

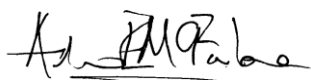
PRACTICE DIRECTION AMENDMENT AND NEW PRACTICE DIRECTIONS

The Practice Direction amendment 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 Alex Chalk MP, Parliamentary Under-Secretary of State, Ministry of Justice.

The Practice Direction amendment and the new Practice Directions come into force as follows:

Amendment/ new Practice Direction	Coming into force date
New Practice Direction 5C	6th April 2020
New Practice Direction 25G	6th April 2020
Amendment to Practice Direction 36I	30th March 2020
New Practice Direction 41A	6th April 2020
New Practice Direction 41B	6th April 2020

Signed:



_____ Date: 16 March 2020

Sir Andrew McFarlane

The President of the Family Division

Signed:



_____ Date: 27 March 2020

Alex Chalk MP

Parliamentary Under-Secretary of State

Ministry of Justice

NEW PRACTICE DIRECTION 5C – COMMUNICATIONS WITH THE COURT

(1) After Practice Direction 5B insert the new Practice Direction 5C set out in Annex 1 to this document.

NEW PRACTICE DIRECTION 25G - TOXICOLOGY TEST EVIDENCE

(1) After Practice Direction 25F insert the new Practice Direction 25G set out in Annex 2 to this document.

AMENDMENT OF 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(f) for “31 March 2020” substitute “5 April 2020”.

NEW PRACTICE DIRECTION 41A – PROCEEDING BY ELECTRONIC MEANS: CERTAIN PROCEEDINGS FOR A MATRIMONIAL ORDER

AND

NEW 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 Practice Direction 40A insert the new Practice Direction 41A and the new Practice Direction 41B set out in Annex 3 to this document.

ANNEX 1

New Practice Direction 5C to be inserted after Practice Direction 5B:

PRACTICE DIRECTION 5C – COMMUNICATIONS WITH THE COURT

This practice direction supplements Part 5 of the Family Procedure Rules 2010

1. Rule 5.7(1) FPR 2010 makes provision in relation to the requirement to disclose and, if in writing, to copy any communication with the court to the other parties or their representatives. Exceptions to the requirement are specified in rule 5.7(2), (3) and (7) FPR 2010. This practice direction supplements rule 5.7(7) FPR 2010.
 2. Unless the court directs otherwise, the requirement in rule 5.7(1) FPR 2010 does not apply where a communication is sent by a party to proceedings to the court and paragraph 3, 4 or 5 applies.
 3. This paragraph applies where the communication relates to proceedings under-
 - (a) the following provisions of the 2002 Act-
 - (i) section 42(6) (permission to apply for an adoption order)
 - (ii) section 46 (application for an adoption order);
 - (iii) section 51 (adoption by one person);
 - (iv) section 51A (post-adoption contact); or
 - (v) section 84 (giving parental responsibility prior to adoption abroad);
 - (b) Part 4A of the 1996 Act (forced marriage); or
 - (c) Part 1 of Schedule 2 to the Female Genital Mutilation Act 2003.
 4. This paragraph applies where the party sending the correspondence has not been provided with an address at which another party may be served with documents relating to the proceedings.
 5. This paragraph applies where the party sending the correspondence is prevented by law from contacting another party and that other party is not legally represented. This might be as a result of a requirement imposed on the party sending the correspondence by, for example, a non-molestation order or a restraining order. If the other party is legally represented, then the correspondence must be sent to that legal representative.
 6. Where a party relies on an exception to rule 5.7(1) FPR 2010 which is specified in this practice direction, the party must state in the correspondence with the court-
 - (a) which exception in this practice direction is being relied on; and
 - (b) why the party considers that the exception applies.
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ANNEX 2

New Practice Direction 25G to be inserted after Practice Direction 25F:

PRACTICE DIRECTION 25G – TOXICOLOGY TEST EVIDENCE

This practice direction supplements Part 25 of the Family Procedure Rules 2010

1. This practice direction applies whenever a person seeks to put before the court, or to instruct a person to provide, expert evidence in the form of or based on toxicology testing carried out on a person with a view to establishing whether such testing provides evidence of the abuse of drugs or alcohol.
 2. The court will not give permission to put the evidence before the court, or as the case may be to instruct the person, unless the condition in paragraph 3 or 4 is met.
 3. Where the testing has not been carried out and a person is seeking to instruct a person to carry out testing or provide evidence on the basis of such testing, the laboratory which is to carry out the testing must at the time of the application for permission to instruct be accredited to—
 - (a) International Organisation for Standardisation ISO/IEC 17025: 2017 *General Requirements for the competence of testing and calibration laboratories*; or
 - (b) International Organisation for Standardisation ISO 15189: *Medical laboratories – Requirements for quality and competence*.
 4. Where the testing has been carried out and a person is seeking to put the evidence before the court—
 - (a) the laboratory which carried out the testing must at the time of the testing have been accredited to—
 - (i) International Organisation for Standardisation ISO/IEC 17025: 2017 *General Requirements for the competence of testing and calibration laboratories*; or
 - (ii) International Organisation for Standardisation ISO 15189: *Medical laboratories – Requirements for quality and competence*; or
 - (b) the court must be satisfied that there are exceptional circumstances justifying giving permission to put the evidence before the court.
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ANNEX 3

