

Practice Directions - No. 2 of 2000

Ex Officio Indictments

1. Where an ex officio indictment is presented and a plea of guilty entered, dispute about the factual basis of the plea or the legal justification for particular counts not uncommonly disrupts and delays the process of sentencing.
2. The historical aspects of these indictments, and dangers which can attend their presentation, are discussed in the cases: see R v Webb (1960) Qd.R 443, 446-8 per Philp J and Ex Parte Johnson and Edwards (1970) 2 A.Crim R 414.
3. It is often convenient to proceed by ex officio indictment, without committal proceedings, provided the defence accepts that there is evidence to support the counts, and the Crown and defence agree upon the factual basis of the plea.
4. To avoid waste of court resources through the adjournment of matters where those conditions are not satisfied, no matter will hereafter be listed for sentence upon ex officio indictment unless these documents have first been delivered to the criminal list clerk:
 - (a) a draft of the intended indictment, and
 - (b) a certificate signed on behalf of the Director of Public Prosecutions, and by the legal representatives of the accused, confirming that the factual basis for an intended plea of guilty has been agreed upon.
5. If it is desired to have closely related District Court counts dealt with on the indictment, the counts should be included in the draft indictment. The matter will then be listed on a callover day before the listing judge, so that the judge has an opportunity to decide whether it is appropriate to include the District Court counts in the Supreme Court indictment.
6. All statements on which the prosecution relies as the basis of an ex officio indictment must be delivered to the sentencing judge in sufficient time, and in no case later than two working days prior to the hearing date, by the responsible officer in the Office of the Director of Public Prosecutions.

(Paragraphs 5 and 6 repeat the substance of Direction No. 19 of 1998 issued on 5 October 1998 by the Director of Public Prosecutions.)

(Paul de Jersey)

Chief Justice

16 February 2000