

**GUIDANCE NOTE ON FILING AN APPLICATION FOR PACC PERMISSION
AND/OR A PACC APPLICATION UNDER DIVISION 4 OF PART 5 OF THE
SUPREME COURT OF JUDICATURE ACT 1969**

A. Introduction

1. This guidance note provides guidance on the following in relation to the electronic filing on eLitigation of an application for PACC permission and/or a PACC Application under Division 4 of Part 5 of the Supreme Court of Judicature Act 1969:¹
 - a. Legal representation of a prisoner awaiting capital punishment (“**PACP**”) when commencing an application for PACC permission.
 - b. Changes in legal representation of a PACP.
2. This guidance note is applicable from 28 June 2024 until further notice. To avoid doubt, parties and counsel remain responsible for ensuring that any filing is accurate and complies with the applicable legislation.
3. An application for PACC permission should be commenced by selecting “Post-appeal Application in Capital Case” under “Case Type” on eLitigation.

B. Legal representation of a PACP when commencing an application for PACC permission

4. Where a PACP is represented by one or more counsel when filing an application for PACC permission, counsel should ensure that the name of each counsel is set out in the “Issued by” section of the Originating Application eForm.
5. If counsel are from different law firms, counsel should manually edit the “Issued by” section of the Originating Application eForm to set out the names of all law firms and all counsel in each law firm who are representing the PACP. Please note that only the law firm e-filing the application for PACC permission will have access to the eLitigation case file and will be responsible for e-filing all subsequent documents or correspondence, if any, on behalf of the PACP, and

¹ As defined in s 60F of the Supreme Court of Judicature Act 1969.

conveying any documents or correspondence transmitted via eLitigation to counsel from the other law firms acting for the PACP.

6. Counsel are also reminded of the requirement in O 24A r 2(4) to file an affidavit made by the counsel (if only one counsel is appointed), or a separate affidavit made by each counsel as the deponent or a joint affidavit made by all of the counsel as deponents (if more than one counsel is appointed), at the same time as the filing of the application for PACC permission.

C. Changes in legal representation of a PACP

7. Where there are changes in the legal representation of a PACP, the following steps should be taken:

Scenario	Steps to be taken
<p>(a) PACP was previously <u>unrepresented</u>. PACP now appoints counsel (“appointed counsel”).²</p>	<p><i>Where appointed counsel are all from same law firm</i></p> <ul style="list-style-type: none"> - Where appointed counsel are all from the <u>same law firm</u>, appointed counsel are to file a single Notice of Appointment of Solicitor using the “<i>Notice of Appointment of Solicitor</i>” document code on eLitigation, ensuring that the names of each appointed counsel from the firm is set out in the Notice of Appointment of Solicitor. <p><i>Where appointed counsel are from multiple law firms</i></p> <ul style="list-style-type: none"> - Where appointed counsel are from <u>multiple law firms</u>, one law firm is to file a Notice of Appointment of

² See O 24A r 2(7)(b). Appointed counsel are reminded of the requirement to file an affidavit or affidavits, as the case may be, as set out in O 24A r 2(8).

Scenario	Steps to be taken
	<p>Solicitor using the “<i>Notice of Appointment of Solicitor</i>” document code on eLitigation. The law firm e-filing the “Notice of Appointment of Solicitor” on eLitigation will be referred to in this Guidance Note as the “eLitigation firm on record”. The eLitigation firm on record is responsible for e-filing all subsequent documents or correspondence, if any, on behalf the PACP, and conveying any documents or correspondence transmitted via eLitigation to counsel from the other law firms acting for the PACP.</p> <ul style="list-style-type: none"> - Each other law firm is to file a Notice of Appointment of Solicitor in the following manner: <ul style="list-style-type: none"> • the law firm is to prepare Portable Document Format (“PDF”) version(s) of the Notice(s) of Appointment of Solicitor in Form 3 of Appendix A of the Supreme Court Practice Directions 2021 (“Form 3”); and • the PDF is to then be e-filed using the “Other Supporting Document” document code, renaming the title of the document to “<i>Notice of</i>

Scenario		Steps to be taken
		<p><i>Appointment of Solicitor – Additional Law Firm”.</i></p> <ul style="list-style-type: none"> - Counsel must ensure that the Notice of Appointment filed by their firm contains the name of each appointed counsel from that firm. - Please note that only the eLitigation firm on record will have access to the eLitigation case file and will be responsible for e-filing all subsequent documents or correspondence, if any, on behalf of the PACP, and conveying any documents or correspondence transmitted via eLitigation to counsel from the other law firms acting for the PACP.
(b) PACP is already represented in the application.	(i) PACP now appoints <u>additional counsel</u> (“ additional counsel ”). ³	<p><i>Where additional counsel are from eLitigation firm on record</i></p> <ul style="list-style-type: none"> - Where additional counsel are from the <u>same law firm</u> as the eLitigation firm on record, additional counsel are to file a Notice of Appointment of Solicitor in the following manner: <ul style="list-style-type: none"> • they are to prepare a PDF version of Form 3; and

³ See O 24A rr 2(7)(a) and 4. Additional counsel are reminded of the requirement to file an affidavit or affidavits, as the case may be, as set out in O 24A r 2(8).

