

IN THE SUPREME COURT OF TONGA

Practice Direction No. 6 of 1995

Callovers in All Trials - Land Court
Supreme Court - civil
criminal

1. This Direction is further to, and in addition to, Direction 5/95 concerning criminal jury trials.
2. In all trials in the Land Court and in the Supreme Court (and in that Court whether civil or criminal; whether judge alone or jury) a procedure for callover (or status) conferences is to be adopted.
3. As a matter of routine, and without exception, two weeks before a week of trial sittings, there shall be held in Chambers (and in Court for Chambers if necessary) a callover of all that particular week's trials. (Para. 2 of Direction 5/95 is amended - 7 days should now read 2 weeks).
4. All counsel engaged shall attend. If they cannot then another counsel must attend on their behalf, and be properly and sufficiently instructed so as to be able to tell the Court the true position with regards to the matters set out below.
5. Counsel attending a callover must be able to inform the Court of the following:
 - (a) whether the matter is to proceed, and if it is claimed it cannot proceed the reasons for that (and, if sought, applications for adjournment will be dealt with at the callover).
 - (b) whether counsel for the parties have conferred together since the matter was set down for trial. If not, why not?
 - (c) in criminal cases have counsel discussed whether there is room for consideration of a lesser charge in the indictment to which the accused might plead guilty?
 - (d) who will be appearing as Counsel at trial.

- (e) whether the parties have been informed of the date and time and place of trial ; and whether there is any cause to believe that a particular party may not appear at trial (and if any steps should be taken in that regard)?
- (f) whether all witnesses have been so informed and, if necessary, subpoenaed?
- (g) the number of witnesses for their respective party (and any anticipated difficulties re witnesses e.g. young children, witnesses coming from overseas, experts, medical practitioners, need for interpreters, need for replay facilities for video or audio tapes).
- (h) the likely actual length of trial.
- (i) whether there will be any admissions of fact ; or agreed facts ; or witness's statements to be read and admitted by consent; or experts' reports to be tendered by consent?
- (j) in civil cases whether there is any agreement as to special damages?
- (k) whether all interlocutory steps have been completed?
- (l) whether all directions and orders of the Court, previously made in the case have been complied with

e.g.:- Indictment filed and served.

Documentary evidence filed and served.

- (m) whether, in jury trials, there are any matters, or any voir dire hearings, to take place, before the Judge alone and before the jury trial proper commences?
- (n) whether there are any other matters which might prevent, interrupt or disrupt the trial; and in particular whether there is a prospect of settlement or a change of plea (and in criminal cases whether the accused has been made aware of the discount of sentence which may be available on a plea of guilty).

6. In so far as it is possible the callover of trials listed in front of the Chief Justice will be done by the Puisne Judge, at 9 am on the Monday, two weeks in advance ; and the callover of trials listed in front of the Puisne Judge will be done by the Chief Justice at 9 am on the Tuesday, two weeks in advance.
7. That way Counsel will be able to be, and will be expected to be, free and frank with the callover Judge as to all the above matters (particularly 5n above) and without the potential for damage to, and/or embarrassment in respect of, their client's case in front of the trial Judge.
8. This system will come into effect on Monday 8 January 1996 at 9 am with Lewis J. conducting a callover of Hampton CJ's cases for trial in the week starting 22 January 1996 commencing ; and on Tuesday 9 January 1996 Hampton CJ, at 9 am, will callover Lewis J's cases for trial in that week commencing 22 January 1996.
9. Callovers following that pattern will be held on each Monday and Tuesday from then on although if one Judge is away for any reason then the other Judge will conduct both callovers.
10. It is the responsibility of Counsel to ensure that they are present (or properly represented) at callovers. If they are not present or are not represented they, and their clients, run the risk of the trial fixture being vacated, and costs might follow.

ALL
COUNSEL
NOTE
WELL.



(Handwritten signature)
(Nigel Hampton)
CHIEF JUSTICE

NUKU'ALOFA, December 1st 1995.
Copies to:-

- The Minister of Justice
- The Secretary of Justice
- Lewis J
- The Registrar
- The Solicitor General
- All law practitioners
- Tonga Law Society.