
STATUTORY INSTRUMENTS

2017 No. 1035

The Court of Protection Rules 2017

PART 21

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

**SECTION 7 – GENERAL RULES ABOUT COMMITTAL APPLICATIONS,
ORDERS FOR COMMITTAL AND WRITS OF SEQUESTRATION**

Hearing for committal order or writ of sequestration to be in public

21.27.—(1) Notwithstanding rule 4.1 (general rule – hearing to be in private), when determining an application for committal or application for sequestration the court will hold the hearing in public unless it directs otherwise.

(2) If the court hearing an application in private decides to make a committal order against the respondent, it must in public state—

- (a) the name of the respondent;
- (b) in general terms, the nature of the contempt of court in respect of which the committal order is being made; and
- (c) the length of the period of the committal order.

(3) Where a committal order is made in the absence of the respondent, the court may on its own initiative fix a date and time when the respondent is to be brought before the court.

The hearing

21.28.—(1) Unless the court hearing the committal application or application for sequestration otherwise permits, the applicant may not rely on—

- (a) any grounds other than—
 - (i) those set out in the application notice; or
 - (ii) in relation to committal applications under Section 4, the statement of grounds required by rule 21.15(1)(a) (where not included in the application notice);
 - (b) any evidence unless it has been served in accordance with the relevant Section of this Part or a practice direction supplementing this Part.
- (2) At the hearing, the respondent is entitled—
- (a) to give oral evidence, whether or not the respondent has filed or served written evidence, and, if doing so, may be cross-examined; and
 - (b) with the permission of the court, to call a witness to give evidence whether or not the witness has made an affidavit or witness statement.

(3) The court may require or permit any party or other person (other than the respondent) to give oral evidence at the hearing.

(4) The court may give directions requiring the attendance for cross-examination of a witness who has given written evidence.

Power to suspend execution of a committal order

21.29.—(1) The court making the committal order may also order that the execution of the order will be suspended for such period or on such terms and conditions as the court may specify.

(2) Unless the court otherwise directs, the applicant must serve on the respondent a copy of any order made under paragraph (1).

Warrant of committal

21.30.—(1) If a committal order is made, the order will be for the issue of a warrant of committal.

(2) Unless the court orders otherwise—

- (a) a copy of the committal order must be served on the respondent either before or at the time of the execution of the warrant of committal; or
- (b) where the warrant of committal has been signed by the judge, the committal order may be served on the respondent at any time within 36 hours after the execution of the warrant.

(3) Without further order of the court, a warrant of committal must not be enforced more than 2 years after the date on which the warrant is issued.

Discharge of a person in custody

21.31.—(1) A person committed to prison for contempt of court may apply to the court to be discharged.

(2) The application must—

- (a) be in writing and attested by the governor of the prison (or any other officer of the prison not below the rank of principal officer);
- (b) show that the person committed to prison for contempt has purged, or wishes to purge, the contempt; and
- (c) be served on the person (if any) at whose instance the warrant of committal was issued at least one day before the application is made.

(3) Paragraph (2) does not apply to an application made by the Official Solicitor acting with official authority for the discharge of a person in custody.

Discharge of a person in custody where a writ of sequestration has been issued

21.32. Where—

- (a) a writ of sequestration has been issued to enforce a judgment or order;
- (b) the property is in the custody or power of the respondent;
- (c) the respondent has been committed for failing to deliver up any property or deposit it in court or elsewhere; and
- (d) the commissioners appointed by the writ of sequestration take possession of the property as if it belonged to the respondent,

then, without prejudice to rule 21.31(1) (discharge of a person in custody), the court may discharge the respondent and give such directions for dealing with the property taken by the commissioners as it thinks fit.