

**NEW PRACTICE DIRECTION SUPPLEMENTING THE CIVIL PROCEDURE
RULES 1998**

The new Practice Direction (Electronic Working Pilot Scheme) supplementing rule 5.5 of the Civil Procedure Rules 1998 and set out below is 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 is approved by Bridget Prentice, Parliamentary Under Secretary of State, by the authority of the Lord Chancellor.

The new Practice Direction will come into force on 1st April 2009.

The Right Honourable Sir Anthony Clarke
Master of the Rolls and Head of Civil Justice

Date:

Signed by authority of the Lord Chancellor:

Bridget Prentice
Parliamentary Under Secretary of State
Ministry of Justice

Date:

PRACTICE DIRECTION – ELECTRONIC WORKING PILOT SCHEME

This Practice Direction supplements CPR rule 5.5

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General

- 1.1 This practice direction is made under rules 5.5 and 51.2 of the Civil Procedure Rules (“CPR”). It provides for a pilot scheme (“the Electronic Working pilot scheme”) to—
- (1) operate from 1st April 2009 to 31st March 2010;
 - (2) operate in the Admiralty, Commercial and London Mercantile Courts of the High Court at the Royal Courts of Justice, although the operation of this pilot scheme may be extended to other courts during the period of the pilot scheme; and
 - (3) apply to claims started on or after 1st April 2009.

- 1.2 (1) This practice direction provides for a pilot scheme by which, in the circumstances set out in this practice direction, proceedings may be started and all subsequent steps may be taken electronically (“Electronic Working”).
- (2) As an electronic system, the Electronic Working pilot scheme will operate 24 hours a day all year round, including weekends and bank holidays. This will enable claim forms to be issued and documents to be filed electronically out of normal court office opening hours. However, there will be two exceptions to this—
- (a) planned “down-time”: as with all electronic systems, there will be some planned periods for system maintenance and upgrades when Electronic Working will not be available; and
 - (b) unplanned “down-time”: in the event of unplanned periods during which Electronic Working will not be available due, for example, to a system failure, power outage etc. the Electronic Working pilot scheme team will try to rectify the problem as soon as practicable.

(Paragraphs 6.8(2) and 7.2(2) contain provisions concerning the responsibility of the parties to file documents in time.)

- 1.3 Where proceedings are issued in the Admiralty, the Commercial or the London Mercantile Court to which CPR Part 58, Part 59 and Part 61 apply, then the Electronic Working pilot scheme will apply subject to the provisions of those Parts unless specifically excluded or revised by this practice direction.
- 1.4 As and when the Electronic Working pilot scheme is expanded to include the Technology and Construction Court and claims other than Part 7 claims (see paragraph 5.1), where proceedings are issued to which CPR Part 60 or Part 62 applies, then the Electronic Working pilot scheme will apply subject to the provisions of those Parts unless specifically excluded or revised by this practice direction.
- 1.5 This practice direction enables claimants and their legal representatives—
- (1) to start electronically certain types of claim (subject to paragraph 5) in the Admiralty, Commercial and London Mercantile Courts; and
 - (2) where a claim has been started electronically—
 - (a) to file electronically all subsequent forms and documents,

including but without limitation the following—

- (i) requests for judgment in default;
 - (ii) requests for judgment on acceptance of an admission of the whole of the amount claimed;
 - (iii) notices that permission to serve out of the jurisdiction is not required (practice form N510);
 - (iv) certificates of service;
 - (v) statements of case and any amended statements of case;
 - (vi) requests for further information and any replies;
 - (vii) applications for an order;
 - (viii) witness statements or affidavits;
 - (ix) draft orders and orders for sealing; and
 - (x) case summaries, lists of issues, chronologies, skeleton arguments, case management information sheets, progress monitoring information sheets and pre trial checklists; and
- (b) when and to the extent and subject as the court may specify, to inspect an electronic record of the progress of the claim and take copies as appropriate of documents on the court file.

(Paragraph 17 contains provisions about the possible expansion of the Electronic Working pilot scheme to other courts.)

1.6 This practice direction also enables defendants and other parties to the proceedings and their legal representatives—

- (a) to file electronically—
- (i) an acknowledgment of service;
 - (ii) an admission or part admission;
 - (iii) a defence with or without a counterclaim;
 - (iv) a CPR Part 20 claim; and
 - (v) those forms and documents listed at paragraph 1.5(2)(a)(iv) to (x); and
- (b) when and to the extent and subject as the court may specify, to inspect an electronic record of the progress of the claim and take copies as appropriate of documents on the court file.

