

Magistrates Courts

Practice Direction No. 7 of 2010

Interpreters – Magistrates Court criminal proceedings

1. This Practice Direction applies only to criminal proceedings and bail applications before the Magistrates Court (“the court”).
 2. The purpose of the Practice Direction is to provide direction for the determination of:
 - (a.) when the court, rather than a party, will take responsibility for engaging an interpreter, and
 - (b.) who will bear the cost of engaging an interpreter.
 3. Unless the court otherwise orders, a party calling a witness or giving evidence will be responsible for engaging an interpreter to interpret between the court and the witness.
 4. Unless the court otherwise orders, the cost of interpreting between the court and a witness will be borne by the party calling the witness or giving evidence.
 5. If the court is satisfied that the interests of justice require that an interpreter be appointed to assist a defendant’s comprehension of the proceeding or to interpret between the court and a defendant giving evidence, the court will order the appointment of an interpreter and the court will bear the cost of interpreting between the court and the defendant.
 6. This clause provides a process by which a party to a criminal proceeding or an application for bail may apply to have the court appoint and bear the cost of engaging an interpreter. Unless the court otherwise orders, a party applying to have the court appoint and bear the cost of an interpreter:
 - (a.) must file in the court and serve on the other party to the proceeding an application in the prescribed form (Form 1);
 - (b.) for a matter set for hearing, the application should be filed and served no later than 7 days after the proceeding is set down for hearing or 21 days prior to the hearing date, whichever is the earlier;
 - (c.) for all other matters, the application should be filed and served at least 2 clear days before the day nominated for hearing of the application, unless the court directs otherwise.
 7. On the hearing of the application, the court may:
 - (a.) direct the Registrar to locate and retain an interpreter;
 - (b.) specify the language and dialect (if applicable) of the non-English speaking witness or defendant and any special requirements;
 - (c.) specify the level of qualification and accreditation required of an interpreter;
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- (d.) identify the source through which the engagement of an interpreter might be arranged;
 - (e.) state by whom the interpreter's fees and expenses will be borne;
 - (f.) direct the Registrar to seek directions from a magistrate should the Registrar encounter difficulty; and
 - (g.) make further or other orders as appropriate.
8. Where an interpreter has been retained by the Registrar, and it becomes apparent prior to the hearing that his or her services will no longer be required, the Registrar must be advised forthwith, so that the retainer may be terminated and costs not unnecessarily incurred.
9. This Practice Direction does not affect the capacity of a party otherwise to engage, at the party's expense, an interpreter to assist a party's comprehension of a proceeding in court.
10. This Practice Direction does not apply to civil proceedings. The current practice in civil proceedings, where a party requiring the services of an interpreter engages the interpreter and bears the expense of doing so, will continue.
11. This Practice Direction does not apply to applications for domestic violence protection orders.

Judge Brendan Butler
Chief Magistrate
20 September 2010