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## **PRACTICE DIRECTION No 3 of 2008**

### **Royal Court Civil Rules, 2007 - Case Management Conference**

1. Attention is drawn to Rules 39 to 42 of the Royal Court Civil Rules, 2007 which introduce, for the first time, a case management conference at an early stage in the proceedings namely after the filing of defences.
2. Rule 39 provides that:  
  
*"Within 14 days of the inscription of an action on the Rôle des Causes en Preuve, the Plaintiff shall apply to the Court for a date to be set for a case management conference to be held for the purpose of considering the management of the case."*
3. **In almost every case a Plaintiff will be required to apply for a date to be set for a case management conference within 14 days of the tabling of a defence.**
4. The Rules do not state when a matter is to be inscribed on the Rôle. Whenever defences are filed the parties must agree, or the Court will decide, whether to inscribe the matter on the Rôle. Hitherto, if defences contained Exceptions de Forme the matter would remain adjourned on the Rôle des Causes à Plaidier. That will not be so under the 2007 Rules as Exceptions de Forme are deemed to be a request for further information under Rule 60 (see Rule 16(7)).
5. When tabling a defence the Defendant must plead a substantive defence notwithstanding that he may require further information from the Plaintiff before finalising the defence. Consequently, cases will move on to the Rôle des Causes en Preuve quicker than under the old Rules and will normally do so as soon as a defence has been tabled.
6. The exceptions to that normal procedure will be few but will include cases where the defence alleges the Court has no jurisdiction (Exception Déclinatoire) or, some of the instances where it is alleged a claim is prescribed (Exception de Fonds) although in many such cases the Defendant will table a substantive defence (for example if the prescription claim can not be taken as a preliminary issue) and the case will be inscribed on the Rôle des Causes en

Preuve. In such exceptional cases the Plaintiff shall still be required to apply within 14 days for directions to be given as to the future management of the case.

7. If the defences contain a counter-claim there is no need to apply for a date to be set for the case management conference until defences have been filed to the counter-claim.
8. Rule 40 contains provision to dispense with a case management conference. Once the Rules have been in operation for a period of time it may be possible for counsel to agree directions for the future management of the case without requiring a conference. In the meantime the Court considers it will be helpful to have a conference in every case. In any event it is envisaged that a case management conference will always be required if a party is unrepresented or if the issues are not straightforward.
9. An application to set a date for a case management conference shall be tabled in an Interlocutory Court normally held on a Friday morning at 10 a.m. To comply with Rule 39 that shall be not more than 14 days after the defences are filed and it is envisaged will normally be on the second Friday after the tabling of defences in order to give all parties the opportunity to prepare. It may be held earlier if the parties are ready. In very exceptional cases, for example where an unrepresented party has travelled to the Island to be present when the defences are filed, it may be held on the same day as the filing of defences. If so, the defences must be lodged with the Greffe, and served on all other parties, not later than noon on the previous Wednesday. It must be accompanied by an application to set a date for the case management conference and an explanation as to why it is sought to apply on the same day as the defences are tabled in Court.
10. The Plaintiff shall file two copies of the application to set a date for the conference together with two copies of the pleadings. The issues to be addressed at the hearing of the application to set a date will include:
  1. The allocation of a Judge to be responsible for the case. Counsel will be expected to indicate at the hearing whether any of the local resident judges would be recused if they were to sit;
  2. Alternate Dispute Resolution (“ADR”). Counsel will be expected to indicate whether ADR has been considered and, if not, to explain why not. If ADR is to be progressed a decision will be taken as to whether Court proceedings are to be stayed pending the outcome of ADR;
  3. The parties may have agreed, or largely agreed, directions for the future conduct of the case. If so, the Court may be able to order directions without requiring a further hearing;
  4. To set a date for a case management conference, if required.
12. The matters to be addressed at a case management conference are largely set out in Rule 41 although the list of matters therein is not to be considered exhaustive. In advance of a case management conference the parties are to

endeavour to agree the directions sought and to set out those that can be agreed together with the directions sought by each of the parties that are not the subject of agreement.

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