

## CRIMINAL PRACTICE DIRECTIONS 2007

Practice Directions 1-17 inclusive (other than Direction 5B) are made by the Chief Justice to govern criminal proceedings, including appeals, in the Supreme Court.

Practice Directions 1-14 inclusive (other than Directions 5 and 5A) are made by the Chief Judge to govern criminal proceedings in the District Court.

The Practice Directions are to operate in conjunction with the Supreme Court Criminal Rules 1992 and the District Court (Criminal and Miscellaneous) Rules 1992 respectively (“the Criminal Rules”).

Expressions in these Practice Directions bear the meanings given to them in the respective Criminal Rules.

These Practice Directions may be referred to as the “Criminal Practice Directions 2007” and are to apply to all matters from 1 December 2007. All Practice Directions made prior to that date, insofar as they applied to the criminal jurisdiction, are superseded by these Directions.

These Practice Directions have been amended as indicated in the table below, and are current as from 1 January 2013.

	<i>date of operation</i>
Amendment No. 1	1 January 2009
Amendment No. 2	23 December 2009
Amendment No. 3	1 February 2012
Amendment No. 4	1 January 2013
<b>Amendment No. 5</b>	<b>1 December 2013</b>

## Table of Practice Directions

<b>Direction 1 – Transacting Business through the Criminal Registry</b>	<b>1</b>
<b>Direction 2 – Searching Court Files</b>	<b>1</b>
<b>Direction 3 – Facsimile Copies of Affidavits</b>	<b>1</b>
<b>Direction 4 – Interpreters in Court</b>	<b>1</b>
<b>Direction 5 —Lists of Authorities (Supreme Court)</b>	<b>1</b>
<b>Direction 5A — Summaries of Argument (Supreme Court)</b>	<b>3</b>
<b>Direction 5B – List of Authorities (District Court)</b>	<b>4</b>
<b>Direction 6 – Barristers’ Attire</b>	<b>5</b>
<b>Direction 7 – Selection of Jurors</b>	<b>5</b>
<b>Direction 8 – Witness Identification</b>	<b>6</b>
<b>Direction 9 – Vulnerable Witnesses</b>	<b>6</b>
<b>Direction 10 – Directions Hearings and Listing of Trials and Other Hearings</b>	<b>7</b>
<b>Direction 10A – Trials of Sexual Offences Involving Children</b>	<b>7</b>
<b>Direction 11 – Front Sheets and Back Sheets</b>	<b>8</b>
<b>Direction 12 – Conduct of Views in Criminal Trials</b>	<b>8</b>
<b>Direction 13 – Conduct of Trials</b>	<b>8</b>
<b>Direction 14 – Titles of Judicial Officers</b>	<b>9</b>
<b>Direction 15 – Appellate Proceedings</b>	<b>9</b>
<b>Direction 16 – Permission to Appeal to the Court of Criminal Appeal</b>	<b>9</b>
<b>Direction 17 – Section 69A <i>Evidence Act</i> (Suppression Orders)</b>	<b>11</b>
<b>History of Amendment</b>	<b>12</b>

## **Direction 1 – Transacting Business through the Criminal Registry**

- 1.1 The Criminal Registry is open for business from 9.30am to 4.30pm each day except on Saturdays, Sundays, Public Holidays and the days between Christmas Day and New Year's Day.
- 1.2 When it is sought to file or lodge documents, or to arrange for an urgent hearing at a time when the Registry is not open for business, the applicant should phone the after hours business number of the Criminal Registry ((08) 8204 0512). The number will provide the current contact details of the rostered on call officer. If that officer is satisfied about the urgency of the request, he or she will arrange for the opening of the Registry and/or for a special hearing.
- 1.3 Other than with the prior permission of the Judge, no lawyer or litigant is to contact a Judge to seek any urgent hearing.

## **Direction 2 – Searching Court Files**

- 2.1 The permission of the Court under section 131(2) of the *Supreme Court Act 1935* and under section 54(2) of the *District Court Act 1991* to inspect or obtain a copy of material on a Court file may be sought by letter or email to the Deputy Registrar (Criminal) and without notice to any party or person interested.

