
STATUTORY INSTRUMENTS

1998 No. 3132

The Civil Procedure Rules 1998

[^{F1}PART 83

Writs and Warrants – General Provisions

SECTION II

Writs and Warrants

[^{F1}Writs of control and warrants – power to stay execution or grant other relief

83.7.—(1) At the time that a judgment or order for payment of money is made or granted, or at any time thereafter, the debtor or other party liable to execution of a writ of control or a warrant may apply to the court for a stay of execution.

(2) The power of the court to stay execution of a warrant of control may be exercised by a District Judge, or a court officer where paragraph (10) applies, and the power of the court to stay execution of any other warrant or of a writ of control may be exercised by a Master or District Judge.

(3) Where the application for a stay of execution is made on the grounds of the applicant's inability to pay, the witness statement required by paragraph (6)(b) must disclose the debtor's means.

(4) If the court is satisfied that—

- (a) there are special circumstances which render it inexpedient to enforce the judgment or order; or
- (b) the applicant is unable from any reason to pay the money,

then, notwithstanding anything in paragraph (5) or (6), the court may by order stay the execution of the judgment or order, either absolutely or for such period and subject to such conditions as the court thinks fit.

(5) An application under this rule, if not made at the time the judgment is given or order made—

- (a) must be made in accordance with Part 23, as modified by paragraphs (6) to (14); and
- (b) may be made even if the party liable to execution did not acknowledge service of the claim form or serve a defence or take any previous part in the proceedings.

(6) The grounds on which an application under this rule is made must—

- (a) be set out in the application notice; and
- (b) be supported by a witness statement made by or on behalf of the applicant substantiating the grounds.

(7) Paragraphs (8) to (15) apply to applications in the County Court.

(8) Where the debtor makes an application in the County Court, the court will—

- (a) send the creditor a copy of the debtor's application (and statement of means); and

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The Civil Procedure Rules 1998, Section 83.7. (See end of Document for details)*

- (b) require the creditor to notify the court in writing whether or not the creditor objects to the application, within 14 days of service of the notification, giving reasons for any objection the creditor may have to the granting of the application.
- (9) If the creditor does not notify the court of any objection within the time stated, the court officer may make an order suspending the warrant on terms of payment.
- (10) Upon receipt of a notice by the creditor under paragraph (8)(b), the court officer may, if the creditor agrees, or objects only to the terms offered, determine the date and rate of payment and make an order suspending the warrant on terms of payment.
- (11) Any party affected by an order made under paragraph (10) may, within 14 days of service of the order on that party and giving reasons, apply on notice for the order to be reconsidered.
- (12) If a party applies for the order to be reconsidered, the court will—
- (a) fix a day for the hearing of the application before the District Judge; and
 - (b) give to the creditor and the debtor not less than 8 days' notice of the day so fixed.
- (13) On hearing an application under paragraph (11), the District Judge may confirm the order or set it aside and make such new order as the court thinks fit.
- (14) Where the creditor states in the notice under paragraph (8)(b) that the creditor wishes the enforcement agent to proceed to execute the warrant, the court will—
- (a) fix a day for a hearing before the District Judge of the debtor's application; and
 - (b) give to the creditor and to the debtor not less than 2 days' notice of the day so fixed.
- (15) Where an order is made by the District Judge suspending a warrant of execution, the debtor may be ordered to pay the costs of the warrant and any fees or expenses incurred before its suspension and the order may authorise the sale of a sufficient portion of any goods seized to cover such costs, fees and expenses and the expenses of sale.]

Textual Amendments

F1 Pt. 83 inserted (6.4.2014) by [The Civil Procedure \(Amendment\) Rules 2014 \(S.I. 2014/407\)](#), rule 2(3), [Sch.](#) (with rule 41)

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