

## PRACTICE DIRECTION UPDATE: No. 1 of 2021

The amendments to the existing Practice Directions supplementing the Family Procedure Rules 2010 are made by the President of the Family Division under the powers delegated to him by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Alex Chalk MP, Parliamentary Under-Secretary of State, Ministry of Justice.

The provisions in this Practice Direction Update come into force as follows:

<b>Provision</b>	<b>Coming into force date</b>
Amendment to Practice Direction 10A	Immediately on the expiry of Practice Direction 36S.
Amendment to Practice Direction 12D	On the day after the date on which this Practice Direction Update is approved.
Amendment to Practice Direction 12K	Immediately on the expiry of Practice Direction 36S.
Amendment to Practice Direction 17A	On the day after the date on which this Practice Direction Update is approved.
Amendment to Practice Direction 36Q	On the day after the date on which this Practice Direction Update is approved.
Amendments to Practice Direction 36R	On the day after the date on which this Practice Direction Update is approved.
Amendments to Practice Direction 41B	1 March 2021

Signed:

\_\_\_\_\_ Date: \_\_\_\_\_ 11 February 2021\_

Sir Andrew McFarlane

The President of the Family Division

Signed:

\_\_\_\_\_ Date: \_\_\_\_\_ 14 February 2021\_

Alex Chalk MP

Parliamentary Under-Secretary of State, Ministry of Justice

## **PRACTICE DIRECTION 10A – PART 4 OF THE FAMILY LAW ACT 1996**

- (1) Omit paragraphs 3.1 and 3.2.

## **PRACTICE DIRECTION 12D – INHERENT JURISDICTION (INCLUDING WARDSHIP) PROCEEDINGS**

- (1) In paragraph 1.1, for the final sentence substitute-

“Case law establishes that such proceedings should only be commenced exceptionally where it is clear that the issues concerning the child should not be resolved under the Children Act 1989, for example, for reasons of urgency, of complexity or of the need for particular judicial expertise in the determination of a cross-border issue. For a review of the relevant case law and principles, see In the matter of NY (A Child) [2019] UKSC 49.”.
- (2) In paragraph 8.5-
  - (a) for “do not include orders or judgments” substitute “do not include those orders or judgments”;
  - (b) for “for which the power” substitute “where the power”; and
  - (c) for “form” substitute “from”.

## **PRACTICE DIRECTION 12K – CHILDREN ACT 1989: EXCLUSION REQUIREMENT**

- (1) Omit paragraph (1).

## **PRACTICE DIRECTION 17A – STATEMENTS OF TRUTH**

- (1) In paragraph 4A.1-
  - (a) in sub-paragraph (b), for “,” substitute “; or”; and
  - (b) after sub-paragraph (b) insert-

“(c) a document other than a form referred to in sub-paragraph (a) or (b), such as a witness statement;”.
- (2) After paragraph 4A.1 insert-

**“4A.2** Paragraph 4A.1 is subject to any direction of the court on a case by case basis that the signature on a given statement of truth must be in a specified form, for example by being handwritten.”.

## **PRACTICE DIRECTION 36Q – PILOT PROVISION: MODIFICATION OF PRACTICE DIRECTION 12B - CORONAVIRUS**

- (1) For paragraph 1.2 substitute-

**“1.2** This Practice Direction expires at the end of the day on 31 October 2021.”.

**PRACTICE DIRECTION 36R– PILOT PROVISION: MODIFICATION OF PRACTICE DIRECTIONS 2C, 5B AND 12A: CORONAVIRUS**

- (1) For paragraph 1.2 substitute-

“1.2 This Practice Direction expires at the end of the day on 31 October 2021.”

**PRACTICE DIRECTION 41B – PROCEEDING BY ELECTRONIC MEANS: PROCEDURE FOR AN APPLICATION FOR A CONSENT ORDER FOR A FINANCIAL REMEDY IN CONNECTION WITH DIVORCE PROCEEDINGS**

- (1) After paragraph 1.2 insert-

“1.3 References in this practice direction to “applicant” and “respondent” are to the applicant and the respondent in financial remedy proceedings. The applicant for a financial remedy could be either the applicant (petitioner) or the respondent in the connected proceedings for a decree of divorce and, in turn, the respondent in the financial remedy proceedings could be either the applicant (petitioner) or the respondent in the connected proceedings for a decree of divorce.”

- (2) In paragraph 2.1 for sub-paragraphs (d) and (e) substitute-

“(d) either-

(i) the applicant for a financial remedy is legally represented; or

(ii) the applicant and the respondent in the financial remedy proceedings are legally represented;

(e) access by the party’s legal representative to the online system is permitted; and”.

- (3) After paragraph 2.1 insert-

“2.2 For the avoidance of doubt-

(a) it should not be assumed that all stages of an application will always be able to be dealt with on the online system or that all legal representatives of parties will have access to the online system. For example, stages may not be able to be dealt with on the online system because of the fact that Her Majesty’s Courts and Tribunals Service is gradually rolling out new stages and features on the online system. Her Majesty’s Courts and Tribunals Service will indicate via the online system who can access the online system, and which stages in proceedings can be dealt with on the online system, at any point in time; and

(b) filing a document via the online system does not mean that service of that document has been effected.”.

- (4) After paragraph 3.1 insert-

“3.2 This practice direction enables respondents to, in the circumstances set out in this practice direction, take the steps at paragraph 3.1(b) and (c) via the online system.”.

(5) After paragraph 6.2 insert-

**“6.2A** The respondent must provide, in the manner specified, any information or documents that this practice direction, the online system or the court requires.”.

(6) In paragraph 8.3 for “applicant” substitute “party”.

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