Scenario		Steps to be taken
		<ul style="list-style-type: none"> • the PDF is to then be e-filed using the “Other Supporting Document” document code, renaming the title of the document to “<i>Notice of Appointment of Solicitor – Same Law Firm</i>”. <p>- The law firm should also amend the party information on eLitigation to ensure that the particulars of all counsel are updated in the case file.</p> <p><i>Where additional counsel are not from eLitigation firm on record</i></p> <p>- Where additional counsel are <u>not</u> from the <u>same law firm</u> as the eLitigation firm on record, additional counsel are to file a Notice of Appointment of Solicitor in the following manner:</p> <ul style="list-style-type: none"> • they are to prepare a PDF version of Form 3 for each additional law firm; • the PDF is to then be e-filed using the “Other Supporting Document” document code, renaming the title of the document to “<i>Notice of Appointment of Solicitor - Additional Law Firm</i>”.

Scenario	Steps to be taken
<p>(ii) PACP <u>changes</u> the law firm(s) representing him⁴.</p>	<p><i>Where new law firm is replacing eLitigation firm on record</i></p> <ul style="list-style-type: none"> - If the new law firm that has been appointed to represent the PACP is replacing the eLitigation firm on record, the new law firm is to file a Notice of Change of Solicitor using the “Notice of Change of Solicitor” document code. - Thereafter, the new law firm, as the eLitigation firm on record with access to the eLitigation case file, will be responsible for e-filing all subsequent documents or correspondence, if any, on behalf the PACP, and conveying any documents or correspondence transmitted via eLitigation to counsel from the other law firms acting for the PACP. - The new law firm is to ensure that the name of each appointed counsel from the firm is set out in the Notice of Change of Solicitor. <p><i>Where new law firm is <u>not</u> replacing eLitigation firm on record</i></p> <ul style="list-style-type: none"> - If the new law firm that has been appointed to represent the PACP is

⁴ See O 24A r 2(7)(a). Incoming counsel are reminded of the requirement to file an affidavit or affidavits, as the case may be, as set out in O 24A r 2(8).

Scenario		Steps to be taken
		<p>replacing a law firm which is <u>not</u> the eLitigation firm on record, the new law firm is to file a Notice of Change of Solicitor in the following manner:</p> <ul style="list-style-type: none"> • the new law firm is to prepare a PDF version of Form 3; and • the PDF is to then be e-filed using the “Other Supporting Document” document code, renaming the title of the document to “Notice of Change of Solicitor – Additional Law Firm”. <p>- The new law firm is to comprehensively list, in the Notice of Change of Solicitor, the names of all counsel who are being replaced and counsel who are now representing the PACP.</p>
	<p>(iii) One or more of the PACP’s counsel <u>ceases</u> to represent him but the PACP continues to be represented by other counsel.</p>	<p>- If any counsel in a law firm is no longer representing the PACP, the law firm should write in to inform the Court.</p> <p><i>Where counsel ceases to act is from eLitigation firm on record</i></p> <p>- If the counsel is from the eLitigation firm on record, the eLitigation firm on record should amend the party information on eLitigation to ensure</p>

Scenario		Steps to be taken
		<p>that the particulars of counsel are updated in the case file.</p> <ul style="list-style-type: none"> - If the eLitigation firm on record ceases to act for the PACP completely, one of the remaining law firm(s) representing the PACP is to file a Notice of Change of Solicitor using the “<i>Notice of Change of Solicitor</i>” document code. Thereafter, this firm will be responsible for e-filing all subsequent documents or correspondence, if any, on behalf the PACP, and conveying any documents or correspondence transmitted via eLitigation to counsel from the other law firms acting for the PACP. <p><i>Where counsel ceases to act is not from eLitigation firm on record</i></p> <ul style="list-style-type: none"> - If the law firm (which is not an eLitigation firm on record) ceases to act for the PACP completely, the law firm is to file a Notice of Ceasing to Act as Solicitor in the following manner: <ul style="list-style-type: none"> • the law firm is to prepare a PDF version of Form 5 of Appendix A of the Supreme Court Practice Directions 2021; and

Scenario		Steps to be taken
		<ul style="list-style-type: none">the PDF is to then be e-filed using the “Other Supporting Document” document code, renaming the title of the document to “<i>Notice of Ceasing to Act as Solicitor – Additional Law Firm</i>”.
