

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

Practice Note 01/13

COMMERCIAL PRACTICE NOTE

1. With effect from 1 January 2013, in respect of all Writs of Summons issued in the Queen's Bench Division, where the plaintiff's solicitor or the plaintiff (if not represented by a solicitor) considers the action to be a 'commercial action', the plaintiff's solicitor or the plaintiff (if not represented by a solicitor) shall add to the Writ, after the indorsement of claim, the words -

"In the opinion of the plaintiff's solicitor/plaintiff this is a commercial action."

2. Any party to a commercial action may at any stage of the proceedings apply to the Registrar for the transfer of the action to the Commercial List.
3. Under Order 72 Rule 1 (2) "commercial actions" shall include any cause relating to business or commercial transactions and, without prejudice to the generality of the foregoing words, any cause relating to contracts for works of building or engineering construction, contracts of engagement of architects, engineers or quantity surveyors, the sale of goods, insurance, banking, the export or import of merchandise, shipping and other mercantile matters, agency, bailment, carriage of goods and such other causes as the Commercial Judge may think fit to enter in the Commercial List.

The Commercial List also includes causes relating to the provision of professional services and causes relating to public procurement.

4. All actions where the plaintiff's solicitor/plaintiff has added the specified words to the indorsement of claim on the Writ and all actions where a party has applied for a transfer to the Commercial List shall be referred to the Commercial Judge who will determine whether the action be admitted to the Commercial List and if so shall issue directions as appropriate.
5. Once admitted to the Commercial List all pleadings in an action shall bear the title "Queen's Bench Division (Commercial)".
6. Applications in interlocutory matters in the Commercial List may be made to the Queen's Bench Master in accordance with the 'Consolidated Practice Notes' save that -

- (a) applications for summary judgment on an Adjudicator's award under the Constructions Contracts (NI) Order 1997 as amended shall be made to the Commercial Judge.
- (b) applications concerning public procurement under the Public Contracts Regulations 2006 as amended shall be made to the Commercial Judge.
- (c) any application may be referred by the Master to the Commercial Judge.

Explanatory Note.

Order 72 Rule 3 (1) states - "On the commencement of proceedings in a commercial action the plaintiff's solicitor shall request the Registrar in charge of the Commercial List to have the action entered in the Commercial List."

This rule is often ignored. Some actions remain in the general list for a lengthy period before being transferred to the Commercial List. In an effort to identify commercial actions at an early stage it is proposed that the plaintiff's solicitor/plaintiff, at the commencement of proceedings, should indorse on the Writ that an action is considered to be a commercial action. In response the staff will refer the action to the Commercial Judge to determine if the proceedings should be in the Commercial List.

In any event any party may apply at any time to have a commercial action transferred to the Commercial List so, where the plaintiff's solicitor/plaintiff has not added the specified words to the indorsement of claim on the Writ, a defendant's solicitor/defendant may apply for a transfer if the action is considered to be a commercial action.

While the review of actions in the Commercial List will continue before the Commercial Judge it is proposed that most interlocutory matters be dealt with by the Master.

Mr Justice Weatherup

21 December 2012