



COURTS SERVICE
An tSeirbhís Chúirteanna



The Commercial Court





The Commercial Court

Background

The requirement for a Commercial Court in the State specialising in meeting modern business commercial needs was recognised in the 27th Interim Report of the Committee on Court Practice and Procedure. The Committee recommended the establishment of a court which would enable the speedy resolution of commercial disputes and facilitate the conduct of court business through the use of the latest technology.

The Commercial Court, Bow Street

Accommodation in Bow Street for judges and staff has been refurbished and a state of the art courtroom boasting the latest in technology has been designed. The provision of VDUs, laptop points and facilities for the electronic filing and exchange of documents, electronic presentation of evidence, video conferencing and digital audio recording emphasises the commitment of the Courts Service to the delivery of electronic services consistent with the Government initiative for the development of e-commerce. Consultation rooms are available for practitioners and viewing facilities by way of monitors, including a plasma screen, have been installed.

Operation Of The Commercial List

The transfer of proceedings to the Commercial Court, which is in fact the Commercial List of the High Court, and the conduct of proceedings once transferred to the List are regulated by new rules of court, viz. Order 63A of the Rules of the Superior Courts [S.I. No. 2 of 2004], and also by the Practice Direction which came into effect on the 12th day of January 2004. Copies of both may be downloaded from the Courts service web site at www.courts.ie

The Commercial List is similar to other lists in the High Court in that the parties will issue their proceedings and file documents in the Central Office in the usual manner. They can however opt to apply to have their case transferred to the Commercial List rather than remain in the traditional High Court lists.

Application to enter the List can be made by any party to an action by Notice of Motion. In Plenary proceedings application is made at any time prior to the close of pleadings and in Summary or any other proceedings to be heard on Affidavit without pleadings, prior to the completion of the filing of Affidavits.

Cases must be commercial proceedings within the meaning of Order 1 of Rule 63A. Broadly speaking, there are two categories which may be admitted into the List: those cases specifically defined in the Rule and those in which the Court can exercise its discretion having regard to the commercial and any other aspect of the case. The defined list includes the following types of action:

- (a) cases where the value of the claim is not less than €1 million in respect of
 - claims in contract or tort arising out of business transactions
 - certain types of arbitration claims
- (b) cases, irrespective of their monetary value, involving
 - intellectual property (including passing off)
 - appeals from or judicial review applications in respect of any statutory body where the judge in charge of the list considers that, having regard to the commercial or any other aspect of such application, it is one appropriate for entry into the commercial list

Ultimately, it is a matter for a party to satisfy the judge as to whether or not a particular case falls within the Rule.

A key feature of the Commercial List has been the introduction of a system of rigorous case management. Strict deadlines are imposed for the exchange of pleadings, correspondence, précis of evidence and legal submissions and penalties on costs may be imposed for non-compliance. In addition, the requirement for parties to lodge case booklets in advance of each listing results in the Commercial List Judges being fully apprised of the current situation in each case in advance of any application.

The Rules provide for directions hearings, case management conferences and pre-trial conferences. This system has not heretofore been a feature of litigation in Ireland. It has enabled cases to be disposed of rapidly through the pinpointing and narrowing of issues, identifying the type of evidence to be adduced and the exchange of legal submissions in advance of a hearing. The outcome has been the achievement of an average waiting period from the date of issue of proceedings to the allocation of a trial date of just five weeks. It is envisaged that the use of pre-trial conferences, pre-trial questionnaires and video conferencing will further contribute to the efficient disposal of cases in the Commercial List.

Procedure In The Commercial List

Issue proceedings in the Central Office of the High Court.



Issue Notice of Motion, grounded on Affidavit and accompanied by a Certificate, to enter the Commercial List.



Directions Hearings (for exchange of Pleadings, précis of evidence, legal submissions, etc).



Case Management, where directed, requires the lodging of a Case Booklet not less than four days prior to the Case Management Conference.



Pre-trial Conference, at which a date for trial may be fixed, requires the completion of a Pre-trial Questionnaire.



Trial Booklet and Case Summary required to be lodged not less than four days prior to the Trial Date.

Average Waiting Times

From issue of Notice of Motion for entry until the return date	5 days
From entry to List to allocation of date for trial (whether for full hearing or preliminary issue)	5 weeks
From entry to List to conclusion of case	6 weeks
Of which:	
Cases settled	3 weeks
Cases heard by the Court	8 weeks

O.63A R.7 No. 3

PRE-TRIAL QUESTIONNAIRE

THE HIGH COURT
(COMMERCIAL)

2004 No 54321 P
2004 No 987 COM

WXYZ INTERNATIONAL PLC
PLAINTIFF
&
ABCD LIMITED
DEFENDANT

Section A: Pre-Trial Procedures

1. Pleadings and Proofs

(a) Are all Pleadings exchanged?
If not, what pleading was last exchanged?

(b) Have proofs been advised?

(c) If proofs have not been advised, please confirm whether or not same will be sought and advised prior to pre-trial conference.

(d) If proofs have been advised, please confirm that you are in a position to comply.

2. Have all pre-trial procedures been fully complied with including:

(a) Discovery?
(b) Admissions; Notices to admit facts?
(c) Interrogatories?
(d) Fixing of issues?
(e) Any other directions given by the Judge?

3. If any matters referred to at paragraphs 1-2 above remain outstanding, please set out reasons for same.



Judges

The Honourable Mr Justice Peter Kelly

The Honourable Ms Justice Mary Finlay Geoghegan

Court Officials:

Registrars:

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Produced by the Courts Service Information Office on the occasion of the official opening of the Commercial Court of the High Court by An Taoiseach, Mr. Bertie Ahern, T.D. on Monday the 18th day of October 2004.