## **Direction 3 – Facsimile Copies of Affidavits**

- 3.1 The signatures on an affidavit must be originals and not copies. A lawyer lodging or producing an affidavit to the Court impliedly warrants to the Court that the signatures on the documents are originals and not copies.
- 3.2 In cases of urgency when it is impossible for the lawyer to obtain the signed original copy of an affidavit before the hearing the lawyer may himself/herself swear an affidavit exhibiting a copy of an affidavit bearing facsimile signatures.

## **Direction 4 – Interpreters in Court**

- 4.1 An interpreting service to the Courts is provided by the Interpreting and Translating Centre, a branch of Multicultural SA.
- 4.2 The service provides interpreting facilities during Court hearings for persons accused of criminal offences and persons required to give evidence as witnesses in criminal proceedings in Court.
- 4.3 The service does not provide interpreters for lawyers taking instructions from clients or to communicate with third parties.
- 4.4 Practitioners should notify the Registry of the requirement for interpreting services in any conference, hearing or trial at least 14 days before the interpreter will be required in order to allow for the necessary arrangements to be put into effect.

## **Direction 5 —Lists of Authorities (Supreme Court)**

### **5.1 Purpose of Lists of Authorities**

Lists of authorities are required in advance of hearings to enable the Judges' staff to have the references available in Court. It is not always possible to attend to this at the last minute, especially if electronic access is not available in the courtroom being used. Accordingly, timely lodgement is important. It is also important to ensure that citations are accurate.

## 5.2 Format

Lists of authorities should contain:

- 5.2.1. the full heading of the action;
- 5.2.2 the anticipated date of hearing;
- 5.2.3 the names or name of the Judges, or Judge who will hear the case (if known).

## 5.3 Division into Parts

Lists of authorities should be divided into two parts:

- 5.3.1 PART I to be headed “Authorities to be Read” is to contain the authorities from which counsel will read passages to the Court;

Note: Care should be taken in compiling Part I to ensure that it contains only the cases from which counsel will read.

- 5.3.2 PART II to be headed “Authorities to be Referred To” is to contain the authorities which are relied upon but from which counsel does not expect to read.

## 5.4 Citations

When a case is reported in the South Australian State Reports, Commonwealth Law Reports, Federal Court Reports, the English authorised reports (The Law Reports) or in a series of reports containing only the decisions of a State or Territory Supreme Court, the citation of the report of the case in those Reports or in that series must be used. In addition, the medium neutral citation, when available, is to be provided for all judgments, whether reported or unreported.

## 5.5 Electronic Delivery of Lists of Authorities

The Court requires parties to provide lists of authorities to the Court by email in accordance with the following paragraphs of this Direction.

- 5.5.1 In the case of proceedings to be heard by the Full Court, the email should be sent to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) with a subject line which contains, and contains only, the action number and the names of the parties.

**Example** – Action No 2012/123 R v Smith

- 5.5.2 In the case of proceedings to be heard by a single Judge whose identity is known, the email should be sent to the chambers email address of that Judge. The chambers email addresses of the members of the Court may be ascertained from the link to the Supreme Court on the Courts Administration Authority’s website (<http://www.courts.sa.gov.au>).

In those cases in which the identity of the single Judge is not known (and only in those cases), the email should be sent to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) with the subject line required by Direction 5.5.1.

- 5.5.3 Each authority in a list provided by email must be hyperlinked to a page from which the authority in Rich Text Format (RTF), Portable Document Format (PDF), or other comparable format can be accessed, so as to facilitate access by the Court to that authority.

If alternatives are available, a searchable format of the authority is to be preferred over a non-searchable format. In the case of reports provided by Thomson Reuters (eg CLR, SASR or NSWLR) or LexisNexis (eg VLR), the

link should be to the HTML version (and not the PDF version) of the authorised report. In the case of reports sourced from Austlii (the medium neutral version), the link should be directly to the RTF version of the report.

If an online authorised series of reports is available to the party delivering the list, the hyperlink should be to the report of the case in that series as well as to a freely available medium neutral version of the case (if available).

If hyperlinking is not possible because, for example, an electronic report of the authority is not available, that authority should be marked in the list with the words “hyperlinking unavailable”.

