

PRACTICE NOTE SC Gen 12

Supreme Court – online court Protocol

Commencement

1. This Practice Note commences 8 February 2007.

Application

2. This Practice Note applies to:
 - matters in the Court of Criminal Appeal where either an Application for Extension of Time or a Notice of Appeal has been lodged;
 - matters in the Common Law Division, and
 - selected matters in the Equity Division.
3. This Practice Note may be amended to extend the availability of online court to other matters.
4. This Practice Note does not apply to proceedings involving self-represented litigants.

Definitions

5. In this Practice Note:
 - CAR** means the *Criminal Appeal Rules 2005*
 - CPA** means the *Civil Procedure Act 2005*
 - ETA** means the *Electronic Transactions Act 2000*
 - Judicial Officer** means Justice, Associate Justice and Registrar
 - PDF** means Portable Document Format, a file format that has captured all the elements of a printed document.
 - Registered user** means a person who has applied for and received authorisation to use eServices. A registered user gains access to eServices by inputting a user identification code, that has been assigned to that user and that is unique to that user, and a password.
 - UCPR** means the *Uniform Civil Procedure Rules 2005*

Availability of online court

6. online court is available to:
 - Legal practitioners who are registered users and are invited to participate by a Judicial Officer in accordance with UCPR 3.9,
 - Legal practitioners who are registered users and are invited to participate by the Court of Criminal Appeal Registrar in accordance with CAR 2G, and
 - Support Staff who are nominated by these legal practitioners to submit messages to the online court on the practitioner's behalf.
7. online court is not available to litigants, self-represented litigants or non-parties.

Initiating an online court

8. An online court may be initiated only by a Judicial Officer, the Associate of a Judicial Officer or nominated registry staff on behalf of a Judicial Officer.

9. A legal practitioner who is a registered user may request that an online court be initiated by submitting an initial message (with or without an attached document). The request will be assigned to a Judicial Officer for determination.

10. At the discretion of a Judicial Officer, an order may be made that any or all directions hearings for any case will be conducted via online court. If such an order is made, all legal practitioners involved must ensure that they are registered users.

What may be dealt with in online court

11. At the discretion of a Judicial Officer, online court may be used for any hearing permitted under S71 of the CPA and S141 of the ETA.

Conduct in an online court

12. As online court is a virtual courtroom, it must only be used for issues requiring consideration and determination by a Judicial Officer. online court is not to be used for communications solely between the representatives of parties.

13. The language used in online court must be the same as that used if the matter were being dealt with in an ordinary courtroom.

14. If a message is posted in an online court by a user who is not a legal practitioner, then the name of the authorising legal practitioner must be included in the last part of the message.

15. Undertakings given in an online court by a party's representative either on behalf of the party or the representative, are binding as if the undertaking were given in an ordinary courtroom.

16. The rules of contempt apply to proceedings conducted using online court.

Terminating an online court

17. An online court may be terminated at any time and the discussion listed for resolution by telephone or actual hearing at the absolute discretion of a Judicial Officer.

User Identification Code and Password

18. Each party or participant to the online court has their own unique User Identification Code (commonly known as a user-id) and password. It is important that these details are kept secure and remain confidential.

19. When a user-id is used to send messages and documents to an online court, the person to whom that user-id was allocated will be deemed by the Judicial Officer presiding over the online court to be the person who sent the messages and documents and is responsible for their contents.

online court Messages

20. Messages posted in an online court and any attached documents must be:

- relevant to the online court topic under discussion;
- brief and to the point, and
- timely.

21. A Judicial Officer may, from time to time, give instructions as to:

- the acceptable length of messages in an online court; and
- the time and date by which messages must be received.

Documents

22. Documents may be attached to messages sent to the online court. Documents cannot, however, be filed in the Court using the online court. Documents can only be filed in accordance with the Court Rules, including use of the Court's eFiling system. In urgent matters, a document that is to be filed may be sent to the online court with an undertaking that it will be filed in the Court no later than the next business day.

23. Where a message refers to a document that has been filed, a copy of the filed document may be attached to the message for ease of reference. In these cases the message should indicate the date on which the document was filed. Where a document has been eFiled under UCPR 3.4 or CAR 2C, the message should also indicate whether the document has been given final acceptance.

24. Documents sent to the online court must be in PDF. The documents must not be scanned documents and they must not be locked as the Judicial Officer may wish to edit them.

Consent orders

25. Where the document sent to the online court is a draft consent order, the message to which the document is attached should contain a certification that all the parties have seen, and agreed to, the terms of the consent order.

Entering orders

26. Orders made by a Judicial Officer in an online court must be recorded and entered in the usual way.

J J Spigelman AC

Chief Justice of New South Wales

8 February 2007

Related information

Practice Note SC Gen 12 was issued on 8 February 2007 and commenced from 8 February 2007.

This Practice Note replaces Practice Note SC Gen 12 issued on 31 October 2005.

See also:

SC Gen 1 – Application of Practice Notes

SC Gen 6 - Mediation

Criminal Appeal Rules 2005

Civil Procedure Act 2005

Uniform Civil Procedure Rules 2005