

# SUPREME COURT OF QUEENSLAND

## PRACTICE DIRECTION NO 4 OF 2002

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### CASE-FLOW MANAGEMENT – CIVIL JURISDICTION

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#### 1. Introduction

- 1.1. Rule 5 of the Uniform Civil Procedure Rules provides:
- The purpose of these rules is to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense.
  - Accordingly, these rules are to be applied by the courts with the objective of avoiding undue delay, expense and technicality and facilitating the purpose of these rules.
  - In a proceeding in a court, a party impliedly undertakes to the court and to the other parties to proceed in an expeditious way.
  - The court may impose appropriate sanctions if a party does not comply with these rules or an order of the court.
- 1.2. This practice direction establishes a system to facilitate the just and timely disposition of proceedings, with the minimum necessary commitment of resources by the court and litigants, by monitoring the progress of individual proceedings against predetermined timelines, and intervening when a proceeding is not progressing satisfactorily.
- 1.3. The system is also designed to focus attention on the early disposition of proceedings utilizing the procedures of chapter 9 of the Uniform Civil Procedure Rules ("Ending Proceedings Early") which provides for:
- judgment by default
  - summary judgment
  - discontinuance and withdrawal
  - alternative dispute resolution processes
  - offers to settle.

#### 2. Application of the practice direction and definitions

- 2.1 The practice direction applies to:
- civil proceedings instituted by claim (including renewal of a claim) in the Brisbane Registry from 1 June 2002
  - such other registries as may be directed
  - such other proceedings as the court or a judge may direct.
- 2.2 It does not apply to proceedings on a separate list (eg the Supervised Case List, the Commercial List).

- 2.3 Further intervention stages may be directed either generally or in particular proceedings.
- 2.4 “Resolved” – as used in this practice direction means that the parties are deemed to have resolved their dispute.
- 2.5 “Plaintiff” – includes a counter claiming defendant or any other party having carriage of the proceeding.
- 2.6 Notices sent pursuant to this practice direction may be sent by email, facsimile or letter. Responses may be by e-mail [caseflowmanager@justice.qld.gov.au](mailto:caseflowmanager@justice.qld.gov.au), facsimile (07) 3247 5316 or letter addressed to PO Box 167, Brisbane Albert Street, 4002. The court’s e-mail policy is found at [www.courts.qld.gov.au](http://www.courts.qld.gov.au).

### **3. An overview of the system**

The system sets timelines by which proceedings should progress to specific stages, for example from service to filing a defence, and monitors the progress of proceedings against those timelines. It provides for the identification of proceedings which do not adhere to timelines and for intervention when the default is not justified. It also assists in identifying proceedings making exceptional demands on resources, warranting management in terms of Practice Direction 6 of 2000.

### **4. How the system works**

#### **Case management notices**

- 4.1 A plaintiff must file an affidavit of service of a claim as soon as practicable after service on each defendant.
- 4.2 When 30 days have elapsed from the date of service of a claim on a defendant, and a notice of intention to defend has not been filed or application made for default judgment, the Registrar may call on the plaintiff by notice to the effect of CFM1 to show cause why the proceeding should not be deemed resolved.
- 4.3 Where a request for trial date has not been filed 180 days after the date of filing of notices of intention to defend, the Registrar may call on the plaintiff by notice to the effect of CFM2 to show cause why the proceeding should not be deemed resolved.
- 4.4 The plaintiff must show cause within 21 days of the date of the notice.
- 4.5 Where multiple defendants have appeared and filed defences, the period will be calculated from the date of filing of the latest notice of intention to defend.

