

Duty (Urgent) Applications Interim Practice Note during 3 Region Trial (GPN-DUTY)

31 January 2025

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1. Introduction

- 1.1 This Practice Note sets out the process for parties (whether or not represented and including litigants in person) to apply to a Duty Judge for urgent relief. This Practice Note will apply during the period in which the Court is trialling a new system for organising the way in which duty matters are managed by the Court during the Court term. The trial will commence on 3 February 2025.
- 1.2 During the trial, the new duty system will operate by reference to three duty regions (the **Three Region Duty Trial**). Each region is comprised of a number of registries and each will operate according to its own independent duty roster.
- 1.3 Region 1 is comprised of the New South Wales and Australian Capital Territory registries. Region 2 is comprised of the Victorian, Queensland and Tasmanian registries. Due to the volume of duty matters heard in Region 1 and Region 2, each of these regions will operate two streams of duty that will be run concurrently with at least one Duty Judge rostered in each stream for each day of the Court term. The two streams are General Duty and Commercial and Corporations Duty (**C&C Duty**). The demarcation between the two streams is addressed in this Practice Note.
- 1.4 Region 3 is comprised of the Western Australian, South Australian and Northern Territory registries. Due to the lesser volume of duty matters in Region 3, a single combined Duty Roster will operate with at least one Duty Judge rostered on for each day of the Court term.
- 1.5 Summer Duty (being duty in the non-sitting period between the end of the Court term in one year and the commencement of the Court term in the next year) will continue to operate in accordance with the Court's existing Summer Duty Roster during the period of the Three Region Duty Trial.
- 1.6 This Practice Note takes effect from 3 February 2025 and, to the extent practicable, applies to all proceedings, whether filed before or after the date of commencement.

2. Relationship between this Practice Note and other Practice Notes

- 2.1 This Practice Note is to be read together with:
 - (a) the [Central Practice Note \(CPN-1\)](#);
 - (b) any applicable NPA Practice Notes which address the making of urgent applications; and
 - (c) the following Practice Notes (which address some forms of relief commonly the subject of duty applications):
 - (i) where injunctive relief is sought (whether in proposed or existing proceedings), the [Usual Undertaking as to Damages Practice Note \(GPN-UNDR\)](#) (Part 2);
 - (ii) where a freezing order is sought (whether in proposed or existing proceedings), the [Freezing Orders Practice Note \(GPN-FRZG\)](#) and the [Usual Undertaking as to Damages Practice Note \(GPN-UNDR\)](#); and

- (iii) where a search order is sought (whether in proposed or existing proceedings), the [Search Orders Practice Note \(GPN-SRCH\)](#) and the [Usual Undertaking as to Damages Practice Note \(GPN-UNDR\)](#).
- (iv) where injunctive relief is sought in relation to a person's removal or deportation from Australia, the [Migration Practice Note - Removal from Australia of Immigration Detainees who have Proceedings before the Court \(MIG-2\)](#).

3. Definitions

3.1 In this Practice Note:

Admiralty and Maritime List Judge means a Judge referred to in the list at [Urgent Admiralty and Maritime Applications](#).

After Hours means:

- (i) before 8.30am on any weekday;
- (ii) after 5pm on any weekday; and
- (iii) after 5pm on any Friday until before 8.30am local time on Monday.

After Hours Duty Registrar means a Registrar who is rostered to be available to receive and triage urgent duty applications which are first notified After Hours who is contactable using the phone number published on the Daily Court List.

Business Hours means between 8.30am and 5pm on weekdays.

Case Management Judge means the Judge to whom a proceeding (including an appeal) has been allocated for case management.

Central Practice Note means the [Central Practice Note: National Court Framework and Case Management \(CPN-1\)](#).

Certificate of Urgency means a certificate provided in support of a request for an application (or part of an application) to be heard on an urgent basis by a Duty Judge in accordance with paragraph 6.1 of this Practice Note in the format included as Annexure A to this Practice Note.

Combined Duty Stream means the single duty stream in which all duty applications in Region 3 are listed.

