

**PRACTICE DIRECTION  
NO 6 OF 2000**

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**SUPERVISED CASE LIST**

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### **Introduction**

1. Practice Direction 15 of 1996 is revoked.
2. Cases on the Supervised List are managed to effect their just and timely resolution with the minimum commitment of resources by the court and litigants necessary to achieve this. Longer or more demanding cases should expect a higher degree of supervision than shorter or less demanding cases.
3. Practitioners are encouraged to actively develop and implement a case management plan tailored to their particular case rather than rely on the court to do so.
4. Practitioners must be alive to the provisions of rule 5 of the Uniform Civil Procedure Rules, notably sub-rule (3) with its implied undertaking of expedition. The court expects that time provisions in rules, orders or directions will be complied with unless there is good reason for not doing so.

### **Case Listed**

5. Cases will be placed on the Supervised List where:-
  - a party estimates that the trial or hearing will take more than five days; or
  - where a case (or group of cases) is identified as imposing a greater than normal demand on resources because of considerations such as length of time, complexity of issues, multiplicity of parties.
6. Groups of cases may be listed if they have sufficient common or other features which make this desirable.

### **Management of the List**

7. The Supervised List Manager is responsible to the Senior Judge Administrator for the management of the Supervised List. The Manager will generally be the first point of contact about the Supervised List. The Manager may be contacted by e-mail: [supcasemanager@justice.qld.gov.au](mailto:supcasemanager@justice.qld.gov.au), facsimile: (07) 3247 5316 and telephone: (07) 3247 4317. Contact by e-mail is encouraged.

## **Arranging Listing**

8. The Supervised List Manager may notify the parties that it is intended to review a case to consider if it should be listed and directions given for its conduct.
9. A judge may direct a case be listed.
10. A party may apply to have a case listed by communicating to the Supervised List Manager identifying the case or cases, succinctly stating the nature of the case, the stage it has reached and the facts justifying it being listed. A copy of this communication should be provided to the other parties. The Supervised List Manager will then notify the parties when it will be listed to determine whether it should be listed and directions given.

## **How Cases are Managed**

11. Cases on the Supervised List are managed by regular review hearing, in the light of the considerations raised by the checklist (Annexure A) and subsequent reviews and reports. So far as is practicable applicable shortform orders in the terms contained in Annexure B, Column A (adapted, where necessary, to the circumstances of the particular case) should be used.
12. Only directions matters, eg. steps in the action and matters dealt with by the checklist and shortform orders and consent orders, will be dealt with at a review hearing. Contested applications concerning pleadings, particulars, disclosure, security for costs and the like must be dealt with by application returnable in the applications jurisdiction in the normal course. It is not necessary to obtain leave for such an application.
13. Legal representatives are encouraged to communicate and identify areas of agreement and of difference prior to a reporting date (when one is nominated) or a review when one is not. Agreement may be communicated to the Supervised List Manager and if it is acceptable a directions order may be made without the necessity of appearance OR the matter may be listed for review. Unless otherwise notified, the parties must be represented at a review hearing.
14. The times for carrying out steps in directions will normally require them to be done by specified dates or (exceptionally) in terms of "x" days before the trial date rather than within a nominated number of days.
15. Non-compliance with a direction may, on the application of a party or on the court's own motion, result in:
  - an order pursuant to rule 371(2);
  - a non-complying party being deprived of the costs of late compliance;
  - a non-complying party may be ordered to pay the other party's costs thrown away by non-compliance which may be fixed and payable forthwith;
  - the non-complying party may be ordered to pay as a sanction an administration charge of \$75.00;
  - the Supervised List Manager may be directed to write directly to the non-complying party informing that party of the non-compliance and any orders made in respect of it;
  - the matter may be listed for trial notwithstanding non-compliance.
16. Generally speaking trial dates are obtained as a consequence of filing a request for trial pursuant to rule 469. A trial date will then be allocated in the normal course of events either electronically or at a callover (see Practice Direction 4 of 2000).
17. In exceptional circumstances, for example, length of trial or complexity, a trial date will be allocated directly by the Senior Judge Administrator through the Supervised List Manager.
18. Matters on the Supervised List are not, on that account alone, accorded a particular priority of hearing. Priority will normally be determined by the date of filing of a

request for trial pursuant to rule 469. A judge may, however, in appropriate circumstances, order the case have a different priority.