- 1.7 (1) Persons wishing to use the Electronic Working pilot scheme are required, wherever possible, to communicate with the court by means of e-mail. For the purposes of e-mail communications between the court and those persons, a person using the Electronic Working pilot scheme must—
- (a) provide the court with a single e-mail address at which that person can be contacted;
 - (b) use the e-mail address provided by the court to file documents at the court; and
 - (c) use the unique identification number, where provided by the court, to populate the subject line of the e-mail.
- (2) Where persons using the Electronic Working pilot scheme include their e-mail address on any court form, document or statement of case this is not confirmation or agreement that they are prepared to accept service by e-mail of documents between the parties to the proceedings or their respective legal representatives unless they expressly agree to do so. Paragraph 4.1(2)(c) of Practice Direction 6A supplementing CPR Part 6 does not apply.
- 1.8 (1) A claim filed electronically under the Electronic Working pilot scheme will be issued by the Admiralty Court, the Commercial Court, or the London Mercantile Court as appropriate (or any other relevant court as and when the scope of the Electronic Working pilot scheme is expanded to include other courts), and the claim will proceed in that court unless it is transferred to another court.
- (2) If the claim is transferred to another court which is not operating the Electronic Working pilot scheme it will come out of the scheme.

(Paragraph 15 contains further provisions about the transfer of claims.)

- 1.9 Unless the court orders otherwise no claim form, other document or order issued or filed with the court through the Electronic Working pilot scheme will be served by the court and service must be effected by the persons using the Electronic Working pilot scheme.

Security

- 2.1 Her Majesty's Courts Service will take such measures as it thinks fit to ensure the security of steps taken or information communicated or stored

electronically. These may include requiring persons using Electronic Working to—

- (1) enter a customer identification and password;
- (2) provide personal information for identification purposes; and
- (3) comply with any other security measures, as may from time to time be required before taking any of the steps mentioned in paragraph 1.5 or 1.6.

2.2 Her Majesty's Courts Service may provide—

- (1) the parties or their legal representatives with the information necessary to register with the Criminal Justice Secure E-Mail facility which may be used for communication with the court; or
- (2) such alternative method of encryption to promote security of e-mail communications as the court may deem appropriate.

(Paragraph 8.7 of the Practice Direction (Electronic communications and filing of documents) supplementing CPR Part 5 contains provisions concerning the transmission of documents or correspondence electronically.)

Fees

3.1 Where this practice direction provides for a fee to be paid electronically, it may be paid by—

- (1) credit card;
- (2) debit card; or
- (3) any other method which Her Majesty's Courts Service may permit including any online facility.

3.2 In certain circumstances, a party may be entitled to a remission or part remission of fees. Her Majesty's Courts Service website contains guidance as to when this entitlement might arise. A party, who wishes to apply for remission or part remission of fees, must contact the relevant court office.

3.3 On filing electronically a form or document which requires the payment of a fee, the form will be subject to an initial automated validation to ensure all mandatory fields have been completed. Subject to such validation the form or document will be issued, sealed and returned to the person filing or requesting the issue of the form or document. Unless the fee is paid on filing

the form or document, the e-mail from the court to the person filing or requesting the issue of the form or document will specify the amount of any fee required and the date by which the fee must be paid. In default of payment of any such fee, the matter will be referred to a Judge to consider whether the court should make an order of its own initiative pursuant to CPR rule 3.3.

(CPR rule 3.3(5) contains provisions about applying to the court to set aside an order made by the court on its own initiative.)

Forms

- 4.1 Persons using the Electronic Working pilot scheme must ensure that all forms, documents, schedules and other attachments filed at court are in PDF format.
- 4.2 Persons using the Electronic Working pilot scheme must, where they are available, use the PDF forms which have been created by Her Majesty's Courts Service specifically for Electronic Working.
- 4.3 Persons wishing to file a form or document which has not been created specifically for Electronic Working, or for some other reason a form or document is not available, must before filing the form or document—
 - (1) convert the document to PDF format if it is already in an electronic form; or
 - (2) if it is only available in hard copy scan the document into PDF format.

Types of claim which may be started using Electronic Working

- 5.1 The Electronic Working pilot scheme may be used initially to start CPR Part 7 claims in the Admiralty, the Commercial or the London Mercantile Court from 1st April 2009.

(Paragraph 17.2 contains provisions about the possible expansion of the Electronic Working pilot scheme to other types of claim.)

- 5.2 During the period of the Electronic Working pilot scheme, the scheme may be expanded to allow judgments and orders obtained in proceedings which have been started using Electronic Working to be enforced—

- (1) by filing electronically requests and forms for enforcement; and
- (2) by payment of the fee electronically pursuant to paragraph 3 of this practice direction.

5.3 Information concerning such expansion of the Electronic Working pilot scheme will be communicated by Her Majesty's Courts Service in such manner as is deemed appropriate including the HMCS website.

