

## GRAND COURT PRACTICE DIRECTION No. 5 OF 2020

### THE USE OF E-MAILS FOR FILING AND ELECTRONIC SIGNATURES, COURT SEALS AND STAMPS

In order to continue to provide access to justice while operating during the Covid -19 crisis, the Courts must use technology as much as possible.

While seeking to comply with Court Rules for the filing of documents and the creation of Court files, in particular Grand Court Rules (GCR) Order 63 Rules 2 and 3, already the Courts have introduced a form of e-filing by way of e-mails.

While the Administration works towards the introduction of the permanent e-filing and e-service platforms, many documents or categories of documents must now be received, by e-mail, processed and authenticated electronically by the use of e-signatures, e-seals and e-stamps.

To this end the administration has acquired a software called **Digicert-Quovadis** which will be used to compile a database of authorised signatures, the Court seals and date stamps, for application to documents which must be authenticated by signature, seal or stamp.

The software will be run on a dedicated on-site Court server where the documents will be kept after signing, sealing or stamping before filing and uploading to the Courts' *JEMS or Criminal Registry* platforms.

The original code or "hash" for each signature, seal or stamp will be stored for security purposes, with **Digicert-Quovadis** for such time as deemed necessary, anticipated now to be six months.



Authorised signatures, seals and stamps must not be misapplied and so must be used only by those who are respectively authorised. To ensure this, access to the database will be encrypted and password-protected.

It follows that specimen signatures will be required from each authorised signatory for the creation of individual hashes. Once this database of signatures, seals and stamps is compiled and secured they may then be used for the authentication of documents as the case or situation may require.

The overarching purpose is to administer the authentication and record keeping processes electronically without the need to print documents for the purpose of signing, sealing or stamping.

Following are the Practice Directions for the Application of Authorised Signatures, Seals and Stamps.

1. Upon receipt of a document as an attachment to an email, the document will be downloaded to the dedicated server by the staff of the Registry to which it is directed.
2. The payment of fees contingent upon the filing of the document must be verified.
3. The document will then be forwarded to the authorised officer or signatory for processing.
4. For instance, if the document is a writ, plaint or other originating process, it will be initially reviewed and processed by Registry staff should the signature of the Clerk of Courts be required, then the document would be referred to the Clerk or Deputy Clerk of Court who will apply the e-signature as necessary. The Registry staff will affix the appropriate Court seal and date stamp, evidencing the official receipt of the document as a record of the Court.



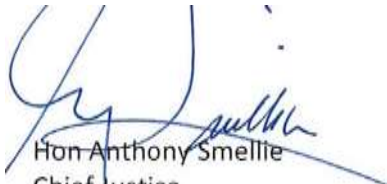
5. In keeping with GCR Order 63, Rule 2, the Clerk of Court [or designate] shall create an electronic Court file of every proceeding by assigning the Cause Number and by placing the writ, plaint or other originating pleading on the file immediately prior to issuing the pleading by which the proceeding is commenced.
6. An electronic copy of the authenticated pleading will then be issued by return to the filer who will then be able to serve it on a respondent, with proof of service to come in the first instance electronically by affidavit.
7. Acknowledgements of service will also be accepted electronically, sealed and date stamped and placed upon the respective Court file.
8. In keeping with GCR Order 41 Rule 9 every affidavit used in a cause or matter proceeding in the Court must be filed. This must also be done electronically in the first instance.
9. The foregoing must be in keeping with GCR Order 63, Rule 3(1), which directs that every document required to be filed in any proceeding must be placed on the Court file relating to such proceeding and sealed with a seal showing the date upon which the document was filed.
10. In keeping with GCR Order 63 Rules 7 and 8, the Clerk of Courts shall place [or caused to be placed] a copy of every judgment, order, writ or other originating process upon the registers of judgments, orders, writs and other originating process (unless otherwise ordered by the Court).



11. If the document is a charge or indictment, it will be received by the Criminal Registry, sealed and stamped and a copy returned to the office of the DPP (ODPP). The criminal case file will be opened with the official document and where appropriate in the case of a charge, summons, issued accordingly. See attached draft protocol to be agreed with the ODPP.
12. In keeping with GCR Order 42 if the document is a draft order or default judgment, it will be sealed and date stamped upon receipt electronically and sent to the respective Judge, Magistrate or to the Clerk of Court (as the case might be) for e-signing and return to the Registry. The date of the order or default judgment will then be inserted and the order placed on the respective Court file and register of orders and judgments. An electronic copy will then be returned to the filer (for service if necessary with the leave of the Court pursuant to GCR Order 65).
13. When finally approved and signed for issuance and publication, original judgments will, in keeping with GCR Order 42 rule 7(1) be placed upon the respective Court file. Electronic copies will be uploaded to the register of judgments and orders before being issued. When issued they will also be uploaded to the website (unless publication is embargoed by order of the Judge)
14. GCR Order 63 does require the creation and maintenance of hard copy files and registers. Accordingly, until such time as the permanent e-filing and e-service platforms become operational, and although documents received and processed in keeping with this Practice Direction will become records of the Court, the original hard copies are required to be filed with the Registry as soon as business returns to normal on a date to be announced.



15. Protocols have for some time been in place for the e-filing of social inquiry reports and related documents by the Department of Community Rehabilitation and for the e-filing of tickets issued by the Department of Commerce and Investment. These are also attached. A new protocol for e-filing of reports by the Department of Children and Family Services will now be issued in the form also attached.
16. In relation to admissions pursuant to *Legal Practitioners Act (as amended and revised)*, sections 3(1) and s.4 (1) and Practice Direction 4 of 2012, affidavits that are to be sworn before the Clerk of Court will be taken by Zoom appearance and thereafter the Court seal and e-signature of the Clerk of Court can be affixed to the affidavit and provided to the filer electronically, and uploading to the Courts' JEMS or Civil Registry platform.
17. Formatting: documents must be formatted as they would for conventional filing.



Hon Anthony Smellie  
Chief Justice

6 April 2020

(4 enclosures - Practice Directions 5A, 5B, 5C, 5D of 2020)