### **Once a Case is on a Callover List or Allocated a Trial Date**

19. Once a matter on the Supervised List has been placed on the callover list or allocated a trial date, the Supervised List Manager MUST be notified forthwith a legal representative of any party becoming aware of:
  - non-compliance with any direction or rule;
  - any proposal to amend a pleading;
  - any proposal to make an application;
  - any change in the estimated length of the trial;
  - any change of solicitor;
  - any proposal to apply for an adjournment;
  - anything which might affect the matter proceeding to trial on the date allocated;
  - that the matter has been settled.
20. The sooner the Supervised List Manager is advised of a prospective overrun of the estimated trial time the better the prospects of accommodating it but it must not be assumed the judge will continue to sit on or to conclude it.

### **Further Information**

21. Further information about the Supervised List may be found on the court website ([www.courts.qld.gov.au](http://www.courts.qld.gov.au)).

**(Paul de Jersey AC)**  
Chief Justice

28 September 2000

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**ANNEXURE 'A'**

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The purpose of this questionnaire is to collect information which is useful in developing a case management plan for the particular case and in the management of the Supervised Case List. It is not a formal court document and answers are not binding for the future.

This form can be completed online and e-mailed to the court. Click on the link [Annexure A Form](#) to access the form. This form can be lodged by e-mail to [supcasemanager@justice.qld.gov.au](mailto:supcasemanager@justice.qld.gov.au) or faxed to (07) 3247 5316

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No. \_\_\_\_\_ of \_\_\_\_\_

1. What is your current best estimate of the length of a trial of this case (or group)?:  
 1 – 5 days       5 – 10 days       10 – 20 days  
 more than 20 days
2. What is your current best estimate of how much money is at issue?:  
 \$250,000 - \$500,000       \$500,000 - \$1,000,000  
 \$1,000,000 - \$5,000,000       \$5,000,000 - \$10,000,000  
 \$10,000,000 +
3. What category best describes this case (select no more than two)?:-  
 construction dispute       contract dispute  
 fraud/misrepresentation (including Trade Practices Act)  
 money claim       negligence       personal injury  
 professional negligence       none are applicable
4. Identify two key issues to the resolution of the dispute:  
 basis of calculation of damages       construction of contract  
 credibility       differences in expert opinion  
 quantum of damages       none is applicable
5. (a) What has been done to date to resolve this dispute short of trial?:  
 settlement conference       mediation       case appraisal  
(b) Should a:-

settlement conference       mediation       case appraisal  
 be:-     now                       later                       not at all

6. Is the case fully constituted? ie:
- All parties to be joined are joined:                       Yes     No
- The pleadings are closed:                                       Yes     No
- Notices claiming contribution are filed and served:     Yes     No
- Third party pleadings completed.                             Yes     No
- There is no known intention to amend:                       Yes     No
- There are no outstanding requests for particulars:         Yes     No

7. Has consideration been given to making an offer of settlement pursuant to the rules?:
- Yes                       No

8. Has consideration been given to applying for summary judgment under rule 292 or 293?:
- Yes                       No

9. (a) Is disclosure completed?:
- Yes                       No
- (b) Is it intended to pursue non-party disclosure?:
- Yes                       No                       Uncertain

Note: The Court encourages parties to use technology to manage information more efficiently in both the preparation and trial stages. The sooner the issues this raises is addressed the better. It can commence with the electronic exchange of pleadings and electronic disclosure. In appropriate cases, the court can be provided with electronic versions of documents. There is an information pamphlet on the use of technology in trials. If you have any queries, contact the Supervised List Manager.

10. (a) Are there more than a total 500 discoverable documents between the parties?:
- Yes                       No

If yes:

- (b) (i) has consideration been given to the electronic exchange of information?:

Yes                       No

- (ii) If yes, state the position briefly:

.....

.....

.....  
.....  
(iii) If no, why not?:  
.....  
.....  
.....  
.....

(c) (i) Has consideration been given to the electronic management of documents or other aids at trial?:

Yes  No

(ii) If yes, state the position briefly:

.....  
.....  
.....  
.....

(iii) If no, why not?

.....  
.....  
.....  
.....

