

STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 73 **E+W**

CHARGING ORDERS, STOP ORDERS AND STOP NOTICES

Textual Amendments

- F1** Pt. 73 inserted (25.3.2002) by [The Civil Procedure \(Amendment No. 4\) Rules 2001](#) (S.I. 2001/2792), [rule 1\(c\)](#), [Sch. 4](#) (with savings in [rule 24](#) and S.I. 2001/4015, [rule 43\(2\)](#))

Modifications etc. (not altering text)

- C1** [Pts. 70-74](#) applied (with modifications) (30.12.2005) by [The Family Procedure \(Adoption\) Rules 2005](#) (S.I. 2005/2795), [rule 5\(5\)](#)
- C2** [Pt. 73](#) applied (with modifications) (6.4.2011) by [The Family Procedure Rules 2010](#) (S.I. 2010/2955), [rule 33.25](#) (with [rules 2.1](#), [33.1\(1\)](#)) (as amended (22.4.2014) by S.I. 2014/667, [rules 1](#), [43](#) (with [rule 45](#)))
- C3** [Pt. 73](#) applied (with modifications) (1.12.2017) by [The Court of Protection Rules 2017](#) (S.I. 2017/1035), [rules 24.2\(d\)](#), [24.6\(1\)](#)

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Scope of this Part and interpretation **E+W**

[^{F3}73.1.—(1) This Part contains rules which provide for a judgment creditor to enforce a judgment by obtaining—

- (a) a charging order (Section I);
- (b) a stop order (Section II); or
- (c) a stop notice (Section III),

over or against the judgment debtor’s interest in an asset.

(2) In this Part—

- (a) “the 1979 Act” means the Charging Orders Act 1979;
- (b) “the 1992 Regulations” means the Council Tax (Administration and Enforcement) Regulations 1992;
- (c) “judgment debtor’s home court” means—
 - (i) if the application for a charging order is proceeding in the County Court—
 - (aa) in the case of an application under the 1992 Regulations, the County Court hearing centre for the district in which the relevant dwelling (as defined in regulation 50(3)(b) of those Regulations) is situated; or

- (bb) in other cases, the County Court hearing centre for the district in which the judgment debtor resides or carries on business; or
- (ii) if the application for a charging order is proceeding in the High Court, the district registry for the district in which the judgment debtor resides or carries on business or, where there is no such district registry, the Royal Courts of Justice;
- (d) “funds in court” includes securities held in court;
- (e) “interim charging order” means an interim charging order made in accordance with rule 73.4(5), 73.4(6) or 73.6(3);
- (f) “securities” means securities of any of the kinds specified in section 2(2)(b) of the 1979 Act.

Textual Amendments

- F3** Rules 73.1-73.10C substituted for rules 73.1-73.10 (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), [rules 2, 14](#), [Sch. 1](#) (with [rule 24](#))

SECTION I. CHARGING ORDERS

Scope of this Section **E+W**

73.2 This Section applies to an application by a judgment creditor for a charging order under—

- (a) section 1 of the 1979 Act; or
- (b) regulation 50 of the 1992 Regulations.

Application for charging order **E+W**

73.3.—(1) An application for a charging order may be made without notice.

(2) Where an application for a charging order is to be made to the County Court, it must be made to the County Court Money Claims Centre, unless the application is for a charging order over an interest in a fund in court.

(3) An application to the County Court for a charging order over an interest in a fund in court must be made to the County Court hearing centre where the order or judgment was made.

(Section 1 of the 1979 Act sets out when applications are to be made to the County Court and when they are to be made to the Family Court or the High Court.)

(4) Subject to paragraphs (2) and (3), a judgment creditor may apply for a single charging order in respect of more than one judgment or order against the same judgment debtor.

(5) The application notice must—

- (a) be in the form and contain the information required by Practice Direction 73; and
- (b) be verified by a statement of truth.

Interim charging order – County Court Money Claims Centre **E+W**

73.4.—(1) This rule applies where an application for a charging order is made to the County Court Money Claims Centre.