If a hyperlink comprises more than 75 characters, parties should use a hyperlink shortening service such as <http://goo.gl>, <http://bit.ly>, or <http://tinyurl.com> to shorten the hyperlink to a manageable form.

In all cases, the hyperlink provided should be in addition to, and not in place of, a citation in conformity with Practice Direction 5.4.

The authorities are not to be provided as an attachment to the email.

- 5.5.4 In the case of appellate proceedings, the list of authorities is to be provided electronically no later than the time for delivery of the summary of argument specified in Direction 5A.5.

In all other cases the list of authorities is to be provided at least two business days before the date set for the hearing of the matter.

- 5.5.5 In all cases, a copy of the list of authorities must be emailed to each other party at the same time at which it is sent to the Court. In those cases in which an email address for another party is not known and cannot be reasonably ascertained, the copy of the list must be served on the other party no later than 5.00 pm on the same day on which the document is delivered to the Court.

## **5.6 Copies for Reporters**

A copy of the list of authorities must be handed to the reporters in Court prior to the commencement of the hearing.

## **5.7 Photocopies of Authorities**

The Court discourages the handing up of photocopies of decisions readily available in the Supreme Court library or available electronically.

## **Direction 5A — Summaries of Argument (Supreme Court)**

- 5A.1** The summary of argument should be as brief as possible and, without the permission of the Court granted before the provision of the document, is not to exceed ten pages. It should not be in the nature of a written submission.

- 5A.2** The summary should:

- 5A.2.1 contain a concise statement of the issues raised;
- 5A.2.2 provide the Court with an outline of the steps in the argument to be presented on each issue;
- 5A.2.3 provide each other party with notice of the contentions to be advanced;
- 5A.2.4 contain a succinct statement of each contention followed by a reference to the authorities (giving page or paragraph numbers) and to the legislation (giving

section numbers), relevant passages of the evidence and exhibits, and to the judgment under appeal; and,

5A.2.5 in the case of an appeal in which a party intends challenging any finding of fact:

5A.2.5.1 identify the error for which the party contends (including any failure to make a finding of fact);

5A.2.5.2 identify the finding which the party contends ought to have been made;

5A.2.5.3 state concisely why, in the party's submission, the finding, or failure to make a finding, is erroneous;

5A.2.5.4 give references to the evidence to be relied upon in support of the argument; and,

5A.2.6 in the case of an appeal, identify any of the grounds of appeal which are not to be pursued.

**5A.3** Except in those cases in which it is necessary to do so in order to identify the error at first instance, the summary should not set out passages from a judgment under appeal, from the evidence, or from the authorities relied upon, but is instead to be a guide to these materials.

**5A.4** In an appropriate case a separate chronology or a summary of the evidence concerning a particular issue may be helpful.

**5A.5** An appellant's summary of argument and any chronology or summary of evidence must be delivered to the Court by emailing it to [submissions@courts.sa.gov.au](mailto:submissions@courts.sa.gov.au) no later than 5.00 pm, four business days before the listed hearing date. A respondent's summary of argument and any chronology or summary of evidence must be delivered to the Court by emailing it to the same email address no later than 5.00 pm, two business days before the listing hearing date.

In all other cases the list of authorities is to be provided at least two business days before the date set for the hearing of the matter.

In each case the email should have the subject line required by Direction 5.5.1.

**5A.6** A copy of each document must be emailed to each other party at the same time at which it is sent to the Court. In those cases in which an email address for another party is not known and cannot be reasonably ascertained, a copy of each document must be served on the other party as soon as practicable and, in any event, no later than 5.00 pm on the same day upon which the document is sent to the Court.

A hard copy of the summary of argument must also be provided to the Court reporters prior to the commencement of the hearing.

## **Direction 5B – List of Authorities (District Court)**

### **5B.1 Purpose of Lists of Authorities**

Lists of authorities are required in advance of hearings to enable the Judges' staff to have references ready in Court. It is not always possible to attend to this at the last minute. Accordingly, timely lodgement is important. It is also important to ensure that citations are accurate.

## **5B.2 Format**

The list should bear the full heading of the matter, the anticipated date of hearing and, if known, the name or names of the Judge or Judges to hear the case.

The lists should be divided into two parts:

**PART I**, to be headed “Authorities to be Read”, is to contain only the authorities from which passages are to be read to the Court in submissions.