### **5. Responding to notices and restoring proceedings deemed resolved**

- 5.1 A party must respond to a notice to show cause by:
  - entering judgment, filing an application for trial date or bringing some other application to facilitate the timely determination of the proceeding; or
  - justifying the failure to enter judgment or file a request for trial date, and proposing a plan to facilitate the timely determination of the proceeding.
- 5.2 The Registrar may then:

- give directions in terms of the plan, or otherwise as appropriate to effect the timely determination of the proceeding; or
  - refer the proceeding to a Judge.
- 5.3 If cause is not shown the proceeding will be deemed resolved, and the Registrar will notify the parties to that effect by form CFM3.
- 5.4 A proceeding deemed resolved may be reactivated by an application by any party, supported by affidavit material explaining and justifying the circumstances in which the proceeding was deemed resolved, and proposing a plan to facilitate its timely determination.
- 5.5 The Registrar may then:
- reactivate the proceeding;
  - give directions appropriate to effect its timely determination; or
  - refer the proceeding to a judge.

The Registrar is hereby accorded that jurisdiction, pursuant to rule 452(2).

Unless otherwise ordered, there will be no order as to the costs of such application before the Registrar.

## **6. General**

- 6.1 The court may give directions for the further conduct of the proceedings. For example, it may, at any time, at its own initiative, on notice to the parties, review its progress, and give directions to facilitate the efficient and timely determination of the proceeding.
- 6.2 Non-compliance with this practice direction or directions made under it may, on the application of a party, or at the court's own initiative, 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 being ordered to pay the other party's costs thrown away by reason of the non-compliance, which may be fixed and payable forthwith;
  - the non-complying party being ordered to pay, as an administration charge, the sum of \$75.00;
  - the Registrar writing directly to the non-complying party drawing attention to the non-compliance and any consequential orders;
  - the proceeding being listed for trial notwithstanding non-compliance.

**(Paul de Jersey)**  
Chief Justice  
14 May 2002

**CFM 1  
Intervention notice**

To  
Solicitor (Plaintiff)  
(Address)  
(Your ref)

(Plaintiff's name) v (Defendant's name)  
(Court file reference) SXXX/2001

Practice Direction of 2002 relates to the case-flow management of civil proceedings filed in the registry. The objectives of case-flow management reflect the philosophy set out in rule 5 of the Uniform Civil Procedure Rules.

The affidavit of service filed in this proceeding on states that the claim was served on (name of defendant(s)). The registry records disclose that a Notice of Intention to Defend has not been filed by the defendant(s) and no application for Default Judgment filed.

Pursuant to paragraph 4 of the direction you MUST within 21 days of the date of this notice show cause pursuant to paragraph 5 why the proceeding should not be deemed resolved.

Registrar  
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**Case-flow Management Intervention Notice**

**IMPORTANT**  
Strict time frames apply

**CFM 2  
Intervention notice**

**To**  
**Solicitors for the parties (party in person)**  
**(Address)**  
**(Your ref)**

**(Plaintiff's name) v (Defendant's name)**  
**(Court file reference) S XXX/2001**

Practice Direction of 2002 relates to the case-flow management of civil proceedings filed in the registry. The objectives of case-flow management reflect the philosophy set out in rule 5 of the Uniform Civil Procedure Rules.

The registry records disclose that a Notice of Intention to Defend was filed by (name of defendant(s)) on , and a Request for Trial Date was not filed within 180 days thereafter.

Pursuant to paragraph 4 of the direction you must within 21 days of the date of this notice show cause pursuant to paragraph 5 why the proceeding should not be deemed resolved.

**Registrar**  
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**Case-flow Management Intervention Notice**

**IMPORTANT**  
**Strict time frames apply**

**CFM 3**  
**Intervention notice**

**To**  
**Solicitors for the parties (party in person)**  
**(Address)**  
**(Your ref)**

**(Plaintiff's name) v (Defendant's name)**  
**(Court file reference) S XXX/2001**

Practice Direction of 2002 relates to the case-flow management of civil proceedings filed in the registry. The objectives of case-flow management reflect the philosophy set out in rule 5 of the Uniform Civil Procedure Rules.

By intervention notice dated you were called on to show cause why the proceeding should not be deemed resolved. Cause has not been shown as required by paragraph 5 of the direction. The proceeding is therefore deemed resolved.

Your attention is drawn to paragraph 5.4 (as to re-activation of the proceeding).

**Registrar**  
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**Case-flow Management Intervention Notice**

**IMPORTANT**  
**Strict time frames apply**