

# PRACTICE DIRECTION NUMBER 9 OF 2010

## SUPREME COURT OF QUEENSLAND

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### SETTING TRIAL DATES: CIVIL JURISDICTION BRISBANE

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#### 1. Introduction

- 1.1. This Practice Direction supersedes Practice Direction 4 of 2000, which is hereby repealed.
- 1.2. This Practice Direction applies to all matters where trial dates are sought in the civil jurisdiction in Brisbane.

#### 2. Information available electronically

The following information is available electronically ([www.courts.qld.gov.au](http://www.courts.qld.gov.au)):

- 2.1 sittings arrangements (court calendar)
- 2.2 the trial availability calendar.

Parties seeking trial dates must be familiar with that information, as applicable.

#### 3. Obtaining a trial date

- 3.1 A case may be included in the list of matters awaiting trial dates (“the trial list”) by:
  - 3.1.1 filing a Form 48 (Request for Trial Date) pursuant to Rule 467 of the Uniform Civil Procedure Rules; or
  - 3.1.2 order of the court.
- 3.2 A case on the Supervised Case List may be allocated trial dates directly through the Supervised Case List Manager.
- 3.3 A case on the Commercial List may be allocated trial dates directly by a Commercial List Judge.

#### 4. File a Form 48 (Request for Trial Date)

- 4.1 By filing a Form 48 (Request for Trial Date), you certify that the case is ready for trial and that all pre-trial steps have been completed. Annexed to this Practice Direction is a “Readiness Checklist” to assist you in ensuring you are ready for trial.

- 4.2 Form 48 obliges you to nominate three preferred dates for trial. Check the availability calendar before completing the Form 48.
- 4.3 When a case is referred to the trial list by order of the court, the party having carriage of the matter must, within 7 days of the date of the order, file with the relevant List Manager a document in the form of Form 48, but completing only parts A, B, D, E, G, H, I and J.
- 4.4 The Form 48, or the document referred to in para 4.3, must be filed by email to the relevant List Manager:
  - 4.4.1 for the **Supervised Case List**, the Supervised Case List Manager:  
e-mail: [supcasemanager@justice.qld.gov.au](mailto:supcasemanager@justice.qld.gov.au)  
fax: (07) 3247 5316  
phone: (07) 3247 4317
  - 4.4.2 for the **Commercial List**, the Commercial List Manager:  
email: [comcausemanager@justice.qld.gov.au](mailto:comcausemanager@justice.qld.gov.au)  
fax: (07) 3247 5316  
phone: (07) 3247 4301
  - 4.4.3 for **all other cases**, the Civil List Manager:  
e-mail: [civillistmanager@justice.qld.gov.au](mailto:civillistmanager@justice.qld.gov.au)  
fax: (07) 3247 5316  
phone: (07) 3247 4311

## 5. Allocation of trial dates

- 5.1 The relevant list manager will advise the parties by email of the date or dates allocated for trial.
- 5.2 If your case is not allocated a trial date it will be placed on a list of matters awaiting a trial date (“trial list”).
- 5.3 The Senior Judge Administrator may, on notice to the parties (which may be by telephone or email), review the progress of a matter on the trial list. At that review, unless there are exceptional circumstances, the matter will be set down for trial.

## 6. The review

- 6.1 Practitioners responsible for an appearance at a review should endeavour to communicate with the other parties, prior to the review, as to:
  - 6.1.1 suitable dates for trial, and
  - 6.1.2 any other issues bearing on the allocation of trial dates.
- 6.2 If a trial date has not been allocated by 2 pm on the business day prior to the review, the parties or their representatives must attend the review.

- 6.3 Persons attending a review must be familiar with the matter and its history and must expect it will be set down unless some compelling contrary consideration is advanced. Those attending the review should :-
- 6.3.1 be informed as to whether there are any outstanding issues or other matters impeding the setting of a trial date;
  - 6.3.2 be informed as to whether all prospects of settlement or compromise have been exhausted; and
  - 6.3.3 be in a position to give an informed and realistic time estimate.
- 6.4 If dates are available a case will be set down irrespective of whether the case has been referred to case appraisal or mediation. Parties should not assume that agreement between them that the matter be adjourned, or the non-availability of counsel, will be regarded as sufficient reason why the case should not be set down.