**PART II**, to be headed “Authorities to be Referred to”, is to contain the authorities which are relied on but from which counsel does not expect to read.

## **5B.3 Citations**

When a case is reported in the South Australian State Reports, Commonwealth Law Reports or the English Authorised Reports, the report of the case in that series must be used. The medium neutral citation, when available, is to be provided for all judgments, whether reported or unreported.

## **5B.4 Filing and Lodgement of List of Authorities**

The list of authorities is to be filed in the Registry and served on the other party two working days prior to the anticipated date of hearing, or in the case of a criminal circuit, two working days before the commencement of the circuit. An additional copy of the list is to be lodged with the Judge’s associate at the same time.

The list of authorities may be filed in the Registry by transmission of a facsimile to the Criminal Registry by the due date on 8204 0543.

## **5B.5 Copies for Reporters**

A copy of the list of authorities must be handed to the reporters in Court prior to the commencement of the hearing.

## **5B.6 Photocopies of Authorities**

The Court discourages the handing up of photocopies of decisions readily available in the Supreme Court Library. The cost of those photocopies is not to be a cost to the client unless the client consents or the Court so directs. When a party proposes to rely on a case not contained in the List of Authorities, the existing practice should continue of making a copy available to the Court and to the other party. It is only in exceptional cases that copies of cases in Part II of the List are to be handed up.

## **Direction 6 – Barristers’ Attire**

**6.1** The dress of barristers appearing in Court is to be black court coat or bar jacket, white jabot and gown (silk for Queen’s Counsel and stuff for junior counsel), dark trousers for men and dark skirt or trousers for women. As an alternative to the jabot, white bands may be worn with a white shirt and winged collar.

**6.2** Wigs will be worn when the Court is hearing criminal proceedings (including appeals).

**6.3** Barristers’ attire is not required for directions hearings or for any other matter which is not heard in open Court.

**6.4** Barristers’ attire should be at all times in a clean and neat condition.

## **Direction 7 – Selection of Jurors**

The conduct of the ballot at criminal trials for the selection of jurors will be as follows:

- 7.1** Copies of the Jury Panel giving the number, suburb and occupation of jurors will be made available to counsel by the Sheriff's Officer in Court prior to the commencement of jury selection, together with a Jury List giving the number and names of jurors from the Panel who will be present in Court for the purpose of trial selection. The Jury Panel and List will be handed to counsel sufficiently long enough before the jury is empanelled to enable counsel to take instructions to challenge.
- 7.2** Unrepresented accused will be provided with a copy of the Jury List referred to in paragraph 1 that will also show the jurors' suburb and occupation in time for them to peruse the details prior to jury empanelment. The Presiding Judge may direct the Sheriff to have information included or removed from this Jury List as appropriate for the matter before the Court.
- 7.3** The Associate will conduct the juror ballot by drawing a jury card from the ballot box and reading aloud to the Court the jury number only of the juror selected, as shown on the jury card. During the empanelling of the jury, counsel or unrepresented accused, as the case may be, will have in their possession the Jury List containing number, suburb and occupation of each juror present in Court.
- 7.4** This procedure will continue, allowing for challenges, until 12 jurors, or 12 jurors and any additional jurors, are seated in the jury box.
- 7.5** After the selection of the jury, the Sheriff's Officer will collect from counsel the Jury Panel and from an unrepresented accused the Jury List.
- 7.6** The Jury Panel and the Jury List supplied to an unrepresented accused are not public documents and are supplied to the parties for the purpose of jury selection only. Subject to any direction of the trial Judge, they cease to be available to counsel or the accused after the jury has been selected.

## **Direction 8 – Witness Identification**

- 8.1** Witnesses in proceedings in the criminal jurisdiction of the Court will not be asked at the time of making an oath or affirmation to state their addresses and occupations. They will be required, however, to submit their addresses, but not occupations, in writing for inclusion in the Court records. Practitioners should arrange for witnesses to be called by them to write out their address and hand it to the Court Officer at the time they are sworn.
- 8.2** This practice does not restrict the right of counsel for either party to ask a witness to state his or her address if the address is relevant to an issue or to credit.

