

174th UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to PD 51ZE – Small Claims Track Automatic Referral to Mediation Pilot Scheme, which supplements the Civil Procedure Rules 1998, are made by the Master of the Rolls under the powers delegated to him by the Lady Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Heidi Alexander, Minister of State (Ministry of Justice), by the authority of the Lord Chancellor.

The amendments to the Practice Directions come into force on 5 November 2024 at 11am.



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



Signed by authority of the Lord Chancellor:

Heidi Alexander

Minister of State

Ministry of Justice

Date: 21/10/24

**PRACTICE DIRECTION 51ZE – SMALL CLAIM STRACK AUTOMATIC
REFERRAL TO MEDIATION PILOT SCHEME**

1) In paragraph 4:

(a) for “paragraphs 6 to 9” substitute “paragraphs 6 to 11”; and (b) for “and the relevant provision of Practice Direction 27A” substitute “and the relevant provisions of Practice Directions 27A and 51R”.

2) In paragraph 6, in the modification to paragraph (2) of rule 26.6:

(a) at the end of sub-paragraph (a), insert “and”; and (b) delete sub-paragraph (b).

3) After paragraph 10 insert:

“11. Modification of Practice Direction 51R:

a) In the table of contents –

- a. in the heading for paragraph 6.2, after “mediate” insert “or claim is within ARM Pilot”;
- b. in the heading for paragraph 6A.5, after “mediate” insert “or the claim is within ARM Pilot”; and
- c. in the heading for paragraph 6A.6, after “mediate” insert “and the claim is not one within the ARM Pilot”.

b) In paragraph 1.1, after the definition of “alternative response” insert—
““ARM Pilot” means the Small Claims Track Automatic Referral to Mediation Pilot Scheme (Practice Direction 51ZE);”.

c) In paragraph 6.1—

- a. In sub-paragraph (2), after “applies” insert “if the claim is one within the ARM Pilot or”; and
- b. in sub-paragraph (3)(b), after “mediate” insert “, but does not apply if the claim is one within the ARM Pilot”.

d) In the heading above paragraph 6.2, after “mediate” insert “or claim is within ARM Pilot”.

e) In paragraph 6.2—

- a. in sub-paragraph (5), after “necessary, and must” insert “, unless the claim is one within the ARM Pilot,”;

- b. in sub-paragraph (5A), after “out of mediation” insert “or the claim is one within the ARM Pilot”; and
 - c. in sub-paragraph (12), after “If” insert “, where the claim is not within the ARM Pilot,”.

- f) In the heading above paragraph 6A.5(1), after “mediate” insert “or the claim is within ARM Pilot”.

- g) In paragraph 6A.5 –
 - a. in sub-paragraph (1)(a), for “but is willing to mediate; and” substitute –
 - “; and –
 - (i) the claim is one within the ARM Pilot; or
 - (ii) the defendant is willing to mediate; and”;

 - b. in sub-paragraph (2), at the start of the paragraph, for “At” substitute “Unless the claim is one within the ARM Pilot, at”;
 - c. in sub-paragraph (3), after “out of mediation” insert “or the claim is one within the ARM Pilot”; and
 - d. in sub-paragraph (8), after “If” insert “, where the claim is not within the ARM Pilot,”.

- h) In the heading above paragraph 6A.6, after “mediate” insert “and the claim is not one within the ARM Pilot”.

- i) In paragraph 6A.6(1) –
 - a. at the end of sub-paragraph (a), omit “and”;
 - b. re-number existing sub-paragraph (b) as sub-paragraph (c); and
 - c. before newly numbered sub-paragraph (c), insert –
 - “(b) the claim is not one within the ARM Pilot; and”.

- j) In paragraph 10.1(9B), after “must” insert “, if the claim is not one within the ARM Pilot,”.

- k) In table A in the Schedule to Section 20, in row 4, column 2, after “where the” insert “claim is not within the ARM Pilot and the”.

- 4) In the Annex, after the entry for Part 45, insert –

“PRACTICE DIRECTION 51R

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Title	Paragraph number
SECTION 6 – Parties acting in person – Defendant's response online - defendant only defends the whole of the claim, and makes no other response	
Sub-section A - Introduction	Paragraph 6.1
Sub-section B – defendant defending the claim, but willing to mediate or claim is within ARM Pilot	Paragraph 6.2
Sub-section C – defendant claiming they have paid in full, and not willing to mediate	Paragraph 6.3
Omitted	Paragraph 6.7
Omitted	Paragraph 6.8
SECTION 6A – Represented claimant – Defendant's response to the claim	
Application of this Section	Paragraph 6A.1
Defendant's response to the claim	Paragraph 6A.2
Defendant's response – defence and counterclaim	Paragraph 6A.3
Defendant's response – defend the whole of the claim	Paragraph 6A.4
Defendant's response – defend the whole of the claim but willing to mediate or claim is within ARM Pilot	Paragraph 6A.5
Defendant's response – defend the whole of the claim and not willing to mediate and the claim is not one within the ARM Pilot	Paragraph 6A.6

