

## 171st UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the Practice Directions which supplement 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 Heidi Alexander MP, Minister of State, by the authority of the Lord Chancellor.

The amendments to the existing Practice Directions come into force as follows—	
Practice Direction 25B – Interim Payments	1 October 2024
Practice Direction 29 – The Multi-track	1 October 2024
Practice Direction 45 – Tables of Fixed Costs (2024)	1 October 2024
Practice Direction 51O – The Electronic Working Pilot Scheme	1 October 2024
Practice Direction 52D - Practice Direction 52D – Statutory Appeals and Appeals Subject To Special Provision	1 October 2024
Practice Direction 54C – Administrative Court (Venue)	1 October 2024
Practice Direction 77 – Applications for and Relating to Serious Crime Prevention Orders	1 October 2024
Practice Direction 83 – Writs and Warrants – General Provisions	1 October 2024
Practice Direction – Application for a Warrant Under the Competition Act 1998	To come into force on the date when Parts 1 and 2 and Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024 have all come into

	force
Practice Direction – Pre-Action Conduct and Protocols	1 October 2024
Amendments to Practice Directions 2B, 7B, 52A, 52B, 57AB, 74A and 74B (Masters, District Judges and ICC Judges)	1 October 2024

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The Right Honourable Sir Geoffrey Vos  
Master of the Rolls and Head of Civil Justice

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Signed by authority of the Lord Chancellor:

Minister of State

Ministry of Justice

Date:

### **PRACTICE DIRECTION 25B – INTERIM PAYMENTS**

1) In—

a) paragraph 4.1, in both sub-paragraph (3) and in the full-out to that paragraph;  
and

b) paragraph 4.3,

for “36.22”, in each place it appears, substitute “36.20”.

### **PRACTICE DIRECTION 29 – THE MULTI-TRACK**

- 1) In paragraph 4.10(9), in the opening words, for “requiring” to “consider ADR” substitute “ordering or encouraging the parties to engage in alternative dispute resolution (ADR)”.

#### **PRACTICE DIRECTION 45 – TABLES OF FIXED COSTS (2024)**

- 1) In the table of contents, after the entry for Table 16 insert—

“TABLE 17: rule 45.64 – determination where parties agree on all issues except costs
Fixed Costs Determination: rules 45.63 and 45.64 – Precedent U”

- 2) In Table 1 omit Section D.
- 3) In Table 15A omit paragraph (3).
- 4) After Table 16 Insert—

**“TABLE 17: rule 45.64 – determination where parties agree on all issues except costs**

Costs which the court may allow for a fixed costs determination	£500
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#### **Fixed Costs Determination: rules 45.63 and 45.64 – Precedent U**

Precedent U is annexed to this Practice Direction.

*(“Precedent U”, to be annexed here.)”.*

#### **PRACTICE DIRECTION 510 – THE ELECTRONIC WORKING PILOT SCHEME**

- 1) In paragraph 1.1(1)(a), for “2024” substitute “2025”.
- 2) In paragraph 3.4(2), for “Judge, Master, Registrar, District Judge or” substitute “judge or a”.

#### **PRACTICE DIRECTION 52D – STATUTORY APPEALS AND APPEALS SUBJECT TO SPECIAL PROVISION**

- 1) In paragraph 29.1(2), for “35(6)” substitute “35(4)”.

#### **PRACTICE DIRECTION 54C – ADMINISTRATIVE COURT (VENUE)**

1) In paragraph 3.1—

- a) in sub-paragraph (5), at the end omit “and”;
- b) in sub-paragraph (6), at the end for “.” substitute “; and”; and
- c) after sub-paragraph (6) insert—

“(7) proceedings under Part 77, Section I (serious crime protection orders).”.

## **PRACTICE DIRECTION 77 – APPLICATIONS FOR AND RELATING TO SERIOUS CRIME PREVENTION ORDERS**

1) For paragraph 4.1 substitute—

### **“4.1**

An application for an SCPO or relating to an SCPO must be filed in the Administrative Court at the Royal Courts of Justice.”.

