PART 27 Alternative Dispute Resolution

PART 27

Alternative Dispute Resolution 27.1 - 27.10

27.1

While emphasising its primary role as a forum for deciding civil and commercial cases, the Court encourages parties to consider the use of alternative dispute resolution (such as, but not confined to, mediation and conciliation) as an alternative means of resolving disputes or particular issues.

27.2

Whilst the Court remains an entirely appropriate forum for resolving most of the disputes which are entered in the Court , the view of the Court is that the settlement of disputes by means of alternative dispute resolution :

(1) significantly helps parties to save costs;

(2) saves parties the delay of litigation in reaching finality in their disputes;

(3) enables parties to achieve settlement of their disputes while preserving their existing commercial relationships and market reputation;

(4) provides parties with a wider range of solutions than those offered by litigation; and

(5) is likely to make a substantial contribution to the more efficient use of judicial resources.

27.3

The Judges will, in appropriate cases, invite the parties to consider whether their dispute, or particular issues in it, could be resolved through alternative dispute resolution .

27.4

Legal representatives in all cases should consider with their clients and the other parties concerned, the possibility of attempting to resolve the dispute or particular issues by alternative dispute resolution and should ensure that their clients are fully informed as to the most cost effective means of resolving their dispute.

27.5

Parties who consider that alternative dispute resolution might be an appropriate means of resolving

the dispute or particular issues in the dispute, may apply for directions at any stage, including before service of the defence and before the case management conference.

27.6

At the Case Management Conference, if it should appear to the Judge that the case before him or any of the issues arising in it are particularly appropriate for an attempt at settlement by means of alternative dispute resolution , but that the parties have not previously attempted settlement by such means, he may invite the parties to use alternative dispute resolution .

27.7

The Judge may, if he considers it appropriate, adjourn the case for a specified period of time to encourage and enable the parties to use alternative dispute resolution . He may for this purpose extend the time for compliance by the parties or any of them with any requirement under the Rules or any order of the Court .

27.8

The Judge may further consider in an appropriate case, making a alternative dispute resolution order in the terms set out in the Schedule to this Part.

7.9

The Court will not recommend any individual or body to act as a neutral.

27.10

At the Case Management Conference or at any other hearing in the course of which the Judge makes an order providing for alternative dispute resolution , he may make such order as to the costs that the parties may incur by reason of their using or attempting to use alternative dispute resolution as may in all the circumstances seem appropriate.

Schedule to Part 27 Draft order for alternative dispute resolution