

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE
PRACTICE DIRECTIONS
AMENDMENT NO. 4 OF 2015

It is hereby notified for general information that, with effect from 1st May 2015, the State Courts Practice Directions will be amended as follows:

- (a) the existing paragraphs 25 and 39 will be deleted and replaced by the following paragraphs:

New paragraphs 25 and 39

- (b) a new form 6B (Request for Skype Mediation) to be inserted immediately after the existing Form 6A in Appendix B:

New Form 6B of Appendix B

- (c) the existing Appendix C to be deleted and replaced by the following new Appendix C:

New Appendix C

2 The State Courts Centre for Dispute Resolution was established on 4th March 2015. The Centre provides greater integration and consolidation of the various efforts to promote alternative dispute resolution (ADR) services for the whole range of disputes that are dealt with by the State Courts. The State Courts Practice Directions Amendment No. 2 of 2015, which took effect on 4th March 2015, had updated the Practice Directions to provide for the new Centre, without making any substantive changes.

3 These current amendments introduce the following changes to the processes in the Centre:

- (a) Skype Mediation Scheme

This scheme institutionalises previous ad hoc arrangements within the Centre for Dispute Resolution for parties who are overseas to participate in mediation through Skype. In recognition that such arrangements are becoming more common with the increased mobility of parties, the State Courts have introduced guidelines for the use of Skype mediation at paragraph 25(23). Form 6B, which is to be completed by solicitors and the party appearing by Skype, should be filed together with a Request for CDR in the eLitigation system.

(b) Court ADR Fees for certain District Court claims

The updated paragraph 25(7)-(8) also alerts solicitors to Court ADR fees that will be charged for certain District Court cases, pursuant to the new Order 90A Rule 5A of the Rules of Court (Cap. 322, R 5).

Dated this 23rd day of April 2015.

A handwritten signature in black ink, appearing to read 'Jm', is positioned above the typed name.

JENNIFER MARIE
REGISTRAR
STATE COURTS

25. Overview of Alternative Dispute Resolution (ADR) for civil cases

- (1) This Part of the Practice Directions focuses on ADR for *civil* disputes only.
- (2) ADR should be considered at the earliest possible stage. Court-sponsored ADR services give the parties the opportunity to resolve their disputes faster and more cheaply compared to litigation. These services are collectively termed “Court Dispute Resolution” (CDR) and are provided by the Court for free. CDR sessions are convened under Order 34A of the Rules of Court, which empowers the Court to convene pre-trial conferences for the purpose of the “just, expeditious and economical disposal of the cause or matter”.
- (3) In addition to CDR sessions provided by the Courts, the Courts also encourage parties to consider using other ADR procedures, such as the following:
 - (a) Arbitration under the Law Society’s Arbitration Scheme; and
 - (b) Mediation by private mediation service providers.

Processes used for Court Dispute Resolution sessions

- (4) CDR is provided by the State Courts Centre for Dispute Resolution. There are 2 processes used —
 - (a) Mediation; and
 - (b) Neutral Evaluation.

(Solicitors may refer to the State Courts’ website at <http://www.statecourts.gov.sg> for more information on these processes.)
- (5) CDR sessions are conducted on a “without prejudice” basis. All communications at CDR sessions, except terms of settlement or directions given for trial, are confidential pursuant to Order 34A, Rule 7 of the Rules of Court, and shall not be disclosed in any court document or at any court hearing.
- (6) If the parties are unable to resolve their dispute at the CDR session, the Judge will give the necessary directions for the action to proceed to trial. The action will be tried by another Judge other than the Judge conducting the CDR session.
- (7) CDR sessions are provided by the State Courts Centre for Dispute Resolution without any fee, with the following exception set out in Order 90A Rule 5A of the Rules of Court (Cap. 322 R 5):

- "(1) *Subject to this Rule, a fee of \$250 is payable by each party in a case in a District Court (regardless of whether the case is commenced before, on or after 1 May 2015) for all Court ADR services that are provided in the case.*
- (2) *The Court ADR fee is payable when the first Court ADR service to be provided in the case, pursuant to either of the following, is fixed:*
- (a) *a request made on or after 1 May 2015 for the Court ADR service by any party in the case;*
- (b) *a referral on or after 1 May 2015 by the Court or the Registrar.*
- (3) *No Court ADR fee is payable in any of the following actions:*
- (a) *any non-injury motor accident action (as defined in Order 59, Appendix 2 Part V);*
- (b) *any action for damages for death or personal injuries;*
- (c) *any action under the Protection from Harassment Act 2014 (Act 17 of 2014).*
- (4) *The Registrar may, in any case, waive or defer the payment of the whole or any part of the Court ADR fee on such terms and conditions as the Registrar deems fit."*

- (8) Each party who has requested for CDR or have been referred for CDR pursuant to Order 90A Rule 5A shall pay the fee of \$250 before proceeding for the scheduled CDR session. Details concerning the payment of these fees are provided in the relevant correspondence by the State Courts to the parties.

