

PRACTICE DIRECTION NO 3 OF 2021: RESUMPTION OF JURY TRIALS IN RURAL CIRCUITS

RURAL CIRCUIT SUPERIOR CRIMINAL COURTS OF TRIAL

This Practice Direction is issued by the Honourable Chief Justice and applies to the Rural Circuit Superior Criminal Courts of Trial

GENERAL

1. This Practice Direction comes into effect on Thursday, January 7, 2021 and will continue in effect until revoked or amended.
2. Practice Direction dated May 27, 2020 dealing with Rural Circuits, the Western Regional Gun Court, the Circuit Courts, the Circuit Court Division of the Gun Court and the High Court Division of the Gun Court for Shortened Easter Term from June 1, 2020 to July 31, 2020 except paragraphs 21 and 28 and Practice Direction (No 10) of 2020 dated September 15, 2020 are revoked and superseded by this Practice Direction which is to be referred to as Practice Direction (No 3) of 2021
3. The Rural Circuit Superior Criminal Courts of Trial ('RCSCCT') comprises the Supreme Court of Judicature (Criminal Division), the Western Regional Gun Court, the Circuit Court Division of the Gun Court, the High Court Division of the Gun Court sitting in any parish other than the parishes of Kingston and St Andrew.
4. The 'Health Guidelines Governing Access to all the Courts of Jamaica' dated May 27, 2020 except paragraph 10 continue to apply.
5. There will not be any ceremonial opening of the RCSCCT for the Hilary Term 2021.

DEFINITIONS

6. “Recipients” means the sentencing judge, counsel for the Crown, and counsel for the defence.
7. “Remote hearing” means proceedings taking place by means of telephone conference call, video-conferencing or any other form of electronic communication.
8. “Remote location” means any place other than inside the courtroom or chambers where a trial or hearing is taking place.
9. The expression “virtual hearing” in Practice Direction (No 12) of 2020 is deleted where it appears and is replaced with the term “remote hearing” as defined in paragraph 6 above.

CASE MANAGEMENT

10. Practice Direction (No 6) of 2020 dated the 30th day of May 2020 applies to all case management hearings. Counsel for the Crown and defence must be prepared accordingly.
11. Where the hearing is being conducted remotely Practice Direction (No 12) of 2020 dated the 17th day of September 2020 applies.
12. Where the defendant is in custody and the Crown intends to offer no evidence against the defendant that defendant need not be present in open court and such a hearing may be conducted by remote hearing.
13. Where the Crown intends to offer no evidence against a defendant who is on bail that defendant must appear in person in open court.
14. Any defendant in custody who wishes to enter a plea of guilty shall have his matter accommodated regardless of the date the matter has been set for trial or any other type of hearing and such plea of guilty may be entered by way of remote hearing.

15. Any defendant on bail who wishes to enter a plea of guilty must appear in person in open court.

16. At all times during the case management hearing the Judge must be present in open court and where the hearing is to be held remotely then the parties are to be connected to the court in which the judge is present.

JURY TRIALS - GENERALLY

17. Jury trials in RHCSCCT will resume in accordance with this Practice Direction.

18. Jury trials are to take place in accordance with the following criteria:

- a.** the general rule is that no more than two defendants jointly indicted for the offence charged;
- b.** trials with three or more defendants are to take place only if the judge is satisfied that that trial can proceed without violating the guidelines referred to in paragraph 4 having regard to:
 - i.** the number of attorneys representing the Crown and the defence;
 - ii.** the number of witnesses;
 - iii.** whether the defendants can be accommodated in the courtroom;
 - iv.** whether the evidence is to be given viva voce, remotely and/or by agreed statements or agreed facts.
- c.** the number of jurors required to form the array shall not exceed seven (7).

JURY TRIALS – ST THOMAS

19. Jurors summoned for the period **January 11, 2021 to February 5, 2021** are not required to attend and are excused without any risk of penalty.

JURY TRIALS – ST ANN

20. Jurors summoned for the period **January 11, 2021 to February 5, 2021** are not required to attend and are excused without any risk of penalty.

