

IN THE HIGH COURT OF JUSTICE IN NORTHERN IRELAND

CHANCERY DIVISION

CHANCERY OFFICE

1989 No. 3

PRACTICE DIRECTION

EX PARTE APPLICATIONS TO JUDGE IN COURT FOR INJUNCTIONS ETC

The power of the Court to grant an injunction is contained in Judicature (Northern Ireland) Act 1978 S .91 as amended by Administration of Justice Act 1982 S.70 Schedule 8 paragraph 10. The procedure is governed by Rules of the Supreme Court 0. 29.

An increase in the number of applications made ex parte to the Chancery Judge makes it necessary to introduce a new and clearly understood procedure, which will be strictly followed.

1. The standard procedure, suitable for all ordinary ex parte applications, will be (1) that the applicant shall lodge in the Chancery Office (Room 33) ("the Office".) by 3.00p.m. on the day before the application is to be made, papers which should include (a) the writ or originating summons (b) the affidavit in support and (c) a draft minute of the order sought; (2) that the Judge will hear the application at 10.00a.m. on the following morning before embarking on his published list.

2. There will be some cases where the 3.00p.m. deadline specified in paragraph 1 (1) cannot be met and where the urgency is too great to permit up to 24 hours' delay. Such applications should be dealt with in one or another of the three following ways.

(1) The applicant's advisers shall attend the Office at 10.00a.m. and lodge the papers listed in paragraph 1 (1) and also a certificate signed by counsel (or solicitor if counsel is not instructed) that the application is of extreme urgency. The application will be heard by the Judge at 10.15a.m. (2) The applicant's advisers shall lodge the papers by 12.30p.m. (such papers to include all those specified in paragraph 1 (1)) and attend the office at 1.50pm The application will be heard at 2.00p.m. (3) In the very rare case where the application is of such urgency as to preclude either of the foregoing procedures the applicant's advisers may inform the Office accordingly and the Judge will hear the application at once, interrupting his list if necessary. In such a case the applicant's

3. (1) Attention is drawn to the provisions of 0.29, r.1 which ordinarily requires the issue of a writ or originating summons and the swearing of an affidavit in support of an ex parte application for an injunction before it is made. (2) The affidavit in support should contain a clear and concise statement: (a) of the facts giving rise to the claim against the defendant in the proceedings; (b) of the facts giving rise to the claim for interlocutory relief; (c) of the facts relied on as justifying the application ex parte, including details of any notice given to the defendant or, if none has been given, the reasons for giving none; (d) of any answer asserted by the defendant (or which he is through likely to assert) either to the claim in the action or to the claim for interlocutory relief; (e) of any facts known to the applicant which might lead the court not to grant relief ex parte; (f) of the precise relief sought. (3) Applicants for ex parte relief should prepare and lodge with the papers relating to the application a draft minute of the order sought. Such minute should specify the precise relief which the court is asked to grant. While the undertakings required of an applicant will vary widely from case to case, he will normally be required: (a) to give an undertaking in damages; (b) to notify the defendant of the terms of the order forthwith, by cable or telex if he is abroad; (c) in an application of **Mareva** type, to pay the reasonable costs and expenses incurred in complying with the order by any third party to whom notice of the order is given; (d) in the exceptional case where proceedings have not been issued (e.g. where the Office is closed), to issue the same forthwith; (e) in the exceptional case where a draft affidavit has not been sworn, or where the facts have been placed before the court orally, to procure the swearing of the affidavit or the verification on affidavit of the facts outlined orally to the court.

The order should as a general rule contain provision for the defendant to apply on notice for discharge or variation of the order and for costs to be reserved.

4. The applicant's advisers will be required to satisfy the Judge that the subject matter of the application is not within the jurisdiction of the County Court (See County Courts (Northern Ireland) Order 1980 S.I. 1980/397 (N.I.3) Articles 13 and 14 and the County Courts (Financial Limits) Order (Northern Ireland) 1982 S.R. 1982 No. 122).
5. It is anticipated that it will be an extremely rare event for an injunction to be granted before the writ has been issued.

By direction of the Honourable Mr Justice Murray

W.G. Bridges

Master (Chancery)

14 February 1989.