



## PRACTICE DIRECTION: NO. 1 OF 2007

### **Omnibus Practice Direction dealing with certain national and local Practice Directions and Practice Notes and other out of date practice related public notices**

#### **Introduction**

1. With the coming in to force of the *Family Law Amendment Rules 2007 (No.1)*, some national Practice Directions have been effectively incorporated into the body of the Rules and now may be revoked.
2. The Court has reviewed the current national Practice Notes. The result of the review indicates that the practices and procedures outlined in the national Practice Notes have now largely been overtaken by other practices or the continued promulgation of practice or procedure dealt with in a Practice Note is no longer necessary.
3. Since the Court's inception, Practice Directions and Practice Notes have been issued by the Court where the operation of that Practice Direction or Practice Note is confined to one registry of the Court or a cluster of registries (hereafter referred to as 'local Practice Directions or Notes'). The Court has conducted a review of the local Practice Directions and Practice Notes. The procedures described in many of these documents have fallen into disuse or become outdated, but the local Practice Direction or Note has not been formally revoked. These Practice Directions have continued to be published from time to time by various legal service providers. The continued existence and publication of some local Practice Directions or Notes has the potential to confuse what are, in many cases, outdated practices and procedures with the Court's current practice and procedures which are set out in the *Family Law Act 1975*, the *Family Law Regulations 1984*, the *Family Law Rules 2004*, the Case Management Directions and the national Practice Directions which have been issued from time to time.
4. In addition to local Practice Directions and Notes, various registries, under the hand of different officers of the Court, have issued documents variously titled which deal with a diverse range of practice related matters. Again many of these documents have continued to be published by legal service providers. Even though these documents do not amount to a local Practice Direction or Note, their continued publication also has the potential to confuse practitioners and self represented litigants.
5. On 11 July 2003, the Family Court of Australia issued guidelines to assist what are now called independent children's representatives (referred to as child representatives at the time). National Legal Aid in co-operation with the legal aid bodies in each State and Territory are presently considering revised guidelines for independent children's representatives and in future, will issue those guidelines for the benefit of independent children's representatives. This will make it unnecessary for the Court to continue issuing guidelines on this topic.
6. The purpose of this Practice Direction is to formally revoke certain national and local Practice Directions or Notes local as well as make clear that certain public announcements made by the Court no longer have any continued force and effect.

## **Revocation of national Practice Directions**

7. The following national Practice Directions are revoked with effect from the date of this Practice Direction:

- Practice Direction No. 4 of 2004 titled 'Filing of Discrete Applications Requiring Summary Determination'
- Practice Direction No. 6 of 2004 titled 'Child Sexual Abuse or other Physical Abuse'
- Practice Direction No. 3 of 2006 titled 'Applications for parenting orders during Summer (Christmas) School Holiday Periods – Annual National Filing Deadline'

The revocation of these Practice Directions does not revive any earlier Practice Directions revoked by them.

## **National Practice Notes**

8. The following Practice Notes no longer represent the practice and procedure of the Court and are revoked with effect from the date of this Practice Direction:

- Practice Note dealing with essential requirements for preparing appeal books dated 22 May 1990
- Practice Note dealing with witness payments to regulation 8 welfare officers issued 30 August 1993
- Practice Note dealing with Full Court Appeals – regionalisation arrangements dated 1 July 1992
- Practice Note dealing with dress requirement for court attendance dated 18 March 1994

## **Revocation of local Practice Directions and Notes**

9. The local Practice Directions or Notes described and set out in Schedule 1 to this Practice Direction are revoked with effect from the date of this Practice Direction to the extent that they have not been impliedly revoked by subsequent practices and procedures implemented by the Court.

## **Miscellaneous advices on procedure issued by the Court or officers of the Court**

10. The documents described in Schedule 2 to this Practice Direction should no longer be regarded as expressing the current practice and procedure of the Court and to the extent necessary, are withdrawn with effect from the date of this Practice Direction.

## **Withdrawal of Court's guidelines for independent children's representatives**

11. The guidelines issued by the Family Court of Australia on 11 July 2003 titled "Guidelines for The Child Representative" are withdrawn and should no longer be regarded as having any independent force and effect. However, the withdrawal of the guidelines should not be taken as any disapproval of the wisdom of the concepts set out in the guidelines.