New Practice Direction 41A and new Practice Direction 41B to be inserted after Practice Direction 40A:

PRACTICE DIRECTION 41A - PROCEEDING BY ELECTRONIC MEANS: CERTAIN PROCEEDINGS FOR A MATRIMONIAL ORDER

This practice direction supplements rule 41.1 of the Family Procedure Rules 2010.

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A. SCOPE OF THIS PRACTICE DIRECTION

Introduction and interpretation

1.1 This practice direction provides for the procedure by which, in the circumstances set out in this practice direction, an application for a matrimonial order may proceed by electronic means via the online system.

1.2 References in this practice direction to “the online system” mean Her Majesty’s Courts and Tribunal Service’s online system to allow for specified applications and stages in matrimonial proceedings to be completed online. The online system is accessible at <https://www.gov.uk/apply-for-divorce>.

Types of applications which may proceed by electronic means

2.1 An application may proceed by electronic means where all of the following conditions are met-

- (a) the application is for a matrimonial order which is a decree of divorce made under section 1 of the 1973 Act;
- (b) the application is not unsuitable to proceed by electronic means, as explained in paragraph 2.2;
- (c) the parties each choose to proceed with the application by electronic means;
- (d) the application does not at any time become a defended case (should the application become a defended case it will cease to proceed by electronic means and will instead proceed in accordance with Part 7 of the FPR); and
- (e) the application is started in the family court.

2.2 Her Majesty’s Courts and Tribunals Service may conclude that certain individual or categories of applications are not suitable to proceed by electronic means, and such categories are to be specified in guidance issued by Her Majesty’s Courts and Tribunals Service and published on GOV.UK.

Steps which may be taken by electronic means: outline

3.1 This practice direction enables an applicant to, in the circumstances set out in this practice direction, take the following steps by electronic means via the online system-

- (a) create and start certain types of application for a matrimonial order;

(b) in respect of such an application-

- (i) file documents;
- (ii) make an application for an order for costs;
- (iii) amend the application;
- (iv) indicate willingness to accept service of any documents relating to the application by email;
- (v) accept service of any documents relating to the application;
- (vi) serve any documents relating to the application (but not serve the application itself);
- (vii) make an application for a decree nisi; and
- (viii) make an application for a decree absolute;

(c) view an electronic record of the progress of the application.

3.2 This practice direction enables a respondent, in the circumstances set out in this practice direction, take the following steps by electronic means via the online system in respect of an application for a matrimonial order which is progressing via the online system -

- (a) file an acknowledgement of service;
- (b) indicate willingness to accept service of any documents relating to the application (but not the application itself) by email;
- (c) accept service of any documents relating to the application (but not the application itself); and
- (d) view an electronic record of the progress of the application.

3.3 This practice direction enables a co-respondent to, in the circumstances set out in this practice direction, take the following steps by electronic means via the online system in respect of an application for a matrimonial order which is progressing via the online system-

- (a) file an acknowledgment of service;
- (b) indicate willingness to accept service of any documents relating to the application (but not the application itself) by email;
- (c) accept service of any documents relating to the application (but not the application itself); and
- (d) view an electronic record of the certificate of entitlement to a decree nisi, the decree nisi and any relevant order for costs.

3.4 This practice direction does not make provision for a respondent or co-respondent to file an answer via the online system. If an application for a matrimonial order becomes defended (for any reason) then it cannot proceed via the online system and must proceed offline and in accordance with Part 7 FPR.

3.5 This practice direction does not make provision in relation to steps that can already be undertaken by email (via rule 5.5 FPR and PD5B) or in relation to procedures to enable documents to be held electronically by HMCTS via bulk scanning (via pilot PD36O).

B. RELATIONSHIP BETWEEN THE FAMILY PROCEDURE RULES AND THIS PRACTICE DIRECTION

Application of the Family Procedure Rules 2010

4.1 The Family Procedure Rules 2010 (“FPR”) and supporting practice directions apply to proceedings to which this practice direction applies, subject to the provisions of this practice direction.

4.2 In particular, certain provisions of Part 7 FPR and certain provisions in Practice Direction 7A apply to proceedings to which this practice direction applies. These are set out in the table below.

(It should be noted that this table relates only to Part 7 FPR and Practice Direction 7A, so is not an exhaustive list of all provisions in the FPR and supporting practice directions which apply to proceedings to which this practice direction applies.)

