

**IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**  
**QUEEN'S BENCH DIVISION**

**Masters' Practice Note 1 of 2012**

**UNLESS ORDERS**

- [1] An "Unless Order" is an order of the court by which a conditional sanction is attached to an order requiring performance of a specified act by a particular date or within a particular period.
- [2] Every unless order made by a master should state in clear terms:
- (a) the step in the action which the party against whom the order is directed, is required to perform;
  - (b) the time within which that step is to be performed;
  - (c) the rule or previous order of the Court which has not been complied with;
  - (d) the sanction which is to occur in the event of default; and
  - (e) where that sanction is striking out of the action, or as the case may be, the defence, the precise terms of the judgment to be obtained, including any order for costs in the action.
- [3] An order made in the above terms shall constitute a default judgment in the action, which shall be final for the purposes of enforcement of costs.
- [4] The sanction specified in an Unless Order takes effect without the need for any further order of the Court if the party to whom it is addressed fails to comply with its terms. The party entitled to judgment in the event of non-compliance with such an Unless Order is not required to apply to the Court for judgment. Rather that party should file in the Office either an affidavit sworn by the party or a certificate completed by the party's solicitor confirming service of the Unless Order and non-compliance with the terms thereof. The Office shall issue a default judgment in the action in terms of the order, in which the judgment date shall be stated as the date of default.

[5] A party against whom an Unless Order is made may in appropriate circumstances request the Court for extension of time in which to comply with the terms of the order. Granting an extension of time is a matter for the discretion of the Court. Where a request for extension of time is made before expiry of the time for compliance stated in the Unless Order, the request may be made by letter, a copy of which should be sent to the party which has the benefit of the order, explaining why extension of time is sought. Any application for extension of time made after the expiry of the time for compliance stated in the order must be made by summons pursuant to Order 3, rule 5 and supported by an affidavit setting out, inter alia, the reason for non-compliance.

[6] This Practice Note shall take effect from 23rd March 2012 and shall replace Practice Note No.1 of 2003.

CJ McCorry

Master (Queen's Bench and Appeals)

R E Bell

Master (Queen's Bench and Matrimonial)

12<sup>th</sup> March 2012.

**Draft Template Unless Order**

UPON APPLICATION by solicitor/counsel for the plaintiff/defendant, for an order pursuant to Order .... rule .... Of the Rules of the Court of Judicature

AND ON HEARING solicitor/counsel for the plaintiff/defendant

AND ON READING the affidavit of .....filed ..... /and the affidavit of ..... filed  
....

IT IS ORDERED that unless within ..... days/weeks/months of the date hereof/ date of service of this order, the plaintiff/defendant  
.....Pursuant to Order .... Rule .... Of the Rules of the Court of Judicature/ the order of ..... dated the .... day of .... 20., the plaintiff's action shall be struck out with judgment for the defendant/the defendant's defence shall be struck out with judgment for the plaintiff, with costs in the action to be taxed in default of agreement.

In the event of non-compliance with the terms of this order the party with the benefit of the order shall file in the court office either an affidavit sworn by the party or a certificate completed by the party's solicitor confirming service of the order and non-compliance with the terms thereof. Upon receiving such an affidavit or certificate the court office shall issue a default judgment in the action in the terms of this order, in which the judgment date shall be stated as the date of default.