**THE HONOURABLE JUSTICE DIANA BRYANT  
CHIEF JUSTICE  
FAMILY COURT OF AUSTRALIA  
DATE: 2 August 2007**

<b>SCHEDULE 1</b>				
<b>REVOKED PRACTICE DIRECTIONS</b>				
<b>No<sup>1</sup>.</b>	<b>Title and subject matter of document</b>	<b>Author</b>	<b>Date</b>	<b>Page no / paragraph of document published in publication "Australian Family Law" Vol 2<sup>2</sup></b>
<b>MELBOURNE/DANDENONG REGISTRY</b>				
1	Practice Direction PD2/2000 that was issued by the then Chief Justice, setting out an e-filing pilot program in the Melbourne Registry to cover Legal Aid Victoria and certain firms of solicitors to permit the electronic filing.	Hon A Nicholson AO RFD Chief Justice	6 November 2000	24,263 [8620]
<b>ADELAIDE REGISTRY</b>				
2	Practice Direction SA1 (issued 9 January 1976) dealing with arrangements for filing documents in the Adelaide Registry and setting out requirements for practitioners to appear in divorce applications if there is a child under the age of 18 years in the marriage.		9 January 1976	24,381 [9005]
3	Direction No SA2 (issued 24 February 1976) dealing with basis of jurisdiction in dissolution applications and filing arrangements for various types of applications		24 February 1976	24,381-82 [9005]
4	Direction No SA3 (issued 5 July 1976) setting out arrangements for lodging addresses for service, consent orders, copies of orders etc		5 July, 1976	24,382 [9005]
5	Direction No SA4 (issued 25 November 1976) dealing with applications to dispense with personal service		25 November 1976	24,383 [9005]
6	Direction No SA 5 (issued 14 November 1977) dealing with necessity to file draft minutes of order in each application, either at the time of filing of the application, or 2 days before the hearing. Also referring to provisions of regulation 97(5)(b) [now repealed]		14 November 1977	24,383 [9005]
7	Direction No SA6 (issued 17 April 1978) – use of the words ‘applicant’ and ‘respondent’ is to be discontinued. Parties will be referred to as ‘husband’ and ‘wife’	W Purcell Registrar	17 April 1978	24,383 [9005]

<sup>1</sup> These numbers are inserted for ease of identification only in this Practice Direction. They bear no resemblance with any numbers ascribed to particular Practice Directions or Practice Notes by the Court when they were issued.

<sup>2</sup> This information is provided for information only and does not form an operative part of this Practice Direction.

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<b>BRISBANE/TOWNSVILLE REGISTRY</b>				
8	Guidelines relating to the conduct of proceedings in duty list – Northern Region PD1/95 – document sets out requirements for dealing with matters in the duty list; such as the 2 hour rule, dealings with affidavit material, cross examination of witnesses etc.	Justice Buckley Judge Administrator Northern Region	June 1995	24,325 [8905]
9	Guidelines in relation to conduct of judicial circuits at sub-registries at Lismore, Coffs Harbour and Rockhampton – Northern region: PD2/95 – sets out arrangements for short call matters list, time tabling matters on those circuits	Justice Buckley Judge Administrator Northern Region	14 September 1995	24,326 [8910]
10	Guidelines and protocols – approval of special medical procedures for children in Qld (order 23B of the <i>Family Law Rules 1984</i> ) (now repealed) – Northern Region: PD2/96. Sets out arrangements between the Court and the then Department of Families, Youth & Community Care (Qld) for dealing with special medical procedures <sup>3</sup>	Justice Buckley Judge Administrator Northern Region	20 November 1996	24,327 – 332 [8915]
11	Procedure for the attendance of parties and legal representatives hearings by telephone link: PN1/98 – stating that it replaces practice note 1/97 and takes effect from 6 July 1998. The practice note sets out a procedure for the attendance of a directions hearing by telephone link. The repeal does not revive Practice Note 1/97	Justice Buckley Judge Administrator Northern Region	29 May 1998	24,333 [8920]

<sup>3</sup> This has now been wholly overtaken by Practice Direction 9/2004 which deals with medical procedure applications in Victoria and Queensland