Commercial and Corporations Duty Applications means only those Duty Applications in which the principal final relief sought is most closely connected to one or more of the following five Sub-areas of the Commercial and Corporations National Practice Area:

- (i) Commercial Contracts, Banking, Finance and Insurance;
- (ii) Corporations and Corporate Insolvency;
- (iii) Regulator and Consumer Protection;
- (iv) Economic Regulator, Competition and Access; and

(v) Commercial Arbitration.

All other Duty Applications are to be commenced as General Duty Applications.

Commercial & Corporations (C&C) Duty Stream means the duty stream in which Commercial and Corporations Duty Applications are listed.

Daily Court List means the daily list, published on the Court's website after 4pm each weekday, of all matters listed for hearing on the next day in each registry of the Court (see [link](#)).

Docket Judge in relation to a particular proceeding at first instance means the Judge to whom the proceeding is allocated to manage and determine.

Duty Application means an application that in the opinion of the Duty Judge to whom the application is made, on the basis of the Certificate of Urgency provided by the applicant, is attended by sufficient urgency to justify the application (or part of the application) being determined by a Duty Judge on an urgent basis thus taking the application outside the usual Docket and/or Specialty List Arrangements.

Duty Judge means a Judge who is named as Duty Judge on the Daily Court List.

Duty Regions means:

- (i) Region 1: the New South Wales and Australian Capital Territory registries;
- (ii) Region 2: the Victorian, Queensland and Tasmanian registries; and
- (iii) Region 3: the Western Australian, South Australian and Northern Territory registries.

General Duty Applications means all Duty Applications which are not Commercial and Corporations Duty Applications. Note, a Duty Application in which the principal final relief sought falls within the General and Personal Insolvency Sub-area of the Commercial and Corporations NPA is a General Duty Application. If, after completing the Certificate of Urgency, an applicant is in doubt as to whether an application is a General Duty Application or a Commercial and Corporations Duty Application, the application should first be brought to the attention of the General Duty Judge.

General Duty Stream means the duty stream in which General Duty Applications are listed.

Judge means a Judge of the Federal Court of Australia.

NPA means a National Practice Area of the Federal Court of Australia (see [link](#)).

Registrar means a Registrar of the Federal Court of Australia.

Remote Hearing means a hearing conducted other than in person and conducted using audio and/or audio-visual technology.

Specialty List Arrangements means the listing arrangements that apply for proceedings allocated to the following lists:

- (i) Admiralty & Maritime List – see [Urgent Admiralty and Maritime Applications](#);
- (ii) Commercial Arbitration List – see the [Commercial Arbitration Practice Note \(CA-1\)](#);
- (iii) Corporations List – see the [Commercial and Corporations Practice Note \(C&C-1\)](#);
- (iv) Insurance List – see the [Commercial and Corporations Practice Note \(C&C-1\) Schedule 2](#);

Summer Duty Period means the period between the first day after the end of the Court term and the last day before the first day of the next Court term during which period the Summer Duty Roster operates in all registries.

Summer Duty Roster means the duty roster published on the Daily Court List in the Summer Duty Period.

4. Procedure where an urgent hearing is requested

4.1 If your application is in an existing proceeding, refer to paragraph 4.3.

4.2 If your application is not in an existing proceeding, refer to paragraph 4.6 and following.

[Where the application is in an existing docketed proceeding or a proceeding under the control of a Case Management Judge](#)

4.3 If you have an urgent application in an existing proceeding under the management of a Docket Judge or Case Management Judge, you **must** approach the Docket Judge or Case Management Judge **before** approaching a Duty Judge. If the Docket Judge or Case Management Judge is unable to deal with the application, you may approach a Duty Judge, who will then consider whether the application (or part of it) is of sufficient urgency to be heard by a Duty Judge.

4.4 Where the application is made After Hours, the applicant is to contact the After Hours Duty Registrar who will triage the application and if necessary contact the Chambers of either the Docket Judge or Case Management Judge or if necessary, the relevant Duty Judge.

4.5 If the applicant is unable to reach the Chambers of the Docket Judge or Case Management Judge or is otherwise directed to do so by the Docket Judge or Case Management Judge, the applicant is to contact the Chambers of the relevant Duty Judge. In such circumstances, the applicant is required to certify that an approach has been made to the Docket Judge or Case Management Judge in the first instance and provide brief details of why it is necessary for the application to be made before a Duty Judge – see paragraph 6.1 below.

