

**SUPREME COURT ORDINANCE**  
**PRACTICE DIRECTION NO 2 OF 2020**

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**PRACTICE DIRECTION NO 2 OF 2020**  
**COVID 19 – PRACTICE DIRECTIONS**

**ISSUED** by the Acting Chief Justice pursuant to section 17 of the Supreme Court Ordinance.

As a result of the Coronavirus (Covid-19) pandemic, it has become necessary for the courts to adjust their ways of working which would limit the spread of the virus and manage their workloads appropriately.

I have therefore decided to issue this Practice Direction on a pilot basis for a period of three months, although it may be reviewed within that period should it become inappropriate or unnecessary and may be revoked at any time.

The Judiciary of Turks and Caicos Islands is committed to doing everything possible to ensure access to justice is not fettered, whilst protecting our staff and the public.

The Judiciary is hoping to ensure—

- (i) that the number of persons coming to the various court locations are limited, and
- (ii) that the courts are as safe as possible for those who are essential to be in attendance.

These Directions are issued in order to protect the health and safety of the court staff and the public.

### **Citation and commencement**

1. These Directions shall be cited as the COVID-19 Practice Directions 2020 and shall come into operation on 25 March 2020 at 11am and shall expire on 19 June 2020, unless earlier revoked.

### **Conduct of Proceedings**

2. Judges, Magistrate's and Registrars are encouraged to use telephones and video technology for all hearings which are determined to be urgent.

### **Magistrate's Courts**

3. (1) All matters listed to be heard during this period will be adjourned to the 20<sup>th</sup> April 2020 or until further notice except for any urgent applications or hearings as mentioned at paragraph 7.

(2) All urgent applications may be conducted by telephone or video conferencing even where the court considers it necessary to hear *viva voca* evidence.

### **Traffic Matters**

4. (1) All traffic cases or hearings are to be adjourned for a period of thirty days or until further notice except for those matters determined by the Magistrate to be urgent.

### **Supreme Court: Criminal Jurisdiction**

5. (1) All criminal cases or hearings are to be suspended until further notice except for those matters determined by the Judge to be urgent.

(2) All persons who are currently on bail and whose case is not urgent shall be extended on the same terms and conditions to the adjourned date.

### **Supreme Court: Civil Jurisdiction**

6. (1) All civil cases or hearings are to be suspended until further notice except for those matters determined by the Judge to be urgent.

(2) In respect of filing fees, all payments ought to be made by cheque and deposited in the safety deposit box at the front of the court together with the relevant application.

(3) If payments are to be made at the Government Treasury, upon making payment persons should contact the court on the designated phone number or email address to inform the court of such payment and the necessary receipt will be provided by the court.

### **Matters which may be considered under exception**

7. The matters in both the Magistrate's Court and Supreme Court which may be under exception include—

- (a) bail;
- (b) urgent children or vulnerable adults applications;
- (c) extradition;
- (d) applications under the Mental Health Ordinance;
- (e) proceeds of crime applications, including restraint of cash applications;
- (f) maintenance applications, including applications to vary maintenance orders;
- (g) domestic violence applications;
- (h) writs of Habeas Corpus;
- (i) urgent custody application or any other application relating to a child or minor;
- (j) injunctions;
- (k) judicial review;
- (l) any other matter determined to be urgent.

### **Court of Appeal**

8. All sittings of the Court of Appeal are suspended until further notice or unless the court is so assembled to deal with any matter determined to be urgent.

### **Coroners Court**

9. All Coroner cases or hearings are to be suspended until further notice except for those matters determined by the Chief Magistrate to be urgent.

### **Time**

10. (1) In respect of any deadline, timeline or direction given by the court and not specifically addressed by this Practice Direction time will cease to run until the 20 April 2020.

(2) For the avoidance of doubt, subparagraph (1) does not freeze the normal operation of limitation periods.

### **Application for a hearing on the grounds of urgency**

**11.** (1) Any party to an action or intended action may apply to the court to determine whether it is urgent during this period or the Court of its own motion may decide any action is urgent.

(2) Any application to the court for any action or intended action to be decided urgent must be made in writing and supported by an affidavit setting out the facts and grounds as to why the matter is urgent.

### **Filing**

**12.** (1) Every document which is required by the Supreme Court Rules to be filed in the Court Office may be filed electronically by sending that document in PDF format to the appropriate email address of the Supreme Court or delivered to the designated drop-off box at the front of the Court Building located at 1288 Leeward Highway, Providenciales.

(2) Prior to any hearing, draft orders required to accompany all applications shall be filed electronically in Word format for the use of the court.

(3) Where a document is filed by email address, the party who has filed the document must also subsequently deposit one (1) hard copy of the document at the Court Office, by no later than the next business day when the Court Office is open for Business.

(4) When a document is filed the subject line of the email must contain the following information—

- (a) the title of the case;
- (b) the case number (if available);
- (c) the date and time of any hearing to which the email relates; and
- (d) the type of matter or application being filed.

