



**FEDERAL COURT OF AUSTRALIA
New South Wales District Registry**

**Notice to Practitioners and Litigants issued by the New South
Wales District Registrar –
NSW Expedition List – Administrative Arrangements
(NSW 2008/6)**

1. Expedition List – Administrative Arrangements

1.1 A formal expedition régime will be introduced in the New South Wales District Registry of the Court as from the first day of the First Law Term in 2009 (2 February 2009) (Commencement Date).

1.2 The expression “**formal** expedition régime” is used to indicate that the new régime does not limit the right of a party to seek an expedited hearing from the Judge in whose docket a proceeding is listed.

1.3 From the Commencement Date an Expedition List supervised by an Expedition Judge or Expedition Judges will be maintained in the New South Wales District Registry of the Court. Until further notice, Justice Emmett will be the Expedition Judge.

2. Nature and objectives of the Expedition List

2.1 The objectives of the Expedition List are to give an Expedited Hearing and Expedited Judgment in appropriate cases. The notion of “appropriate cases” is not limited by reference to subject matter or class of proceeding (but see under “Existing Specialist Lists” below). As advised by letter dated 29 November 2008 to the Law Society of New South Wales and the New South Wales Bar Association:

The general nature of the new expedition régime is that a party will be able to request that a proceeding be entered in

an "expedition list", in which case the first directions hearing in the proceeding will take place before the Judge in charge of the list. If the case is appropriate for the list that Judge will ensure that the case is heard, and so far as possible judgment delivered, on dates and within times of which the parties will be aware from the outset. If the docket Judge is not able to commit to the timetable because of other hearings or other commitments, the list Judge will find another Judge who is in a position to do so.

The new régime will depend for its success on a commitment of the parties through their legal representatives to its objectives. Particular features will be tight timetables, an absence or minimisation of interlocutory disputes, strict control of discovery (if any), and close liaison between the list Judge and the Judge who is to hear the matter.

The formal expedition list in New South Wales will be managed within the larger context of the Federal Court's commitment to "the just resolution of disputes as quickly, inexpensively and efficiently as possible": see the Notice to Practitioners and Litigants issued by the Chief Justice on 5 May 2008.

3. Request for inclusion in the Expedition List

3.1 Any party to a proceeding may request that the proceeding be entered in the Expedition List. The request may be made at any time. In all cases, it will be expected that the request will be made promptly once the circumstances said to justify expedition are known or should be known to the party making the request. Where the requesting party is the party who commences the proceeding, it is expected that ordinarily the request will be made contemporaneously with the filing of the originating process.

3.2 A request for entry in the Expedition List is to be made by letter addressed to the New South Wales District Registrar accompanied by a copy addressed to the Associate to the Expedition Judge. The letter must state the reasons for the request. Where the request is made by the party who commences the proceeding, the original and copy should accompany the originating process at the time of lodgment.

3.3 Suitability for entry in the Expedition List is not limited by the subject matter of the proceeding. However, proceedings likely to require a hearing of more than three days will ordinarily be considered unsuitable.

4. Interlocutory Steps

4.1 Parties to proceedings in the Expedition List will be expected to cooperate with the Court in achieving the contemplated expedited hearing and judgment. Parties to proceedings in the Expedition List can expect a tight timetable, an absence or minimisation of interlocutory disputes, prompt resolution of any interlocutory disputes with only brief reasons being given, and strict control of discovery, if discovery is permitted.

4.2 It can be expected that the Expedition Judge will mould directions in the particular case with regard to the objective of expedition. This may involve dispensing with compliance with requirements of the *Federal Court Rules* (see O 1 r 8), and a direction for the filing of a document, by whatever description, directed to elucidation of the legal and factual issues to which the proceeding gives rise, and identification of any relevant leading authority or authorities.

5. Before the first directions hearing

5.1 Where a request has been made for entry in the Expedition List, the Expedition Judge will list the proceeding at an early date before him or her for consideration of the request and of any objection to the proceeding being entered in the Expedition List.

5.2 A party requesting that a proceeding be included in the Expedition List must send a copy of the letter of request to the other party. The parties will be expected to meet before the first directions hearing with a view to agreeing on:

- the legal and factual issues that are in dispute; and
- the suitability of the proceeding to be entered in the Expedition List.

