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STATUTORY INSTRUMENTS

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**1998 No. 3132**

The Civil Procedure Rules 1998

[<sup>F1</sup>PART 81

APPLICATIONS AND PROCEEDINGS IN  
RELATION TO CONTEMPT OF COURT

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**Textual Amendments**

**F1** Pt. 81 inserted (1.10.2012) by [The Civil Procedure \(Amendment No.2\) Rules 2012 \(S.I. 2012/2208\)](#), rules 1, 16, [Sch.](#) (with rule 20)

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*SECTION 1*

*Scope and interpretation*

**Scope**

**81.1.**—(1) This Part sets out the procedure in respect of—

- (a) contempt of court; and
- (b) the penal, contempt and disciplinary provisions of the County Courts Act 1984.

(2) So far as applicable, and with the necessary modifications, this Part applies in relation to an order requiring a person—

- (a) guilty of contempt of court; or
- (b) punishable by virtue of any enactment as if that person had been guilty of contempt of the High Court,

to pay a fine or to give security for good behaviour, as it applies in relation to an order of committal.

(3) Unless otherwise stated, this Part applies to procedure in the Court of Appeal, the High Court and [F2the County Court] .

**Textual Amendments**

**F2** Words in [Rules](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), [4\(a\)\(iii\)](#); S.I. 2014/954, art. 2(a)

**Saving for other powers**

**81.2.**—(1) This Part is concerned only with procedure and does not itself confer upon the court the power to make an order for—

- (a) committal;
- (b) sequestration; or
- (c) the imposition of a fine in respect of contempt of court.

(2) Nothing in this Part affects the power of the court to make an order requiring a person—

- (a) guilty of contempt of court; or

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The Civil Procedure Rules 1998, PART 81. (See end of Document for details)*

(b) punishable by virtue of any enactment as if that person had been guilty of contempt of the High Court,  
to pay a fine or to give security for good behaviour.

(3) Nothing in this Part affects any statutory or inherent power of the court to make a committal order of its own initiative against a person guilty of contempt of court.

## **Interpretation**

**81.3.** In this Part—

“applicant” means a person making—

- (i) an application for permission to make a committal application;
- (ii) a committal application; or
- (iii) an application for a writ of sequestration;

“committal application” means any application for an order committing a person to prison;

“respondent” means a person—

- (i) against whom a committal application is made or is intended to be made; or
- (ii) against whose property it is sought to issue a writ of sequestration; and

“undertaking” means an undertaking to the court.

## *SECTION 2*

*Committal for breach of a judgment, order or undertaking to do or abstain from doing an act*

### **Enforcement of judgment, order or undertaking to do or abstain from doing an act**

**81.4.—(1)** If a person—

- (a) required by a judgment or order to do an act does not do it within the time fixed by the judgment or order; or
- (b) disobeys a judgment or order not to do an act,

then, subject to the Debtors Acts 1869 and 1878 and to the provisions of these Rules, the judgment or order may be enforced by an order for committal.

(2) If the time fixed by the judgment or order for doing an act has been varied by a subsequent order or agreement of the parties under rule 2.11, then references in paragraph (1)(a) to the time fixed are references to the time fixed by that subsequent order or agreement.

(3) If the person referred to in paragraph (1) is a company or other corporation, the committal order may be made against any director or other officer of that company or corporation.

(4) So far as applicable, and with the necessary modifications, this Section applies to undertakings given by a party as it applies to judgments or orders.

(Rules 81.17(3) and (4) make provision for cases in which both this Section and Section 6 (Committal for making a false statement of truth or disclosure statement) may be relevant.)

(5) If a judgment or order requires a person to deliver goods or pay their value—

- (a) the judgment or order may not be enforced by a committal order under paragraph (1);
- (b) the person entitled to enforce the judgment or order may apply to the court for an order requiring that the goods be delivered within a specified time; and
- (c) where the court grants such an order, that order may be enforced under paragraph (1).

[  
F3(6) Proceedings in the County Court (whether by way of an application or pursuant to the exercise of a power of arrest) to commit a person for breach of an injunction (or of an undertaking given instead of an injunction) may, save where any rule or practice direction provides otherwise, be dealt with by a District Judge.]

