

## ***How the civil courts are responding to Covid-19***

**Date: 1 May 2020**

**Abstract:**

With courts across the nation taking varying steps to avoid exacerbating the spread of Coronavirus (Covid-19), civil proceedings have been adversely affected. The following is a snapshot of the current situation across key civil jurisdictions, including updates from the lower courts.

**High Court of Australia**

No face-to-face services are being provided at High Court Registry counters. Registries are still functioning remotely via phone and online services during the restricted hours of 10.00am to 1:00pm, Monday to Friday. The High Court of Australia will not be sitting in Canberra or on circuit in the months of April, May and June. The Court will continue to deliver judgments and deal with special leave applications including hearings as necessary, at individual registries and will hear any urgent matters that may arise by video link between registries and Canberra. The question of future sittings will be reviewed in June. For further information visit the High Court website, which can be found [here](#).

**Federal Court of Australia**

The Federal Court closed its public facing counters with effect from 24 March 2020. The registry is still operational providing services and support via phone and online services. The Court is limiting in person attendances, with alternative arrangements being put in place for matters that would ordinarily require such attendance. In a recent notice to the profession dated 9 April 2020, the Federal Circuit Court indicated it had resolved a number of interim and final matters via Microsoft Teams. There will be some general guidance uploaded to its websites for participating in virtual hearings and other Court events and using Microsoft Teams. It also moved to Digital Court File (DCF) with effect from 14 April 2020. All matters before the Full Court will be conducted as electronic appeals in accordance with the directions of the Court. For further information visit the Federal Court website, which can be found [here](#).

**New South Wales**

The Supreme Court of New South Wales closed its public registry and face-to-face duty registrar from 24 March 2020. All documents must be filed electronically via Online Court, E-subpoena and Online Registry. No personal appearances are being conducted in any matters, unless an exception is granted. The Court is utilising video and teleconference facilities future listings. Further information about the Court's "Virtual Courtroom" can be found [here](#). Mediations will proceed via teleconference. For further information visit the Supreme Court of New South Wales website, which can be found [here](#).

Useful resources include:

- New South Wales Bar Association: [Updated Covid-19 Information](#)
- Law Society of New South Wales Media Statement, [Impact of Covid-19 on the Legal Profession](#)
- NSW Government, Communities & Justice: [Covid-19 response](#)
- [District Court of New South Wales](#)
- [Local Court of New South Wales](#)

## Victoria

The Supreme Court of Victoria is still allowing personal attendances at registries via appointment only. All civil hearings in the Court of Appeal are being conducted by video-link and where appropriate, matters are being dealt with “on the papers”. Both the Commercial Court and Common Law Division (Civil) are taking steps to minimise in-person appearances. In the Commercial Court directions hearings and interlocutory applications are no longer being conducted in-person, unless there are exceptional circumstances. Trials are being conducted electronically, and witnesses are giving evidence remotely. Judgments are being delivered without the parties’ attendance. In the Common Law Division (Civil) matters are proceeding before a judge alone rather than a jury, unless adjourned. Trials are being held by remote telephone or videoconferencing. Applications, interlocutory and case management hearings are being conducted and determined ‘on the papers’, unless otherwise ordered. Judgments are being delivered without the parties’ attendance. The Court has issued guidance for civil proceeding affected by coronavirus, which is available [here](#). For further information visit the website of the Supreme Court of Victoria, which can be found [here](#).

Useful resources include:

- Victorian Bar Association: [Covid-19 Information for Members](#)
- Law Institute of Victoria: [Covid-19 Hub](#)
- County Court of Victoria: [Divisional and List Responses to Covid-19](#)
- Magistrates Court of Victoria: [News and Resources](#)

## Queensland

All courts are implementing social distancing measures, including limiting the number of people permitted in the courtroom at any one time. New trials in the Supreme and District Courts requiring a jury have been suspended. Supreme and District Courts are presently investigating the wider use of audio-visual links, including the use of computer applications which can be downloaded, and hopes shortly to produce a guide for practitioners. For civil matters, practitioners are being encouraged to minimise the need for physical attendance in courtrooms by using telephone or video link to make applications and call witnesses; making applications ‘on the papers’; reducing the time of proceedings and number of people required to attend; and resolving matters wherever possible. For further information visit the Queensland Courts website, which can be found [here](#).

