



In the Supreme Court of Bermuda

A/50

29 March 2021

CIRCULAR NO. 2 OF 2021

TO ALL ATTORNEYS

RE: TEMPORARY REDUCTION OF SERVICES DUE TO COVID-19

This Practice Direction is issued further to Circular 09 of 2020.

Given the most recent update provided by the Bermuda Government on Saturday, 27 March 2021 in relation to the significant increase in positive COVID-19 test results the Courts will be taking temporary protective measures which are necessary in trying to reduce the community spread of COVID-19.

It should be noted that the health, safety and welfare of the Members of the Public, as well as Court Administrative Staff continues to be our paramount concern so services will be limited until such time as has been deemed safe to recommence.

REMINDERS:

- a) Any persons attending a Court building must have his or her face covered by a mask or other appropriate covering such as a scarf at all times upon entering any Court building. Entry will be denied if this is not complied with.
- b) Any persons attending a Court building must sanitize his or her hands prior to entering any Court building.
- c) If a person is showing any signs of illness, such as coughing, he or she will not be allowed to enter any Court building.

The following provisions are effective for the period 29 March 2021 through 16 April 2021:

GENERAL:

- (i) Requests or applications for adjournments by lawyers, parties or witnesses because of health concerns will be given consideration. If possible, the Court should be made aware of such requests as soon as practicable before the scheduled Court appearance.
- (ii) Members of the Public will not be allowed in any of the Magistrates' Courts or Supreme Courts unless they are parties to or witnesses in Court proceedings, i.e. observers or supporters will not be allowed in the Courtroom. Parents or guardians of juveniles are allowed to accompany them to Court.
- (iii) Members of the Media are allowed to enter the Court.
- (iv) Members of the Public shall not loiter or remain in the precincts of any Court unless they are waiting to be heard in Court proceedings or are awaiting assistance from a Court Associate.

- (v) Members of the Public are encouraged to email or call the Court in respect of any queries rather than attending Court offices. Queries may be emailed to supremecourt@gov.bm or made by telephone on 292-1350 in relation to the Supreme Court, or made by telephone on 295-5151 in relation to the Magistrates' Court.
- (vi) Seating directives for Counsel and parties within the Courts as well as waiting areas must be adhered to at all times.
- (vii) The following Court services be **suspended** until further notice:
 - (a) Swearing of affidavits;
 - (b) Certifying Copies; and
 - (c) Criminal Record checks.

SUPREME COURT

- (1) **All hearings and trials currently listed during this period will be proceeding unless Counsel and/or the parties are notified otherwise.**
- (2) Every effort will be made for hearings and/or trials, save for jury trials, listed during this period to be heard via audio/visual means. Counsel and parties should remain cognizant they may be required to attend Court in person.
- (3) The Supreme Court Registries located at the Government Administration Building, 2nd Floor and the Dame Lois Browne Evans Building, 3rd Floor, will be open to general filings **Mondays to Fridays from 8:30 a.m. to 1 p.m. only**. Arrangements may be made for filings outside of these hours when the parties have been directed to do so by the Courts. Filings outside of these hours will not be accepted unless prior confirmation has been received by the Courts.
- (4) Until further notice, counsel are **discouraged** from overloading the email with general correspondence and/or pleadings which **do not** relate to matters of urgency. If general filings are attempted to be made via email it is likely they will not be addressed.
- (5) Searches of all Cause Books will be suspended unless the search is urgent. Urgent requests shall be made by email to supremecourt@gov.bm. A full explanation must be provided as to why the search is urgent.
- (6) All Search Praecipes currently filed will not be processed until further notice unless deemed as being urgent. Any new requests **must** be made by email to supremecourt@gov.bm. Once processed, attendance to inspect the files, or to collect copies of requested documents from the Supreme Court Registry at GAB will be by **appointment only**.
- (7) The Courts' delivery service will be suspended. If you have queries regarding documents for collection please contact supremecourt@gov.bm.

MAGISTRATES COURT

- (8) The following Magistrates' Courts matters will be heard via audio/visual means:
- (i) Plea Court;
 - (ii) Drug Treatment Court;
 - (iii) DUI Court;
 - (iv) Case Management Court; and
 - (v) Any other matter deemed appropriate by the Presiding Magistrate

These remote hearings will **only** pertain to defendants who have legal representation and where arrangements have been made between the DPP's Office and Defence Counsel (collectively referred to as "Counsel") to appear remotely.