11. If the documents are not to be managed electronically, should there be a direction in terms of the standard form order number 6?:

Yes  No

12. Is the case one where there are numerous separate contentious items? If so, should there be a direction in terms of the schedule in terms of standard form order number 8?:

Yes  No

13. Is the case or any aspect of it suitable for referral to a special referee pursuant to rule 501?:

Yes  Uncertain  
 No  Have not considered it

14. Is the case or any aspect of it suitable for an order for a separate decision on a question or questions pursuant to rule 483?:

Yes  No  
 Uncertain  Have not considered it

15. (a) Is a notice to admit pursuant to rule 189 contemplated?:

Yes  No

- OR -

(b) been given?:

Yes  No

16. (a) Will there be any opinion (expert) evidence (including from a party)?:

Yes  No

(b) If yes, should the court consider appointing an expert pursuant to rule 425?:

Yes  No  
 Uncertain  Have not considered it

(c) Should there be directions in terms of short form orders 11-13?:

Yes  No

17. Should there be provisions for witness statements to go to the parties prior to the trial in the form of standard form order number 22?:

Yes  No

18. Should each party provide to the other(s) a written outline of contentious issues and identify relevant authorities and statutory provisions?:

Yes  No

19. Is the matter ready for trial?:

Yes  No

If no, when will it be ready for trial?:

.....  
.....  
.....  
.....  
.....  
.....  
.....

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**SHORT FORM ORDERS  
ANNEXURE 'B'**

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**Introduction**

The Supervised List Manager may be contacted at e-mail: [supcasemanager@justice.qld.gov.au](mailto:supcasemanager@justice.qld.gov.au); facsimile: (07) 3247 5316 and telephone: (07) 3247 4317.

These short form orders are not intended to be exhaustive and practitioners should consider the application of other provisions of the rules.

Practitioners are however **encouraged** to use applicable short form orders, modified to the circumstances of the particular case where necessary. If this can be done it greatly simplifies the administration of the list.

It is nevertheless essential that practitioners apply their professional judgment to the directions to be given to implement a dispute resolution plan in their particular case. All directions are not applicable in all cases and directions which do apply may need to be varied to reflect particular circumstances.

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**Effect of Short Form Orders**

1. An order in terms of column A or an adaptation thereof carries with it the obligation specified in column B and is sufficient for all purposes.
2. A short form order is to be construed so as to give effect to the philosophy and purpose of the Uniform Civil Procedure Rules and Practice Direction 6 of 2000 and without technicality or evasion.



3. Orders should normally provide for steps to be carried out by a specified date or within a specific number of days before the trial date rather than within a nominated number of days.

For example:

- (a) Direct the plaintiff provide a mediation program by [*date*].
  - (b) Plaintiff's statements 21 days before trial date.
4. The court expects directions as to time will be complied with unless there is good reason for not doing so; see the 'Notification - Supervised Case List - The Consequences of Failure to Comply with Court Directions' dated 14 August 2000 at [www.courts.qld.gov.au](http://www.courts.qld.gov.au).
  5. A reference to *lodge, report, deliver, provide* to the Supervised List Manager may be complied with by e-mail, fax or delivery of the report.
  6. Where no party is nominated to initiate or otherwise carry out a particular direction, the party having carriage of the action shall have that responsibility.

### Short Form Orders

Column A (Short form order)	Column B (Consequent effect)
1. Direct a report to the Supervised List Manager by 4:00 pm on [ <i>date</i> ].	A report dealing with the then current state of the proceedings in terms of steps towards its resolution, short of trial or by trial and how it is intended from that point to progress the action to resolution should be lodged with the Supervised List Manager (e-mail: <a href="mailto:supcasemanager@justice.qld.gov.au">supcasemanager@justice.qld.gov.au</a> , fax: (07) 3247 5316 or mail) by the time and date specified.