[Preparatory Steps in front of a Duty Judge](#)

4.6 An applicant (or the applicant's legal representative) who requests an urgent hearing before a Duty Judge must be thoroughly familiar with this Practice Note.

- 4.7 Litigants in person may wish to access [free legal assistance](#). The Court is unable to provide legal advice.
- 4.8 All requests for an urgent hearing as a duty application must be accompanied by an Certificate of Urgency – see paragraph 6.1 below.
- 4.9 For applicants in Region 1 and Region 2, the choice of whether to apply to the General Duty Judge or the Commercial and Corporations Duty Judge will be informed by the identification of the NPA (and where applicable, Sub-area) with which the substantive proceeding is most closely connected. The applicant must identify this NPA (and where applicable, Sub-area) in the Certificate of Urgency, which must be provided to the Duty Judge to whom the application is made – see paragraph 6.1 below.

The Court’s nine NPAs and Sub-areas are listed on the [Court’s website](#).

An example of a way in which to identify the most closely connected NPA (and Sub-area) in a proceeding that has some connection with more than one NPA is as follows.

Assume an application for injunctive relief is brought in a matter which involves a senior employee alleged to have taken confidential information to a competitor and who is now employed by the competitor. The final relief is primarily based on allegations of breach of contract of employment with questions as to construction and enforceability of a cascading restraint clause but also includes a claim for compensation based on an alleged breach of duty under the *Corporations Act 2001* (Cth).

Notwithstanding that the final relief includes a claim under the *Corporations Act*, the NPA with which the substantive proceeding is most closely connected is the Employment & Industrial Relations NPA. In these circumstances, the urgent duty application (the injunction) should be made by contacting the General Duty Judge, who will assess whether the application is sufficiently urgent to be heard as a General Duty Matter.

Initial contact with the Court in Duty Applications

- 4.10 An applicant (or the applicant’s legal representative) who wishes to request an urgent hearing must make contact with the Court as soon as reasonably possible.
- 4.11 The relevant point of contact to make a request for an urgent hearing varies depending on the circumstances of the application:

Urgent applications in existing matters:

- (a) Refer to paragraph 4.3 above – the point of contact is the Chambers of the Docket Judge or Case Management Judge, **not** the Chambers of the Duty Judge.

Litigants in person and corporations without legal representation:

- (b) Litigants in person and corporations without legal representation wishing to request an urgent hearing must contact the Registry using the contact details provided for litigants in person in the [Daily Court List](#).
- (c) Corporations should be aware that under rule 4.01(2) of the *Federal Court Rules 2011* (Cth) a corporation must not proceed in the Court other than by a lawyer, although the Court may dispense with compliance with this rule in some circumstances, if satisfied it is appropriate to do so.

Legally represented applicants:

- (d) Where the initial contact with the Court is made during **Business Hours** for an application in a new proceeding or a proceeding which has been filed but not yet docketed, the relevant point of contact is the Chambers of the relevant Duty Judge.
- (e) Where the initial contact with the Court is made **After Hours** the relevant point of contact is the After Hours Duty Registrar who will triage notifications received After Hours and liaise as necessary with the Chambers of the relevant Duty Judge.

Note: The contact details for the Duty Judges and the After Hours Duty Registrar are in the Daily Court List for each registry which is published on the Court's [website](#).

Urgent application is in or will be in the Admiralty & Maritime List:

- (f) For Information in relation to urgent applications for the arrest or release of a vessel and other urgent admiralty and maritime applications see [Urgent Admiralty and Maritime Applications](#).
- (g) The contact details for the Admiralty & Maritime List Judges and Admiralty Registrars are available at [Urgent Admiralty and Maritime Applications](#).
- (h) See also the [Admiralty and Maritime Practice Note \(A&M-1\)](#).

