

93rd UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the existing Practice Directions supplementing the Civil Procedure Rules 1998 are made by the Master of the Rolls 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 Dominic Raab MP, Minister of State for Justice, by the authority of the Lord Chancellor.

The amendments to the following existing Practice Directions come into force on the day after the date that it is signed by the Minister.	
Practice Direction 2C – Starting Proceedings in the County Court	
Practice Direction 3E – Costs Management	
Practice Direction 8A – Alternative Procedure for Claims	
Practice Direction 8C – Alternative Procedure for Statutory Review of Certain Planning Matters	
Practice Direction 25A – Interim Injunctions	
Practice Direction 35 – Experts and Assessors	
Practice Direction 51M – The Financial Markets Test Case Pilot Scheme	
Practice Direction 51O – The Electronic Working Pilot Scheme	
Practice Direction 52A – Appeals	
Practice Direction 52B – Appeals in the County Court and High Court	
Practice Direction 54A – Judicial Review	
Practice Direction 64B – Applications to the Court for Directions by Trustees in Relation to the Administration of a Trust	
Practice Direction 66 – Crown Proceedings	
Practice Direction 81 – Applications and Proceedings in relation to Contempt of Court	
Practice Direction – Devolution Issues and Crown Office Applications in Wales (English)	

The Right Honourable Sir Terence Etherton
Master of the Rolls and Head of Civil Justice

Signed by authority of the Lord Chancellor:
Dominic Raab MP
Minister of State for Justice
Ministry of Justice

Date: 21 November 2017

PRACTICE DIRECTION 2C – STARTING PROCEEDINGS IN THE COUNTY COURT

- 1) In the Schedule to the Practice Direction—
 - a) omit the entries for Eastbourne County Court hearing centre
 - b) in the entry for Brighton County Court hearing centre, in the fifth column corresponding to that entry, omit “Eastbourne,”;
 - c) in the entry for the Central London County Court hearing centre, in the fifth column corresponding to that entry after “Romford,” insert “Stratford,”; and
 - d) after the entry for Staines County Court hearing centre, insert—

“Stratford		Central London		”
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PRACTICE DIRECTION 3E – COSTS MANAGEMENT

- 1) For paragraph 7.2 substitute—

“7.2 Save in exceptional circumstances—

 - (a) the recoverable costs of initially completing Precedent H shall not exceed the higher of £1,000 or 1% of the total of the incurred costs (as agreed or allowed on assessment) and the budgeted costs (agreed or approved); and
 - (b) all other recoverable costs of the budgeting and costs management process shall not exceed 2% of the total of the incurred costs (as agreed or allowed on assessment) and the budgeted (agreed or approved) costs.”.

PRACTICE DIRECTION 8A – ALTERNATIVE PROCEDURE FOR CLAIMS

- 1) Omit paragraph 22.10.

PRACTICE DIRECTION 8C – ALTERNATIVE PROCEDURE FOR STATUTORY REVIEW OF CERTAIN PLANNING MATTERS

- 1) In paragraph 3.1, for “The claimant must file copies of a” substitute “The claimant must file one”.

PRACTICE DIRECTION 25A – INTERIM INJUNCTIONS

- 1) In both the draft injunction and freezing order annexed to the Practice Direction, in the section headed “COMMUNICATIONS WITH THE COURT”—
 - a) for the address that appears directly below “*Where the order is made in the Chancery Division*” substitute—

“Chancery Associates, Ground Floor, The Rolls Building, 7 Rolls Buildings, Fetter Lane, London EC4A 1NL quoting the case number. The telephone number is 020 7947 6733.”;
 - b) for the address that appears directly below “*Where the order is made in the Queen's Bench Division*” substitute—

“Room E07 Royal Courts of Justice, Strand, London WC2A 2LL quoting the case number. The telephone number is 020 7947 6010.”; and
 - c) for the address that appears directly below “*Where the order is made in the Commercial Court*” substitute—

“7 Rolls Building, Fetter Lane, London, EC4A 1NL quoting the case number. The telephone number is 0207 947 6826.”.

PRACTICE DIRECTION 35 – EXPERTS AND ASSESSORS

- 1) For paragraphs 11.1 to 11.4 substitute—

“11.1 At any stage in the proceedings the court may direct that some or all of the evidence of experts from like disciplines shall be given concurrently. The procedure set out in paragraph 11.4 shall apply in respect of any part of the evidence which is to be given concurrently.