#### Textual Amendments

F3 Rule 81.4(6) inserted (1.10.2018) by The Civil Procedure (Amendment No. 3) Rules 2018 (S.I. 2018/975), rules 1(1), 7

### Requirement for service of a copy of the judgment or order and time for service

**81.5.**—(1) Unless the court dispenses with service under rule 81.8, a judgment or order may not be enforced under rule 81.4 unless a copy of it has been served on the person required to do or not do the act in question, and in the case of a judgment or order requiring a person to do an act—

- (a) the copy has been served before the end of the time fixed for doing the act, together with a copy of any order fixing that time;
- (b) where the time for doing the act has been varied by a subsequent order or agreement under rule 2.11, a copy of that subsequent order or agreement has also been served; and
- (c) where the judgment or order was made under rule 81.4(5), or was made pursuant to an earlier judgment or order requiring the act to be done, a copy of the earlier judgment or order has also been served.

(2) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the judgment or order must also be served on the respondent before the end of the time fixed for doing the act.

(3) Copies of the judgment or order and any orders or agreements fixing or varying the time for doing an act must be served in accordance with rule 81.6 or 81.7, or in accordance with an order for alternative service made under rule 81.8(2)(b).

### Method of service – copies of judgments or orders

**81.6.** Subject to rules 81.7 and 81.8, copies of judgments or orders and any orders or agreements fixing or varying the time for doing an act must be served personally.

### Method of service - copies of undertakings

**81.7.**—(1) Subject to paragraph (2) and rule 81.8, a copy of any document recording an undertaking will be delivered by the court to the person who gave the undertaking—

- (a) by handing to that person a copy of the document before that person leaves the court building;
- (b) by posting a copy to that person at the residence or place of business of that person where this is known; or
- (c) by posting a copy to that person's solicitor.

(2) If delivery cannot be effected in accordance with paragraph (1), the court officer will deliver a copy of the document to the party for whose benefit the undertaking was given and that party must serve it personally on the person who gave the undertaking as soon as practicable.

(3) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the judgment or order must also be served on the respondent.

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### Dispensation with personal service

**81.8.**—(1) In the case of a judgment or order requiring a person not to do an act, the court may dispense with service of a copy of the judgment or order in accordance with rules 81.5 to 81.7 if it is satisfied that the person has had notice of it—

- (a) by being present when the judgment or order was given or made; or
- (b) by being notified of its terms by telephone, email or otherwise.

(2) In the case of any judgment or order the court may—

- (a) dispense with service under rules 81.5 to 81.7 if the court thinks it just to do so; or
- (b) make an order in respect of service by an alternative method or at an alternative place.

### Requirement for a penal notice on judgments and orders

**81.9.**—(1) Subject to paragraph (2), a judgment or order to do or not do an act may not be enforced under rule 81.4 unless there is prominently displayed, on the front of the copy of the judgment or order served in accordance with this Section, a warning to the person required to do or not do the act in question that disobedience to the order would be a contempt of court punishable by imprisonment, a fine or sequestration of assets.

[<sup>F4</sup>(2) The following may be enforced under rule 81.4 notwithstanding that they do not contain the warning described in paragraph (1)—

- (a) an undertaking to do or not do an act which is contained in a judgment or order; and
- (b) an incoming protection measure.]

[<sup>F5</sup>(3) In this rule, “incoming protection measure” has the meaning given to it in rule 74.34(1).]

#### Textual Amendments

- F4** Rule 81.9(2) substituted (11.1.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(b), **14(a)**
- F5** Rule 81.9(3) inserted (11.1.2015) by [The Civil Procedure \(Amendment No. 8\) Rules 2014 \(S.I. 2014/3299\)](#), rules 2(b), **14(b)**

### How to make the committal application

**81.10.**—(1) A committal application is made by an application notice under Part 23 in the proceedings in which the judgment or order was made or the undertaking was given.

(2) Where the committal application is made against a person who is not an existing party to the proceedings, it is made against that person by an application notice under Part 23.

