

# PRACTICE DIRECTION – ALLOCATION OF CASES TO LEVELS OF JUDICIARY

- 1.1 Rule 2.4 provides that Judges, Masters and District Judges may exercise any function of the court except where an enactment, rule or practice direction provides otherwise. This Practice Direction sets out the matters over which Masters and District Judges do not have jurisdiction or which they may deal with only on certain conditions. It does not affect jurisdiction conferred by other enactments. Reference should also be made to other relevant Practice Directions (eg Part 24, paragraph 3 and Part 26, paragraphs 12.1-10). References to Circuit Judges include Recorders and Assistant Recorders and references to Masters and District Judges include Deputies.
- 1.2 Wherever a Master or District Judge has jurisdiction, he may refer the matter to a Judge instead of dealing with it himself.

## THE HIGH COURT

### Injunctions

- 2.1 Search orders (rule 25.1(1)(h)), freezing orders (rule 25.1(1)(f)), an ancillary order under rule 25.1 (1)(g) and orders authorising a person to enter land to recover, inspect or sample property (rule 25.1(1)(d)) may only be made by a Judge.
- 2.2 Except where paragraphs 2.3 and 2.4 apply, injunctions and orders relating to injunctions, including orders for specific performance where these involve an injunction, must be made by a Judge.
- 2.3 A Master or a District Judge may only make an injunction
  - (a) in terms agreed by the parties;
  - (b) in connection with or ancillary to a charging order;
  - (c) in connection with or ancillary to an order appointing a receiver by way of equitable execution; or
  - (d) in proceedings under RSC Order 77 rule 16 (order restraining person from receiving sum due from the Crown).
- 2.4 A Master or District Judge may make an order varying or discharging an injunction or undertaking given to the court if all parties to the proceedings have consented to the variation or discharge.

### Other pre-trial Orders and Interim Remedies

- 3.1 A Master or District Judge may not make orders or grant interim remedies:
  - (a) relating to the liberty of the subject;

- (b) relating to criminal proceedings or matters except procedural applications in appeals to the High Court (including appeals by case stated) under any enactment;
  - (c) relating to a claim for judicial review, except that interim applications in claims for judicial review may be made to Masters of the Queen's Bench Division.
  - (d) relating to appeals from Masters or District Judges;
  - (e) in appeals against costs assessment under Parts 43 to 48, except on an appeal under rule 47.20 against the decision of an authorised court officer.
  - (f) in applications under section 42 of the Supreme Court Act 1981 by a person subject to a Civil or a Criminal or an All Proceedings Order (vexatious litigant) for permission to start or continue proceedings.
  - (g) in applications under section 139 of the Mental Health Act 1983 for permission to bring proceedings against a person.
- 3.2 This Practice Direction is not concerned with family proceedings. It is also not concerned with proceedings in the Family Division except to the extent that such proceedings can be dealt with in the Chancery Division or the Family Division eg proceedings under the Inheritance (Provision for Family and Dependants) Act 1975 or under section 14 of the Trusts of Land and Appointment of Trustees Act 1996. District Judges (including District Judges of the Principal Registry of the Family Division) have jurisdiction to hear such proceedings, subject to any Direction given by the President of the Family Division.

### Trials and Assessments of damages

- 4.1 A Master or District Judge may, subject to any Practice Direction, try a case which is treated as being allocated to the multi-track because it is proceeding under Part 8 (see rule 8.9(c)). He may try a case which has been allocated to the multi-track under Part 26 only with the consent of the parties. Restrictions on the trial jurisdiction of Masters and District Judges do not prevent them from hearing applications for summary judgment or, if the parties consent, for the determination of a preliminary issue.
- 4.2 A Master or a District Judge may assess the damages or sum due to a party under a judgment without limit as to the amount.

### Chancery Proceedings

- 5.1 In proceedings in the Chancery Division, a Master or a District Judge may not deal with the following without the consent of the Vice-Chancellor:-
- (a) approving compromises (other than applications under the Inheritance (Provision for Family and Dependants) Act 1975) (i) on behalf of a person under disability where that person's interest in a fund, or if there is no fund, the maximum amount of the claim, exceeds £100,000 and (ii) on behalf of absent, unborn and unascertained persons;

- (b) making declarations, except in plain cases;
  - (c) making final orders under section 1(1) of the Variation of Trusts Act 1958, except for the removal of protective trusts where the interest of the principal beneficiary has not failed or determined;
  - (d) where the proceedings are brought by a Part 8 claim form in accordance with paragraph A.1(2) or (3) of the Part 8B Practice Direction (statutory or other requirement to use originating summons), determining any question of law or as to the construction of a document which is raised by the claim form;
  - (e) giving permission to executors, administrators and trustees to bring or defend proceedings or to continue the prosecution or defence of proceedings, and granting an indemnity for costs out of the trust estate, except in plain cases;
  - (f) granting an indemnity for costs out of the assets of a company on the application of minority shareholders bringing a derivative action, except in plain cases;
  - (g) making an order for rectification, except for rectification of the register under the Land Registration Act 1925 in plain cases;
  - (h) making orders to vacate entries in the register under the Land Charges Act 1972, except in plain cases;
  - (i) making final orders on applications under section 19 of the Leasehold Reform Act 1967, section 48 of the Administration of Justice Act 1985 and sections 21 and 25 of the Law of Property Act 1969;
  - (j) making final orders under the Landlord and Tenant Acts 1927 and 1954, except (i) by consent, (ii) orders for interim rents under section 24A of the 1954 Act and (iii) on applications to authorise agreements under section 38(4) of the 1954 Act;
  - (k) making orders in proceedings in the Patents Court except (i) by consent, (ii) to extend time, (iii) on applications for permission to serve out of the jurisdiction and (iv) on applications for security for costs.
- 5.2 A Master or District Judge may only give directions for early trial after consulting the Judge in charge of the relevant list.
- 5.3 Where a winding-up order has been made against a company, any proceedings against the company by or on behalf of debenture holders may be dealt with, at the Royal Courts of Justice, by a Registrar and, in a District Registry with insolvency jurisdiction, by a District Judge.