<i>Rule in Part 7 FPR or paragraph in Practice Direction 7A</i>	<i>Subject matter of provision</i>
Rule 7.7	Limitation on applications in respect of the same marriage
Rule 7.10	Who the parties are
Rule 7.15 (except insofar as it relates to an application being made for further information, as referred to in Practice Direction 7A, paragraphs 6.1 to 6.5)	Further information about the contents of the application
Practice Direction 7A, paragraph 2.1	Respondents: restrictions
Practice Direction 7A, paragraph 3.5	Other methods of proof of marriage
Practice Direction 7A, paragraph 4.1	Information required where evidence of a conviction or a finding is to be relied on

4.3 In particular, certain provisions of Part 7 FPR and certain provisions in Practice Direction 7A *do not* apply to proceedings to which this practice direction applies but provisions of this practice direction apply instead. These are detailed in the table below.

(It should be noted that this table relates only to Part 7 FPR and Practice Direction 7A, so is not an exhaustive list of all provisions in the FPR and supporting practice directions which do not apply to proceedings to which this practice direction applies.)

<i>Rule in Part 7 FPR or paragraph in Practice Direction 7A</i>	<i>Provision of this practice direction which applies instead</i>
Rule 7.6(1) (statement of reconciliation)	Paragraph 8.1
Rule 7.8 (service of application)	Paragraphs 9.1 and 9.2

Rule 7.12(1) to (6) (what the respondent and co-respondent should do on receiving the application)	Paragraphs 10.1 to 10.13
Rule 7.13 (insofar as it relates to amending an application in the circumstances specified in this practice direction)	Paragraphs 12.1 to 12.4
Rule 7.19 (application for decree nisi)	Paragraphs 13.1 to 13.5
Rule 7.20, except for paragraph (8) (what the court will do on an application for a decree nisi)	Paragraphs 14.1 to 14.6
Rule 7.32(1) and (2) (making decrees nisi absolute by giving notice)	Paragraphs 15.1 to 15.4
Rule 7.34 (what the court officer must do when a decree nisi is made absolute)	Paragraph 16.1
Practice Direction 7A, paragraphs 1.1 and 1.2	Paragraph 7.3
Practice Direction 7A, paragraph 3.1	Paragraphs 7.5 and 7.6

4.4 There are certain steps that cannot be taken by electronic means via the online system and which must be taken offline and in accordance with the FPR and supporting practice directions. (In turn, rule 5.5 and PD5B will apply to determine whether any of the steps can be taken via email.) In particular, the table below sets out the provisions in Part 7 FPR and Practice Direction 7A which cannot apply to cases proceeding by electronic means via the online system.

(It should be noted that this table relates only to Part 7 FPR and Practice Direction 7A, so is not an exhaustive list of all provisions in the FPR and supporting practice directions which cannot apply to proceedings to which this practice direction applies.)

<i>Rule in Part 7 FPR or paragraph in Practice Direction 7A which cannot apply to an application proceeding by electronic means via the online system</i>	<i>Subject matter of provision</i>
Rule 7.9	Withdrawal of application before service
Rule 7.11	Nullity: interim and full gender recognition certificates
Rule 7.12(8) to (15)	Certain steps which may be taken by a respondent or co-respondent on receiving the application
Rule 7.13 FPR and Practice Direction 7A paragraph 1.3	Supplemental application and amendment of application and answer (save insofar as

	paragraphs 11.1 to 11.5 of this practice direction apply)
Rule 7.14	How the respondent can make an application
Rule 7.15, insofar as it relates to an application being made for the disclosure of further information, as referred to in Practice Direction 7A, paragraphs 6.1 to 6.5)	Further information about the contents of the application
Rule 7.16	General rule – hearing to be in public
Rule 7.18	Notice of hearing
Rule 7.20(8)	Inspection of certificate of entitlement to a decree and any connected evidence filed
Rule 7.21	Further provision about costs
Rule 7.22	What the court must do in a case management hearing
Rule 7.26	Medical examination in proceedings for nullity of a marriage of an opposite sex couple
Rule 7.27	Stay of proceedings
Rule 7.28	Circumstances in which an order may be set aside (rescission)
Rule 7.29	Applications under section 10(2) of 1973 Act or section 48(2) of 2004 Act
Rule 7.30	Orders under section 10A(2) of the 1973 Act
Rule 7.31	Applications to prevent decrees nisi being made absolute
Rule 7.32(3) and (4)	Making decree nisi absolute where the notice is received more than 12 months after the making of the decree nisi
Rule 7.33	Applications to make decrees nisi absolute
Rule 7.36	Records of decrees absolute and final orders
Practice Direction 7A, paragraph 3.2	Filing without accompanying proof of marriage
Practice Direction 7A paragraphs 5.1 to 5.4	Supplemental applications and amendments to applications and answers, where permission is needed

Practice Direction 7A paragraphs 8.1 to 8.4	Decreases absolute: need for expedition
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4.5 In addition, there are certain applications referred to in provisions of the FPR or practice directions other than Part 7 FPR and Practice Direction 7A which cannot be made by electronic means via the online system and which must be made in accordance with the FPR and supporting practice directions. In particular, the table below sets out the applications under Part 6 FPR which cannot be made by electronic means via the online system.

