

# PRACTICE DIRECTION - COURT DOCUMENTS

## THIS PRACTICE DIRECTION SUPPLEMENTS CPR PART 5

### Signature of Documents by mechanical means

- 1 Where, under rule 5.3, a replica signature is printed electronically or by other mechanical means on any document, the name of the person whose signature is printed must also be printed so that the person may be identified. This paragraph does not apply to claim forms issued through the Claims Production Centre.

### Form of Documents

- 2.1 Statements of case and other documents drafted by a legal representative should bear his/her signature and if they are drafted by a legal representative as a member or employee of a firm they should be signed in the name of the firm.
- 2.2 Every document prepared by a party for filing or use at the Court must
  - (1) Unless the nature of the document renders it impracticable, be on A4 paper of durable quality having a margin, not less than 3.5 centimetres wide,
  - (2) be fully legible and should normally be typed,
  - (3) where possible be bound securely in a manner which would not hamper filing or otherwise each page should be endorsed with the case number,
  - (4) have the pages numbered consecutively,
  - (5) be divided into numbered paragraphs,
  - (6) have all numbers, including dates, expressed as figures, and
  - (7) give in the margin the reference of every document mentioned that has already been filed.
- 2.3 A document which is a copy produced by a colour photostat machine or other similar device may be filed at the court office provided that the coloured date seal of the Court is not reproduced on the copy.

### Supply of Documents to New Parties

- 3.1 Where a party is joined to existing proceedings, the party joined shall be entitled to require the party joining him to supply, without charge, copies of all statements of case, written evidence and any documents appended or exhibited to them which have been served in the proceedings by or upon the

joining party which relate to any issues between the joining party and the party joined, and copies of all orders made in those proceedings. The documents must be supplied within 48 hours after a written request for them is received.

- 3.2 If the party joined is not supplied with copies of the documents requested under paragraph 3.1 within 48 hours, he may apply under Part 23 for an order that they be supplied.
- 3.3 The party by whom a copy is supplied under paragraph 3.1 or, if he is acting by a solicitor, his solicitor, shall be responsible for it being a true copy.

### **Supply of documents from court records**

- 4.1 Where a person makes a search for the documents mentioned in CPR rule 5.4(2), that search may be conducted by means of a computer, if the court office has a computer with the appropriate search facility.
- 4.2 When the document searched for under CPR rule 5.4(2) is identified and upon payment of the prescribed fee, the document will be produced for inspection by a member of the Court staff.
- 4.3 If, in the course of a computer search, the computer identifies documents held on the Court file, other than those which the person searching is entitled to inspect, that person may not, without the Court's permission, inspect, take a copy or make any note of, or relating to, those documents.
- 4.4 An application for inspection of a document under CPR rule 5.4(2)(c), even if made without notice, must be made under CPR Part 23 and the application notice must identify the document in respect of which permission is sought and the grounds relied upon.
- 4.5 CPR rules 5.4(2) and 5.4(3) do not apply to proceedings in a county court. (It is intended that these rules will be applied to county courts once the facilities for a computer search have been installed.)

### **Documents for Filing at Court**

- 5.1 The date on which a document was filed at court must be recorded on the document. This may be done by a seal or a receipt stamp.
- 5.2 Particulars of the date of delivery at a court office of any document for filing and the title of the proceedings in which the document is filed shall be entered in court records, on the court file or on a computer kept in the court office for the purpose. Except where a document has been delivered at the court office through the post, the time of delivery should also be recorded.
- 5.3 Filing by Facsimile
  - (1) Subject to paragraph (6) below, a party may file a document at court by sending it by facsimile ("fax").

- (2) Where a document is filed by fax, the party filing it is not required in addition to send the court a copy by post or document exchange.
  - (3) A party filing a document by fax should be aware that the document is not filed at court until it is delivered by the court's fax machine, whatever time it is shown to have been transmitted from the party's machine.
  - (4) The time of delivery of the faxed document will be recorded on it in accordance with paragraph 5.2.
  - (5) It remains the responsibility of the party to ensure that the document is delivered to the court in time.
  - (6) If a fax is delivered after 4pm it will be treated as filed on the next day the court office is open.
  - (7) If a fax relates to a hearing, the date and time of the hearing should be prominently displayed.
  - (8) Fax should not be used to send letters or documents of a routine or non-urgent nature.
  - (9) Fax should not be used, except in an unavoidable emergency, to deliver:
    - (a) a document which attracts a fee
    - (b) a Part 36 payment notice
    - (c) a document relating to a hearing less than two hours ahead
    - (d) trial bundles or skeleton arguments
  - (10) Where (9)(a) or (b) applies, the fax should give an explanation for the emergency and include an undertaking that the fee or money has been dispatched that day by post or will be paid at the court office counter the following business day.
  - (11) Where courts have several fax machines, each allocated to an individual section, fax messages should only be sent to the machine of the section for which the message is intended.
- 5.4 Where the Court orders any document to be lodged in Court, the document must, unless otherwise directed, be deposited in the office of that Court.
- 5.5 A document filed, lodged or held in any court office shall not be taken out of that office without the permission of the Court unless the document is to be sent to the office of another court (for example under CPR Part 30 (Transfer)), except in accordance with CPR rule 39.7 (impounded documents) or in accordance with paragraph 5.5 below.
- 5.6 (1) Where a document filed, lodged or held in a court office is required to be produced to any Court, Tribunal or arbitrator, the document may be produced by sending it by registered post (together with a Certificate as in paragraph 5.6(8)(b)) to the Court, Tribunal or arbitrator in accordance with the provisions of this paragraph.

