

# **IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND**

CHANCERY DIVISION

CHANCERY OFFICE

2003 No 4

## **PRACTICE DIRECTION**

### **POINTS IN PRACTICE**

1. The object of this Practice Direction is to draw attention to certain Rules of the Supreme Court (Northern Ireland) 1980 and established practices which tend to be overlooked. This Direction replaces and revokes Practice Direction 1987 No 3. Practice Note 1985 No 6 (Affidavits) is also hereby revoked.
2. The writ of summons or originating summons should contain the correct names and addresses of the parties. This is especially so where a limited company is a defendant. The Companies Registry file should be inspected to obtain the correct name and registered office of the company.
3. For the purpose of service a writ or originating summons is valid for 12 months and may in certain circumstances be renewed. It is normally prudent to serve the writ immediately and in any event to do so well before the first anniversary of issue (O6 r 7 and O7 r 6).
4. The plaintiff must serve his statement of claim within 6 weeks from entry of appearance (O18 r 1). If he does not do so then the defendant may apply to dismiss the action for want of prosecution (O19 r 1).
5. The practice of endorsing the statement of claim on the writ of summons (O6 r 2) saves time and expense and is particularly useful in actions for specific performance.
6. Under Order 18 pleadings are “served” not “delivered”. Writs, pleadings, etc should bear the address of the solicitor from which the action is being conducted.

7. “Every statement of claim must bear on its face a statement of the date on which the writ was issued” (O18 r 15(3)).
8. Dates, sums and other numbers must be expressed in a pleading or an affidavit in figures and not in words (O18 r 6(3) and O41 r 1(7)).
9. Where the taking of an account is involved the parties should consider whether the speedy provisions of Order 43 (Accounts and Inquiries) should be invoked. Order 43 is particularly useful in partnership disputes.
10. Where more than 1 year has elapsed since the last proceeding the party who desires to proceed must give 1 month’s notice of intention to proceed (O3 r 6(1)).
11. A writ action may be set down for trial (O34) before discovery has been completed but a date of hearing will not normally be given unless discovery has been made or is not required.
12. Books of pleadings should be bound or stapled. They must be legible. They must comply with O34 including the requirement that the documents be in chronological order subject to the special provisions of r4(2) which requires that a notice for particulars of a pleading and the reply thereto should follow immediately after the pleading to which they relate.
13. Failure to insert a filing clause at the foot of an affidavit as required by O41 r 9(2) is a very common error and results in waste of time. Solicitors should ensure that all affidavits have as matter of course a clause at the foot stating on whose behalf they are filed. Such a clause might read as follows:  
“This is filed by A B & Co., of 300 Main Street, Antrim,  
[Postcode] solicitors for the [Plaintiff][or as the case  
may be].”

Copies of individual letters should not be made separate exhibits, but they should be collected together and exhibited in a bundle or bundles.

14. Enforcement and service of order (O45 rr 4 and 5). Where an order requires a person to do an act within a specified time it may be enforced by committal provided that a copy of the order was served personally on that person within the time he was required to do that act. An order prohibiting a person from doing an act may be enforced similarly provided that it was served on that person personally. There must be endorsed on the copy order served a “penal” notice the wording of which must follow Form No 67 or Form No 68 (as appropriate) in Appendix A of the Rules.
15. Inspection of Court documents. O66 r 5 deals with the rights of (a) parties and (b) the public to inspect Court documents and reads as follows:  
“5. Any person shall, on payment of the prescribed fee, be entitled during office hours to search for, inspect and take a copy of any of the following documents filed in the Central Office, the Chancery Office or the Bankruptcy and Companies Office -  
(a) the copy of any writ of summons or other originating process,  
  
(b) any judgment or order given or made in court or the copy of any such judgment or order, and  
  
(c) with the leave of the Court, which may be granted on an application made *ex parte*, any other document.”
16. A writ of subpoena must be served personally not less than 4 clear days before the hearing (O38 r 15). It is desirable to give longer notice (not exceeding 12 weeks) to witnesses. It follows that a writ of subpoena will

not normally be issued less than 4 clear days before the date of hearing. Where the witness resides in Great Britain application for a subpoena should be made to a Judge under the Judicature (N.I.) Act 1978 s 67.

A writ of subpoena for the attendance of a witness for the purpose of proceedings in Chambers may be issued if the party who desires the attendance of the witness produces a note from a judge or master authorising the issue of the writ (O32 r 9).

17. Service of pleadings in Long Vacation. “Without prejudice to Order 3 rule 3 pleadings may be served during the Long Vacation” (O18 r 5).

18. Legal Aid Regulation 16 paragraphs (4) and (5) of the Legal Aid (General) Regulations (Northern Ireland) 1965 No 217 (amended by S.R. 1974 No 126) reads as follows:

“(4) Copies of the notices referred to in paragraphs (2) and (3) [notice of issue of legal aid certificate or notice discharging or revoking certificate] shall form part of the papers for the use of the Judge at the trial.

(5) When a solicitor receives from the appropriate committee under the provisions of these regulations –

(a) a certificate which relates to proceedings;  
or

(b) a notice that a certificate has been suspended, discharged or revoked; or

(c) a notice that an emergency certificate has been extended;

he shall, if proceedings have begun or otherwise on their commencement or thereafter send it by prepaid post to the appropriate court office.”

Compliance with the above regulations is important. When an order is being sought in proceedings where one or more parties is legally aided it is important to draw the attention of the Judge or Master to that fact so that an appropriate legal aid order as to costs may be made.

By direction of the Honourable Mr Justice Girvan

Master (Chancery)

2003

