

Supreme Court of Victoria

Practice Note No. 1 of 1993

Company Business

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

The Supreme Court (Corporations) Amendment Rules 1993 come into force on 25 June 1993. These rules make amendments to Ch. V of the rules to take account of changes made by the *Corporate Law Reform Act 1992* (Cth).

From the start of Term 3 1993 (19 July 1993) a judge is to be assigned as judge in charge of companies business. Hayne J. has undertaken this task.

There will be some changes in the way in which the court deals with applications governed by Ch. V of the Rules of Court and it is hoped that these will lead to the more efficient disposal of the work. It is not intended to change the jurisdiction conferred on the masters by O. 2 of Ch. V except by providing that a judge may refer for hearing by a master such matters as he thinks fit, but it is expected that the masters and the judge in charge will work together to monitor the changes that are made and ensure as far as possible the prompt disposal of matters.

From the start of term 3, all companies work of a kind now made returnable in the Practice Court (including appeals to a judge from a master) should be made returnable in the 17th Court at 2.15 p.m. on Fridays before the judge in charge of companies business. These matters will ordinarily be taken at the end of the Commercial List directions for the day.

Filing of papers and outlines of submissions

So that files may be examined before the hearing, parties must file at the prothonotary's office all papers on which they intend to rely at the hearing (including copies of exhibits for the use of the judge) no later than the time required by the rules or by 4 p.m. on the Wednesday preceding the return day (whichever is the earlier). If it is thought that there will be any argument of any substance on the return day, all parties should file and serve no later than 4 p.m. on the Wednesday preceding the return day a brief outline of submissions incorporating references to principal authorities relied upon.

If matters cannot be dealt with on the day of their first return before the judge, they may be referred for hearing to the Causes List or (if there are gaps in the list) to the Commercial List, or (if urgent) to the Practice Court.

Urgent applications

Urgent applications returnable before a master will be dealt with in the same way as is now done.

Urgent application returnable before a judge should ordinarily be referred to the associate to Hayne J. (Mr. P. G. Hey) who will make arrangements for a hearing before the judge in charge or for reference to the judge in the Practice Court.

Applications for winding-up in insolvency and applications to set aside statutory demands

Applications for an order that an insolvent company be wound up in insolvency and applications under Div. 3 of Pt 5.4 of the corporations Law to set aside a statutory demand should be made returnable before a master and will ordinarily be given a date on a Wednesday, Thursday or Friday. In appropriate cases the master before whom the matter is brought in the first instance may refer the matter to the judge in charge and in that event the first matter will be brought on in the Friday companies business.

As is now the case, the applications for winding-up will be examined before the return date. The results of the examination will be available from the principal secretary to the senior master (Mr. W. Sutherland) and will usually be available two days before the return date. Applicants should always make such an enquiry so that attention can be given to any defects that have been identified in the material and, any of them that can be, are rectified before the return date.

DATED this 25th day of June 1993

A. R. TRAVES
Senior Associate to
The Chief Justice