Presumption of ADR for all cases

- (9) A “presumption of Alternative Dispute Resolution” applies to all civil cases. The Court encourages parties to consider ADR options as a “first stop”, at the earliest possible stage. The Court will, as a matter of course, refer appropriate matters to ADR.

Presumption of ADR for non-injury motor accident (NIMA) claims, personal injury claims and medical negligence claims

- (10) *All non-injury motor accident and personal injury cases excluding claims where the pleadings contain an allegation of a negligent act or omission in the course of medical or dental treatment (“medical negligence claims”) filed in court will be fixed for CDR. The Court will send a notice to the solicitors fixing the date of the first CDR session within 8 weeks after the memorandum of appearance is filed.*

- (11) Subject to subparagraph (10) below, the Judge will use the process of *Neutral Evaluation and indicate the likely apportionment of liability of the parties at trial*. The parties may then negotiate using the indication as a basis. The procedure and protocols set out in paragraphs 25B and 25C of these Practice Directions shall apply, as appropriate, to these claims.
- (12) For NIMA and personal injury claims arising from motor vehicle accidents, the Judge will provide an indication on the likely apportionment of liability of the parties at trial if —
- (a) the factual matrix of the particular motor accident does not correspond substantially with any of the scenarios set out in the Motor Accident Guide (1st Edn., 2014 State Courts, Singapore) (“Motor Accident Guide”); or
 - (b) despite the parties’ reasonable efforts in resolving the question of liability through negotiation with reference to the Motor Accident Guide before the CDR session, no settlement has been reached.
- (13) All medical negligence claims will be fixed for CDR. The Court will send a notice to the solicitors fixing the date of the first CDR session within 4 weeks after the writ is filed. The procedure and protocols set out in paragraph 25D of these Practice Directions shall apply, as appropriate, to these claims.

Presumption of ADR for other cases (excluding NIMA, personal injury and medical negligence cases)

Cases that are subject to the simplified process under Order 108 of the Rules of Court (Magistrate’s Court cases filed on or after 1st November 2014 and by consent, District Court cases filed on or after 1st November 2014)

- (14) All cases commenced by writ on or after 1st November 2014 in a Magistrate’s Court and any case commenced by writ on or after 1st November 2014 in a District Court (where parties have filed their consent in Form 233 of Appendix A of the Rules of Court for Order 108 to apply) will be subject to the simplified process under Order 108 of the Rules of Court (Cap 322, R 5).
- (15) The Court will convene a case management conference within 50 days of the filing of the Defence pursuant to Order 108, Rule 3 of the Rules of Court. At the case management conference, *the Court may refer cases for the most appropriate mode of ADR, where —*

- (a) *the parties consent to the case being referred for resolution by the ADR process; or*
 - (b) *where the Court is of the view that doing so would facilitate the resolution of the dispute between the parties.*
- (16) Paragraph 171 of these Practice Directions sets out details of the case management conference.

Cases that are not subject to the simplified process

- (17) In all other cases commenced in a Magistrate's Court before 1st November 2014, and all cases commenced in a District Court on or after 1st April 2014, the Court will fix a Pre-Trial Conference (PTC) within 4 months after the filing of the writ if —
- (a) the Defence has been filed;
 - (b) no summons for directions or application for summary judgment, striking out, stay, transfer or consolidation of proceedings has been taken out for the case; and
 - (c) no CDR session has been fixed.
- (18) Such cases shall be automatically referred by the Court for the most appropriate mode of ADR during the PTC, unless the parties opt out of ADR.
- (19) The procedure for referral to these ADR options is set out in paragraphs 25A of these Practice Directions.

Request for CDR

NIMA, personal injury and medical negligence cases

- (20) A Request for CDR is not required to be filed for all NIMA, personal injury and medical negligence claims as the parties are automatically notified by the Court to attend CDR.