(2) The application for a charging order will initially be dealt with without a hearing.

(3) Where—

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- (a) the application is only for a charging order on the judgment debtor's interest in land; and
 - (b) none of the exceptions listed in paragraph (4) apply,
- the application may initially be dealt with by a court officer.
- (4) The exceptions referred to are—
 - (a) an application under section 2(1)(b)(i) of the 1979 Act;
 - (b) an application for a charging order on the interest of a partner in the partnership property under section 23 of the Partnership Act 1890;
 - (c) where an instalment order has been made before 1 October 2012;
 - (d) where the court officer otherwise considers that the application should be dealt with by a judge.
 - (5) The court officer may make an interim charging order imposing a charge over the judgment debtor's interest in the asset to which the application relates.
 - (6) The judge may make an interim charging order—
 - (a) imposing a charge over the judgment debtor's interest in the asset to which the application relates; and
 - (b) if the judge considers it appropriate at that stage, transferring the application to the judgment debtor's home court for the fixing of a hearing to consider whether to make a final charging order as provided by rule 73.10A(3)(a).
 - (7) Where a matter has been transferred under paragraph (6), the court must serve notice of the hearing on the judgment creditor and all persons served with the interim charging order under rule 73.7.

Review of a decision made by a court officer E+W

- 73.5.**—(1) A party may request that a decision by a court officer be reconsidered by a District Judge.
- (2) A request for reconsideration must be filed within 14 days after the party is served with notice of the decision.
 - (3) Reconsideration will take place without a hearing.

Interim charging order – venues other than the County Court Money Claims Centre E+W

- 73.6.**—(1) This rule applies where an application for a charging order is made other than to the County Court Money Claims Centre.
- (2) An application for a charging order will initially be dealt with by a judge without a hearing.
 - (3) The judge may make an interim charging order—
 - (a) imposing a charge over the judgment debtor's interest in the asset to which the application relates; and
 - (b) fixing a hearing to consider whether to make a final charging order as provided by rule 73.10A(3)(a).

Service of interim order E+W

- 73.7.**—(1) Where the interim charging order has been made at the County Court Money Claims Centre and has not been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must be

served by the judgment creditor on the persons listed in paragraph (7) within 21 days of the date of the interim charging order.

(2) Where paragraph (1) applies, the judgment creditor must file a certificate of service in relation to each person served together with a statement of the amount due under the judgement or order including any costs and interest, within 28 days of the date of the interim charging order.

(3) Any application for an extension of time for service or filing specified in paragraph (1) or (2)—

- (a) must be made to the County Court Money Claims Centre; and
- (b) will be dealt with without a hearing.

(4) Where paragraph (1) applies, if the judgment creditor—

- (a) fails to comply with paragraph (1) or (2); and
- (b) does not apply for an extension of time within the period specified by paragraph (1) or (2) as appropriate,

the matter must be referred to a judge to consider whether to dismiss the application and discharge the interim charging order.

(5) Where the interim charging order has been made at a court other than the County Court Money Claims Centre, or where the matter has been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must, not less than 21 days before the hearing, be served by the judgment creditor on the persons listed in paragraph (7).

(6) Where paragraph (5) applies, the judgment creditor must either—

- (a) file a certificate of service in relation to each person served not less than 2 days before the hearing; or
- (b) produce a certificate of service at the hearing.

(7) The persons to be served in accordance with paragraph (1) or (5) are—

- (a) the judgment debtor;
- (b) if the order relates to an interest in land, any co-owner;
- (c) the judgment debtor's spouse or civil partner (if known);
- (d) such other creditors as are identified in the application notice or as the court directs;
- (e) if the order relates to an interest under a trust, on such of the trustees as the court directs;
- (f) if the interest charged is in securities other than securities held in court, then—
 - (i) in the case of stock for which the Bank of England keeps the register, the Bank of England;
 - (ii) in the case of government stock to which subparagraph (f)(i) does not apply, the keeper of the register;
 - (iii) in the case of stock of any body incorporated within England and Wales, that body;
 - (iv) in the case of stock of any body incorporated outside England and Wales or of any state or territory outside the United Kingdom, which is registered in a register kept in England and Wales, the keeper of that register;
 - (v) in the case of units of any unit trust in respect of which a register of the unit holders is kept in England and Wales, the keeper of that register; and
- (g) if the interest charged is in funds in court, the Accountant General at the Court Funds Office.

