

2001 No. 2792 (L. 29)

**SUPREME COURT OF ENGLAND AND WALES
COUNTY COURTS, ENGLAND AND WALES**

The Civil Procedure (Amendment No. 4) Rules 2001

Made - - - - - *25th July 2001*

Laid before Parliament *2nd August 2001*

Coming into force - - *in accordance with rule 1*

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act, after consulting in accordance with section 2(6)(a) of that Act, make the following Rules—

Citation, commencement and interpretation

1. These Rules may be cited as the Civil Procedure (Amendment No. 4) Rules 2001 and shall come into force—
 - (a) for the purposes of rules 2, 5, 7, 8, 13 and 15, and this rule, on 15th October 2001;
 - (b) for the purpose of rule 23, on the coming into force of so much of section 155 of the Housing Act 1996(b) as is not already in force; and
 - (c) for all other purposes, on 25th March 2002.
2. In these Rules—
 - (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(c);
 - (b) a reference to an Order by number and prefixed by “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
 - (c) a reference to an Order by number and prefixed by “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

Amendments to the Civil Procedure Rules 1998

3. In rule 5.2, in paragraph (1)(b), omit sub-paragraph (i).
4. In rule 40.2, in paragraph (1)—
 - (a) at the end of sub-paragraph (b), omit “or”;
 - (b) at the end of sub-paragraph (c), add
“;”
 - (d) an order made by a court officer under rule 70.5 (orders to enforce awards as if payable under a court order); or
 - (e) an order made by a court officer under rule 71.2 (orders to obtain information from judgment debtors).”.

(a) 1997 c. 12.

(b) 1996 c. 52.

(c) S.I. 1998/3132 as amended by S.I. 1999/1008, S.I. 2000/221, S.I. 2000/940, S.I. 2000/1317, S.I. 2000/2092, S.I. 2001/256, S.I. 2001/1388 and S.I. 2001/1769.

5. In Part 51—
 - (a) for the heading, substitute “Transitional Arrangements and Pilot Schemes”;
 - (b) rule 51 is renumbered rule 51.1; and
 - (c) after rule 51.1, insert—

“51.2 Practice directions may modify or disapply any provision of these Rules—

 - (a) for specified periods; and
 - (b) in relation to proceedings in specified courts,

during the operation of pilot schemes for assessing the use of new practices and procedures in connection with proceedings.”.
6. After Part 57, insert—
 - (a) Part 70 (general rules about enforcement) as set out in Schedule 1 to these Rules;
 - (b) Part 71 (orders to obtain information from judgment debtors) as set out in Schedule 2;
 - (c) Part 72 (third party debt orders) as set out in Schedule 3; and
 - (d) Part 73 (charging orders, stop orders and stop notices) as set out in Schedule 4.
7. In RSC Order 15, in rule 14(2) for “under rule 13” substitute “under CPR rule 19.7”.
8. In RSC Order 51—
 - (a) after the title insert—

“Order to apply to High Court and County Courts

Rule A1 This Order applies to proceedings both in the High Court and in county courts.”; and
 - (b) in rule 2, for “A Master and the Admiralty Registrar and a district judge of the Family Division” substitute “A Master, the Admiralty Registrar, a district judge of the Family Division and a district judge”.
9. In RSC Order 77—
 - (a) in rule 15, for paragraph (1), substitute—

“(1) Nothing in—

 - (a) CPR Parts 70 to 73; and
 - (b) Orders 45 to 47, 51 and 52,

shall apply in respect of any order against the Crown.”; and
 - (b) in rule 16—
 - (i) in paragraph (1)(a), for “Under Order 49” substitute “under CPR Part 72”; and
 - (ii) for paragraph (3) substitute—

“(3) CPR rule 72.8 shall apply in relation to such an application as is mentioned in paragraph (2) for an order restraining a person from receiving money payable to him by the Crown as that rule applies to an application under CPR rule 72.2 for a third party debt order, except that the court shall not have power to order enforcement to issue against the Crown.”.
10. In RSC Order 81—
 - (a) in rule 7(1), for “under Order 49, rule 1”, substitute “under CPR rule 72.2”;
 - (b) in rule 7(2), for “An order to show cause under the said rule 1”, substitute “An interim third party debt order under CPR rule 72.4(2)”; and
 - (c) in rule 7(3), for “the said rule 1”, substitute “the said rules 72.2 or 72.4(2)”.
11. In RSC Order 115, in rule 4(4), for “specified in Order 50, rule 2(1)(b) to (d)” substitute “specified in CPR rule 73.5(1)(c) to (e)”.
12. In CCR Order 4, in paragraph (b) of rule 3, for “subject to Order 31, rule 4”, substitute “subject to CPR rule 73.10”.
13. In CCR Order 22, rule 8, for sub-paragraph (a) of paragraph (1A), substitute—

“(a) state that—

 - (i) it is intended to enforce the judgment or order by execution against goods; or

