

76th UPDATE – PRACTICE DIRECTION AMENDMENTS

The amendments to the existing Practice Directions supplementing the Civil Procedure Rules 1998 are made by the Master of the Rolls 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 are approved by Lord Faulks, Minister of State, by the authority of the Lord Chancellor.

The amendments to the existing Practice Directions come into force as follows, subject to the transitional provision made in this update—	
Practice Direction 35 – Experts and Assessors	1.12.14
Practice Direction 57B – Proceedings under the Presumption of Death Act 2013	1.12.14
Practice Direction 74A – Enforcement of Judgments in Different Jurisdictions	10.01.15
Practice Direction 74B – European Enforcement Orders	10.01.15

TRANSITIONAL PROVISION

- 1) The amendments made to Practice Direction 74A do not apply in any case where, by virtue of article 66(2) of the Judgments Regulation, the previous Judgments Regulation continues to apply; and accordingly, in such a case Practice Direction 74A continues to have effect as if those amendments had not been made.
- 2) For the purposes of paragraph (1) above—
 - (a) “the Judgments Regulation” means Regulation (EU) No. 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (recast); and
 - (b) “the previous Judgments Regulation” means Council Regulation (EC) No. 22/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

PRACTICE DIRECTION 35 – EXPERTS AND ASSESSORS

- 1) In paragraph 1—
 - a) for “Protocol for the Instruction of Experts to Give Evidence in Civil Claims” substitute “Guidance for the Instruction of Experts in Civil Claims 2014”; and
 - b) for “annexed to this practice direction” substitute “(<http://www.judiciary.gov.uk>)”.

- 2) In paragraph 3.2(9)(b), for “Protocol for the Instruction of Experts to Give Evidence in Civil Claims” substitute “Guidance for the Instruction of Experts in Civil Claims 2014”.

- 3) Omit the annex to the Practice Direction.

PRACTICE DIRECTION 57B – PROCEEDINGS UNDER THE PRESUMPTION OF DEATH ACT 2013

- 1) In paragraph 1.1(2)—
 - a) at the end of sub-paragraph (i), omit “and”;
 - b) after sub-paragraph (i), insert—

“(j) the usual or last known address of the missing person; and”; and
 - c) renumber the existing sub-paragraph (j) as sub-paragraph (k).

PRACTICE DIRECTION 74A – ENFORCEMENT OF JUDGMENTS IN DIFFERENT JURISDICTIONS

- 1) In paragraph 3—
 - a) in sub-paragraph (1), omit sub-paragraph (d); and
 - b) in sub-paragraph (2), for “article 54” the first time it appears, substitute “article 53”.

- 2) In paragraph 4.1—
 - a) for the heading, substitute “Enforcement of foreign judgments pursuant to the Judgments Regulation and registration of other judgments for enforcement”; and

- b) in the opening words of the paragraph, for “Applications for the enforcement” substitute “Enforcement under rule 74.3A of foreign judgments pursuant to the Judgments Regulation (for which registration is no longer required), and applications for”.
- 3) Insert, as a heading to paragraph 4.2, “Making an application”.
- 4) In paragraph 4.4, after sub-paragraph (2) insert—

“(2A) applications under rules 74.7A for refusal of recognition of a judgment under the Judgments Regulation;

(2B) applications under rule 74.7B for relief against enforcement under article 44 of the Judgments Regulation;

(2C) applications under rule 74.7C for suspension of proceedings under article 38 of the Judgments Regulation;

(2D) applications under rule 74.11A for an adaptation order under article 54 of the Judgments Regulation;”.

- 5) In paragraph 5 and the heading to that paragraph, before “the 1933 Act” in each place where it occurs insert “the 1920 Act or”.
- 6) In paragraph 6.1—
 - a) in the heading, for “Evidence in support of an application” substitute “Procedure for enforcement of a judgment”; and
 - b) in the text of the paragraph before “enforced”, omit “recognised or”.
- 7) Omit paragraph 6.2.
- 8) For paragraphs 6.3 and 6.4 substitute—

“**6.3** The Judgments Regulation may be found on the EU legislation website at <http://eur-lex.europa.eu> . The form for a certificate under the Judgments Regulation may be found at Annex I to the Regulation.

6.4 Section 2, subsection 2 of Section 3 and Section 4 of Chapter III of the Judgments Regulation (in particular articles 41, 42, 43 and 53 and Annex I) set out the documents which the judgment creditor must provide to the court for the purposes of enforcement. Completion of the certificate in the form of Annex I requires confirmation whether Article 43.1 has been complied with.”

- 9) After paragraph 6A.5 insert—

“Rule 74.7A – Applications for refusal of recognition or enforcement under the Judgments regulation

6B.1 An application must be accompanied by a copy of the judgment, any other documents relied upon and any necessary translations, and be supported by written evidence showing why the court should find that one of the grounds referred to in article 45 of the Judgments Regulation exists.

Rule 74.7C – Applications for suspension of proceedings in which a judgment is invoked under article 38 of the Judgments Regulation

6C.1 An application for suspension of proceedings on either of the grounds set out in article 38(a) or (b) of the Judgments Regulation must be accompanied by a copy of the judgment, any other documents relied upon and any necessary translations, and be supported by written evidence of the challenge referred to in article 38(a) or application referred to in article 38(b) as the case may be.

6C.1 Where the application is granted, the court must send a sealed copy of the judgment to the person making the application. The applicant must serve a sealed copy of that order as provided in rule 74.7C(3). Where the application is refused, the court must give reasons for the refusal and may give further directions.

Rule 74.12 – Applications for certificates of judgments of the courts of England and Wales under article 53 of the Judgments Regulation

6D.1 An application under article 53 of the Judgments Regulation for a certificate of a High Court or County Court judgment for enforcement in another Regulation State must be made as indicated in paragraph 4.2 and must be accompanied by a draft certificate in the form in Annex I to the Judgments Regulation.

6D.2 Where the application is granted, the court must send a sealed copy of the judgment to the person making the application. Where the application is refused, the court must give reasons for the refusal and may give further directions.”

PRACTICE DIRECTION 74B – EUROPEAN ENFORCEMENT ORDERS

- 1) In paragraph 1.2—

- a) after “EEO Regulation”, omit, “is annexed to this practice direction”; and
- b) after “can be found”, insert “on the European legislation website”.