
STATUTORY INSTRUMENTS

1984 No. 1051

The Rules of the Supreme Court (Amendment) 1984

Enforcement of charging orders

8. Order 50 shall be amended by inserting, after rule 9, the following new rule:—

“Enforcement of Charging Order by Sale

9A.—(1) Proceedings for the enforcement of a charging order by sale of the property charged must be begun by originating summons issued out of Chancery Chambers or out of one of the Chancery district registries.

(2) The provisions of Order 88 shall apply to all such proceedings.”.

9. Order 88, rule 5 shall be amended by inserting, after the words “an action”, the words “(other than an action to which rule 5A applies)”.

10. Order 88 shall be further amended by inserting, after rule 5, the following new rule:—

“Action for the Enforcement of Charging Order by Sale

5A.—(1) This rule applies to a mortgage action in the Chancery Division to enforce a charging order by sale of the property charged.

(2) The affidavit in support of the originating summons must—

- (a) identify the charging order sought to be enforced and the subject matter of the charge;
- (b) specify the amount in respect of which the charge was imposed and the balance outstanding at the date of the affidavit;
- (c) verify, so far as known, the debtor's title to the property charged;
- (d) identify any prior incumbrances on the property charged, stating, so far as is known, the names and addresses of the incumbrancers and the amounts owing to them;
- (e) set out the plaintiff's proposals as to the manner of sale of the property charged together with estimates of the gross price which would be obtained on a sale in that manner and of the costs of such a sale; and
- (f) where the property charged consists of land in respect of which the plaintiff claims delivery of possession—
 - (i) give particulars of every person who to the best of the plaintiff's knowledge is in possession of the property charged or any part of it; and
 - (ii) state, in the case of a dwelling house, whether a land charge of Class F has been registered, or a notice or caution pursuant to section 2(7) of the Matrimonial Homes Act 1967, or a notice pursuant to section 2(8) of the Matrimonial Homes Act 1983 has been entered and, if so, on whose behalf, and whether he has served notice of the proceedings on the person on whose behalf the land charge is registered or the notice or caution entered.”.