

Notice regarding Section 32 Sentencing Act 1995 (WA) notices

I write to advise of the approach to be taken in future by the Office of the Director of Public Prosecutions (ODPP) in relation to requests made by accused people to superior courts pursuant to section 32 of the *Sentencing Act 1995* (WA).

The ODPP's obligations arise pursuant to Rule 44(5) of the *Criminal Procedure Rules 2005* (CPR). On receipt of a Form 11 request, Rule 44(5) requires the ODPP to set out the list of pending charges which it consents to being dealt with by the superior court at the same time as the sentencing of an offender for an indictable charge committed to that court.

In recent years the ODPP has taken a more liberal approach to the matters which it has consented to being dealt with in the superior court. As such, in general it has consented to requests without applying any limiting criteria. Accordingly, a very large number of simple offences are presently being dealt with in superior courts, many of which are unrelated to the indictable matters before those courts.

Unfortunately, consenting unconditionally to the large number of requests filed has resulted in a significant imposition on the resources of the ODPP, both in the preparation of matters and during sentencing proceedings, and the practice can no longer be sustained.

Accordingly, as of 6 March 2017, the ODPP will only consent to a pending charge or charges being dealt with by the superior court pursuant to section 32 of the *Sentencing Act 1995* if it is:

1. an indictable charge within the meaning of section 3 of the *Criminal Procedure Act 2004* (CPA); or
2. a charge of a simple offence which is connected to an indictable charge on the indictment which is to be dealt with by the superior court.

For the purposes of assessing the connection of the simple offence to the indictable charge, the test set out in Schedule 1, Division 2, Clause 7(3) of the CPA will be applied.

The adoption of this criteria will ensure that appropriate matters are still dealt with pursuant to section 32 of the *Sentencing Act 1995* (WA) but that other, unrelated summary offences are dealt with in the Magistrates' Court, where they will be dealt with by judicial officers and prosecutors with the greatest expertise in dealing with such offences.

The ODPP will process any Form 11 filed prior to 6 March 2017 in accordance with the previous practice.



Amanda Forrester SC
A/Director of Public Prosecutions
23 February 2017