Cases subject to the simplified process in Order 108 (excluding NIMA, personal injury and medical negligence claims)

- (21) For all cases commenced by writ on or after 1st November 2014 in a Magistrate's Court, parties are not required to file a Request for CDR as the Court will deal with matters concerning ADR at the case management conference. Further details are set out in Part XVIII of these Practice Directions.

Cases that are not subject to the simplified process (excluding NIMA, personal injury and medical negligence claims)

- (22) For all such cases commenced before 1st November 2014 in a Magistrate's Court, and all cases commenced in a District Court, parties are not required to file a Request for CDR as the Court will refer the appropriate cases for CDR during PTCs or summonses for directions. A Request for CDR may be filed via the Electronic Filing Service when the parties wish to attempt CDR at an earlier stage.

Request for Skype Mediation

- (23) Parties can request for mediation to be conducted in the State Courts Centre for Dispute Resolution with one party appearing via Skype if the following requirements are satisfied namely:
- (a) The overseas party satisfies either of the following criteria:
 - (i) The overseas party (not being a corporation) is unable to travel to Singapore on certified medical grounds, or provides other evidence of inability to travel to Singapore for mediation; or
 - (ii) The overseas party is a foreign incorporated company with no local presence and/or representative;
 - (b) The party in Singapore consents to the application for mediation via Skype; and
 - (c) The overseas party is represented by solicitors in Singapore.
- (24) A request for Skype mediation is to be made by filing a Request for CDR via the Electronic Filing Service, and annexing a Request for Skype Mediation (Form 6B in Appendix B of these Practice Directions) and relevant supporting documents in PDF format via the "paper clip" feature embedded in the Request for CDR.
- (25) Both Part A and Part B of the Request for Skype Mediation have to be completed and endorsed by the relevant parties at the time of filing.
- (26) Skype mediation proceedings or any part thereof shall not be recorded on video, audio or any other form. The attention of parties is also drawn to Order 38A, Rule 4 of the Rules of Court.

Request for adjournment of CDR session

- (27) A dedicated time slot is set aside for each CDR session. In order to minimise wastage of time and resources, any request for adjournment of a CDR session shall be made early. A request to adjourn a CDR session —
- (a) for NIMA and personal injury claims shall be made *not less than 2 working days* before the date of CDR; and
 - (b) for other cases shall be made *not less than 7 working days* before the date of CDR.
- (28) A request for an adjournment of a CDR session shall be made *only* by filing a “Request for Refixing / Vacation of Hearing Dates” via the Electronic Filing Service. The applicant shall obtain the consent of the other parties to the adjournment, and list the dates that are unsuitable for all the parties.

Sanctions for failure to make early request for adjournment, lateness or absence

- (29) Where any party is absent without valid reason for the CDR session, the Court may exercise its powers under Order 34A, Rule 6 of the Rules of Court to “dismiss such action or proceedings or strike out the defence or counterclaim or enter judgment or make such order as it thinks fit”.
- (30) Where any party is late for the CDR session, this conduct may be taken into account by the Court when making subsequent costs orders pursuant to Order 59 Rule 5(1)(c) of the Rules of Court, which states —

“The Court in exercising its discretion as to costs shall, to such extent, if any, as may be appropriate in the circumstances, take into account the parties’ conduct in relation to any attempt at resolving the cause or matter by mediation or any other means of dispute resolution.”

39. Video-Conferencing using Skype

Introduction

- (1) The State Courts will allow solicitors to use Skype, a free and accessible service, to mention cases on the following hearing lists that satisfy the criteria set out opposite thereto:

Registry / Department	Hearing Lists	Criteria
Civil Registry	<ul style="list-style-type: none">• Ex-parte summons list (Wednesday mornings)• Garnishee list (Tuesday and Thursday afternoons)• Summons for Directions (Tuesdays and Thursdays)• Duty Registrar matters (every day)	Uncontested matters for selected hearing lists, where no documents will be tendered and the party attending via Skype is mentioning for all other parties (if applicable).
State Courts Centre for Dispute Resolution	<ul style="list-style-type: none">• Court Dispute Resolution sessions for non-injury motor accident claims and personal injury claims arising from motor vehicle accidents (Mondays, Wednesdays and Fridays)	Court Dispute Resolution sessions for non-injury motor accident claims and personal injury claims arising from motor vehicle accidents where no documents will be tendered.

