

Supreme Court of Victoria

Practice Note No. 2 of 1993

Applications to Masters

The Chief Justice has approved the issue of the following practice note:

This practice note varies Practice Note No. 9 of 1986 ([1987]) VR 163 (the principal practice note) with respect to applications to masters. There will be a redistribution of masters' business consequent upon the additional appointments of the Taxing Master, the registrar of criminal appeals and the Listing Master as masters of the Supreme Court. Save as expressly varied, the principal practice note remains in force.

Master Bruce:

The following applications will ordinarily be heard and determined by Master Bruce on Fridays in Court No. 2, first floor, 471 Little Bourke Street, Melbourne:

(a) Applications for directions in proceedings under Pt IV of the Administration and Probate Act 1958. [See R16.06 and R16.07 of Ch. II] (b) Applications for final orders in proceedings under Pt IV of the Administration and Probate Act 1958 (where the order is sought by consent). [See R77.01(b) of Ch.I] (c) Applications under the Foreign Judgments Act 1962. [See Pt1 of O.11 of Ch.II] (d) Applications under the Foreign Judgments Act 1991 (Cth), save under s15. [See Pt2 of O.11 of Ch.II] (e) Applications for security for costs. [See O.62 of Ch.I]

Master Bruce presently hears, and will continue to hear, also on Fridays, applications for the reinstatement of the registration of deregistered companies.

Generally, summonses with respect to all such applications are to be filed with the secretary to the Taxing Master, 6th floor, 471 Little Bourke Street, Melbourne (or, when the master is sitting in Court No. 2, with her in that court). If any such application is to be made without summons, request must be made to the secretary for the fixing of a date and time for the hearing of the application. If the secretary is unavailable, a summons is to be filed with, or date fixed by, the second secretary to the Senior Master.

In special circumstances, for example, if the hearing of such an application is so urgent that it cannot conveniently be heard by Master Bruce, it may be made returnable in the masters' practice court. In such a case, the summons is to be filed with the second secretary to the Senior Master. She will not accept such a summons for filing unless the special circumstances relied upon are established to her satisfaction.

Master Gaffney:

Master Gaffney presently exercises, and will continue to exercise, any power of a master under Ch. VI

He will also hear any applications under the following sections of the Service and Execution of Process Act 1992 (Cth): s25(1), 39(1), 43, 44(1), 67(1), 71 and 72(1). [See R77.01(b) of Ch.I]

Summonses with respect to applications to be heard by Master Gaffney are to be filed with his secretary. If any such application is to be made without summons, request must be made to the secretary for the fixing of a date and time for the hearing of the application.

With effect from the publication of this practice note, Master Gaffney will assist the Listing Master with respect to civil appeals to the Appeal Division of the Court (the Full Court). [See O.64 and R77.06 of Ch.I] In the first instance all matters with respect to such appeals are to be raised, as now, with the second secretary to the Listing Master (Mrs C Anderson).

Master Gaffney may arrange with the Senior Master for the exercise by another master of powers under Ch. VI or the Service and Execution of Process Act. In any case in which this occurs, the party or parties to the application will be notified appropriately.

Master Kings:

Master Kings presently hears, and will continue to hear, most applications in the jurisdiction of the masters which arise after a proceeding is set down for trial or in a proceeding which is of a nature requiring trial as a matter of the utmost urgency.

She will also hear the following applications:

(a) Applications for an order under R58.09 of Ch.I (appeals from the Magistrates' Court and the Children's Court, and other like appeals). [See Pt3 of O.58 of Ch.I] (b) Applications within the jurisdiction of a master in proceedings for judicial review. [See O.56 of Ch.II] (c) Applications for orders for review under the Administrative Law Act 1978, s3, 4, 5 and 6. [See R77.01(b) of Ch.I] (d) Applications under the following sections of the Service and Execution of Process Act 1992 (Cth): s17(1), 18(3), 19(1), 30(1), 33, 35(3), 45(3), 57(1), 61, 87(4), 105(4), and 106(1). [See R77.01(b) of Ch.I].

Summonses with respect to applications to be heard by Master Kings are to be filed with her second secretary. If any such application is to be made without summons, request must be made to the secretary for the fixing of a date and time for the hearing of the application.

Master Kings may arrange with the Senior Master for hearing by another master of an application referred to in this part of this practice note. In any case in which this occurs, the party or parties to the application will be notified appropriately.

Other masters:

A master sits each day in Court No. 1, first floor, 471 Little Bourke Street, Melbourne (the masters' practice court).

[1993] 2 VR 362 at 364

Notice to the prothonotary to produce the court file with respect to a proceeding the subject of an application by summons is no longer required (unless the hearing has been adjourned sine die or is pursuant to liberty to apply).

If only one master is available, that master will also hear in Court No. 1 (subject to other business pending) applications of the type identified in the following paragraphs of Pt B of the principal practice note: (b) (if the moneys are held by the Senior Master are held under the Trustee Act 1958 other than for a person under disability); (f) (as if "order" were substituted for "certificate"); (g); (h); (i); (j); (k); (m); and (n).

If another master is available, that master will hear such applications in Court 7, Court 7A or Court 2, first floor, 471 Little Bourke Street, Melbourne. The place of hearing will be specified in the summons (if any) but, to allow for subsequent alteration due to intervening circumstances, the law list of the day fixed for the hearing should always be consulted.

Henceforth, summonses with respect to applications referred to in the penultimate paragraph are to be filed with, or if there is no summons, a date for the hearing of such an application is to be obtained from, the second secretary to the Senior Master.

Applications for approval of a compromise in relation to a claim by or on behalf of or against a person under disability will continue to be heard by a master and arrangements for the hearing of such an application may be made through the second secretary to the Senior Master.

Applications for the appointment of a provisional liquidator and other applications to a master under the Corporations Law (other than those referred to in para(f) and para(g) of Pt B of the principal practice note) are to be made in the 7th court on a Wednesday, Thursday or Friday. Unless

extraordinary circumstances obtain, the summons with respect to any such application is to be referred in the first instance to the principal secretary to the Senior Master.

Masters assisting one another:

Where with respect to an application under this practice note to be heard by Masters Bruce, Gaffney and Kings, either Master Evans or Master Wheeler is available, he will accept a reference from any of the former with respect to such an application which the latter cannot hear as conveniently. Similarly, when any of the former is available, he or she will accept references of applications from the master sitting in the masters' practice court.

DATED this 25th day of August 1993.
K J MAHONY Senior Master