

RULE 59 – CONTEMPT OF COURT

Non-compliance with order

- (1) If an order or an order for the specific performance of a contract is not obeyed, the court, besides or instead of proceeding against the disobedient person for contempt, may direct that the act required to be done may be done so far as is practicable by the person who obtained the order, or some other person appointed by the court, at the cost of the disobedient person; and upon the act being done, the expenses incurred may be ascertained in the manner as the court may direct, and execution may issue for the amount so ascertained and costs.

Power of court to punish

- (2) The power of the court to punish contempt of court shall be exercised by imprisonment or by imposition of a fine or both.

Corporation in contempt

- (3) An order against a corporation wilfully disobeyed may be enforced by one or more of the following:
 - (a) imposition of a fine upon the corporation;
 - (b) imprisonment of one or more directors or officers of the corporation;
 - (c) imposition of a fine upon one or more directors or officers of the corporation.

Special costs

- (4) Instead of or in addition to making an order of imprisonment or imposing a fine, the court may order a person to give security for the person's good behaviour.

Certain acts as contempt

- (5) A person who is guilty of an act or omission described in Rule 2(5) or 42(22), in addition to being subject to any consequences prescribed by those rules, is guilty of contempt of court and subject to the court's power to punish contempt of court.

Apprehension of person

- (6) Where the court is of the opinion that a person may be guilty of contempt of court, it may order, by warrant in Form 62 directed to a sheriff or other officer of the court or to a peace officer, that the person be apprehended and brought before the court. On the person being brought before the court, the court in a summary manner may adjudge the innocence or guilt of the person and punish the person for the contempt, if any, or may give the directions it thinks fit for the determination of the person's innocence or guilt and punishment.

- (7) Where the court is of the opinion that a corporation may be guilty of contempt of court, it may order by its warrant in Form 62 directed to a sheriff or other officer of the court or to a peace officer, that any director, officer or employee of the corporation be apprehended and brought before the court. On the person being brought before the court, the court in a summary manner may adjudge the innocence or guilt of the corporation and punish the corporation for the contempt, if any, or may give the directions it thinks fit for the determination of its innocence or guilt and the punishment to be imposed.

Release of apprehended person

- (8) The court may order the release of a person apprehended under subrule (6) or (7) on receiving an undertaking in Form 63 from that person.

Order for release

- (9) A release order under subrule (8) shall be in Form 64.

Proceeding for contempt

- (10) A party taking proceedings for contempt shall serve the person alleged to be in contempt with a copy of the notice of application and all affidavits in support of it at least 7 days before the hearing of the application.
- (11) An application under subrule (10) shall be supported by affidavit setting out the conduct alleged to be contempt of court.

Hearing

- (12) The court may give directions as to the mode of hearing the application, including an order that the matter be transferred to the trial list under Rule 50(12).

Service of order not necessary

- (13) Where the court is satisfied that a person has actual notice of the terms of an order of the court, it may find the person guilty of contempt for disobedience of the order, notwithstanding that the order has not been served on the person.

Suspension of punishment

- (14) The court at any time may direct that the punishment for contempt be suspended for the period or on the terms or conditions it may specify.

Discharge of person

- (15) The court, on application by or on behalf of a person committed to prison for contempt may discharge that person, notwithstanding that the period of the imprisonment may not have elapsed.

Weekly review of person in custody

- (16) Where the court orders a person committed without specifying in days, weeks or months the period of the imprisonment, the sheriff shall bring that person before the court at intervals of not more than 7 days, in order that the court may review the imprisonment and determine whether relief as set out in subrule (14) or (15) should be granted.