

PRACTICE DIRECTION UPDATE No. 3 of 2024

The new Practice Direction, supplementing the Family Procedure Rules 2010, is made by the President of the Family Division 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 Lord Bellamy KC, Parliamentary Under-Secretary of State, Ministry of Justice.

The new Practice Direction 2D comes into force on the day after the date on which this Practice Update is signed.

Signed:

_____ Date: _____

Sir Andrew McFarlane, The President of the Family Division

Signed:

_____ Date: _____

Lord Bellamy KC, Parliamentary Under-Secretary of State, Ministry of Justice

NEW PRACTICE DIRECTION 2D – FUNCTIONS OF THE HIGH COURT WHICH MAY BE PERFORMED BY A SPECIFIED COURT OFFICER

(1) After Practice Direction 2C insert new Practice Direction 2D as set out in the Annex to this Practice Direction Update.

ANNEX

NEW PRACTICE DIRECTION 2D TO BE INSERTED AFTER PRACTICE DIRECTION 2C

PRACTICE DIRECTION 2D – FUNCTIONS OF THE HIGH COURT WHICH MAY BE PERFORMED BY A SPECIFIED COURT OFFICER

This Practice Direction supplements rule 2.5(1B) and (1C) FPR (power to perform functions conferred on the court by these rules and practice directions).

Interpretation

1.1 In this Practice Direction-

“appeal proceedings” means proceedings in the Family Division of the High Court in relation to appeals from decisions in family proceedings, and includes proceedings for permission to appeal; and

“legally qualified court officer” means a court officer assigned to the Family Division of the High Court who-

(a) is-

(i) a barrister;

(ii) a solicitor; or

(iii) a Fellow of the Chartered Institute of Legal Executives or a CILEX lawyer;
and

(b) has the consent of the President of the Family Division to perform functions specified in paragraph 2.3 of this Practice Direction.

Functions which may be carried out by a legally qualified court officer

2.1 The functions of the High Court, or of a judge of the High Court, in relation to appeal proceedings that may be carried out by a legally qualified court officer are those specified in paragraph 2.3 of this Practice Direction.

2.2 The functions of the High Court, or of a judge of the High Court, in relation to appeal proceedings that may not be carried out by a legally qualified court officer are those specified in paragraph 2.4 of this Practice Direction

2.3 The functions referred to in paragraph 2.1 are-

(a) subject to paragraph 2.4, any function which is incidental to appeal proceedings, to include (but not be limited to) the function to-

(i) extend or shorten the time for compliance with any rule, PD or order (rule 4.1(3)(a) FPR);

(ii) manage the case as provided for in rule 4.1(3)(o) FPR; or

(iii) permit amendments to Notices of Appeal prior to permission to appeal being granted; and

(b) the ability to direct that if a party to appeal proceedings does not comply with an order, rule or practice direction within a specified period, the matter will be referred to the court to consider strike out or dismissal.

Functions which may not be carried out by a legally qualified court officer

2.4 A legally qualified officer may not exercise any function which would determine an application for-

(a) permission to appeal;

(b) an extension of time to file an application or appeal notice (rule 30.4(2) and (3) FPR);

(c) a stay of execution of any order or decision of the lower court (which term has the meaning given in rule 30.1 FPR);

(d) an order for security for costs;

(e) an order (known as a *Hadkinson* order) which prevents a party from pursuing a further application until they have complied with an order that they are in breach of; or

(f) a change to the date fixed for a hearing of an application for permission to appeal, or of an appeal, unless agreed by all parties (regardless of whether each party is legally represented or not).

Procedure

3.1 A legally qualified court officer may exercise a function specified in paragraph 2.3 without a hearing.

3.2 A party may request any decision of a legally qualified court officer to be reviewed by a judge of the High Court.

3.3 A request for a review must be filed within 7 days after the party is served with notice of the decision.

3.4 If a review is requested, it will be determined on paper without an oral hearing, except that the judge determining the review on paper may direct that the review be determined at an oral hearing.