- (ii) the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers; or”.
- 14.** In CCR Order 25—
- (a) in rule 8(9), omit “pursuant to rule 5(3)”; and
 - (b) in rule 9(4), for “required for service of an order under Order 25, rule 3” substitute “set out in CPR rule 6.2”.
- 15.** In CCR Order 25, rule 13—
- (a) for paragraph (1), substitute—

“(1) Where the judgment creditor makes a request for a certificate of judgment under Order 22, rule 8(1) for the purpose of enforcing the judgment or order in the High Court—

 - (a) by execution against goods; or
 - (b) where the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers,

the grant of a certificate by the court shall take effect as an order to transfer the proceedings to the High Court and the transfer shall have effect on the grant of that certificate.”; and
 - (b) in paragraph (2), after “debtor”, insert “or the person against whom the possession order was made”.
- 16.** In CCR Order 27, in rule 5(1), and in rule 17(3A), for “required for service of an order under Order 25, rule 3” substitute “set out in CPR rule 6.2”.
- 17.** In CCR Order 28, for rule 9(2) substitute—
- “(2) If a committal order or a new order for payment is made on the hearing, the office copy of the judgment or order filed in the county court shall be deemed to be a judgment or order of the court in which the judgment summons is heard.”.
- 18.** In CCR Order 33, in rule 4(3), for “required for service of an order under Order 25, rule 3” substitute “set out in CPR rule 6.2”.
- 19.** In CCR Order 39, in rule 2(2), for “Order 25, rule 3” substitute “CPR Part 71”.
- 20.** In CCR Order 42—
- (a) for rule 13(1), substitute—

“(1) Nothing in—

 - (a) CPR Parts 70 to 73;
 - (b) Orders 25 to 29; or
 - (c) RSC Order 30 (in so far as it applies to proceedings in the county court),

shall apply in respect of any order against the Crown.”; and
 - (b) in rule 14—
 - (i) in paragraph (1), for “under Order 30”, substitute “under CPR Part 72”; and
 - (ii) for paragraph (5), substitute—

“(5) CPR rule 72.8 shall apply, with the necessary modifications, in relation to an application under the said section 27, as it applies in relation to an application under CPR rule 72.2 for a third party debt order, except that the court shall not have the power to order enforcement to issue against the Crown.”.
- 21.** In CCR Order 45, in rule 1(3), for “required for service of an order under Order 25, rule 3”, substitute “set out in CPR rule 6.2”.
- 22.** In CCR Order 48B—
- (a) for rule 5(1), substitute—

“(1) Subject to the Order and this rule—

 - (a) CPR Parts 70 to 73;
 - (b) Order 25, rules 1 and 9;
 - (c) Order 26, rule 5; and
 - (d) Order 27, rules 1 to 7, 7A, 9 to 16 and 18 to 22,

shall apply for the enforcement of specified debts.”;

(b) in rule 5(8), for “In addition to the requirements of that rule, any application by an authority under Order 25, rule 2, shall”, substitute “If an authority requests the transfer of proceedings to another county court for enforcement, in its request it must”; and

(c) for the opening words of rule 5(9), substitute—

“(9) An application for an attachment of earnings order, an order to obtain information from a debtor, a third party debt order or a charging order shall, in addition to the requirements of Order 27 or CPR Part 71, 72 or 73 (as the case may be)-”.

23. In CCR Order 49, rule 6B—

(a) in the title, delete “and powers of arrest”;

(b) after paragraph (7), insert—

“(7A) An application for a warrant of arrest under section 155(3) of the Housing Act 1996 must be made in accordance with Part 23 and may be made without notice.

(Section 155(4) of the Housing Act 1996 provides that a warrant shall not be issued unless the application is substantiated on oath”);

(c) for paragraph (8), substitute—

“(8) The judge before whom a person is brought following his arrest may—

(a) deal with the matter; or

(b) adjourn the proceedings.”;

(d) after paragraph (8), insert—

“(8A) Where the proceedings are adjourned the judge may remand the arrested person in accordance with section 155(2)(b) or (5) of the Housing Act 1996.

(8B) Where the proceedings are adjourned and the arrested person is released—

(a) the matter must be dealt with (whether by the same or another judge) within 14 days of the day on which he was arrested; and

(b) the arrested person must be given not less than 2 days’ notice of the hearing.

(8C) An application notice under Order 29, rule 1(4) may be issued even if the arrested person is not dealt with within the period mentioned in paragraph (8B)(a).”;

(e) for paragraph (9), substitute—

“(9) Order 29, rule 1 shall apply where an application is made to commit a person for breach of an injunction as if references in that rule to the judge included references to a district judge.”;

(f) for paragraph (10), substitute—

“(10) A person against whom a committal order has been made may apply to the court under Order 29, rule 3 for his discharge and, if he does so, must, not less than 1 day before the hearing, serve the application notice on the person who made the application for committal.”;

(g) for paragraph (11), substitute—

“(11) Where, in accordance with paragraph 2(2)(b) of Schedule 15 to the Housing Act 1996, the court fixes the amount of any recognizance with a view to it being taken subsequently, the recognizance may be taken by—

(a) a judge;

(b) a justice of the peace;

(c) a justices’ clerk;

(d) a police officer of the rank of inspector or above or in charge of a police station; or

(e) where the arrested person is in his custody, the governor or keeper of a prison, with the same consequences as if it had been entered into before the court.”; and

(h) after paragraph (11), insert—

“(11A) The person having custody of an applicant for bail must release him if satisfied that the required recognizances have been taken.