## **PRACTICE DIRECTION 83 – WRITS AND WARRANTS – GENERAL PROVISIONS**

1) In paragraph 6, after “in Form N54” insert “, and any further notice of eviction or further notices of eviction required by that rule must be in Form N54A.”.

## **PRACTICE DIRECTION – APPLICATION FOR A WARRANT UNDER THE COMPETITION ACT 1998**

1) In the heading to this Practice Direction, after “COMPETITION ACT 1998” insert “OR PART 1 OF THE DIGITAL MARKETS, COMPETITION AND CONSUMERS ACT” 2024”.

2) In paragraph 1.1—

- a) in sub-paragraph (1) for “the Act” substitute “the 1998 Act”;
- b) after sub-paragraph (1), insert—

“(1A) ‘the 2024 Act’ means the Digital Markets, Competition and Consumers Act 2024;”; and
- c) in sub-paragraph (7) for “the Act” substitute “the 1998 Act or under section 75 of the 2024 Act”.

3) In paragraph 1.2 for “the Act” substitute “the 1998 Act”.

4) In paragraph 4.1(1) for “the Act” substitute “the 1998 Act or the 2024 Act”.

5) In paragraph 4.3—

- a) in sub-paragraph (1) for “the Act” substitute “the 1998 Act or suspected breach of a requirement imposed under Part 1 of the 2024 Act)”

- b) in sub-paragraph (2), after “infringement” insert “or breach”
- c) in sub-paragraph (5), after “infringement” insert “or breach”
- d) in sub-paragraph (7), for “the Act” substitute “the 1998 Act or the 2024 Act”.

6) After paragraph 4.3 insert—

**“4.3A**

Where the application is in connection with the provision by the CMA of assistance to an overseas regulator (see Chapter 2 of Part 5 of the 2024 Act)—

(1) the requirement in paragraph 4.3(1) for the evidence to state the subject matter of the investigation is to be treated as a requirement for it to state the nature of the suspected infringement or breach of the law of the country or territory of the overseas regulator (“O”) which the CMA considers makes provision corresponding or similar to that in Part 1 of the 1998 Act or Part 1 of the 2024 Act, and

(2) references in paragraph 4.3(2) and (5) to “the infringement or breach” are to be construed accordingly.

(3) the evidence must also—

(a) set out

(i) the name of O; and

(ii) a description of the functions that O carries out that correspond to or are similar to the functions of the CMA under Part 1 of the 1998 Act or Part 1 of the 2024 Act (as the case may be);

(b) set out the basis upon which the CMA considers it would be appropriate to assist O; and

(c) identify the qualifying cooperation arrangement (as defined in section 319 of the 2024 Act) under which the request for assistance has been made, or confirm that the provision of the assistance has been authorised by the Secretary of State.”.

7) After paragraph 4.5, in the words in parenthesis—

a) for “sections 28 of the Act” substitute “section 28 of the 1998 Act or section 75 of the 2024 Act”; and

b) for “sections of the Act” substitute “sections of the 1998 Act or in applications in connection with the provision of assistance to an overseas regulator by virtue of Chapter 2 of Part 5 of the 2024 Act (as indicated in the annexed forms and notes)”.