(It should be noted that this table relates only to Part 6 FPR so is not an exhaustive list of all provisions in the FPR and supporting practice directions which cannot apply to proceedings to which this practice direction applies.)

<i>Rule in Part 6 FPR in respect of which an application cannot be made by electronic means via the online system</i>	<i>Subject matter of provision</i>
Rule 6.9	Request for bailiff service
Rule 6.16	Request that the court directs that the application is deemed to be served
Rule 6.20	Application for an order to dispense with service

4.6 Subject to paragraph 4.7, this practice direction supersedes Practice Directions 36D, 36E and 36L.

4.7 Practice Directions 36D, 36E and 36L will each remain in force in relation to any application for a matrimonial order commenced under the pilot scheme referred to in each of those practice directions, and this practice direction (and any that supersede it) will not apply in relation to such an application.

C. PROCEDURE WHEN PROCEEDING BY ELECTRONIC MEANS VIA THE ONLINE SYSTEM

Security

5.1 Her Majesty's Courts and Tribunals Service will take such measures as it thinks fit to ensure the security of steps taken in cases proceeding by electronic means or in respect of information stored electronically. These may include requiring parties to cases which are proceeding by electronic means-

- (a) to use a unique identification code or password;
- (b) to provide personal information for identification purposes; and
- (c) to comply with any other security measures,

before taking any of the steps mentioned in paragraphs 3.1, 3.2 or 3.3.

Providing information requested

6.1 Where proceedings are progressing by electronic means via the online system, each party must at each stage provide all the information requested, including any documents that the online system or the court requires, in the manner specified by the online system or by the court.

Creating and starting an application by electronic means

7.1 Where paragraph 2.1 applies, an application for a matrimonial order can be created via the online system.

Contents of the application

7.2 Where an application for a matrimonial order is created via the online system, the application must be completed according to the detailed guidance contained in the online system.

7.3 It is especially important that the particulars provide evidence to show why the applicant is entitled to a decree of divorce. The particulars should, however, be as concise as possible consistent with providing the necessary evidence.

7.4 The online system sets out the documents which must accompany an application for a matrimonial order and the way in which those documents may be provided (for example, the online system may allow for documents to be posted, or to be uploaded and submitted online with the application).

Proof of validity of marriage

7.5 Where the existence and validity of a marriage is not disputed, its validity will be proved by the application for a matrimonial order being accompanied by-

(a) one of the following-

(i) a certificate of the marriage to which the application relates issued under the law in force in the country where the marriage took place;

(ii) a similar document issued under the law in force in the country where the marriage took place; or

(iii) a certified copy of such a certificate or document obtained from the appropriate register office; and

(b) where the certificate, document or certified copy is not in English, or is not in both English and Welsh, a translation of that document certified by a notary public or authenticated by a statement of truth.

Submitting the application

7.6 An application for a matrimonial order created on the online system is submitted to the court via the online system. Once submitted in this way, the proceedings are started when they are issued by the court.

Timing

7.7 When an application for a matrimonial order, or other document, is received via the online system and is recorded by Her Majesty's Courts and Tribunals Service software as

having been received at or after 4.31pm and before or at 11.59pm, the date of filing will not be before the next day that the court location to which the application or other document has been sent via the online system is open for business.

7.8 When an application for a matrimonial order is received via the online system, an acknowledgment of receipt is automatically sent to the applicant. This acknowledgement of receipt does not constitute a notice that the application has been issued.

Statement of reconciliation

8.1 Where the applicant is legally represented, the legal representative must complete and provide with the application for a matrimonial order, in a manner specified in the online system, a statement certifying whether the legal representative has discussed with the applicant the possibility of a reconciliation and given the applicant the names and addresses of persons qualified to help effect a reconciliation.

Service of an application for a matrimonial order

9.1 After an application for a matrimonial order made via the online system has been issued by the court, a copy of it must be served on the respondent and on any co-respondent.

(Rule 6.5 FPR provides for who may serve such an application. Provision about methods of service is made in Chapters 2 and 4 of Part 6 FPR and in supporting practice directions. It should be noted that an application for a matrimonial order cannot be served by email or on or via the online system.)

9.2 When the application for a matrimonial order is served on a respondent or co-respondent, it must be accompanied by-

- (a) details of what steps to take to respond to the application; and
- (b) a notice of proceedings.

What the respondent and co-respondent should do on receiving the application

10.1 On receiving an application for a matrimonial order, the respondent, and any co-respondent, must file an acknowledgment of service.

