

# Alert

## DISPUTE RESOLUTION & INSOLVENCY

### COVID-19: Changes in the Court System You Need to Know About

By Joseph De Ruvo

With the rapidly evolving COVID-19 situation, it can be challenging to keep up with the changes to the South Australian legal system. This can be particularly stressful if you have court proceedings underway. The Courts Administration Authority of South Australia has implemented three key changes that are important for you to be made aware of. These changes relate to payments, the filing of documents and hearings. We have put together a practical guide, summarising the changes that have taken place and what this will mean for you.

#### Payments

As of Monday, 6 April 2020, the Courts Administration Authority is no longer accepting cash or cheque payments. Payments can be made with a debit or credit card.

#### Supreme Court

##### Filing Documents

Wherever possible, to avoid attendance in person, all documents should be presented for filing electronically by email (PDF and

signed to [supreme.registry@courts.sa.gov.au](mailto:supreme.registry@courts.sa.gov.au)) in accordance with the court rules, or by registered post (to GPO Box 2465 Adelaide SA 5001).

##### Mediations

All mediations will be postponed and given a new date, which will be no earlier than June 2020. These future dates may need to be reviewed as the duration of the pandemic becomes clearer. See below for further information on private mediations.

##### Hearings and Settlements

The changes outlined below took effect from Monday, 14 April 2020 and will be in place for four weeks. They will be revised as new public health announcements are made.

1. All directions hearings will be done via email as set out below:

- All adjournments will be requested by email, and a record of outcome will be sent to all parties.

- Parties must send in consent orders if substantive orders are required, and a record of outcome will be sent to all parties.
- If parties cannot agree on consent orders, each party must set out their position with a brief explanation and the Master dealing with the matter will make a decision. This decision will be emailed to all parties with a record of outcome.
- Emails for directions hearings must be sent to Chambers by the time and date of the hearings. However, the Supreme Court would like emails to be sent as soon as possible, and prior to the listed time.
- 2. Settlement conferences currently listed will be held between the parties (by telephone or other means organised between them) without court involvement.

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After this, parties must advise Chambers of the outcome and of any orders required.

3. The only matters that will be dealt with in the courtroom will be:

- possession applications where an order for possession is sought;
- winding up applications; and
- urgent matters where there has not been time for the parties to agree on a position.

If we, in agreeance with you, are of the view that your directions hearing or argument must still proceed in a courtroom, we will email Chambers with our reasons to allow the Master to consider our request.

### District Court

#### *Filing Documents*

Wherever possible, to avoid attendance in person, all documents should be presented for filing electronically by email (PDF and signed to [district.civil@courts.sa.gov.au](mailto:district.civil@courts.sa.gov.au)) in accordance with the court rules, or by registered post (to GPO Box 2465 Adelaide SA 5001).

#### *Hearings and Settlements*

The changes outlined below took effect from Monday, 14 April 2020 and will be in place for four weeks. They will be revised as new public health announcements are made.

1. All non-contentious directions hearings will be done via email as set out below:
  - All adjournments will be requested by email, and a

record of outcome will be sent to all parties.

- Parties must send in consent orders if substantive orders are required and a record of outcome will be sent to all parties.
- Emails for directions hearings must be sent in by close of business the day before; however, the District Court would like emails to be sent as soon as possible, and prior to the listed time.

2. If parties cannot agree on consent orders, a telephone link-up will be arranged, but parties must give at least 24 hours' notice of the need to do so. If this is not possible, as a last resort, parties may attend before the Master while strictly adhering with social distancing requirements.

3. Settlement conferences currently listed will be held between parties by telephone or another method agreed between parties, without court involvement. Parties are asked to advise Chambers of the outcome and of any orders required.

4. Parties are urged to do their utmost to resolve arguments between themselves and if not, to consider whether they can limit the argument to submissions on the papers. If that is not possible, the argument will proceed as normal but with parties observing the required social distancing. Attendance at such arguments is to be

strictly limited to Counsel and the instructing solicitor of each party. When a video link is possible, the parties will be advised.

If we, in agreeance with you, are of the view that your directions hearing or argument must still proceed in a courtroom, we will email Chambers with our reasons to allow the Master to consider our request.

### Magistrates Court

The changes outlined below took effect from Thursday, 9 April 2020 and will be in place until further notice. They may be revised as new public health announcements are made.

#### *Filing documents*

No documents will be handed up in Court. If less than ten pages in length, documents must be emailed to the Registry prior to the hearing (to [amcregistry@courts.sa.gov.au](mailto:amcregistry@courts.sa.gov.au)). If greater than ten pages, two copies are to be lodged at the Registry the day prior to the hearing. Parties will be copied into any email communication with the Court.

#### *Directions hearings*

1. All directions hearings will be conducted either by email or phone as set out below:
  - All adjournments will be requested by email, and a record of outcome will be sent to all parties.
  - Parties must send in draft consent orders by email if substantive orders are required and a record of outcome will be sent to all parties.

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- Emails relating to directions hearings must be received by Registry by 4:30pm the day before the scheduled hearing.
2. If parties cannot agree on consent orders, they will be granted leave to appear by phone. Parties must provide phone contact details before the hearing and remain contactable for an hour from the scheduled hearing time because if a party cannot be contacted, it will be considered that they have not appeared. Orders may be made in their absence.

#### *Applications listed for argument*

1. Parties may choose to appear by telephone, in which case direct phone contact details must be provided to the Registry at least one hour prior to the hearing.
2. Any arguments that do proceed in Court must strictly adhere to the social distancing requirements.

#### *Trials*

1. Trials will proceed as normal, except for the following key changes:
  - Social distancing (1.5m) must be adhered to.
  - Documents less than 20 pages in total must be emailed to the Court the

day prior to the hearing (to [amcregistry@courts.sa.gov.au](mailto:amcregistry@courts.sa.gov.au)).

- Documents greater than 20 pages, three copies must be lodged with the Registry at least one day before the hearing.

#### Federal Court

##### *Hearings*

1. Until further notice, all matters before the Full Court will be conducted electronically via video conferencing or telephone conferencing.
2. There will be no 'in person' hearings unless exceptional circumstances apply and the Chief Justice has given prior approval.

##### *Appeals*

1. Appeal books and all documents will be filed electronically unless the Court specifically requires otherwise. For further information, see [here](#)<sup>1</sup>.

##### *Mediation*

All mediations will be postponed and given a new date, which will be no earlier than June 2020. These future dates may need to be reviewed as the duration of the pandemic becomes clearer.

<sup>1</sup> <https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/smin-3.pdf>

#### Private mediation

As a result of the temporary changes to the Courts in South Australia, we expect that mediation bookings are likely to accelerate. As such, private mediation is an option that you may wish to consider. Private mediations will mostly be run via telephone or video conferencing. If this is an avenue you would like to investigate further, we can discuss it with you or you can contact John Taylor (on 8223 6477) or Stephen Dickinson (on 0414 456 474) for assistance. If John or Stephen can't assist you, they will recommend other private mediators that you can contact.

#### Court referred mediation

The Court can refer a case to mediation with or without consent of the parties. However, it is ultimately up to you whether to enter into an arrangement made in mediation.

**Please do not hesitate to contact us if you have any questions or wish to discuss your circumstances.**



**MORE INFO**

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