



PRACTICE DIRECTION No. 6/2004

Applications out of working hours and other urgent applications

Too many urgent applications are being made to the Court without warning either close to the time the Registry closes or soon after that.

The Registry counter hours are from 8.30 am to 12.30 pm and then from 1.30 pm to 3.30 pm. Neither the Court staff nor the Judges are expected as a matter of course to work outside normal hours and ex parte applications for injunctions or urgent orders should only be made outside those times in cases of real urgency. The Court is unlikely to consider an application as so urgent as to justify an ex parte hearing out of hours if the event, which triggered it occurred more than 24 hours prior to the application being filed with the Court.

In addition it is frequently apparent that the Counsel presenting an urgent application has been preparing it for some time previously and knew that he or she might need to make it out of hours, or close to closing time, but has taken no steps to warn the Court of that. The same often applies to applications made within Registry working hours.

In future, as soon as Counsel starts preparing an urgent ex parte application, he or she will be expected to phone or fax the Court and inform the Chief Registrar or Registrar, or a Judge's Interpreter or Clerk, of the likely application, the nature of it (eg an application for an interim injunction to stop the defendant removing property), the general subject matter (eg a contract claim) and the probable time of filing the application. That information may allow the Judge to prepare for the application and so may result in the application being dealt with more quickly.

When the application is filed at the Registry counter, Counsel must again tell the Clerk that it is an application for an urgent Court order and ask for it to be given priority. I am issuing internal instructions to make sure that is done.

If these steps for urgent applications are not followed by Counsel it is unlikely that the Court will be prepared to consider giving them priority treatment out of hours.



R M Webster MBE
Chief Justice

NUKU'ALOFA: 23 November 2004