(3) The application notice must—

- (a) 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; and
- (b) be supported by one or more affidavits containing all the evidence relied upon.

(4) Subject to paragraph (5), the application notice and the evidence in support must be served personally on the respondent.

(5) The court may—

- (a) dispense with service under paragraph (4) if it considers it just to do so; or

- (b) make an order in respect of service by an alternative method or at an alternative place.

### Committal for breach of a solicitor's undertaking

**81.11.**—(1) The applicant must obtain permission from the court before making a committal application under this rule.

(2) The application for permission must be made by filing an application notice under Part 23.

(3) The application for permission must be supported by an affidavit setting out—

- (a) the name, description and address of the respondent; and  
(b) the grounds on which the committal order is sought.

(4) The application for permission may be made without notice.

(5) Rules 23.9 and 23.10 do not apply.

(6) Unless the applicant makes the committal application within 14 days after permission has been granted under this rule, the permission will lapse.

## SECTION 3

### *Committal for interference with the due administration of justice*

#### Scope

**81.12.**—(1) This Section regulates committal applications in relation to interference with the due administration of justice in connection with proceedings—

- (a) in the High Court;  
(b) in a Divisional Court;  
(c) in the Court of Appeal;  
(d) in an inferior court (which includes [<sup>F6</sup>the County Court]); or  
(e) which are criminal proceedings,

except where the contempt is committed in the face of the court or consists of disobedience to an order of the court or a breach of an undertaking to the court.

(2) This Section also regulates committal applications otherwise than in connection with any proceedings.

(3) A committal application under this Section may not be made without the permission of the court.

(The procedure for applying for permission to make a committal application is set out in rule 81.14.)

(Rules 81.17(5) and (6) make provision for cases in which both this Section and Section 6 (Committal for making a false statement of truth or disclosure statement) may be relevant.)

#### Textual Amendments

- F6** Words in [Rules](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014](#) (S.I. 2014/407), [rules 2\(1\)](#), [4\(a\)\(i\)](#); S.I. 2014/954, [art. 2\(a\)](#)

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### **Court to which application for permission under this Section is to be made**

**81.13.**—(1) Where contempt of court is committed in connection with any proceedings—

- (a) in the High Court (other than proceedings in a Divisional Court), the application for permission may be made only to a single judge of the Division of the High Court in which the proceedings were commenced or to which they have subsequently been transferred;
- (b) in a Divisional Court, the application for permission may be made only to a single judge of the Queen’s Bench Division;
- (c) in the Court of Appeal, the application for permission may be made only to a Divisional Court of the Queen’s Bench Division;
- (d) in an inferior court, the application for permission may be made only to a single judge of the [F7High Court]; and
- (e) which are criminal proceedings, the application for permission may be made only to a Divisional Court of the Queen’s Bench Division.

(2) Where contempt of court is committed otherwise than in connection with any proceedings, the application for permission may be made only to the Administrative Court.

#### **Textual Amendments**

- F7** Words in [rule 81.13\(1\)\(d\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), [rules 1, 12](#) (with [rule 25](#))

### **Application for permission (High Court, Divisional Court or Administrative Court)**

**81.14.**—(1) The application for permission to make a committal application must be made by a Part 8 claim form which must include or be accompanied by—

- (a) a detailed statement of the applicant’s grounds for bringing the committal application; and
- (b) an affidavit setting out the facts and exhibiting all documents relied upon.

(2) The claim form and the documents referred to in paragraph (1) must be served personally on the respondent unless the court otherwise directs.

(3) Within 14 days of service on the respondent of the claim form, the respondent—

- (a) must file and serve an acknowledgment of service; and
- (b) may file and serve evidence.

(4) The court will consider the application for permission at an oral hearing, unless it considers that such a hearing is not appropriate.

(5) If the respondent intends to appear at the permission hearing referred to in paragraph (4), the respondent must give 7 days’ notice in writing of such intention to the court and any other party and at the same time provide a written summary of the submissions which the respondent proposes to make.

