



Practice Note No 4 of 2016

Confiscation and Proceeds of Crime List

1. Establishment of List

From 1 April 2016 the Confiscation and Proceeds of Crime List (*List*) will operate as a specialist case management list within the Common Law Division of the Supreme Court of Victoria (*Court*). Justice J Forrest will be the Judge in Charge of the List (*Judge in Charge*). The procedures set out in this Notice will apply from 1 April 2016 to proceedings commenced in, and transferred to, the List.

2. Initiation of Proceedings¹

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. No additional fees will be payable for the inclusion of a proceeding in the List.

Applications initiating a proceeding should continue to be made via the Practice Court Coordinator, who will make arrangements for the application to be heard by the Judge in Charge of the List or in the Practice Court. Urgent applications will be heard by the judge in the Practice Court.

All documents filed in the proceeding should be endorsed “Confiscation and Proceeds of Crime List”. Practitioners should refer to the List webpage for general guidance as to the applicable time limits under the above legislation.

In case of doubt as to whether a proposed proceeding is suitable for inclusion in the List, the proposed applicant should contact the Associate to the Judge in Charge at first instance, or the Practice Court Coordinator if the matter is urgent.

¹ 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.

3. Transfer of Proceedings

Proceedings of the nature set out in paragraph 2 commenced prior to the establishment of the List will be administratively transferred into the List for future management. The Court on its own motion may transfer a proceeding into or out of the List if it appears to the Court appropriate to do so for the proper management of that proceeding.

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).

4. Management of List

Proceedings in the List will be managed by the Judge in Charge. The Associate to the Judge in Charge (*Associate*) will be the principal point of contact for all non-urgent proceedings in the List. Practitioners are reminded that all communications with the Associate in this regard are to comply with the ordinary protocols of communication with Associates (for guidance see Notice to Profession 6/2009).

5. Directions Hearings

Directions hearings will be held on the first Monday of each month at 9:30am or such other date and time as the Associate advises or publishes. During the Court vacation period all urgent directions matters should be addressed to the Practice Court Coordinator.

Where a practitioner anticipates that a matter set down for a directions hearing will exceed 30 minutes, the practitioner should advise the Associate as soon as practicable. Where necessary the Associate 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.

6. Applications

Any application should be made to the Judge in Charge by contacting the Associate. In circumstances of urgency the Practice Court Coordinator may be contacted.

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.

7. Consent Orders

Minutes of proposed consent orders in both signed PDF and editable form should be emailed to the Associate at the earliest opportunity, and in any event no later than:

- a. where the proposed consent orders are in respect of a directions hearing, 5:00pm on the Thursday prior to the relevant directions hearing; or
- b. where the proposed consent orders are in respect of non-directions matters or applications, 48 hours (excluding weekends and public holidays) prior to the relevant hearing.

Neither time frame is to detract from practitioners' obligations under paragraph 6(c) of this Notice.

Minutes of proposed consent orders must be signed by all parties and delivered, with a draft Order, only by e-mail to the Associate. The Associate will then advise the parties whether attendance at the relevant hearing is required. Normally, an attendance will not be required unless the Judge considers it necessary for the parties to attend (an example is where an application has been adjourned on multiple occasions and its progress needs to be examined by the Judge). If attendance is not required, subject to the terms of the proposed consent orders, the Judge in Charge will proceed to make the Orders on the papers. Authenticated Orders will be made available for collection by prior arrangement.

8. List Contacts

All communications regarding the List should be made directly to the Associate (contact details available on the Court's website).

For urgent enquiries regarding the List, please contact the Practice Court Coordinator on 9603 9288 or practicecourt@supremecourt.vic.gov.au.

Vivienne Macgillivray

Executive Associate to the Chief Justice

18 March 2016