

PRACTICE DIRECTION 51O – THE ELECTRONIC WORKING PILOT SCHEME

This Practice Direction supplements CPR rules 5.5 and 7.12

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General

1.1

(1) This Practice Direction is made under rules 5.5, 7.12 and 51.2 of the Civil Procedure Rules (“CPR”). It provides for a pilot scheme (“Electronic Working”) to—

- (a) operate from 16 November 2015 for one year;
- (b) operate in the Chancery Division of the High Court, the Commercial Court, the Technology and Construction Court, the Mercantile Court, and the Admiralty Court, at

the Royal Courts of Justice, Rolls Building, London (together, “the Rolls Building Jurisdictions”); and

(c) apply to existing proceedings and proceedings started on or after 16 November 2015.

(2) Electronic Working is an electronic scheme for the purposes of rule 12A.14 of the Insolvency Rules 1986 (“IR 1986”).

1.2

(1) Electronic Working works within and is subject to all statutory provisions and rules together with all procedural rules and practice directions applicable to the proceedings concerned, subject to any exclusion or revision within this Practice Direction.

(2) In particular, the following provisions of the CPR apply unless specifically excluded or revised by this Practice Direction—

Part 49 (Companies Court)

Part 57 (Probate, Inheritance and Presumption of Death)

Part 58 (Commercial Court)

Part 59 (Mercantile Courts)

Part 60 (Technology and Construction Court Claims)

Part 61 (Admiralty Claims)

Part 62 (Arbitration Claims)

Part 63 (Intellectual Property Claims)

Part 63A (Financial List)

Part 64 (Estates, Trusts and Charities)

Practice Direction – Insolvency Proceedings

Practice Direction: Directors Disqualification Proceedings

EU Competition law Practice Direction

(3) Parties will also need to give careful consideration to the Chancery Guide, the Admiralty and Commercial Courts Guide, the Technology and Construction Court Guide, the Financial List Guide, the Mercantile Court Guide, the Patents Court Guide, and the Intellectual Property Enterprise Court Guide (where applicable).

(4) Where the provisions of this Practice Direction conflict with the provisions of Practice Direction 5B, this Practice Direction shall take precedence.

Usage and operation of Electronic Working

2.1 Electronic Working enables parties to issue proceedings and file documents online 24 hours a day every day all year round, including during out of normal court office opening hours and on weekends and bank holidays, except where there is—

(a) planned “down-time”: as with all electronic systems, there will be some planned periods for system maintenance and upgrades when Electronic Working will not be available; and

(b) unplanned “down-time”: periods during which Electronic Working will not be available due, for example, to a system failure or power outage, or some other unplanned circumstance.

2.2 For the avoidance of doubt, Electronic Working applies to and may be used to start and/or continue CPR Part 7, Part 8 and Part 20 claims, pre-action applications including applications under rule 31.16, insolvency proceedings, and arbitration claims in the Rolls Building Jurisdictions.

2.3 To file a document using Electronic Working, a party shall—

(a) access the Electronic Working website address specified by Her Majesty’s Courts and Tribunals Service (“the Website”);

(b) register for an account or log on to an existing account;

(c) enter details of a new case or use the details of an existing case;

(d) upload the appropriate document; and

(e) pay the appropriate fee.

2.4 Proceedings issued in the Rolls Building Jurisdictions will be stored by the court as an electronic case file (“the Electronic Working Case File”).

Electronic Working and alternate filing methods

3.1 Any document which is filed using Electronic Working must not also be filed by some other means unless this is required by paragraphs 10, 11 and 13 or a rule or practice direction, or court order.

3.2 Proceedings which have not been started using Electronic Working may be continued using Electronic Working after documents originally submitted in those proceedings have been converted to PDF format. The proceedings shall then continue as if they had been started using Electronic Working.

3.3 To permit use of Electronic Working for proceedings initially started by other means—

- (a) the court will, where appropriate, seal the paper copy of the document;
- (b) the parties will pay any fee due;
- (c) the court will either request that the party provide the document in PDF format or scan the document into PDF format and store it on the Electronic Working Case File; and thereafter
- (d) the parties will, subject to paragraph 3.5, file documents needing to be filed through Electronic Working in accordance with this Practice Direction.

3.4 The court may refuse to convert documents to PDF format where those documents were originally submitted by some other means.

3.5

(1) Where an original document is required by order of the court or by provision of the CPR or IR 1986 to be filed, such original document cannot be filed using Electronic Working and must instead be physically filed with the court.

(2) This includes original wills which must be filed physically with the court in order for contentious probate claims to be issued. As a result, contentious probate claims cannot be issued using Electronic Working unless the court permits.

Original documents

4 Where parties file documents using Electronic Working, the original signed documents, including the original exhibits to any witness statement filed, must be

preserved and must be made available for inspection if required by another party to the proceedings and/or by order of the court.

General rules regarding issue and filing

5.1 Any document which is filed using Electronic Working must—

- (a) consist of one copy only unless required by a court order, rule or practice direction;
- (b) be in PDF format unless the court directs otherwise or unless the document is a draft order, in which case it shall be in “Word” format;
- (c) not exceed 10 (ten) megabytes or such other limit that may be specified by Her Majesty’s Courts and Tribunals Service.

