

# Magistrates Courts

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## Practice Direction No. 4 of 2014

### Serious Drug Offence Certificates

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This Practice Direction applies to any criminal proceeding where, upon a conviction, the court must issue or amend a Serious Drug Offence Certificate (the 'certificate') pursuant to Part 9C of the *Penalties and Sentences Act 1992* ('PSA').

#### **Issue of the certificate in first instance**

1. The prosecuting party (prosecutor) is to provide the defendant or, where the defendant is legally represented, the defendant's legal representative, with a draft certificate before the sentence.
2. Before the sentence the prosecutor is to email a copy of the draft certificate to:
  - (a) if the hearing is to be heard in Brisbane, [BMC.CriminalListings@justice.qld.gov.au](mailto:BMC.CriminalListings@justice.qld.gov.au); or
  - (b) if the hearing is to be heard in a place other than Brisbane, the email address for the court set out on the courthouses contacts webpage: <http://www.courts.qld.gov.au/contact-us/courthouses>.
3. The prosecutor is to provide one copy of the draft certificate to the court at the sentence.
4. Pursuant to section 161G of the PSA, upon considering submissions regarding the certificate, the sentencing magistrate:
  - (a) may amend the draft certificate; and
  - (b) will sign and date the certificate.
5. The signed and dated certificate will be placed on the court file and the file will be returned to the registry.
6. The proper officer of the court ('the proper officer') will then issue the certificate.

#### **Amendment of certificate**

*For related offence for which offender is later sentenced (section 161I)*

7. Amendments required pursuant to section 161I PSA are to be determined by the sentencing magistrate of the later sentence, and the process outlined in paragraphs 1 to 6 above is to be followed.

#### *Generally*

8. When providing a draft amended certificate for consideration by the proper officer or the court, the parties are to be guided by rule 382(1) to (4) of the *Uniform Civil Procedure Rules 1999* (UCPR).
9. If an error in an issued certificate is identified, the party identifying the error must notify the proper officer and the other party.
10. Such notification is to include a draft amended certificate, an explanation of the amendments being sought, and whether the amendments are agreed between the prosecution and defence.

#### *Minor error (section 161J)*

11. If the proper officer determines that the proposed amendment concerns a minor error, the proper officer should make the necessary changes pursuant to section 161J of the PSA.
12. If the proper officer determines that the proposed amendment concerns more than a minor error, the proper officer should arrange to have the proceeding brought back before the court (when possible, before the sentencing magistrate).

#### *Following an appeal (section 161K)*

13. If a certificate requires amendment following an appeal, the parties will notify the proper officer. The proper officer may arrange for the proceeding to be brought back before the court (when possible, before the sentencing magistrate).
14. Upon the amendments being permitted by the court, the proper officer will issue the amended certificate.

#### **Distribution of certificates (section 161M)**

15. The proper officer will distribute certificates and amended certificates in accordance with section 161M PSA.

Judge Orazio Rinaudo  
Chief Magistrate  
25 November 2014