### SETTLEMENT CONFERENCE

2. Direct the parties confer without prejudice and report by [ <i>date</i> ].	The parties confer "without prejudice" for the purpose of resolving or narrowing the points of difference. A representative of each party who is familiar with the substance of the litigation and with authority to compromise it shall participate. At such conference the parties shall in any event confer with respect to the issue of damages with a view to reaching agreement as to rates, calculations and other matters bearing on the calculation of damages. The parties shall lodge with the Supervised List Manager a report signed by the representative of each party present at the conference certifying that the conference has been held and stating the substance of any resolution which has been arrived at or that there has been no resolution.
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### CASE APPRAISAL - MEDIATION

3. (a) Direct [ <i>party</i> ] to provide a case appraisal/mediation program to [ <i>the other</i>	[ <i>Party</i> ] to formulate and provide a written proposal to the [ <i>other party/parties</i> ] for case appraisal and/or mediation, such proposal to identify such steps and times for the taking of
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party/parties] by [date].

such steps as [party] considers appropriate including, but not limited to, identifying the proposed case appraiser or mediator, or a panel of proposed case appraisers or mediators, the issue(s) to be determined upon the case appraisal or mediation, where the case appraisal or mediation ought to be staged, the procedures proposed for agreeing a bundle of documents to be provided to the case appraiser or mediator, a statement of issues and submissions.

(b) Response by [date].

Respond in writing by [date] to such proposal, identifying the elements of agreement and disagreement, and any alternative proposals which the defendant might have.

A copy of the proposal and response is to be lodged.

The parties may file a consent order at any time and it will not then be necessary to take any further steps pursuant to this direction.

4. Refer the matter to case appraisal or mediation.

The order should comply with s 101 of the *Supreme Court of Queensland Act 1991* and rule 318 (See Annexure C)

#### SETTLEMENT OFFER

5. Settlement offer by [date].

An offer of settlement to be made in accordance with the rule 353.

#### DOCUMENT MANAGEMENT PRE-TRIAL

##### **Electronic**

6. The parties discuss and report on the use of technology by [date]

The parties:

- (a) discuss how best to use technology to exchange information about their documents and documents to be admitted into evidence.
- (b) make all reasonable efforts to agree on such matters as:
  - (i) the medium to be used to exchange data concerning their discoverable documents;
  - (ii) how data should be delimited;
  - (iii) the format of the data eg. whether it should be in ASCII text format or some other agreed format;
  - (iv) how the parties will record the date of service of the data and ensure that the party providing the data and the nature of the data may be readily identified eg. by appropriate labels on any disks or other media used to exchange data;
  - (v) the terms and conditions on which

- data will be exchanged.
- (c) how it is proposed to use technology at a trial.
  - (d) report to the Supervised List Manager by [date] as to the outcome stating succinctly:
    - (i) what is agreed;
    - (ii) what remains to be agreed;
    - (iii) what is in dispute and the basis of the dispute.
7. Disclosure should be by exchanging electronic data bases in accordance with the annexed protocol [to be agreed or determined by the court].
- Pending the development of the court's own Practice Directions parties may be guided by NSW Practice Note No 105 of 1999 or the Victorian Practice Note No 3 of 1999 (NOTE: to arrange contact with the court's technical staff, contact the Supervised List Manager).

### SCHEDULE OF CONTENTIOUS ITEMS

8. (a) Direct [name of party] to submit a schedule of contentious items by [date].
- The party is to submit to the other party/parties a concise schedule of defects materials supplied/work performed or otherwise as the case requires in contention and common to all parties and/or discrete to a particular party containing:
- (a) six columns headed, respectively, from left to right, "item number", "provision of contract etc", "nature of complaint", "amount claimed", "response to complaint", "response to amount claimed". The first four columns from left to right shall be completed by the party making the allegations as follows:
    - (i) with item numbers in sequence, to relate to each item of allegation;
    - (ii) with identification of any contractual or other documented provision relied on in respect of the item, preferably by date, clause and page number where possible.
  - (b) Each party to whom the pleading is delivered shall complete the last two columns in the schedule as follows:
    - (i) answering concisely each item of complaint which relates to him, so as to disclose clearly the extent of any concession and denial and the basis of the latter;
    - (ii) dealing with the quantum of the amount claimed in respect of the items as to whether it is excessive or otherwise in the event of the item being made out.
  - (c) The answer in respect of each item, as referred to in paragraph (b) hereof, shall be specific to that item. It is to be read subject to any defence pleaded which applies

generally to the whole of the claim or to particular components of it and it is not necessary to repeat the plea of such a defence in the schedule.

