


30hb. Ogos, 1971.

Kepada Semua -

Penolong Kanan Pendaftar/Penolong Pendaftar, Mahkamah2 Tinggi  
Pendaftar Kanan/Pendaftar, Mahkamah2 Seshen  
Yang di-Pertua Khas/Yang di-Pertua Kanan/Yang di-Pertua  
Mahkamah2 Seshen  
Mejisteret2, Mahkamah2 Rendah.

REGISTRAR'S CIRCULAR NO. 11 OF 1971 - WITH  
REFERENCE TO PRACTICE DIRECTION NO. 1 OF 1971

1. When a Summons is issued, the Registrar of the Sessions Court or like officer in the Magistrate's Court performing the duties of such Registrar shall see to it that the Process Server makes every attempt to effect service on the defendant without delay. The object of this exercise is to ensure that the defendant be given as much time as possible before the return date, so that he may have fullest opportunity, if he so desires, to take legal advice and be able to file his defence in time. Presidents and Magistrates should satisfy themselves at frequent intervals that the process servers exercise due diligence in respect of every summons which they have been required to serve.
2. With reference to the filing of the defence, Presidents and Magistrates will of course exercise their discretion as to whether the defendant has shown reasonable grounds for delaying in taking legal advice until the last possible moment - bearing in mind that, while 7 clear days is enough in the normal run of cases for giving instructions to defend, there may be circumstances requiring service more than 14 days before the return date, to afford counsel adequate opportunity to take proper instructions and get up the case where there is a bona fide defence.
3. Where further time is needed for filing the defence and application is made on the return date for postponement of the trial of the action, the President or Magistrate should make a note of what the defendant, or his counsel, proposes to plead by way of defence and then fix a definite date for final disposal of the action. Further postponements may be granted, if cause is shown why the date fixed for hearing should be unsuitable.
4. Presidents and Magistrates are reminded to be sparing in the exercise of their discretion under Order X rule 7. They should be careful to satisfy themselves that there is no bona fide defence before the defendant is precluded from defending. If they are in doubt about the merits of the defence, an order for costs against the defendant will be the proper order to make where the postponement is occasioned by any default on the part of the defendant.

  
(DATU SHEIKH ABDUL RAHMAN BIN SHEIKH ABU BAKAR)  
PENDAFTAR