

Directions

A party to any proceedings before the Registrar may, at any time, request the Registrar to give a direction regarding those proceedings. The Registrar may also give such a direction on his own initiative (rule 88(1)).

Many of the requests where a direction might be appropriate have specific rules covering the situation. Examples are substitution of parties (rule 83) and security for costs (rule 84).

Obviously, no direction can be given which would be inconsistent with any other provision in the Rules (rule 88(2)).

The Registrar will not make a direction if he does not think it is appropriate (rule 88(3)(c)). In any event, he will not make a direction until he is satisfied that all parties to the proceedings have been notified of the proposed direction and have been given an opportunity to make representations (rule 88(3)(a) and (b)). Rule 88(4) provides that the representations may be made in writing or at a hearing.

Procedure

The following procedure will apply. The party seeking the direction will write to the Registrar setting out the terms of the requested direction. The request must be copied to the other party and the fact that it has been copied should be apparent from the face of the letter to the Registrar. Full reasons in support of the request must be included in the initiating letter. Failure to include full reasons will result in an exercise of discretion based on the material before the Registrar. If a formal hearing is requested to supply the grounds not included in the initiating letter, the requesting party will normally be ordered to pay the other parties' costs.

Upon receipt of the initiating letter, the Registrar will invite the other party to provide written comments within a specified time frame, generally 21 days. If no comments are received by the Registrar within the specified time, the Registrar will assume that the other party does not oppose the terms of the direction requested.

Upon receipt of the comments of the other party, a provisional determination will be sent in writing to both parties, with the reminder that unless a party gives written notice of his request for a formal hearing within one month of the date of the provisional direction, the direction will become final (rule 74(2)). The period of one month to request a formal hearing is not extendible (rule 95(1)(r)).

When a party makes a written request to be formally heard, the procedure set out in the Hearings chapter shall be followed.

* * *