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*Changes to legislation: There are currently no known outstanding effects for the
The Civil Procedure Rules 1998, PART 73. (See end of Document for details)*

Effect of interim order in relation to securities **E+W**

73.8.—(1) If a judgment debtor disposes of their interest in any securities while they are subject to an interim charging order which has been served on them, that disposition will not, so long as that order remains in force, be valid as against the judgment creditor.

(2) A person served under rule 73.7(7)(f) with an interim charging order relating to securities must not, unless the court gives permission—

- (a) permit any transfer of any of the securities; or
- (b) pay any dividend, interest or redemption payment relating to them.

(3) If a person acts in breach of paragraph (2), that person will be liable to pay to the judgment creditor—

- (a) the value of the securities transferred or the amount of the payment made (as the case may be); or
- (b) if less, the amount necessary to satisfy the debt in relation to which the interim charging order was made.

Effect of interim order in relation to funds in court **E+W**

73.9 If a judgment debtor disposes of their interest in funds in court while they are subject to an interim charging order which has been served on them and on the Accountant General in accordance with rule 73.7(7), that disposition will not, so long as that order remains in force, be valid as against the judgment creditor.

Further consideration of the application where interim charging order was made at the County Court Money Claims Centre and has not been transferred under rule 73.4(6) for a hearing **E+W**

73.10.—(1) This rule applies where the interim charging order was made at the County Court Money Claims Centre and the matter has not been transferred under rule 73.4(6) for a hearing.

(2) If any person objects to the court making a final charging order, that person must—

- (a) file; and
- (b) serve on the judgment creditor,

written evidence stating the grounds of objection, not later than 28 days after service on that person of the application notice and interim order.

(3) If any person files evidence stating grounds of objection to the making of a final charging order, the court must, in accordance with paragraph (4), transfer the application for hearing to the judgment debtor's home court.

(4) Following receipt by the court of one or more objections, the matter must be transferred under paragraph (3)—

- (a) once all persons served under rule 73.7 with a copy of the interim charging order have filed and served an objection; or
- (b) upon expiry of the period allowed under paragraph (2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order,

whichever is the earlier.

(5) Where a matter has been transferred under paragraph (3), the court must serve notice of the hearing on the judgment creditor and all persons served under rule 73.7 with the interim charging order.

(6) Unless the application has been transferred under paragraph (3) for a hearing, the application will be considered by a judge upon expiry of the period allowed under paragraph (2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order.

(7) When considering the application (either at a hearing following a transfer under paragraph (3) or under paragraph (6)), the court may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order continues, with or without modification;
- (b) discharge the interim charging order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the court making a final charging order;
- (d) direct a trial of any such issues, and if necessary give directions; or
- (e) make such other order as the court considers appropriate.

(8) If the court makes a final charging order which charges securities, the order must include a stop notice unless the court otherwise orders.

(Section III of this Part contains provisions about stop notices.)

(9) Any order made must be served by the court on all the persons on whom the interim charging order was required to be served.

Further consideration of the application where interim charging order was made other than at the County Court Money Claims Centre, or has been transferred out of that Centre under rule 73.4(6) E+W

73.10A.—(1) This rule applies where an interim charging order was made other than at the County Court Money Claims Centre or has been transferred out of that Centre under rule 73.4(6).

(2) If any person objects to the court making a final charging order, that person must—

- (a) file; and
- (b) serve on the judgment creditor,

written evidence stating the grounds of objection, not less than 7 days before the hearing.

