

**PRACTICE DIRECTION NO 8 OF 2022**

**SUPREME COURT OF JUDICATURE OF JAMAICA  
CONDUCT OF PROCEEDINGS**

**HOME CIRCUIT SUPERIOR CRIMINAL COURTS OF TRIAL (MICHAELMAS TERM)**

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

**GENERAL**

1. This Practice Direction comes into effect on Friday, September 16, 2022, and will continue in effect until revoked or amended.
2. The Home Circuit Superior Criminal Courts of Trial ('HCSCCT') comprises the Supreme Court of Judicature (Criminal Division), the Circuit Court Division of the Gun Court, and the High Court Division of the Gun Court sitting at the Supreme Court of Judicature, Public Building East, King Street, Kingston.
3. There will be a resumption of the ceremonial opening of the HCSCCT for the Michaelmas Term 2022.
4. The Courts of Jamaica Remote Hearing Guidelines dated 14<sup>th</sup> September 2021 continue to apply.

**DEFINITIONS**

5. "Recipients" means counsel for the sentencing judge, the Crown, and the defence.
6. "Remote hearing" means proceedings taking place by means of telephone conference calls, video-conferencing, or any other form of electronic communication.

7. "Remote location" means any place other than inside the courtroom or chambers where a trial or hearing is taking place.
8. 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.

## **COVID-19 GUIDELINES**

9. To protect all court users, judges and staff against the existing threat of the Covid-19 virus, all persons are strongly urged to wear a mask. All sanitization protocols in place will continue at the HCSCCT until further notice.
10. Any person exhibiting flu-like symptoms and any other symptoms of the Covid-19 virus will not be allowed to enter any of the court buildings.
11. Any person exhibiting signs and symptoms of the Covid-19 virus after entry to any of the court buildings will be required to leave immediately.
12. All persons entering the court buildings should be wearing a mask at the time of entry and it is strongly recommended that they continue to do so when in the courtrooms, offices, registries, and while traversing the corridors and other public spaces within the courts.
13. Temperature checks may be administered at all entry points to the courts and persons with temperatures of 98.6° F (37° C) or higher will be denied entry.
14. All persons entering the court buildings are required to sanitize their hands upon each entry.

15. All persons who are permitted to enter the building are encouraged to wash their hands frequently with soap and water at the most appropriate facility provided in the court building.

## **CASE MANAGEMENT**

16. Practice Direction (No 6) of 2020 dated the 30<sup>th</sup> day of May 2020 applies to all case management hearings. Counsel for the Crown and defence must be prepared accordingly.
17. Unless the judge of the case management court orders otherwise, defendants in custody are not to be taken to court and the case management hearing will be conducted remotely.
18. Where the hearing is being conducted remotely, Practice Direction (No 12) of 2020 dated the 17<sup>th</sup> day of September 2020 applies.
19. Where the defendant is in custody and the Crown intends to offer no evidence against the defendant, the defendant need not be present in open court and such a hearing may be conducted by remote hearing.
20. Where the Crown intends to offer no evidence against a defendant who is on bail, the defendant must appear in person in open court.
21. 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.
22. Any defendant on bail who wishes to enter a plea of guilty, shall have his matter accommodated regardless of the date the case is scheduled for trial or any other type of hearing and must appear in person in open court to enter his plea.



**23.** 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.

**24.** Where a plea is to be entered regardless of whether the person is on bail or in custody, counsel for both the Crown and defence must be present in open court.

## **JURY TRIALS**

**25.** All jurors are required to comply with the Covid-19 guidelines specified in paragraphs 9 to 15.

**26.** Judges assigned in the criminal trial courts should endeavour to conduct the empanelling process in a timely manner to allow for the release of the remaining jurors who have not been selected.

## **TRIALS GENERALLY**

**28.** Paragraphs 21 and 22 apply to persons who are listed for trial and are in custody or on bail, as the case may be.

**29.** The Judge must be present in open court.

**30.** The general rule is that counsel for the Crown and defence are to be present in open court.

**31.** Notwithstanding paragraph 30, a judge may permit counsel for the Crown or defence to appear remotely in a trial if the circumstances make it just and fair to do so.

**32.** An application for permission under paragraph 31 must be filed in writing at the relevant registry, at least one (1) week before the scheduled trial date.

**33.** Where the circumstances require, the Judge may order an applicant to provide supporting document(s) or any other information deemed necessary to determine whether permission ought to be granted.

**34.** In considering an application under paragraph 32, the Judge must take into consideration the nature of the case, the witnesses involved, the views of the parties, the capability of the court to provide remote hearing facility for the duration of the trial<sup>1</sup>, and whether sufficient measures can be put in place to preserve the integrity of the trial.

**35.** Where permission is granted under paragraph 31, the Judge must make appropriate Orders, taking into account the nature of the particular case.

**36.** Any Order under paragraph 35, must include the terms and conditions under which counsel will be permitted to appear remotely.

**37.** Other than the sentencing phase of a trial, the general rule is that defendants are to be present in open court.

## **SENTENCING**

**38.** Subject to paragraphs 45, 46, and 47 the general rule is that the judge, counsel for the Crown, counsel for the defendant, the defendant, and the court reporter are to be present in open court at the sentencing hearing.

**39.** Notwithstanding paragraph 38 sentencing of persons in custody may take place by remote hearing where it is convenient and just to do so.

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<sup>1</sup> In determining the capability of the court to provide remote hearing facility consideration must be given to the following: (a) bandwidth at the court; (b) the equipment available at the court; (c) the availability of personnel to provide technical support; and (d) the duration of the trial or those parts of the trial to be conducted remotely.

40. 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.

41. Any SER requested is to be sent by electronic mail to the following email addresses of the Criminal Registry or Gun Court Registry as the case may be:

[criminalregistry@supremecourt.gov.jm](mailto:criminalregistry@supremecourt.gov.jm)

[guncourtregistry@supremecourt.gov.jm](mailto:guncourtregistry@supremecourt.gov.jm)

42. The SER should be sent by the probation officer at least five (5) days before the sentencing date.

43. On receipt of the SER, the registry is to send the report to the recipients as well as the court reporter.

44. 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.

45. Where probation officers are needed in court, their appearance is to be by remote hearing unless the Judge orders otherwise.

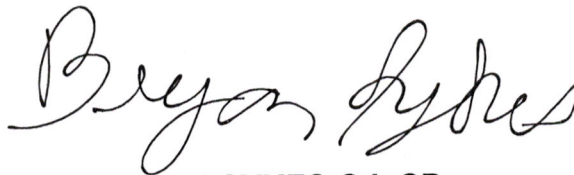
46. Counsel for the Crown and the defence may appear remotely at the sentencing hearing.

47. 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, court reporter, or any of them are unable to be physically present in a courtroom the sentencing hearing can proceed provided all parties can be connected to a specified courtroom remotely.
48. In respect of paragraph 47, it is the duty of the Judge and the Registrar to ensure that all relevant documents to be signed by the Judge are signed within seventy-two (72) hours of sentencing the defendant.

**DATED THIS 15<sup>TH</sup> DAY OF SEPTEMBER 2022**

A handwritten signature in black ink, reading "Bryan Sykes". The signature is fluid and cursive, with the first name "Bryan" and last name "Sykes" clearly distinguishable.

**BRYAN SYKES OJ, CD**

**CHIEF JUSTICE**