5.2

(1) In the event that a document exceeds the maximum limit specified in paragraph 5.1(c), the party seeking to file the document shall divide the document into parts and file each part separately.

(2) Parties can, in one filing, file up to 10 (ten) documents with each document not exceeding 10 (ten) megabytes or such other limit specified by Her Majesty’s Courts and Tribunals Service.

5.3

(1) Submission of any document using Electronic Working will generate an automated notification acknowledging that the document has been submitted and is being reviewed by the court prior to being accepted (the “Acceptance”).

(2) A document filing on Electronic Working will not fail Acceptance because of an error of procedure, unless the court so orders.

(3) The court may make an order to remedy an error of procedure made while using Electronic Working, in accordance with CPR rule 3.10(b).

5.4

(1) Where payment of a court fee is required to accompany the filing of a document, the date and time of filing on Electronic Working will be deemed to be the date and time at which payment of the court fee is made using Electronic Working.

(2) The date and time of payment being the filing date and time, it will also be the date and time of issue for all claim forms and other originating processes submitted using Electronic Working.

(3) For all other document filings, the date and time of filing will be the submission date and time for the purposes of any direction under the appropriate Rules or for the purposes of complying with an order of the Court, unless expressly provided otherwise by the Court.

(4) Once a document filing is accepted, a notification will appear on the Electronic Working online account registered to the filing party to confirm that the document has been accepted and to confirm the date and time of issue or the date and time of filing in accordance with paragraphs 5.4(1) to 5.4(3).

(5) The date and time of issue or the date and time of filing of a document submitted using Electronic Working will not be delayed by Acceptance, unless the submission fails Acceptance because the filing error is more serious than an error of procedure, or the court orders that it has failed Acceptance for some other reason.

(6) If the submission fails Acceptance, notice of the reasons for failure will be given to the party on that party's Electronic Working online account and the claim form will be deemed not to have been issued.

(7) In cases where payment of the court fee has already been made and a claim form or other originating application fails Acceptance, the fee will be refunded and a corrected claim form or originating application will have to be submitted and the court fee paid again in order for proceedings to be issued. In such cases, the new submission will generate a new date and time of issue or date and time of filing in accordance with paragraphs 5.4(1) to 5.4(3).

5.5 A claim form or other originating application filed by a party using Electronic Working will, subject to Acceptance and payment, be issued in the relevant Rolls Building Jurisdiction and the claim will proceed in that court unless it is transferred to another court.

5.6 If any documents that are not required by any rule, practice direction, order or direction to be filed are submitted via Electronic Working, they may not be retained on the online account and/or Electronic Working Case File they were submitted to.

Payment of fees

6.1

(1) Where any Rule or Practice Direction provides for a fee to be paid, a party filing a document using Electronic Working must, except in circumstances specified in subparagraph (3), pay the appropriate fee by an online method specified by Her Majesty's Courts and Tribunals Service.

(2) The court will keep a record of when payment was made.

(3) In proceedings where payment under the Insolvency Rules is required to be made in a manner that precludes online payment, parties cannot use Electronic Working to initiate those proceedings. This includes the official receiver's deposit for a winding up petition, which must be paid by cheque.

6.2 A party who wishes to apply for remission or part remission of fees cannot use Electronic Working to issue a claim or to initiate other proceedings requiring the payment of a court fee.

Electronic sealing

7.1 When the court issues a claim form or other originating application which has been submitted using Electronic Working, the court will electronically seal the claim form or originating application with the date on which the relevant court fee was paid and this shall be the issue date, as per the provisions of paragraph 5.4.

7.2 The electronic seal may differ in appearance to the seal used on paper.

Service

8.1 The court will electronically return the sealed and issued claim form or originating application to the party's Electronic Working online account and notify the party that it is ready for service.

8.2 Unless the court orders otherwise, any document filed by any party or issued by the court using Electronic Working in the Rolls Building Jurisdictions which is required to be served shall be served by the parties and not the court.

8.3 The CPR and IR 1986 as to filing evidence of service apply.

Transfer of proceedings and file transmission

9.1

(1) If proceedings which have used Electronic Working are subsequently transferred to a jurisdiction not operating Electronic Working, no documents will be able to be filed in those proceedings through Electronic Working after the date of transfer and this Practice Direction will cease to apply to those proceedings.

(2) Her Majesty's Courts and Tribunals Service shall make arrangements for a version of the Electronic Working Case File of the transferred proceedings to be made available to the receiving court in a format requested by the receiving court.

9.2 Where a request for transmission of the court file of any insolvency proceedings is made pursuant to IR 1986 rule 7.31A(12), the court shall make arrangements for a version of the Electronic Working Case File of the proceedings being transmitted to be made available to the Secretary of State or the official receiver, as the case may be, in a format of their choosing.

