

CRIMINAL LISTINGS – PERTH

Summary: The Court endeavours to allocate trial dates to all criminal matters as soon as practicable after the indictment is filed. The prosecution's Listing Certificate will be required when the indictment is filed; the accused's Listing Certificate 28 days later.

1. Background

The Court is in the process of reducing the time between committal and commencement of a trial to a median of 20 weeks. In order to achieve this reduction, the Court will endeavour to allocate trial dates at the first appearance in the District Court, or as soon thereafter as is practicable. At the present time, the trial dates will usually be within 1 to 4 months of the date on which they are allocated. However, the Court's intention is to further reduce this listing horizon in due course.

2. Application

This Circular to Practitioners applies to all criminal matters with their first appearance in the District Court on or after 1 September 2008.

3. Committals for trial – documents to be filed

Each matter committed for trial will be allocated a first appearance date in the District Court no earlier than 12 weeks after the date of committal. The current interval between committal and first appearance is thus maintained for the time being. The Court's intention is to reduce the time between committal and the first appearance in due course.

Criminal Procedure Act ("CPA") s95, read with *Criminal Procedure Rules* (CPR") rule 20, provides that the prosecution must comply with its disclosure obligations by no later than 42 days after the date on which the accused is committed for trial.

Practice Direction CRIM 2 of 2008 directs that the indictment is to be lodged and served no later than 42 days after the date on which the accused is committed for trial or sentence. There is a power to extend this time limit. If the prosecution complies with this requirement and CPA s95, the accused should have ample time to consider his or her position prior to the first appearance in the District Court.

Practice Direction CRIM 2 of 2008 also provides that the prosecution must lodge and serve its Listing Certificate at the same time as it lodges and serves the indictment.

Practice Direction CRIM 2 of 2008 further directs that the accused is to lodge and serve his or her Listing Certificate no later than 28 days after the date on which the

indictment is lodged. This allows the accused to have 21 days in which to consider the indictment (CPR rule 16) and then a further 7 days to consider trial issues if the intent is to proceed to trial.

If the prosecution and the accused both comply with their obligations, the accused's Listing Certificate should be filed about 2 weeks before the Initial Hearing.

4. Committals for trial – first appearance

The first appearance of an accused in the District Court will be before a Judge in a list to be referred to as a "Trial Listing Hearing"

The Judge will endeavour to allocate trial dates at the first Trial Listing Hearing.

The trial dates will be within 1 to 4 months from the date on which they are allocated. The Court endeavours to accommodate the availability of counsel of choice for the accused. However, this may not always be possible.

In the event that there is an outstanding issue that needs to be resolved prior to trial, the Judge will allocate trial dates, and will also allocate a pre-trial hearing pursuant to [*Criminal Procedure Rules*](#) rule 34.

5. Court attire for Trial Listing Hearings

As is the current practice, Practitioners are required to robe for the Trial Listing Hearing before the Judge.

6. Expedited trials

The arrangements set out in this Circular to Practitioners should obviate the need for any particular matter to have an expedited trial. If there remains a need for a matter to have an expedited trial, the party seeking expedition should lodge and serve an application supported by an affidavit setting out the relevant facts prior to the initial hearing. The first appearance will then be in the Trial Listings Hearings list.

7. Pre-recordings

The arrangements set out in this Circular to Practitioners mean that it should not ordinarily be necessary to list a matter for the pre-recording of evidence. Where counsel are of the view that a pre-recording of evidence is appropriate, orders to this effect should be sought at the Trial Listing Hearing.

8. Summary

The changes described in this Circular to Practitioners are summarised in the table in the Schedule to this Circular.

MICHAEL GETHING
Principal Registrar

Schedule

Timetable for Criminal Listings

Timeline	Party required to taken action	Source of obligation	Action
Week 0			Accused committed for trial
Committal plus 6 weeks (42 days after committal)	Prosecution	CPA s95 CPR rule 20	Comply with disclosure obligations
Committal plus 6 weeks (42 days after committal)	Prosecution	Practice Direction CRIM 2 of 2008	Lodge and serve indictment
Committal plus 6 weeks (42 days after committal)	Prosecution	Practice Direction CRIM 2 of 2008	Lodge and serve Listing Certificate
Committal plus 9 weeks (21 days after indictment lodged)	Accused	CPR rule 16	Accused has at least 21 days to consider indictment before he or she can be asked to plead to it.
Committal plus 10 weeks (not later than 28 days after the indictment is lodged)	Accused	Practice Direction CRIM 2 of 2008	Lodge and serve Listing Certificate (if accused proceeding to trial).
Committal plus 12 weeks	All parties		Initial hearing
Trial Listing Hearing plus 1 to 4 months	All parties		Trial
Total of between 4 and 7 months from committal to trial			