



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:
 - Associate* means the associate to the Judge in Charge;
 - Judge* means the Judge in Charge of the List.
 - List directions day* means the first Monday of each month during Court sitting terms or such other day as notified on the [Court's website](#).

3 COMMENCEMENT

- 3.1 This Practice Note was issued and commences on 30 January 2017 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 PROCEEDINGS¹

- 5.1 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 or in the Practice Court (Common Law). Urgent applications will be heard in the Practice Court (Common Law). Further information about procedures in the Practice Court (Common Law) may be found in Practice Note SC CL 10.
- 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 Associate at first instance, or the Practice Court Coordinator if the matter is urgent.
- 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. During the Court vacation period all urgent directions matters should be addressed to the Practice Court Coordinator.
- 6.3 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.

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.

7 INTERLOCUTORY APPLICATIONS

- 7.1 Any interlocutory application should be made to the Judge by contacting the Court via confiscation@supcourt.vic.gov.au. In circumstances of urgency 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, copying orders@supremecourt.vic.gov.au 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 timeframe is to detract from practitioners' obligations under paragraph 7.2(c) of this Practice Note.

- 8.2 Minutes of proposed consent orders must be signed by all parties and delivered, with a draft order, only by e-mail to the confiscation@supcourt.vic.gov.au. The Court 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.
- 8.3 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 USE OF TECHNOLOGY

- 9.1 The provisions of Practice Note SC Gen 5 "Guidelines for the Use of Technology" apply to proceedings in the List.

9.2 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.

10 COMMUNICATIONS WITH THE COURT

10.1 Pursuant to paragraph 5, an application initiating a proceeding should be made via the Practice Court Coordinator.

10.2 At all other stages of a proceeding, communications with the Court should be by email to confiscation@supcourt.vic.gov.au with a copy to all other parties in the proceeding, and should be confined to uncontroversial matters.

11 FURTHER INFORMATION

11.1 The Court's website (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 8.3.

AMENDMENT HISTORY

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

Vivienne Macgillivray
Executive Associate to the Chief Justice
30 January 2017