PART 52 Contempt Of Court

PART 52

Committal for contempt of Court 52.1 - 52.2

52.1

The power of the Court of First Instance or Court of Appeal to punish for contempt of Court may be exercised by an order of committal.

52.2

An order of committal may be made by a single Judge of the Court .

Application for committal 52.3 - 52.10

52.3

An application for an order of committal must be made by claim form or application notice and be supported by an affidavit .

52.4

A committal application must, subject to Rule 52.5, be commenced by the issue of a Part 8 claim form.

52.5

If the committal application is made in existing proceedings it must be commenced by the filing of an application notice in those proceedings.

52.6

An application to commit for breach of an undertaking or order must be commenced by the filing of an application notice in the proceedings in which the undertaking was given or the order was made.

52.7

The application notice must state that the application is made in the proceedings in question and its title and reference number must correspond with the title and reference number of those proceedings.

52.8

If the committal application is commenced by the issue of a claim form, Part 8 shall, subject to the provisions of this Part, apply as though references to 'claimant' were references to the person making the committal application and references to 'defendant' were references to the person against whom the committal application is made (in this practice direction referred to as 'the respondent') but:

(1) the claim form together with copies of all written evidence in support must, unless the Court otherwise directs, be served personally on the respondent;

(2) the claim form must 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 alleged act;

(3) an amendment to the claim form can be made with the permission of the Court but not otherwise;

(4) Rule 8.16 does not apply; and

(5) the claim form must contain a prominent notice stating the possible consequences of the Court making a committal order and of the respondent not attending the hearing. A form of notice, which may be used, is annexed to this Part at Schedule A.

52.9

If a committal application is commenced by the filing of an application notice , Part 23 shall, subject to the provisions of this Part, apply, but:

(1) the application notice together with copies of all written evidence in support must, unless the Court otherwise directs, be served personally on the respondent;

(2) the application notice must 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;

(3) an amendment to the application notice can be made with the permission of the Court but not otherwise;

(4) the Court may not dispose of the committal application without a hearing; and

(5) the application notice must contain a prominent notice stating the possible consequences of the Court making a committal order and of the respondent not attending the hearing. A form of notice, which may be used, is annexed to this Part at Schedule A.

52.10

Without prejudice to its powers under Part 9, the Court may dispense with service under Rule 52.8(1) or Rule 52.9(1) if it thinks it just to do so.

Saving for power to commit without application 52.11

52.11

Nothing in this Part shall be taken as affecting the power of the Court of First Instance or Court of Appeal to make an order of committal on its own initiative against a person guilty of contempt of Court .

Evidence 52.12 - 52.15

52.12

Written evidence in support of or in opposition to a committal application must be given by affidavit .

52.13

Written evidence served in support of or in opposition to a committal application must, unless the Court otherwise directs, be filed.

52.14

A respondent may give oral evidence at the hearing, whether or not he has filed or served any written evidence. If he does so, he may be cross-examined.

52.15

A respondent may, with the permission of the Court , call a witness to give oral evidence at the hearing whether or not the witness has sworn an affidavit .

Case management of committal applications 52.16 - 52.21

52.16

The applicant for the committal order must, when lodging the claim form or application notice with the Court for issuing or filing , as the case may be, obtain from the Court a date for the hearing of the committal application.

52.17

Unless the Court otherwise directs, the hearing date of a committal application shall be not less than 14 days after service of the claim form or of the application notice , as the case may be, on the respondent. The hearing date must be specified in the claim form or application notice or in a Notice of Hearing or Application attached to and served with the claim form or application notice .

52.18

The Court may, however, at any time give case management directions, including directions for the service of written evidence by the respondent and written evidence in reply by the applicant, or may hold a directions hearing.

52.19

The Court may on the hearing date:

(1) give case management directions with a view to a hearing of the committal application on a future date; or

(2) if the committal application is ready to be heard, proceed to hear it.

52.20

In dealing with any committal application, the Court will have regard to the need for the respondent to have details of the alleged acts of contempt and the opportunity to respond to the committal application.

52.21

The Court should also have regard to the need for the respondent to be:

(1) allowed a reasonable time for responding to the committal application including, if necessary, preparing a defence;

(2) given the opportunity, if unrepresented, to obtain legal advice; and

(3) if unable to understand English, allowed to make arrangements, seeking the assistance of the Court if necessary, for an interpreter to attend the hearing.