10.2 The respondent, and any co-respondent, may choose whether or not to use the online system to complete and file an acknowledgement of service. Details of how to respond via the online system will be included in the letter provided in accordance with paragraph 9.2(a).

10.3 If the respondent or co-respondent chooses to use the online system, the acknowledgment of service must be filed within 7 days beginning with the date on which the application for a matrimonial order was served.

10.4 If the respondent or co-respondent chooses not to use the online system, they must contact Her Majesty's Courts and Tribunals Service (using the details included in the letter provided in accordance with paragraph 9.2(a)) to request a paper form for acknowledging service. If the respondent or co-respondent then files that paper form, this Practice Direction no longer applies and the applicant can no longer use the online system to take further steps

in the proceedings. Instead, the further stages of the proceedings will be completed under Part 7 of the FPR.

10.5 Where paragraph 10.4 applies, the acknowledgment of service must be filed within 7 days beginning with the date on which the respondent or co-respondent received the paper form for acknowledging service. The amended deadline for filing the acknowledgment of service will be notified to all parties.

10.6 Paragraphs 10.3 and 10.5 are subject to rule 6.42 FPR (which specify how the period for filing an acknowledgment of service is calculated where the application is served out of the jurisdiction).

10.7 The acknowledgment of service completed by the respondent or, as the case may be, the co-respondent, must-

(a) include the respondent's or, as the case may be, the co-respondent's address for service of further documents in the proceedings; and

(b) where it is filed by the respondent, indicate whether or not the respondent intends to defend the case.

(Should the application for a matrimonial order become a defended case it will cease to proceed by electronic means via the online system and will instead proceed offline and in accordance with Part 7 of the FPR).

10.8 The acknowledgment of service must include a statement of truth. Where the acknowledgment of service has been completed via the online system, the name of the person giving the statement of truth must be recorded against it.

10.9 Subject to paragraph 10.10, the name of the person giving the statement of truth must be that of the respondent or the respondent's legal representative, or (as the case may be) the co-respondent or the co-respondent's legal representative.

10.10 Where paragraph 10.11 or 10.12 applies, the name of the person giving the statement of truth must be the respondent's.

10.11 This paragraph applies where-

(a) the application alleges that the respondent has committed adultery; and

(b) the respondent admits the adultery.

10.12 This paragraph applies where-

(a) the application alleges that the parties to the marriage have been separated for more than 2 years; and

(b) the respondent consents to the making of the matrimonial order.

10.13 Where the respondent or co-respondent completes an acknowledgement of service via the online system-

(a) an acknowledgment of receipt is automatically sent to the respondent or the co-respondent, as the case may be, via the online system;

(b) the application is deemed to be served; and

(c) a notification must be sent to the applicant via an email attaching a link from which the acknowledgement of service may be accessed and downloaded.

Service by email (documents other than an application for a matrimonial order)

11.1 Paragraph 9.1 makes provision in relation to service of an application for a matrimonial order which this practice direction applies. Paragraphs 11.2 to 11.5 make provision in relation to service of documents other than such an application in cases which are proceeding by electronic means via the online system.

11.2 Practice Direction 6A makes provision about methods of service, including by email. That practice direction applies to proceedings to which this practice direction applies, subject to paragraphs 11.3 to 11.5.

11.3 Where paragraph 4(2)(a) of Practice Direction 6A applies, confirmation given on or via the online system that a party is willing to accept service by email, and stating the email address for such service, is to be taken as sufficient written indication for the purposes of paragraph 4.2(a) of Practice Direction 6A, in addition to the means of confirmation specified in paragraph 4.2(b) of Practice Direction 6A.

11.4 Where a party has indicated willingness to accept service by email (as set out in paragraph 11.3), service of a document may be effected by the court sending the party an email, to the address given for service by email, containing a link from which the document may be accessed and downloaded.

11.5 References in paragraphs 4.2 to 4.5 of Practice Direction 6A to service of a document by email include service by the court acting in accordance with paragraph 11.4 of this practice direction.

Amendment of an application for a matrimonial order

12.1 It is not possible to make a supplemental application for a matrimonial order via the online system. It is not possible to amend an application for a matrimonial order via the online system except where paragraph 12.2 or 12.3 applies. A party wishing to make a supplemental application, or to amend an application where paragraph 12.2 or 12.3 does not apply, may only do so in accordance with rule 7.13 FPR.

12.2 This paragraph applies where the court is considering an application made under paragraph 13.1 for a decree nisi and makes a direction, as referred to in paragraph 14.3, that an amended application for a matrimonial order must be filed.

12.3 This paragraph applies where-

(a) the application for a matrimonial order states that the respondent has committed adultery, but the respondent does not admit that adultery in the acknowledgement of service; or

(b) the application for a matrimonial order states that the parties to the marriage have lived apart for a continuous period of two years, but the respondent does not consent in the acknowledgement of service to a decree being granted.

