



**RE: Department of Justice and Equality: Review of the Administration of Civil Justice**

**DATE: 16 February 2018**

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The purpose of this memorandum is to record the submission of AIB Group (“AIB”) in response to the request for submissions from interested persons or parties in relation to the work of the Review of the Administration of Civil Justice Group.

**Overview:**

Due to the nature of its banking business, particularly on the loan recovery and security enforcement side, AIB, like many other financial institutions, frequently comes before the court seeking a number of reliefs: the recovery of a liquidated debt; Orders for Possession and Well Charging Orders.

In progressing its cases, AIB looks to avail of the summary procedures available under Order 37 of the Rules of the Superior Courts (“RSC”) and Order 38 RSC which Orders set out the procedure for the hearing of proceedings commenced by Summary Summons and Special Summons respectively.

Although the summary procedures provided for under these Orders are clearly set out in the prescribed rules, in practice, case progression in accordance with the rules is frequently met with significant delay leading to increased legal costs, uncertainty for all parties involved in the case and pressure on the court lists.

AIB wishes to focus its submission on the improvement of procedures and practices under Order 37 RSC and Order 38 RSC. AIB’s suggested improvements are for the benefit of plaintiff and defendant alike as they would, in our respectful submission, lead to efficiencies in terms of time and cost saving in the administration of justice.

**Summary Summons (liquidated sum) cases:**

*Difficulties:*

- The summary procedure for the hearing of proceedings commenced by way of summary summons - provided for under Order 37 RSC - can take a number of years from end to end. For example, AIB is aware of one case that was listed before the Master of the High Court on approximately 21 occasions over a 3 year period;
- The frequency with which applications to transfer contested cases from the Master’s list into the High Court for hearing are refused by the Master of the High Court notwithstanding the fact that these applications are often moved on the consent of both plaintiff and defendant;
- The frequency with which, in contested cases, the pleadings are reviewed and queried by the Master of the High Court leading to adjournments and delay;
- The frequency with which cases are struck out by the Master of the High Court leading to appeals into the High Court, pressure on court lists, delay, increased legal costs and uncertainty for the parties;

- The frequency with which the Master of the High Court purports to transfer cases to plenary hearing in the absence of the consent of both plaintiff and defendant. This leads to appeals into the High Court, pressure on Court lists and delay.

*Suggested improvements:*

- Amendments to the RSC to clarify the jurisdiction of the Master of the High Court in relation to contested cases;
- The allocation of the business of the Master of the High Court insofar as it relates to Order 37 RSC to the Deputy Master.

**Special Summons (Orders for Possession and/or Well Charging Orders) cases:**

*Difficulties:*

- The procedure for the hearing of proceedings commenced by way of special summons - provided for under Order 38 RSC – can take a number of months to travel from the Master’s list into the High Court list for hearing;
- The frequency with which applications to transfer the summons from the Master’s list into the High Court list for hearing are refused notwithstanding the fact that applications are often moved on the consent of both plaintiff and defendant;
- The frequency with which the pleadings are reviewed and queried by the Master of the High Court with directions given as to the requirement for corrective affidavits;
- The frequency with which cases are struck out by the Master of the High Court leading to appeals into the High Court, pressure on court lists, delay, increased legal costs and uncertainty for parties to litigation.

*Suggested improvements:*

- Amendments to the RSC to clarify the jurisdiction of the Master of the High Court in relation to the procedure to be followed under Order 38 RSC;
- The allocation of the business of the Master of the High Court insofar as it relates to Order 38 RSC to the Deputy Master.

**Conclusion:**

The benefits of a more streamlined and efficient procedure for the hearing of proceedings commenced by way of Summary Summons and Special Summons would be welcomed by both plaintiff and defendant. Cases would be dealt with more efficiently and there would be increased clarity as to the process to be followed which would see the parties spend less time (and money) engaging in the legal process.

**AIB Legal Department  
February 2018**