

Magistrates Courts

Practice Direction No. 21 of 2013

Issued: 4 November 2013
Amended: 07 April 2014
Amended: 6 November 2014
Amended: 28 November 2014

Contested s.16(3A) Bail Applications

1. This Practice Direction governs any contested application for bail to which s16(3A) of the Bail Act 1980 (Q) (the Act) applies. It relates to any such application in Queensland that has not yet been set down for hearing.

Purpose

2. The primary object of this Practice Direction is to give practical expression to ss15(1) and 16(1A) of the Act so as to ensure that, the hearing is ready to proceed as fairly as possible without needless delay and on the best available material.

Disclosure

3. The Queensland Police Service must, as soon as practicable, disclose to the applicant all documents in its possession or control relating to the application.

Evidence

4. Evidence is to be on affidavit or in any other form the court permits under s.15(1) Bail Act procedures including via an audio/visual link.
5. Affidavits on which the parties intends to rely must be filed and exchanged at least 1 clear day before the hearing date.
6. An affidavit must be confined to credible or trustworthy information about relevant facts or opinions and materials should be only put in or exhibited to an affidavit if the presiding magistrate is expected to have regard to it.
7. Relevant information that first becomes available to a party after their affidavit material has been filed, must be disclosed to the other party forthwith.
8. If a statement is made on the basis on information and belief the sources of information and grounds of belief must be stated.

9. The court may require a deponent for examination.

Written Submissions

10. The parties must file by email on or before the hearing date, a copy of its submissions and a draft of any proposed order. The email must be copied to the other parties. Attachments are to be in Word format.
11. Written submissions are expected to:
 - (a) provide a clear summary of the evidence relied on to prove any of the matters in ss8,15(1)(c), 16(1)-(2) and s16(3A).
 - (b) put arguments in succinct point form.
 - (c) clearly identify agreed and disputed facts or legal issues.
 - (d) attach a copy of an agreed chronology, relevant legislative provisions, authorities and literature supporting arguments.
 - (e) not usually exceed 5 (five) pages.

Adjournment

12. An adjournment of a s.16(3A) hearing of more than 8 clear days should not be sought by the prosecution except with the applicant's consent.

Judge Orazio Rinaudo
Chief Magistrate
28 November 2014