- (2) This will enable solicitors to mention their cases via Skype instead of personally attending Court for many short mentions which generally will not last beyond 10 minutes.

Guidelines and Procedures

- (3) Unless approval has been previously given, solicitors seeking to mention their cases via Skype at the State Courts Centre for Dispute Resolution after 1 May 2015 must file a Request for Hearing Administrative Support via the Electronic Filing Service not less than 2 working days before the date of the hearing. All requests are subject to the approval of the Judge or Registrar.
- (4) Solicitors mentioning their cases via Skype must comply with the guidelines and procedures set out in the Annex to this Paragraph (see below).

Court etiquette

- (5) A solicitor mentioning a case via Skype must proceed with the hearing as if he or she were appearing before the Judge in person, and must comply with all Court rules of

etiquette as prescribed in these Practice Directions and any relevant Registrar's Circular.

Adjournment of Skype hearing

- (6) If for any reason the presiding Judge or Registrar considers that it is not expedient for any hearing to continue via Skype, he or she may —
- (a) adjourn the matter and require parties to attend Court personally on an appointed date and time;
 - (b) conduct the hearing via telephone; or
 - (c) make any other direction that may be appropriate in the circumstances of the case.

Hearing Records

- (7) Hearings conducted via Skype shall not be recorded on video or audio tape or any other form.

Queries and Assistance

- (8) Any queries or requests for assistance pertaining to Skype hearings may be sent to the following email addresses:
- (a) for hearings at the Civil Registry:
Statecourts_Civil_Registry@statecourts.gov.sg
 - (b) for hearings at the State Courts Centre for Dispute Resolution:
Statecourts_CDR@statecourts.gov.sg

ANNEX

GUIDELINES AND PROCEDURES FOR HEARINGS VIA SKYPE

1. Log into your Skype account and set your status to 'available'.
2. You may access the relevant hearing list at <http://www.statecourts.gov.sg>.
3. Check the chambers assigned to hear your case.
4. **Then identify the corresponding Skype contact from amongst the following:**

Civil Registry	
Chambers C	StateCts_CivilReg_ChC
Chambers D	StateCts_CivilReg_ChD
Chambers J	StateCts_CivilReg_ChJ
Chambers N	StateCts_CivilReg_ChN
Chambers P	StateCts_CivilReg_ChP
Duty matters	StateCts_CivilReg_DutyReg
State Courts Centre for Dispute Resolution (SCCDR)	
SCCDR Chambers 1	StateCts_CDR_Ch_1
SCCDR Chambers 2	StateCts_CDR_Ch_2
SCCDR Chambers 3	StateCts_CDR_Ch_3
SCCDR Chambers 4	StateCts_CDR_Ch_4
SCCDR Chambers 5	StateCts_CDR_Ch_5
SCCDR Chambers 7	StateCts_CDR_Ch_7
SCCDR Chambers 8	StateCts_CDR_Ch_8

5. Send a request to add the Court's Skype ID as your contact. Once the request is accepted, send an instant message to the relevant Chambers using Skype to inform the judge that you are ready and state your name, law firm and case number. E.g., if your matter is fixed for hearing in Chambers J, you will send your message to 'StateCts_CivilReg_ChJ'. Your instant message will state "*John Tan, ABC Law*

Firm, ready at 3:15, MC 12345/20XX/A". **Note that the judge will not call you unless you have previously sent a message to indicate your readiness to proceed with the Skype hearing.**

6. When the judge is ready to deal with your matter, he/she will call you. Accept the *video call* and start the hearing. **Do not attempt to call the judge.**
7. If you encounter any problem, you may call the following numbers for assistance:
 - Civil Registry: 6435 5058
 - SCCDR: 6435 5882
8. If the problems cannot be resolved, you may be required to personally attend Court to mention your case.

Form 6B

Part A

**REQUEST FOR SKYPE MEDIATION
(BY-CONSENT OF PARTIES ONLY)**

(This section is to be completed by the solicitors. Please confirm that parties have satisfied the necessary conditions stated in Paragraph 25(23) before making this application. This form shall be filed via the Electronic Filing Service in PDF format together with the Request for CDR.)

Case Number: DC/MC _____ of _____

We, the solicitors acting for the Plaintiff(s) and Defendant(s) (and other party, where applicable), do confirm as follows:

(Tick the relevant boxes.)