Striking out 52.22

52.22

The Court may, on application by the respondent or on its own initiative, strike out a committal application if it appears to the Court:

(1) that the committal application and the evidence served in support of it disclose no reasonable ground for alleging that the respondent is guilty of a contempt of Court ;

(2) that the committal application is an abuse of the Court's process or, if made in existing proceedings, is otherwise likely to obstruct the just disposal of those proceedings; or

(3) that there has been a failure to comply with a Rule, Practice Direction or Court order.

Miscellaneous 52.23 - 52.26

52.23

Rules 31.29 to 31.49 do not apply to committal applications.

52.24

An order under Rule 19.1 may not be made against a respondent to a committal application.

52.25

A committal application may not be discontinued without the permission of the Court .

52.26

The Court may waive any procedural defect in the commencement or conduct of a committal application if satisfied that no injustice has been caused to the respondent by the defect.

Hearings of applications to commit 52.27 - 52.31

52.27

A committal application should normally be heard in public.

52.28

The Court hearing an application for an order of committal may sit in private in the following cases, that is to say:

(1) where the application arises out of proceedings relating to a person suffering or appearing to be suffering from mental disorder;

(2) where the application arises out of proceedings in which a secret process, discovery or invention was in issue; or

(3) where it appears to the Court that in the interests of the administration of justice or for reasons of national security the application should be heard in private.

52.29

If the Court hearing an application in private by virtue of Rule 52.28 decides to make an order of committal against the person sought to be committed, it shall state in public:

(1) the name of the respondent;

(2) in general terms the nature of the contempt or contempts found proved; and

(3) the penalty (if any) imposed.

52.30

Except with the permission of the Court hearing an application for an order of committal, no grounds shall be relied upon at the hearing except the grounds set out in the claim form or application notice .

52.31

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.

Power to suspend execution of committal order 52.32 - 52.33

52.32

The Court may by order direct that the execution of the order of committal shall be suspended for such period or on such terms or conditions as it may specify.

52.33

Where execution of an order of committal is suspended by an order under Rule 52.32, 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 order under that Rule.

Contempt in the face of the Court 52.34 - 52.36

52.34

Where the committal application relates to a contempt in the face of the Court the following matters should be given particular attention. Normally, it will be appropriate to defer consideration of the behaviour to allow the respondent time to reflect on what has occurred. The time needed for the following procedures should allow for such a period of reflection.

52.35

A Part 8 claim form and an application notice are not required for committal for contempt in the face of the Court , but other provisions of this Part should be applied, as necessary, or adapted to the circumstances. In addition the Judge should:

(1) tell the respondent of the possible penalty he faces;

(2) inform the respondent in detail, and preferably in writing, of the actions and behaviour of the respondent which have given rise to the committal application;

(3) if he considers that an apology would remove the need for the committal application, tell the respondent;

(4) have regard to the need for the respondent to be:

(a) allowed a reasonable time for responding to the committal application, including, if necessary, preparing a defence;

(b) given the opportunity, if unrepresented, to obtain legal advice;

(c) if unable to understand English, allowed to make arrangements, seeking the Court’s assistance if

necessary, for an interpreter to attend the hearing; and

(d) brought back before the Court for the committal application to be heard within a reasonable time;

(5) allow the respondent an opportunity to:

(a) apologise to the Court ;

(b) explain his actions and behaviour; and

(c) if the contempt is proved, address the Court on the penalty to be imposed on him;

(6) if there is a risk of the appearance of bias, ask another Judge to hear the committal application; and

(7) where appropriate, nominate a suitable person to give the respondent the information.

(It is likely to be appropriate to nominate a person where the effective communication of information by the Judge to the respondent was not possible when the incident occurred).

52.36

Where the committal application is to be heard by another Judge , a written statement by the Judge before whom the actions and behaviour of the respondent which have given rise to the committal application took place may be submitted as evidence of those actions and behaviour.

Saving for other powers 52.37

52.37

Nothing in this Part shall be taken as affecting the power of the Court:

(1) to make an order referring the matter to the Attorney General of Dubai; or

(2) to make any other order it considers necessary in the interests of justice (including the giving security for his good behaviour), pursuant to Article 43 of the Court Law 2004; or

(3) to make an order requiring a person guilty of contempt of Court , or a person punishable by virtue of any enactment in like manner as if he had been guilty of contempt of Court , to pay a fine or to give security for his good behaviour;

and the provisions of this Part, so far as applicable, and with the necessary modifications, shall apply

in relation to an application for such an order as they apply in relation to an application for an order of committal.

Appendix A