



Tribunals, Courts and Enforcement Act 2007

2007 CHAPTER 15

PART 4

ENFORCEMENT OF JUDGMENTS AND ORDERS

Charging orders

93 Payment by instalments: making and enforcing charging orders

- (1) Subsections (2), (3) and (4) make amendments to the Charging Orders Act 1979 (c. 53).
- (2) In section 1 (charging orders), after subsection (5) insert—
 - “(6) Subsections (7) and (8) apply where, under a judgment or order of the High Court or a county court, a debtor is required to pay a sum of money by instalments.
 - (7) The fact that there has been no default in payment of the instalments does not prevent a charging order from being made in respect of that sum.
 - (8) But if there has been no default, the court must take that into account when considering the circumstances of the case under subsection (5).”
- (3) In section 3 (provisions supplementing sections 1 and 2), after subsection (4) insert—
 - “(4A) Subsections (4C) to (4E) apply where—
 - (a) a debtor is required to pay a sum of money in instalments under a judgment or order of the High Court or a county court (an “instalments order”), and
 - (b) a charge has been imposed by a charging order in respect of that sum.

Status: This is the original version (as it was originally enacted).

- (4B) In subsections (4C) to (4E) references to the enforcement of a charge are to the making of an order for the enforcement of the charge.
- (4C) The charge may not be enforced unless there has been default in payment of an instalment under the instalments order.
- (4D) Rules of court may—
- (a) provide that, if there has been default in payment of an instalment, the charge may be enforced only in prescribed cases, and
 - (b) limit the amounts for which, and the times at which, the charge may be enforced.
- (4E) Except so far as otherwise provided by rules of court under subsection (4D)—
- (a) the charge may be enforced, if there has been default in payment of an instalment, for the whole of the sum of money secured by the charge and the costs then remaining unpaid, or for such part as the court may order, but
 - (b) the charge may not be enforced unless, at the time of enforcement, the whole or part of an instalment which has become due under the instalments order remains unpaid.”
- (4) In section 6(2) (meaning of references to judgment or order of High Court or county court), for “section 1” substitute “sections 1 and 3”.
- (5) In section 313(4) of the Insolvency Act 1986 (c. 45) (charge on bankrupt’s home: certain provisions of section 3 of Charging Orders Act 1979 to apply), for the words before “section 3” substitute “Subsection (1), (2), (4), (5) and (6) of”.
- (6) This section does not apply in a case where a judgment or order of the High Court or a county court under which a debtor is required to pay a sum of money by instalments was made, or applied for, before the coming into force of this section.