JURY TRIALS - MANCHESTER

21. Jurors summoned for the period **January 11, 2021 to February 5, 2021** are not required to attend and are excused without any risk of penalty.

JURY TRIALS – ST CATHERINE

22. Jurors summoned for the period **January 7, 2021 to January 22, 2021** and the period **January 25, 2021 to February 12, 2021** are not to attend **UNTIL FEBRUARY 15, 2021** when jury trial are to resume.

JURY TRIALS - CLARENDON

23. Jurors summoned for the period **January 7, 2021 to February 5, 2021** are not required to attend and are excused without any risk of penalty.

JURY TRIALS – ST JAMES

24. Jurors summoned for the period **January 7, 2021 to February 5, 2021** are not required to attend until **MARCH 8, 2021**.

JURY TRIALS FOR WESTMORELAND, PORTLAND AND TRELAWNY

25. Jurors summoned for the period **February 8, 2021 to March 5, 2021** are to attend for duties.

JURY TRIALS FOR HANOVER, ST ELIZABETH AND ST MARY

26. Jurors summoned for the period **March 8, 2021 to March 26, 2021** are to attend for duties.

OTHER TRIALS

27. In parishes where no jury trials will occur for the periods indicated above cases triable without a jury are to proceed.

SENTENCING

28. Subject to paragraphs 37, 38, and 39 the general rule is that the judge, counsel for the Crown, counsel for the defence, the defendant, and the court reporter are to be present in open court at the sentencing hearing.

29. Notwithstanding paragraph 28 sentencing of persons in custody may take place by remote hearing where it is convenient and just to do so.

30. Any Social Enquiry Report (SER) requested by the court will be in the short form unless the judge specifically requests the long form of the report.

31. Any SER requested is to be sent by the probation officer by way of electronic mail to the following email addresses for the parishes other than Kingston and St Andrew:

Hanover – hanover@rmc.gov.jm

St James – stjames@rmc.gov.jm

Trelawny – trelawny@rmc.gov.jm

St Ann – stann@rmc.gov.jm

St Mary – stmary@rmc.gov.jm

Portland – portland@rmc.gov.jm

St Thomas – stthomas@rmc.gov.jm

St Catherine – stcatherine.rmc@rmc.gov.jm

Clarendon – clarendonpc@rmc.gov.jm

Manchester – manchester@rmc.gov.jm

St Elizabeth – stelizabeth@rmc.gov.jm

Westmoreland – westmoreland@rmc.gov.jm

- 32.** The SER should be sent by the probation officer at least five days before the sentencing date.
- 33.** Counsel for the Crown and the defence may appear remotely.
- 34.** Where probation officers are needed in court their appearance should be facilitated from a remote location unless the Judge orders otherwise.
- 35.** On receipt of the SER the registry is to send the report to the recipients as well as the court reporter.
- 36.** Unless the recipients indicate that the probation officer is needed to answer questions in court then the SER will form part of the record of the trial.
- 37.** Where probation officers are needed in court their appearance should be facilitated from a remote location unless the Judge orders otherwise.
- 38.** Counsel for the Crown and the defence may appear remotely.
- 39.** Where a defendant has been convicted of any criminal offence at any court to which this Practice Direction applies and has not yet been sentenced, and the judge is no longer presiding at the court where the defendant was convicted, the judge may proceed to pass sentence by live video link, provided the following conditions are met:
- a.** the judge is present in court either in-person or remotely where the sentencing hearing is to take place;
 - b.** the defendant is present in the court either in-person or remotely;
 - c.** the court reporter is present in court either in-person or remotely;

- d. the live video link facilitates two-way communication between the judge, counsel for the defendant, counsel for the Crown and any other person whose participation is necessary;
 - e. in the event that the defendant, the judge, counsel for the Crown or defence or court reporter or any of them are unable to be physically present in a court room the sentencing hearing can proceed provided all parties can be connected to a specified courtroom remotely.
40. In respect of paragraph 39 it is the duty of the Judge and the Registrar to ensure that all relevant documents needed to be signed by the judge are signed within seventy- two (72) hours of sentencing the defendant.

DATED THIS 6TH DAY OF JANUARY 2021

BRYAN SYKES OJ, CD

CHIEF JUSTICE