8) In paragraph 7.1—

- a) in sub-paragraph (1), for “the Act” substitute “the 1998 Act or 76(1) of the 2024 Act”; and
  - b) in paragraph (4), for “the Act” substitute “the 1998 Act or the 2024 Act”.
- 9) In paragraph 10.1 for “section 28(2) of the Act”, substitute “sections 28(2) and 28A(2) of the 1998 Act, and section 75(2) of the 2024 Act”.
- 10) In the Explanatory Note which follows paragraph 10.2—
- a) in the title to the Note for “(‘the Act’)” substitute “(‘the 1998 Act’)”;
  - b) in the first paragraph for “the Act” substitute “the 1998 Act”;
  - c) under the heading “Subject matter and powers”—
    - i) in the first paragraph under that heading—
      - (aa) after “section 28(3A)” insert “of the 1998 Act”; and
      - (bb) For “an investigation under the Act” substitute “[delete as appropriate: [an investigation under the 1998 Act][a request for assistance from an overseas regulator under Chapter 2 of Part 5 of the Digital Markets, Competition and Consumers Act 2024 (“the 2024 Act”) (provision of investigative assistance to overseas regulators)]]”;and
    - ii) in the second paragraph under that heading, for “the Act” substitute “the 1998 Act”;
  - d) under the heading “Self-incrimination”, in the first paragraph under that heading—
    - i) after “require you to produce” omit “relevant”;
    - ii) for “the Act”, in both places it appears, substitute “the 1998 Act”; and
    - iii) after “existence of that infringement.” insert “If your undertaking is suspected of having committed a breach of the law in the country or territory of the overseas regulator named in paragraph 1 of the Warrant, the CMA expects to take the same approach to self-incrimination”;
  - e) under the heading “Legally privileged communications”—
    - i) in the first paragraph under that heading, for “the Act”, in both places it appears, substitute “the 1998 Act”; and
    - ii) in the second paragraph under that heading, after “section 30” insert “of the 1998 Act”; and
  - f) under the heading “Application under section 59 Criminal Justice and Police Act 2001”, in the first paragraph under that heading, for “the Act” substitute “the 1998 Act”.

11) After the Explanatory Note—

- a) insert the new warrant to enter premises and exercise powers under section 75 of the Digital Markets Competition and Consumers Act 2024;
- b) immediately after the new warrant, insert—

**“Explanatory Note to Warrant under section 75 of the Digital Markets Competition and Consumers Act 2024 (“the 2024 Act”)**

This Explanatory Note is provided for information only. It is not a detailed note of the powers under the 2024 Act which are subject to interpretation by the courts.

**Subject matter and powers**

Officers of the Competition and Markets Authority (“the CMA”) *[[if the Judge so orders pursuant to section 75(4) of the 2024 Act, [insert the following here and elsewhere as indicated]* and other persons] have been authorised under Warrant to enter and search the premises identified in the Warrant [delete as appropriate]: [for the purposes of a breach investigation under the 2024 Act][in connection with a request for assistance from an overseas regulator under Chapter 2 of Part 5 of the 2024 Act (provision of investigative assistance to overseas regulators)]. The subject matter of this investigation is set out in paragraph 2 of the Warrant. The officers [and other persons] will not elaborate on this.

Paragraph 4 of the Warrant sets out the powers of the named officer<sup>1</sup> and other officers [and other persons] under section 75 of the 2024 Act for the purposes of the present investigation. On entering the premises, the named officer will, as a matter of practice, produce evidence of the identity of the other officers in addition to his identity when producing the Warrant.

Unless the Court has ordered otherwise, the initial production of the Warrant and entry to premises must take place between 9.30 a.m. and 5.30 p.m. Monday to Friday and, once officers [and other persons] have entered premises under the authority of the

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<sup>1</sup> The named officer is the principal officer of the CMA who, together with the other officers [and other persons], is authorised by the Warrant to exercise the powers under section 75 of the 2024 Act. Their name and the names of the other officers [and other persons] are set out in Schedule B to the Warrant.

Warrant, they may outside those times and whilst the Warrant remains in force, remain on the premises or re-enter the premises to continue executing the Warrant.

### **Access to legal advice**

You are advised to seek legal advice. If the named officer and other officers consider it reasonable in the circumstances to do so and if they are satisfied that you are complying with, or will comply with, such conditions as they consider it appropriate to impose, the named officer and other officers will grant a request to allow a reasonable time for your legal adviser to arrive at the premises before the inspection continues.

If you decide to seek legal advice you should do so promptly and this must not unduly delay or impede the inspection. Any delay must be kept to a strict minimum.

If you have an in-house legal adviser on the premises, or if you have received prior notice of the inspection, the named officer and other officers [and other persons] will not wait for your external legal adviser to arrive.