## **Direction 9 – Vulnerable Witnesses**

- 9.1** When a party to criminal proceedings intends to call at trial a witness in respect of whom an order pursuant to s.13 of the *Evidence Act 1929* is to be sought, that party must file an application in accordance with Form 7 in the Schedule to the Criminal Rules.
- 9.2** The application should set out the name of the witness, a brief statement of the reason for the application and the order, including the type of special arrangement, which is sought. The application must be served on the Director of Public Prosecutions or the accused, as the case may be.
- 9.3** It is essential to the efficient management of the list of cases for trial that the application be filed at the earliest possible time after the first arraignment and at least 28 days before the commencement of the hearing in which the witness is to give evidence.
- 9.4** The application will be heard at a directions hearing unless the Court otherwise directs.



- 9.5** The party calling a witness who is to give evidence by closed-circuit television from a location remote from the courtroom must make arrangements with the Sheriff's Office for the witness to be brought into the building and to the witness room.
- 9.6** When counsel wishes to ask questions which relate to an exhibit, or any other item or document, of a witness who is giving evidence from a remote location by closed circuit television, counsel must give sufficient notice to court staff beforehand, to allow appropriate arrangements to be made for the document to be displayed electronically to the witness, or for the document to be taken to the remote location by a member of the court's staff.

## **Direction 10 – Directions Hearings and Listing of Trials and Other Hearings**

**NOTE : The procedure for listing of trials and disputed fact hearings in cases involving sexual offences where the complainant is a child is set out in Practice Direction 10A.**

- 10.1** The system of case flow management in the criminal jurisdiction will be administered with the aims that:
- 10.1.1 Cases for trial are disposed of or come to trial within 180 days of first arraignment and, in any event, by no later than 365 days of first arraignment; and
  - 10.1.2 Cases committed for sentence are disposed of or sentenced within 120 days of first appearance in Court.
- 10.2** On a plea of not guilty at arraignment, or if there is to be a disputed fact hearing, a matter will be remanded to a directions hearing which, in most cases, will be approximately four to six weeks thereafter. However the timing of the first directions hearing will be flexible so as to meet the requirements of the particular case.
- 10.3** Unless there are exceptional circumstances, parties should be ready to list for trial or a disputed fact hearing at the first directions hearing. When the matter is listed for trial, a date will be set for a directions hearing before trial so that parties can report on the status of the matter and obtain pre-trial ancillary orders if any are needed.
- 10.4** On a plea of guilty at arraignment, or on matters committed for sentence, submissions on sentence may be heard on that day, but more commonly, a later date will be set for submissions.
- 10.5** If, between arraignment and the first directions hearing, it is agreed that a matter is to be a plea of guilty, the matter can be put into an arraignment list without attending for a further directions hearing. This can be arranged with the Criminal Registry.

## **Direction 10A – Trials of Sexual Offences Involving Children**

- 10A.1** This Practice Direction applies to cases involving a sexual offence where the complainant is a child.
- 10A.2** On a plea of not guilty at arraignment, or if there is to be a disputed fact hearing, a matter will be remanded to a directions hearing as soon as possible but not more than one month later.
- 10A.3** At that directions hearing the Court will give the matter a date for trial or hearing within the next three months. The Court will expect the parties to be ready for a trial or disputed fact hearing.

- 10A.4** To make allowance for the Court sitting on a circuit basis, cases which are to be heard at Port Augusta or Mount Gambier will be given a date for trial or hearing within six months of first arraignment.
- 10A.5** Counsel accepting a brief to appear in these cases should do so on the basis that they will be able to appear in the trial or hearing within four months or six months (as relevant) of first arraignment.

### **Direction 11 – Front Sheets and Back Sheets**

- 11.1** The text of the document may commence on the front sheet if there is sufficient space (that is, the text of the document need not start on a fresh page).
- 11.2** Back sheets are not required for documents filed or lodged in the criminal jurisdiction (including those documents filed or lodged in the appellate jurisdiction).

