

PRACTICE DIRECTIVE 7

REMOVAL OR WITHDRAWAL AS COUNSEL OF RECORD

PREAMBLE

Counsel who appear with or on behalf of a party to a proceeding or file a designation of counsel in Form 2 will thereafter continue as counsel of record for that party unless that counsel is removed or has withdrawn in accordance with this Practice Directive.

This Practice Directive does not apply to counsel appearing as legal aid duty counsel and who have identified themselves as such to the court. Counsel who appear for a prosecutor may withdraw at any time without notice to the court provided that other counsel appears on behalf of the prosecutor at any subsequent proceeding.

APPLICATION OF THE PRACTICE DIRECTIVE

7.01 This Practice Directive applies to applications made by counsel of record for an accused who are seeking to withdraw as counsel of record and to applications to remove counsel as counsel of record.

TIMING OF APPLICATIONS

7.02 Hearings to consider an application to withdraw as counsel of record or to have counsel of record removed shall be fixed for a date not less than 30 days prior to the scheduled trial or preliminary inquiry date.

MATERIALS FOR USE ON APPLICATION

7.03 The Notice of Application shall be accompanied by an affidavit sworn by or on behalf of the applicant, but the applicant may not appear as counsel at any hearing in which his or her affidavit has been filed in support of the application.

AFFIDAVIT BY OR ON BEHALF OF THE APPLICANT

7.04 The affidavit by or on behalf of the applicant required in sub Practice Directive 7.03 shall contain:

- (a) particulars of the proceeding in respect of which the application is made, including a statement of the date upon which any trial is scheduled to commence and its length;
- (b) particulars of any prior applications, whether on behalf of the accused or the prosecutor, including, where available, transcripts of proceedings in regard to such applications;
- (c) where the application is made by counsel acting on behalf of an accused, a full statement of all facts material to a determination of

- the application, including a statement of the reasons why the order sought should be given;
- (d) where the application is made by or on behalf of the prosecutor, a full statement of all facts material to a determination of the application, including a statement of the reasons why the order sought should be given;
 - (e) a statement whether an adjournment of the trial is likely or will be required in order to enable the accused to retain and instruct new counsel and, if so, when it is proposed that the trial will commence;
 - (f) where applicable, a statement as to the identity of new counsel; and
 - (g) an indication of whether the accused is in custody, and if so, the place of detention.

CONSENT IN WRITING

7.05 The respondent or the accused person may consent in writing to the order sought in accordance with the terms set out in a draft order and the consent shall accompany the draft order upon filing with the court.

7.06 A judge may, upon being satisfied that the relief sought by the applicant in the draft order is appropriate and which has been consented to in writing by the respondent or accused person, grant the order without the attendance of counsel.