## Assignment of Claims to Masters and Transfer between Masters

- 6.1 The Senior Master, and the Chief Master will make arrangements for proceedings to be assigned to individual Masters. They may vary such arrangements generally or in particular cases, for example, by transferring a case from a Master to whom it had been assigned to another Master.

- 6.2 The fact that a case has been assigned to a particular Master does not prevent another Master from dealing with that case if circumstances require, whether at the request of the assigned Master or otherwise.

### Freezing Orders: Cross Examination of Deponents about Assets

- 7 Where the court has made a freezing order under rule 25.1(f) and has ordered a person to make a witness statement or affidavit about his assets and to be cross-examined on its contents, unless the Judge directs otherwise, the cross-examination will take place before a Master or a District Judge, or if the Master or District Judge directs, before an examiner of the Court.

### Human Rights

- 7A A deputy High Court Judge, a Master or District Judge may not try-
- (1) a case in a claim made in respect of a judicial act under the Human Rights Act 1998, or
  - (2) a claim for a declaration of incompatibility in accordance with section 4 of the Human Rights Act 1998.

## COUNTY COURTS

### Injunctions and Committal

- 8.1 Injunctions which a county court has jurisdiction to make may only be made by a Circuit Judge, except:-
- (a) where the injunction is to be made in proceedings which a District Judge otherwise has jurisdiction to hear (see paragraph 11.1 below);
  - (b) where the injunction is sought in a money claim which has not yet been allocated to a track, where the amount claimed does not exceed the fast track financial limit;
  - (c) in the circumstances provided by paragraph 2.3.
- 8.2 A District Judge may make orders varying or discharging injunctions in the circumstances provided by paragraph 2.4.
- 8.3 A District Judge may not make an order committing a person to prison except where an enactment authorises this: see section 23 of the Attachment of Earnings Act 1971, sections 14 and 118 of the County Courts Act 1984, sections 152-157 of the Housing Act 1996, section 3 of the Protection from Harassment Act 1997, and the relevant rules.

### Homelessness Appeals

- 9 A District Judge may not hear appeals under section 204 or section 204A of the Housing Act 1996.

## Other pre-trial Orders and Interim Remedies

- 10.1 In addition to the restrictions on jurisdiction mentioned at paragraphs 8.1–3, paragraph 3.1(d) and (e) above applies.

## Trials and Assessments of Damages

- 11.1 A District Judge has jurisdiction to hear the following:-
- (a) any claim which has been allocated to the small claims track or fast track or which is treated as being allocated to the multi-track under rule 8.9(c) and Table 2 of the Practice Direction to Part 8, except claims:
    - (i) under Part I of the Landlord and Tenant Act 1927;
    - (ii) for a new tenancy under section 24 of the Landlord and Tenant Act 1954;
    - (iii) for an order under section 38 or 40 of the Landlord and Tenant Act 1987;
    - (iv) under paragraph 26 or 27 of Schedule 11 to or section 27 of the Agricultural Holdings Act 1986;
    - (v) under section 45(2) of the Matrimonial Causes Act 1973 for a declaration of legitimation by virtue of the Legitimacy Act 1976;
    - (vi) under section 35, 38 or 40 of the Fair Trading Act 1973; or
    - (vii) under Part II of the Mental Health Act 1983.
  - (b) proceedings for the recovery of land;
  - (c) the assessment of damages or other sum due to a party under a judgment without any financial limit;
  - (d) with the consent of the parties and the permission of the Designated Civil Judge in respect of that case, any other proceedings.
- 11.2 A case allocated to the small claims track may only be assigned to a Circuit Judge to hear with his consent.

## Freezing Orders: Cross Examination of Deponents about Assets

- 12 To the extent that a county court has power to make a freezing order, paragraph 7 applies as appropriate.

## Distribution of Business between Circuit Judge and District Judge

- 13 Where both the Circuit Judge and the District Judge have jurisdiction in respect of any proceedings, the exercise of jurisdiction by the District Judge is subject to any arrangements made by the Designated Civil Judge for the proper distribution of business between Circuit Judges and District Judges.

- 14.1 In District Registries of the High Court and in the county court, the Designated Civil Judge may make arrangements for proceedings to be assigned to individual District Judges. He may vary such arrangements generally or in particular cases.
- 14.2 The fact that a case has been assigned to a particular District Judge does not prevent another District Judge from dealing with the case if the circumstances require.

## Human Rights

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- 15 A district judge may not try a case in which an allegation of indirect discrimination is made against a public authority that would, if the court finds that it occurred, be unlawful under section 19B of the Race Relations Act 1976.