<b>SCHEDULE 2</b>				
<b>ADVICES TO PRACTITIONERS ETC NO LONGER TO BE FOLLOWED</b>				
<b>No<sup>4</sup>.</b>	<b>Title and subject Matter of document</b>	<b>Author</b>	<b>Date</b>	<b>Page no / paragraph of document published in publication "Australian Family Law" Vol 2<sup>5</sup></b>
<b>MELBOURNE/DANDENONG REGISTRY</b>				
1	Administrative Arrangements – providing information on filing of documents, listing procedures, hearing requirements etc, covering both Melbourne and Dandenong Registries, from August 1987	Registrars of Melbourne and Dandenong Registries		24,239 [8605]
2	Advice to Practitioners – matters fixed for hearing in defended lists – requires the filing of chronologies and documents addressing s 64(1)(bb) factors (now repealed) and also setting out documents to be lodged in property matters	H R Frederico Judge Administrator (Southern region)		24,258 [8610]
3	Document setting out principles and objectives and general arrangements for special medical procedure applications in Victoria for the purposes of order 23B of the <i>Family Law Rules 1984</i> (now repealed) <sup>6</sup>	H R Frederico Judge Administrator (Southern region)	30 March 1998	24,258 [8615]
<b>HOBART REGISTRY</b>				
4	Practice Guidelines – setting out the court sitting arrangements from 1 September 1987 and dealing with times and court room numbers etc. Document also deals with arrangements made for counselling at different locations within Tasmania and other miscellaneous matters	A E Harkus for Registrar	January 1988	24,435 [9205]
5	Document headed 'Advice to Practitioners – matters fixed for hearing in defended lists'. Requires the filing of chronologies and documents addressing s 64(1)(bb) and also setting out documents to be lodged in property matters	H R Frederico Judge Administrator (Southern region)		24,437 which refers to 24,258. [9210]
<b>SYDNEY REGISTRY</b>				
6	Advice to Practitioners - deals with filing documents before pre hearing conferences	The Hon Mr Justice J Ellis	February 1988	24,129
7	Family Reports made after 13 May 1985 to be entertained in court by Justice Nygh or in his absence Justice Ellis - sets out a draft order			24,130 [8205]

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<b>SYDNEY REGISTRY</b>				
8	Announcement regarding the Short Causes List to apply from 1 December 1986	L J Gilroy, Registrar	December 1986	24,130-31 [8210]
9	Public advice regarding listing procedures setting out the current number of matters on the contested list, active pending cases list and advising that Registrars will be conducting a review of files to identify short causes matters	L J Gilroy, Registrar	December 1986	24,131-32 [8215]
10	General announcement regarding Full Court arrangements for 1987 and advising that the Full Court when sitting in Sydney will follow the practice of other registries in relation to matters not reached	Chief Justice	1 December 1986	24,134 [8220]
11	Advice regarding abolition of Contested List	L J Gilroy, Registrar	April 1987	24,134-35 [8225]
12	'Usual Directions' – advising of form of standard directions to be used in both registries	L J Gilroy & D Halligan	April 1987	24,135 [8230]
13	Rolling Lists August 1987 – announcement regarding rolling lists of longer contested cases	S A Lee Acting Registrar		24,136-37 [8235]
14	Rolling List October 1987 – similar to the one above	L J Gilroy, Registrar		24,137
15	Lateral filing in Sydney Registry - announcing that the Court will replace the folder down the middle files with a flat filing system for all new matters from 4 January 1988.	M H Northcott, Acting Registrar	December 1987	24,138 [8240]
16	Notice to practitioners regarding consent orders advising that a Form 7 application must be filed with any consent orders submitted for approval pursuant to order 31 r 9 (now repealed) and setting out new procedures to operate from 2 January 1992.			24,138 [8245]
<b>PARRAMATTA REGISTRY</b>				
17	Revised Procedures at Parramatta Registry - advising of the revised procedures in the Parramatta Registry from 8 July 1985 designed to facilitate the introduction of case management			24,185 [8405]

