

# THE SUPREME COURT OF SEYCHELLES

## PRACTICE DIRECTION NO. 5 OF 2020

1. This Practice Direction is made pursuant to the powers conferred on the Chief Justice by sections 7(3) and 15 of the Courts Act and Rule 325 of the Seychelles Code of Civil Procedure.
2. This Practice Direction has been produced to simplify the procedure in civil claims proceeding in the Supreme Court and increase efficiency and the use of resources, both public and private, by active case management by the judiciary.

### **The overriding objective**

3. The overriding objective of this Practice Direction is that civil cases be dealt with justly and expeditiously.
4. Dealing with a civil case justly and expeditiously includes, so far as is practicable –
  - a. ensuring that the parties are on an equal footing;
  - b. saving expense;
  - c. dealing with the case in ways which are proportionate –
    - i. to the amount of money involved;
    - ii. to the importance of the case;
    - iii. to the complexity of the issues;
  - d. allocating to it an appropriate share of the court's resources, while taking into account the need to allot resources to other cases; and
  - e. enforcing compliance with rules, practice directions and orders

### **Triage**

5. All suits shall be case-managed actively by the Chief Justice (or a Judge or Master nominated by her/him, "pre-trial Judge") from the filing of the claim until it is ready for hearing.
6. All suits which are defended and are trial-ready shall be allocated by the Chief Justice (or a Judge nominated by her/him) to a puisne Judge (or in appropriate cases the Master) who shall thereafter try the suit and give judgment at the conclusion of the trial.

7. Following filing of the suit the Registrar will-
  - a. fix a date for the appearance of the parties for a preliminary hearing before the pre-trial Judge; and
  - b. issue the plaint note and summons along with a standard form directions letter ("Form CV1") (approved by the Chief Justice from time to time) which each of the parties is to comply with prior to the preliminary hearing.
8. If any of the parties fails to comply with the directions letter the pre-trial Judge may strike out the suit, enter judgment against a defendant or make such other order as may be appropriate in the circumstances.

### **Preliminary Hearing**

9. On the day fixed in the summons for the defendant to appear the parties shall attend before the pre-trial Judge who will decide:
  - a. What issues should be tried (and may strike out or refuse to determine any which are unsustainable or irrelevant);
  - b. What directions should be given to enable the issues to be tried including the setting of all relevant dates for parties during the period before trial;
  - c. How much court time should be allocated to the parties for the trial;
  - d. How much time should be reserved for the Judge to prepare and deliver judgment at the conclusion of the trial.
10. In addition to managing the suit for trial the pre-trial Judge will discuss with the parties the need to consider resolving the dispute by alternative dispute resolution, including mediation. The allocated Judge will explain to the parties the risks as to costs if a party unreasonably fails to consider or engage in any proposed attempt to resolve the dispute.
11. At the conclusion of the Preliminary Hearing the pre-trial Judge will give standard form Preliminary Hearing Directions ("Form CV2") (approved by the Chief Justice from time to time).
12. The parties may not agree to vary the directions without the consent or approval of the pre-trial Judge. An application for variation of any direction or order must be brought at the earliest possible instance with notice to the other party.

13. A party may apply for variation of a direction if:
  - a. the direction was given in the party's absence; or
  - b. circumstances have changed.
  
14. A failure to comply with the directions might result in a suit being struck out, judgment entered against a defendant or some other appropriate order being made.
  
15. At the Preliminary Hearing the Court will list the suit for trial. Trials, other than in exceptional circumstance, should be held on consecutive days until conclusion. Once a suit has been listed for trial, the hearing date will not be altered except on application to the Chief Justice, who may deal with the application on paper or may direct a hearing before her/him.

### **Pre-Trial Review**

16. There will be a Pre-Trial Review on an appropriate date, approximately six weeks before the trial date, which shall also be fixed at the Preliminary Hearing. The parties and their Counsel are to attend the Pre-Trial Review. At the Pre-Trial Review the parties will confirm to the pre-trial Judge whether all directions have been complied with and whether the suit is ready for trial. If all directions have not been complied with, the pre-trial Judge may strike out the suit, enter judgment against the defendant, or make some other suitable order provided that such order does not adjourn the trial or take the case out of the list without the consent of the Chief Justice.
  
17. At the Pre-trial Review the pre-trial Judge will:
  - a. rule on any dispute about the authenticity or admissibility of any document which any party intends to rely on at the trial;
  - b. rule on which of the issues identified at the Preliminary Hearing remain to be tried and with what documentary or live evidence;
  - c. remind the parties to prepare the requisite trial bundles and file skeleton arguments with supporting authorities prior to trial; and
  - d. rule on what, if any, directions need to be made to further the overriding objective.

### **Trial and judgment**

18. At the trial of the suit the parties may expect the trial Judge to manage actively the case so that the trial is completed within the time allowed for the parties within the timetable agreed at the Preliminary Hearing and does not encroach into the time reserved for the trial Judge to write judgment.
19. Counsel will be expected to submit closing submissions on the issues of law and fact immediately following the completion of the hearing of evidence and may elect to file submissions in writing by email to [registrar@judiciary.gov.sc](mailto:registrar@judiciary.gov.sc) not later than one month after the completion of the hearing.
20. At the completion of the trial the Judge will determine a date for the delivery of judgment within 60 days of the completion of the hearing which will not be delayed by the late filing of submissions. The trial Judge shall deliver the decision notwithstanding the late or failure to file submissions.
21. The delivery of judgments will not be adjourned by the trial Judge without good reason being provided to the Chief Justice.

### **Responsibility of Counsel**

22. Each party shall—
  - a. take every reasonable step to ensure attendance of witnesses;
  - b. promptly inform the court and the other parties of anything that may—
    - i. affect the date or duration of the trial or appeal, or
    - ii. significantly affect the progress of the case in any other way.

### **General**

23. For the purpose of this Practice Direction and all directions introduced pursuant to this Practice Direction, the word ‘days’ indicates calendar days and does not exclude dies non. Where a date for filing or other action falls on a dies non, that action will fall due on the next working day.
24. Failure by Counsel to attend at any required hearing or comply with any direction without valid excuse may result in sanction by the court, including disciplinary action in accordance with the law. The Court shall refuse to grant any unjustified adjournments.

25. Failure by Judges to attend promptly at any required hearing or deliver judgments on the appointed date without valid excuse may result in notification to the Constitutional Appointments Authority.
26. All pleadings must be filed at the Civil Registry of the Court. All other required documents may be submitted to the Court and other parties by email to [registrar@judiciary.gov.sc](mailto:registrar@judiciary.gov.sc) or in hardcopy. Email delivery reports are sufficient to show adequate service on other parties.
27. Forms CV1 and CV2 (attached) are approved by the Chief Justice for the purpose of this Practice Direction.
28. This Practice Direction takes effect from the 15<sup>th</sup> day of June 2020 and will apply to all complaints filed on or after that day.

Dated at Ile du Port this 10<sup>th</sup> day of **June 2020**.



Mathilda Twomey

Chief Justice