- (1) The Plaintiff/Defendant/other party* is the overseas party requesting to appear for mediation via Skype because
 - The overseas party (not being a corporation) is unable to travel to Singapore on certified medical grounds, or provides other evidence of inability to travel to Singapore for mediation (please see supporting documents attached); or
 - The overseas party is a foreign incorporated company with no local presence and/or representative.
- (2) **All solicitors will attend the mediation session conducted at the State Courts Centre for Dispute Resolution in person, even if their client is appearing via Skype.**
- (3) All solicitors and parties consent to this application to mediate at the State Courts Centre for Dispute Resolution, with the overseas party appearing via Skype.

Details of the party appearing for the mediation session via Skype	
Party	Plaintiff/Defendant/other party*
Name of party/representative	
Country party will connect from	
Skype ID of party	
Email address of party	

Signature of solicitor
for the Plaintiff

Name of law firm

Date:

Signature of solicitor
for the Defendant

Name of law firm

Date:

Signature of solicitor
or the Other Party

Name of law firm

Date:

*Delete where inapplicable.

Part B

CONFIDENTIALITY UNDERTAKING FOR SKYPE MEDIATION

(BY OVERSEAS PARTY ONLY)

(This section is to be completed by the overseas party at the time of filing of Part A.)

Case Number: DC/MC _____ of _____

1. This is to certify that my solicitor has explained to me the benefits of settling my case by mediation.
2. I have been advised and understand that **all communication, negotiations or offers of settlement** by and between any parties of the mediation, or during any private mediation sessions with the mediator at the State Courts Centre for Dispute Resolution, **shall remain confidential**.
3. I have been advised and understand that audio, video or any other form of recording of the mediation session is **not permissible**, and only relevant parties should attend the mediation session via Skype.
4. I have been advised and understand that any unauthorised audio recording of the mediation session may expose me to contempt of Court proceedings pursuant to Order 38A, Rule 4 of the Rules of Court.

Signature of Plaintiff/Defendant/Other party*

Name:

Date:

**Delete where inapplicable.*

APPENDIX C

GUIDELINES FOR COURT DISPUTE RESOLUTION FOR NON-INJURY MOTOR ACCIDENT CLAIMS AND PERSONAL INJURY CLAIMS

1. Introduction

- 1.1 The State Courts Centre for Dispute Resolution provides Court Dispute Resolution (CDR) services for all civil matters. Two main processes – mediation and neutral evaluation – are used.
- 1.2 According to Paragraphs 25B and 25C of the State Courts' Practice Directions, all non-injury motor accident claims and personal injury claims are to proceed for CDR within 8 weeks after the Memorandum of Appearance has been filed.
- 1.3 Neutral evaluation will be used in the CDR sessions for these cases. This appendix sets out the guidelines to be followed by solicitors.

2. Date of CDR

- 2.1 As stated in Paragraph 25B(3) and 25C(2) of the Practice Directions, solicitors in these cases will receive a notice from the Court fixing the first CDR session.
- 2.2 A request for an adjournment of a CDR session shall be made **only** by filing a "Request for Refixing / Vacation of Hearing Dates" via the Electronic Filing Service.
 - 2.2.1 The applicant must obtain the consent of the other parties to the adjournment, and list the dates that are unsuitable for all the parties.
 - 2.2.2 The request must be made *not less than 2 working days before the date of the CDR*.
 - 2.2.3 An adjournment of a CDR session will be granted only for good reason e.g. the solicitor is engaged in a trial or other hearing in the High Court or the State Courts, is away on in camp training, overseas, or on medical leave; or the party or his witness, if asked to attend, is out of the country or otherwise unavailable for good reason.
 - 2.2.4 A CDR session from which one or all parties are absent without good reason will be counted as one CDR session.

3. Attendance at CDR

- 3.1 Only solicitors are required to attend CDR sessions. Their clients need not be present unless the Judge directs for their attendance.
- 3.2 In certain cases, the Judge may direct the parties to attend subsequent CDR sessions. For instance, the drivers of the vehicles involved in a motor accident and eyewitnesses may be asked to be present at a later CDR session for the purpose of a more accurate neutral evaluation or to facilitate in negotiating a settlement.

