

PRACTICE DIRECTION 5A – COURT DOCUMENTS

This Practice Direction supplements CPR Part 5

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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.~~

~~1.1 Unless provided otherwise, where any of these Rules or any practice direction requires a signature, that requirement will be satisfied if the signature is applied by hand or by mechanical or electronic means.~~

~~1.2 Paragraph 1.1 is subject to any direction of the court that a document be provided in hard copy form.~~

~~1.3 A party who files a document other than in the form in which it was created must retain the original version.~~

~~(Section 7 of the Electronic Communications Act 2000 provides for the admissibility of electronic signatures and related certificates in legal proceedings.)~~

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 Registers of claims which have been issued are available for inspection at the following offices of the High Court at the Royal Courts of Justice:

- (1) the Central Office of the King's Bench Division;
- (2) Chancery Chambers;
- (3) the Admiralty and Commercial Court Registry.

4.2 No registers of claims are at present available for inspection in county courts or in district registries or other offices of the High Court.

4.2A A party to proceedings may, unless the court orders otherwise, obtain from the records of the court a copy of –

- (a) a certificate of suitability of a litigation friend;
- (b) a notice of funding;
- (c) a claim form or other statement of case together with any documents filed with or attached to or intended by the claimant to be served with such claim form;
- (d) an acknowledgment of service together with any documents filed with or attached to or intended by the party acknowledging service to be served with such acknowledgement of service;
- (e) a certificate of service, other than a certificate of service of an application notice or order in relation to a type of application mentioned in sub-paragraph (h)(i) or (ii);
- (f) a notice of non-service;
- (g) a directions questionnaire;
- (h) an application notice, other than in relation to –
- (i) an application by a solicitor for an order declaring that he has ceased to be the solicitor acting for a party; or
- (ii) an application for an order that the identity of a party or witness should not be disclosed;
- (i) any written evidence filed in relation to an application, other than a type of application mentioned in sub-paragraph (h)(i) or (ii);
- (j) a judgment or order given or made in public (whether made at a hearing or without a hearing);
- (k) a statement of costs;
- (l) a list of documents;
- (m) a notice of payment into court;
- (n) a notice of discontinuance;
- (o) a notice of change; or
- (p) an appellant's or respondent's notice of appeal.

4.3 An application under rule 5.4B(2), 5.4C(1B), 5.4C(2) or 5.4C(3)(b)(ii) for permission to obtain a copy of a document, even if made without notice, must be made under CPR Part 23 and the application notice must identify the document or class of document in respect of which permission is sought and the grounds relied upon.

4.4 An application under rule 5.4C(4) by a party or a person identified in a claim form must be made –

- (1) under CPR Part 23; and
- (2) to a Master or district judge, unless the court directs otherwise.

4.5

Rule 5.4B allows a person who is a party to proceedings to obtain copies of documents from court records. A person is a party to proceedings who has been named as a party on a statement of case irrespective of whether they have been served with that statement of case.

Supply of documents from court records – statements of case filed before 2nd October 2006

4A.1 Rule 5.4C(1A) provides that the rules of court relating to access by a non-party to statements of case in force immediately before 2nd October 2006 apply to statements of case filed before that date as if they had not been revoked. For ease of reference, those rules are set out in the following paragraphs as they applied to statements of case, along with the relevant supplementary provisions previously contained in this practice direction.

4A.2 A person who is not a party to proceedings may –

- (1) unless the court orders otherwise, obtain from the records of the court a copy of a claim form, but not any documents filed with or attached to or intended by the claimant to be served with such claim form, subject to paragraph 4A.3 and to any order of the court under paragraph 4A.4; and
- (2) if the court gives permission, obtain from the records of the court a copy of any other statement of case.

4A.3 A person may obtain a copy of a claim form under paragraph 4A.2(1) only if –

- (1) where there is one defendant, the defendant has filed an acknowledgment of service or a defence;
- (2) where there is more than one defendant, either –
 - (a) all the defendants have filed an acknowledgment of service or a defence;
 - (b) at least one defendant has filed an acknowledgment of service or a defence, and the court gives permission;
- (3) the claim has been listed for a hearing; or
- (4) judgment has been entered in the claim.

4A.4 The court may, on the application of a party or any person identified in the claim form –

- (1) restrict the persons or classes of persons who may obtain a copy of the claim form;
- (2) order that persons or classes of persons may only obtain a copy of the claim form if it is edited in accordance with the directions of the court; or
- (3) make such other order as it thinks fit.

4A.5 A person wishing to obtain a copy of a document under paragraph 4A.2 must pay any prescribed fee and –

- (a) if the court's permission is required, file an application notice in accordance with Part 23; or
- (b) if permission is not required, file a written request for the document.

4A.6 An application for permission to obtain a copy of a statement of case, or for an order under paragraph 4A.4, may be made without notice, but the court may direct notice to be given to any person who would be affected by its decision.

4A.7 An application under paragraph 4A.3(2)(b) for permission to obtain a copy of a claim form must be made under Part 23.

4A.8 An application notice under paragraph 4A.2(2) or paragraph 4A.3(2)(b) must identify the document or class of document in respect of which permission is sought and the grounds relied upon.

4A.9 An application under paragraph 4A.4 by a party or a person identified in a claim form must be made –

- (a) under Part 23; and
- (b) to a Master or district judge, unless the court directs otherwise.

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 party files a document by fax, he must not send a hard copy in addition.
- (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 4 p.m. 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) omitted

(c) a document relating to a hearing less than two hours ahead

(d) trial bundles or skeleton arguments

(10) Where (9)(a) 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 appropriate 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 another court office (for example under CPR Part 30 (Transfer)), except in accordance with CPR rule 39.7 (impounded documents) or in accordance with paragraph 5.6 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 5.6(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 Senior Courts 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 or has formed a civil partnership), 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 or has formed a civil partnership), 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, divorced, a civil partner or former civil partner and, if a former civil partner, whether the civil partnership ended on death or dissolution.

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 or a civil partner must:

- (a) produce his certificate of marriage or civil partnership certificate; and
- (b) show that the notice of his intention to apply for the enrolment of the deed poll had been given to his spouse or civil partner by delivery or by post to his spouse's or civil partner's last known address; and

(c) show that he has obtained the consent of his spouse or civil partner 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 and is or has been married or a civil partner.

(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 a witness statement 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.