(6) Where permission to proceed is given, the court may give such directions as it thinks fit, and may—

- (a) transfer the proceedings to another court; or
- (b) direct that the application be listed for hearing before a single judge or a Divisional Court.



#### SECTION 4

(1) *Certifications by any court, tribunal etc to the High Court under any enactment;  
and (2) Applications to the High Court under section 336 of the Charities Act 2011*

#### **Certifications of conduct, and applications under section 336 of the Charities Act 2011, to the High Court under this Section**

**81.15.**—(1) This Section applies where, by virtue of any enactment, the High Court has power to punish or take steps for the punishment of any person charged with having done or omitted to do anything in relation to a court, tribunal [<sup>F8</sup>, body] or person which, if it had been an act or omission in relation to the High Court, would have been a contempt of that court.

(2) Subject to paragraph (3), an order under this Section may be made by a single judge of the Administrative Court.

(3) An order made on an application under section 336 of the Charities Act 2011 (“a section 336 application”) may be made only by a single judge of the Chancery Division.

(4) The certification or section 336 application, as appropriate, must be in the form annexed to Practice Direction 81 at Annex A, and include or be accompanied by—

- (a) a detailed statement of the grounds for the certification or section 336 application;
- (b) any written evidence relied upon; and
- (c) any other documents required for the disposal of the certification or section 336 application.

(5) Subject to paragraph (6), the certification or section 336 application, accompanied by the other documents referred to in paragraph (4), must be served personally on the respondent.

(6) The court may—

- (a) dispense with service under paragraph (5) if it thinks it just to do so; or
- (b) make an order in respect of service by an alternative method or at an alternative place.

(7) Within 14 days of service on the respondent of the certification or section 336 application, the respondent—

- (a) must file and serve an acknowledgment of service in the form annexed to Practice Direction 81 at Annex B; and
- (b) may file and serve evidence.

#### **Textual Amendments**

**F8** Word in rule 81.15(1) inserted (1.10.2014) by [The Civil Procedure \(Amendment No. 6\) Rules 2014](#) (S.I. 2014/2044), rules 2, 12

#### SECTION 5

#### *Contempt in the face of the court*

#### **Committal for contempt in the face of the court**

**81.16.**—(1) Where—

- (a) contempt has occurred in the face of the court; and
- (b) that court has power to commit for contempt,

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the court may deal with the matter of its own initiative and give such directions as it thinks fit for the disposal of the matter.

## SECTION 6

*Committal for making a false statement of truth (rule 32.14) or disclosure statement (rule 31.23)*

### Scope and interaction with other Sections of this Part

**81.17.**—(1) This Section contains rules about committal applications in relation to making, or causing to be made—

- (a) a false statement in a document verified by a statement of truth; or
- (b) a false disclosure statement,

without an honest belief in its truth.

(2) Where the committal application relates only to a false statement of truth or disclosure statement, this Section applies.

(3) Where the committal application relates to both—

- (a) a false statement of truth or disclosure statement; and
- (b) breach of a judgment, order or undertaking to do or abstain from doing an act,

Section 2 (Committal for breach of a judgment, order or undertaking to do or abstain from doing an act) applies, but subject to paragraph (4).

(4) To the extent that a committal application referred to in paragraph (3) relates to a false statement of truth or disclosure statement—

- (a) the applicant must obtain the permission of the court in accordance with rule 81.18; or
- (b) the court may direct that the matter be referred to the Attorney General with a request that the Attorney General consider whether to bring proceedings for contempt of court.

(5) Where the committal application relates to both—

- (a) a false statement of truth or disclosure statement; and
- (b) other interference with the due administration of justice,

Section 3 (Committal for interference with the due administration of justice) applies, but subject to paragraph (6).

(6) To the extent that a committal application referred to in paragraph (5) relates to a false statement of truth or disclosure statement, the court may direct that the matter be referred to the Attorney General with a request that the Attorney General consider whether to bring proceedings for contempt of court.

### Committal application in relation to a false statement of truth or disclosure statement

**81.18.**—(1) A committal application in relation to a false statement of truth or disclosure statement in connection with proceedings in the High Court, a Divisional Court or the Court of Appeal, may be made only—

- (a) with the permission of the court dealing with the proceedings in which the false statement or disclosure statement was made; or
- (b) by the Attorney General.

