

Note from Dean of Hamilton to members – 29.04.20 – Restarting civil business

Colleagues

I attach letter and guidance received from the Sheriff principal re civil business and commissary. This will be effective from 1st May.

Civil Business

This is to do with restarting of cases that have been sisted by the court to a date after 1st June 2020 or where no further order was made

If agents are wishing to restart these cases then there are 2 matters to address in the first instance

1. You have to satisfy the court that there is good reason why the action (ordinary, family, commercial action, AWI and corporate insolvency only) should be restarted.
2. That the action can be progressed remotely without recourse to a hearing which requires the leading of evidence.

As you can see this will not be covering proofs or evidential hearings and we are not yet returning to business as normal.

The guidance has clearly been prepared to cover all the hub courts and there will likely be a uniform way of dealing with matters as we go forward in all the hub courts.

You will all of course re the guidance but I would highlight the following for you which hopefully will be of assistance -

You are required to complete an application in terms of appendix 1 inserting all the required details. There is no fee payable for this. The hub courts do not have access to the process so please ensure that any papers you consider NECESSARY for the case are enclosed. This should include electronic copies of the up to date pleadings and if there is an extant motion that motion.

The opponent has TWO working days to consent or oppose the application again using the form on the appendix and send whatever electronic copies of documents that are NECESSARY for the court to have and that were not with the application to restart.

The sheriff will consider this as soon as reasonably practical and if refused provide reasons. It is not clear if there is any right of appeal. I would assume not to avoid clogging up the court. if matters change the easiest way to deal with this is to submit a fresh application with additional information for the sheriff.

You will also have noted that the court now permits electronic signature of court documents in terms of the Electronic Communication Act 2000 section 7. My own preference is DocuSign but you can use whatever provider you have that satisfies the Act.

Please note the following from the Sheriff Principal that is also replicated in the letter to me

1. The mailboxes referred to in Appendix 2 must NOT be used for general enquiries.
 - Only restart applications and responses should be submitted; general enquiries to these mailboxes will not receive a response.
2. Restart applications and responses which do not contain the required information will be returned and not considered by a sheriff.
3. Agents must consider whether the documents accompanying a restart application are necessary - please do not provide the court with voluminous documents in the anticipation that some might be useful; if necessary, the sheriff can order the production of further documents to consider a restart application.
4. Where a restart application concerns a motion or a minute previously lodged with the court, that should be provided.
5. In the event of remote hearings taking place, it is important that agents observe normal court etiquette.

If anyone requires any clarification please let me know. In relation to AWI applications Mark Lunny provided a very helpful guide. He has now advised me that in respect of NLC any documents that require intimation to the council can be sent to AWIApplicationRequests@Northlan.gov.uk. We are still awaiting a similar mailbox from SLC.

Commissary

These will now be processed from the 1st May at the hub court. They at this stage require to be sent in to the postal address of the hub court as detailed on SCTS website. As Birnie house is closed make sure that they are sent to

Sheriff Court House,
4 Beckford Street,
Hamilton,
ML3 0BT

Due to staff shortages at present they may take longer to process than normal. At present the staff are working through the existing business and this is likely to take 21 days to get through. I hope this is all helpful but anyone who has issues re anything feel free as before to contact me and I will do what I can to assist as I have done with several matters to date. I am still seeking clarification on PI cases and what it means by “the means the applicant has available to deal with the case remotely”. I have assumed this is IT but will clarify.

Regards

Mark O’Hanlon

Dean