



Magistrates' Court Victoria

Practice Direction

No. 13 of 2020

COVID-19

MAGISTRATES' COURT OF VICTORIA WORKCOVER JURISDICTION

The Magistrates Court of Victoria is committed to continue to serve our Community as we continue to face COVID-19 restrictions. **All our Courts across the State remain open**. After hearing from health experts, it has however, been necessary to reduce the number of people in our Court buildings and this has required us to change some aspects of our practice and procedures to ensure the health and safety of our judiciary, staff and all court users.

In accordance with Section 136 of the *Magistrates Court Act 1989* and the overarching purpose and obligations of the Civil Procedure Act 2010 ("**CivilPA**") the Court has reviewed its practises and procedures in its Civil Jurisdiction.

This Practice Direction only applies to proceedings in the WorkCover Division of the Court.

This Practice Direction revokes Practice Direction 1 of 2020 in so far as it applied to the WorkCover Division.

Commencement of proceedings

1. All arrangements for the filing and initiation of Complaints by EDI remain unchanged.
2. The Court will no longer accept filing of proceedings or Applications via the email address civilcoordinator@courts.vic.gov.au.
3. The Court will not accept any document filed in person at any Registry, except where the litigant is self-represented.
4. Initiating process ("**Complaints**") and Applications are to be mailed or scanned and emailed to the Proper Venue of the Court ("**Proper Venue**") as set out in Appendix C of the Magistrates' Court General Civil Procedure Rules 2010 ("**the**

Civil Rules”). Proper Venue emails are available at: <https://mcv.vic.gov.au/going-court/find-court>. All documents filed with the Court must include an email address and telephone and/or mobile number of the person responsible for carriage of the matter.

5. Where a fee is required to be paid, the Registrar at the Proper Venue will contact the lodging Party by telephone to facilitate payment via a credit card. Alternatively, payment can be forwarded by cheque or money order.
6. Upon payment of the prescribed fee, documents will be accepted as filed, then issued and returned.

Filing of documents

7. All Consent Orders in matters issued at Melbourne Magistrates’ Court, and urgent applications in WorkCover proceedings, wherever issued, should be filed by email to the WorkCover Registrar at mmcworkcoverindustrialcourts@justice.vic.gov.au.
8. Otherwise, all Pleadings (apart from Complaints as set out above) and other Court documents should be filed: -
 - 8.1 in proceedings issued at Melbourne Magistrates court by email as set out in paragraph 7;
 - 8.2 in proceedings issued at a regional court by being mailed or scanned and emailed to that Court.

Inspection of subpoenaed documents

9. Subpoenaed documents may only be inspected by making an appointment with the relevant Court Registry.
 - 9.1. Appointment requests at the Melbourne Magistrates Court are to be made via email to subpoenamanager@courts.vic.gov.au.
 - 9.2. All other requests are to be made via email to the registry at the Proper Venue.
10. Parties who are inspecting subpoenaed documents are required to follow the directions of the relevant Court Registry with respect to the use of personal protective equipment and the handling of documents.

Procedure for Directions Hearings, Mentions, Objection Hearings and Applications

11. All Directions Hearings, Mentions, Objection Hearings and Applications (“**the Mention List**”) already listed will continue to be considered by a WorkCover Division Court at 10.00am on the allocated date.
12. The Mention List will continue to be dealt with “on the papers” and no Party or legal practitioner should attend court to appear in that List unless notified by the Court.
13. The WorkCover Division Court will hear any Application for an urgent hearing of any proceeding issued at Melbourne Magistrates’ Court or a Regional Court, as well as any urgent application in any proceeding issued at a Regional Court, on proper Application and notice to the opposing Party.
14. Parties seeking to have matters fixed for Contested Hearing must file by email to the WorkCover Registrar signed Minutes of Consent Orders confirming that:
 - a. all interlocutory steps are completed; and
 - b. the Proceeding is ready to be fixed for hearing with an estimated duration and a ‘not before’ date for listing.

Contested Hearings List

15. All Contested Hearings which have been already listed will continue to be considered by a WorkCover Division Court on the allocated date as set out below.