11.2 To the extent that the expert evidence is not to be given concurrently, the court may direct the evidence to be given in any appropriate manner. This may include a direction for the experts from like disciplines to give their evidence and be cross-examined on an issue-by-issue basis, so that each party calls its expert or experts to give evidence in relation to a particular issue, followed by the other parties calling their expert or experts to give evidence in relation to that issue (and so on for each of the expert issues which are to be addressed in this manner).

11.3 The court may set an agenda for the taking of expert evidence concurrently or on an issue-by-issue basis, or may direct that the parties agree such an agenda subject to the approval of the court. In either case, the agenda should be based upon the areas of disagreement identified in the experts' joint statements made pursuant to rule 35.12.

”

11.4 Where expert evidence is to be given concurrently, then (after the relevant experts have each taken the oath or affirmed) in relation to each issue on the agenda, and subject to the judge's discretion to modify the procedure—

(1) the judge will initiate the discussion by asking the experts, in turn, for their views in relation to the issues on the agenda. Once an expert has expressed a view the judge may ask questions about it. At one or more appropriate stages when questioning a particular expert, the judge may invite the other expert to comment or to ask that expert's own questions of the first expert;

(2) after the process set out in (1) has been completed for any issue (or all issues), the judge will invite the parties' representatives to ask questions of the experts. Such questioning should be directed towards: (a) testing the correctness of an expert's view; (b) seeking clarification of an expert's view; or (c) eliciting evidence on any issue (or on any aspect of an issue) which has been omitted from consideration during the process set out in (1); and

(3) after the process set out in (2) has been completed in relation to any issue (or all issues), the judge may summarise the experts' different positions on the issue and ask them to confirm or correct that summary.”.

PRACTICE DIRECTION 51M – THE FINANCIAL MARKETS TEST CASE PILOT SCHEME

- 1) In paragraph 1.1(a), for “1 October 2015 for two years to 30 September 2017” substitute “1 October 2015 to 30 September 2020”.
- 2) For paragraph 2.1 substitute—

“**2.1** The Financial Markets Test Case Scheme applies to a claim started in the Financial List which is a Financial List claim and which raises issues of general importance in relation to which immediately relevant authoritative English law guidance is needed (“a qualifying claim”).”

PRACTICE DIRECTION 51O – THE ELECTRONIC WORKING PILOT SCHEME

- 1) Throughout the Practice Direction for “court”, in each place it appears, substitute “Court”.
- 2) In paragraph 1.1—
 - a) in sub-paragraph (1)(a), for “for two years” substitute “to 6 April 2018; and
 - b) for sub-paragraph (2) substitute—

“(2) Electronic Working is a permitted means of electronic delivery of documents to the court for the purposes of rule 1.46 of the Insolvency (England & Wales) Rules 2016 (“IR 2016”).”.

3) In paragraph 2.1—

- a) after “and bank holidays, except”, omit “where there is”;
- b) in sub-paragraph (a)—
 - i) for “planned “down-time”” substitute “where there is planned “down-time””; and
 - ii) at the end of the sub-paragraph, after the semi-colon, omit “and”;
- c) in sub-paragraph (b)—
 - i) for “unplanned “down-time”” substitute “where there is unplanned “down-time””; and
 - ii) at the end of the sub-paragraph, for “.” substitute “; and”; and
- d) after sub-paragraph (b), insert—

“(c) where the filing is of a notice of appointment by a qualifying floating charge holder under Chapter 3 of Part 3 of the IR 2016 and the court is closed, in which case the filing must be in accordance with rule 3.20 of the IR 2016.”.

4) In paragraph 2.2—

- a) omit “for the avoidance of doubt”; and
- b) after “Rolls Building Jurisdictions (“relevant claims or applications”).”, insert—

“From 1 October 2017—

- (a) for a party who is legally represented, Electronic Working must be used by that party to start and/or continue any relevant claims or applications; and
- (b) for a party who is not legally represented, Electronic Working may be used by that party to start and/or continue any relevant claims or applications.”.

5) After paragraph 2.4, insert—

“**2.5** The Website contains further details, updated from time to time, on how to complete a filing, including in the event of down-time or where a particular document format is not compatible with Electronic Working, information about the timing of any planned down-time, and a support email address to contact in the event of any down-time or when experiencing any other technical difficulty in using the Website.”.

6) In paragraph 3.5—

- a) in sub-paragraph (1), after “IR 1986”, insert “or 2016”; and

b) in sub-paragraph (2), after “includes original wills”, insert “, grants of probate or evidence of testamentary documents,”.

