

## **PRACTICE DIRECTION 36I – PILOT SCHEME**

### **PROCEDURE FOR ONLINE FILING OF CERTAIN APPLICATIONS FOR CONSENT ORDERS FOR A FINANCIAL REMEDY IN CONNECTION WITH MATRIMONIAL PROCEEDINGS**

This 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 Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and is approved by Lucy Frazer QC MP, Parliamentary Under-Secretary of State, Ministry of Justice.

This Practice Direction comes into force on 6 August 2018.

Signed:

\_\_\_\_\_ Date:  
**Sir James Munby**  
The President of the Family Division

Signed:

\_\_\_\_\_ Date:  
**Lucy Frazer QC MP**  
Parliamentary Under-Secretary of State, Ministry of Justice

This Practice Direction supplements FPR Part 36, rule 36.2 (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 for a consent order for a financial remedy in connection with matrimonial proceedings to be completed and filed via an HMCTS online application system.
- 1.2. This Practice Direction comes into force on 6 August 2018.

- 1.3. The Pilot Scheme applies to applications where each of the following conditions are met:
- a) the application is for a financial remedy in connection with matrimonial proceedings to which the standard procedure set out in Chapter IV of Part 9 applies;
  - b) the application is for a consent order only;
  - c) the applicant is legally represented;
  - d) access to the online system for making such applications is permitted;
  - e) the application is started in the Family Court; and
  - f) the application is filed in the period commencing 6 August 2018 and ending 5 August 2019.
- 1.4. In this Practice Direction, “the online system” means HM Courts and Tribunals Service’s online system to allow for specified stages in financial remedy proceedings to be dealt with 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 financial remedy in connection with matrimonial proceedings to be completed and filed via an online system.
- 2.2. It is intended that future Practice Directions will establish other Pilot Schemes which will allow for other specified stages in financial remedy proceedings to take place via the online system.

### **Modification or disapplication 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 9.2.

### **Modification of Part 5 FPR**

- 4.1. For rule 5.1, substitute—

“5.1 Where the Pilot Scheme referred to in Practice Direction 36I applies, the applicant must-

- (a) complete all sections of the online application; and
- (b) provide all the information, including any additional documents, that the online application system referred to in that Practice Direction requires, or that the court requires, in a manner specified by the online application system or required by the court.”.

### **Modification of Part 9 FPR**

5.1. For rule 9.26(1)(a) substitute-

“(a) the applicant must file a draft of the order in the terms sought which must be signed by both parties.”.

### **Modification of Part 29**

6.1. In rule 29.13, paragraph (2) is omitted.

### **Modification of Practice Direction 6A**

7.1. In paragraph 4.2(b)-

(a) in paragraph (iii) for “; or” substitute “;”;

(b) in paragraph (iv) for the full-stop substitute “; or”; and

(c) after paragraph (iv) insert-

“(v) confirmation given within the application for a consent order for a financial remedy in connection with matrimonial proceedings made via the online system referred to in Practice Direction 36I that the applicant is willing to accept service by email and stating the email address for such service.”

### **Disapplication of Practice Direction 5B**

8.1. Practice Direction 5B does not apply in relation to an application which can be made online under the pilot scheme referred to in Practice Direction 36I.

### **Modification of Practice Direction 9A**

9.1. For paragraph 7.1, substitute-

#### **“7.1**

Rule 9.26(1)(a) is considered to be properly complied with if the draft order is signed by solicitors on record as acting for a party. However, where the consent order

applied for contains undertakings, it should be signed by the party giving the undertakings as well as by that party's solicitor.

(Provision relating to the enforcement of undertakings is contained in the Practice Direction 33A supplementing Part 33 of the FPR)".

9.2. After paragraph 7.3, insert-

**“Applications for a consent order for a financial remedy in connection with matrimonial proceedings received via the online system: timing**

**7A.1** When an application for a consent order for a financial remedy in connection with matrimonial proceedings is received via the online system referred to in Practice Direction 36I and is recorded by HM Courts and Tribunals Service software as having been received at or after 4.31pm and before or at 11.59pm, the date of filing will not be before the next day that the court location to which the application has been sent via the online system is open for business.

**7A.2** When an application for a consent order for a financial remedy in connection with matrimonial proceedings is received via the online system referred to in Practice Direction 36I, an acknowledgment of receipt will automatically be sent to the email address given as the address for service in the online system. This acknowledgment of receipt does not constitute a notice that the application has been issued.”.

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