Starting a claim

- 6.1 A claimant may request the issue of a claim form by—
- (1) obtaining the PDF form from Her Majesty's Courts Service;
 - (2) completing and sending the claim form and such other forms or documents as may be required to start the claim by e-mail to the address provided by the court; and
 - (3) paying the appropriate issue fee, in the manner provided for by paragraph 3.1 of this practice direction.
- 6.2 The particulars of claim may be included in the online claim form or may be filed separately in accordance with CPR rule 58.5, 59.4, or 61.3 where applicable.
- 6.3 As and when the Electronic Working pilot scheme is expanded to include the Technology and Construction Court, the particulars of claim may be included in the online claim form or may be filed separately in accordance with CPR rule 7.4 where applicable.
- 6.4 When a claim form is received electronically at the address provided by the court—
- (1) subject to the automated validation referred to in paragraph 3.3, the claim form will be issued, sealed and returned to the claimant for service; but
 - (2) if the form fails the automated validation it will be immediately returned to the claimant together with notice of the reasons for failure.
- 6.5 When the court issues a claim form following filing by e-mail through Electronic Working —

- (1) the court will enter on the form the date on which the claim form was received by the court through Electronic Working as the issue date;
- (2) the court will accept receipt of claim forms filed through Electronic Working out of normal court office opening hours. Claim forms received by the court up to midnight will bear the date they are received as the issue date; and
- (3) the court will keep a record, by electronic or other means, of when claim forms filed through Electronic Working are received.

(Paragraph 1.2(2) contains provisions about system “down-time” which may prevent immediate issue of claim forms.)

- 6.6(1) When the court issues a claim form through Electronic Working it will—
- (a) return an electronic version in PDF format which will be sealed for service by the claimant; and
 - (b) return a further electronic version in PDF format which must be retained by the claimant in the event that the form needs to be amended.
- (2) It is the claimant’s or the claimant’s legal representatives’ responsibility to print and serve the claim form and any associated documents unless the court orders otherwise.

6.7 The sealed claim form will have printed on it a unique alphanumeric identification which will allow the defendant to obtain and file the acknowledgment of service through Electronic Working.

- 6.8(1) Any form or document which is filed electronically—
- (a) must not be filed in hard copy unless the court orders or this practice direction provides otherwise;
 - (b) must consist of one copy only with no further copies unless requested by the court; and
 - (c) will receive an automated response to acknowledge receipt.
- (2) Where a time limit applies, it is the responsibility of the the relevant party to ensure that the electronic form or document is filed in time.

Electronic Working response

- 7.1 A defendant wishing to file—
- (1) an acknowledgment of service of the claim form under CPR Part 10;
 - (2) an admission or part admission;
 - (3) a defence or defence and counterclaim under CPR Part 15;
 - (4) a CPR Part 20 claim; or
 - (5) any of the documents or forms listed in paragraph 1.5(2)(a)(iv) to (x),
- may instead of filing a written form, do so by obtaining the Electronic Working version of the form by using the unique identification referred to in paragraph 6.7 and filing the same electronically.
- 7.2(1) Where a defendant files a form or document through Electronic Working—
- (a) the form or document is not filed until it is acknowledged as received by the court, whatever time it is shown to have been sent;
 - (b) the defendant may electronically file forms and documents through Electronic Working out of normal court office opening hours; and
 - (c) a form acknowledged as received electronically out of normal court office opening hours but before midnight will be treated as having been filed that day.
- (2) Where a time limit applies, it remains the responsibility of the defendant to ensure that the electronic form or document is filed in time.
- (3) When a document is filed electronically by the defendant an automated response will be sent to acknowledge receipt.

Counterclaim

- 8.1 Where a counterclaim is electronically filed using an Electronic Working form, any fee payable must be made and will be taken by the court in the manner provided for in paragraph 3 of this practice direction.

Statement of truth

- 9.1 CPR Part 22 and the Practice Direction supplementing that Part which requires any statement of case to be verified by a statement of truth apply to any Electronic Working forms filed electronically.
- 9.2 The statement of truth in an Electronic Working statement of case must be in the form—
- “[I believe][The claimant believes] that the facts stated in this claim form are true.”; or

“[I believe][The defendant believes] that the facts stated in this defence are true.”,
as appropriate.

- 9.3 CPR rule 32.14, which sets out the consequences of making, or causing to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth, applies to any false statement in a statement of truth in a document filed electronically.

Signature

- 10.1 Any provision of the CPR which requires a document to be signed by any person is satisfied by that person typing his or her name on an electronic version of the form.