- (d) The completion by the recipient of the column for response to amount claimed shall in no way prejudice a denial of liability in respect of that item or constitute an admission of liability for all or any particular sum in respect of the item.
- (e) The party delivering such schedule may, if appropriate to the particular case, add to or vary the format of the schedule, provided the addition or variation will facilitate the clearer definition of the precise matters of dispute.
- (f) The party/parties to whom such schedule is delivered shall return the schedule duly completed (in so far as it applies to him/her/them) to the party who delivered it.
- (g) The due completion and delivery of such schedule shall, subject to either party's entitlement to ask for further particulars where such particulars are essential to apprise that party of the nature of the case he/she/they has/have to meet, constitute the provision of sufficient particulars of each party's pleading in respect of each item dealt with by the schedule.
- (h) Any party is at liberty to seek directions with respect to any matters arising in relation to the requirement to complete any part of a schedule.

(b) Response by *[date]*.

#### **SEPARATE QUESTION (UCPR 482-486)**

9. Refer [set out separate question or issue in terms of rules 482, 483, 486].

The specified question or questions is referred for separate decision pursuant to rules 483-486 subject to a direction.

(b) *[any consequential directions]*.

#### **SPECIAL REFEREE (UCPR 501-506)**

10. Refer (here state question of fact) to *[name]* as special referee to decide, give a written opinion, special referee, remuneration be, etc.

#### **EXPERTS**

11. (a) Appoint [*name*] as a court expert to enquire into the question of (specify the question or questions). [rules 425-428]
- [*any instructions or directions pursuant to rule 425 (1)(d),(e)*].
- (b) Remuneration is fixed as follows [*insert*]:
- (c) [*Parties*] are liable to pay the expert's remuneration.
- (d) Report by [*date*].
12. Expert reports by [*date*]. (rule 423)
- The party has to provide to the other(s) documents containing the substance of the evidence (including qualifications) of any expert whose evidence is to be relied upon at the trial. Evidence not so notified shall not be received at the trial save by the leave on such terms as to costs or otherwise as seems appropriate. Save in special circumstances a party should adduce evidence from only one expert on any question on which the opinion of an expert might be given.
13. Direct that [*names*] experts confer and report by [*date*].
- The nominated experts to confer with a view to identifying and clarifying any issues arising within their area of expertise for the purpose of resolving or narrowing the points of difference between them.
- After the conclusion of the conference the experts shall lodge with the Supervised List Manager a report signed by each expert certifying that they have conferred and stating the outcome of their conference by succinctly identifying where they are in agreement and where they are not; in the latter case stating the basis of disagreement. A copy of the report shall be provided to the solicitors for the parties.

## DOCUMENT MANAGEMENT AT TRIAL

### ***Electronic***

14. Parties to consider whether data relating to their discoverable documents should be provided to the court and report to the Supervised List Manager by [*date*].
15. If the parties have used

databases, or databases and images, to facilitate disclosure and inspection, the parties should report to the Supervised List Manager about how best to use technology at the hearing by [date].

For example, the parties' discovery databases could form the basis for an index to the agreed bundle, or for the creation of a database of documents admitted into evidence and rulings on the admissibility of documents.

16. The parties shall consider:
- (a) the equipment and services (including appropriate hardware, software and additional infrastructure) that they and the court may require at the trial; and
  - (b) the arrangements that may need to be made between the parties, the court and any third party service providers to ensure that appropriate equipment and services are available at the hearing and report to the Supervised List Manager by [date].

### **Hard Copy**

17. (a) [Party] submit index to documents by [date].

The party nominated submit to the other(s) an index for a bundle of documents (normally in chronological order) (including plans, drawings, photographs etc) to be provided to the trial judge and which it seeks to have admitted into evidence.

- (b) Response to index by [date].

The other party/parties to respond by accepting the index or identifying in some distinctive way, which of the documents in the index submitted is contentious and stating succinctly the basis upon which it is contentious and adding (in a distinctive way) a reference to any additional documents which the party says should be included in the bundle.

