



Practice Note No 4 of 2006

The Chief Justice has authorised the issue of the following Practice Note.

Listing of Civil Matters in 2007

The Court is concerned about the inconvenience to the Court, the parties and lawyers that may result from the vacation of trial dates at a late stage. This has very often been the result of the case not being ready for trial. In an effort to reduce the risk of the late vacation of trial dates, the following procedures will be adopted as from 1 January 2007.

1. The procedures set out in this Practice Note shall apply to all cases other than:
 - a. cases in those lists where the managing judge is also the trial judge;
 - b. cases which have been set down early by or at the direction of the managing judge; and
 - c. cases which are in the nature of appeals or reviews.
2. Matters referred from Masters and Judges to the Listing Master for fixing will be allocated a directions hearing date within 2 to 4 weeks after the time the lawyers for the parties inform the Master or Judge that the case is ready for trial. No summons will be necessary. The process will be initiated by the Court.
3. Upon this directions hearing the lawyers for the parties must advise the Listing Master whether counsel has been retained for trial and the identity of counsel so retained.
4. No case will be allocated a trial date until after the matter has been to mediation.

5. In cases where witness statements and court books have been or are to be ordered, no case will be allocated a trial date until witness statements (lay and expert) have been delivered and court books prepared. The delivery of witness statements and the preparation of court books will usually occur after mediation has been completed. In some cases, a second mediation will be ordered immediately after the exchange of witness statements and preparation of the court book. This mediation will be well in advance of the trial date.
6. In all cases requiring a trial date, the lawyers for the parties must provide to the Listing Master a report in writing as to the status of the proceeding including the following information:
 - a. the current estimate of the length of the trial;
 - b. that there are no further amendments required to the pleadings;
 - c. that all discovery is completed; and
 - d. that all witness statements have been delivered and the court book has been prepared.

This report must be signed by counsel where counsel is to be retained for trial. Where it is not intended to retain counsel, the report must be signed by the solicitor with primary responsibility for the proceeding.

7. If, after the report is delivered, a solicitor or barrister for a party has reason to believe that the information provided is no longer accurate (whether the inaccuracy relates to that party's case or not), it is the responsibility of that lawyer to bring this to the attention of the Listing Master immediately.
8. Lawyers should expect that an application to vacate a trial date by reason of an inaccuracy in the report will be viewed with disfavour, especially where it is based upon any inaccuracy in the report which has not been brought to the attention of the Listing Master in accordance with the preceding paragraph. If, notwithstanding this, the trial date is vacated, appropriate orders as to costs thrown away may be made.

9. Lawyers should expect that, at the conclusion of the time estimated for the trial, the trial judge will stop the trial and make arrangements for the resumption of the trial at a later date. In such a case, appropriate costs orders as to costs thrown away by reason of the interruption of the trial may be made.
10. As of 1 January 2007, all matters in the Long Cases List fixed for trial, will be allocated to a specific judge two months prior to the trial date in order that the case can be managed by the judge until trial and disposition. In the normal course this judge will be the trial judge.

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18 December 2006