(2) Where permission is required under paragraph (1)(a), rule 81.14 applies as if the reference in that rule to a Part 8 claim form were a reference to a Part 23 application notice and the references to the claim form were references to the Part 23 application notice.

(3) A committal application in relation to a false statement of truth or disclosure statement in connection with proceedings in [F6the County Court] may be made only—

- (a) with the permission of a single judge of the [F9High Court]; or
- (b) by the Attorney General.

(4) Where permission is required under paragraph (3)(a) rule 81.14 applies without the modifications referred to in paragraph (2).

(Under rule 81.14(6)(b), the court granting permission may direct that the application be listed for hearing before a single judge or a Divisional Court.)

(5) The court may direct that the matter be referred to the Attorney General with a request that the Attorney General consider whether to bring proceedings for contempt of court.

(6) Where the committal application is made by the Attorney General, the application may be made to a single judge or a Divisional Court of the Queen's Bench Division.

#### Textual Amendments

- F6** Words in [Rules](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)
- F9** Words in [rule 81.18\(3\)\(a\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), rules 1, **13** (with [rule 25](#))

## SECTION 7

### *Writ of sequestration to enforce a judgment, order or undertaking*

#### Scope

**81.19.** This Section contains rules about applications to the High Court for a writ of sequestration to enforce a judgment, order or undertaking.

#### Writ of sequestration to enforce a judgment, order or undertaking

**81.20.—**(1) If—

- (a) a person required by a judgment or order to do an act does not do it within the time fixed by the judgment or order; or
- (b) a person disobeys a judgment or order not to do an act,

then, subject to the provisions of these Rules and if the court permits, the judgment or order may be enforced by a writ of sequestration against the property of that person.

(2) If the time fixed by the judgment or order for doing an act has been varied by a subsequent order or agreement of the parties under rule 2.11, references in paragraph (1)(a) to the time fixed are references to the time fixed by that subsequent order or agreement.

(3) If the person referred to in paragraph (1) is a company or other corporation, the writ of sequestration may in addition be issued against the property of any director or other officer of that company or corporation.

(4) So far as applicable, and with the necessary modifications, this Section applies to undertakings given by a party as it applies to judgments or orders.

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The Civil Procedure Rules 1998, PART 81. (See end of Document for details)*

### **Requirement for service of a copy of the judgment or order and time for service**

**81.21.**—(1) Unless the court dispenses with service under rule 81.24, a judgment or order may not be enforced by writ of sequestration unless a copy of it has been served on the person required to do or not do the act in question, and in the case of a judgment or order requiring a person to do an act—

- (a) the copy has been served before the end of the time fixed for doing the act, together with a copy of any order fixing that time;
- (b) where the time for doing the act has been varied by a subsequent order or agreement under rule 2.11, a copy of that subsequent order or agreement has also been served; and
- (c) where the judgment or order was made under rule 81.4(5), or was made pursuant to an earlier judgment or order requiring the act to be done, a copy of the earlier judgment or order has also been served.

(2) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the judgment or order must also be served on the respondent before the end of the time fixed for doing the act.

(3) Copies of the judgment or order and any orders or agreements fixing or varying the time for doing an act must be served in accordance with rule 81.22 or 81.23, or in accordance with an order for alternative service made under rule 81.24(2)(b).

### **Method of service – copies of judgments or orders**

**81.22.** Subject to rules 81.23 and 81.24, copies of judgments or orders and any orders or agreements fixing or varying the time for doing an act must be served personally.

### **Method of service - copies of undertakings**

**81.23.**—(1) Subject to paragraph (2) and rule 81.24, a copy of any document recording an undertaking will be delivered by the court to the person who gave the undertaking—

- (a) by handing to that person a copy of the document before that person leaves the court building;
- (b) by posting a copy to that person at the residence or place of business of that person where this is known; or
- (c) by posting a copy to that person's solicitor.

