

Practice Direction 36G - Pilot Scheme, Procedure for Using an Online System to Generate Applications in Certain Private Law Proceedings Relating to Children

This Practice Direction supplements rule 36.2 FPR (Transitional arrangements and pilot schemes).

Scope and interpretation

1.1 This Practice Direction is made under rule 36.2 and sets up a Pilot Scheme to allow for certain applications to be filled in via an online process.

1.2 The Pilot Scheme applies to applications where all of the following conditions are met:

- (a) the application is for an order under section 8 of the Children Act 1989 ('section 8 orders');
- (b) access to the online system for making such applications is permitted;
- (c) the application is started in the Family Court; and
- (d) the application is filed in the period commencing 26 March 2018 and ending 28 January 2019.

1.3 In this Practice Direction, the 'online system' means the Ministry of Justice's online system to allow for applications for section 8 orders to be filled in online.

Purpose of the Pilot Scheme

2.1 The purpose of this Pilot Scheme is to assess the use of new practices and procedures to allow for certain applications for section 8 orders to be generated via the online system. For the purposes of this Pilot Scheme, once the application has been generated the applicant will need to save or print that application, which will then need to be filed at court in accordance with the procedure currently provided for in the FPR and Practice Directions.

2.2 It is intended that future Practice Directions will establish other Pilot Schemes which will allow for later stages in applications for section 8 orders to be completed via the online system, for example making the application online.

Modification of the FPR and Practice Directions during operation of the Pilot Scheme

3.1 During the operation of the Pilot Scheme the Family Procedure Rules 2010 and the Practice Directions supporting the Rules will apply to cases falling within the Pilot Scheme as modified by paragraphs 4.1 to 10.3.

Modification of Part 3 FPR

4.1 For Rule 3.7 substitute:

'3.7 Where the Pilot Scheme referred to in Practice Direction 36G applies, the application must include from the prospective applicant:

- (a) confirmation that the applicant has attended a MIAM;
- (b) a claim that one of the MIAM exemptions applies; or
- (c) confirmation that a mediator's exemption applies.'

4.2 In Rule 3.8(2) for 'confirms in the relevant form' substitute 'has provided signed confirmation'.

Modification of Part 5 FPR

5.1 For Rule 5.1 substitute:

‘5.1

Where the Pilot Scheme referred to in Practice Direction 36G applies, the applicant must:

- (a) complete all sections of the application process set out in the online system referred to in that Practice Direction;
- (b) print or save the resulting application which has been generated by the online system;
- (c) file the application at court in accordance with the procedure currently provided for in the FPR and Practice Directions.’

5.2 Omit Rule 5.2.

Modification of Part 17 FPR

6.1 In Rule 17.2(6) for ‘The statement of truth’ substitute ‘Subject to paragraph (6A), the statement of truth’.

6.2 After Rule 17.2(6) insert:

‘(6A) Where a statement of truth is included in an application for a section 8 order to which the Pilot Scheme referred to in Practice Direction 36G applies –

- (a) the applicant must file with the court an application which includes the name of the person who the online system requires to sign a statement of truth printed underneath the statement of truth; and
- (b) the court may require the applicant to produce a copy of the application containing the signature of the person referred to in sub-paragraph (a) at a later date.’

Modification of FPR Practice Direction 3A

7.1 For paragraph 6 substitute:

‘6 Where the pilot scheme referred to in Practice Direction 36G applies, the applicant must provide within the application one of the following:

- (i) confirmation that she or he has attended a MIAM including the date attended, the name of the authorised family mediator (and/or Family Mediation Service) and their FMC registration number;
- (ii) confirmation that a ‘mediator’s exemption’ applies; or
- (iii) a claim that a MIAM exemption applies.’

7.2 After paragraph 6 insert:

‘6A An applicant who provides confirmation or makes a claim in accordance with (i)–(iii) above is not required to attach any supporting evidence with their application, but should bring any supporting evidence, including where appropriate the signed confirmation by the authorised family mediator, to the first hearing.’

7.3 Omit paragraphs 14 and 15.

7.4 In paragraph 18, for ‘on the relevant form’ substitute ‘in the relevant section of the online system.’

7.5 In paragraph 34, omit the words after ‘MIAM exemption’ and substitute ‘and signed confirmation should then be returned to the applicant.’

Modification of FPR Practice Direction 5B

8.1 Omit paragraphs 3.3(a), 6.1 and 6.2.

Modification of FPR Practice Direction 12B - ‘Child Arrangements Programme’

9.1 For paragraph 8.2 substitute:

‘8.2 Where the pilot scheme referred to in Practice Direction 36G applies, the application for a section 8 order must be made in the form generated by the online system referred to in Practice Direction 36G. For the purposes of the pilot scheme, references in this Practice Direction to ‘form C100’ and ‘form C1A’ are to be read as including those versions of the forms generated by the online system.’

9.2 For paragraph 8.4 substitute:

‘8.4 The applicant must provide in the application one of the following:

- (i) confirmation that she or he has attended a MIAM including the date attended, the contact details of the authorised family mediator and their FMC registration number;
- (ii) confirmation that a ‘mediator’s exemption’ applies; or
- (iii) a claim that a MIAM exemption applies.’

9.3 Omit paragraph 8.5.

9.4 In paragraph 8.6 for ‘shall be attached to the Form C100’ substitute ‘should be provided at the first hearing.’

Modification of FPR Practice Direction 17A

10.1 In the heading to paragraph 3.1 and in paragraphs 3.1, 3.7, 3.8 and 3.10 references to ‘sign’, ‘signs’, ‘signing’ and ‘signed’ are to be read as references to the name of the person being, or having been, printed under the statement of truth included in an application for a section 8 order to which the Pilot Scheme referred to in Practice Direction 36G applies.

10.2 For paragraph 4.1 substitute:

“4.1 Where an application (being an application for a section 8 order to which the Pilot Scheme referred to in Practice Direction 36G applies) contains a statement of truth with the printed name of a person who is unable to read or sign the document, the application must be accompanied by a certificate made by an authorised person.”

10.3 In paragraph 4.3:

- (a) for sub-paragraph (a) substitute ‘that the content of the application generated by the online system has been read to the person before completion of the statement of truth required by the online system;’
- (b) for sub-paragraph (e) substitute ‘that that person confirmed in the presence of the authorised person that it was their belief that the contents of the application were true.’

10.4 For the Annex substitute:

‘Certificate to be used where a person is unable to read or sign an application for a section 8 order to which the Pilot Scheme referred to in Practice Direction 36G applies.

I certify that I [name and address of authorised person] have read the contents of the application and the statement of truth to the person whose name is printed under the statement of truth in the application, who appeared to understand (a) the application and approved its contents as accurate and (b) the statement of truth and the consequences of making a false statement, and orally confirmed that this was the case in my presence.’