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SECTION 1 – DEFINITIONS AND INTERPRETATION

1.1 Definitions

"affordability calculation" means a calculation made electronically by the court, by applying a formula to information submitted by the parties. The explanation of the formula is set out in Annex A. The purpose of the calculation is to establish what rate of repayment of an amount of money that a defendant is likely to be able to afford; "affordability calculation repayment plan" means a plan that sets out the rate of repayment established by the affordability calculation;

"all proceedings order" means an "all proceedings order" under section 42(1A) of the Senior Courts Act 1981;

"alternative response" has the meaning given by paragraph 9.1;

"ARM Pilot" means the Small Claims Track Automatic Referral to Mediation Pilot Scheme (Practice Direction 51ZE);

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6.1(1) This Section applies where the parties are acting in person and if the defendant –

(a) responds online to the court on time; and

(b) wishes only to defend the whole of the claim and makes no other response.

(2) Sub-section B applies if the claim is one within the ARM Pilot or if –

(a) the claim is a claim for a specified amount of money only not exceeding £10,000; and

(b) before or at the same time that the response form has been received by the court, the defendant has indicated to the court that they do not wish to opt out of mediation.

(3) Sub-section C applies if –

(a) the claim is a claim for a specified amount of money only exceeding £10,000; or

(b) the defendant is not willing to mediate, **but does not apply if the claim is one within the ARM Pilot.**

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Sub-section B – defendant defending the claim, but willing to mediate **or claim is within ARM Pilot**

6.2(1) This paragraph applies when sub-section B of section 6 applies.

(2) The court must ask the claimant whether they accept the defendant’s defence, or whether they do not accept it and wish to continue with the claim.

(3) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they do not wish to continue with the claim, the claim will be automatically “stayed” (as defined).

(4) If the claimant fails to respond online within the 33 days, the court must “stay” the proceedings (as defined).

(5) If, within 33 days after being asked by the court, the claimant uses the OCMC website to tell the court that they wish to continue with the claim the claimant must, at the same time, also submit their completed online directions questionnaire to the court, to tell the court what requirements the claimant would have, should a court hearing be necessary, and must, **unless the claim is one within the ARM Pilot**, also indicate to the court whether they are willing to mediate.

(5A) If the claimant has also not opted out of mediation **or the claim is one within the ARM Pilot –**

(a) the court must “stay” the proceedings (as defined) for 28 days, to allow for mediation, and the 28-day period is calculated from and including the date that the response from the claimant is received by the court; and

- (b) the court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.
- (8)** The claimant must tell the court if a settlement is reached. The claimant must also tell the court if the parties have agreed that the claim can be discontinued by sending form N279 Notice of Discontinuance to the “CNBC” (as defined). If the claimant discontinues the claim the court must send the claim form out of the pilot to the “CNBC” (as defined) for the claim to proceed as if it had been started under CPR Part 7.
- (9)** If the 28 day stay of proceedings ends without the claimant telling the court that a settlement has been reached –
- (a) a legal adviser may consider the forms under Section 20, Table A if the amount claimed is £1,000 or less and the “preferred court” as defined is one of the county court hearing centres in relation to which Online Civil Money Claims legal advisers operate; or
- (b) irrespective of the amount of the claim and the preferred court, a judge may consider the forms.
- (9A)** If the forms are not considered by a judge or legal adviser under subparagraph (9), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.
- (10)** If a settlement is reached within the 28 days, but the parties have not agreed that the claim can be dismissed or discontinued, the court must stay the proceedings.
- (11)** If the court receives a further application in relation to the settlement agreement, the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined). The court must inform the claimant and defendant that the claim has been sent out of Online Civil Money Claims, and explain why the claim has been sent out.

(12) If, where the claim is not within the ARM Pilot, the claimant wishes to continue with the claim but refuses to mediate –

(a) a legal adviser may consider the forms under Section 20, Table A if the amount claimed is £1,000 or less and the “preferred court” as defined is one of the county court hearing centres in relation to which Online Civil Money Claims legal advisers operate; or

(b) irrespective of the amount of the claim and the preferred court, a judge may consider the forms.

(13) If the forms are not considered by a judge or legal adviser under subparagraph (12), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(14) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes –

(i) [];

(ii) Civil Procedure Rules 26.4, 26.5, 26.6 do not apply; and

(iii) if an “order for allocation” has been made while the claim is in Online Civil Money Claims, Civil Procedure Rules 26.7 does not apply.

