THE PROVINCIAL COURT
OF BRITISH COLUMBIA

Effective date: *04 April 2025*
CRIM 21

PRACTICE DIRECTION

SOIRA EXEMPTION APPLICATIONS (S. 490.04 (1) (A) *CRIMINAL CODE*)

Purpose

To establish a procedure for filing and hearing *Sex Offender Information Registration Act* ('*SOIRA*') exemption applications pursuant to section 490.04 (1) (a) of the *Criminal Code* (a '*SOIRA* exemption application') for *SOIRA* orders imposed at the Provincial Court.

Direction

1. An offender or their counsel must ensure the following before filing a *SOIRA* exemption application:

    a. The *SOIRA* exemption application relates to a *SOIRA* order that was imposed on or after April 15, 2011 and before October 26, 2023.

    b. The *SOIRA* exemption application does not relate to a *SOIRA* order that was imposed in respect to an offence that was prosecuted by indictment, the sentence was a term of imprisonment of two years or more, and the victim of that offence was under the age of 18.

    c. The offender has not been convicted of a separate primary offence (as defined in section 490.011 of the *Criminal Code*), an offence under section 130 of the *National Defence Act* related to a primary offence, or is subject to a separate *SOIRA* order unrelated to the *SOIRA* exemption application.

2. A *SOIRA* exemption application must be filed at the Provincial Court location where the *SOIRA* order was originally imposed.

3. A *SOIRA* exemption application must be filed with the original file number(s), after which it will be given a sequence number by Court Services Branch to indicate that it is an application related to the original file.

4. A *SOIRA* exemption application must be filed using the 'Application to a Judge/ Justice – *Sex Offender Information Registration Act/ Criminal Code*' form ([PCR875](PCR875)). Applicants must check off the box indicating that they are seeking an application pursuant to section 490.04 (1) of the *Criminal Code*, and should note the judge who imposed the *SOIRA* order in the 'reasons' section.

5. Materials in support of the *SOIRA* exemption application should be filed with the 'Application to a Judge/ Justice – *Sex Offender Information Registration Act/ Criminal Code*' form. This can include, but is not limited to, transcripts from the sentencing in which the *SOIRA* order was imposed, the sentencing decision, exhibits tendered at the sentencing, a brief of law, and/ or any expert reports.

6. The sentencing judge who imposed the *SOIRA* order to which the *SOIRA* exemption application relates will hear the *SOIRA* exemption application if they are able to. If the original sentencing judge is unavailable, the matter will be referred to a judicial case manager who will then assign the matter.

7. Subject to the discretion of the presiding judge, parties (including the judge, Crown, defence counsel and the offender) may appear remotely for the *SOIRA* exemption application.

8. *SOIRA* exemption applications that relate to *SOIRA* orders made outside of British Columbia can be made in British Columbia. However, these applications:

    a. can only be heard by the Provincial Court if the *SOIRA* order was imposed by a court of equivalent jurisdiction;

    b. must provide an explanation in the 'Application to a Judge/ Justice – *Sex Offender Information Registration Act/ Criminal Code*' form as to why the application is being brought in British Columbia; and

    c. must be accompanied by a transcript from the sentencing in which the *SOIRA* order was imposed or the reasons for conviction and sentence, a copy of the charging document, and written permission from the other jurisdiction's Crown counsel and Court.

History of Practice Direction
- Original practice direction dated April 4, 2025.

I make this practice direction pursuant to my authority under the *Provincial Court Act,* R.S.B.C. 1996, c. 379; Rule 3 of the *Provincial Court of British Columbia Criminal Caseflow Management Rules*, SI/99-104.

Melissa Gillespie
Chief Judge
Provincial Court of British Columbia