### **Direction 12 – Conduct of Views in Criminal Trials**

- 12.1** A view is a part of the trial and is under the control of the trial Judge.
- 12.2** The trial Judge may give directions as to the conduct of the view, but in the absence of special directions those below will apply to the view.
- 12.3** Subject to any contrary order of the Court any person may attend on a view, but this Practice Direction does not authorise any such person to trespass on private property.
- 12.4** When a view takes place in a confined space the Judge may limit the persons to enter that space to those necessary for the conduct of the view.
- 12.5** No member of the media or the public is to come so close to jurors so as to be able to overhear what is said between them.
- 12.6** No member of the media or the public is to be so close to the Judge or counsel so as to be able to overhear private conversations.
- 12.7** Jurors are not to be filmed, photographed or sketched.
- 12.8** Witnesses at views are not to be filmed or photographed.
- 12.9** If there is no suppression order relating to the identity of an accused, he or she may be filmed, photographed and sketched from a distance, but not so as to show that he or she is in custody or under restraint or in any way which might suggest guilt.
- 12.10** Other than with the permission of the Judge, there is to be no sound recording at a view.

### **Direction 13 – Conduct of Trials**

Subject to any contrary direction from the trial Judge in a particular trial:

- 13.1** Defence counsel will sit at the end of the bar table that is closer to the dock.
- 13.2** The Judge will be present on the Bench when:
- 13.2.1 an accused enters the dock;
  - 13.2.2 when the jury enters and leaves the courtroom;
  - 13.2.3 witnesses enter or leave the courtroom while the accused is in the dock.
- 13.3** When a jury is about to be empanelled the accused will enter the dock in the presence of the Judge and the jury panel. (If counsel seek a direction to the contrary, it should be requested before the jury panel is brought up to the courtroom.).

## **Direction 14 – Titles of Judicial Officers**

### **14.1 Judges**

Judges of the Supreme Court will be addressed and referred to by the title "Justice" e.g., "Justice Brown" and as "Your/His/Her Honour". Judges of the District Court will be addressed and referred to by the title "Judge", e.g., "Judge Green" and as "Your/His/Her Honour". Lawyers are requested to use the titles in Court and in all documents filed or used in Court.

## **Direction 15 – Appellate Proceedings**

### **15.1 Summary of Evidence**

In an appeal in which a ground of appeal is that the verdict is unsafe or unsatisfactory, counsel are expected to provide a written summary of the relevant evidence, including references to transcript pages.

### **15.2 Chronology**

A chronology is particularly helpful in Criminal Appeals. Counsel will usually be expected to provide a chronology in such appeals.

### **15.3 Provision of Outline, Chronology and Summary**

15.3.1 An appellant/applicant's outline of argument, list of authorities, chronology and summary of evidence is to be filed in the Court and served on the respondent at least four working days before the day upon which the hearing of the appeal/application is to commence.

15.3.2 A respondent's outline of argument, list of authorities, chronology and summary of evidence is to be filed in the Court and served on the appellant/applicant at least two working days before the day upon which the hearing of the appeal/application is to commence.

15.3.3 Subject to any contrary direction of the Court, four copies of each outline, list of authorities, chronology and summary of evidence are to be filed in the case of appeals/applications to be heard by the Court of Criminal Appeal ("CCA").

### **15.4 Time in Custody**

Attention is drawn to s 364(3) of the *Criminal Law Consolidation Act 1935* which provides that time spent in custody pending the determination of an appeal will not count as part of the sentence unless the Court orders otherwise. Counsel for the DPP and defence counsel should be prepared to make submissions at the time when judgment is delivered as to whether such an order should be made.

## **Direction 16 – Permission to Appeal to the Court of Criminal Appeal**

**16.1** Applications for permission to appeal against sentence and against conviction will be considered by a single judge, as will applications for an extension of time within which to seek permission to appeal.

**16.2** Ordinarily an application for permission to appeal which can be heard by a single judge will be dealt with by one judge only. If an application for permission to appeal is referred to the CCA, or if permission is sought from the CCA after having been refused by a single judge, that application will be dealt with at the same time as the hearing of grounds on which an appeal lies as of right, or on which permission has been granted.

