



# Supreme Court of Victoria

## Practice Note 5 of 2006

### Criminal Division: Case Management by Section 5 Hearings

From 1 January 2007, the Criminal Division of the Supreme Court will manage matters committed to the Supreme Court for trial. Such matters will be listed for a **Section 5 Hearing** within 14 days of the completion of the committal hearing. Sections 4 and 5 of the *Crimes (Criminal Trials) Act* require the filing of a presentment. Counsel retained for the committal or the trial will be required to appear at the **Section 5 Hearing**. In addition to the matters contained in Section 5 of the *Crimes (Criminal Trials) Act*, counsel ought to be in a position to address the following matters:

1. Whether the accused intends to plead guilty;
2. Whether the prosecution and the accused intend to enter into negotiations in relation to the plea of the accused;
3. The anticipated issues at the trial;
4. The admissions likely to be sought and/or offered;
5. Any potential issues that might warrant one or more early pre-trial hearings, and if so –
  - (a) an estimate of the hearing time of those issues;
  - (b) appropriate directions for the disposition of those pre-trial issues;
6. The identification of any other pre-trial issues and the appropriate directions for the disposal of those pre-trial issues;
7. An estimate of the hearing time of the trial;
8. Trial date problems;
9. Any potential problems that might prevent a trial proceeding expeditiously;
10. Any potential legal representation and funding problems;
11. The estimated number and availability of witnesses for trial and whether any of the witnesses are interstate or overseas;
12. Whether there are any special requirements or facilities needed for witnesses;
13. Any issues as to obtaining psychiatric reports as to fitness to stand trial or mental impairment;
14. Any other potential expert witness issues;
15. Any subpoena issues, such as whether the defence intends to subpoena substantial police or other documentation ;
16. Any security issues;
17. The possibility of an application for non-publication or like orders by the prosecution or defence, or both;
18. Whether a request should be made to the Magistrates' Court for immediate preparation of the whole or any part of the transcript of the committal hearing;
19. Whether extensive pre-trial management is desirable;
20. Whether a directions hearings timetable is desirable.

Where management is appropriate, cases will be managed by the judge presiding over the **Section 5 hearing**. Counsel at the **Section 5 Hearing**, or the nominee or nominees of such counsel, are required to keep the Criminal Division (email to [criminaldivision@supremecourt.vic.gov.au](mailto:criminaldivision@supremecourt.vic.gov.au)) informed and up-to-date as to any progress towards resolution and as to any later problems at the earliest possible stage to ensure that the trial commences on the proposed or fixed trial date. Where management is not appropriate, the provisions of Practice Note No 1 of 2004 as to Final Directions hearings will continue to apply.

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18 December 2006