

# A Practical Guide to Family Proceedings

Fifth Edition

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Principal Registry of the  
Family Division*

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## FOREWORD

This invaluable practical guide is now in its fifth edition. It is established as part of the essential material available to the Royal Courts of Justice, the Principal Registry of the Family Division and all divorce county courts.

This new edition is particularly important and welcome as its publication enables the authors to provide guidance upon the changes resulting from the introduction (in April 2011) of the Family Procedure Rules.

The new Rules provide a single procedural code for family hearings conducted by all judges and magistrates and their legal advisers. The authors are to be congratulated for their clear and comprehensive exposition of the new position and I am pleased to commend it to practitioners on both sides of the bench.

Sir Nicholas Wall

*President of the Family Division and Head of Family Justice*

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## PREFACE

This edition has seen further changes to the contributors. As a result of illness, District Judge Taylor has been required to step aside and, following my retirement from the full-time Bench, came the realisation that I would have to adopt a very much lower profile. With the constant changes in family law and practice and, in particular, those brought about by the introduction of the far-reaching provisions of the Family Procedure Rules 2010, it seemed to me that the resultant significant re-writing of large parts of the book demanded the close attention of colleagues who were more directly involved.

Helen Brooks, my original co-author, and Clive Buckley have continued with their invaluable work on the book, and have been joined by District Judge Richard Robinson of the Principal Registry of the Family Division who has made a major contribution. Yet again, we have received the vital support and assistance of District Judge Graham Maple.

It is my hope that as a result of the enormous amount of hard work which has gone into the creation of this fifth edition, together with the close involvement which Clive Buckley has had with the development of the new rules, this now significantly re-written book will prove to be of particular assistance to all those involved in family law.

The authors are delighted that Sir Nicholas Wall, President of the Family Division, has provided the Foreword to this edition. His kind words of support are greatly appreciated.

As always, the authors invite anyone who spots an error or who otherwise wishes to make any general observations about this edition or with regards to the next edition to please contact us.

Finally, it is with a tinge of sadness that I now step aside; however, I leave the future of the book in the most capable hands of the current authors. It has been a great privilege and pleasure to have worked so closely with Helen Brooks, who has an encyclopaedic knowledge of family law, which is greater than any other person I have known. In particular, her grasp and practical application of the various Rules I have, at times, found truly extraordinary. Without that knowledge and expertise it would not have been possible to create this book.

In closing, it is my hope that the many thousands of people who have purchased and, I trust, used it during the past twelve years will continue to derive benefit for many years to come.

District Judge Robert Blomfield TD  
*March 2012*

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## INTRODUCTION

The major development since the fourth edition of this book has been the introduction of the Family Procedure Rules 2010, which came into effect on the 6 April 2011.

The Courts Act 2003<sup>1</sup> requires the Family Procedure Rules to be made with a view to securing that: (a) the family justice system is accessible, fair and efficient; and (b) the rules be both simple and simply expressed.

With these requirements in mind, when developing the rules the Family Procedure Rule Committee adopted the following principles:

- (i) modernisation of language – following the example set in the Civil Procedure Rules 1998 which were drafted to reduce complexity and update terminology in the light of Lord Woolf’s review of civil rules and procedures;
- (ii) harmonisation with the Civil Procedure Rules, as continuing reliance in family proceedings on the Rules of the Supreme Court and County Court Rules was becoming increasingly unsatisfactory for courts and court users;
- (iii) creation of a single unified code in addition to rules, to include practice directions and pre-application protocols so that all guidance is more accessible;
- (iv) alignment of procedures across all levels of court, including the family proceedings courts, except where there were strong reasons not to do so.

For reasons connected with finance and the IT system used to support the courts, it has not been possible to reflect all the Committee’s intentions regarding the modernisation of terminology in the initial Family Procedure Rules 2010. However, with effect from 6<sup>th</sup> April 2012 one of the proposed reforms, deferred from the 2010 Rules, will come into force. Applications for a decree nisi or conditional order in undefended matrimonial and civil partnership proceedings will from that date be supported by a statement verified by a statement of truth, rather than by an affidavit or affirmation.

We continue to use the term petition, as it clearly identifies the fundamental application in most cases. Ancillary Relief, however, is consigned to history, and we now talk about Financial Remedies. The Special Procedure is special no more, but the alternative ‘Summary Procedure’ accurately describes the system for dealing with the vast majority of petitions.

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<sup>1</sup> CA 2003, s 75(5).

We hope that this new edition will prove useful to court users, staff and even members of the judiciary!

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