

SUPREME COURT OF QUEENSLAND

PRACTICE DIRECTION NO 3 OF 2002

COMMERCIAL LIST

Purpose

1. The purpose of this Practice Direction is to establish a Commercial List to effect the expeditious resolution of commercial matters. The Commercial List will commence to operate on 1 May 2002.

Application

2. The Chief Justice in consultation with the Senior Judge Administrator may from time to time allocate any one or more judges to conduct the Commercial List ("the Commercial List Judges"). The inaugural Commercial List Judges will be Muir and Chesterman JJ..
3. Subject to any direction by the Chief Justice in consultation with the Senior Judge Administrator, the Commercial List will be conducted by the Commercial List Judges.
4. The Commercial List Manager within the Registry is responsible to the Commercial List Judges for the administration and management of the Commercial List. The inaugural Commercial List Manager will be Mr E Kempin, Senior Deputy Registrar.
5. The Commercial List Manager will generally be the first point of contact about the Commercial List and may be contacted by email (comcausemanager@justice.qld.gov.au), fax ((07) 3247 5316), telephone ((07) 3247 4301). Contact by email is encouraged.
6. The Commercial List Manager and the Associates to the Commercial List Judges will liaise to ensure the Judges and the Registry are kept well informed about matters on the Commercial List.

Nature of listed proceedings

7. (a) A proceeding may be listed on the Commercial List if:
 - (i) the issues involved are, or are likely to be, of a general commercial character, or arise out of trade and commerce in general, and
 - (ii) the estimated trial time is 5 days or less, although a case on the Supervised Case List may be assigned by the Judge responsible

for that List to a Commercial List Judge, and will then be regarded as included on the Commercial List.

- (b) The Commercial List Judges have a discretion as to the entering and retention of matters on the Commercial List. It may be expected priority will be given to urgent matters.
- (c) Without being exhaustive, proceedings which involve, or are likely to involve, any one or more of the following may be regarded as of a general commercial character, or as arising out of trade or commerce in general:
 - (i) construction of a business contract or a commercial document;
 - (ii) insurance and re-insurance;
 - (iii) provision of banking and financial services;
 - (iv) provision and enforcement of securities of any kind;
 - (v) business and commercial agents;
 - (vi) exploitation of or rights to technology;
 - (vii) entitlement to intellectual property;
 - (viii) takeovers;
 - (ix) exporting or importing of goods;
 - (x) carriage of goods by land, sea, air or pipeline for commercial purposes;
 - (xi) arbitration and proceedings arising under the Commercial Arbitration Act 1990;
 - (xii) exploitation of natural resources;
 - (xiii) conduct or operation of markets and exchanges.
- (d) Proceedings which concern the above topics but exhibit no serious commercial element, or in which there is no real dispute, should not be listed on the Commercial List.

Applying for listing

- 8. A proceeding may be listed on the Commercial List upon application to a Commercial List Judge or by the Senior Judge Administrator.
- 9. Unless otherwise directed, an application to have a proceeding listed on the Commercial List may be made only:
 - (a) after the claim or originating application has been served on the defendants or respondents;
 - (b) after the views of the defendants or respondents as to its listing have been sought by the applicant;
 - (c) on service of an application to list together with a supporting statement, on the other parties to the proceedings, on at least two clear business days' notice.

10. Prior to filing a listing application the solicitor for an applicant must contact the Commercial List Manager or the Associate to a Commercial List Judge and ascertain a date and time for the hearing and the identity of the Commercial List Judge before whom the application will be heard.
11. An application for listing and a listing statement may be filed by email or fax. Email filings are encouraged.
12. (a) A listing application is to be made by application supported by a statement made in accordance with this practice direction ("a listing statement").

