



## HIGH COURT OF AUSTRALIA

### REVISED SPECIAL LEAVE PROCESS

The Court has revised the process for the consideration of applications for special leave to appeal, applications for leave to appeal and applications for removal. The Court will also change the timing and manner of publication of its decisions in relation to these applications.

#### Consideration of applications

As is the current practice, all applications will be considered by the Court, in the first instance, on the basis of the written material.

Applications in which the applicant is **unrepresented** will generally be determined by two Justices. Applications in which the applicant is **represented** will now generally be determined by all seven Justices.

The Registry will refer applications to the Justices at the commencement of each sitting period. The Justices will meet on the first Monday of the following sitting period to consider the applications and will publish their decisions on the afternoon of the first Thursday of that sitting period.

#### Publication of dispositions

The decisions of the Court in applications have until now been published by the Justices sitting in court, in the absence of the parties, to pronounce orders and publish the written reasons for their decision (disposition) in each application. From December 2023 the Justices will publish the dispositions on the Court's website rather than in open court. This will streamline the publication process and will ensure that the publication of the Court's decisions is immediate and that the decisions are publicly accessible on the Court's website.

The Court's decisions will be provided to the parties in the usual way, through the Court's Digital Lodgment System, at the same time as they are published on the Court's website. The Registry will continue to publish the results sheet on the day the decisions are published.

Dispositions will continue to be published on the AustLII and Jade BarNet websites.

#### Applications referred for oral argument

The Justices will ordinarily decide the applications on the papers. In the rare case where the Justices are unable to decide an application on the papers, the application will be referred to a bench of three Justices for oral argument. Hearings of applications will in principle be conducted with the parties' legal representatives appearing remotely. Hearings will generally be arranged for the sitting period following the referral for oral argument although some cases may require expedition. The Court will no longer appoint fixed special leave days in the annual Rule of Court.

At the time of notification of the hearing date, the parties will be notified of the issues that are of concern to the Court.

#### Directions hearing following the grant of special leave or leave to appeal or removal

Where considered appropriate by the Justices, or when requested by a party, a directions hearing will be held before an individual Justice following the grant of special leave or leave to appeal or the removal of proceedings.

#### Commencement of revised process

The first meeting of the Justices, to consider applications referred in the November 2023 sittings, will be held on Monday 4 December 2023, with decisions to be published on Thursday 7 December 2023.

#### Other matters

##### Application books

The Justices have amended the *High Court Rules 2004* to dispense with the need for the parties to file application books. This will reduce by at least one month the time required for the preparation of applications and their referral to the Court for consideration.

##### Forms

The form of Application (Forms 17 and 23) and Response (Forms 18 and 23A) will be amended from 1 December 2023 to provide for an indication of special considerations or circumstances in relation to the case. This will bring to the early attention of the Court any case requiring expedition.

17 November 2023