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STATUTORY INSTRUMENTS

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**2017 No. 1035**

**The Court of Protection Rules 2017**

**PART 5**

**COURT DOCUMENTS**

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**Documents used in court proceedings**

**5.1.—**(1) The court will seal or otherwise authenticate with the stamp of the court the following documents on issue—

- (a) an application form;
- (b) an application notice;

- (c) an order; and
  - (d) any other document which a rule or practice direction requires to be sealed or stamped.
- (2) Where the Rules or any practice direction require a document to be signed, that requirement is satisfied if the signature is printed by computer or other mechanical means.
- (3) A practice direction may make provision for documents to be filed or sent to the court by—
- (a) facsimile; or
  - (b) other means.

### **Documents required to be verified by a statement of truth**

**5.2.**—(1) The following documents must be verified by a statement of truth—

- (a) an application form, an application notice, an appellant's notice or a respondent's notice, where the applicant (or appellant or respondent as the case may be) seeks to rely upon matters set out in the document as evidence;
  - (b) a witness statement;
  - (c) a certificate of—
    - (i) service or non-service; or
    - (ii) notification or non-notification;
  - (d) a deputy's declaration; and
  - (e) any other document required by a rule or practice direction to be so verified.
- (2) Subject to paragraph (3), a statement of truth is a statement that—
- (a) the party putting forward the document;
  - (b) in the case of a witness statement, the maker of the witness statement; or
  - (c) in the case of a certificate referred to in paragraph (1)(c), the person who signs the certificate,

believes that the facts stated in the document being verified are true.

- (3) If a party is conducting proceedings with a litigation friend, the statement of truth in—
- (a) an application form;
  - (b) an application notice; or
  - (c) an appellant's notice or a respondent's notice,

is a statement that the litigation friend believes that the facts stated in the document being verified are true.

(4) The statement of truth must be signed—

- (a) in the case of an application form, an application notice, an appellant's notice or a respondent's notice—
  - (i) by the party or litigation friend; or
  - (ii) by the legal representative on behalf of the party or litigation friend; and
- (b) in the case of a witness statement, by the maker of the statement.

(5) A statement of truth which is not contained in the document which it verifies must clearly identify that document.

(6) A statement of truth in an application form, an application notice, an appellant's notice or a respondent's notice may be made by—

- (a) a person who is not a party; or

(b) two or three parties jointly,  
where this is permitted by a relevant practice direction.

### **Position statement not required to be verified by statement of truth**

**5.3.** Nothing in these Rules requires a position statement to be verified by a statement of truth.

### **Failure to verify a document**

**5.4.** If an application form, an application notice, an appellant's notice or a respondent's notice is not verified by a statement of truth, the applicant (or appellant or respondent as the case may be) may not rely upon the document as evidence of any of the matters set out in it unless the court permits.

### **Failure to verify a witness statement**

**5.5.** If a witness statement is not verified by a statement of truth, it shall not be admissible in evidence unless the court permits.

### **False statements**

**5.6.—**(1) Proceedings for contempt of court may be brought against a person if that person makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

(2) Proceedings under this rule may be brought only—

- (i) by the Attorney General; or
- (ii) with the permission of the court.

### **Personal details**

**5.7.—**(1) Where a party does not wish to reveal—

- (a) his or her home address or telephone number;
- (b) P's home address or telephone number;
- (c) the name of the person with whom P is living (if that person is not the applicant); or
- (d) the address or telephone number of his or her place of business, or the place of business of any of the persons mentioned in sub-paragraphs (b) or (c),

that party must provide those particulars to the court.

(2) Where paragraph (1) applies, the particulars given must not be given to any person unless the court so directs.

(3) Where a party changes home address during the course of the proceedings, that party must give notice in writing of the change to the court.

(4) Where a party does not reveal his or her home address, that party must nonetheless provide an address for service which must be within the jurisdiction of the court.