(b) The form of a listing statement should substantially comply with schedule A. The statement must include:
 - (i) a succinct statement of the nature of the dispute;
 - (ii) brief particulars of the issues said to arise and why their nature warrants determination via the Commercial List;
 - (iii) a statement whether or not the other party or parties agree that the proceeding should be listed;
 - (iv) a statement, avoiding undue formality, of the applicant's contentions in relation to the proceedings, which should identify:
 - (A) the general facts on which the applicant relies in seeking relief;
 - (B) the legal grounds, including statutory rights, relied on;
 - (v) details of any considerations of urgency;
 - (vi) a timetable for the progress of the action to resolution, including estimated trial length.
13. An applicant for listing should prepare a draft order setting out the directions sought on the return of the application. The draft is to be delivered by the applicant to the Commercial List Judge who is to hear the application, and to the other party or parties, not later than 24 hours prior to the time set for the hearing. Any consent by respondents should be endorsed on the draft. In the event of agreement by the parties, a Commercial List Judge may without more proceed to include the proceedings on the Commercial List, obviating the need for a hearing.
14. There will be no appeal from a decision to include proceedings on the Commercial List (see *Commercial Causes Act 1910* s 4(2).)

After listing

15. Upon the entering of a proceeding on the Commercial List, the Commercial List Judge making the listing will designate a Commercial List Judge to be responsible for the case.
16. Thereafter, subject to any direction from time to time by the Senior Judge Administrator, it is intended that all interlocutory applications and the trial of the proceedings be conducted, if practicable, by a Commercial List Judge.

17. A Commercial List Judge may give leave for an application to be brought in the applications jurisdiction.

Directions

18. (a) The Commercial List Judges may make such orders or give such directions as appropriate to ensure the just, efficient and expeditious disposal of cases on the List. Such orders and directions may follow the short form orders contained in Annexure B to Practice Direction no. 6 of 2000 ("Supervised Case List"), adapted to the circumstances of the case.
(b) Such directions may extend to dispensing with pleadings or further pleadings.

Proceedings started in Registries other than Brisbane

19. Where a proceeding has been commenced in a Registry other than Brisbane, an applicant for listing may file the application in that Registry, which will then transmit the application to the Commercial List Manager.
20. On a hearing for directions in a proceeding which has been listed, the Commercial List Judge may make orders, as necessary, as to the place for hearing further interlocutory applications and any trial.

Removal from Commercial List

21. A Commercial List Judge may by order remove a proceeding from the Commercial List.
22. On the making of an order that a proceeding be removed from the Commercial List, this practice direction will no longer apply to the proceeding unless otherwise ordered.
23. The making of an order removing a proceeding from the Commercial List in no way affects any order or direction made or given in the proceeding prior to removal.

Commercial List appeals

24. An application for an expedited appeal is to be made by way of application supported by affidavit of the party or the party's solicitor.
25. Such affidavit should:
 - (a) set out a brief statement of the reasons for the urgency of the appeal;
 - (b) provide a brief statement of the issues said to arise on the appeal;
 - (c) set out a proposal as to steps necessary to have the proceeding prepared expeditiously for appeal;

- (d) provide an estimate of the length of the time required for the hearing of the appeal;
 - (e) attach a copy of the reasons for judgment of the Judge from whose decision the appeal is brought.
26. On the making of an order that the appeal be expedited, the President, or the Judge of Appeal appointed by the President for that purpose, may give directions for the hearing of the appeal, including any or all of the following:
- (a) a timetable for the taking of steps to prepare the appeal;
 - (b) the exchange of outlines;
 - (c) the manner in which records are to be prepared;
 - (d) a date for the hearing.

PAUL de JERSEY
Chief Justice
26 March 2002

SCHEDULE 'A'
SUPREME COURT OF QUEENSLAND

Registry:

Number:

Plaintiff:

First Defendant:

[Second Defendant;]

COMMERCIAL LIST STATEMENT

The Applicant/Plaintiff [or Defendant] makes the following statement in support of an application to have the above proceeding listed on the Commercial List:

1. **The nature of the dispute is ...**[set out in a summary way]
2. **The issues which arise in the proceedings are...** [set out in a summary way]
3. **The proceeding ought be included on the Commercial List for the following reasons:**
4. **The attitude of the other parties to this litigation as to the listing of this proceeding on the Commercial List is as follows:**
5. **The applicant's contentions in relation to the proceeding are:**
 - (a) [set out a brief and informal statement of the relevant general facts giving rise to the proceeding];
 - (b) [set out a brief statement of the grounds on which the applicant claims relief, including any statutory rights etc];
6. **The special directions required in this proceeding, and the reasons why, are:**
7. **The circumstances of urgency in relation to the proceeding are:**

.....
Solicitor for the Applicant/plaintiff [as may be]