(2) If delivery cannot be effected in accordance with paragraph (1), the court officer will deliver a copy of the document to the party for whose benefit the undertaking was given and that party must serve it personally on the person who gave the undertaking as soon as practicable.

(3) Where the person referred to in paragraph (1) is a company or other corporation, a copy of the judgment or order must also be served on the respondent.

### **Dispensation with personal service**

**81.24.**—(1) In the case of a judgment or order requiring a person not to do an act, the court may dispense with service of a copy of the judgment or order in accordance with rules 81.21 to 81.23 if it is satisfied that the person has had notice of it—

- (a) by being present when the judgment or order was given or made; or
- (b) by being notified of its terms by telephone, email or otherwise.

(2) In the case of any judgment or order the court may—

- (a) dispense with service under rules 81.21 to 81.23 if the court thinks it just to do so; or
- (b) make an order in respect of service by an alternative method or at an alternative place.

### Requirement for a penal notice on judgments and orders

**81.25.**—(1) Subject to paragraph (2), a judgment or order to do or not do an act may not be enforced by a writ of sequestration unless there is prominently displayed, on the front of the copy of the judgment or order served in accordance with this Section, a warning to the person required to do or not do the act in question that disobedience to the order would be a contempt of court punishable by imprisonment, a fine or sequestration of assets.

(2) An undertaking to do or not do an act which is contained in a judgment or order may be enforced by a writ of sequestration notwithstanding that the judgment or order does not contain the warning described in paragraph (1).

(Paragraphs 2.1 to 2.4 of the Practice Direction supplementing this Part and form N117 contain provisions about penal notices and warnings in relation to undertakings.)

### How to make an application for permission to issue a writ of sequestration

**81.26.**—(1) An application for permission to issue a writ of sequestration must be made—

- (a) to a single judge of the Division of the High Court in which the proceedings were commenced or to which they have subsequently been transferred; or
- (b) in any other case, to a single judge of the Queen’s Bench Division.

(2) An application for permission to issue a writ of sequestration must be made by filing an application notice under Part 23.

(3) The application notice must—

- (a) set out in full the grounds on which the 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; and
- (b) be supported by one or more affidavits containing all the evidence relied upon.

(4) Subject to paragraph (5), the application notice must be served personally on the respondent.

(5) The court may—

- (a) dispense with service under paragraph (4) if the court thinks it just to do so; or
- (b) make an order in respect of service by an alternative method or at an alternative place.

### Form of writ of sequestration

**81.27.** A writ of sequestration must be in Form No 67 as set out in Practice Direction 4.

## SECTION 8

### *General rules about committal applications, orders for committal and writs of sequestration*

#### The hearing

**81.28.**—(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 claim form or application notice; or
  - (ii) in relation to a committal application under Section 3 or 4, the statement of grounds required by rule 81.14(1)(a) (where not included in the claim form) or 81.15(4)(a); or

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The Civil Procedure Rules 1998, PART 81. (See end of Document for details)*

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- (b) any evidence unless it has been served in accordance with the relevant Section of this Part or the 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 oral 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.
- (5) If the court hearing an application in private decides to make a committal order against the respondent, it will 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.
 (Rule 39.2 contains provisions about hearings in private.)
- (6) 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.

#### **Power to suspend execution of a committal order**

- 81.29.**—(1) The court making the committal order may also order that its execution will be suspended for such period or on such terms or conditions as it 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**

- 81.30.**—(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**

- 81.31.**—(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—
- (a) a warrant of committal to which CCR Order 27 rule 8, or CCR Order 28 rule 4 or 14 relates; or
  - (b) an application made by the Official Solicitor acting with official authority for the discharge of a person in custody.
- (4) If the committal order is made in [<sup>F6</sup>the County Court] and—
- (a) does not direct that any application for discharge must be made to a judge; or
  - (b) was made by a [<sup>F10</sup>District Judge] under section 118 of the County Courts Act 1984,
- the application for discharge may be made to a [<sup>F10</sup>District Judge].
- (5) If the committal order is made in the High Court, the application for discharge may be made to a single judge of the Division in which the committal order was made.