Procedure for Contested Hearings List until Friday 15 May 2020

16. No Party or legal practitioner should attend Court to deal with a matter in that List unless notified by the Court. Pursuant to overarching obligations as set out in the Civil PA, Parties must engage independently in discussions to explore resolution.
17. In the event of the matter resolving, the Parties must email to the WorkCover Registrar proposed Minutes of Consent Orders on the day of listing by 1.30 pm. If Minutes of Consent Orders are not received by 1.30pm on the allocated date, the proceedings will be adjourned to a date for Early Neutral Evaluation (“**ENE**”) or hearing at the discretion of the presiding Magistrate.

Procedure for Contested Hearings List from Monday 18 May 2020

18. All unresolved proceedings listed for hearing prior to 15 May 2020 that have not been already adjourned to a specific hearing date or ENE date, will be listed in

the Mention List and Parties notified. Parties may file proposed Minutes of Consent Orders prior to the Mention date with respect to listing the matter for hearing (if meeting the criteria in paragraph 19) or for ENE which will be at the direction of the presiding Magistrate.

19. From Monday 18 May 2020 onwards, the WorkCover Division will list up to three Contested Hearings daily which will proceed in open court provided:

a. The only witnesses to be called are the Plaintiff-Worker and no more than one other witness who is prepared to give evidence without requiring subpoena; and

b. the hearing is limited to no more than two days' duration.

20. From Monday 25 May 2020, and every second week afterwards (other than on Fridays), the WorkCover Division will also operate a second WorkCover Division Court to hear Contested Hearings on the same basis, as well as contested Mention List matters.

21. Contested matters of more than two days' duration or where Parties require more than one witness to be called will be adjourned at the discretion of the Court to a date for ENE or will be fixed for hearing on a date on or after 1 October 2020.

22. All parties are expected to ensure that the number of persons attending a WorkCover Division Court is kept to a minimum number.

Procedure for WorkCover Early Neutral Evaluations

23. The Court may direct a matter to an ENE at any stage in the proceedings.

24. Parties may, by consent, request matters be listed for ENE at any stage in the proceedings.

25. Matters will be listed for ENE on every second Friday commencing 25 May 2020 at 11:00 am and 2:00 pm for two hours.

26. Where a matter is listed for ENE, physical attendance at Court of the Parties including the Plaintiff-Worker will be required unless otherwise directed. Attendance should be limited to Counsel, instructing lawyers and the Plaintiff-Worker.

27. Where Counsel is retained for the Contested Hearing, then wherever practicable, Counsel should be retained for ENE.

28. Defendants are expected to be available by telephone to provide instructions to instructing lawyers by telephone in the course of the ENE.

29. Parties are expected to be thoroughly prepared with a view to utilising the ENE to narrow the issues in dispute by particularising:
- a. agreed or unchallenged facts or matters;
 - b. disputed facts;
 - c. legal issues in dispute.
30. Subject to any direction of the Court, should a matter not resolve at ENE, the matter will be fixed for hearing (if appropriate) with Parties expected to provide accurate estimates of the hearing's duration and witness availabilities. The Court will then give further directions for the conduct of the proceedings.
31. In the event a matter has not resolved at ENE, but parties have succeeded in narrowing issues in dispute through the process, Parties will be expected to file and serve agreed statements of facts and, if appropriate, applicable law within 14 days of the ENE's conclusion.
32. All ENEs will be conducted before a Magistrate who will not hear the Contested Hearing.

Procedure for Regional Circuit Courts

33. Until further notice, proceedings in all WorkCover Regional circuits will retain their allocated listed dates for mention or hearing and will be dealt with as follows:
- a. Pursuant to the overarching obligations as set out in the Civil PA, Parties must engage independently in discussions to explore resolution.
 - b. In the event of the matter resolving, the Parties must email proposed Minutes of Consent Orders by the end of the circuit week to the Registry where the matter is listed.
 - c. In the event of the matter not resolving, or where the Court does not receive proposed Minutes of Consent Orders by the end of the circuit week, matters will be adjourned to a later circuit.
 - d. Any application for an urgent hearing of, or urgent application in, a Regional Court proceeding must be made to a WorkCover Division Court at the Melbourne Magistrates' Court by emailing the WorkCover Registrar at mmcworkcoverindustrialcourts@justice.vic.gov.au.

- e. Whether a Regional Court allows Parties to access subpoenaed records on any allocated listed date is solely a matter for the discretion of the Regional Magistrate at the circuit court.
- f. Otherwise, the Parties should make an appointment for an inspection of any subpoenaed documents in accordance with paragraphs 8 and 9 of this Practice Direction.



Judge Lisa Hannan
Chief Magistrate
8 May 2020