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STATUTORY INSTRUMENTS

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**2017 No. 1035**

**The Court of Protection Rules 2017**

**PART 21**

**APPLICATIONS AND PROCEEDINGS IN  
RELATION TO CONTEMPT OF COURT**

**SECTION 2 – COMMITTAL FOR BREACH OF A JUDGMENT, ORDER  
OR UNDERTAKING TO DO OR ABSTAIN FROM DOING AN ACT**

**Enforcement of judgment, order or undertaking to do or abstain from doing an act**

**21.4.—**(1) If a person—

- (a) required by a judgment or order of the court to do an act does not do it within the time fixed by the judgment or order; or
- (b) disobeys a judgment or order not to do an act,

then, subject to the Debtors Acts 1869 and 1878 and to the provisions of these Rules, the judgment or order may be enforced by an order for committal.

(2) If the time fixed by the judgment or order for doing an act has been varied by a subsequent order, or agreement of the parties under rule 3.7(4), then references in paragraph (1)(a) to the time fixed are references to the time fixed by that subsequent order or agreement.

(3) If the person referred to in paragraph (1) is a company or other corporation, the committal order may be made against any director or other officer of that company or corporation.

(4) So far as applicable, and with the necessary modification, this Section applies to undertakings given by a party as it applies to judgments or orders.

**Requirement for service of a copy judgment or order and time for service**

**21.5.—**(1) Unless the court dispenses with service under rule 21.8 a judgment or order may not be enforced under rule 21.4 unless a copy of it has been served on the person required to do or not to do the act in question, and in the case of a judgment or order requiring a person to do an act—

- (a) the copy has been served before the end of the time fixed for doing the act, together with a copy of any order fixing that time;
- (b) where the time has been varied by a subsequent order or agreement, a copy of that subsequent order or agreement has also been served; and
- (c) where the judgment or order was made pursuant to an earlier judgment or order requiring the act to be done, a copy of the earlier judgment or order has also been served.

(2) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the judgment or order must also be served on a director or officer of the company or corporation before the end of the time fixed for doing the act.

(3) Copies of the judgment or order and any orders or agreements fixing or varying the time for doing an act must be served in accordance with rule 21.6 or 21.7, or in accordance with an order for alternative service made under rule 21.8(2)(b).

**Method of service – copies of judgments or orders**

**21.6.** Subject to rules 21.7 and 21.8, copies of judgments or orders and any orders or agreements fixing or varying the time for doing an act must be served personally.

**Method of service – copies of undertakings**

**21.7.—(1)** Subject to paragraph (2) and rule 21.8, a copy of any document recording an undertaking will be delivered by the court to the person who gave the undertaking by—

- (a) handing to that person a copy of the document before that person leaves the court building;
- (b) posting a copy to that person at the residence or place of business of that person where this is known; or
- (c) posting a copy to that person’s solicitor.

(2) If delivery cannot be effected in accordance with paragraph (1), the court officer must deliver a copy of the document to the party for whose benefit the undertaking was given and that party must serve it personally on the person who gave the undertaking as soon as practicable.

(3) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the document must also be served on a director or officer of the company or corporation.

**Dispensation with personal service**

**21.8.—(1)** In the case of a judgment or order requiring a person not to do an act, the court may dispense with service of a copy of the judgment or order in accordance with rules 21.5 to 21.7 if it is satisfied that the person has had notice of it by—

- (a) being present when the judgment or order was given or made; or
- (b) being in attendance at court where notice of the order or judgment was displayed; or
- (c) being notified of its terms by telephone, email or otherwise.

(2) In the case of any judgment or order the court may—

- (a) dispense with service under rules 21.5 to 21.7 if the court thinks it just to do so; or
- (b) make an order in respect of service by an alternative method or at an alternative place.

**Requirement for a penal notice on judgments and orders**

**21.9.—(1)** Subject to paragraph (2), a judgment or order to do or not to do an act may not be enforced under rule 21.4 unless there is prominently displayed, on the front of the copy of the judgment or order served in accordance with this Section, a warning to the person required to do or not to do the act in question that disobedience to the order would be a contempt of court punishable by imprisonment, a fine or sequestration of assets.

(2) An undertaking to do or not to do an act which is contained in a judgment or order may be enforced under rule 21.4 notwithstanding that the judgment or order does not contain the warning described in paragraph (1).

(Paragraphs 2.1 to 2.3 of Practice Direction 21A contain provision about penal notices and warnings in relation to undertakings.)

### **How to make the committal application**

**21.10.**—(1) A committal application is made by an application notice under Part 10 in the proceedings in which the judgment or order was made or the undertaking was given.

(2) Where the committal application is made against a person who is not an existing party to the proceedings, it is made against that person by an application notice under Part 10.

(3) The application notice must—

(a) set out in full the grounds on which the committal application is made and must identify, separately and numerically, each alleged act of contempt including, if known, the date of each of the alleged acts; and

(b) be supported by one or more affidavits containing all the evidence relied upon.

(4) Subject to paragraph (5), the application notice and the evidence in support must be served personally on the respondent.

(5) The court may—

(a) dispense with service under paragraph (4) if it considers it just to do so; or

(b) make an order in respect of service by an alternative method or at an alternative place.

### **Committal for breach of a solicitor's undertaking**

**21.11.**—(1) This rule applies where an order for committal is sought in respect of a breach by a solicitor of an undertaking given by the solicitor to the court in connection with proceedings before the court.

(2) The applicant must obtain permission from the court before making a committal application under this rule.

(3) The application for permission must be made by filing an application notice under Part 10.

(4) The application for permission must be supported by an affidavit setting out—

(a) the name, description and address of the respondent; and

(b) the grounds on which the committal order is sought.

(5) The application for permission may be made without notice.

(6) Rules 10.5 and 13.4 do not apply.

(7) Unless the applicant makes the committal application within 14 days after permission has been granted under this rule, the permission will lapse.