### **Supply of documents to a party from court records**

**5.8.** Unless the court orders otherwise, a party to proceedings may inspect or obtain from the records of the court a copy of—

- (a) any document filed by a party to the proceedings; or
- (b) any communication in the proceedings between the court and—

- (i) a party to the proceedings; or
- (ii) another person.

### **Supply of documents to a non-party from court records**

**5.9.**—(1) Subject to rules 5.12 and 4.3(2), a person who is not a party to proceedings may inspect or obtain from the court records a copy of any judgment or order given or made in public.

(2) The court may, on an application made to it, authorise a person who is not a party to proceedings to—

- (a) inspect any other documents in the court records; or
- (b) obtain a copy of any such documents, or extracts from such documents.

(3) A person making an application for an authorisation under paragraph (2) must do so in accordance with Part 10.

(4) Before giving an authorisation under paragraph (2), the court will consider whether any document is to be provided on an edited basis.

### **Subsequent use of court documents**

**5.10.**—(1) Where a document has been filed or disclosed, a party to whom it was provided may use the document only for the purpose of the proceedings in which it was filed or disclosed, except where—

- (a) the document has been read to or by the court or referred to at a public hearing; or
- (b) the court otherwise permits.

(2) Paragraph (1)(a) is subject to any order of the court made under rule 4.3(2).

### **Editing information in court documents**

**5.11.**—(1) A party may apply to the court for an order that a specified part of a document is to be edited prior to the document's service or disclosure.

(2) An order under paragraph (1) may be made at any time.

(3) Where the court makes an order under this rule any subsequent use of that document in the proceedings shall be of the document as edited, unless the court directs otherwise.

(4) An application under this rule must be made in accordance with Part 10.

### **Public Guardian to be supplied with court documents relevant to supervision of deputies**

**5.12.**—(1) This rule applies in any case where the court makes an order—

- (a) appointing a person to act as a deputy; or
- (b) varying an order under which a deputy has been appointed.

(2) Subject to paragraphs (3) and (6), the Public Guardian is entitled to be supplied with a copy of qualifying documents if the Public Guardian reasonably considers that it is necessary to have regard to them in connection with the discharge of the Public Guardian's functions under section 58 of the Act in relation to supervision of deputies.

(3) The court may direct that the right to be supplied with documents under paragraph (2) does not apply in relation to such one or more documents, or descriptions of documents, as the court may specify.

(4) A direction under paragraph (3) or (6) may be given—

- (a) either on the court's own initiative or on an application made to it; and
- (b) either—
  - (i) at the same time as the court makes the order which appoints the deputy, or which varies it; or
  - (ii) subsequently.
- (5) “Qualifying documents” means documents which—
  - (a) are filed in court in connection with the proceedings in which the court makes the order referred to in paragraph (1); and
  - (b) are relevant to—
    - (i) the decision to appoint the deputy;
    - (ii) any powers conferred on the deputy;
    - (iii) any duties imposed on the deputy; or
    - (iv) any other terms applying to those powers and duties which are contained in the order.
- (6) The court may direct that any document is to be provided to the Public Guardian on an edited basis.

#### **Provision of court order to Public Guardian**

**5.13.** Any order of the court requiring the Public Guardian to do something, or not to do something, must be served on the Public Guardian as soon as practicable and in any event not later than 7 days after the order was made.

#### **Amendment of application**

**5.14.**—(1) The court may allow or direct an applicant, at any stage of the proceedings, to amend the application form or notice.

(2) The amendment may be effected by making in writing the necessary alterations to the application form or notice, but if the amendments are so numerous or of such a nature or length that written alteration would make it difficult or inconvenient to read, a fresh document amended as allowed or directed may be required.

#### **Clerical mistakes or slips**

**5.15.** The court may at any time correct any clerical mistakes in an order or direction or any error arising in an order or direction from any accidental slip or omission.

#### **Endorsement of amendment**

**5.16.** Where an application form or notice, order or direction has been amended under this Part, a note shall be placed on it showing the date on which it was amended, and the alteration shall be sealed.

**Changes to legislation:**

There are currently no known outstanding effects for the The Court of Protection Rules 2017, PART 5.