

PRACTICE DIRECTION NUMBER 11 OF 2020
DISTRICT COURT OF QUEENSLAND

This Practice direction supersedes Practice Direction No 2 of 2020

COMMERCIAL LIST: DISTRICT COURT

1. This Practice Direction provides for the administration of the District Court Commercial list. It supersedes Practice Direction No 2 of 2020.

The Commercial List

2. The Commercial List was established in the District Court on 29 October 2010.
3. The purpose of the Commercial List is to provide efficient management of commercial matters by Judges of the Court with particular experience in commercial law, with a view to early resolution by agreement or by trial. Parties must conduct the proceedings in a manner consistent with advancing that purpose.
4. The Chief Judge may from time to time designate one or more judges to be Commercial List Judges. The Commercial List Judges are presently Judge Jones, Judge Kefford, Judge Muir, Judge Porter QC and Judge Barlow QC.
5. Matters listed on the commercial list will be managed, heard and determined by a Commercial List Judge, subject to any direction to the contrary by a Judge of the Court. The District Court commercial list manager located within the Brisbane registry of the Court (**DCCL manager**) is responsible to the Commercial List Judges for the administration and management of the Commercial List. Unless the Chief Judge otherwise directs, the DCCL manager will be the District Court civil list manager.
6. The DCCL manager may be contacted by email (currently dc-comcausemanager@justice.qld.gov.au) or by telephone (currently 3738 7972).
7. The DCCL manager will maintain a list of all matters on the Commercial List.

Proceedings which may be listed on the Commercial List

8. The Commercial List is concerned with defended matters of a general commercial character or arising out of trade and commerce which are likely to take no more than 10 days to hear. Examples include:
 - (a) The interpretation and enforcement of commercial contracts and securities;
 - (b) Claims under legislation regulating trade and commerce such as the *Australian Consumer Law*;
 - (c) claims under the *Corporations Act* within the jurisdiction of the Court;
 - (d) Commercial insurance disputes;

- (e) Partnership disputes;
- (f) Professional negligence disputes involving commercial issues; and
- (g) Building and construction disputes.

How proceedings are listed on the Commercial List

9. A proceeding may be listed on the Commercial List by direction of a Commercial List Judge or another Judge of the Court on application by any party to the proceeding. Ordinarily, applications will be heard by a Commercial List Judge.
10. A proceeding may also be listed on the Commercial List by the Judge responsible for the civil list in Brisbane.
11. The Commercial List Judges shall give the DCCL manager directions about ascertaining a date and time for the hearing of an application and the identity of the Commercial List Judge to whom the application will be allocated.
12. Except with leave of the Court, an application may only be made after:
 - (a) The claim or originating application has been served on the other parties; and
 - (b) The views of the other parties have been sought by the applicant.

Applications in the Brisbane registry

13. Any party to a civil proceeding in the Brisbane registry may apply to list the proceeding on the Commercial List.
14. Prior to filing the application, the applicant must contact the DCCL manager to ascertain a date and time for the hearing of the application and the identity of the Commercial List Judge to whom the application will be allocated. The DCCL manager will consult with the Commercial List Judges then notify the applicant of those details and the registry will, on filing of the application, issue the application returnable in accordance with those details.
15. After the DCCL manager notifies the applicant of the date and time for hearing of the application and the identity of the Commercial List Judge allocated to the application (the **relevant Judge**), the applicant shall file the application for listing along with a listing statement.
16. On receipt of the sealed application, the applicant must:
 - (a) Serve the application forthwith on all respondents, accompanied by the listing statement;
 - (b) Provide an electronic copy of that material by email to the associate to the relevant Judge; and
 - (c) Provide an electronic copy of the claim, pleadings and any other relevant court documents by email to the associate to the relevant Judge.
17. The listing statement must include:
 - (a) A succinct statement of the nature of the dispute;
 - (b) Brief particulars of the issues said to arise and why their nature warrants determination in the Commercial List;

- (c) A statement as to whether or not the other party or parties agree that the proceeding should be listed;
- (d) A concise statement of the applicant's primary contentions in relation to the principal issues of law and fact in the proceeding;
- (e) Any considerations of urgency; and
- (f) A timetable for the progress of the action to resolution, including estimated trial length.