#### Textual Amendments

- F6** Words in *Rules* substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), 4(a)(i); S.I. 2014/954, art. 2(a)
- F10** Words in *Rules* substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), 4(a)(iv); S.I. 2014/954, art. 2(a)

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

#### 81.32.—(1) 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 81.31(1), the court may discharge the respondent and give such directions for dealing with the property taken by the commissioners as it thinks fit.

## SECTION 9

### *Penal, contempt and disciplinary provisions under the County Courts Act 1984*

#### Scope

**81.33.—(1)** This Section applies to [<sup>F2</sup>County Court] only and contains rules in relation to the penal, contempt and disciplinary provisions of the County Courts Act 1984.

- (2) In this Section, “the Act” means the County Courts Act 1984.

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#### Textual Amendments

**F2** Words in *Rules* substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **4(a)(iii)**; S.I. 2014/954, art. 2(a)

#### Offences under sections 14, 92 or 118 of the Act

**81.34.**—(1) This rule applies where it is alleged that any person has committed an offence—

- (a) under section 14 of the Act, by assaulting an officer of the court acting in the execution of the officer’s duties;
- (b) under section 92 of the Act, by rescuing or attempting to rescue any goods seized in execution; or
- (c) under section 118 of the Act, by wilfully insulting a judge, juror, witness or any officer of the court or by wilfully interrupting the proceedings of [<sup>F6</sup>the County Court] or otherwise misbehaving in court,

and the alleged offender has not been taken into custody and brought before the court.

(2) The court will issue a summons, which must be served on the alleged offender personally not less than 7 days before the day of the hearing stated in the summons.

(3) Rule 81.30 applies, with the necessary modifications, where an order is made under section 14, 92 or 118 of the Act committing a person to prison.

#### Textual Amendments

**F6** Words in *Rules* substituted (22.4.2014) by *The Civil Procedure (Amendment) Rules 2014* (S.I. 2014/407), rules 2(1), **4(a)(i)**; S.I. 2014/954, art. 2(a)

#### Offences under section 124 of the Act

**81.35.** Where a complaint is made against [<sup>F11</sup>a person] under section 124 of the Act for having lost the opportunity of levying execution, the court will issue a summons, which must be served on the alleged offender personally not less than 7 days before the day of the hearing stated in the summons.

#### Textual Amendments

**F11** Words in *rule 81.35* substituted (22.4.2014) by *The Civil Procedure (Amendment No. 4) Rules 2014* (S.I. 2014/867), rules 1, **14** (with *rule 25*)

#### Notice to give evidence before or after a fine is imposed under section 55 of the Act

**81.36.**—(1) Before or after imposing a fine on any person under section 55 of the Act for disobeying a witness summons or refusing to be sworn or give evidence, the court may direct that notice be given to that person in accordance with paragraph (2).

(2) The notice must state that if the recipient of the notice can demonstrate any reason why a fine should not be or should not have been imposed, that person may give evidence—

- (a) by witness statement, affidavit or otherwise; and
- (b) on a day named in the notice.



### **Non-payment of fine**

**81.37.**—(1) If a fine is not paid in accordance with the order imposing it, the court officer will, as soon as reasonably possible, report the matter to a judge.

(2) Where by an order imposing a fine—

- (a) the amount of the fine is directed to be paid by instalments; and
- (b) default is made in the payment of any instalment,

the same proceedings may be taken as if default had been made in payment of the whole of the fine.

(3) If the court makes an order for payment of a fine to be enforced by warrant of [<sup>F12</sup>control], the order will be treated as an application to the court for the issue of the warrant at the time when the order was made.

#### **Textual Amendments**

**F12** Word in [rule 81.37\(3\)](#) substituted (22.4.2014) by [The Civil Procedure \(Amendment No. 4\) Rules 2014 \(S.I. 2014/867\)](#), [rules 1](#), [15](#) (with [rule 25](#))

### **Repayment of fine**

**81.38.** If a person pays a fine and later gives evidence to satisfy the court that, if the evidence had been given earlier, no fine or a smaller fine would have been imposed, the court may order the whole or part of the fine to be repaid.]

**Status:**

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**Changes to legislation:**

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