(An “order for allocation” is a court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)

(On a claim being sent out, any party’s online directions questionnaire is treated as their completed directions questionnaire form N180 – see paragraph 19.1(5)).

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Defendant's response – defend the whole of the claim but willing to mediate or the claim is within ARM Pilot

6A.5(1) This paragraph applies if –

- (a) the defendant is defending the whole of the claim, and—
 - (i) the claim is one within the ARM Pilot; or
 - (ii) the defendant is willing to mediate; and
 - (b) the claimant wants to continue with the claim and complies with paragraph 6A.4(3) within the specified time.
- (2) Unless the claim is one within the ARM Pilot, at the same time that the claimant complies with paragraph 6A.4(3), they must indicate whether they are willing to mediate.
- (3) If the claimant has not opted out of mediation or the claim is one within the ARM Pilot –
- (a) the court must “stay” the proceedings (as defined) for 28 days, to allow for mediation, and the 28-day period is calculated from and including the date that the response from the claimant is received by the court; and
 - (b) the court must also refer the matter to the Small Claims Mediation Service if appropriate and tell the parties that the matter has been referred.
- (4) The claimant must tell the court if a settlement is reached. The claimant must also tell the court if the parties have agreed that the claim can be discontinued or dismissed.
- (5) If the 28 day stay of proceedings ends without the claimant telling the court that a settlement has been reached –
- (a) a legal adviser may consider the forms under Section 20, Table A if the amount claimed is £1,000 or less and the “preferred court” as defined is one of the county court hearing centres in relation to which Online Civil Money Claims legal advisers operate; or

(b) irrespective of the amount of the claim and the preferred court, a judge may consider the forms.

(6) If the forms are not considered by a judge or legal adviser under subparagraph (5), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(7) If a settlement is reached within the 28 days, but the parties have not agreed that the claim can be dismissed or discontinued, the court must stay the proceedings.

(8) If **where the claim is not within the ARM Pilot**, the claimant wishes to continue with the claim but refuses to mediate –

(a) a legal adviser may consider the forms under Section 20, Table A if the amount claimed is £1,000 or less and the “preferred court” as defined is one of the county court hearing centres in relation to which Online Civil Money Claims legal advisers operate; or

(b) irrespective of the amount of the claim and the preferred court, a judge may consider the forms.

(9) If the forms are not considered by a judge or legal adviser under subparagraph (8), the court must send the claim out of Online Civil Money Claims to the “preferred court” (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(10) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes – (a) Civil Procedure Rules 26.4, 26.5, 26.6 do not apply; and

(b) if an “order for allocation” has been made while the claim is in Online Civil Money Claims, Civil Procedure Rule 26.7 does not apply. (An “order for allocation” is a court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)

(On a claim being sent out, any party's online directions questionnaire is treated as their completed directions questionnaire form N180 – see paragraph 19.1(5)).

Defendant's response – defend the whole of the claim and not willing to mediate and the claim is not one within the ARM Pilot

6A.6(1) This paragraph applies if –

- (a) the defendant is defending the whole of the claim but is not willing to mediate;
- (b) **the claim is not one within the ARM Pilot; and**
- (c) the claimant wants to continue the claim and complies with paragraph 6A.4(3) within the specified time.

(2) Once the court has received the claimant's directions questionnaire –

- (a) a legal adviser may consider the forms under Section 20, Table A if the amount claimed is £1,000 or less and the "preferred court" as defined is one of the county court hearing centres in relation to which Online Civil Money Claims legal advisers operate; or
- (b) irrespective of the amount of the claim and the preferred court, a judge may consider the forms.

(3) If the forms are not considered by a judge or legal adviser under subparagraph (2), the court must send the claim out of Online Civil Money Claims to the "preferred court" (as defined), and the court must tell the parties that the claim has been sent out, and explain why.

(4) Once the claim has been sent out of Online Civil Money Claims, this practice direction will no longer apply, but the rest of the Civil Procedure Rules and practice directions will continue to apply with the following changes –

- (a) Civil Procedure Rules 26.4, 26.5, 26.6 do not apply; and
- (b) if an "order for allocation" has been made while the claim is in Online Civil Money Claims, Civil Procedure Rule 26.7 does not apply. (An "order for allocation" is a

court order that sets out what route (known as a “track”) the case will follow, based on the value of the claim and how complicated the case is.)

(On a claim being sent out, any party’s online directions questionnaire is treated as their completed directions questionnaire form N180 – see paragraph 19.1(5)).