Applications in a regional registry

- 18. Until further notice, paragraphs 19 to 22 and 29 to 35 apply only to civil proceedings initiated in the Townsville and Toowoomba registries of the Court.
- 19. Any party to a civil proceeding in a registry other than Brisbane may apply to list a proceeding on the Commercial List.
- 20. Prior to filing a listing application, the applicant must contact the DCCL manager in Brisbane directly to ascertain a date and time for hearing the application and the identity of the relevant Judge. The DCCL manager will consult with the Commercial List Judges then notify the applicant and the regional registry of those details and, on filing of the application, the regional registry will issue the application returnable in accordance with those details.
- 21. After the DCCL manager notifies the applicant of the date and time for hearing the application and identity of the relevant Judge, the applicant shall file (in the regional registry) the application for listing along with a listing statement.
- 22. On receipt of the sealed application, the applicant must:
 - (a) Serve the application forthwith on all respondents, accompanied by the listing statement;
 - (b) Provide an electronic copy of that material by email to the associate to the relevant Judge; and
 - (c) Provide an electronic copy of the claim, pleadings and any other relevant court documents by email to the associate to the relevant Judge.

After listing

All applications

- 23. After service of the listing application, the applicant should seek agreement with the other parties on proposed directions. Any proposed directions, whether by consent or not, should be provided as soon as possible to the associate to the relevant Judge.
- 24. After the application is issued by the registry, the associate to the relevant Judge will notify the parties as to whether the Judge:
 - (a) Will hear the parties on the application; or
 - (b) Will make orders and directions on the papers; and
 - (c) In any event, will notify the parties as to the identity of the Commercial List Judge who will manage the matter (the **managing Judge**) (it might not be the Judge hearing the application).

25. Thereafter, subject to any direction from time to time, all interlocutory applications in the proceeding and the trial of the proceeding shall be conducted by the managing Judge or another Commercial List Judge.
26. Interlocutory applications in a proceeding should be listed for hearing by arrangement with the associate to the managing Judge.
27. Parties may appear by telephone or by audio visual link. Parties should consult notes on the use of technology issued by the Court from time to time. Audio visual appearances are preferred, especially for any contested hearing.
28. If a party wishes to appear electronically, that party must notify the associate to the relevant Judge of the mode of appearance that the party wishes to adopt no later than two days before the hearing.

Regional registry applications¹

29. Commercial list proceedings located in a registry other than Brisbane will ordinarily be managed by the managing Judge from a location other than the location of the registry of filing. Electronic appearances should be used to facilitate that outcome. The managing Judge will not generally travel to the regional or circuit court except, where necessary, for trial.
30. Paragraphs 23 to 28 also apply to an application in a registry other than Brisbane.
31. A party may not appear in a Commercial List hearing using the Court to Court facilities of a regional or circuit registry without the prior consent of the officer responsible for listing matters in the court rooms in that location. The Court intends that parties should only use Court to Court facilities as a last resort.
32. Ordinarily, the hearings conducted remotely will be recorded in the Brisbane court room in which the managing Judge hears the matter.
33. Any document read in a Commercial List hearing conducted electronically must be filed in the registry in which the proceeding was commenced by the party who read the document. A copy of any document that a party intends to read or rely on and that has not already been provided to the managing Judge must be sent by email to the associate to the managing Judge as early as practicable before the hearing, with a copy to the other parties.
34. Any order made in a Commercial List hearing conducted electronically must be recorded in writing and provided, by the associate to the managing Judge, for filing to the registrar of the registry in which the proceeding was commenced.
35. If the matter reaches trial, the relevant Judge will determine, in consultation with the parties and the Chief Judge, whether to preside in person at the trial or to conduct the trial remotely. Ordinarily, the trial will be conducted in the location of the registry in which the proceeding has been filed and the managing Judge will preside in person at the trial.

¹ See paragraph 18 above

Removal from the Commercial List

36. A Commercial List Judge may by order remove a proceeding from the Commercial List. On the making of such an order, this practice direction will no longer apply to the proceeding.
37. The making of an order removing a proceeding from the Commercial List does not affect any order or direction made or given in the proceeding prior to removal.

A handwritten signature in black ink, consisting of a stylized 'B' and 'D' followed by a long horizontal line that ends in a small hook.

Chief Judge BG Devereaux SC

16 December 2020