6. At the first directions hearing

6.1 At the first directions hearing (before the Expedition Judge), the parties must be in a position to identify the factual and legal issues involved in the case, the scope of the evidence to be led, the identity of witnesses, the likely duration of the hearing, the likelihood of cross-

examination and of its scope and duration, and the desirable time for delivery of judgment. The parties will need to have available ranges of possible hearing dates.

6.2 The Expedition Judge will be reluctant to adjourn the first directions hearing, if the reason given is that the parties are not in a position to inform the Expedition Judge of the matters mentioned. This may itself tell against entry into the Expedition List.

6.3 The Expedition Judge will check whether the Judge to whose docket the proceeding would be allocated in the ordinary course is able to give an early hearing and judgment. For a variety of good reasons, he or she may not be in a position to do so at the time and, in that event, the Expedition Judge will find another Judge who is in a position to do so, and the proceeding will be entered in that Judge's Docket.

6.4 Where the proceeding is within the area of one of the specialist Panels, the Docket Judge will be a Judge who is a member of the relevant Panel.

6.5 In all cases, whether Panel or non-Panel, the objective will be that the proceeding be assigned to the Judge who will be able to give a hearing and deliver judgment with the greatest expedition.

7. After the first directions hearing

7.1 Once the Judge who is to hear the proceeding has been identified, further directions hearings (if any) will take place before that Judge.

8. Case management conferences

8.1 In proceedings in the Expedition List much use will be made of case management conferences. Depending on the circumstances, a case management conference will be held by the Judge who is to hear the proceeding or the Expedition Judge. There will be close liaison throughout between the Expedition Judge and the Judge who is to hear the proceeding.

9. Removal from the Expedition List

9.1 A Judge may, for good cause, remove a proceeding from the Expedition List at any time, upon request by any party or of his or her own motion. Ordinarily “good cause” will be a failure to comply with a timetable or otherwise to assist in the achievement of the objectives of the Expedition List.

10. Existing Specialist Lists

10.1 There are existing special arrangements governing Admiralty and Maritime proceedings, proceedings under the *Patents Act 1990* (Cth), Tax proceedings and Corporations proceedings. These are subject to the following:

Admiralty and maritime

- Notice to Practitioners and Litigants issued by the Chief Justice “Conduct of Admiralty and Maritime Work in the Federal Court of Australia – Notice to Practitioners in all States and Territories” dated 21 December 2005
- Notice to Practitioners issued by the New South Wales District Registrar “Admiralty and Maritime Matters” (NSW 2008/3) dated 30 January 2008

Patents

- Notice to Practitioners and Litigants issued by the NSW District Registrar “Proceedings under the *Patents Act 1990* (Cth)” (NSW 2008/4) dated 4 September 2008

Tax

- Notice to Practitioners and Litigants issued by the Chief Justice “Tax List Directions” 4 April 2008

Corporations

- Notice to Practitioners issued by the NSW District Registrar “Corporations Matters – Revised Administrative Arrangements” (NSW 2008/5) dated 31 October 2008

10.2 It is not intended that the new formal expedition régime will detract from the existing arrangements, the subject of the Notices referred to

above. However, a party to a proceeding of a kind covered by any of those notices may still request inclusion in the Expedition List. In that case, however, a copy of the letter of request should also be sent to the Associate to the convenor of the relevant panel. Those convenors are:

Admiralty and Maritime:	Justice Rares
Patents:	Justice Bennett
Taxation:	Justice Edmonds
Corporations:	Justice Lindgren

10.3 Where a proceeding is within one of the first three areas mentioned (Admiralty and Maritime, Patents, and Tax), the conduct of the first directions hearing will be decided upon by arrangement between the Expedition Judge and the List Judge who would otherwise ordinarily conduct the first directions hearing of a proceeding in that area.

10.4 In Corporations matters the first directions hearings are not held before a "List Judge" and the new expedition régime will have no bearing on urgent Corporations applications, which will continue to be dealt with by the rostered Corporations Duty Judge in accordance with the Notice to Litigants and Practitioners 2008/5 referred to above.



Michael Wall
District Registrar
15 December 2008