- 16.3** Usually the judge before whom an application for permission to appeal first comes will deal with the application until it has been granted, refused or referred to the CCA.
- 16.4** If the respondent concedes in writing that permission to appeal should be granted before hearing of the application, permission may be granted by a Judge without the attendance of the parties.
- 16.5** At the first listing of an application for permission to appeal:
- 16.5.1 if all parties are ready to argue the application, or have previously informed the Court that they will be ready to argue the application on the first listing date, the Judge will hear and determine the application;
  - 16.5.2 if all parties are not ready to argue the application, the Judge will set a date by which settled grounds are to be filed and served and list the application for argument;
  - 16.5.3 where the application is listed for argument, it will usually be listed at least 7 days in the case of sentence appeals and 14 days in the case of conviction or acquittal appeals from the date upon which settled grounds are to be filed and served.
- 16.6** If settled grounds are not filed and served in accordance with a direction given by a Judge, unless the respondent agrees, the application will not be heard on the date fixed for hearing and on that date a new date will be fixed for hearing.
- 16.7** If permission to appeal is not required, or if the judge grants permission to appeal on all grounds, the appeal will be heard by the CCA in the usual way.
- 16.8** If the judge refuses permission to appeal on all grounds, and the applicant applies to the CCA to have the application for permission to appeal considered by the CCA, the application will be heard in open court.
- 16.9** In that event the application will be listed as a rehearing of the application for permission to appeal. If the court proposes to grant permission to appeal, it will treat the hearing of the application for permission to appeal as the hearing of the appeal. Counsel for the applicant and for the respondent must be ready to argue all grounds in full.
- 16.10** If an appeal lies as of right on some grounds, or permission to appeal is granted on some grounds only, the single judge hearing the application may find it convenient to refer the other grounds to the CCA, without refusing them. However, if the judge sees fit the judge may refuse the remaining grounds.
- 16.11** In either event, when the matter comes before the CCA the hearing of any application for permission to appeal on grounds referred or grounds refused will take place at the same time as the hearing of the appeal on grounds as of right or by permission. The same approach will be taken as is indicated in sub-paragraph 7 above.
- 16.12** A single judge hearing an application for permission to appeal is concerned to decide whether there is an arguable case. Counsel should not argue the application for permission as if it were a preview of the full hearing.
- 16.13** Counsel appearing in a matter which is or includes a renewed application for permission to appeal should prepare the outline of submissions in relation to the renewed application for permission as if permission had been granted. That will enable the court to hear the argument in full, in the event that the court proposes to grant permission to appeal. This requirement reflects the fact that the CCA will not

deal separately with permission to appeal and, if permission is granted, the merits of the appeal.

- 16.14** Applications by the Director of Public Prosecutions for permission to appeal against sentence will, in accordance with the present practice, be heard on the basis that the court will hear submissions on the application for permission, and on the merits of the proposed appeal, on the one occasion.

**Direction 17 – Section 69A *Evidence Act* (Suppression Orders)**

- 17.1** Applications to vary or revoke a suppression order made by the Supreme Court on appeal from another court are to be treated as interlocutory applications in the matter of the appeal and the procedure will be that prescribed by Part 2 of Chapter 7 of the Supreme Court Civil Rules 2006 (Rules 131-135).

## History of Amendment

The *Criminal Practice Directions 2007* have been amended as set out in the table below.

Practice Direction		Effective Date
Introduction	sub am3	1 February 2012
1.1	amended am2	23 December 2009
5	substitute	1 February 2012
5A	inserted am3	1 February 2012
5B	inserted am3	1 February 2012
5B.3	amended am3	1 February 2012
9.1	amended am4	1 January 2013
10 - Note	inserted am1	1 January 2009
10.2	amended am1	1 January 2009
10.3	amended am1	1 January 2009
10A	inserted am1	1 January 2009
11.1	deleted am4	1 January 2013
11.2	renumbered am4	1 January 2013
11.3	renumbered am4	1 January 2013
<b>16.3</b>	<b>amended am5</b>	<b>1 December 2013</b>
<b>16.4</b>	<b>substitute am5</b>	<b>1 December 2013</b>
<b>16.5</b>	<b>inserted am5</b>	<b>1 December 2013</b>
<b>16.6</b>	<b>inserted am5</b>	<b>1 December 2013</b>
<b>16.5 - 16.12 renumbered to 16.7 - 16.14</b>	<b>renumbered am5</b>	<b>1 December 2013</b>