

05/03

IN THE HIGH COURT OF JUSTICE NORTHERN IRELAND

CHANCERY DIVISION

CHANCERY OFFICE

PRACTICE DIRECTION

1. APPLICATION FOR JUDGMENT IN DEFAULT OF DEFENCE

- (1) An application for judgment in default of defence under Order 19 r7 must be made by summons or motion. It is normally made by summons to the Master unless an injunction is sought in which case it is heard by the Judge. The summons must contain minutes of the judgment sought. These may be set out in the body of the summons or in a schedule attached to the summons. Service must be effected on each defendant against whom judgment is sought, whether or not he has appeared. Service is in accordance with Order 65 r5.
- (2) The plaintiff's solicitor must as soon as possible and not later than 4 clear working days before the date appointed for the hearing, lodge in the Chancery Office a book properly paginated and indexed containing the following documents or copies thereof: -
 - (a) Where no appearance has been entered
 - (i) summons with minutes of judgment;
 - (ii) writ of summons;
 - (iii) statement of claim, with the plaintiff's solicitor's certificate indorsed thereon dated not earlier than the date of issue of summons stating that no defence has been served;
 - (iv) affidavit(s) proving service of writ of summons, statement of claim and summons;
 - (b) Where appearance has been entered
 - (i) summons with minutes of the judgments;
 - (ii) writ of summons;
 - (iii) memorandum of appearances;

- (iv) statement of claim, with the certificate of the plaintiff's solicitor indorsed thereon dated not earlier than the date of issue of the summons stating that no defence has been served;
- (v) affidavit(s) proving service of statement of claim and summons.

2. APPLICATION FOR SUMMARY JUDGMENT

- (1) An application for judgment under Order 14 must, by r2(1), be made by summons; and the same applies to an application for judgment under Order 86 r2(1).
- (2) Where such an application includes an application for an injunction, the granting of which is outside the powers of a Master (Order 32 r11(1)(f)), the summons should be made returnable before the Judge in chambers instead of the Master.
- (3) The return date to be inserted in the summons must be (i) for Order 14 at least 10 clear days (r2(4)) after the date when the summons will be served, or (ii) for Order 86 at least 4 clear days (r 2(3)) after the date when the summons will be served.

3. ORDERS

Orders are usually prepared by Court staff after the hearing. In a difficult or unusual cast the draft may have to be approved by the Judge or Master and/or counsel. Sometimes the solicitors or counsel for one of the parties may be directed to submit a draft order for approval. The precise terms of the order sought should be set out in the ex parte docket, summons, notice of motion, or minutes of judgment. In a straight-forward case the order should be prepared, signed, filed and available for bespeak by the parties within 2 or 3 days. Parties wishing to obtain copies of orders may do so by lodging in the Chancery Office the following:

- (1) A form of General Requisition (obtainable in the Office) or other written request bearing a receipt for payment of the appropriate fee (calculated per page of the order) and specifying:
 - (a) the record number of the action;
 - (b) the date of the order;

(c) the name of the Judge or Master who made the order.

(2) A stamped addressed envelope (if postal service is desired).

The parties should upon receipt of a court order check it carefully to see that it correctly reflects the order as pronounced and also to see that the property, if any, described in the order is properly described. Any alleged errors in orders especially as to the description of property or parties should be brought to the attention of the Chancery Office without delay. Before serving an order a party should consider carefully whether it is necessary to endorse upon it a penal notice in accordance with Order 45 r5.

4. **AMENDMENT OF ORDERS**

An application to amend an order should be made to the Judge or Master who pronounced the order by summons grounded on affidavit invoking the assistance of

Order 20 r11 (the slip rule) and/or the inherent jurisdiction of the Court. There are many authorities listed in the notes to Order 20 of the Supreme Court Practice 1999. See also Creaney's Estate [1988] 5 NIJB 47.

5. **WRITTEN JUDGMENTS**

Parties and other interested persons may obtain copies of written judgments delivered or handed down by the Judge or Master on payment of the appropriate fee per page. Applications for copies of the Judge's judgments should be made not to the Chancery Office, but to the Appeals and Lists Office, Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF. The mode of application and payment is similar to that set out in paragraph 3.

6. **SETTLEMENT OR COMPROMISE OF LITIGATION**

(1) Where a case is settled, the solicitor for the moving party should notify the Office as quickly as possible. It is helpful if the solicitor can indicate the type of order that will be sought e.g. Tomlin order (stay of proceedings on agreed terms Scheduled).

Order 34 r 7(2) reads: -

“It shall be the duty of all parties to an action to furnish without delay to the officer who keeps the lists of actions for hearing all available information as to the action being or being likely to be settled,

and if the action is settled or withdrawn, to notify that officer of the fact without delay.”

- (2) Unless otherwise directed by the Judge or Master, no consent order or order staying an action on agreed terms shall be drawn up until a written statement of the terms agreed, signed by the parties or by solicitors or counsel on their behalf, has been handed to the court or lodged in the Chancery Office.

7. ENFORCING TERMS OF SETTLEMENT

- (1) When a party seeks to enforce an order containing scheduled terms of settlement of an action an application should be made by summons or notice of motion as the case may be.

- (2) When a party seeks to enforce terms of settlement which have been endorsed on Counsel’s briefs that party ought to have regard to the case of Green-v-Rozen [1995] 1 W.L.R. 741 and [1955] A.E.R. 797, and in particular to pp. 745-6 of the Weekly Law Reports and pp. 800-801 in the All England Reports.

8. VENUE OF HEARINGS BEFORE MASTER (CHANCERY)

As all hearings (except those for which special arrangements are made) before the Master (Chancery) are heard in his Chambers, Room 1–16, First Floor, Royal Courts of Justice, Chichester Street, Belfast, BT1 3JF, that address in full should appear as the venue of the proceedings on all notices of appointments and summonses.

9. TELEPHONE NUMBERS

Solicitors lodging ex parte dockets, summonses, affidavits etc in the Chancery Office should endorse their telephone number with code after their address and their e-mail address. Solicitors outside Belfast who have offices in several towns should use the address from which their action is

being conducted. In any oral or written communication the record number must be given.

10. This Direction replaces and revokes 1973 No 1 and 1989 No 2.

By direction of the Honourable Mr Justice Girvan

Master (Chancery)

2003