

PRACTICE DIRECTION AMENDMENTS AND NEW PRACTICE DIRECTIONS

Amendments to the existing Practice Directions and the new 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 Paul Maynard MP, Parliamentary Under Secretary of State, Ministry of Justice.

The amendments to the existing Practice Directions and the new Practice Directions come into force as follows:

Amendment/ new Practice Direction	Coming into force date
New Practice Direction 30B	1st October 2019
Amendment to Practice Direction 36G	1st July 2019
Amendments to Practice Direction 36I	1st July 2019
Amendment to Practice Direction 36J	29th June 2019
Amendments to Practice Direction 36K	1st July 2019
New Practice Direction 36O	1st July 2019

Signed:

_____ Date: _____

Sir Andrew McFarlane

The President of the Family Division

Signed:

_____ Date: _____

Paul Maynard MP

Parliamentary Under Secretary of State

Ministry of Justice

PRACTICE DIRECTION 30B – APPEALS – TRANSPARENCY

(1) After Practice Direction 30A insert the new Practice Direction 30B, as set out in Schedule 1 to this document.

PRACTICE DIRECTION 36G – PILOT SCHEME, PROCEDURE FOR USING AN ONLINE SYSTEM TO GENERATE APPLICATIONS IN CERTAIN PRIVATE LAW PROCEEDINGS RELATING TO CHILDREN

(1) In paragraph 1.3 for “the Ministry of Justice’s” substitute “Her Majesty’s Courts and Tribunals Service’s”.

PRACTICE DIRECTION 36I – PILOT SCHEME: PROCEDURE FOR ONLINE FILING OF CERTAIN APPLICATIONS FOR CONSENT ORDERS FOR A FINANCIAL REMEDY IN CONNECTION WITH MATRIMONIAL PROCEEDINGS

(1) In paragraph 1.3-

(a) for “The Pilot” substitute “Subject to paragraph 1.3A, the Pilot”;

(b) for sub-paragraph (a) substitute-

“(a) the application is for a financial remedy in connection with an application for a matrimonial order which is a decree of divorce made under section 1 of the 1973 Act;” and

(c) in sub-paragraph (f) for “5 August 2019” substitute “31 March 2020”.

(2) After paragraph 1.3 insert-

“**1.3A** The exception referred to in paragraph 1.3 is where the application is for a variation order.”.

PRACTICE DIRECTION 36J – PILOT SCHEME: TRANSPARENCY (ATTENDANCE AT HEARINGS IN PRIVATE)

(1) In paragraph 1.3 for “2019” substitute “2020”.

PRACTICE DIRECTION 36K – PILOT SCHEME: PROCEDURE FOR THE BULK SCANNING OF CERTAIN PRIVATE LAW APPLICATIONS

(1) In paragraph 1.2-

(a) for sub-paragraph (d) substitute-

“(d) the application is to be made in the family court;”;

(b) in sub-paragraph (e) for “.” substitute “; and”; and

(c) after sub-paragraph (e) insert-

“(f) Her Majesty’s Courts and Tribunals Service indicates (whether via information given online, in correspondence or otherwise) that the application must be filed by sending it to C100 Applications, PO Box 4936, 69 Buckingham Avenue, Slough, SL1 0JR.”.

(2) After paragraph 4.2, in the modifications of Practice Direction 5B, insert-

“**4.2A** In paragraph 3.1, for “3.4” substitute “3.5”.

4.2B After paragraph 3.4 insert-

“**3.5** A person must not email an application to the court where the Pilot Scheme in Practice Direction 36K applies.”.

(3) In paragraph 5.1, in the modification of Practice Direction 12B-

(a) after the new paragraph 8.6A of Practice Direction 12B, insert-

“**8.6AA** If the applicant fails to comply with paragraph 8.6A and instead sends the C100 application pack plus any documents relating to fee payment to the court (rather than to Neopost), the court may send the C100 application pack, plus any documents relating to fee payment, to Neopost.”;

(b) in the new paragraph 8.6F of Practice Direction 12B, for “For” substitute “Subject to paragraph 8.6G, for”; and

(c) after the new paragraph 8.6F of Practice Direction 12B insert-

“**8.6G** If the applicant fails to comply with paragraph 8.6A and instead sends the C100 application pack plus any documents relating to fee payment to the court (rather than to Neopost), paragraph 8.6F does not apply.”.

PRACTICE DIRECTION 360 - PILOT SCHEME: PROCEDURE FOR BULK SCANNING OF CERTAIN DOCUMENTS

(1) After Practice Direction 36N, insert the new Practice Direction 36O, as set out in Schedule 2 to this document.