### **Self-incrimination**

The named officer and other officers [and other persons] have powers, among other matters, to search and take copies of, or extracts of documents covered by the Warrant, to require you to produce information which is stored in any electronic form and to require you to provide assistance which may be reasonably required.

However, if your undertaking is suspected of having breached a requirement imposed under Part 1 of the 2024 Act, they cannot require you to provide answers or statements that might involve an admission on your part of the existence of that breach. If your undertaking is suspected of having committed a breach of the law in the country or territory of the overseas regulator named in paragraph 1 of the Warrant, the CMA expects to take the same approach to self-incrimination.

### **Legally privileged communications**



The powers under section 75 of the 2024 Act to search, take copies etc. (set out in paragraph 4(b) onwards in the Warrant) do not apply in respect of any 'privileged communication'. This is defined in section 81 of the 2024 Act to mean a communication

1. between a professional legal adviser and his client, or
2. made in connection with, or in contemplation of, legal proceedings and for the purposes of those proceedings,

which would be protected from disclosure in proceedings in the High Court on grounds of legal professional privilege.

For the purposes of section 81 of the 2024 Act, a 'professional legal adviser' includes both an external and an in-house qualified legal adviser.

If you consider that a document or information is privileged, you should provide the named officer or other officer [or other person] with material of such a nature as to demonstrate to his satisfaction that the document or information, or parts of it, for which privilege is claimed, fulfil the conditions for it being privileged.

If you fail to do so, you should gather together the items for which privilege is claimed. These items will not be examined or copied unless you reach an agreement with the named officer that they may be examined or copied. If no agreement is reached on the day of the inspection, the named officer will request that you make a copy of the items and place this in a sealed envelope or package in his presence. The named officer will then discuss with you appropriate arrangements for the safe-keeping of these items pending resolution of the issue of privilege. For example, such arrangements may include a request that your legal adviser should give (or if no legal adviser is present, that you give), a written undertaking that the envelope or package will be retained safely and that its contents will not be concealed, removed, tampered with or destroyed until the issue of privilege is resolved.

### **Listing of items**

Unless it is impracticable in all the circumstances, no item may be removed from the premises by the named officer or other officers [or other persons] until they have

prepared a list of all the items to be removed, a copy of the list has been supplied to you, and you have been given a reasonable opportunity to check that the list relates to all the items concerned, and only to those items. This does not entitle you or your legal adviser to insist that the list or its contents should take any particular form.

## **Confidentiality**

You should note that, subject to the safeguards in relation to self-incrimination and legal privilege, you are not entitled to withhold a document or information by claiming that it is confidential.

Where it is possible to do so, it is suggested that after the inspection on the premises you should identify any part or parts of any information or document copied or taken that you consider to be confidential and provide a written explanation as to why it should be treated as such. For these purposes information is confidential if it is:

1. commercial information the disclosure of which would, or might, significantly harm the legitimate business interests of the undertaking to which it relates; or
2. information relating to the private affairs of an individual the disclosure of which would, or might, significantly harm his interests.

A document will be treated as confidential to the extent that it contains confidential information.

It is for the CMA to determine whether or not the information is to be disclosed in accordance with Part 9 of the Enterprise Act 2002.

## **Application to vary or discharge the Warrant**

You are entitled to apply to the Court to vary or discharge the Warrant. If you intend to make such an application, you must first inform the named officer. An application to stop the Warrant from being executed must be made immediately upon it being served.

The application must be made to the judge who issued the Warrant, or if he is not available, to another High Court judge.

If you are making an immediate application to stop the Warrant from being executed, the named officer will delay starting or continuing a search of the premises for a reasonable period (not exceeding two hours) while you make your application, provided that you—

1. permit the named officer and other officers [and other persons] to enter and remain on the premises;
2. keep the named officer informed of the steps you are taking in relation to the application; and
3. comply with any other conditions that the named officer imposes.

Examples of conditions that the named officer may impose pursuant to (3) above include: that you do not disturb or move any document or information that is the subject of the Warrant; and/or you do not tell anyone other than your legal adviser about the Warrant or the investigation.