4. Preparation for CDR

- 4.1 Documents to be exchanged prior to CDR:
- 4.1.1 For CDRs for **motor accident claims**, the following documents should be exchanged between solicitors before the first CDR session:
- (a) Full and complete GIA reports and police reports including the names, identity card numbers and addresses of all persons involved in the accident, together with type-written transcripts of their factual accounts of the accident;
 - (b) sketch plan and if unavailable, the claimant's sketch of the accident;
 - (c) Results of police investigations or outcome of prosecution for traffic offence(s);
 - (d) Police vehicle damage reports;
 - (e) Original, coloured copies or scanned photographs of damage to all vehicles;
 - (f) Original, coloured copies or scanned photographs of the accident scene;
 - (g) Video recording of the accident;
 - (h) Repairer's bill and evidence of payment;
 - (i) Surveyor's report;
 - (j) Excess bill or receipt;
 - (k) Vehicle registration card;
 - (l) COE/PARF certificates;
 - (m) Rental agreement, invoice and receipt for rental of alternative vehicle (if any);
 - (n) Supporting documents for all other expenses claimed (if any).
- 4.1.2 Where **personal injury forms part of the motor accident claim**, the following documents should also be exchanged:
- (a) Medical reports and specialist reports;
 - (b) Certificates for hospitalisation and medical leave;
 - (c) Bills for medical treatment and evidence of payment;
 - (d) Income tax notices of assessment and/or other evidence of income and loss thereof; and

- (e) Supporting documents for all other expenses claimed (if any).

4.1.3 For CDRs for **industrial workplace accidents**, the following documents should be exchanged between solicitors before the first CDR session:

- (a) The claimant's sketch of the accident;
- (b) Ministry of Manpower investigation reports;
- (c) Notice of Assessment from the Occupational Safety and Health Division, Ministry of Manpower (if any);
- (d) Original, coloured copies or scanned photographs of the accident scene;
- (e) Video recording of the accident;
- (f) Medical reports and specialist reports;
- (g) Certificates for hospitalisation and medical leave;
- (h) Bills for medical treatment and evidence of payment;
- (i) Income tax notices of assessment and/or other evidence of income and loss thereof; and
- (j) Supporting documents for all other expenses claimed (if any).

4.1.4 For CDRs for **any personal injury claim not involving motor accidents or industrial workplace accidents**, the following documents should be exchanged before the first CDR session:

- (a) The claimant's sketch of the accident;
- (b) Original, coloured copies or scanned photographs of the accident scene;
- (c) Video recording of the accident;
- (d) Medical reports and specialist reports;
- (e) Certificates for hospitalisation and medical leave;
- (f) Bills for medical treatment and evidence of payment;
- (g) Income tax notices of assessment and/or other evidence of income and loss thereof; and
- (h) Supporting documents for all other expenses claimed (if any).

4.2 To make the full use of CDR sessions, it is essential that solicitors be well prepared and familiar with their cases. This also applies to duty solicitors assigned by their firms to deal with the firm's cases on a particular day. Duty solicitors must receive their files in good time and with clear instructions from the solicitor in charge so that they can familiarise themselves with the cases, understand the basis of instructions (i.e. why a certain position is taken) and to act on them (e.g. to convey the clients' offer on quantum or liability to the opposing solicitor). Duty solicitors must after the CDR session, ensure that they convey to the solicitor in charge, the rationale for the Judge's indication, the discussion at CDR sessions, and the follow-up action to be taken before the date of the next CDR session.

5. CDR Session

Claims subject to the simplified process under Order 108 of the Rules of Court

- 5.1 All cases commenced by writ on or after 1st November 2014 in a Magistrate's Court and any case commenced by writ on or after 1st November 2014 in a District Court (where parties have filed their consent in Form 233 of Appendix A of the Rules of Court for Order 108 to apply) will be subject to the simplified process under Order 108 of the Rules of Court (Cap 322, R 5).
- 5.2 The requirement for upfront discovery under Order 108 Rule 2(4) of the Rules of Court (Cap. 322, R 5) and paragraph 170 of these Practice Directions apply to such cases.
- 5.3 These claims will continue to be called for CDR within 8 weeks after the filing of the memorandum of appearance. There will be no case management conference convened. The rest of the guidelines in Appendix C also apply to CDRs for these claims.
- 5.4 Where parties are unable to resolve the case through CDR, the Court will manage the case, having regard to the provisions in Order 108 Rule 5 of the Rules of Court, by, inter alia, —
- (a) giving such directions as the Court thinks fit in order to ensure that the case progresses expeditiously (including directions for the list of witnesses to be called for trial, the appointment of a single joint expert where appropriate, the exchange and filing of Affidavits of Evidence-in-Chief and setting the matter down for trial);
 - (b) fixing timelines to manage and control the progress of the case; and
 - (c) taking such other action or making such other direction as the Court thinks appropriate in the circumstances including costs sanctions or unless orders.