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Defendant’s response on paper

10.1(1) If the defendant wants to respond to the claim but is unable, for any reason, to do so online, the defendant must contact the court within 28 days after the date of issue of the claim form and confirm that they want to respond. For example, if the court issued the online claim form on 3rd March, the defendant would have to contact the court on or before 31st March).

(1A) If at first the defendant had been able to respond online and had agreed more time to respond online under paragraph 5.1(3), but then became no longer able to respond online, the defendant may respond on paper instead, if the defendant contacts the court on time and tells the court that they still want to respond to the claim. The defendant contacts the court on time if they contact the court within 28 days after the date of issue of the claim form, or within such longer period up to an additional 28 days as agreed between the parties and notified to the court.

10.1(2) The defendant may contact the court by telephone, using the HMCTS (as defined) helpline telephone number printed on the claim form.

10.1(3) If the defendant has confirmed to the court that they are unable (or no longer able) to use Online Civil Money Claims online, the court must send the defendant a paper copy of each of the following forms –

(b) Form N9A and N9B – Admission form and Defence and Counterclaim form (“paper response form”); and

(c) Form N180 or N181, to tell the court what requirements the defendant would have, should a court hearing be necessary.

10.1(4) When the court sends the paper copies of the forms to the defendant, it must also tell the defendant of the date that it sent out those forms.

10.1(5) The court must tell the claimant –

(a) if the defendant is unable (or no longer able) to use Online Civil Money Claims online

(b) the date that it sent the paper forms to the defendant.

(5A) If the defendant has already been given more time under paragraph 5.1(3) to respond to the claim, the defendant must submit the completed paper response form within the agreed extended time.

10.1(6) If a defendant has not already agreed with the claimant more time under paragraph 5.1(3) to respond to the claim, but would like more time, the defendant may agree with the claimant an extension of up to 28 days, and must notify the court of the agreed extension within the original 28 day period for responding to the claim.

10.1(8) The defendant must also submit to the court a completed paper response form which must be received by the court within the original 28 day period for responding to the claim, unless the defendant has already informed the court that the parties have agreed an extension of time to respond

10.1(9) If the parties have already agreed for more time, the defendant must still submit the completed paper response form on time so that the court receives the form within the agreed extended time.

(9A) At the same time that the defendant submits the completed paper response form, the defendant must also submit completed form N180 or N181 as appropriate to the court, to tell the court what requirements the defendant would have, should a court hearing be necessary. The requirement to submit form N180 or form N181 does not apply if the defendant's response to the claim is to admit the whole of the claim.

(9B) At the same time that the defendant submits the completed paper response form, the defendant must, **if the claim is not one within the ARM Pilot**, also indicate to the court if they wish to opt out of mediation

10.1(10) If the defendant does not submit the paper response form to the court on time, the claimant may apply to the court for default judgment and paragraph 11.1 will apply.

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SCHEDULE TO SECTION 20: TABLE A

	Power or function	limit
1	Power to consider completed online directions questionnaires and, where it is appropriate, to make standard directions about how the progress of the claim is to be managed, and send claim out of the pilot after completed online directions questionnaires have been submitted and directions made. The power to give case management directions is not limited to the other matters specified in this table A.	

2	Power and obligation in paragraph 18.2 (requirement to send claim out of Online Civil Money Claims if claim considered unsuitable or inappropriate for it)	<p>The legal adviser must send the claim to the preferred court (as defined), without giving any directions.</p> <p>If, however, a party has specified particular accessibility requirements on their form, the legal adviser may send the claim to one or other of the claimant or defendant's specified courts as the legal adviser considers would be most appropriate given the parties' accessibility requirements</p>
3	Power to refer a claim to a judge if the legal adviser thinks that appropriate	Power subject to power in entry 2 of this table (requirement to send claim out of Online Civil

	Power or function	limit
		Money Claims if claim considered unsuitable or inappropriate for it)
4	Power to direct the parties to contact the Small Claims Mediation Service	Power to direct only where the claim is not within the ARM Pilot and the parties have not previously opted for mediation, but the legal adviser considers that it may nevertheless be appropriate.

5	Power to direct the parties to supply additional information that the legal adviser considers reasonably necessary to enable the case to be progressed the most effectively	
6	Power to make directions about the management of a claim, including directions about listing the claim for a hearing	
7	Power to propose to a judge that a claim or defence be considered for possible strike out	
8	Power to carry out all functions allowed to be carried out by a legal adviser under Civil Procedure Rules Practice Direction 2E	Insofar as any functions arise in the context of Online Civil Money Claims, and subject to any limitations on those functions that are set out in that Practice Direction (as well as the
	Power or function	limit
		limitations set out in this Section 20).

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