SCHEDULE 1

PRACTICE DIRECTION 30B – APPEALS – TRANSPARENCY

This practice direction supplements Part 30 of the Family Procedure Rules 2010

NOTE: This Practice Direction refers to orders made under FPR rule 30.12A(2), and terms of orders made under FPR rule 30.12A(3). Those references are correct. Rule 30.12A itself, however, refers in paragraphs (3) and (4)(a) to an order under paragraph (1) of the rule, and in paragraph (4)(b) to the terms of an order under paragraph (2) of the rule. Those references are incorrect and should respectively be to an order under paragraph (2), and the terms of an order under paragraph (3) of the rule. The references in the rule are being corrected, but pending correction, they should be read as referring in paragraphs (3) and (4)(a) to an order under paragraph (2) of the rule, and in paragraph (4)(b) to the terms of an order under paragraph (3) of the rule.

Introduction

1.1 This practice direction is made under rule 30.12A(4). It provides for circumstances in which the appeal court will ordinarily make an order under rule 30.12A(2) and for the terms of the order under 30.12A(3) which the court will ordinarily make in such circumstances.

1.2 This practice direction applies to all hearings in appeals within the scope of rule 30.12A(1) from the family court to the High Court.

Standard order

2.1 Subject to paragraph 2.3, the appeal court will ordinarily (and so without any application being made)—

(a) make an order under rule 30.12A (3)(a) that the hearing of the appeal shall be in public; and

(b) in the same order, impose restrictions under rule 30.12A(3) in relation to the publication of information about the proceedings.

2.2 An order pursuant to paragraph 2.1 will ordinarily be in the terms of the standard order approved by the President of the Family Division and published on the judicial website at <https://www.judiciary.uk/publication-jurisdiction/family-2/> , using the variant appropriate to the nature of the proceedings.

2.3 In the case of an appeal against a decision or order made in proceedings for a financial remedy where no minor children are involved, the court will not normally impose restrictions under rule 30.12A(3).

2.4 The court may decide not to make an order pursuant to paragraph 2.1 if it appears to the court that there is good reason for not making the order, but will consider whether it would be appropriate instead to make an order (under rule 30.12A (2)(b) or (c))—

- (a) for a part only of the hearing to be held in public; or
- (b) excluding any persons, or class of persons from the hearing, or from such part of the hearing as is held in public.

2.5 In deciding whether there is good reason not to make an order pursuant to paragraph 2.1 and whether to make an order pursuant to paragraph 2.3 instead, the court will have regard in particular to—

- (a) the need to protect any child or another person involved in the proceedings;
- (b) the nature of the evidence in the proceedings;
- (c) whether earlier hearings in the proceedings have taken place in private;
- (d) whether there is any risk of disruption to the hearing if there is general public access to it.

Documents to be provided to court reporters at the hearing of an appeal

3.1 The court will make available to the usher or other court official present in court two copies of the judgment under appeal for provision to accredited law reporters and accredited media reporters in accordance with the provisions of this paragraph.

3.2 Where a party is legally represented at the hearing of an appeal, the legal representative must bring to the hearing two additional copies of the party's skeleton argument (including any supplementary skeleton argument) for provision to accredited law reporters and accredited media reporters in accordance with the provisions of this paragraph.

3.3 The additional copies of skeleton arguments must be supplied before the commencement of the hearing to the usher or other court official present in court.

3.4 The usher or other court official to whom the copies of the judgment and skeleton arguments are supplied under paragraphs 3.1 and 3.3 must provide one copy of each to an accredited law reporter (upon production of their Royal Courts of Justice security pass) and one copy of each to an accredited media reporter (upon production of their press pass), if so requested by them. Those copies are to be provided only for the purpose of reporting the court proceedings and on the basis that the recipients may remove them from the court and make further copies of them for distribution to other accredited reporters in court, again only for the purpose of reporting the court proceedings.

3.5 Any party may apply orally to the court at the commencement of the hearing for a direction lifting or varying the obligations imposed by paragraph 3.4. Where a party intends to make such an application or is notified by another party of the intention to make one, the operation of paragraph 3.4 is suspended pending the ruling of the court.

3.6 In deciding whether to make a direction under paragraph 3.5, the court must take into account all the circumstances of the case and have regard in particular to—

- (a) the interests of justice;
- (b) the public interest;
- (c) the protection of the interests of any child, vulnerable adult or protected party;
- (d) the protection of the identity of any person intended to be protected by an order or direction relating to anonymity; and
- (e) the nature of any private or confidential information (including information relating to personal financial matters) in the document.

A direction may permit a skeleton argument to be supplied in redacted or anonymised form.

3.7 For the purposes of this paragraph, “the hearing of an appeal” includes a hearing listed as an application for permission to appeal with the appeal to follow immediately if permission is granted.

SCHEDULE 2

PRACTICE DIRECTION 360

PILOT SCHEME: PROCEDURE FOR BULK SCANNING OF CERTAIN DOCUMENTS

This Practice Direction supplements rule 36.2 FPR (Transitional arrangements and pilot schemes).

Scope and interpretation

1.1 This Practice Direction is made under rule 36.2 FPR and sets up a Pilot Scheme to allow for the bulk scanning by a specified third-party company of certain documents which are required to be filed with or otherwise sent to the court.