- |  |   |
|--|---|
| (c) Index finalised by [date].         | The party having carriage of the action prepare a consolidated index of documents, and where there are objections to particular items, the objections and the succinct statement of the bases of the objections.<br><i>All objections will be determined by the trial judge prior to documents the subject of objection being admitted into evidence.</i> |
| (d) Collection finalised by [date].    | The party having carriage of the action prepare an indexed collection of documents arranged in chronological order.   |
| (e) Final collection lodged by [date]. | An updated complete and final index and collection be lodged to be provided to the trial judge.<br><i>No party shall be entitled to tender in evidence at the trial any document not in the bundles lodged, save with the leave of the trial judge and on such terms and conditions as the trial judge imposes.</i>                                       |

### **CHRONOLOGY**

- |   |  |
|---|--|
| 18. (a) [Name of party] to submit a chronology by [date]. | The party named to submit to the other parties a concise chronology of the events relevant to the determination of the action or matter.   |
| (b) Response by [date].                                   | Each of the other parties shall then, by the nominated date, respond with any additions to the chronology or identify any contentious dates or events. Such additions and contentious dates are to be identified by eg. underlining, different print style, or colour.<br>The chronology or response is not to be couched in contentious language.<br>If convenient it should be cross-referenced to the relevant documents by reference to the agreed bundle index and to any witness statements, if appropriate. |
| (c) Chronology finalised by [date].                       | A consolidated chronology is to be finalised.  |
| (d) Lodge chronology by [date].                           |  |

### **PLEADINGS, ISSUES AND CONTENTIONS**

- |   |   |
|---|---|
| 19. Direct [name of party] to submit a statement of issues by [date]. Response by [date]. | The party first named to submit to the other party/parties a concise statement of not more than some 2 or 3 pages of the issues which it contends are outstanding at that stage of the action by the date specified.<br>The other party or each of the other parties shall then, by the nominated date, indicate in writing:<br>(a) whether they agree as to the issue(s) |
|---|---|

- outstanding;
- (b) provide an alternative statement of outstanding issue(s);
- (c) add any additional outstanding contentious issue(s);
- (d) identify any issue(s) which is/are conceded as no longer contentious and for which no evidence will be required to be called.

If the case is one in which numerous items (eg. heads or terms of damages) are in contention the required statement to be in the form of a schedule containing:

- (a) the plaintiff's claim;
- (b) contention in support ;
- (c) the amount claimed;
- (d) a reply by the defendant(s) in respect of each item, dealing also with the quantum of each if relevant.

20. Outlines of contentions by [date]. Each party provide to the other(s) a succinct written outline, arranged under headings containing contentions and identifying relevant authorities and statutory provisions.

#### **WITNESS LISTS AND WITNESS STATEMENTS**

21. Direct the exchange of ["preliminary"/"final"] witness lists by [date]. Each party shall submit to the other and lodge in the Court a ["preliminary"/"final"] list of that party stating in relation to each person(s) whose evidence is to be relied on at the trial.
- (a) the full name and occupation and address of the person;
  - (b) the curriculum vitae of any expert witness;
  - (c) a brief summary of evidence to be given;
  - (d) the estimated duration of evidence-in-chief of the witness;
  - (e) whether a signed proof of evidence has been taken. Whether the statement is suitable for exchange.
- Save with the leave of the Court, no party may adduce evidence from any person not named in the list.
- Where a party determines at any time that it will not call a witness included on the list, the party shall immediately advise all other parties of this decision.
- (f) Each party will serve on each other party a signed written statement of the proposed evidence in chief of each witness (save expert witnesses) to be called by that party; any statement which is purely responsive to material contained in the statement served by any other party and which concerns an issue on which that other party bears the onus of proof, will be served prior to the date fixed for commencement of trial.
  - (g) If an intended witness whose statement has



been served in accordance with paragraph (a) hereof does not give evidence at the trial, no party may put the statement into evidence at trial save with the leave of the court.

- (h) Where the party serving the statement does at trial call the intended witness:
  - (i) that party may not, without the leave of the court, lead evidence from that witness if the substance of the evidence is not included in the statement served;
  - (ii) the court may direct that the statement, or any part of it, stand as the evidence in chief of the witness.
- (i) Save with the leave of the court, no party may adduce evidence from any witness whose statement has not been served in accordance with paragraph (a) hereof.
- (j) Nothing in this order deprives any party of his/her/its right to treat any communication as privileged, or make admissible evidence otherwise inadmissible.

