

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

QUEEN'S BENCH DIVISION (COMMERCIAL LIST)

PRACTICE DIRECTION NO. 1/2000

AMENDED 7th October 2002

Generally

The aim of the commercial list is to provide those engaged in commercial litigation with a venue and procedures by means of which their disputes may be justly and expediently resolved. The commercial court specifically recognises the importance to the commercial community of economy, efficiency and the maintenance of good business relationships and, accordingly, the court is anxious to encourage serious attempts by the parties to enter into productive negotiations with a view to achieving a mutually satisfactory resolution of the litigation or, at the very least, identification and reduction of disputed issues at an early stage in the proceedings. In this context, subject to appropriate variation in the individual case, the court will expect those engaged in commercial litigation to adhere to the following timetable:

- (1) Discovery of documents shall be completed by each party exchanging lists not later than 28 days after the case is first admitted to the commercial list or the close of pleadings, whichever is the later. Inspection of documents shall take place not less than 14 days after exchange of lists.
- (2) Any notice for particulars required shall be served not later than 28 days after admission of the case to the commercial list or the close of pleadings, whichever is the later and replies shall be furnished thereto not later than 21 days from receipt of the notice.
- (3) Any interrogatories required shall be served not later than 14 days after the exchange of lists of documents has taken place and replies shall be furnished thereto not later than 28 days after service.

- (4) Statements of evidence/reports from expert witnesses shall be exchanged and agreed as soon as practicable.
- (5) Meetings of expert witnesses for the purpose of attempting to agree evidence, identify and, if possible, reduce disputed issues in relation to both liability and damages shall, as far as possible, be held not later than 21 days after the exchange of expert statements of evidence/reports. Such meetings shall be minuted upon completion so as to indicate clearly the relevant issues identified, those which have been resolved and the nature and extent of any remaining disputes.
- (6) Solicitors shall attempt to agree a hearing date and consult with the Registrar of the Commercial List to fix a date for hearing. Solicitors shall furnish to the Registrar an assessment of the probable duration of trial.
- (7) In suitable cases, once discovery and interlocutory proceedings have been completed, before finalising the date for hearing, the court will direct that the parties, their representatives and expert witnesses should arrange to meet at an appropriate venue for the purpose of conducting detailed negotiations with a view to achieving a mutually satisfactory resolution of their differences. A review date will be fixed by the court for the purpose of receiving from counsel a report as to the outcome of such a meeting.
- (8) Consistent with the aim of the commercial list set out at the commencement of this practice direction the Commercial List Judge may draw the attention of the parties to commercial litigation to the existence of alternative means by which a case or a specific issue/issues therein may be resolved including, in particular, a suitable form of Alternative Dispute Resolution. In appropriate cases, the Commercial List Judge may require the parties to justify a decision not to resort to an appropriate form of dispute resolution.
- (9) The plaintiff's solicitors shall prepare the following documents for trial and lodge them with the Registrar of the Commercial Court. Bundle A must be

lodged not later than 14 days before trial and bundle B not later than 7 days before trial.

Bundle A

- (i) Section 1 - the up to date pleadings with all orders made to date.
- (ii) Section 2
 - (a) - a summary of the issues involved;
 - (b) - a summary of the propositions of law to be advanced with reference to authorities to be relied on;
 - (c) - a chronology of events.
 - (d) - copies of disclosed statements/reports of expert witnesses.
 - (e) the core documents relevant to the case.
- (iii) Section 3 - any proposed amendments to the pleadings.

Bundle B

This should comprise the following documents, set out in separate sections, paginated and indexed:

- (a) Agreed bundle of correspondence in chronological order.
- (b) All documents relied on by plaintiff not included in Bundle A.
- (c) All documents relied on by defendant not included in Bundle A.

If there is more than one other party the bundle shall include the documents relied on by the other defendants and/or third party or subsequent parties. It shall be the responsibility of the defendants and other parties to furnish to the plaintiff the documents to be relied on by them in advance of trial for incorporation into the bundle. The parties should use their best endeavours to produce an agreed bundle of documents. If there is any dispute as to the admissibility or relevance of any document, such document or documents should not be included in the bundle but kept in a separate file. If the court admits the document/documents the document/documents can then be inserted in bundle B at the appropriate place.

(d) Documents discovered by each party.

The bundles should be wholly legible and arranged chronologically in a ring binder or lever-arch file. Where documents are copied unnecessarily or not properly incorporated into a bundle there may be a penalty in costs. Any document not included in a bundle which is to be adduced in evidence of the trial should be hole-punched for ease of insertion into the bundle at the appropriate place.

(10) (a) Where maps and photographs are relied upon, practitioners should ensure that the provisions of Order 38, rule 3A have been satisfied;

(b) where photographs are to be relied upon, they should be either presented in album form with each photograph numbered, dated and described in the album or in an index or be presented in an envelope of sufficient dimensions to hold the photographs which should be numbered, dated and described on the rear thereof.

(c) where maps are to be used the court should be provided with two clear copies.

(11) Any party shall have liberty to apply to the Commercial Judge for further or amended directions or extensions of time where the same are found to be necessary.

Dated the day of 2003
QUEENS BENCH DIVISION

(Commercial List)

Extensions of Time/Amendments of Directions-guidelines

1. All applications must be in writing and provide precise details of:
 - (a) the nature and extent of the extension/amendment sought
 - (b) the grounding reasons
 - (c) the identities of all parties who have consented

2. All other relevant parties should be notified of the intention to apply as soon as it becomes clear that an application will be necessary.
3. Where possible the consent of all other relevant parties should be obtained before the application is made.
4. Applications may be faxed, posted or sent by email to the registrar of the Commercial List Office (CommercialListOffice@courtsni.gov.uk)
5. The registrar should receive applications no later than 1:00 p.m. on the day prior to the relevant deadline.
6. When an extension is granted, unless stated otherwise, time will run from the date of the application.
7. In the first instance, it shall be the responsibility of the applicant to notify all other relevant parties whether a particular application has been granted or refused.

The above guidelines also apply to applications for urgent listing/deferral or reviews. In all such cases of deferral, the application should specify a suggested alternative date agreed between the parties.

These guidelines have been devised with a view to reducing unnecessary expense and Court time to a minimum and practitioners should be aware that breach may result in the imposition of a wasted costs order in appropriate cases although, in any case, all the relevant circumstances will be taken into consideration.