

JU301*

Criminal Procedure Act 2004

Criminal Procedure (District Court) Rules 2008

Made by the Judges of the District Court.

1. Citation

These rules are the *Criminal Procedure (District Court) Rules 2008*.

2. Commencement

These rules come into operation as follows:

- (a) rules 1 and 2 — on the day on which these rules are published in the *Gazette*;
- (b) the rest of the rules — on the day after that day.

3. Interpretation

In these rules unless the contrary intention appears —

“**accused**” means a person who has been committed to the court for trial or sentence or who is the subject of an indictment that has been lodged in the court;

“**Chief Judge**” means the Chief Judge of the District Court;

“**court**” means the District Court;

“**CPA**” means the *Criminal Procedure Act 2004*;

“judge” means a District Court judge;

“lodge” a document, means to lodge it with the court.

4. Application

- (1) These rules must be read with the *Criminal Procedure Rules 2005*.
- (2) If a provision in these rules is inconsistent with a provision of the *Criminal Procedure Rules 2005*, the provision in these rules prevails in relation to any case in the court.

5. Consent orders

- (1) For the purpose of this rule the Chief Judge, by a practice direction, may specify —
 - (a) matters that may be the subject of an order made by written consent under this rule; and
 - (b) the form in which any written consent is to be given.
- (2) The parties to a case in the court may lodge a written consent to the making of an order in the case.
- (3) A lodged written consent must be in accordance with any practice direction made under subrule (1).
- (4) On a written consent being lodged, a judge may make the order without a hearing.

6. When indictment or discontinuance must be lodged

- (1) The Chief Judge, by a practice direction, may set the period within which an authorised officer must act under the CPA Part 4 Division 2 in respect of an accused who is committed to the court for trial or sentence on a charge.
- (2) If an authorised officer does not comply with a practice direction issued under subrule (1), the court may make an order under the CPA section 94(3).

7. Initial hearing

- (1) For the purpose of this rule, the initial hearing of a prosecution commences on the day on which the accused first appears in the court having been committed to the court for trial or sentencing.
- (2) A judge must preside at an initial hearing of a prosecution.
- (3) At an initial hearing of a prosecution the court may do any of the following —
 - (a) deal with any application under the CPA section 89, 90, 97, 118, 131, 132, 133, 134, 135, 136 or 138;
 - (b) exercise any of its powers in those sections if it can do so on its own initiative;
 - (c) exercise any of its powers in the CPA section 98 or 137;

- (d) order that a status hearing be held under the *Criminal Procedure Rules 2005* rule 33 and fix the time and place for it;
- (e) order that a pre-trial hearing be held under the *Criminal Procedure Rules 2005* rule 34 and fix the time and place for it;
- (f) fix the time and place for the trial or sentencing proceedings;
- (g) adjourn the initial hearing from time to time.

8. When request about pending charges must be lodged

The Chief Judge, by a practice direction, may set the time when a request under the *Sentencing Act 1995* section 32(1) must be lodged in the court notwithstanding the *Criminal Procedure Rules 2005* rule 44(2).

Dated: 23 May 2008.

Judges' signatures:

A. KENNEDY

M. D. F. O'SULLIVAN

M. A. YEATS

P. R. EATON

T. D. SWEENEY

B. J. H. GOETZE

C. P. STEVENSON

R. A. MACKNAY

M. J. BOWDEN

A. M. I. SCHOOMBEE

C. J. O'BRIEN

W. G. GROVES

R. E. KEEN

H. J. WISBEY

P. D. MARTINO

A. S. STAVRIANOU

J. A. WAGER

P. P. McCANN

R. A. MAZZA
