

PRACTICE DIRECTION NUMBER 6 OF 2012

SUPREME COURT OF QUEENSLAND

APPLICATIONS MADE UNDER THE *DANGEROUS PRISONERS (SEXUAL OFFENDERS) ACT*

1. This Practice Direction applies to any application made or proceeding in the Trial Division of the Court under the *Dangerous Prisoners (Sexual Offenders) Act 2003* (“application”) which has not been set down for hearing at the date of the publication of this Practice Direction other than:
 - (a) a preliminary hearing under s 8;
 - (b) amendment of a supervision order or interim supervision order under s 19 or s 19A; or
 - (c) when a released prisoner is first brought before the court under a warrant issued under s 20.
2. The object of this Practice Direction is to ensure that, by the date set for the hearing of any application governed by this Practice Direction, the hearing is ready to proceed with fairness and expedition.
3. Except with the leave of a judge, all applications will be set down for hearing before a judge sitting in the Applications jurisdiction on the first sitting day of any week when the court is sitting in the Applications jurisdiction. No more than two applications may be listed on one day.

Disclosure

4. Once the application has been set down, the applicant must, as soon as is practicable, disclose to the respondent and to any experts appointed by the court, all documents which —
 - (a) are in the possession or under the control of the applicant or of Queensland Corrective Services; and
 - (b) relate to the application.

This is not intended to reduce the extent of disclosure required under the Act but rather to replace the practice of putting all material in affidavit form on the court file. Material should only be put in affidavit form if the judge is expected to have regard to it.

Affidavit material

5. Any affidavit on which the applicant intends to rely must be filed and served twenty-one (21) days before the date set for the hearing.
6. Any affidavit on which the respondent intends to rely must be filed and served fourteen (14) days before the date set for the hearing.

7. The applicant must file and serve any affidavit material in response seven (7) days before the date set for hearing.
8. Where information first becomes available after the affidavit material has been filed, the party receiving that information must file any further affidavit in relation to that material as soon as is practicable.

Checklist

9. Before the hearing the applicant must submit a completed checklist to the associate of the judge managing the criminal list in accordance with Attachment "A". The checklist must be signed by the parties' legal representatives. If the respondent is not legally represented, then the checklist is to be completed only by the applicant.
10. A copy of the checklist must also be provided at that time to the respondent (if not legally represented) and the Attorney-General (if the Attorney-General is neither the applicant nor respondent).
11. Where the applicant intends to rely on any expert report (including a report by a psychiatrist whether that expert is court appointed or appointed by the applicant), the checklist must be submitted within twenty-eight (28) days after the last report is given to the respondent, or not less than twelve (12) business days before the date set for the hearing, whichever is the earlier.
12. Where the applicant does not intend to rely on any expert report, the checklist must be submitted not less than twelve (12) business days before the date set for hearing.
13. After the checklist is submitted to the associate of the judge managing the criminal list, the associate will set it down for review before that judge at the next available review date.
14. At the review, the applicant and the respondent (and the Attorney-General, if the Attorney-General is neither the applicant nor respondent but nevertheless wishes to make submissions or call or test evidence on the hearing) must be able to address all of the matters set out in the checklist, advise the court of the orders to be sought and confirm either that the matter is ready to proceed on the date set for hearing or that an adjournment is sought. The party requesting an adjournment must inform the other party that the request for an adjournment will be made, and of the reasons for requesting an adjournment and a proposed date for the adjourned hearing at least two (2) clear days before the review so that the other party can respond to the adjournment request and the judge hearing the review may grant or refuse the adjournment request.

Written submissions

15. The applicant (and the Attorney-General, if the Attorney-General is neither the applicant nor respondent but nevertheless wishes to make submissions or call or test evidence on the hearing) must file, by email to the associate of the senior judge listed in Applications on the date set down for the hearing of the

application, a copy of its submissions and a draft of any supervision order sought ten (10) business days before the date set for the hearing of the application. The email must be copied to the other parties to the application. The attachments must be in Word format.

16. The respondent must file, by email to the associate of the senior judge listed in Applications on the date set down for the hearing of the application, a copy of its submissions and a draft of any supervision order sought five (5) business days before the date set for the hearing of the application. The email must be copied to the other parties to the application. The attachments must be in Word format. This paragraph does not apply to a respondent who is not legally represented.

17. The applicant (and the Attorney-General, if neither the applicant nor respondent but nevertheless wishes to make submissions, or call or test evidence on the hearing) must file, by email to the associate of the senior judge listed in Applications on the date set down for the hearing of the application, a copy of its submissions in response and any draft supervision order in response two (2) business days before the date set for the hearing of the application. The email must be copied to the other parties to the application. The attachments must be in Word format.



Paul de Jersey
Chief Justice
13 March 2012

“A”

CHECKLIST

This checklist applies to applications made or proceedings heard in the Trial Division of the court under the *Dangerous Prisoners (Sexual Offenders) Act 2003* other than an application for a preliminary hearing under s 8, for amendment of a supervision order or interim supervision order under s 19 or s 19A or when a released prisoner is first brought before the court under a warrant issued under s 20.

1. What type of application is to be heard?
2. How long will the application take to hear?
 - (a) Applicant's estimate
 - (b) Respondent's estimate
3. Has the applicant
 - (a) disclosed all relevant material to the respondent;
 - (b) filed and served all affidavits intended to be relied on?
4. Has the respondent filed and served all affidavits on which the respondent intends to rely?
5. Are all necessary parties before the court?
6.
 - (a) Does the applicant intend to rely on the evidence of expert witnesses, including court appointed experts?
If so, list their names and attach a copy of their reports.
 - (b) Does the respondent intend to rely on the evidence of expert witnesses?
If so, list their names and attach a copy of their reports.
7. List all affidavits to be relied upon by the applicant and by the respondent.
8.
 - (a) List the names of any witnesses required by the applicant for cross-examination.
 - (b) List the names of any witnesses required by the respondent for cross-examination.
9. Attach the applicant's outline of submissions and a draft of the order sought by the applicant.
10. Are all witnesses available on the date set for hearing? Does any party request that a witness be present by telephone or video link?
 - (a) Applicant's witnesses
 - (b) Respondent's witnesses
11. Is the matter in all respects ready for hearing on the date set down for hearing?
12. What is the prisoner's release date, if relevant?

13. What arrangements are to be made for the prisoner to be present for the hearing of the application? Does any party request that the prisoner be present by video link?
14. Does the prisoner need an interpreter; and if so, has an interpreting service been arranged?
15. If the prisoner is Aboriginal or a Torres Strait Islander has the Aboriginal and Torres Strait Islander Legal Service been informed of the application? Where necessary, has a support person skilled in explaining legal concepts in Aboriginal English been engaged?
16. If either party proposes that a supervision order may be made or continued, attach a copy of the proposed supervision order.
17. Which, if any, conditions of the proposed supervision order are to be contested in the event a Supervision Order is to be made?
18. Any other relevant matters.

Signed by the legal representatives for the applicant and the respondent