



DISTRICT COURT OF SOUTH AUSTRALIA

PRACTICE NOTE

SPECIAL DIRECTIONS HEARINGS

During 2010 there has been a steady increase in the number of criminal trials not proceeding on the day of trial because of a plea of guilty or nolle prosequi entered on the trial date or immediately beforehand. In recent months, they accounted for almost one third (32%) of the total number of trials listed. This level of resolution at the last moment is unsatisfactory for many reasons, including an increase in the risk of other trials not getting on.

The court now has the capacity to run a limited trial program of Special Directions Hearings during 2011. The objective will be to identify cases that have the potential to resolve by plea or nolle, and deal with them at an early stage rather than near the trial date. Because of the numbers involved, it will not be possible for the trial program to include all matters having the potential for early resolution; it will be necessary to make a selection. The selection process will begin at directions hearings in January for Special Directions Hearings to be conducted in March.

The trial program will be monitored and may be modified as needed. To be effective it will need cooperation, and to that end there have been discussions with the Law Society, the Bar Association, the Office of the Director of Public Prosecutions and the Legal Services Commission.

PROCEDURE

Matters committed for trial will be listed for arraignment and then be referred to a directions hearing in the usual way. In accordance with Criminal Practice Direction 10.3, unless there are exceptional circumstances, parties are expected to list for trial at the first directions hearing. Selected matters will then be referred by the judge conducting that directions hearing to a Special Directions Hearing which will have the primary purpose of exploring whether the matter can be resolved without having to go to trial. In the alternative it is expected that it will identify the issues in dispute at trial.

The types of matters which often resolve at or just before trial are: serious criminal trespass, theft, robbery, drug trafficking (especially possession for sale/supply), firearms offences, assaults and threatening life. Not all matters in those categories

have the potential to resolve without a trial but they are the types of cases from which the directions hearing judge will generally select matters to refer to a Special Directions Hearing, as well as other matters that may be identified by the parties or the judge as being suitable.

During the trial program Special Directions Hearings will be conducted in the first week of each jury month, commencing on Monday 7 March 2011. The matters that are to go to a Special Directions Hearing in that week will be selected at directions hearings in January. The program is designed to give the parties at least four weeks between selection and the Special Directions Hearing so that they can be properly prepared and discuss relevant issues.

It is proposed to allow 20 minutes for each Special Directions Hearing and, with the exception of Monday, they will be listed between 10.00am and 1.00pm. Because of arraignments, they will be listed between 11.30am and 1.00pm on Monday. Once the schedule of Special Directions Hearings times for the relevant month has been filled, there will be no further listings until the next month is made available. For example, Special Directions Hearings for March will be listed at directions hearings in January and Special Directions Hearings for April will be listed at directions hearings in February. However, no Special Directions Hearings for April would be listed in January.

The court cannot spare a secure criminal courtroom for Special Directions Hearings. It will be some time until the court's video conferencing technology will be suitable for a Special Directions Hearing with an accused in custody, so for the time being eligible matters will be restricted to an accused who is on bail. The program will apply only to those who have legal representation. As in any directions hearing, the accused will be required to attend (Criminal Rule 6.06) and the proceedings will be recorded on transcript.

If a matter resolves at a Special Directions Hearing by indication of a plea of guilty, it will probably be referred to the next available arraignment list. A nolle can be entered at the Special Directions Hearing. If a matter does not resolve at the Special Directions Hearing it will remain in the trial list with its allocated date.



Chief Judge
30 November 2010