

SUPREME COURT OF TASMANIA

CIRCULAR TO PRACTITIONERS

No 5 of 2020

17 April 2020

COVID-19 – APPROVED MANNER OF COURT PROCEEDINGS

Pursuant to a Notice issued by the Attorney-General under the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* s20, the Chief Justice has approved the manner in which certain court proceedings may be conducted.

The Chief Justice's *Determination* approves the manner in which the Supreme Court, Full Court and Court of Criminal Appeal may conduct proceedings during the pandemic despite specific legislative provisions in the *Supreme Court Civil Procedure Act 1932*, the *Criminal Code*, the *Criminal Code Act 1924* and the *Sentencing Act 1997*.

Copies of the Chief Justice's *Determination* and the Attorney-General's *Notice* are attached.

Jim Connolly
Registrar



**Chief Justice's Chambers
Hobart**

**DETERMINATION UNDER SECTION 20(2)(b) OF THE COVID-19 DISEASE
EMERGENCY (MISCELLANEOUS PROVISIONS) ACT 2020**

The Attorney-General has, by a notice under s 20(1) of the above Act dated 16 April 2020, declared that despite the provisions of s 411(1) of the *Criminal Code*, s 12A(2) of the *Criminal Code Act 1924*, s 90(1) of the *Sentencing Act 1997*, and s 14 of the *Supreme Court Civil Procedure Act 1932*, proceedings conducted by the Supreme Court of Tasmania may be held in the approved manner determined by me in accordance with s 20(2) of that Act.

Pursuant to that notice, I determine that until further notice proceedings conducted by the Supreme Court of Tasmania may be held in accordance with the following arrangements:

- 1 Judges constituting the Court of Criminal Appeal or the Full Court of the Supreme Court of Tasmania need not sit together in one place.
- 2 Judges constituting the Court of Criminal Appeal or the Full Court of the Supreme Court of Tasmania need not sit in court rooms, but each judge may sit at any place.
- 3 Appeals and other proceedings before the Court of Criminal Appeal may be heard and determined by any form of audio-visual link or by telephone. Alternatively, if all parties are represented by counsel and consent, such proceedings may be determined without an oral hearing.
- 4 Appeals and other proceedings before the Full Court of the Supreme Court of Tasmania may be heard and determined by any form of audio-visual link or by telephone or, by consent, may be determined without an oral hearing.
- 5 When the Court of Criminal Appeal conducts a hearing by audio-visual link or by telephone, the party whose conviction or sentence is the subject of the appeal must be afforded an opportunity to hear what is said at the hearing by audio-visual link or by telephone.
- 6 If an appeal or application to the Court of Criminal Appeal is determined without an oral hearing, each party is to be given, if he or she so requests, a copy of every written submission, outline of argument or other document that is provided to the Court by or on behalf of the parties. Such documents may be delivered by electronic means.

- 7 Judges exercising the criminal jurisdiction of the Supreme Court of Tasmania as single judges need not sit in court rooms, but may sit at any place, and may conduct proceedings by any form of audio-visual link or by telephone.
- 8 When one or more judges of the Supreme Court of Tasmania impose a sentence for an offence, that sentence need not be imposed in open court.
- 9 A sentence may be imposed by a judge or judges of the Supreme Court of Tasmania by audio-visual link or by telephone.
- 10 A single judge exercising the civil jurisdiction of the Supreme Court of Tasmania need not sit in a court room, or at any particular place, but may sit anywhere in Australia, and may conduct proceedings by any form of audio-visual link or by telephone.

Dated this 16th day of April 2020

The Hon Alan Michael Blow AO
Chief Justice of Tasmania

TASMANIA

COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020

NOTICE UNDER SECTION 20

I, ELISE ARCHER, the Attorney-General, in pursuance of section 20 of the *COVID-19 Disease Emergency (Miscellaneous Provisions) Act 2020* ("the Act"), at the request of the Chief Justice of the Supreme Court of Tasmania, being of the opinion that the relevant emergency circumstances exist in relation to this notice, declare that –

(a) despite section 411(1) of the *Criminal Code*, to the extent that it entitles an appellant to be present at an appeal being heard by the Supreme Court, an appellant is entitled to be present at the appeal by being present in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and

(b) despite section 12A(2) of the *Criminal Code Act 1924*, to the extent that it requires sittings of the criminal jurisdiction of the Supreme Court of Tasmania and sittings of the Court of Criminal Appeal to be held at the places at which the registries of the Court are established and at other places determined by the Chief Justice, such sittings may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and

(c) despite section 90(1) of the *Sentencing Act 1997*, to the extent that it provides that a sentence may be imposed in open court, a sentence for an offence, imposed by one or more judges of the Supreme Court, may be imposed in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act; and

(d) despite section 14 of the *Supreme Court Civil Procedure Act 1932*, to the extent that it requires a Full Court consisting of two or more judges to sit together as one court or a single judge to sit in court as a court, such sittings

may be held in the approved manner determined by the Chief Justice in accordance with section 20(2) of the Act.

Dated: 16 April 2020

Signed: **Elise Archer MP**
Attorney- General