

## **PRACTICE DIRECTION UPDATE**

The substituted Practice Direction, and the amendments to the existing Practice Directions, supplementing the Family Procedure Rules 2010 are made by Mrs Justice Theis under the powers delegated to her by the Lord Chief Justice under Schedule 2, Part 1, paragraph 2(2) of the Constitutional Reform Act 2005, and are approved by Alex Chalk MP, Parliamentary Under-Secretary of State, Ministry of Justice.

The substituted Practice Direction and the amendments to the existing Practice Directions come into force as follows:

<b>Provision</b>	<b>Coming into force date</b>
Amendment to PD5A	1 <sup>st</sup> October 2020
Amendments to PD17A	1 <sup>st</sup> October 2020
Amendment to PD33A	1 <sup>st</sup> October 2020
Substituted PD37A	1 <sup>st</sup> October 2020

Signed:

\_\_\_\_\_ Date:

Mrs Justice Theis

Signed:

\_\_\_\_\_ Date:

Alex Chalk MP

Parliamentary Under-Secretary of State

Ministry of Justice

### **PRACTICE DIRECTION 5A – FORMS**

(1) In Table 2 (list of forms), in the entry for Form No. 67, omit “(rule 37.26)”.

### **PRACTICE DIRECTION 17A – STATEMENTS OF TRUTH**

(1) In paragraph 6 omit—

(a) “Chapter 5 of”; and

(b) “and in paragraphs 4.1 to 4.7 of Practice Direction 37A”.

**PRACTICE DIRECTION 33A – ENFORCEMENT OF UNDERTAKINGS**

(1) In paragraph 1 for the words after “provisions of” substitute “Part 37 (in particular rule 37(2)) about contempt applications for the enforcement of undertakings”.

**PRACTICE DIRECTION 37A – APPLICATIONS AND PROCEEDINGS IN RELATION TO CONTEMPT OF COURT**

(1) For Practice Direction 37A substitute the Practice Direction set out in the Annex to this Update.

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## ANNEX:

### PRACTICE DIRECTION 37A – APPLICATIONS AND PROCEEDINGS IN RELATION TO CONTEMPT OF COURT

#### Directions for hearings of contempt proceedings

1. Evidence adduced by defendant. Rule 37.7(3) provides that the court may not give any direction compelling the defendant to give evidence either orally or in writing. The court may, however, direct that, if the defendant wishes to adduce evidence in response to the contempt application, the defendant file and serve witness statements of the witnesses (including himself or herself) on which reliance is intended. Such statements may not be used against the defendant in the contempt application unless and until the defendant deploys them in support of the defendant's case against the contempt application.

2. Striking out and procedural defects.

(1) On application by the defendant or on its own initiative, the court may strike out a contempt application if it appears to the court—

(a) that the application and the evidence served in support of it disclose no reasonable ground for alleging that the defendant is guilty of a contempt of court;

(b) that the application is an abuse of the court's process or, if made in existing proceedings, is otherwise likely to obstruct the just disposal of those proceedings; or

(c) that there has been a failure to comply with a rule, practice direction or court order.

(2) The court may waive any procedural defect in the commencement or conduct of a contempt application if satisfied that no injustice has been caused to the defendant by the defect.

#### Hearings and judgments in contempt proceedings

3. Informing the defendant of right to appeal, etc. Paragraph (12) of rule 37.8 does not require the court to inform a defendant who has been acquitted of contempt of the right to appeal and the other matters listed in that paragraph.

4. Responsibility of court for publication of judgments. While paragraph (13) of rule 37.8 makes the court responsible for the publication of transcripts of judgments in contempt proceedings, it does not require the court to publish a transcript of every judgment, but only in a case where the court makes an order for committal.