
STATUTORY INSTRUMENTS

2007 No. 1744

The Court of Protection Rules 2007

PART 21

ENFORCEMENT

Orders for committal

Contempt of court – generally

185. An application relating to the committal of a person for contempt of court shall be made to a judge and the power to punish for contempt may be exercised by an order of committal.

Application for order of committal

186.—(1) An application for an order of committal must be made by filing an application notice, stating the grounds of the application, and must be supported by an affidavit made in accordance with the relevant practice direction.

(2) Subject to paragraph (3), the application notice, a copy of the affidavit in support thereof and notice of the date of the hearing of the application must be served personally on the person sought to be committed.

(3) Without prejudice to its powers under Part 6, the court may dispense with service under this rule if it thinks it just to do so.

Oral evidence

187. If on the hearing of the application the person sought to be committed expresses a wish to give oral evidence on his own behalf, he shall be entitled to do so.

Hearing for committal order

188.—(1) Except where the court permits, no grounds shall be relied upon at the hearing except the grounds set out in the application notice.

(2) Notwithstanding rule 90(1) (general rule – hearing to be in private), when determining an application for committal the court will hold the hearing in public unless it directs otherwise.

(3) If the court hearing an application in private decides that a person has committed a contempt of court, it shall state publicly—

- (a) the name of that person;
- (b) in general terms the nature of the contempt in respect of which the order of committal is being made; and
- (c) any punishment imposed.

(4) If the person sought to be committed does not attend the hearing, the court may fix a date and time for the person to be brought before the court.

Power to suspend execution of committal order

189.—(1) A judge who has made an order of committal may direct that the execution of the order of committal shall be suspended for such period or on such terms and conditions as may be specified.

(2) Where an order is suspended under paragraph (1), the applicant for the order of committal must, unless the court otherwise directs, serve on the person against whom it was made a notice informing him of the making and terms of the direction under that paragraph.

Warrant for arrest

190. A warrant for the arrest of a person against whom an order of committal has been made shall not, without further order of the court, be enforced more than 2 years after the date on which the warrant is issued.

Discharge of person committed

191.—(1) The court may, on the application of any person committed to prison for contempt of court, discharge him.

(2) Where a person has been committed for failing to comply with a judgment or order requiring him to deliver any thing to some other person or to deposit it in court or elsewhere, and a writ of sequestration has also been issued to enforce that judgment or order, then, if the thing is in the custody or power of the person committed, the commissioners appointed by the writ of sequestration may take possession of it as if it were the property of that person and, without prejudice to the generality of paragraph (1), the court may discharge the person committed and may give such directions for dealing with the thing taken by the commissioners as it thinks fit.

Penal notices

192.—(1) The court may direct that a penal notice is to be attached to any order warning the person on whom the copy of the order is served that disobeying the order would be a contempt of court punishable by imprisonment or a fine.

(2) Unless the court gives a direction under paragraph (1), a penal notice may not be attached to any order.

(3) A penal notice is to be in the following terms: “You must obey this order. If you do not, you may be sent to prison for contempt of court.”.

Saving for other powers

193. The rules in this Part do not limit the power of the court to make an order requiring a person guilty of contempt to pay a fine or give security for his good behaviour and those rules, so far as applicable, shall apply in relation to an application for such an order as they apply in relation to an application for an order of committal.

Power of court to commit on its own initiative

194. The preceding provisions of these Rules shall not be taken as affecting the power of the court to make an order for committal on its own initiative against a person guilty of contempt of court.