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29/03/14

**PRACTICE DIRECTION 4 OF 2014:
CUSTODY AND ACCESS APPLICATIONS**

1. Section 19 of the Divorce Act provides that:

“In any proceedings for divorce the [Supreme] Court may make such orders as appear just with respect to the custody, maintenance and education of the children of the family”.

2. Section 3(1) of the Guardianship Act 2004 gives the Supreme Court Jurisdiction where:

“(a) any question of guardianship, custody and access [arises] before the Court;”

3. For the avoidance of confusion and to ensure that applications are properly placed before the Court:-
 - (a) Where the children in question have been named in any petition for divorce already dealt with by the Court or pending before it, any application for custody, access or maintenance for the children or an application for variation of any such orders previously made by the Court should be made in the Divorce file.

 - (b) The only applications for custody or access orders or variation thereof which should be made in a fresh file opened in the Guardianship Act are in respect of children who have not previously been named in a divorce petition.

4. This Practice Direction has no application to Adoption or Guardianship applications.

Recd 29/03/14

5. In cases of doubt direction should be sought from the Registrar before the filing of papers.
6. The Practice Direction is effective immediately.

NUKU'ALOFA: 28 May 2014.



M.D. Scott
CHIEF JUSTICE