5. Information to be provided at the time of initial contact with the Court in relation to Duty Applications

5.1 If an urgent hearing is requested, the applicant (or the applicant's legal representative) must provide the following information to the extent possible when first contacting the Court:

- (a) the parties' names, and if known, contact details;
- (b) the legal representatives' names and contact details, including those of counsel;
- (c) brief but substantive information to justify why the application is urgent and an outline of the nature of the application;
- (d) information as to whether the application is in an existing proceeding, and if so, as to steps taken to bring the matter before the Docket Judge or Case Management Judge;
- (e) whether the applicant expects to file affidavit material (and if so, when and how much affidavit material will be filed or delivered, electronically or in hard copy, to the Chambers of the Duty Judge);
- (f) preferred time and date(s) for a hearing;
- (g) estimate of likely hearing time (and whether an estimate is agreed between the parties);
- (h) any reason why the hearing is not suitable to proceed as a Remote Hearing if in the opinion of the Duty Judge that would be the most efficient course;
- (i) whether the application is to be made on notice or *ex parte*; and

(j) confirmation that the applicant (or the applicant's legal representative) has read this Practice Note. In the absence of such confirmation, depending on the circumstances, the Court may not list the matter until such confirmation is provided.

5.2 The information outlined in paragraph 5.1 may be given orally or by email. This information is provided on an interim basis when a Duty Application is first foreshadowed to the Chambers of the Duty Judge. The information will be supplemented by the provision of a Certificate of Urgency, which must accompany the Duty Application when the application is provided to the Chambers of the Duty Judge.

5.3 Applicants seeking an urgent hearing before a Duty Judge must complete an application form to commence an urgent matter – see sections 7 and 8 below as to the means by which an applicant may provide the application to Court for the purpose of commencing an application for urgent relief.

6. Certificate of urgency

6.1 Urgent applications must be accompanied by a Certificate of Urgency in the form set out in Annexure A to this Practice Note. The Certificate of Urgency must be signed by the solicitor or counsel for the party seeking the urgent application and provided to the Court for the attention of the Duty Judge. If an applicant is not represented, the applicant must sign the Certificate of Urgency.

7. Commencing urgent applications

7.1 The key forms and processes for eLodgment of urgent applications may be accessed via the Court website: [Urgent \(Duty\) Matters - How to Apply](#).

8. Provision of documents in urgent applications

8.1 Urgent applications should be filed by eLodgment where time permits or otherwise emailed or delivered to the Chambers of the Duty Judge. A Judge or Registrar may direct that an application form be provided in a way other than by eLodgment.

8.2 If the application is lodged via eLodgment, the details of the lodgment are to be provided to the Chambers of the Duty Judge as soon as possible.

8.3 Details on how to lodge an urgent application via eLodgment are available at [eLodgment FAQs](#).

8.4 In addition, any document filed must be emailed to the Chambers of the Duty Judge at or about the time they are submitted for eLodgment.

9. Completion of the urgent aspect of the matter

9.1 After the urgent aspect of an application has been heard and determined, if the proceeding is ongoing, the proceeding will be allocated to a Docket Judge in accordance with the allocation principles in the Central Practice Note.

ANNEXURE A

CERTIFICATE OF URGENCY IN SUPPORT OF LISTING BEFORE A DUTY JUDGE

Defined terms have the same meaning as given in the GPN-DUTY Practice Note.

"I NAME of ADDRESS/STATUS/FIRM (Party/Solicitor/Barrister) (*delete whichever is inapplicable),
certify that:

1. I am the [applicant/legal representative of the applicant] and am authorised to provide this certificate to the Court for the purpose of the Duty Judge determining if the application (in whole or in part) warrants an urgent listing before the Duty Judge.
2. I have read and thoroughly familiarised myself with the GPN-DUTY Practice Note.
3. This application [is/is not] made in an existing proceeding which has been docketed to, or is being case managed by, a Judge.
4. If the application has been docketed or is being case managed by a Judge:

a) I have sought to have the matter heard urgently before Justice [insert name of Docket/Case Management Judge] but could not for the following reasons:

b) I have **not** sought to have the matter heard urgently before Justice [insert name of Docket/Case Management Judge] for the following reasons:

5. Is this application related to any other proceeding? [Yes/No]

a) If yes what is the proceeding number and what is the connection to the proceeding?

