

PRACTICE DIRECTION – COMMERCIAL COURT

**THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 49
AND REPLACES, WITH MODIFICATIONS, ORDER 72 OF THE
RULES OF THE SUPREME COURT**

GENERAL

- 1.1 This practice direction applies to commercial claims in the Commercial Court of the Queen's Bench Division.
- 1.2 (1) In this practice direction "commercial claim" includes any case arising out of trade and commerce in general, including any case relating to -
 - (i) a business document or contract,
 - (ii) the export or import of goods,
 - (iii) the carriage of goods by land, sea, air or pipeline,
 - (iv) the exploitation of oil and gas reserves,
 - (v) insurance and re-insurance,
 - (vi) banking and financial services,
 - (vii) the operation of markets and exchanges,
 - (viii) business agency, and
 - (ix) arbitrationand "commercial proceedings" has a corresponding meaning.
- (2) "Judge" means Judge of the Commercial Court.
- 1.3 The rules relating to arbitration are set out in the Arbitration Practice Direction that supplements CPR Part 49.
- 1.4 The Civil Procedure Rules (the "CPR") apply to commercial proceedings in the Commercial Court subject to the provisions of this practice direction and any Commercial Court practice direction.

THE COMMERCIAL LIST

- 2.1 There shall be a list called "the commercial list" in which commercial claims in the Queen's Bench Division may be entered for trial in the Commercial Court, and one of the Commercial Court judges shall be in charge of that list.
- 2.2 All proceedings in the Commercial Court, including all pre-trial applications and any appeal from any judgment, order or decision of a master or district judge

prior to the transfer of any case to the commercial list, shall be heard or otherwise dealt with by a Judge, except that:-

- (i) if an application is urgent and no Judge is available to deal with it, the application may be made to some other judge of the Queen Bench's Division authorised to hear applications in the Commercial Court; and
- (ii) unless a Judge otherwise orders, all proceedings for the enforcement of any judgment or order for the payment of money given or made in the Commercial Court shall be referred to a master of the Queen's Bench Division.

- 2.3 The commercial list is a specialist list for the purposes of the CPR (see e.g. Rules 16.3(5) and 30.5 of the CPR).

ENTRY OF CASE IN COMMERCIAL LIST

- 3.1 The claim form by which a commercial claim intended to be entered in the commercial list is begun should be issued out of the Admiralty and Commercial Registry at the Royal Courts of Justice.
- 3.2 The claim form should, before it is issued, be marked with the words "Queen's Bench Division, Commercial Court" and on the issue of the claim form out of the said Registry the case will be entered in the commercial list.
- 3.3 Where a claim form is to be marked as mentioned in paragraph 3.2, any application before issue of the claim form should be made to a Judge.
- 3.4 If an application is made before issue of the claim form, the written evidence in support of the application must state, in addition to any other necessary matters, that the claimant intends to mark the claim form in accordance with paragraph 3.2.
- 3.5 If the Judge hearing an application made before the issue of the claim form is of the opinion that the case in question should not be entered in the commercial list, he may adjourn the application to be heard by a master or by a judge of the Queen's Bench Division who is not a judge of the Commercial Court.
- 4.1 At any stage of the proceedings of commercial proceedings not entered in the commercial list any party:-
 - (1) may apply to a Judge for an order transferring the proceedings to the commercial list; or
 - (2) may apply to the court where the proceedings are being dealt with for an order that they be transferred to the commercial list.
- 4.2 On an application under paragraph 4.1(2) the court may not itself make the order for transfer, but, if it considers the proceedings might be suitable to be entered in the commercial list, may adjourn the application for hearing by a Judge.

- 4.3 Where the Judge orders commercial proceedings to be transferred to the commercial list he may also order the proceedings to be transferred to the Royal Courts of Justice and at the same time may give directions for the management of the case.
- 4.4 A Judge may, on his own initiative, (but not unless the parties have had an opportunity of being heard or have consented) or on the application of any party, order proceedings in the commercial list to be removed from that list.
- 4.5 Where a commercial claim has been entered in the commercial list by virtue of paragraph 3.2, an application by a defendant, including a Part 20 defendant, to remove it from that list must be made within 7 days after the defendant has filed an acknowledgment of service or a defence, whichever is the later.

DISPENSING WITH PARTICULARS OF CLAIM OR DEFENCE

- 5. The Judge may at any time, before or after the issue of the claim form, order that proceedings in the commercial list be tried without the filing or service of particulars of claim or of a defence or of any other statement of case.

DIRECTIONS AND CASE MANAGEMENT

- 6.1 All proceedings in the commercial list will be allocated to the multi-track and the CPR relating to allocation questionnaires and track allocation will not apply.
- 6.2 (1) If proceedings are transferred to the commercial list following an application under paragraph 4, then, unless the Judge who made the order for transfer gave directions for the management of the case, an application to a Judge for such directions shall be made within 14 days of the date of the order of transfer.
- (2) If the claimant does not make an application in accordance with paragraph 6.2(1), any other party may do so, or may apply for the claim of the claimant in default to be struck out or dismissed.

SHIP'S PAPERS

- 7.1 Where in proceedings in the commercial list relating to a marine insurance policy an application for specific disclosure under Rule 31.12 of the CPR is made by the insurer, the Judge, if it appears to him to be necessary or expedient to do so, may make an order in such form as he thinks fit for the production of the documents specified in the order.
- 7.2 An order under this rule may be made at any stage of the proceedings and on such terms, if any, as to staying the proceedings or otherwise, as the Judge thinks fit.

ADMIRALTY AND COMMERCIAL REGISTRY

- 8.1 All administrative acts which under the Civil Procedure Rules or any Practice Direction are to be carried out by the Court office shall in relation to cases in the commercial list be carried out by or through the Admiralty and Commercial Registry.
- 8.2 All documents which under the Civil Procedure Rules are to be filed with the Court office shall in cases in the commercial list be filed with the Admiralty and Commercial Registry.
- 8.3 All claim forms, arbitration forms (see the Arbitration practice direction supplementing CPR Part 49) issued in and other documents filed with the Admiralty and Commercial Registry are (if they need to be served) to be served by the parties, not by the Admiralty and Commercial Registry.

THE COMMERCIAL COURT GUIDE

- 9.1 The first edition of the Guide to Commercial Court Practice was published in 1986. The most recent edition has been the Fourth Edition published in 1997.
- 9.2 With the approval of the Judges of the Commercial Court a Fifth Edition has been prepared and adopted by the Commercial Court Committee. The Fifth Edition (now entitled "The Commercial Court Guide") is designed to be introduced at the same time as the new Civil Procedure Rules and the practice directions that supplement them.
- 9.3 The Fifth Edition incorporates and adapts into one text provisions of the Fourth Edition and of the many Practice Directions and Statements appended to it. The revision also incorporates a number of new provisions.
- 9.4 The combined result is intended to be a Guide that will, in the specialist context of commercial cases, serve the "overriding objective" defined in CPR Part 1. The Guide will be kept under review by the Judges of the Commercial Court and by the Commercial Court Committee.
- 9.5 The practice of the Commercial Court set out in this revised edition should be followed from 26 April 1999, subject to the provisions of this or any other Commercial Court practice direction and to any order that may be made in an individual case.
- 10. This practice direction supersedes all previous practice directions and Practice Statements in the Commercial Court.