7) In paragraph 5.1—

a) in sub-paragraph (c)—

i) for “10 (ten) megabytes” substitute “50 (fifty) megabytes”; and

ii) at the end of the sub-paragraph, for “.” substitute “; and”; and

b) after sub-paragraph (c), insert—

“(d) be categorised or labelled as to the type of document that it is (e.g. “Claim Form”, “Witness Statement”, “Exhibit”) and numbered sequentially.”

8) In paragraph 5.2(2) for “10 (ten) megabytes” substitute “50 (fifty) megabytes”.

9) After paragraph 5.2, insert—

“5.2A

In the event that a document is confidential and is required to be filed, it must, when filed in the Electronic Working Case File, be filed as a confidential document, using the process set up in Electronic Working for that purpose, in order to ensure that it is not visible to everyone.”.

10) In paragraph 5.3, for sub-paragraphs (2) and (3) substitute—

“(2) The court may make an order to remedy an error of procedure made while using Electronic Working, in accordance with CPR 3.10(b). When the court makes such an order, a document filing will not fail Acceptance because of the error of procedure made.

(3) Court staff may refuse to include a submitted document in its corresponding Electronic Working Case File if the document has been scanned and saved upside down or is otherwise illegible or incomplete.

(4) Where Court staff has not included a submitted document on its corresponding Electronic Working Case File for one of the reasons listed in paragraph 5.3(3), the submission will not have failed Acceptance, but the party having made the submission will have to upload the document again in accordance with Court staff instructions in order for the document to be properly included on the corresponding Electronic Working Case File.”.

11) In paragraph 5.4—

a) in sub-paragraph (3) for “appropriate Rules” substitute “appropriate rules”;
and

- b) in sub-paragraph (6), for “the claim form” substitute “if the submission was of a claim form or other document requiring to be issued, it”.

12) In paragraph 6.1—

- a) in sub-paragraph (1)—

- i) for “Rule or Practice Direction” substitute “rule or practice direction”;
- ii) for “sub-paragraph (3)” substitute “sub-paragraph (4)”; and
- iii) for “fee by account” substitute “fee by account”;

- b) after sub-paragraph (1), insert—

“(1A) When a party enters its payment by account number into Electronic Working when prompted by Electronic Working to do so, that party will be deemed to have made the payment. The party will thereby owe the relevant court fee to Her Majesty’s Courts and Tribunals Service.”;

- c) for sub-paragraphs (2) and (3) substitute—

“(2) The court will keep a record of when payment was made or deemed to have been made.

(3) In proceedings where payment under the Insolvency Rules is required to be made in a manner that precludes online payment (such as the official receiver’s deposit for a winding up petition, which must be paid by cheque), parties will be able to use Electronic Working to initiate those proceedings, but must post or deliver payment to the Court within seven calendar days of submitting the originating application document(s). Failure to do so may result in the originating application failing Acceptance or the petition being struck out.”; and

- d) in sub-paragraph (4), after “payment of a fee, a party”, insert “who is not legally represented and”.

13) For paragraph 6.2 substitute—

“**6.2** A party who has applied or wishes to apply for Help with Fees or partial Help with Fees must contact the Court to obtain a Help with Fees payment by account number, prior to using Electronic Working to issue a claim or to initiate other proceedings requiring the payment of a court fee.”.

14) In paragraph 7.1, after “using Electronic Working” insert “and accepted by the Court”.

15) In paragraph 8.3, for “1986” substitute “2016”.

16) After paragraph 8(3), insert—

“**Calculation of time periods**

8A Notwithstanding the operation of Electronic Working outlined in paragraph 2.1 above, CPR rule 2.8 applies, where relevant, to any issue, filing, or other originating application, including the presentation of a winding-up petition or a bankruptcy petition, made through Electronic Working.”.

- 17) In paragraph 9.2, for “pursuant to IR 1986 rule 7.31A(12)” substitute “pursuant to IR 2016 rule 12.39(12)”.
- 18) In paragraph 10.3(b), for “10 (ten) megabytes” substitute “50 (fifty) megabytes”.
- 19) In paragraph 11.2, for “Unless the hearing is scheduled for 15 (fifteen) minutes or less, the bundle” substitute “The Bundle”.
- 20) In paragraph 12, for “the Practice Direction supplementing that Part and any Rule”, substitute “the practice direction supplementing that part and any rule”.
- 21) In paragraph 14.2—
 - a) for “IR 1986 rule 7.31A(3)-(6)”, substitute “IR 2016 rule 12.39(3)-(6)”; and
 - b) for “IR 1986 rule 7.31A(7) and subject to rule 7.31A(9)-(11) and rule 12A.51-54” substitute “IR 2016 rule 12.39(9)-(10) and subject to rule 12.39(7) and (11) and Chapter 10”.

