

PRACTICE DIRECTION UPDATE

The new Practice Direction, and the amendments to the existing Practice Directions, supplementing the Family Procedure Rules 2010 are made by Mrs Justice Theis under the powers delegated to her 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 new Practice Direction and the amendments to the existing Practice Directions come into force as follows:

| Provision | Coming into force date |
|----------------------------|---------------------------------|
| Amendment to PD36H | 25 th July 2020 |
| Amendments to PD36M | 30 th August 2020 |
| Amendment to PD36N | 29 th September 2020 |
| Amendment to PD36O | 25 th July 2020 |
| Amendment to PD36P | 25 th July 2020 |
| New Practice Direction 36U | 3 rd August 2020 |

Signed:

_____ Date: _____ 16 July 2020 _____

Mrs Justice Theis

Signed:

_____ Date: _____ 21 July 2020 _____

Alex Chalk MP

Parliamentary Under-Secretary of State

Ministry of Justice

PRACTICE DIRECTION 36H – PILOT SCHEME: PROCEDURE FOR SERVICE OF CERTAIN PROTECTION ORDERS ON THE POLICE

(1) In paragraph 1.3(c) for “26 July 2020” substitute “30 October 2020”.

PRACTICE DIRECTION 36M – PILOT SCHEME: PROCEDURE FOR USING AN ONLINE SYSTEM TO GENERATE, FILE AND CONTINUE APPLICATIONS IN CERTAIN PUBLIC LAW PROCEEDINGS RELATING TO CHILDREN

(1) For the title substitute-

“PRACTICE DIRECTION 36M – PILOT SCHEME: ONLINE SYSTEM FOR CERTAIN PUBLIC LAW PROCEEDINGS AND EMERGENCY PROCEEDINGS RELATING TO CHILDREN”.

(2) In paragraph 1.3-

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

“(a) the application is -

- (i) for an order in public law proceedings, as defined in rule 12.2 FPR;
- (ii) for a secure accommodation order under section 119 of the Social Services and Wellbeing (Wales) Act 2014;
- (iii) for an order in emergency proceedings, as defined in rule 12.2 FPR; or
- (iv) made within proceedings for an order referred to in paragraph (i), (ii) or (iii);

(aa) the application is made by-

- (i) a Local Authority;
- (ii) Cafcass or Cafcass Cymru; or
- (iii) a legally represented party to proceedings;” and

(b) in sub-paragraph (e) for “31 August 2020” substitute “30 April 2021”.

(3) In paragraph 2.1 omit the final sentence.

(4) After paragraph 2.1 insert-

“2.2 This Pilot Scheme enables a person or body referred to in paragraph 1.3(aa) to start, progress and participate in proceedings via the online system, to include taking the following steps -

- (a) to create and file an application referred to in paragraph 1.3(a)(i), (ii) or (iii) to commence proceedings;
- (b) to file an application referred to in paragraph 1.3(a)(iv);
- (c) in respect of an application referred to in sub-paragraph (a) or (b), to-
 - (i) file documents;
 - (ii) amend the application;
 - (iii) indicate willingness to accept service of documents relating to the application via email containing a weblink from which a document may be accessed and downloaded; and
 - (iv) accept service of any documents relating to the application;

(d) to view an electronic record of the progress of the application and of applications within proceedings that are progressing using the online system.

2.3 For the avoidance of doubt, it should not be assumed that an application of a type specified in paragraph 1.3(a), or any or all stages of such an application, will always be able to be dealt with on the online system. This is because Her Majesty's Courts and Tribunals Service will be gradually rolling out the types of application that can be dealt with via the online system. Her Majesty's Courts and Tribunals Service will indicate via the online system which applications can be dealt with on the online system at any point in time."

(5) In paragraph 3.1 for "4.1" substitute "3A.1".

(6) After paragraph 3.1 insert-

"Modification of rule 2.3(1) FPR

3A.1 In rule 2.3(1) FPR, the definition of "filing" is modified by inserting after "office"-

"or, where the Pilot Scheme referred to in Practice Direction 36M applies, by creating and submitting, or by or uploading, the document on the online system referred to in that Practice Direction".

(7) In paragraph 4.1, in the substituted rule 5.1 FPR, for sub-paragraph (a) substitute-

"(a) either-

(i) complete all sections of the application process set out in the online system referred to in that Practice Direction; or

(ii) upload the application to the online system in the manner specified by the online system;"

(8) For paragraph 4.2 substitute-

4.2 In rule 5.2 for "Subject" substitute "Where rule 5.1(a)(ii) applies, subject".

(9) Omit paragraph 6.1.

PRACTICE DIRECTION 36N – PILOT SCHEME: PROCEDURE FOR ONLINE FILING AND PROGRESSION OF CERTAIN APPLICATIONS FOR A FINANCIAL REMEDY IN CONNECTION WITH CERTAIN PROCEEDINGS FOR A MATRIMONIAL ORDER

(1) In paragraph 1.3(e) for "30 September 2020" substitute "30 September 2021".

PRACTICE DIRECTION 36O – PILOT SCHEME: PROCEDURE FOR BULK SCANNING OF CERTAIN DOCUMENTS

(1) In paragraph 7.1 for "filed" substitute "filing".

PRACTICE DIRECTION 36P – PILOT SCHEME: PLACEMENT PROCEEDINGS: PROCEDURE FOR SPECIFIED STEPS TO BE TAKEN VIA THE ONLINE SYSTEM

(1) In paragraph 4.1 for "filed" substitute "filing".

NEW PRACTICE DIRECTION 36U – PILOT PROVISION: SERVICE AND NOTIFICATION OF APPLICATIONS AND ORDERS UNDER PART 4 OF THE FAMILY LAW ACT 1996

(1) After Practice Direction 36T insert new Practice Direction 36U set out in the Annex to this document.

ANNEX:

New Practice Direction 36U to be inserted after Practice Direction 36T:

NEW PRACTICE DIRECTION 36U – PILOT PROVISION: SERVICE AND NOTIFICATION OF APPLICATIONS AND ORDERS UNDER PART 4 OF THE FAMILY LAW ACT 1996

This practice direction supplements rule 36.2 FPR (transitional arrangements and pilot schemes).

1.1 This practice direction is made under rule 36.2 FPR. It is intended to assess modifications to Part 10 FPR in relation to methods of serving applications and orders made under Part 4 of the 1996 Act. It also makes a minor modification to rule 10.10 FPR which deals with notification of such orders to the police.

1.2 This practice direction ceases to have effect on 3rd May 2021.

1.4 While this practice direction is in force, the FPR apply as modified by paragraphs 1.7 to 1.10.

1.5 This practice direction applies to all applications and orders made under Part 4 of the 1996 Act, whether made before or after this practice direction comes into force.

1.6 Nothing in this practice direction affects any power to order alternative service, or dispense with service, of orders and applications made under Part 4 of the 1996 Act that may exist under the FPR as they apply prior to the coming into force of this practice direction.

Modifications of Part 10 FPR

1.7 In rule 10.3(1) after “must” insert “, subject to any order made under rule 6.35 or 6.36,”.

1.8 Omit the words in brackets after rule 10.3(4).

1.9 In rule 10.6(1) for “The applicant” substitute “Subject to any order made under rule 6.35 or 6.36, the applicant”.

1.10 In rule 10.10(3)(b) for “the order was served following a request under rule 10.6(2)” substitute “rule 10.6(2) applies”.
