

**PRACTICE DIRECTION  
NO 4 OF 2000**

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**SETTING TRIAL DATES – CIVIL JURISDICTION BRISBANE**

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### **Introduction**

1. This Practice Direction supersedes Practice Directions 13 of 1995 and 10 of 1997.
2. This Practice Direction applies to all matters seeking hearing dates in civil jurisdiction in Brisbane other than in the applications (formerly chambers) jurisdiction. Its objectives are:
  - to achieve a more efficient allocation of trial dates and use of court time;
  - to ensure that only those cases expected to proceed to trial hearing are allocated hearing dates.
3. Practitioners should be aware of rule 5 of the Uniform Civil Procedure Rules 1999. The purpose of the Uniform Civil Procedure Rules 1999 is to facilitate the just and expeditious resolution of the real issues in civil proceedings at a minimum of expense. The Rules are to be applied with the object of avoiding undue delay, expense and technicality and a party impliedly undertakes to the court and to the other parties to proceed expeditiously.
4. Practitioners should also be familiar with the practice direction which currently deals with supervised (long or complex) cases.

### **The List Managers**

5. 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) is responsible for cases seeking trial dates save for cases on the Supervised Case List.
6. 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) is responsible for cases on the Supervised Case List.
7. Where it is necessary to contact the court about setting a trial date the relevant List Manager should be the first point of contact. **The use of e-mail is encouraged for such contact.** Practitioners should be familiar with the court's e-mail policy ([www.courts.qld.gov.au](http://www.courts.qld.gov.au) and [www.lawnow.com](http://www.lawnow.com)).

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### Information available electronically

8. The following information is available electronically and it is expected that practitioners seeking trial dates will be familiar with it in so far as it applies to them:
- sitting arrangements (court calendar) ([www.courts.qld.gov.au](http://www.courts.qld.gov.au) and [www.lawnow.com](http://www.lawnow.com)).
  - the daily lawlist ([www.courts.qld.gov.au](http://www.courts.qld.gov.au) and [www.lawnow.com](http://www.lawnow.com)).
  - the sittings list (the list of matters listed in the current sittings) ([www.courts.qld.gov.au](http://www.courts.qld.gov.au) and [www.lawnow.com](http://www.lawnow.com)).
  - setting down cases electronically ([www.lawnow.com](http://www.lawnow.com))

### Long or Complex Cases or Groups of Cases

9. Cases or groups of cases where any party estimates more than five days are required for hearing or which are likely to impose a greater than normal demand on resources will not be allocated a trial date unless the court is satisfied that the case management issues canvassed by the Supervised Case List Practice Direction have been adequately addressed and implemented or they have been reviewed pursuant to that Practice Direction.
10. Any questions about such cases should be raised in the first instance with the Supervised Case List Manager.

### Obtaining a Trial Date

11. Trial dates may be obtained in the following ways:
- (a) Generally by filing a request for trial date pursuant to rule 467 (Form 48) of the Uniform Civil Procedure Rules. This presently cannot be done electronically since the filing requires the collection of a fee. The case is then placed on the callover list.
  - (b) A case may be placed on the callover list because it cannot conveniently be dealt with in the applications (previously chambers) court.
  - (c) A case on the Supervised Case List may be allocated trial dates directly through the Supervised Case List Manager.
  - (d) A case may be allocated trial dates in cases of urgency or other exceptional circumstances.
12. When a matter comes from the applications court, a certificate (see attachment 'A') must be lodged with the relevant List Manager by the party having carriage of the matter. This form may be completed and lodged electronically.
13. Cases on the callover list may take up trial dates electronically. For the present, requests are to be made in accordance with the court's on-line request policy using the electronic Request-Civil Sittings form. This form is available free of charge at [www.lawnow.com](http://www.lawnow.com)
14. Parties who wish to seek allocation of trial dates on the basis of urgency or exceptional circumstances should, in the first instance, approach the Civil List or Supervised Case List Manager by e-mail, fax or letter. The communication should state succinctly the following:

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- the basis of the urgency or the exceptional circumstances;
- the estimated length of the trial or hearing; if this differs according to parties all estimates should be given;
- when the matter will be ready for trial or hearing and any other constraints in respect of the allocation of dates;
- whether the other parties have been consulted and if so, what are their views;
- if there is agreement between the parties a signed consent should also be included.

A copy of the communication should be provided to the other parties.

