

Magistrates Courts

Practice Direction No. 14 of 2010

Issued: November 2010

Amended: 5 May 2015

Amended: 12 April 2017

Registry Committals

1. This Practice Direction is intended to assist with case management of Criminal Matters in the Magistrates Court (“the Court”) by giving effect to the Criminal Jurisdiction Reform Administrative Arrangement (made pursuant to Section 706A of the *Criminal Code*) by providing a procedure for the committal for trial or sentence of a defendant by the Clerk of the Court at a Magistrates Court.
2. It applies to all matters where an originating step for the proceeding is taken on or after the commencement of the relevant sections of the *Civil and Criminal Jurisdiction Reform and Modernisation Amendment Act 2010* (“the Act”); but does not apply to:
 - 2.1. Matters in the Children’s Court;
 - 2.2. Matters referred to the Specialist Courts and programmes;
 - 2.3. Matters where the defendant:
 - 2.3.1 Is not represented by a lawyer; or
 - 2.3.2 If on bail, is in breach of any condition of the undertaking on which the defendant was granted bail.
3. For the purpose of this Practice Direction:
 - 3.1. “Full Brief” means a brief which contains copies of signed statements of witnesses and exhibits upon which the prosecution proposes to rely on in the proceeding and all things in the possession of the prosecution, other than things the disclosure of which would be unlawful or contrary to public interest, that would tend to help the case for the defendant.
 - 3.2. “Defence” means the defendant, and/or if represented his/her legal representative, and/or the Duty Lawyer.
 - 3.3. “Delivered” in reference to a brief or prosecution statements or other documents to be disclosed to the defence means made available by the prosecution for

collection by the defence, or delivered electronically by the prosecution to the defence.

- 3.4. "Partial Brief of Evidence" means a brief which contains copies of signed statements of the prosecution witnesses who will provide the "substantial evidence" in the matter and copies of exhibits of substantial evidence for the purpose of a committal for sentence.
 - 3.5. "Prosecution" means either the DPP or Police Prosecution Corps (PPC).
 - 3.6. "Specialist Courts and Programmes" include the Murri Court, the Drug Court, the Special Circumstances Court and Bail Programmes.
 - 3.7. "Substantial evidence" means the evidence which tends to prove an offence but does not include corroborative evidence or continuity evidence or evidence of ownership (except where it is expected that such evidence will be a major point of the litigation).¹
4. If at a Committal Callover the defence advises the Court that there may be a committal for sentence, the matter is to be adjourned for 28 days (or to the next Court sitting day) to allow 14 days for the partial brief to be prepared and filed and 14 days for the defence to give notice under s 114 of the *Justices Act 1886* in one or other of the following forms:
- 4.1. Notice of Intention to Proceed via Registry Committal (Annexure A to this Practice Direction) and to file the form Acknowledgment of Plea (Annexure C to this Practice Direction) containing a written statement signed by the defendant stating that the defendant pleads guilty to the offence(s) and that the defendant acknowledges that the defendant is not obliged to enter any plea and has nothing to hope from any promise, and nothing to fear from any threat, that may have been held out to induce the defendant to make any admission or confession of guilt.; or
 - 4.2. Notice of Intention to Proceed via Registry Committal on Amended / Substituted Charges (Annexure B to this Practice Direction) and to file the form Acknowledgment of Plea (Annexure C to this Practice Direction) containing a written statement signed by the defendant stating that the defendant pleads guilty to the offence(s) and that the defendant acknowledges that the defendant is not obliged to enter any plea and has nothing to hope from any promise, and nothing

¹ Examples –

- (a) In a shop stealing case the substantial evidence will be that of the store security officer who observed the theft together with any admission or confession; or
- (b) In an assault case the substantial evidence will be that of the complainant, any eye witness, any confession or admission and any medical evidence; or
- (c) In a drug supply case it will be the evidence of the covert police operative if there be one or if not then the evidence of the police who observed the acts upon which the court will ultimately be asked to draw an adverse inference.
- (d) Examples of exhibits of substantial evidence are records of interview where admissions are alleged, copies of CCTV footage of the incident and a drug analyst's certificate where defence have said they require the same.

to fear from any threat, that may have been held out to induce the defendant to make any admission or confession of guilt.

5. If at the committal callover the defence advises the Court that there may be a committal for trial by the Clerk of the Court then the matter is to be adjourned for at least 28 days to allow for 14 days for the Prosecution to file pursuant to section 114(1)(b) and (c) the written statements which comprise the Full Brief of Evidence¹ and a further 14 days for the Defence to give notice under S 114 of the *Justices Act 1886* in one or other of the following forms:
 - 5.1. Notice of Intention to Proceed via Registry Committal (Annexure A to this Practice Direction); or
 - 5.2. Notice of Intention to Proceed via Registry Committal on Amended/Substituted Charges (Annexure B to this Practice Direction).
6. In the event that the notice is not given then (subject to any application for a Disclosure Obligation Direction) the matter will proceed on the adjourned date pursuant to the provisions of section 110A.
7. Nothing in this Practice Direction prohibits a lawyer who is representing a defendant including in the notice mentioned in Section 114(1)(f) a statement consenting to the written statements not being filed and/or not being given to the defendant.²

Judge Orazio Rinaudo
Chief Magistrate
12 April 2017

² If the Registrar is to commit for trial it is to be on a full brief of evidence.

³ See Section 114(6) of the *Justices Act 1886*.