- (2) Any Court, Tribunal or arbitrator or any party requiring any document filed, lodged or held in any court office to be produced must apply to that court office by sending a completed request (as in paragraph 5.5 (8)(a)), stamped with the prescribed fee.
- (3) On receipt of the request the court officer will submit the same to a Master in the Royal Courts of Justice or to a District Judge elsewhere, who may direct that the request be complied with. Before giving a direction the Master or District Judge may require to be satisfied that the request is made in good faith and that the document is required to be produced for the reasons stated. The Master or District Judge giving the direction may also direct that, before the document is sent, an official copy of it is made and filed in the court office at the expense of the party requiring the document to be produced.
- (4) On the direction of the Master or District Judge the court officer shall send the document by registered post addressed to the Court, Tribunal or arbitrator, with:
  - (a) an envelope stamped and addressed for use in returning the document to the court office from which it was sent;
  - (b) a Certificate as in paragraph 5.6(8)(b);
  - (c) a covering letter describing the document, stating at whose request and for what purpose it is sent, referring to this paragraph of the Practice Direction and containing a request that the document be returned to the court office from which it was sent in the enclosed envelope as soon as the Court or Tribunal no longer requires it.
- (5) It shall be the duty of the Court, Tribunal or arbitrator to whom the document was sent to keep it in safe custody, and to return it by registered post to the court office from which it was sent, as soon as the Court, Tribunal or arbitrator no longer requires it.
- (6) In each court office a record shall be kept of each document sent and the date on which it was sent and the Court, Tribunal or arbitrator to whom it was sent and the date of its return. It shall be the duty of the court officer who has signed the certificate referred to in para 5.6(8)(b) below to ensure that the document is returned within a reasonable time and to make inquiries and report to the Master or District Judge who has given the direction under paragraph (3) above if the document is not returned, so that steps may be taken to secure its return.
- (7) Notwithstanding the preceding paragraphs, the Master or District Judge may direct a court officer to attend the Court, Tribunal or arbitrator for the purpose of producing the document.

- (8) (a) I, \_\_\_\_\_ of \_\_\_\_\_, an officer of the \_\_\_\_\_ Court/Tribunal at \_\_\_\_\_ /an arbitrator of \_\_\_\_\_ /the Claimant /Defendant /Solicitor for the Claimant/ Defendant *[describing the Applicant so as to show that he is a proper person to make the request]* in the case of \_\_\_\_\_ v. \_\_\_\_\_ [19 No.]

REQUEST that the following document [or documents] be produced to the Court /Tribunal/arbitrator on the day of 19 [and following days] and I request that the said document [or documents] be sent by registered post to the proper officer of the Court/Tribunal/arbitrator for production to that Court/ Tribunal/arbitrator on that day.

(Signed).

Dated the day of 1999/2 \_\_\_\_\_.

- (b) I, A.B., an officer of the \_\_\_\_\_ Court \_\_\_\_\_ of \_\_\_\_\_ certify that the document sent herewith for production to the Court/ Tribunal/arbitrator on the \_\_\_\_\_ day of \_\_\_\_\_ 1999/2 \_\_\_\_\_ in the case of \_\_\_\_\_ v. \_\_\_\_\_ and marked "A.B." is the document requested on the \_\_\_\_\_ day of \_\_\_\_\_ 1999/2 \_\_\_\_\_ and I FURTHER CERTIFY that the said document has been filed in and is produced from the custody of the Court.

(Signed)

Dated the day of 1999/2 \_\_\_\_\_.

## **Enrolment of Deeds and other Documents**

- 6.1 (1) Any deed or document which by virtue of any enactment is required or authorised to be enrolled in the Supreme Court may be enrolled in the Central Office of the High Court.
- (2) Attention is drawn to the Enrolment of Deeds (Change of Name) Regulations 1994 which are reproduced in the Appendix to this Practice Direction.
- 6.2 The following paragraph of the Practice Direction describes the practice to be followed in any case in which a child's name is to be changed and to which the 1994 Regulations apply.
- 6.3 (1) Where a person has by any order of the High Court, County Court or Family Proceedings Court been given parental responsibility for a child and applies to the Central Office, Filing Department, for the enrolment of a Deed Poll to change the surname (family name) of a child who is under the age of 18 years (unless a child who is or has been married), the application must be supported by the production of the consent in writing of every other person having parental responsibility.
- (2) In the absence of that consent, the application will be adjourned generally unless and until permission is given in the proceedings, in which the said order was made, to change the surname of the child and the permission is produced to the Central Office.

