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Dear Presidents

Federal Court of Australia – Coronavirus (COVID-19) – Update 27

The situation in Victoria and the operation of the Court must be reassessed by reference to the declared state of emergency in Victoria.

As I have previously indicated, the Court some time ago stopped all face-to-face hearings in Melbourne. All hearings are being conducted by way of Microsoft Teams or by telephone or other remote technology.

Importantly, yesterday afternoon the Victorian Premier made an announcement about business restrictions. These included the following about courts in the stage 4 restrictions:

Judge Specific:

- Judges, Associate-Judges, Judicial Registrars, Magistrates, Tribunal Members and their offices for urgent or priority court or tribunal matters determined by the relevant head of jurisdiction, including for bail, family violence, remand, child protection, warrants and urgent guardianships, human rights or residential tenancies issues or any other priority matters
- To the extent necessary to support the functioning of the court, tribunal and dispute services mentioned above:
 - Director of Public Prosecutions and the Office of Public Prosecutions
 - Defence lawyers, Victoria Legal Aid, Aboriginal legal services and other legal assistance providers
 - Courts Services Victoria, court support services and court registry services including security, cleaning and interpreter services
 - Other lawyers
 - Bail justices
 - Office of the Public Advocate guardians for high priority, highly vulnerable citizens and relevant staff
- All systems support, maintenance and operation services required for DJCS and Victoria Police to support, maintain and operate Births, Deaths and Marriages, fixed traffic and mobile traffic cameras and Fines Victoria systems

Correctional and youth justice facilities, community justice services, and ancillary justice services:

- Prisons, correctional facilities and other places of custody
- Facilities and services for parolees, people on post-sentence supervision and detention orders, and people on community corrections orders
- Adult Parole Board and its supporting secretariat
- Post Sentence Authority
- Operation of youth justice facilities, and the provision of services, supports and supervision to children and young people in such facilities
- Youth Parole Board and its supporting secretariat
- Facilities and services provided for children and young people who are in Youth Justice on a supervised community order, on supervised or intensive bail, on a youth parole order, or participating in the Children's Court Youth Diversion Service
- Facilities or services specifically funded or provided by government for children and young people who are at risk of entering Youth Justice
- Any health or medical services (including required for any of the previous functions under this heading)

Plainly this was drafted with State Courts and Tribunals in mind. However, given the nature of the virus and the urgency of the situation in Victoria, the Federal Court accepts that its operations in Victoria should conform to the public health laws of Victoria. This will not only affect judges and court staff in Victoria. There are Victorian lawyers and witnesses not only in matters in the Victorian District Registry, but also possibly other Registries around Australia.

Obviously, as I have said, the Court will not be conducting cases in open court in Melbourne.

The Court's August Full Court sittings have begun. All appeals involving Victorian practitioners appearing will be assessed as to whether appearances can be undertaken from home. If there are Victorian practitioners who cannot appear from home and if the matter cannot be characterised as urgent or priority, consideration will have to be given to an adjournment.

I have asked all judges and I have directed the Registry to assess all matters in their dockets listed in Victoria in the next 6 to 8 weeks. That assessment will be as to whether the matter is one of urgency or priority of the character referred to in the Victorian announcement and whether it can be conducted by Microsoft Teams or some remote technology without lawyers or witnesses leaving their homes. If a matter cannot properly be characterised as urgent or priority and if it cannot be conducted by practitioners and witnesses appearing from their homes, the case will have to be adjourned.

I have also asked judges in other Registries to review their listings for the next 6 to 8 weeks and to make inquiries as to whether there are Victorian practitioners or witnesses who will have to leave their homes to participate. If there are and if arrangements cannot be made for such persons to participate from home consideration will have to be given in those cases to whether the case can proceed.

I have also asked judges to be flexible and considerate in the assessment as to whether appearance from home is viable. Some practitioners will face domestic difficulties in this regard. Such difficulties may not prevent a hearing taking place, but flexible consideration as to how the hearing proceeds may be important.

Yours sincerely



The Hon James Allsop
Chief Justice