



KHN.0042

24 September 2018

Registrar of Court of Appeal

Registrar of the High Court of Malaya

Registrar of the High Court of Sabah and Sarawak

Registrar of the Subordinate Court

Registrar of the Subordinate Court of Sabah and Sarawak

Directors of the State Courts

Throughout Malaysia

Sessions Courts Judges

Throughout Malaysia

**Senior Deputy Registrars/Deputy Registrars/Senior Assistant
Registrars/Assistant Registrars**

Federal Court/Court of Appeal/High Courts of Malaya/High Courts of Sabah and Sarawak/Subordinate Courts of Malaya/Subordinate Courts of Sabah and Sarawak
Throughout Malaysia

Magistrates

Throughout Malaysia

YBhg. Datuk/Dato'/Datin/Tuan/Puan,

PRACTICE DIRECTION OF THE CHIEF JUSTICE NO. 2 OF 2018

**DEALING WITH CRIMINAL DOCUMENTS ELECTRONICALLY THROUGHOUT
COURTS OF MALAYSIA**

The Right Honourable Chief Justice after consultation with the Right Honourable President of the Court of Appeal, the Right Honourable Chief Judge of Malaya and the Right Honourable Chief Judge of Sabah and Sarawak, and in accordance with section 272K of the Criminal Procedure Code [Act 593] issue this Direction.

COMMENCEMENT AND APPLICATION

1. (1) This Direction comes into operation on 20 August 2018.
- (2) This Direction applies throughout the courts of Malaysia.

INTERPRETATION

2. In this Direction, unless the context otherwise requires —

"Chief Registrar" means the Chief Registrar of the Federal Court of Malaysia;

"Registrar" shall have the same meaning given by the Courts of Judicature Act 1964 [Act 92] and the Criminal Procedure Code [Act 593];

"registered user" means a user of digital application system given with a user name and a password by the Registrar for the purpose of prove of true identity for access to use the electronic filing services;

"access code" means the access code provided by the Registrar to the registered user as a password to access the digital application system;

"verification code" means the password used by the registered user as digital signature password;

"digital application system" means any system of application specified by the Chief Registrar to be used in courts as the channel for filing and transmitting documents electronically; and

"digital signature" shall have the same meaning given by the Digital Signature Act 1997 [Act 562].

ELECTRONIC FILING AND TRANSMISSION

3. Any document in any criminal proceedings shall be filed online by using the digital application system for any courts that have been using electronic filing services and transmissions of documents.

4. The filing and transmitting of documents using the digital application system shall use a digital signature in accordance with the provisions of the Digital Signature Act 1997 [Act 562].

REGISTRATION AS A REGISTERED USER

5. (1) Any person may apply online to the Registrar to become a registered user subject to the prescribed terms and conditions.

(2) For filing documents of appeal in criminal cases by any accused who is not represented by a lawyer, documents may be filed through the court registry or the service counter available at the court location concerned.

6. The Registrar may authorize and cancel the application of any person to become a registered user.

ACCESS CODE AND VERIFICATION CODE

7. Before using the digital application system, the registered users shall obtain —

(a) User ID and access code from the Registrar; and

(b) Verification code from the certification authority appointed under the Digital Signature Act 1997.

8. The registered user shall from time to time notify the Registrar in writing of any changes of information in the particulars of his registration.

SECURITY OF ACCESS CODE AND VERIFICATION CODE

9. (1) The registered user shall ensure the confidentiality and security of his access code and verification code.

(2) The registered user shall not —

(a) disclose his access code and verification code to any other persons;
and

(b) allow any other persons to use his access code and verification code.

10. (1) The Court is not responsible for any misuse of access code and verification code for digital signature of the registered user.

(2) In the event of any misuse of access code and verification code, the Registrar has the right to suspend, deactivate and deny right of access to the registered user.

DIGITAL SIGNATURE OF DOCUMENTS

11. If a document is filed or produced by using the digital application system, any requirements under any provisions of the law relating to signatures by the registered user or the Registrar, shall be deemed have been complied with if the name, identification, verification and signature or endorsement have been endorsed in the document.

FILING AND REGISTRATION

12. (1) Electronic filing of a document may be done 24 hours a day and 7 days a week.

(2) If a new criminal case or application needs to be heard on the day of filing, the case or the application shall be filed on or before 10.00 am. If registration is done after 10.00 am, the case will be heard on the following day. However, the courts shall have the discretion to hear the case on the same day.

(3) For proceedings of detention under section 117 of the Criminal Procedure Code or its equivalent, the time of hearing is determined by the respective courts.

13. A document is considered to be successfully filed upon receipt of the document by the digital application system. Proof of filing will be printed on the document concerned.

NOTIFICATION OR TRANSMISSION OF DOCUMENT BY THE REGISTRAR

14. (1) If the Registrar is required by any provisions of law to notify or to transmit or to provide any document to a person who is a registered user, the Registrar may do so electronically or by using the digital application system.

(2) If electronic filing could not be performed because of occurrence of interference to the digital application system, the Registrar may issue necessary instructions for the filing to be made offline.

CONFLICT

15. When there is a conflict of information in a document which is filed through the digital application system with the information found in a document, the information on the digital application system shall prevail.

16. Any application to amend the information contained in a document may be made at any stage of proceedings and shall first obtain order or direction before a Session Court Judge or Registrar or Magistrate, as the case may be.


17. The registered user shall use the digital application system properly at all times, for a valid purpose and the contents in the document filed shall not be in contravention of any laws relating to secrecy or confidentiality affairs.
18. The Registrar is not responsible for the contents in the document filed and shall not be liable to check or lock any confidential or secret information stated in the document.
19. Any document filed is under the full responsibility of the registered user.
20. The registered user shall not use, copy, distribute and disclose any document that has been filed into the digital application system to third party for such purposes that are contrary to any provisions of law.
21. The Registrar has the right to suspend access if the Registrar has a reasonable cause that the registered user does not comply with any provisions of the terms of use or violate the provisions of the relevant laws.
22. If the Registrar is satisfied for any reasons whatsoever that the information inserted in the digital application system by the registered user is a mistake, the Registrar may rectify the information in the application digital system as ordered or directed by the Court at any stage of proceedings.

CIRCULAR, LETTER OF INSTRUCTION AND GUIDELINE

23. Any circulars, letter of instructions and guidelines on electronic and digital filing requirements for documents of criminal cases shall be referred to the Right Honourable Chief Justice from time to time.

IMPLEMENTATION AND TRANSITIONAL PERIOD

24. The Chief Registrar may determine the location of the court and the date of implementation for the purposes of electronic filing services and transmissions of documents from time to time.
25. Any implementation of the rules of filing or transmissions of documents for cases registered and deal electronically prior to the coming into force of this Practice Direction shall be deemed to have been made in accordance with this Direction and appropriately, shall continue to be valid under this Direction.


TAN SRI DATUK SERI PANGLIMA RICHARD MALANJUM
Chief Justice