### **Application under section 59 Criminal Justice and Police Act 2001**

Your attention is drawn to section 59 of the Criminal Justice and Police Act 2001, which makes provision about applications relating to property seized in the exercise of the powers conferred by (among other provisions) section 75 of the 2024 Act.

An application under section 59—

1. must be made by application notice in accordance with Part 23 of the Civil Procedure Rules; and
2. should be made to a judge of the Chancery Division at the Royal Courts of Justice (if available).”.

### **PRACTICE DIRECTION – PRE-ACTION CONDUCT AND PROTOCOLS**

1) In paragraph 18, in the table of protocols in force—

- (a) omit the entry for the “Defamation” protocol;
- (b) for the entry for the “Housing Disrepair” protocol substitute—

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Pre-Action Protocol for Housing Condition Claims
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13 January 2020
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(England)	
Pre-Action Protocol for Housing Disrepair Cases (Wales)	13 January 2020;

”; and

- (c) after the entry for the Personal Injury Claims Below the Small Claims Limit in Road Traffic Accidents protocol insert—

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Pre-action Protocol for Debt Claims	1 October 2017
Pre-action Protocol for Resolution of Package Travel Claims	7 May 2018
Pre-Action Protocol on Media and Communications Claims	1 October 2019

”

### **AMENDMENTS TO PRACTICE DIRECTIONS 2B, 7B, 52A, 52B, 57AB AND 74A (MASTERS, DISTRICT JUDGES AND ICC JUDGES)**

- 1) For each provision in the first column of the table of amendments, the text in the corresponding second column is substituted by the text in the corresponding third column.

#### **Table of amendments**

<b>Provision</b>	<b>Current Text</b>	<b>Substituted Text</b>
<b>Practice Direction 2B,</b> paragraph 1.1	“Rule 2.4 provides that Judges, Masters and District Judges may exercise any function of the court except where an enactment, rule or practice direction provides otherwise.”	“Rule 2.4 provides that judges may exercise any function of the court except where an enactment, rule or practice direction provides otherwise.”
<b>Practice Direction 2B,</b> paragraph 1.2	“Masters or District Judges who have jurisdiction to hear a matter or to whom a matter has been allocated, may refer that matter to a Judge instead	“Masters, Admiralty Registrars, ICC Judges and District Judges who have jurisdiction to hear a matter or to whom a matter has been allocated, may

	of dealing with it themselves.”	refer that matter to a judge of a higher level instead of dealing with it themselves.”
<b>Practice Direction 2B</b> , paragraph 1.3(b)	“‘District Judge’ means all other Courts and tribunal judges, and High Court Officers (for example, Masters and Registrars), including deputy or temporary High Court Officers, who are judges of the County Court under section 5 of the County Courts Act 1984.”	“‘District Judge’ means all other Courts and Tribunal judges (for example, Masters, the Admiralty Registrar and ICC Judges) and deputy, temporary or other High Court officers, who are judges of the County Court under section 5 of the County Courts Act 1984.”
<b>Practice Direction 2B</b> , paragraph 2	“Search orders (rule 25.1(1)(h)), freezing orders (rule 25.1(1)(f)) and an ancillary order under rule 25.1(1)(g) may only be made by a Judge.”	“Search orders (rule 25.1(1)(h)), freezing orders (rule 25.1(1)(f)) and an ancillary order under rule 25.1(1)(g) may only be made by a High Court Judge.”
<b>Practice Direction 2B</b> , paragraph 7B.4	“Where a winding-up order has been made against a company, any proceedings against the company by or on behalf of debenture holders may be dealt with, at the Royal Courts of Justice, by a Registrar and, in a District Registry with insolvency jurisdiction, by a District Judge.”	“Where a winding-up order has been made against a company, any proceedings against the company by or on behalf of debenture holders may be dealt with, at the Royal Courts of Justice, by an ICC Judge and, in a District Registry with insolvency jurisdiction, by a District Judge.”
<b>Practice Direction 52A</b> , paragraph 3.4	“‘Registrar’ : a Registrar in Bankruptcy, including a salaried or fee paid Registrar	“‘ICC Judge’: an Insolvency and Companies Court Judge, including a salaried or fee paid