12.4 Where paragraph 12.3 applies, the applicant may amend the application for a matrimonial order via the online system, to cite a different fact under section 1(2) of the 1973 Act.

Application for a decree nisi

13.1 An application may be made by the applicant to the court, using the online system, for it to consider the making of a decree nisi in the proceedings-

(a) at any time after the time for filing the acknowledgement of service has expired, provided that no party has filed an acknowledgement of service indicating an intention to defend the case; and

(b) in any other case, at any time after the time for filing an answer to the application for a matrimonial order has expired.

13.2 An application under paragraph 13.1 must, if the information which was required to be provided by the application is no longer correct, set out particulars of the change.

13.3 If no party has filed an answer opposing the making of a decree nisi on another party's application for a matrimonial order, then an application under paragraph 13.1 must include a statement-

(a) stating whether there have been any changes in the information given in the application;

(b) confirming that, subject to any changes stated, the contents of the application are true; and

(c) where a paper acknowledgement of service has been signed by the other party to the marriage, confirming that party's signature on the acknowledgement of service.

13.4 A statement under paragraph 13.3 must be verified by a statement of truth.

13.5 Where an application under paragraph 13.1 is received via the online system, an acknowledgment of receipt is automatically sent to the applicant.

What the court will do on an application for a decree nisi

14.1 Paragraphs 14.2 to 14.6 apply where an application is made under paragraph 13.1 in relation to an application for a matrimonial order that is progressing on the online system.

14.2 The court must, if satisfied that the applicant is entitled to a decree nisi, so certify and direct that the application be listed before a judge for the making of the decree at the next available date.

14.3 If the court is not satisfied that the applicant is entitled to a decree nisi, it must direct-

(a) that any party to the proceedings provide such further information, or take such other steps, as the court may specify, for example requiring an amended application for a matrimonial order to be filed; or

(b) that the case be listed for a case management hearing.

(Should the case be listed for a case management hearing, the case will cease to proceed by electronic means via the online system and will instead proceed offline and in accordance with Part 7 of the FPR).

14.4 The court may, when giving a direction under paragraph 14.3 direct that the further information provided be verified by an affidavit or a statement of truth.

14.5 If the applicant has applied for costs, the court may, on making a direction under paragraph 14.2 –

- (a) if satisfied that the applicant is entitled to an order for costs, so certify; or
- (b) if not so satisfied, make no direction about costs.

14.6 The court must not give directions under paragraph 14.2 or 14.3 unless at the relevant time it is satisfied –

- (a) that a copy of the application for a matrimonial order (including any amended application) has been properly served on each party on whom it is required to be served; and
- (b) that the application for a decree nisi was made at a time permitted by paragraph 13.1.

(In this paragraph ‘the relevant time’ means the time at which the court is considering an application made under paragraph 13.1).

Making a decree nisi absolute by giving notice

15.1 Unless rule 7.33 FPR applies, an applicant in whose favour a decree nisi has been made may give notice to the court, using the online system, that he or she wishes the decree nisi to be made absolute.

(Where rule 7.33 FPR applies, the case cannot proceed via the online system and must instead proceed under Part 7 FPR.)

15.2 Subject to paragraph 15.3, where the court receives a notice under paragraph 15.1 it will make the decree nisi absolute if it is satisfied that –

- (a) no application for rescission of the decree nisi is pending;
- (b) no appeal against the making of the decree nisi is pending;
- (c) no order has been made by the court extending the time for bringing an appeal of the kind mentioned in sub-paragraph (b), or if such an order has been made, that the time so extended has expired;
- (d) no application for an order of the kind mentioned in sub-paragraph (c) is pending;
- (e) no application to prevent the decree nisi being made absolute is pending;
- (f) the provisions of section 10(2) to (4) of the 1973 Act or section 48(2) to (4) of the 2004 Act do not apply or have been complied with; and
- (g) any order under section 10A(2) of the 1973 Act has been complied with.

15.3 Where a notice would be received more than 12 months after the making of the decree nisi, the notice cannot be given via the online system. Rule 7.32(3) and (4) FPR will apply to such cases.

15.4 Where a notice referred to in paragraph 15.1 is received via the online system, an acknowledgment of receipt is automatically sent to the applicant.

What must happen when a decree nisi is made absolute

- 16.1** When a decree nisi is made absolute in a case proceeding via the online system-
- (a) the date and time on which the decree nisi is made absolute must be recorded on the online system; and
 - (b) a notification must be sent to each of the parties that the decree nisi has been made absolute.

Statements of Truth

17.1 In paragraphs 17.2 and 17.3, “document” means anything in which information of any description is recorded.

17.2 Where a statement of truth is included in any document completed or generated using the online system-

- (a) the document must include the name of the person who the online system requires to give the statement of truth recorded against the statement of truth; and
- (b) the court may require the party to produce a copy of the document containing the signature of the person referred to in sub-paragraph (a) at a later date.