1.2 This Practice Direction comes into force on 1st July 2019.

1.3 This Pilot Scheme applies where all of the following conditions are met-

(a) a document is to be filed with or otherwise sent to the family court;

(b) Her Majesty's Courts and Tribunals Service indicates (whether via information given online, in correspondence or otherwise) that the document must be filed with or sent to the court by sending it to a specified third-party company; and

(c) the document is filed or sent in the period commencing on 1st July 2019 and ending on 31st March 2020.

1.4 Nothing in this Practice Direction precludes a document being sent to the court by email where that would be in accordance with rule 5.5 FPR and Practice Direction 5B.

1.5 In this Practice Direction-

"document" means anything in which information of any description is recorded and includes (but is not limited to) an application, a notice, a statement or a letter; and

"specified third-party company" means-

(a) Exela Technologies Limited.

Purpose of this Pilot Scheme

2.1 The purpose of this Pilot Scheme is to assess new practices and procedures to allow for certain documents to be filed with or otherwise sent to the court by being sent by post to a specified third-party company, and for such a company to scan those documents and send them electronically to a secure cloud-based system which is accessible by Her Majesty's Courts and Tribunals Service. This is with the aim of reducing the administrative burden on court staff and improving efficiency.

Modification or disapplication of the FPR and Practice Directions, and application of this Practice Direction, during the operation of the Pilot Scheme

3.1 During the operation of the Pilot Scheme, where the Pilot Scheme applies, the FPR and the Practice Directions supporting the FPR will apply-

- (a) subject to the provisions of this Practice Direction; and
- (b) as modified by paragraphs 7.1 and 8.1.

Sending documents to a specified-third party company

4.1 Where this Pilot Scheme applies, subject to paragraph 4.5, any document to be filed with, or otherwise sent to, the court must be sent by post to the address for a specified third-party company to which Her Majesty's Courts and Tribunals Service has indicated that the document should be sent.

(The indication from Her Majesty's Courts and Tribunals Service of the address to which a document should be sent may be via information provided online, in correspondence, or otherwise.)

4.2 Where paragraph 4.1 applies and a document is sent to a specified third-party company, the date that document was delivered to the specified third-party company is to be treated as the date that the document was filed with, lodged with, or otherwise received by, the court.

4.3 If a person fails to send a document to a specified third-party company in accordance with paragraph 4.1 and instead sends a document to the court (other than by way of email in accordance with rule 5.5 FPR and Practice Direction 5B), the court may send the document to the specified third-party company.

4.4 Where paragraph 4.3 applies and the court sends a document to the specified third-party company, paragraph 4.2 does not apply.

4.5 Nothing in this Practice Direction precludes a document being sent to the court by email, where that is permitted under rule 5.5 FPR and Practice Direction 5B.

Action to be taken by a specified third-party company

5.1 Paragraph 5.2 applies where-

- (a) this Pilot Scheme applies; and
- (b) documents are sent to a specified third-party company in accordance with paragraph 4.1 or 4.3.

5.2 The specified third-party company must-

- (a) record the date of receipt of the document;
- (b) scan the document;

(c) send the scanned document, with any necessary attached information, electronically to a secure cloud-based storage system which is accessible by Her Majesty's Courts and Tribunals Service.

5.3 After taking the steps outlined in paragraph 5.2, any original document other than a court form or an item of correspondence addressed to the court must be returned to the sender by the specified third-party company.

5.4 After 30 days have passed from the date of receipt, any original document that is a court form or item of correspondence addressed to the court must be destroyed by the specified third-party company.

Documents scanned by a specified third-party company

6.1 A scan of a document from a specified third-party company shall be treated by the court as a true copy of the original document.

Modification of rule 2.3(1) of the FPR

7.1 In cases to which this Pilot Scheme applies, in rule 2.3(1) of the FPR, the definition of "filed" is modified by inserting after "office"-

"(or, where the Pilot Scheme referred to in Practice Direction 36O applies, to the address to which HMCTS indicates that a document should be sent)".

Modification of Practice Direction 27A – Family Proceedings: Court Bundles (Universal Practice to be applied in the High Court and Family Court)

8.1 In cases to which this Pilot Scheme applies, Practice Direction 27A is modified as follows-

(a) in paragraph 7.1, for "The bundle" substitute "Subject to paragraph 7.2A, the bundle";

(b) in paragraph 7.2(b), for "Unless" substitute "Subject to paragraph 7.2A, unless";

(c) after paragraph 7.2, insert-

7.2A Where the Pilot Scheme referred to in Practice Direction 36O applies, if Her Majesty's Courts and Tribunals Service has indicated to a litigant in person that the bundle should be sent to an address for a specified third-party company, the bundle shall be lodged with the court by sending it to that address."; and

(d) after paragraph 7.3 insert-

7.3A Any bundle lodged in accordance with paragraph 7.2 shall show the date and place of the hearing on the bundle.".