



Sir Robert Neil  
Chair of the Justice Committee  
House of Commons  
London  
SW1A 0AA

03 June 2020

Dear Robert,

**CHANGES MADE TO MITIGATE THE IMPACT OF COVID-19 ON  
THE COURTS AND TRIBUNAL SYSTEM**

I wrote to you on 9<sup>th</sup> April to let you know about several SIs and Practice Directions which were made to mitigate the impact of Covid-19 on the Courts and Tribunal System. I am writing again to update you on further changes made.

These changes have been made as temporary measures to ensure the safe, efficient and effective administration of the justice system during these extraordinary times.

**Practice direction 51Z Stay of Possessions Proceedings (amended)**

PD51Z (referred to in the last letter as the 117<sup>th</sup> PD Update) has since been amended and can be seen online at <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part51/practice-direction-51z-stay-of-possession-proceedings,-coronavirus> with an explanatory note on the home page (under the 120<sup>th</sup> PD Update) at <https://www.justice.gov.uk/courts/procedure-rules/civil>. Essentially, it clarifies that the stay imposed by PD 51Z does not prevent the issue of a claim and makes clear that (1) claims for possession against trespassers within CPR 55.6, (2) Interim Possession Orders within Section iii of Part 55, and (3) applications for case management directions which are agreed by all parties are also exempt from the stay imposed by PD 51Z. A challenge to the lawfulness of PD 51Z was considered by the Court of Appeal on 30 April, in the case of *Arkin v Marshall*, in which the Lord Chancellor was represented. In its judgment (available at [2020] EWCA Civ 620), the Court dismissed the challenge and confirmed the validity of PD 51Z.

**Practice Direction Electronic Signatures in Employment Tribunals**

PD Electronic Signatures sets out the means of signature and authorisation by the Employment Judge when an electronic communication is used for delivering a decision made at, or following, a hearing (as set out in rules 61 and 62 of the Employment Tribunals Rules of Procedure 2013). Until now in the Employment Tribunals, the practice has been for judges to hand sign judgments and orders. The purpose of the PD is to make it clear that electronic signatures are sufficient.

The PD came into effect on 1 May 2020 and can be found online:  
[https://www.judiciary.uk/wp-content/uploads/2020/05/2020\\_05\\_01\\_ET-S-EW-Electronic-Signatures-Slip-Corrected.pdf](https://www.judiciary.uk/wp-content/uploads/2020/05/2020_05_01_ET-S-EW-Electronic-Signatures-Slip-Corrected.pdf)

## **Family Procedure Rules – New Pilot Practice Direction 36Q**

The new pilot Practice Direction 36Q, supplementing the Family Procedure Rules 2010, modifies existing PD12B (Child Arrangements Programme) to provide temporary local flexibility over procedures for progressing applications for private law orders relating to children, such as Child Arrangements Orders. Any local arrangements must be approved by the Designated Family Judge for the area, after consultation with Her Majesty's Courts and Tribunals Service and with Cafcass or Cafcass Cymru. This modification is made to ensure that private law orders may continue to be applied for, applications progressed and orders made, varied or discharged without endangering public health, and taking account of available resources during the coronavirus pandemic.

Pilot PD36Q came into force from 23 April 2020, and full details can be found online at [https://www.justice.gov.uk/courts/procedure-rules/family/practice\\_directions/practice-direction-36q-pilot-provision-modification-of-practice-direction-12b-coronavirus](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-36q-pilot-provision-modification-of-practice-direction-12b-coronavirus)

## **Family Procedure Rules - New Pilot Practice Direction 36R**

The new pilot Practice Direction 36R, again supplementing the Family Procedure Rules 2010, makes temporary modifications to three existing Practice Directions:

- to PD2C (Justices' Legal Adviser) make it permissible for justices' legal advisers to fulfil five functions otherwise reserved to the judiciary, and to PD12A (Care, supervision and other Part 4 proceedings: guide to case management) to enable justices' legal advisers to make decisions on allocation of private law cases without having to discuss these first with a district judge. The intent behind these modifications is to support the most efficient and effective use of court and judicial resources during the coronavirus pandemic; and
- to PD5B (Communicating and filing of documents by email) to allow local authorities, adoption agencies, Cafcass and Cafcass Cymru, or their legal representatives, to email documents relating to adoption proceedings (other than applications for adoption orders) to the courts, rather than send hard copies. These modifications are made to support the effective administration of adoption proceedings during the coronavirus pandemic, given difficulties with receiving hard copy documents by post and ensuring that they reach the court file in a timely way.

PD36R came into effect from 8<sup>th</sup> May 2020 and full details can be found online at [https://www.justice.gov.uk/courts/procedure-rules/family/practice\\_directions/practice-direction-36r-pilot-provision-modification-of-practice-directions-2c,-5b-and-12a-coronavirus](https://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/practice-direction-36r-pilot-provision-modification-of-practice-directions-2c,-5b-and-12a-coronavirus).

These temporary Practice Directions are due to expire variously in or around October. However, should the pandemic conditions alter, they may be curtailed or extended in the meantime.

Other measures to ensure the safe and efficient administration of justice are being considered by officials. We will write again when any further changes are made.

I am placing a copy of this letter in the Libraries of both Houses.



**CHRIS PHILP MP**