copy to all other parties in the proceeding, and should be confined to uncontroversial matters.

## **12 FURTHER INFORMATION**

12.1 The Court's website ([www.supremecourt.vic.gov.au](http://www.supremecourt.vic.gov.au)) includes a [page dedicated to the List](#) with up to date information about the operation of the List including:

- a) Judicial officers managing the List;
- b) this Practice Note in Word and PDF formats;
- c) a summary of relevant statutory time limits for applications;
- d) template orders for directions referred to in paragraph 8.4;
- e) dates for List directions days.

## **AMENDMENT HISTORY**

30 January 2017: This Practice Note was issued on 30 January 2017 and replaced Practice Note No 4 of 2016.

1 December 2018: Amendments to paragraphs 2, 3, 5, 6, 7, 8, 9, 10, 11 & 12.

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1 December 2018