## **7. After the review/allocation of trial dates**

- 7.1 Trial dates will not be vacated by consent of the parties. Do not assume that, if an adjournment is not contested, the case will be adjourned. All applications for adjournment should be made in the Applications jurisdiction or to the specialist lists Judges.
- 7.2 Contested applications for amendments or in respect of disclosure should be made forthwith in the Applications jurisdiction rather than at trial. If a judge has been allocated for the trial, that judge should be asked whether he or she is able to hear the interlocutory application in advance of the commencement of the trial.
- 7.3 It is the responsibility of the solicitor or counsel for any party to advise the Civil List Manager forthwith, after becoming aware of it, that the time allocated to hear the matter will be inadequate.
- 7.4 Parties should make a genuine effort to provide realistic time estimates. Cases which overrun time estimates may be adjourned part heard to a date convenient to the Court. The date of any resumed hearing is at the discretion of the trial Judge.
- 7.5 The relevant list manager should be notified forthwith if:
- 7.5.1 the case has settled (see UCPR rule 308A);
  - 7.5.2 there is to be an application for adjournment, whether contested or not (the list manager will refer the case to a Judge and the parties will be notified accordingly);

- 7.5.3 that only a particular issue remains outstanding or for some other reason the case may require substantially less time than allocated.
- 7.6 The party having carriage of the case must ensure all filing, hearing and other fees are paid before the trial commences.

## ANNEXURE

### READINESS CHECKLIST

1. The **pleadings** are in final form and do not need any amendment.
2. **Disclosure** has been provided as required by the rules and a Form 24 is ready for presentation at the trial (rule 226).
3. Any order requiring that **particulars** be given has been complied with.
4. Answers to interrogatories (if any) have been delivered.
5. So far as you are concerned, **all necessary steps** in the proceeding are complete, including steps to obtain disclosure or inspection of documents, admissions (including the delivery of notices to admit, particulars and answers to interrogatories).
6. Counsel who are to conduct the trial have advised on evidence; or if it is not intended to engage counsel, solicitors have prepared memoranda on evidence.
7. All necessary **witnesses** are available.
8. There has been compliance with Practice Direction 2 of 2005 “Expert Evidence - Supreme Court”.
9. In proceedings subject to the *Motor Accident Insurance Act 1994*, *Workers’ Compensation and Rehabilitation Act 2003*, or the (repealed) *WorkCover Queensland Act 1996*, attention has been given to the requirements of Chapter 11 Part 5 of the Uniform Civil Procedure Rules.
10. If the matter involves **personal injury or fatal accident**, the provisions of Chapter 14 Part 2 of the Uniform Civil Procedure Rules have been complied with.
11. If your estimate of **the length of trial exceeds 5 days**, have you considered the case management issues canvassed by Practice Direction 6 of 2000 “Supervised Case List”.
12. The parties have given consideration to the Court’s taking evidence by telephone or video link in accordance with Practice Direction 1 of 2008 “Taking evidence by telephone and video link”.

13. The parties have considered resolution by alternate dispute resolution or settlement negotiations.
14. All necessary subpoenas for production of documents and notices requiring non-party disclosure have been issued.
15. Trial by **jury** is/is not required. If trial by jury is required:
- there is a right to trial by jury;
- trial by jury has been requested by which party;
- the party requesting trial by jury has paid into Court funds necessary to empanel the jury.
16. The legal practitioners with responsibility for the conduct of the trial have conferred and agreed on a plan which will ensure that:
- (a) trial preparation is conducted efficiently;
  - (b) a proportionate and efficient approach to the management of both paper and electronic documents is adopted;
  - (c) the plan includes the estimated duration of openings and each witness's evidence, the sequence in which witnesses will be called, the calling of expert witnesses (concurrently or consecutively), the calling of a witness by telephone or video-link, and the estimated duration of submissions;
  - (d) the trial plan is regularly reviewed prior to trial, by those with responsibility for the conduct of the trial, to ensure the trial finishes within its allocated period; and
  - (e) if the trial is not expected to finish within its allocated dates, the matter is listed for review and directions.
17. All necessary **fees** have been paid.
18. **Preferred trial dates** are: (check the availability calendar)
19. Dates to be avoided are:

Dates to be avoided	Reason



**Paul de Jersey**  
 Chief Justice  
 4 November 2010