17.3 Practice Direction 17A applies to a statement of truth given in a document completed or generated via the online system, except that-

- (a) paragraphs 1.5 and 2.3 of Practice Direction 17A do not apply;
- (b) in the heading to paragraph 3 and in paragraphs 3.1, 3.7, 3.8 and 3.10 of Practice Direction 17A, references to “sign”, “signs”, “signed” and “signing” are to be read as references to the name of the person being, or having been, recorded against the statement of truth included in the document completed or generated via the online system;
- (c) paragraph 4.3(a) is substituted with-
 - “(a) that the content of the document completed or generated via the online system has been read to the person before completion of the statement of truth required by the online system;”;
- (d) paragraph 4.3(e) is substituted with-
 - “(e) that the person confirmed in the presence of the authorised person that it was their belief that the contents of the document completed or generated via the online system were true.”; and
- (e) the Annex is substituted with-
 - “Certificate to be used where a person is unable to read or sign a document completed or generated in matrimonial proceedings to which the online scheme in Practice Direction 41A applies.

I certify that I [name and address of authorised person] have read the contents of the [name of document completed via the online system] and the statement of truth to the person whose name is recorded against the statement of truth, who appeared to understand (a) the [name of document] and approved its

contents as accurate and (b) the statement of truth and the consequences of making a false statement, and orally confirmed that this was the case in my presence.”

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

This practice direction supplements rule 41.1 of the Family Procedure Rules 2010.

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A. SCOPE OF THIS PRACTICE DIRECTION

Introduction and interpretation

1.1 This practice direction provides for the procedure by which, in the circumstances set out in this practice direction, an application for a consent order for a financial remedy in connection with certain proceedings for a matrimonial order may proceed by electronic means.

1.2 References in this practice direction to “the online system” mean Her Majesty’s Courts and Tribunal Service’s online system known as the Online Financial Remedy Consent Order Service, which allows for applications to which this practice direction applies to proceed by electronic means.

Types of applications which may proceed by electronic means

2.1 An application may proceed by electronic means where all of the following conditions are met-

- (a) the application is for a financial remedy (other than a variation order) in connection with an application for a matrimonial order which is a decree of divorce under section 1 of the 1973 Act;
- (b) a decree nisi has been made in that application for a matrimonial order;
- (c) the application is for a consent order only;
- (d) the applicant is legally represented;
- (e) the applicant’s legal representative has access to the online system; and
- (f) the application is started in the family court.

Steps that may be taken by electronic means: outline

3.1 This practice direction enables applicants to, in the circumstances set out in this practice direction, take the following steps by electronic means via the online system-

- (a) create and start an application for a consent order for a financial remedy where all of the criteria in paragraph 2.1 are satisfied;
- (b) in respect of such an application-
 - (i) file documents, if requested by the court to do so;
 - (ii) amend the application, if requested by the court to do so;
 - (iii) indicate willingness to accept service by the court of any documents relating to the application by email;
 - (iv) accept service of any documents relating to the application; and
- (c) view an electronic record of the progress and outcome of the application and download copies of documents.

B. RELATIONSHIP BETWEEN THE FAMILY PROCEDURE RULES AND THIS PRACTICE DIRECTION

Application of the Family Procedure Rules 2010 and supporting practice directions

4.1 The Family Procedure Rules 2010 (“the FPR”) apply to proceedings to which this practice direction applies, subject to the provisions of this practice direction.

4.2 In particular, certain provisions of the FPR and supporting practice directions do not apply to proceedings to which this practice direction applies, but provisions of this practice direction apply instead. The key such provisions are detailed in the table below.

<i>Provision in the FPR or supporting practice direction which does not apply</i>	<i>Provision of this practice direction which applies instead</i>
Rule 5.1 FPR (forms)	Paragraph 6.1

Rule 9.26 FPR (applications for consent orders for financial remedy)	Paragraphs 6.2 to 6.9
Practice Direction 9A, paragraph 7.1 (consent orders)	Paragraph 6.4

C. PROCEDURE WHEN PROCEEDING BY ELECTRONIC MEANS VIA THE ONLINE SYSTEM

Security

5.1 Her Majesty's Courts and Tribunals Service will take such measures as it thinks fit to ensure the security of steps taken in cases proceeding by electronic means or in respect of information stored electronically. These may include requiring parties to cases which are proceeding by electronic means-

- (a) to use a unique identification code or password;
- (b) to provide personal information for identification purposes; and
- (c) to comply with any other security measures,

before taking any of the steps mentioned in paragraph 3.1.

Application for a consent order for financial remedy

6.1 Where the criteria in paragraph 2.1 are all met, an application can be created, started and progressed via the online system, and the progress and outcome viewed, as specified in this practice direction.

