

SUPREME COURT

PRACTICE DIRECTION NO. 32

THE LISTING OF TRIALS IN CIVIL JURISDICTION

This practice direction is issued to consolidate the practices that now occur in the listing of an action for trial. Accordingly, some sections of this practice direction may also be found elsewhere in current practice directions or may reflect practices that have been instigated by the Court in recent years.

General

1. When an order is made for trial by a Master the action is referred to the Listing Section for a listing conference at a given time and date, normally approximately 7 days after the Master's order.
2. The parties or their solicitor will attend at the Registry at the time appointed by the Master. No other notice will be given of the date or time. Prior to attending before the Listing Section the solicitors or parties in person will be expected to check availability of witnesses and counsel. The Listing Section will set the first available date for the trial of the action taking into account, as far as reasonably possible, the dates in which witnesses and counsel are available. It is intended, so far as is practicable, that dates for trial will be set no later than six weeks from the Master's order for trial. If any party fails to attend at the listing conference the Listing Section may nevertheless list the action for trial as he/she thinks fit. The costs of attendance before the Listing Section will be treated as costs in the case unless the Court subsequently orders otherwise.
3. A list of cases having trial dates for a particular month will be published approximately three weeks before the commencement of that month. The listing of a trial can only be changed by order of the Court. If an adjournment of a trial is required application must be made to a Master in the usual manner at the first opportunity. Solicitors are requested to advise the Listing Section at the first opportunity if a matter listed for trial has settled.
4. Any reason for which a matter should be given a priority listing when a trial date is set must be made known to the Master hearing the pre-trial proceedings and also to the Listing Section at the time of setting the trial date.
5. Cases listed will be assigned to judges available to hear them in the week preceding the trial date. Cases proceeding but not allocated to a judge at the callover will remain on one hours call until 4.00 p.m. that day. If a case has not commenced by 4.00 p.m. it is treated as a not reached case. However, the Listing Section with the consent of all the parties to a trial may carry over a reserve trial so that it remains first reserve on the day following its set trial date.
6. Cases that do not proceed and are not reached will be referred back to the Listing Section for a further listing conference at which time a priority listing will be given to ensure disposal at the next listing.

Settlement negotiations

7. Where at the commencement or during a trial, a Judge remains out of Court to enable the parties to negotiate for a period of more than 30 minutes, subject to any direction

given by the particular Judge, the practice of the Court will be to warn the next reserve case to commence at the first opportunity. The reserve case will then take precedence over the case in which negotiations are occurring which may then become the first reserve case.

Trial before a Master

8. Pursuant to Rule 75.01(1) an action may be tried by a Master if so ordered by a Judge, or pursuant to Rule 75.01A if the action is an assessment of damages. If all the parties to an action consent to a trial before a Master such an order will be made by a Judge without attendance.

If a Master is available to hear a trial and the parties to a trial listed for that day do not consent to the trial proceeding before the Master then a Judge may be called upon to hear from either counsel or instructing solicitors as to why an order should not be made pursuant to Rule 75.01(1).

Circuit sittings

9. The setting of trial dates for matters referred into circuit lists by a Master will occur at a callover of that circuit's list before the judge presiding over the circuit. Such a callover will usually occur in the week prior to the commencement of the circuit sittings. A warning list advising of such circuit list callovers will appear in the case list.

If there is insufficient business the Court reserves the right to cancel any planned Circuit sittings. Furthermore if an unusually large amount of Court business is listed the Court may elect to hold additional circuit sittings or to extend existing sitting times.

Long and complex trials

10. Where appropriate in proceedings of unusual length and complexity the Chief Justice, at the request of any party, may assign a Judge to take charge of a case at an early stage of proceedings with a view to such Judge dealing with all interlocutory matters (as the Judge deems appropriate) and conducting the trial of the action in due course.

DATED the 10th day of December, 2004.

(Eddie Bransbury)
REGISTRAR