(3) At the hearing the court may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order continues, with or without modification;
- (b) discharge the interim charging order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the court making a final charging order;
- (d) direct a trial of any such issues, and if necessary give directions; or
- (e) make such other order as the court considers appropriate.

(4) If the court makes a final charging order which charges securities other than securities held in court, the order must include a stop notice unless the court otherwise orders.

(Section III of this Part contains provisions about stop notices.)

(5) Any order made at the hearing must be served by the court on all the persons on whom the interim charging order was required to be served.

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Discharge or variation of order **E+W**

73.10B.—(1) Where the final charging order was made without a hearing under rule 73.10(7) any application to discharge or vary a charging order must be made to the County Court Money Claims Centre.

(2) Upon the filing of an application to discharge or vary a charging order at the County Court Money Claims Centre, the application must be transferred for a hearing to the judgment debtor’s home court.

(3) Where the final charging order was made at a hearing, any application to discharge or vary a charging order must be made to the court which made the charging order.

(4) The court may direct that—

- (a) any interested person be joined as a party to such an application; or
- (b) the application be served on any such person.

(5) An order discharging or varying a charging order must be served on all the persons on whom the charging order was required to be served.

Enforcement of charging order by sale **E+W**

73.10C.—(1) Subject to the provisions of any enactment, the court may, upon a claim by a person who has obtained a charging order over an interest in property, order the sale of the property to enforce the charging order.

(2) Where the charging order was made at the County Court Money Claims Centre a claim for an order for sale under this rule must be made to the judgment debtor’s home court.

(3) Subject to paragraph (2) a claim for an order for sale under this rule should be made to the court which made the charging order, unless that court does not have jurisdiction to make an order for sale.

(4) The claimant must use the Part 8 procedure.

(5) A copy of the charging order must be filed with the claim form.]

SECTION II—STOP ORDERS

Interpretation **E+W**

73.11 In this Section, “stop order” means an order of the High Court not to take, in relation to funds in court or securities specified in the order, any of the steps listed in section 5(5) of the 1979 Act.

Application for stop order **E+W**

73.12.—(1) The High Court may make—

- (a) a stop order relating to funds in court, on the application of any person—
 - (i) who has a mortgage or charge on the interest of any person in the funds; or
 - (ii) to whom that interest has been assigned; or
 - (iii) who is a judgment creditor of the person entitled to that interest; or
- (b) a stop order relating to securities other than securities held in court, on the application of any person claiming to be beneficially entitled to an interest in the securities.

(2) An application for a stop order must be made—

- (a) by application notice in existing proceedings; or

- (b) by Part 8 claim form if there are no existing proceedings in the High Court.
- (3) The application notice or claim form must be served on—
 - (a) every person whose interest may be affected by the order applied for; and
 - (b) either—
 - (i) the Accountant General at the Court Funds Office, if the application relates to funds in court; or
 - (ii) the person specified in rule [F473.7(7)(f)], if the application relates to securities other than securities held in court.

Textual Amendments

- F4** Word in rule 73.12(3)(b)(ii) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016 \(S.I. 2016/234\)](#), rules 2, 16 (with rule 24)

Stop order relating to funds in court **E+W**

73.13 A stop order relating to funds in court shall prohibit the transfer, sale, delivery out, payment or other dealing with—

- (a) the funds or any part of them; or
- (b) any income on the funds.

Stop order relating to securities **E+W**

73.14.—(1) A stop order relating to securities other than securities held in court may prohibit all or any of the following steps—

- (a) the registration of any transfer of the securities;
 - (b) the making of any payment by way of dividend, interest or otherwise in respect of the securities; and
 - (c) in the case of units of a unit trust, any acquisition of or other dealing with the units by any person or body exercising functions under the trust.
- (2) The order shall specify—
- (a) the securities to which it relates;
 - (b) the name in which the securities stand;
 - (c) the steps which may not be taken; and
 - (d) whether the prohibition applies to the securities only or to the dividends or interest as well.

Variation or discharge of order **E+W**

73.15.—(1) The court may, on the application of any person claiming to have a beneficial interest in the funds or securities to which a stop order relates, make an order discharging or varying the order.