PRACTICE DIRECTION 52A – APPEALS

- 1) In the table of contents—
 - a) in the entry for SECTION IV, after “OBTAINING PERMISSION TO APPEAL”, insert “AND ALLOCATION OF APPEALS”;
 - b) before the entry for paragraph 4.1, insert—

“Definitions	Para.4.A1”; and
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 - c) for the entries for paragraphs 4.3 and 4.4, substitute—

“Appeals from Masters, Registrars and District Judges of the High Court	Para.4.3
Appeals from the County Court to the High Court	Para.4.4
Appeals within the County Court	Para.4.5
Applications within appeals to the High Court and within the County Court	Para.4.5A”.
- 2) In SECTION III—

- a) in paragraph 3.4—
 - i) omit “‘HC’: High Court;”; and
 - ii) after the definition for “Companies Acts”, insert—

“Registrar’: a Registrar in Bankruptcy, including a salaried or fee paid Registrar in Bankruptcy.”.

- 3) In paragraph 3.5, in Table 1—
 - a) in the entry for the County Court, in the fourth column—
 - i) in the second row of that column, for “HC” substitute “HCJ or Registrar”; and
 - ii) in the third row of that column, for “HC” substitute “HCJ”; and
 - b) in the entry for the High Court, in the second column, after “Master” insert “, Registrar or DJ”.
- 4) In the heading to SECTION IV, after “OBTAINING PERMISSION TO APPEAL”, insert “AND ALLOCATION OF APPEALS”.
- 5) Before paragraph 4.1, insert—

“Definitions

4.A1 Definitions of terms used in this Section—

‘heard’: in the context of an application, includes dealing with that application on paper as well as orally.

‘Group A Judge’: a High Court Judge or a person authorised under paragraphs (1), (2) or (4) of the Table in section 9(1) of the Senior Courts Act 1981 to act as a judge of the High Court.

‘Group B Judge’: any person who is not a Group A Judge but who is authorised under section 9 of the Senior Courts Act 1981 to act as a judge of the High Court.

‘Group C Judge’: a person authorised under paragraphs (4A) or (5) of the Table in section 9(1) of the Senior Courts Act 1981 to act as a judge of the High Court.

‘Group D Judge’: a person authorised under paragraph (6) of the Table in section 9(1) of the Senior Courts Act 1981 or section 9(4) of the Senior Courts Act 1981 to act as a judge of the High Court.

‘Registrar’: a Registrar in Bankruptcy, including a salaried or fee paid Registrar in Bankruptcy.

‘The Appropriate Presiding or Supervising Judge’ means the relevant Supervising judge of the Business and Property Courts or relevant Presiding judge of the Queen’s Bench Division, and includes the Chancellor of the High Court, the Judge in Charge of the Queen’s Bench List, and the President of the Queen’s Bench Division.”.

6) For paragraph 4.3 and the heading to that paragraph substitute—

“Appeals from Masters, Registrars and District Judges of the High Court

4.3 In relation to appeals from Masters—

- (a) applications for permission to appeal must be heard by a Group A Judge;
- (b) if permission to appeal is given, the appeal may be heard by a Group A Judge or a Group B Judge authorised to hear the appeal by the Judge in Charge of the Queen’s Bench List or the Chancellor of the High Court.

4.3A In relation to appeals from Registrars: applications for permission to appeal and appeals must be heard by a Group A Judge.

4.3B In relation to appeals from District Judges of the High Court:

- (a) applications for permission to appeal must be heard by a Group A Judge;
- (b) if permission to appeal is given, the appeal may be heard by either:
 - (i) a Group A Judge;
 - (ii) a Group C Judge sitting in the High Court; or
 - (iii) in exceptional circumstances, a Group D Judge authorised to hear the appeal by the Appropriate Presiding or Supervising Judge.”.

7) For paragraph 4.4 and the heading to that paragraph substitute—

“Appeals from the County Court to the High Court

4.4 Where the lower court is the County Court—

- (a) subject to sub-paragraph (b)—
 - (i) applications for permission to appeal must be heard by a Group A Judge;
 - (ii) if permission to appeal is given:

- (A) where the appeal is from a Recorder, the appeal may be heard by either a Group A Judge or, in exceptional circumstances, a Group C Judge authorised to hear the appeal by the Appropriate Presiding or Supervising Judge;
- (B) in all other cases, the appeal may be heard by either a Group A Judge or, in exceptional circumstances, a Group D Judge authorised to hear the appeal by the Appropriate Presiding or Supervising Judge.

