



# Supreme Court of Victoria

## Practice Note SC CR 11

### **Applications for sentence indications pursuant to Part 5.6 of the *Criminal Procedure Act 2009***

#### **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 the procedure for applications for a sentence indication.

#### **2. COMMENCEMENT**

- 2.1 This Practice Note was issued on 28 March 2022 and commences on 28 March 2022 and will apply to any application made after that date.

#### **3. APPLICATION FOR A SENTENCE INDICATION HEARING**

- 3.1 At any time after the indictment is filed, but before the trial commences, an application may be made to the Court for a sentence indication, provided the proposed charge(s) for the sentence indication have been agreed between the parties. If the parties are unable to agree on the facts for the purpose of the sentence indication, any sentence indication would be based on the facts as asserted by the prosecution.
- 3.2 To apply for a sentence indication, the defence must file via RedCrest and serve on the prosecution an application using Form 6-1D of the Supreme Court (Criminal Procedure) Rules 2017, appropriately modified to include:
  - Confirmation of the charge(s) to which the application for sentence indication relates;
  - Whether the application is opposed;
  - Confirmation that this is the first application for a sentence indication, or an outline of the change in circumstances if it is a subsequent application; and
  - Combined estimated hearing duration for the application and sentence indication (if the application is granted).

- 3.3 Once filed, the parties will be contacted either by chambers or a Criminal Division case management lawyer, who will, in consultation with the parties, set a timetable for:
- The defence to file and serve on the prosecution:
    - A brief outline of submissions setting out the matters upon which the defence seek to rely, including any mitigating factors; and
    - Any material upon which the defence seek to rely, if available, including expert report/s, and character reference/s.
  - The prosecution to file and serve on the defence:
    - If the facts have been agreed for the purpose of the sentence indication, the summary of agreed facts;
    - If the facts have not been so agreed, a summary of the prosecution opening (if one has not already been filed in the proceeding);
    - The accused's criminal record (if any);
    - A brief statement addressing the following matters:
      - Whether the application is opposed, and, if so, a brief outline of reasons for opposition;
      - The views of any victim of the offence (if known); and
      - Whether the prosecution is of the view there will be sufficient information before the Court regarding the impact of the offence on any victim.
  - The hearing of the application.

#### **4. HEARING OF THE APPLICATION FOR A SENTENCE INDICATION**

- 4.1 If the sentence indication application is granted, the sentence indication hearing may proceed immediately thereafter.
- 4.2 Once a sentence indication is given, the matter may be stood down or adjourned to allow the accused to consider the sentence indication, having regard to s 209(1)(b) of the CPA.
- 4.3 If the parties agree on the charge(s) to which the accused will plead guilty, and the accused accepts the sentence indication in accordance with s 209(1)(b) of the CPA, the matter will be listed for plea hearing. The plea hearing will be conducted by the judge who provided the sentence indication, and the usual processes for a plea hearing will apply (see Practice Note [SC CR 4 Sentencing hearings \(Second revision\)](#)), subject to any other order made by the judge.

#### **5. CONTACTS**

- 5.1 For enquiries relating to sentence indications, please contact the chambers of the allocated judge (if known) or the Criminal Division case management lawyers via email ([criminal.casemgmt@supcourt.vic.gov.au](mailto:criminal.casemgmt@supcourt.vic.gov.au)).

## **AMENDMENT HISTORY**

28 March 2022: This Practice Note was issued on 28 March 2022

Viv Mahy  
Executive Associate to the Chief Justice  
28 March 2022