6. I provide the following brief description of the dispute that has given rise to this application:

7. The principal final relief that is (or will be) sought in the substantive proceeding is most closely connected to the following National Practice Area of the Court (tick only one NPA, and/or one Sub-area as applicable):

PART 1: General Duty

- Administrative and Constitutional Law and Human Rights NPA
 - Migration
- Admiralty & Maritime NPA
- Employment & Industrial Relations NPA
- Federal Crime & Related Proceedings NPA
- General and Personal Insolvency (Note: applications in this Sub-area of the Commercial and Corporations NPA are to be made as General Duty Applications and not Commercial and Corporations Duty Applications)
- Intellectual Property NPA
 - Patents & Associated Statutes
 - Trade Marks
 - Copyright & Industrial Design
- Native Title NPA
- Taxation NPA
- Other Federal Jurisdiction NPA

PART 2: Commercial and Corporations Duty

- Commercial & Corporations NPA
 - Commercial Contracts, Banking, Finance & Insurance
 - Corporations & Corporate Insolvency
 - Economic Regulator, Competition & Access
 - Regulator & Consumer Protection
 - Commercial Arbitration

8. [TO BE COMPLETED ONLY FOR DUTY APPLICATIONS IN REGION 1 (NSW and ACT) AND REGION 2 (VICTORIA, QUEENSLAND AND TASMANIA)]

Based on my identification of the NPA that is most closely related to the principal final relief sought in the substantive proceeding, the applicant seeks an urgent hearing before the *Commercial and Corporations Duty Judge / *General Duty Judge (*delete whichever is not applicable).

Note: See [4.8] of the GPN-DUTY Practice Note for information on identifying the most closely connected NPA and Sub-area.

9. I provide the following brief description of the reason why this application (or part of it) is sufficiently urgent to be listed to be heard and determined as a Duty Application:

10. All documents necessary for the Duty Judge to hear and determine this application as a Duty Application are attached to this application or have been filed or otherwise supplied to the Chambers of the Duty Judge.

-or-

This matter is so urgent that it must be listed/heard without all the necessary documents being filed but materials will be provided to the Chambers of the Duty Judge by [TIME/DATE] or handed up during hearing.

11. The estimate length of the duty hearing is: [insert].
12. The duty application will be ready to proceed at [TIME, DATE] (Best present estimate, which must be updated if required).
13. State whether there is any reason which may make the matter unsuitable to proceed as a remote hearing if in the opinion of the Duty Judge that is a preferable course of action.

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14. The contact details for the applicant(s), including solicitor where retained and counsel where briefed, are as follows:

	Applicant	Solicitor	Counsel
Name:			
Email:			
Phone:			

15. Where known, the contact details for the respondent(s), including solicitor where retained and counsel where briefed, are as follows:

	Respondent	Solicitor	Counsel
Name:			
Email:			
Phone:			

16. Notice of the duty application has been given to the respondent(s) and/or their legal representatives and any other necessary interested person and or their representatives at [TIME, DATE, by METHOD OF COMMUNICATION].

-or-

I have considered the need to give notice or to serve any other party or parties or necessary interested persons and at the hearing of the application I will seek to justify the application being made without notice being given to the other party/parties and/or interested persons (that is, on an *ex parte* basis).

17. [Complete if notice of application has been given] At the time of providing this certificate I have not received any response from those to whom notice has been given.

-or-

At the time of providing this certificate I have received the following responses from those to whom notice has been given [insert brief details of response(s)].

18. [Complete if application will be made for closed court or confidentiality orders] At the hearing of the application, I will be applying for *the hearing to proceed in closed court/
*confidentiality and/or non-publication orders (*delete if inapplicable).
19. At the time of providing this certificate, there is no other information of which I am aware that I ought bring to the Court's attention for the purpose of determining whether the application is appropriate to be heard and determined on an urgent basis before the Duty Judge.
20. In the event that I become aware of any material information that impacts the information provided in this certificate I will bring it to the attention of the Chambers of the Duty Judge at the earliest opportunity.
21. This information is true and correct and is based on having made all necessary enquiries in the time available to me.

Name

[Applicant/Solicitor/Counsel]

Date: DD/MM/YYYY