Indications on liability and quantum

- 5.5 For NIMA and PIMA cases, the Judge will provide an indication on liability at the first CDR session if —
- (a) the factual matrix of the particular motor accident does not correspond substantially with any of the scenarios set out in the Motor Accident Guide; or

- (b) despite the parties' reasonable efforts in resolving the question of liability through negotiation with reference to the Motor Accident Guide before the CDR session, no settlement has been reached.
- 5.6 Solicitors for all the parties seeking an indication on liability shall submit a "Liability Indication Form" (see Form 9A) to the Judge at the first CDR session. Except where no corresponding scenario is provided for in the *Motor Accident Guide*, solicitors must specify in the Liability Indication Form the scenario(s) in the *Motor Accident Guide* that is/are relevant to the parties' factual accounts of the accident and state their respective proposals on liability.
- 5.7 In CDR sessions for all personal injury claims, *except PIMA claims*, the Judge will provide an indication on *both liability and quantum* of the claim., Solicitors for all the parties shall submit a "Quantum Indication Form" (see Form 9B) to the Judge at the first CDR session.
- 5.8 In respect of PIMA cases, whether or not an indication on liability is given, the Judge may, at his own discretion in appropriate cases or at solicitors' request, provide an indication on quantum. Solicitors requesting for an indication on quantum shall obtain each other's consent before the CDR session, and be submit the Quantum Indication Form (i.e. Form 9B) to the Judge.

Follow-up action after CDR

- 5.9 To facilitate settlement, solicitors shall brief their clients thoroughly on all the relevant aspects of the case, inform their clients quickly on the outcome of the CDR session where indications of liability and/or quantum are given, get their clients' instructions and discuss options with the solicitors for the other parties before the next CDR session.

6. Help and Co-operation of Insurers in facilitating CDR

- 6.1 Insurers play a key role in the success of CDR. CDR sessions are intended for substantive discussion of the issues. A CDR is unproductive if:
 - 6.1.1 parties have not —
 - (a) exchanged the relevant documents listed in paragraph 4; or
 - (b) identified the scenario(s) in the *Motor Accident Guide* that is/are relevant to their respective factual accounts of the accident

well before the CDR session to facilitate assessment and discussion of options;

6.1.2 one or more of the solicitors for the parties have not received or are still taking client's instructions; or

6.1.3 parties are still negotiating or are awaiting instructions upon a counter-offer.

6.2 ***Documents***

Insurers shall endeavour to send all documents requested by their solicitors in good time for exchange between parties before CDR. Insurers should also check that all documents needed for consideration of their claim are ready. If any *additional* documents apart from those at paragraph 4 are required, this shall be made known to the other party well before the CDR date. If a re-survey is required, it shall be conducted and the report exchanged before the first CDR session.

6.3 ***Instructions***

It is *very* important that insurers give *full* and *complete* instructions before their solicitor attends the CDR. Solicitors must inform their clients of the outcome of a CDR session quickly and remind their clients to revert with their instructions well before the next CDR session. The instructions shall be given early to enable the other party to consider their position or proposal and respond before the next CDR date.

6.4 ***Practices to facilitate CDR***

6.4.1 The claims manager or executive shall be briefed by the insurer's solicitor on the facts, the insurer's case, and the other party's case before a CDR session.

6.4.2 After evaluation of the documents and reports and consideration of the relevant liability indication in the *Motor Accident Guide*, the claims manager or executive shall give a mandate to the insurer's solicitors. The mandate could be in a range – e.g. – '65-70%', or 'to contribute 30-35% for the chain collision'. Reasons shall be given for the position taken so that the solicitor can inform the Judge of the basis for the mandate. E.g. 'we are relying on the statements of the independent witnesses here', 'the plaintiff has been charged for inconsiderate driving' or 'the photographs suggest that this is a side-swipe'.

6.5 Insurers sometimes insist on tying the issues of liability and quantum, i.e. that agreement on liability is *contingent* on quantum being settled at a particular sum. If parties are able to agree on the issue of liability but not quantum, parties shall consider allowing an *Interlocutory Judgment* to be recorded for

liability and proceed for assessment of damages. A hearing to assess damages is far less costly than a full trial.