	in Bankruptcy.”	Insolvency and Companies Court Judge.”
<b>Practice Direction 52A</b> , paragraph 3.5, Table	All References throughout the table to “Registrar”	“ICC Judge”.
<b>Practice Direction 52A</b> , paragraph 4.A1	“‘Registrar’: a Registrar in Bankruptcy, including a salaried or fee paid Registrar in Bankruptcy.”	“‘ICC Judge’: an Insolvency and Companies Court Judge, including a salaried or fee paid Insolvency and Companies Court Judge.”
<b>Practice Direction 52A</b> , In the heading to paragraph 4.3	“Appeals from Masters, Registrars and District Judges of the High Court”	“Appeals from Masters, Admiralty Registrars, ICC Judges and District Judges of the High Court”
<b>Practice Direction 52A</b> , paragraph 4.3A	“In relation to appeals from Registrars: applications for permission to appeal and appeals must be heard by a Group A Judge.”	“In relation to appeals from ICC Judges and the Admiralty Registrar: applications for permission to appeal and appeals must be heard by a Group A Judge.”
<b>Practice Direction 52A</b> , paragraph 4.4(b)(i)(A)	“if the appeal centre is the RCJ, by a salaried Registrar in Bankruptcy;”	“if the appeal centre is the RCJ, by a salaried ICC Judge;”
<b>Practice Direction 52A</b> , paragraph 4.4(b)(ii)	“for appeals in which the appeal centre is the RCJ: appeals must be heard by a Registrar;”	“for appeals in which the appeal centre is the RCJ: appeals must be heard by an ICC Judge;”
<b>Practice Direction 52B</b> , paragraph	“appeals within the High Court (from a Master, a District Judge sitting in a District	“appeals within the High Court (from a Master, a District Judge sitting in a District Registry, an

1.1(c)	Registry, a Registrar in Bankruptcy, a Registrar of the Companies Court, a Costs Judge or an officer of the High Court to a judge of the High Court).”	ICC Judge, the Admiralty Registrar, a Costs Judge or an officer of the High Court to a judge of the High Court).”
<b>Practice Direction 57AB</b> , paragraph 2.11	“An application to transfer a case into the Shorter Trials Scheme must be heard by a judge, save that in the Chancery Division it may be heard by a Master, or a District Judge in a Chancery District Registry. If a judge or Master orders a case to be transferred into the Shorter Trials Scheme, he may give case management directions.”	“An application to transfer a case into the Shorter Trials Scheme must be heard by a judge, save that in the Chancery Division it may be heard by a Master, or a District Judge in a Chancery District Registry. If a judge or Master orders a case to be transferred into the Shorter Trials Scheme, they may give case management directions.”
<b>Practice Direction 74A</b> , paragraph 4.2(1)	“in the case of a judgment given in the Chancery Division or the King’s Bench Division of the High Court, to a Master, Registrar or district Judge;”	“in the case of a judgment given in the Chancery Division or the King’s Bench Division of the High Court, to a Master, Admiralty Registrar, ICC Judge or District Judge;”
<b>Practice Direction 74A</b> , paragraph 4.3(1)	“in the case of a judgment given in the Chancery Division or the King’s Bench Division of the High Court, to a Master, Registrar or district Judge;”	“in the case of a judgment given in the Chancery Division or the King’s Bench Division of the High Court, to a Master, Admiralty Registrar, ICC Judge or District Judge;”
<b>Practice Direction 74B</b> , paragraph	“in the case of a judgment given in the Chancery or Queen’s Bench Division of the	“in the case of a judgment given in the Chancery Division or King’s Bench Division of the

2.1(1)	High Court, or in a district registry, to a Master, Registrar or District Judge;”	High Court, or in a district registry, to a Master, Admiralty Registrar, ICC Judge or District Judge;”
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