(2) An application notice seeking the variation or discharge of a stop order must be served on the person who obtained the order.

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The Civil Procedure Rules 1998, PART 73. (See end of Document for details)*

SECTION III—STOP NOTICES

General **E+W**

73.16 In this Section—

- (a) “stop notice” means a notice issued by the court which requires a person or body not to take, in relation to securities specified in the notice, any of the steps listed in section 5(5) of the 1979 Act, without first giving notice to the person who obtained the notice; and
- (b) “securities” does not include securities held in court.

Request for stop notice **E+W**

73.17.—(1) The High Court may, on the request of any person claiming to be beneficially entitled to an interest in securities, issue a stop notice.

(A stop notice may also be included in a final charging order, by either the High Court or [^{F5}the County Court], under rule [^{F6}73.10(8) or 73.10A(4)].)

- (2) A request for a stop notice must be made by filing—
 - (a) a draft stop notice; and
 - (b) written evidence which—
 - (i) identifies the securities in question;
 - (ii) describes the applicant’s interest in the securities; and
 - (iii) gives an address for service for the applicant.

(A sample form of stop notice is annexed to [^{F7}Practice Direction 73].)

(3) If a court officer considers that the request complies with paragraph (2), he will issue a stop notice.

(4) The applicant must serve copies of the stop notice and his written evidence on the person to whom the stop notice is addressed.

Textual Amendments

- F5** 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)
- F6** Words in [rule 73.17](#) substituted (6.4.2016) by [The Civil Procedure \(Amendment\) Rules 2016](#) (S.I. 2016/234), [rules 2, 17](#) (with [rule 24](#))
- F7** Words in [rule 73.17](#) substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009](#) (S.I. 2009/3390), [rules 1\(2\), 47\(a\)\(ii\)](#)

Effect of stop notice **E+W**

73.18.—(1) A stop notice—

- (a) takes effect when it is served in accordance with [rule 73.17\(4\)](#); and
 - (b) remains in force unless it is withdrawn or discharged in accordance with [rule 73.20](#) or [73.21](#).
- (2) While a stop notice is in force, the person on whom it is served—
- (a) must not—
 - (i) register a transfer of the securities described in the notice; or

- (ii) take any other step restrained by the notice,
without first giving 14 days' notice to the person who obtained the stop notice; but
- (b) must not, by reason only of the notice, refuse to register a transfer or to take any other
step, after he has given 14 days' notice under paragraph (2)(a) and that period has expired.

Amendment of stop notice **E+W**

73.19.—(1) If any securities are incorrectly described in a stop notice which has been obtained and served in accordance with rule 73.17, the applicant may request an amended stop notice in accordance with that rule.

- (2) The amended stop notice takes effect when it is served.

Withdrawal of stop notice **E+W**

73.20.—(1) A person who has obtained a stop notice may withdraw it by serving a request for its withdrawal on—

- (a) the person or body on whom the stop notice was served; and
- (b) the court which issued the stop notice.

(2) The request must be signed by the person who obtained the stop notice, and his signature must be witnessed by a practising solicitor.

Discharge or variation of stop notice **E+W**

73.21.—(1) The court may, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a stop notice relates, make an order discharging or varying the notice.

(2) An application to discharge or vary a stop notice must be made to the court which issued the notice.

- (3) The application notice must be served on the person who obtained the stop notice.

[
73.22 [^{F9}Practice Direction 73] makes provision for the procedure to be followed when applying for an order under section 23 of the Partnership Act 1890.]]

Textual Amendments

- F8** Rule 73.22 inserted (2.10.2006) by [The Civil Procedure \(Amendment\) Rules 2006 \(S.I. 2006/1689\)](#), rules 1, **10**
- F9** Words in rule 73.22 substituted (6.4.2010) by [The Civil Procedure \(Amendment No.2\) Rules 2009 \(S.I. 2009/3390\)](#), rules 1(2), **47(b)**

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