



**NOTICE TO THE PROFESSION**  
**and other Court users**

The Chief Justice has authorised the issue of the following notice.

**Re: Practice Note No. 4 of 2008 – Judicial Review and Appeals List**

**1. Introduction**

- 1.1 The Court will establish a Judicial Review and Appeals List (“the List”) on 1 January 2009 for a trial period of 2 years.
- 1.2 The aim of the List is to assist in avoiding delays and fragmentation of judicial review and certain appeal proceedings in the trial division, thereby effectuating the speedier hearing of those matters and reducing costs. In particular, some of the current “double handling” between Masters and Judges will be reduced, as there will be less need for proceedings in the List to be dealt with by the Listing Master or the Practice Court.
- 1.3 The List will involve a greater degree of management by a Judge and a Master than is currently the practice and will allow parties to be notified of the hearing date and the Judge who will be hearing the matter at an earlier stage in the proceeding. The early allocation of the matter to a Judge will also allow the Judge to become familiar with the file before the matter comes on for final hearing.

1.4 The List will be managed by Justices Cavanough and Kyrou (“the Judges-in-Charge”) with the assistance of Masters Kings and Daly (“the Masters-in-Charge”).

## **2. Proceedings in List**

2.1 The List will deal with:

- (a) judicial review applications made pursuant to the *Administrative Law Act 1978* (Vic) or Order 56 of the *Supreme Court (General Civil Procedure) Rules 2005* (Vic);
- (b) appeals on questions of law from orders of the Magistrates’ Court or the Victorian Civil and Administrative Tribunal; and
- (c) other proceedings of a similar nature, being proceedings in the nature of judicial review or appeals to the Trial Division on a question of law,

including applications for leave to appeal to the Court in such proceedings where required, but not including any proceedings which would otherwise fall within an existing specialist list of the Court, such as the Victorian Taxation Appeals List or the Valuation, Compensation and Planning List.

2.2 All proceedings appropriate for inclusion in the list will be included in it.

## **3. Overview of operation of List**

3.1 The first hearing in a proceeding in the List will generally be before Master Kings or Master Daly. This will typically be a hearing for directions and, if leave to appeal is required, for such leave. A Master-in-Charge will, in consultation with the other Master and with the Judges-in-Charge, fix the proceeding for hearing and allocate the proceeding to one of the Judges-in-Charge, or to another Judge, at the earliest date practicable. That Judge will then be responsible for managing the proceeding and will generally ultimately hear the substantive application or appeal himself or herself.

3.2 Management of the proceeding may include, among other things, fixing timetables, making interlocutory orders on the papers where appropriate, encouraging the parties to identify and focus on the critical question or questions of law at an early stage in the proceeding, and giving appropriate directions.

- 3.3 Communications with the Court should generally be directed to the Associates to the Masters-in-Charge before a Judge has been allocated responsibility for a proceeding, and thereafter to the Associate to that Judge.
- 3.4 Standard pre-hearing directions are set out in Practice Note No. 4 of 2008 – “Judicial Review and Appeals List” (“the Practice Note”) and can be expected to be given unless there are specific circumstances requiring amendment of those standard directions in a particular proceeding. They require sequential filing of an agreed court book, a draft of any proposed amendment to a document previously filed and a draft of the final orders sought, and outlines of submissions by the plaintiff and the defendant<sup>1</sup> and a reply by the plaintiff in each case accompanied by the principal authorities relied upon.
- 3.5 Where there is an appeal to a Judge from a decision by a Master on an application for leave to appeal or for an order nisi for review, that appeal will be conducted as far as practicable in accordance with the procedures of the List rather than as a Practice Court matter. Because of the current requirements of the Rules, such an appeal should be made returnable in the Practice Court, but will then ordinarily be adjourned by the Practice Court Judge for management and hearing in accordance with the Practice Note. In appropriate cases, the Judge responsible for the proceeding may direct the parties that they should be prepared to argue both the appeal against the decision of the Master and the substantive proceeding itself at a single hearing.
- 3.6 The Practice Note also deals with draft orders and minutes of consent orders, and with the contents, form and evidentiary status of the agreed court book, in relation to proceedings in the List. The court book should include all documents which a party reasonably expects will be relevant to the Court’s decision, and should contain copies of documents only and not original documents.

---

<sup>1</sup> The directions provide for references to “applicant”, “appellant” or “plaintiff”, and to “respondent” or “defendant”, as appropriate.

**4. Further information**

- 4.1 Practitioners and other users of the Court are referred to the Practice Note for further information.

Vivienne Macgillivray  
Executive Associate to the Chief Justice

2 December 2008