- (3) Where an application is made to the Central Office by a person who has not been given parental responsibility for a child by any order of the High Court, County Court or Family Proceedings Court for the enrolment of a Deed Poll to change the surname of the child who is under the age of 18 years (unless the child is or has been married), permission of the Court to enrol the Deed will be granted if the consent in writing of every person having parental responsibility is produced or if the person (or, if more than one, persons) having parental responsibility is dead or overseas or despite the exercise of reasonable diligence it has not been possible to find him or her for other good reason.
- (4) In cases of doubt the Senior Master or, in his absence, the Practice Master will refer the matter to the Master of the Rolls.
- (5) In the absence of any of the conditions specified above the Senior Master or the Master of the Rolls, as the case may be, may refer the matter to the Official Solicitor for investigation and report.

## APPENDIX

Regulations made by the Master of the Rolls, Sir Thomas Bingham M.R. on March 3, 1994 (S.I. 1994 No.604) under s.133(1) of the Supreme Court Act 1981.

- 1
  - (1) These regulations may be cited as the Enrolment of Deeds (Change of Name) Regulations 1994 and shall come into force on April 1, 1994.
  - (2) These Regulations shall govern the enrolment in the Central Office of the Supreme Court of deeds evidencing change of name (referred to in these Regulations as “deeds poll”).
- 2
  - (1) A person seeking to enrol a deed poll (“the applicant”) must be a Commonwealth citizen as defined by section 37(1) of the British Nationality Act 1981.
  - (2) If the applicant is a British citizen, a British Dependent Territories citizen or a British Overseas citizen, he must be described as such in the deed poll, which must also specify the section of the British Nationality Act under which the relevant citizenship was acquired.
  - (3) In any other case, the applicant must be described as a Commonwealth citizen.
  - (4) The applicant must be described in the deed poll as single, married, widowed or divorced.
- 3
  - (1) As proof of the citizenship named in the deed poll, the applicant must produce
    - (a) a certificate of birth; or
    - (b) a certificate of citizenship by registration or naturalisation or otherwise; or

- (c) some other document evidencing such citizenship.
- (2) In addition to the documents set out in paragraph (1), an applicant who is married must
  - (a) produce his certificate of marriage; and
  - (b) show that the notice of his intention to apply for the enrolment of the deed poll had been given to his spouse by delivery or by post to his spouse's last known address; and
  - (c) show that he has obtained the consent of his spouse to the proposed change of name or that there is good reason why such consent should be dispensed with.
- 4
  - (1) The deed poll and the documents referred to in regulation 3 must be exhibited to a statutory declaration by a Commonwealth citizen who is a householder in the United Kingdom and who must declare that he is such in the statutory declaration.
  - (2) The statutory declaration must state the period, which should ordinarily not be less than 10 years, during which the householder has known the applicant and must identify the applicant as the person referred to in the documents exhibited to the statutory declaration.
  - (3) Where the period mentioned in paragraph (2) is stated to be less than 10 years, the Master of the Rolls may in his absolute discretion decide whether to permit the deed poll to be enrolled and may require the applicant to provide more information before so deciding.
- 5 If the applicant is resident outside the United Kingdom, he must provide evidence that such residence is not intended to be permanent and the applicant may be required to produce a certificate by a solicitor as to the nature and probable duration of such residence.
- 6 The applicant must sign the deed poll in both his old and new names.
- 7 Upon enrolment the deed poll shall be advertised in the London Gazette by the clerk in charge for the time being of the Filing and Record Department at the Central Office of the Supreme Court.
- 8
  - (1) Subject to the following provisions of this regulation, these Regulations shall apply in relation to a deed poll evidencing the change of name of a child as if the child were the applicant.
  - (2) Paragraphs (3) to (8) shall not apply to a child who has attained the age of 16, is female and is married.
  - (3) If the child is under the age of 16, the deed poll must be executed by a person having parental responsibility for him.

- (4) If the child has attained the age of 16, the deed poll must, except in the case of a person mentioned in paragraph (2), be executed by a person having parental responsibility for the child and be endorsed with the child's consent signed in both his old and new names and duly witnessed.
  - (5) The application for enrolment must be supported
    - (a) by an affidavit showing that the change of name is for the benefit of the child, and
      - (i) that the application is submitted by all persons having parental responsibility for the child; or
      - (ii) that it is submitted by one person having parental responsibility for the child with the consent of every other person; or
      - (iii) that it is submitted by one person having parental responsibility for the child without the consent of every other such person, or by some other person whose name and capacity are given, for reasons set out in the affidavit; and
    - (b) by such other evidence, if any, as the Master of the Rolls may require in the particular circumstances of the case.
  - (6) Regulation 4(2) shall not apply but the statutory declaration mentioned in regulation 4(1) shall state how long the householder has known the deponent under paragraph (5)(a) and the child respectively.
  - (7) Regulation 6 shall not apply to a child who has not attained the age of 16.
  - (8) In this regulation "parental responsibility" has the meaning given in section 3 of the Children Act 1989.
- 9 The Enrolment of Deeds (Change of Name) Regulations 1983 and the Enrolment of Deeds (Change of Name) (Amendment) Regulations 1990 are hereby revoked.