Useful resources include:

- Queensland Bar Association: [Updated Information on Covid-19](#)
  - The Bar Association of Queensland has published a recording (16 April 2020) providing important information on how to ensure civil trials, appeals and interlocutory hearings can go ahead in the Supreme and District Courts under the changed COVID-19 protocols. It includes a Q&A session with The Honourable Justice Walter Sofronoff, The Honourable Justice Ann Lyons, The Honourable Justice John Bond, His Honour Judge Bernard Porter QC, Nick Ferrett QC and Gavin Handran. [Click here to access](#).
- Queensland Law Society: [News Headlines](#)

## South Australia

The Supreme Court is imposing social distancing requirements and encouraging parties to limit the number of accompanying persons to the Court. All documents are to be filed electronically. Directions hearings and listing conferences are proceeding via video or audio communication, unless otherwise ordered. Mediations are postponed until June 2020. Application for permission to appeal in civil matters are being heard ‘on the papers.’ Full Court of Appeal hearings are continuing in the ordinary way, with a maximum hearing time of two hours, unless there are special circumstances. At present, all current hearing dates for civil trials will be maintained and new trials will continue to be set

down with a focus on measures to expedite the hearing and limit hearings to those issues which are truly contested. For further information visit the South Australian Courts website, which can be found [here](#).

Useful resources include:

- South Australian Bar Association: [Covid-19](#)
- Law Society of South Australia: [Covid-19 Updates and Resources](#)

### **Northern Territory**

The Supreme Court has now closed its public facing counters and suspended all new trials requiring a jury until 5 June 2020. Trials will continue where a jury has already been selected. Unless otherwise ordered, pre-trial hearings, mentions and directions hearings will be heard by audio-visual link or telephone. For further information visit the website of the Supreme Court of the Northern Territory, which can be found [here](#).

Useful resources include:

- Law Society NT: [Covid-19 Updates](#)
- Northern Territory Government: [Coronavirus \(Covid-19\)](#)

### **Western Australia**

While the Supreme Court remains open, the Court recommends that only legal practitioners, parties, witnesses and media should attend court hearings. Registries are closed to the public and documents cannot be filed in person. All in person appearances at appeal hearings, status conferences and directions hearings are suspended. Hearings are being conducted by telephone unless all parties are represented by counsel and all counsel have access to video conferencing facilities. All directions hearings, case management conferences and strategic conferences are being conducted by telephone. Judgements are being delivered via telephone or on the papers, by prior arrangement. New mediation listings are being suspended until the end of May 2020 and those currently scheduled may be subject to alternative arrangements (for example, mediation by telephone or video link). Civil trials before judges will continue as listed. Civil trials will only occur in courtrooms that can ensure appropriate social distancing. If a civil trial cannot be conducted in this way it will be vacated. For further information visit the website of the Supreme Court of Western Australia [here](#).

Useful resources include:

- Law Society of Western Australia: [Covid-19 Information and Resources](#)
- District Court of Western Australia: [Civil Procedure Notification to Practitioners](#)
- Magistrates Court of Western Australia: [Notice](#)

### **Tasmania**

The Supreme Court registries are open and the Court is continuing to deal with civil matters. So far as possible, steps are being taken to avoid the need for people to come to Court, and to protect them from any risk of infection on Court premises. No jury trials are commencing until at least 21 July 2020. For further information visit the website of the Supreme Court of Tasmania [here](#).

Useful resources include:

- Law Society of Tasmania: Covid-19: [State Courts and Tribunals](#)
- Magistrates Court: [Covid-19 \(Coronavirus\) Measures](#)

### **Australian Capital Territory**

The Supreme Court Registry is not accepting over-the-counter filing of documents, except where person filing cannot readily access email or in the case of appeal books. The Registrar and Deputy Registrar is conducting their lists via video link. All civil mediations are proceeding as usual. If a practitioner or party is ill or isolated, audio-visual facilities are available for use in mediation suites. Jury trials are proceeding, provided that appropriate hygiene and social distancing standards can be met. Only two jury trials can proceed concurrently. The Court is looking to bring forward Judge alone trials. The Registrar is contacted affected parties regarding proposed changes. For further information visit the ACT Courts website [here](#).

Useful resources include:

- ACT Law Society: [Coronavirus \(Covid-19\) Updates for the Legal Profession](#)
- ACT Courts: [Response to the Covid-19 Virus](#)
- ACT Bar Association: [Message from the President](#)