### The Callover List

15. Cases which are not directly allocated hearing dates or which do not take up an electronic listing remain on the callover list have trial dates set at a callover in respect of a block of judge time 4-6 weeks ahead of the callover. The time for holding of callovers is notified in the court calendar and the law list.
16. The Callover List for a particular sittings CLOSSES AT 1:00 PM ON THE FRIDAY PRIOR TO THE CALLOVER TO WHICH IT REFERS. This is to allow for the necessary administrative work to be done. Matters not then on the Callover List will be called over only in exceptional circumstances.
17. When there are said to be exceptional circumstances justifying a case not on the Callover List being dealt with at a particular callover, an e-mail ([civillistmanager@justice.qld.gov.au](mailto:civillistmanager@justice.qld.gov.au)) or fax: (07) 3247 5316 should be sent addressed to the Civil List Manager by 4:00 pm on the day before the callover. It is NOT necessary to telephone the Associate to the Senior Judge Administrator or to the Judge responsible for the particular callover, or the Civil List Manager in respect of a matter, the subject of such a communication.
18. The communication should:-
  - identify the matter or matters by full names and court file number;
  - identify the practitioner responsible for the conduct of the matter;
  - state succinctly the reasons for it not being on the Callover List;
  - state succinctly why the matter should not wait for the next callover;
  - state succinctly the attitude of the other parties where that is known;
  - state the length of time sought for hearing;
  - state the availability of witnesses and other factors affecting the allocation of trial dates; and
  - undertake that if allocated trial dates at the callover to file forthwith a request for trial date and pay the requisite fees.
19. Practitioners should send a copy of the communication to other parties.
20. The Civil List Manager will reply as soon as is practicable.
21. A matter which has been the subject of such a notification will be mentioned at the callover by the judge but if not the representative of the party seeking to have it set down should mention it after all the cases in the category to which it belongs on the Callover List have been called over.

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#### At the Callover

22. Persons attending a callover in respect of any case must be familiar with the case and its history and must expect the case will be set down unless some compelling contrary consideration is put forward. Town Agents should seek full instructions from principals. In particular, those attending the callover should :-
  - be informed as to whether there are any outstanding issues or other matters impeding the setting of a trial date;
  - be informed as to whether all prospects of settlement or compromise have been exhausted; and
  - give an informed and realistic time estimate.
23. Practitioners responsible for a callover appearance should endeavour to communicate with the practitioners for the other parties prior to the case being called in respect of suitable dates and other issues bearing on the matters being set down.
24. Persons declining available dates at a callover must be in a position to justify the case not being set down. If dates are available a case will be set down irrespective of whether the case is out to case appraisal or mediation. It should not be assumed that agreement between the parties that the case go over, or the non-availability of counsel, without more, will be regarded as sufficient reasons for the case not being set down.
25. A case which has not taken up an offer of a trial date at two previous callovers will be set down for trial if dates are available, absent some compelling reason not to do so.
26. A case which has not taken up a trial date at two callovers but which is not allocated a trial date, or where there is no appearance from any party, will be placed on the Abeyance List and the Registrar may be directed to notify the parties directly that this has been done and the reasons for it.
27. A move to restore a case from the Abeyance List shall be made by the filing of a further Request for a Trial Date (Form 48) signed by each party's representative stating that the matter is in all respects ready for trial and the estimated length of the trial. A further fee may be payable.

#### After the callover

28. Contested applications for an adjournment, amendment or in respect of disclosure should be made forthwith in the applications jurisdiction rather than at trial.
29. 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. The practice of avoiding notifying that the allocated time is inadequate until the trial commences is not encouraged.
30. It should not be expected cases which overrun time estimates will continue until finished. That is, however, not a justification for failing to notify the Civil List Manager the allocated time is inadequate.
31. The relevant List Manager should be notified forthwith in respect of a matter allocated a hearing date:

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- if the matter has settled;
  - that there is to be an application for an adjournment (whether contested or not); if an adjournment is not contested, it should not be assumed that the case will be adjourned. The List Manager will refer the matter to a judge and the parties will be notified accordingly;
  - that only a particular issue remains outstanding or for some other reason the case may require significantly less time than allocated.
32. It is the responsibility of the party having carriage of the matter to ensure all filing, hearing, jury or other fees are paid before the trial commences.

**(Paul de Jersey)**  
Chief Justice

22 August 2000

**ATTACHMENT 'A'**

**Certificate pursuant to Practice Direction 4 of 2000**

(TITLE – as per form 1 of approved form Uniform Civil Procedure Rules)

1. (a) The solicitors for the other parties are:

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

(b) [Where a party is not legally represented]

..... party is not legally represented.

The address for service, e-mail, fax and telephone contact are:

.....  
.....

2. (a) I estimate the length of hearing will be ..... days.

(b) the other parties estimate ..... days.

3. So far as I am aware:

- settlement negotiations are continuing
- there have been no settlement negotiations
- settlement negotiations have been exhausted.

4. So far as I am aware:

- the matter is ready to proceed to hearing; or
- outstanding matters in respect of readiness are:-

.....  
.....

Indicate ✓ as appropriate

.....  
Solicitor for the Plaintiff/Applicant  
(Contact details)

.....  
.....