(5) The email message must contain the sender's—

- (a) identity;
- (b) telephone number; and
- (c) email address, and should be in plain text or rich text format rather than HTML.

(6) Correspondence and documents to be filed must not be sent as text in the body of the email, but rather as attachments to the email in the format stipulated by the court.

## **Service**

**13.** (1) Notwithstanding anything in the Supreme Court Rules every document which is required to be served upon an attorney may be served via email.

(2) If a document is being served via email the party who is serving the document shall copy the court on the email effecting service using the designated email address.

(3) The email address at which service may be effected is the email address—

- (a) notified in writing by that attorney for this purpose; or
- (b) if an email address has not been notified in writing by that attorney, service may be validly effected upon that attorney by sending that document to—
  - (i) the email address used on the letterhead of that attorney or previously used by that attorney;
  - (ii) the email address given on the website of that attorney; or
  - (iii) the email address of the general mailbox of the firm to which that attorney belongs.

## **Service on Companies**

**14.** (1) Notwithstanding the provisions of the Supreme Court Rules, a claim form or other document may be served on a limited company by sending it by email to the registered office or Registered Agent of that limited company.

(2) The email address at which service may be effected is the email address—

- (a) notified in writing by that limited company or its Registered Agent for this purpose; or
- (b) if an email address has not been notified in writing by that limited company or its Registered Agent, service may be validly effected upon that limited company by sending the claim form or other document to—
  - (i) the email address used on the letterhead of that limited company or its Registered Agent or previously used by that limited company or its Registered Agent;
  - (ii) the email address given on the website of that limited company or its Registered Agent; or

(iii) the email address of the general mailbox of that limited company or its Registered Agent.

(3) Proof of service of a filed document shall be by way of an affidavit of service, which shall exhibit the following—

- (a) copy of the cover email under which the document in question was served; and
- (b) a copy of any message tracking, relay or delivery confirmation, including the address to which the email was sent, the date and time the email was sent, and if applicable, a copy of any reply or bounce-back notice of non-delivery or delivery failure.

### **Hearings**

**15.** (1) All hearings will be heard on the date and in the manner specified by the Magistrate or Judge and will utilize video or teleconference where the Magistrate or Judge determines it appropriate during this time.

(2) All in-person appearances are discouraged during this time.

(3) In determining whether a hearing should be conducted in person under paragraph 2, the Magistrate or Judge must have regard to the interest of public health and the ability to maintain appropriate social distancing attendance in courtrooms.

(4) Where a Magistrate or Judge determines it fit for a hearing to be conducted in person, attendance should be limited to attorneys, parties and necessary witnesses only when determined to be absolutely necessary with due consideration for maximising social distancing between persons.

### **Video Conferencing**

**16.** (1) Where a hearing proceeds by telephone or video conference, subject to any technical constraints, an attorney may attend the hearing from different locations.

(2) It is the responsibility of an attorney to identify an appropriate video conferencing facility and to connect to the facility of the court.

(3) At the commencement of the hearing, an attorney representing each party shall identify every person present with him.

(4) No party or his attorney is entitled to be physically present before the court unless the court gives permission.

## General Matters

17. (1) In accordance with the social distancing guidance issued by the Ministry responsible for health the only persons who should be in the court room are essential court staff, attorneys and the relevant parties to the proceedings.

(2) Attorneys are encouraged to deliver documents and submissions via email to the court registry on the designated email addresses or delivered to the designated drop-off box in Providenciales.

(3) The Judicial Administration has the power and may put in place any measures or protocols that are consistent with maintaining health and safety to court staff and the general public when gaining access to the court buildings.

(4) A person may be denied entry to the court building if he does not comply with the measures or protocols that have been instituted including the filling out of any health and travel questionnaire that the court determines fit.

(5) Any person who has business at the court or conducting business on behalf of another person but who is unwell and displaying flu like symptoms or who may be considered high-risk as per the public health guidance is hereby asked to refrain from attending at any court building and encouraged to call the court office, court registrar or Magistrate's clerk and request that the matter be adjourned to another time.

(6) Any person requesting an adjournment or other information should email the court.

(7) The designated email addresses and phone numbers to be used under these Directions are—

(a) Civil Matters—

(i) Supreme Court — [supremecourtci@gov.tc](mailto:supremecourtci@gov.tc)

(ii) Magistrate's Court — [magistratecourtci@gov.tc](mailto:magistratecourtci@gov.tc) ;

(b) Criminal Matters—

(i) Supreme Court — [supremecourtci@gov.tc](mailto:supremecourtci@gov.tc)

(ii) Magistrate's Court — [magistratecourtci@gov.tc](mailto:magistratecourtci@gov.tc) ;

(c) Telephone numbers—

(i) Magistrate's Court: Providenciales—232-7240

(ii) Supreme Court: Providenciales — 232-2460

(iii) Magistrate's Court and Supreme Court Grand Turk— 231-7409

**ISSUED** this 25<sup>th</sup> day of March 2020.

**JUSTICE SHIRAZ AZIZ  
ACTING CHIEF JUSTICE**