Request for judgment or issue of warrant

- 11.1 If, in a claim started electronically using Electronic Working—
- (1) the claimant wishes to apply for judgment in default in accordance with CPR Part 12; or
 - (2) the defendant has filed or served an admission of the whole of the claim in accordance with CPR rule 14.4,
- the claimant may request judgment to be entered in default or on the admission (as the case may be) by completing and sending the electronic version of the appropriate case form to the e-mail address which will be provided to the parties.
- 11.2 When available under the Electronic Working pilot scheme, where judgment has been entered following a request under paragraph 11.1 and the claimant is entitled to the issue of a warrant of execution without requiring the permission of the court, the claimant may request the issue of a warrant of execution by—
- (1) completing and sending an Electronic Working request form to the e-mail address which will be provided to the parties; and
 - (2) paying the appropriate fee in accordance with paragraph 3 of this practice direction.
- 11.3 A request under paragraph 11.1 or 11.2 will be treated as being filed—

- (1) on the day the court acknowledges receipt of the request, if it receives it before 10 a.m. on a working day (which is any day on which the court office is open);
- (2) otherwise, on the next working day after the court receives the request.

Inspecting the case record

- 12.1 When implemented, a facility will be provided for parties or their legal representatives to inspect an electronic record of the status of claims started using Electronic Working together with the facility to request documents in the electronic court file.
- 12.2 The record of each claim and its status will be automatically updated.
- 12.3 Information concerning the availability of this facility under the Electronic Working pilot scheme will be communicated by Her Majesty's Courts Service in such manner as is deemed appropriate including the HMCS website.

Case management of proceedings under the Electronic Working pilot scheme

- 13.1 Where a rule, practice direction, order of the court or court guide requires a case management bundle to be filed with the court—
 - (1) the bundle must be filed in both hard copy and electronic format; and
 - (2) the electronic copy must—
 - (a) be filed electronically by e-mail, formatted as one PDF file not exceeding 10 megabytes, with each document in the file separately bookmarked;
 - (b) in the event that it exceeds 10 megabytes, be filed on CD Rom or DVD; and
 - (c) be updated as required and filed in compliance with sub-paragraphs (a) and (b) above.
- 13.2 The hard copy of the bundle must always correspond in all respects with the electronic copy.

Trial bundles

- 14.1 The trial bundle must be filed with the court in hard copy format.

- 14.2 An electronic copy of the trial bundle must also be filed if the court so orders, in which case it must comply with the requirements of paragraph 13.1(2) and paragraph 13.2 also applies.
- 14.3 The court will retain any electronic copy of the trial bundle for a period of one month after the claim has been finally determined, after which it may be deleted.
- 14.4 The time in paragraph 14.3 may be extended by order of the court at the request of a party or on the court's own initiative.

Transfer

- 15.1 If a claim is started under the Electronic Working pilot scheme, and is subsequently transferred to a court not operating under the Electronic Working pilot scheme the claimant or the claimant's legal representatives must ensure that a complete paper version of the court file is made available to the court to which the claim has been transferred.
- 15.2 If a claim which has not been started under the Electronic Working pilot scheme is transferred to a court operating the scheme and the claimant wishes to proceed with their claim electronically the claimant must scan or convert the documents in the court file into PDF format to ensure that the court has a complete copy of the file in PDF format.

Public kiosk service

- 16.1 An edited version of the electronic court file allowing access only to those documents which are available publicly will be made available through a public kiosk facility.

(CPR Part 5 contains provisions about access to court documents by non-parties.)

- 16.2 Persons wishing to obtain copies of publicly available documents—
- (1) may select the documents they require using the computer facilities provided by the public kiosk; and
 - (2) must pay the appropriate fee.

- 16.3 Copies of the documents will be sent by e-mail following payment of the appropriate fee to an address supplied by the person applying for copies.

Expansion of the Electronic Working pilot scheme

- 17.1 The Electronic Working pilot scheme will initially operate in the Admiralty Court, the Commercial Court and the London Mercantile Court at the Royal Courts of Justice but may expand incrementally to include other courts or Divisions of the High Court at the Royal Courts of Justice, namely the Technology and Construction Court and the Chancery Division of the High Court and to include bankruptcy and insolvency proceedings.
- 17.2 The Electronic Working pilot scheme may be extended incrementally to widen the types of claim that may be started using Electronic Working. From a date or dates to be notified, the Electronic Working pilot scheme may be extended to—
- (1) CPR Part 8 claims, arbitration claims and admiralty claims in the Admiralty, Commercial or London Mercantile Court;
 - (2) CPR Part 7 and Part 8 claims in the Technology and Construction Court and the Chancery Division of the High Court; and
 - (3) bankruptcy proceedings whether started by way of CPR Part 8 or petition.
- 17.3 Information concerning the expansion of the Electronic Working pilot scheme may be communicated by Her Majesty's Courts Service in such manner as is deemed appropriate including the HMCS website.