(b) where the appeal is from a District Judge in proceedings brought pursuant to the Companies Acts, an appeal to the High Court will be dealt with as follows—

(i) applications for permission to appeal must be heard in accordance with the following provisions:

- (A) if the appeal centre is the RCJ, by a salaried Registrar in Bankruptcy; or
- (B) in any other appeal centre, by a Group C Judge or Group A Judge provided that the judge is one who could hear the appeal in accordance with sub-paragraph (iii).

(ii) for appeals in which the appeal centre is the RCJ: appeals must be heard by a Registrar;

(iii) for appeals in any other appeal centre: appeals may be heard by a Group A Judge or a Group B Judge, provided that—

- (A) the Group A Judge is a judge of allocated to the Insolvency and Companies List of the Business and Property Courts or is authorised by the Chancellor of the High Court to hear the appeal;
- (B) if the Group B judge is a Group D Judge, they have been authorised by the Supervising Judge of the Business and Property Courts to hear the appeal;
- (C) if the Group B Judge is a Group C Judge, they have appropriate authorisation.

(Note: the Practice Direction Insolvency Proceedings makes provision for obtaining permission to appeal and allocation of appeals in insolvency proceedings.)”

8) For paragraph 4.5 substitute—

“Appeals within the County Court

4.5 The Designated Civil Judge in consultation with the appropriate Presiding or Supervising Judge has responsibility for allocating appeals from decisions of District Judges in the County Court to Circuit Judges and/or Recorders. Such an appeal may only be allocated to a Recorder in exceptional circumstances.

Applications within appeals to the High Court and within the County Court

4.5A Applications within appeals other than applications for permission to appeal but including applications for a stay of execution, may be heard and directions in the appeal given, by any judge who may hear the appeal, could be authorised to hear the appeal, or to whom the appeal could be allocated.”.

PRACTICE DIRECTION 52B – APPEALS IN THE COUNTY COURT AND HIGH COURT

1) For paragraph 2.2 substitute—

“**2.2** The tables at the end of this Practice Direction set out the Appeal Centres for appeals within the County Court in Table A and for appeals from the County Court or within the High Court in Table B.

2.3 Appeals to the High Court may be transferred between appeal centres by a direction given by the President of the Queen’s Bench Division or the Chancellor of the High Court or their respective nominee. A party seeking to transfer the appeal to an Appeal Centre other than the one in which it was filed may seek to do so by letter addressed to the President of the Queen’s Bench Division or the Chancellor of the High Court as appropriate.”.

2) For Table B substitute—

“Circuit	Appeal Centre
Midland Circuit	Birmingham
North Eastern Circuit	Leeds
Northern Circuit	Manchester
	Wrexham
Wales Circuit	Cardiff
Western Circuit	Bristol
South Eastern Circuit	Royal Courts of Justice”.

- 3) In section VIII, in Table A, in the section for the South East Circuit—
- a) omit the entry for Eastbourne County Court hearing centre; and
 - b) after the entry for Staines County Court, insert—

“	Stratford	Central London CJC”.
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PRACTICE DIRECTION 54A – JUDICIAL REVIEW

- 1) In the paragraph 6.2, for subparagraph (a) substitute—
- “(a) the Immigration and Asylum Chamber of the First-tier Tribunal, the address for service of the claim form is Home Office, Status Park 2, 4 Nobel Drive, Harlington, Hayes, Middlesex UB3 5EY;”.

PRACTICE DIRECTION 64B – APPLICATIONS TO THE COURT FOR DIRECTIONS BY TRUSTEES IN RELATION TO THE ADMINISTRATION OF A TRUST

- 1) In paragraph 7.7(4), omit the second sentence.

PRACTICE DIRECTION 66 – CROWN PROCEEDINGS

PRACTICE DIRECTION 81 – APPLICATIONS AND PROCEEDINGS IN RELATION TO CONTEMPT OF COURT

- 1) In paragraph 5.4, for “20 Victoria Street, London, SW1H 0NF” substitute “5-8 The Sanctuary, London SW1P 3JS”.

PRACTICE DIRECTION – DEVOLUTION ISSUES AND CROWN OFFICE APPLICATIONS IN WALES (ENGLISH)

- 1) In in Annex 2 (Addresses), in subparagraph (2), for “20 Victoria Street, London, SW1H 0NF.” substitute “5-8 The Sanctuary, London, SW1P 3JS”.