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<b>PARRAMATTA REGISTRY</b>				
18	'Usual Directions' - advising of standard directions to operate in both the Sydney & Parramatta Registrars (similar to the Sydney list document)	L J Gilroy Registrar Sydney D Halligan Registrar Parramatta	April 1987	24,188 [8410]
19	Consent Orders – setting out procedures for lodgement of consent orders under order 31 R 8 (now repealed) from 1 July 1991	F E Fitzpatrick Registry Manager		24,189-190 [8415]
<b>CANBERRA REGISTRY</b>				
20	'Advice to Practitioners – matters fixed for hearing in defended lists' – requiring filing of a chronology and a statement in short form consideration set out in s 64(1)(bb) (now repealed) for children's matters and documents needed in property matters	H R Federico Judge Administrator (Southern Region)		24,487 [9410] referring to [8610]
21	Memorandum regarding subpoenas and filing of marriage certificates and drawing attention to provisions in the repealed rules in relation to these matters	L Jenkins Registrar		24,487 [9415]
22	'Notice to Practitioners – consent orders' - sets out procedures for lodgement of consent orders under order 31 r 8 (now repealed) and attachment	Peter Baskett Registry Manager	10 Jan 1992	24,289 [9420]
<b>BRISBANE/TOWNSVILLE REGISTRY</b>				
23	Practice Guideline – applications under order 12 (now repealed) ex parte orders – requesting that in Forms 7 and 8 (no longer in use) seeking ex parte orders, a specific order be included that the matter proceed ex parte			24,309 [8805]
24	Practice Guideline – regarding examination of court counsellors pursuant to Order 25 of the <i>Family Law Rules 1984</i> (now repealed) advising that 7 days notice should be given where party or a legal practitioner wants to cross examine the author of a family report. 7 days notice must be given to the Director of Court Counselling			24,309 [8805]

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<b>BRISBANE/TOWNSVILLE REGISTRY</b>				
25	Notice to practitioner in relation to the appearance of articulated clerks at Order 24 (now repealed) Conferences – advising that articulated clerks will only be permitted to be present if the Regional Registrar (position abolished) is reasonably satisfied they have sufficient knowledge and experience to be able to advise their client			24,309.1 [8810]
26	Listing of Forms 4/5 and 7/8 in Rockhampton, Lismore, Coolangatta and Coffs Harbour. Advises practitioners that the forms will be listed before a Registrar for hearing at 10am on each day of a circuit.			24,309.1 [8815]
27	Transcripts – advising that transcripts should now be obtained by Auscript and that the terms for their charging should be obtained from that organisation			24,309.1 [8820]
28	Conferences under order 24 (now repealed) advising that an Order 24 Conference was being held at Brisbane, Southport, Rockhampton, Lismore and Coffs Harbour and would be included in a formal order requiring the holding of the conference.			24,309.1 – 9.2 [8825]
29	Affidavits of continued separation – advising that it has always been the practice in the Brisbane Registry to require the filing of an affidavit of continued separation in relation to any application for dissolution, but it will not be required after 29 January 1986.			24,309.2 [8830]
30	Sample 'standard orders' of the Family Court – providing precedents for orders in relation to custody, joint custody, access, maintenance, approval of s 87 agreements, discharge of Magistrates Court order etc.			24,311 – 318 [8835]
31	Applications for Custody and Guardianship requiring practitioners to ensure that applications for custody and guardianship are made in separate paragraphs.			24,318 [8855]



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<b>BRISBANE/TOWNSVILLE REGISTRY</b>				
32	Documents to be signed by a Registrar pursuant to an order of the Court – this document advises that clients need to carefully consider what orders are sought, what documents are requested to be signed by a registrar in the name of a party pursuant to a court order under s 84 of the <i>Family Law Act 1975</i> (now repealed but substantially re-enacted in s 106A).	Peter McManus Registrar		24,318 [8865]
33	Facsimile Machine Guidelines – advising of what must be included in facsimile transmissions to the court.			24,319 [8870]
34	Advice to practitioners – matters involving children and property matters – requiring the filing of chronologies and summary of arguments 48 hours before a pre trial conference.	Justice Buckley Judge Administrator	20 December 1988	24,320 [8875]
35	Practice Guideline – preparation of orders – sets out the arrangements for issuing of formal orders and procedural, consent or orders in trials as and from 6 February 1989	Justice Buckley Judge Administrator	23 December 1988	24,230 [8880]
36	Notice to practitioners – information sessions – sets out the times of information sessions from 25 May 1993	Senior Registrar		24,322 [8885]
37	Notice – directions hearings – sets out a new procedure as to what is to occur on the first directions hearing after Monday 16 August 1993.	Denise Deane Registry Manager	4 August 1993	24,323 [8890]
38	Notice – order 9A (now repealed) requirements – setting out requirements for filing applications for consent orders			24,324 [8895]
39	(Townsville Registry only)- Advice to practitioners – matters involving children – property matters – identical terms to 34 above	Justice Buckley Judge Administrator	27 April 1989	24,324 [8900]