9.3 If proceedings are transferred into one of the Rolls Building Jurisdictions, all filing subsequent to the order transferring those proceedings may be done using Electronic Working after documents originally submitted in those proceedings have been converted to PDF format in accordance with paragraphs 3.2 and 3.3.

Applications in proceedings

10.1

(1) Where a party to proceedings files an application for an order or other relief using Electronic Working and a hearing is required, the party filing the application shall lodge an application bundle with the Court.

(2) The application bundle may be lodged in electronic format.

10.2 The application bundle must—

- (a) also be filed as a paper copy, unless ordered otherwise;
- (b) contain the application notice and any evidence filed in the application, including exhibits together with such other documents as may be required by any rule, practice direction, order of the court or relevant court guide; and
- (c) be filed in accordance with the time limits required by any applicable rule, practice direction, order of the court or relevant court guide or, in the absence of such a requirement, 3 (three) days before the hearing.

10.3 The electronic copy of the application bundle must—

- (a) be filed using Electronic Working;
- (b) be formatted as one PDF document with bookmarks as appropriate for each document and with section headings within the document, unless its size exceeds 10 (ten) megabytes, in which case it can be divided into up to 10 (ten) documents of that size, each bearing bookmarks as appropriate; and
- (c) be updated as required and filed in compliance with paragraphs (a) and (b) above.

10.4 The copy in paper format should be indexed and should correspond exactly to the electronic version of the bundle including sequential pagination.

Case and cost management and other directions

11.1 Where—

- (a) a rule, practice direction, or order of the court requires—
 - (i) the court to give case or cost management or other directions, whether at a hearing or not; and
 - (ii) a bundle to be filed with the court in connection with case or cost management or other directions; and
- (b) a party wishes to file the bundle using Electronic Working, the bundle must contain such documents as are required by any rule, practice direction, order of the court or court guide.

11.2 Unless the hearing is scheduled for 15 (fifteen) minutes or less, the bundle must be filed in paper copy as well, unless the court orders otherwise.

11.3 The claimant, applicant or petitioner, as appropriate, shall be responsible for ensuring the electronic copy of the bundle complies with the requirements specified in paragraph 10.3 above.

11.4 The claimant, applicant or petitioner, as appropriate, shall be responsible for ensuring the paper copy is indexed and corresponds exactly with the electronic version of the bundle with sequential pagination.

Statements of truth

12 CPR Part 22 and the Practice Direction supplementing that Part and any Rule applicable to the Bankruptcy and Companies Courts which require certain forms and documents to be verified by a statement of truth shall apply to any forms or documents filed using Electronic Working.

Trial bundles

13.1 The trial bundle must be filed with the court in paper format.

13.2 An electronic version of the trial bundle must also be filed if the court so orders, in which case it must comply with the requirements of paragraph 10.3 and the paper copy must comply with paragraph 10.4.

13.3 The court will retain any electronic copy of the trial bundle for a period of 2 (two) months after judgment has been delivered, after which it may be deleted.

13.4 The time in paragraph 13.3 may be extended by order of the court at the request of a party or on the court's own initiative.

Inspection of documents on the Electronic Working Case File by parties or permitted persons

14.1 In addition to any inspection facility that may be available through the Website or a party's Electronic Working online account, the parties to any proceedings except insolvency proceedings, or their legal representatives, shall be entitled to inspect an electronic record of the proceedings in person at the court and obtain documents contained in the Electronic Working Case File subject to the provisions of CPR rule 5.4B.

14.2 In addition to any inspection facility that may be available through the Website or a party's Electronic Working online account, persons permitted by IR 1986 rule 7.31A(3)-(6) to inspect the court file of insolvency proceedings shall be entitled to inspect an electronic record of the proceedings in person at the court and obtain documents contained in the Electronic Working Case File, unless permission of the court is required under IR 1986 rule 7.31A(7) and subject to rule 7.31A(9)-(11) and rule 12A.51-54.

14.3 The Electronic Working Case File will be updated by the court as and when documents are filed by the parties and accepted.

14.4 Information concerning the availability of the facility outlined in paragraph 10.1 will be communicated by Her Majesty's Courts and Tribunals Service on the Website.

Public kiosk service for the electronic inspection of publicly available documents

15.1 A public kiosk is available at the Royal Courts of Justice at the Rolls Building, London, for non-parties to proceedings governed by the CPR, to enable such non-parties to examine an electronic record of the proceedings and determine whether any documents in relation to the proceedings are publicly available.

15.2 Persons wishing to obtain copies of documents available to non-parties in accordance with CPR rule 5.4C must—

- (a) complete the appropriate office copy request form; and
- (b) pay the appropriate fee.

Supply of electronic copies of documents by email

16 Persons permitted to obtain copies of documents may request electronic copies of the documents to be sent by the court by e-mail to an address supplied by such persons.

Security

17 Her Majesty's Courts and Tribunals Service will take such measures as it thinks fit to ensure the security of information communicated or stored electronically. These may include requiring persons using Electronic Working to follow security steps such as—

- (a) entering an email address as their customer identification and/or password;
- (b) providing personal information for identification purposes; and
- (c) complying with any other security measures as may from time to time be required before using Electronic Working.