If the defendant is unable to appear remotely then they **shall** appear in Court in-person **unless** they are required to be in quarantine or if they are experiencing any symptoms related to the COVID-19 virus. In such case, Defence Counsel **shall** undertake to advise their client of the adjourned date.

- (9) It **shall** be the responsibility of Counsel to (i) advise the Court in writing that they have a matter scheduled (at the latest the day before the scheduled date) and that they wish for it to be heard remotely, and (ii) in the case of Defence Counsel, to ensure that their clients appear remotely.
- (10) Unrepresented parties **shall** appear in Court in-person **unless** they are required to be in quarantine or if they are experiencing any symptoms related to the COVID-19 virus. If so, then the unrepresented party shall **immediately** advise the Magistrates' Court of such and they **may** be allowed to appear in Court remotely and/or be given an adjourned date.

The onus shall be on the unrepresented defendant to appear in Court, in-person on the adjourned date and failure to do so will result in a warrant being issued for their **immediate** arrest.

- (11) All defendants held in custody at the Hamilton Police Station ("HPS") or the Westgate Correctional Facility ("Westgate") **shall** appear remotely unless their matter is listed for trial.
- (12) **Trials, sentencing hearings, and bail applications will be heard in-person (unless the defendant is in custody).**
- (13) If Counsel or an unrepresented party wish for such proceedings to be adjourned due to health and safety concerns arising out of the COVID-19 pandemic then they **shall**, in writing, advise the clerk to the relevant Magistrates' Court of such at least the day prior to the scheduled hearing date. Consideration will be given to unrepresented defendants who are unable to meet this directive; however, failure or refusal to comply with the above requirement **may** result in the matter proceeding.

Counsel and the represented defendant **shall** appear in Court in-person or via audio/visual technology in order to obtain the adjourned date, **but unrepresented persons shall** appear in-person **unless** they are required to be in quarantine or if they are experiencing any symptoms related to the COVID-19 virus (in which case they shall appear via audio/visual technology).

- (14) All defendants appearing in any of the Magistrates' Courts for the first time to answer charges or for sentencing **shall** appear in-person **unless** (i) they are in custody at Westgate or in the HPS, and/or (ii) they are required to be in quarantine or if they are experiencing any symptoms related to the COVID-19 virus. Counsel may appear via audio/visual technology upon receiving approval from the Courts.
- (15) **Mentions may be heard via audio/visual technology.** Counsel and represented defendants may appear via audio/visual technology.

- (16) **Warrant matters shall be heard in-person.** Counsel may appear via audio/visual technology.
- (17) It will be the responsibility of Counsel to file into Court any relevant documentation/submissions and/or to make any disclosure prior to the scheduled hearing date (such as in sentencing and case management matters).
- (18) **The presiding Magistrate and/or staff of the Magistrates' Court reserve the right to require the in-person appearance of Counsel and/or the party in any proceeding.**
- (19) Where possible, applications to the Family Court should be made via e-mail to childsupport@gov.bm or to the Administrative Assistant for the Family Court at awilliams@gov.bm.
- (20) The Magistrates' Court will only be open to receive filings each **Monday to Friday from 9:30 to 1 p.m.** The public access windows will also remain closed.
- (21) The Cashiers Desk will be open each **Monday to Friday from 9:30 to 1 p.m.** Persons are encouraged to make payments via online banking where possible. If your case is in relation to a civil matter or a criminal matter (only if there is no warrant attached), you may call 295-5151 extension 1215 to make your payment via debit or credit card.

We will continue to review and monitor the above and whether they should be extended and/or expanded, and the public will be advised concerning any changes.

We thank you for your continued patience and understanding as we navigate through these unprecedented times, and apologise for any inconvenience the above may cause.

Dated the 29th day of March 2021.



REGISTRAR

CC: The Attorney-General's Chambers
Department of Public Prosecutions
Hamilton Police Station
Commissioner of Police
Commissioner of Corrections
Magistrates Court
Bermuda Bar Association
Legal Aid Office

ANW