22. Direct the exchange of witness statements by [date].

- (a) Each party will serve on each other party a signed written statement of the proposed evidence-in-chief of each witness (save expert witnesses) to be called by that party; any statement which is purely responsive to material contained in the statement served by any other party and which concerns an issue on which that other party bears the onus of proof, will be served prior to the date fixed for commencement of trial.
- (b) If an intended witness whose statement has been served in accordance with paragraph (a) hereof does not give evidence at the trial, no party may put the statement into evidence at trial save with the leave of the court.
- (c) Where the party serving the statement does at trial call the intended witness:
  - (i) that party may not, without the leave of the court, lead evidence from that witness if the substance of the evidence is not included in the statement served;
  - (ii) the court may direct that the statement, or any part of it, stand as the evidence-in-chief of the witness.
- (d) Save with the leave of the court, no party may adduce evidence from any witness/witnesses statements which have not been served in accordance with paragraph (a) hereof.
- (e) Nothing in this order deprives any party of his/her/their right to treat any communication as privileged, or make admissible evidence otherwise inadmissible.

**PRACTICE DIRECTION  
NO 6 OF 2000**

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**ANNEXURE 'C'**

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IN THE SUPREME COURT

OF QUEENSLAND No. \_\_\_\_\_ of \_\_\_\_\_

BETWEEN:

AND:

AND:

**REFERRING ORDER**

JUDGE:

DATE OF ORDER:

Document initiating this hearing:

IT IS ORDERED THAT:

1. *[Insert names of parties]* are directed to participate in, and act reasonably and genuinely in, a *[mediation/case appraisal]* to be conducted at *[insert time of commencement and address of venue]*.
2. The *[mediator/case appraiser]* is *[insert name or state that the mediator/case appraiser is to be selected by the parties]*.
3. The solicitors for the parties shall give to the *[mediator/case appraiser]* within 3 days from the date of this order all documents (or copies) of all documents required for the mediator/case appraiser to proceed.

**– OR –**

Copies of the following documents are attached to this order to help the *[mediator/case appraiser]*:

*[attach enough information about pleadings, statements of issue or other documents to inform the mediator/case appraiser of dispute and the present stage of the proceeding]*.

4. The period of *[mediation/case appraisal]* is fixed at a maximum of *[insert number of hours or days]* and may extend beyond the period only with the authorisation of the parties.

**– OR –**

The estimated maximum period of the *[mediation/case appraisal]* is *[insert period]*.

5. The costs of the [*mediation/case appraisal*] are fixed at [*insert lump sum*].

– OR –

The costs of the [*mediation/case appraisal*] are fixed at \$[*per hour or day*] up to a maximum of [*insert number of hours or day*].

– OR –

The parties are to negotiate a fee with [*insert name of mediator/case appraiser*].

6. The parties are to pay the following percentages of the costs:

[*name of party*] [*insert %*]

[*name of party*] [*insert %*]

7. The parties must pay [*their respective percentages of the costs/the fee negotiated by the parties with the mediator/case appraiser*] to the Registrar by [*insert date not later than 7 days after the date of the order*].

8. (a) Any interlocutory disputes are to be referred in the first instance to the mediator before any application to the court.
- (b) If there is to be an application to the court in respect of an unresolved interlocutory dispute, the contending party is to write to the other(s) in a concise non-tendentious fashion setting out the relief it claims to be entitled to and the basis for it. The letter should state a reasonable time for a response.
- (c) Any response shall state in a concise and non-tendentious fashion the position of the responding party and the reasons for it.
- (d) In the event of an application to the court, the letters referred to in the preceding paragraphs shall be annexed to the summons and no other material will be filed save in exceptional circumstances to be identified by the affidavit.
- (e) If the mediation does not result in the resolution of matters in issue between the parties, the mediator shall:
- (i) endeavour to narrow and clarify outstanding issues and, so far as is relevant, to record matters not in issue; and
  - (ii) facilitate the production of a statement of the outstanding issues signed by the parties' legal representatives.

DEPUTY REGISTRAR

## NOTE

1. Under rule 321 the dispute and all claims in it are stayed unless the court orders otherwise. You should therefore make an appropriate provision if you do not want a stay.
2. A mediator must start a mediation as soon as possible after the mediator's appointment and try to finish the mediation within 28 days after the appointment [rule 324].
3. At the case appraisal, the case appraiser must finish the case appraisal as quickly as possible.  
[s 104(1)(c) *Supreme Court of Queensland Act 1991*]