

SUPREME COURT PRACTICE NOTE – PRE-TRIAL APPEALS

1. The Supreme Court has been given power to hear appeals from decisions of the Court of Appeal under s 379A(1) or (2) of the Crimes Act 1961: see s 379AB which was added to the Act from 26 June 2008 by s 8 of the Crimes Amendment Act (No 2) 2008. The leave of this Court is required for the bringing of such an appeal.

2. Any pre-trial appeal in a criminal proceeding upon indictment has the potential to cause the trial to be delayed. The bringing of a further appeal to this Court is even more likely to have that consequence.

3. The issue or issues on such a pre-trial appeal will generally be well defined and familiar to counsel by the time an application for leave is made to this Court. Accordingly, the following direction is given with a view to minimising delay.

4. It is directed that on an application for leave to appeal under s 379AB:

- (a) The written submissions of the applicant must be filed and served on the respondent within five working days of the making of the leave application; and
- (b) The written submissions of the respondent must be filed and served within five working days of the service of the applicant's written submissions;

unless a written request for additional time stating the amount of time required and giving reasons why it is needed, is made to the Registrar of the Court:

- (c) by an applicant, in or accompanying the leave application; or
- (d) by a respondent, no later than 4 pm on the first working day following the service of the applicant's written submissions.

5. For the definition of "working day" see r 3 of the Supreme Court Rules 2004.

6. The practice note applies with immediate effect.

Sian Elias
Chief Justice
19 May 2009