6.2 The applicant must-

- (a) complete all relevant sections of the application on the online system; and
- (b) provide, in the manner specified, any information, any additional documents or amended application that this practice direction, the online system or the court requires.

6.3 Subject to paragraph 6.8 and to rule 35.2 FPR, in relation to an application for a consent order –

- (a) the applicant must file a draft of the order in the terms sought which must be signed by both parties; and
- (b) each party must file with the court and serve on the other party, a statement of information in the form referred to in Practice Direction 5A.

6.4 Paragraph 6.3(a) is considered to be properly complied with if the draft order is signed by solicitors on record as acting for a party. However, where the consent order applied for contains undertakings, it should be signed by the party giving the undertakings as well as by that party's solicitor.

(Provision in relation to the enforcement of undertakings is contained in Practice Direction 33A supplementing Part 33 of the FPR).

6.5 Where each party's statement of information is contained in one form, it must be signed by both the applicant and respondent to certify that they have read the contents of the other party's statement.

6.6 Where each party's statement of information is in a separate form, the form of each party must be signed by the other party to certify that they have read the contents of the statement contained in that form.

6.7 Unless the court directs otherwise, the applicant and the respondent need not attend the hearing of an application for a consent order.

6.8 Where all or any of the parties attend the hearing of an application for a financial remedy the court may –

(a) dispense with the filing of a statement of information; and

(b) give directions for the information which would otherwise be required to be given in such a statement in such a manner as it thinks fit.

6.9 The following rules in the FPR contain provision in relation to applications for consent orders - rule 9.32 (pension sharing order), rule 9.34 (pension attachment order), rule 9.41 (pension compensation sharing orders) and rule 9.43 (pension compensation attachment orders.)

Timing of applications

7.1 When an application for a consent order for a financial remedy is received via the online system and is recorded by HM Courts and Tribunals Service software as having been received at or after 4.31pm and before or at 11.59pm, the date of filing will not be before the next day that the court location to which the application has been sent via the online system is open for business.

7.2 When an application for a consent order is received via the online system, an acknowledgment of receipt will automatically be sent to the email address given as the address for service in the online system. This acknowledgment of receipt does not constitute a notice that the application has been issued.

Service by email

8.1 Practice Direction 6A makes provision about methods of service, including by email. That practice direction applies to proceedings to which this practice direction applies, subject to the modification made in paragraphs 8.2 to 8.4.

8.2 Where paragraph 4.2(a) of Practice Direction 6A applies, confirmation given on or via the online system that a party is willing to accept service by email and stating the email address for such service is also to be taken as sufficient written indication for the purposes of paragraph 4.2(a) of Practice Direction 6A, in addition to the means of confirmation specified in paragraph 4.2(b) of Practice Direction 6A.

8.3 Where a party has indicated willingness to accept service by email (as set out in paragraph 8.2), service of a document may be effected by the court sending the applicant an email, to the address given for service by email, containing a link from which the document may be accessed and downloaded.

8.4 References in paragraphs 4.2 to 4.5 of Practice Direction 6A to service of a document by email include service by the court acting in accordance with paragraph 8.3 of this practice direction.

Statements of Truth

9.1 In paragraphs 9.2 and 9.3, “document” means anything in which information of any description is recorded.

9.2 Where a statement of truth is included in any document completed or generated using the online system-

(a) the document must include the name of the person who the online system requires to give the statement of truth recorded against the statement of truth; and

(b) the court may require the party to produce a copy of the document containing the signature of the person referred to in sub-paragraph (a) at a later date.

9.3 Practice Direction 17A applies to a statement of truth given in a document completed or generated via the online system, except that-

(a) paragraphs 1.5 and 2.3 of Practice Direction 17A do not apply;

(b) in the heading to paragraph 3 and in paragraphs 3.1, 3.7, 3.8 and 3.10 of Practice Direction 17A, references to “sign”, “signs”, “signed” and “signing” are to be read as references to the name of the person being, or having been, recorded against the statement of truth included in the document completed or generated via the online system;

(c) paragraph 4.3(a) is substituted with-

“(a) that the content of the document completed or generated via the online system has been read to the person before completion of the statement of truth required by the online system;”;

(d) paragraph 4.3(e) is substituted with-

“(e) that the person confirmed in the presence of the authorised person that it was their belief that the contents of the document completed or generated via the online system were true.”; and

(e) the Annex is substituted with-

“Certificate to be used where a person is unable to read or sign a document completed or generated in proceedings to which the online scheme in Practice Direction 41B applies.

I certify that I [name and address of authorised person] have read the contents of the [name of document completed via the online system] and the statement of truth to the person whose name is recorded against the statement of truth, who appeared to understand (a) the [name of document] and approved its contents as accurate and (b) the statement of truth and the consequences of making a false statement, and orally confirmed that this was the case in my presence.”.