- (11B) In paragraph (8) “arrest” means the arrest of a person pursuant to—
- (a) a power of arrest which, in exercise of the powers conferred by section 152(6) or 153(1) of the Housing Act 1996, has been attached to an injunction; or
 - (b) a warrant of arrest issued under section 155 of that Act.”.

Transitional provisions

24.—(1) Parts 70 to 73 shall not apply to any enforcement proceedings specified in paragraph (2) which are issued before 25th March 2002, and the rules of court in force immediately before that date shall apply to those proceedings as if they had not been amended or revoked.

- (2) The enforcement proceedings to which this rule applies are—
- (a) an application for an order for oral examination;
 - (b) an application for a garnishee order;
 - (c) an application by a judgment creditor for an order for the payment to him of money standing in court to the credit of a judgment debtor;
 - (d) an application for a charging order;
 - (e) a claim for the enforcement of a charging order by sale of the property charged; and
 - (f) an application for a stop order.

Revocations

25. The Orders set out in column 1 of Schedule 5 are revoked to the extent set out in column 2 of that Schedule.

Phillips of Worth Matravers, M.R.
Andrew Morritt, V-C.
Anthony May, L.J.
Richard Holman
Godfrey Gypps
John Leslie
Michael Black
David Foskett
Michelle Stevens-Hoare
David Greene
Tim Parker
Peter Watson
Alan Street
Olivia Morrison-Lyons

I allow these Rules

Dated 25th July 2001

Irvine of Lairg, C.

PART 70

GENERAL RULES ABOUT ENFORCEMENT OF
JUDGMENTS AND ORDERS**Contents of this Part**

Scope of this Part and interpretation	Rule 70.1
Methods of enforcing judgments or orders	Rule 70.2
Transfer of proceedings for enforcement	Rule 70.3
Enforcement of judgment or order by or against non-party	Rule 70.4
Enforcement of awards of bodies other than the High Court and county courts	Rule 70.5
Effect of setting aside judgment or order	Rule 70.6

Scope of this Part and interpretation

70.1—(1) This Part contains general rules about enforcement of judgments and orders.

(Rules about specific methods of enforcement are contained in Parts 71 to 73, Schedule 1 RSC Orders 45 to 47, 51 and 52 and Schedule 2 CCR Orders 25 to 29)

(2) In this Part and in Parts 71 to 73—

- (a) “judgment creditor” means a person who has obtained or is entitled to enforce a judgment or order;
- (b) “judgment debtor” means a person against whom a judgment or order was given or made;
- (c) “judgment or order” includes an award which the court has—
 - (i) registered for enforcement;
 - (ii) ordered to be enforced; or
 - (iii) given permission to enforce

as if it were a judgment or order of the court, and in relation to such an award, “the court which made the judgment or order” means the court which registered the award or made such an order; and

- (d) “judgment or order for the payment of money” includes a judgment or order for the payment of costs, but does not include a judgment or order for the payment of money into court.

Methods of enforcing judgments or orders

70.2—(1) The relevant practice direction sets out methods of enforcing judgments or orders for the payment of money.

(2) A judgment creditor may, except where an enactment, rule or practice direction provides otherwise—

- (a) use any method of enforcement which is available; and
- (b) use more than one method of enforcement, either at the same time or one after another.

Transfer of proceedings for enforcement

70.3—(1) A judgment creditor wishing to enforce a High Court judgment or order in a county court must apply to the High Court for an order transferring the proceedings to that county court.

(2) A practice direction may make provisions about the transfer of proceedings for enforcement.

(CCR Order 25 rule 13 contains provisions about the transfer of county court proceedings to the High Court for enforcement.)

Enforcement of judgment or order by or against non-party

70.4 If a judgment or order is given or made in favour of or against a person who is not a party to proceedings, it may be enforced by or against that person by the same methods as if he were a party.

Enforcement of awards of bodies other than the High Court and county courts

70.5—(1) This rule applies, subject to paragraph (2), if—

- (a) an award of a sum of money is made by any court, tribunal, body or person other than the High Court or a county court; and
- (b) an enactment provides that the award may be enforced as if payable under a court order.

(2) This rule does not apply to—

- (a) any judgment or recommendation to which RSC Order 71 applies; or
- (b) arbitration awards.

(RSC Order 71 provides for the registration in the High Court for the purpose of enforcement of—

- (i) foreign judgments;
- (ii) European Community judgments;
- (iii) judgments to which the Civil Jurisdiction and Judgments Act 1982(a) applies;
- (iv) recommendations under the Merchant Shipping (Liner Conferences) Act 1982(b).)

(3) If the enactment provides that the award is enforceable if a court so orders, an application for such an order must be made in accordance with paragraphs (4) to (7) of this rule.

(4) An application for an order that an award may be enforced as if payable under a court order—

- (a) may be made without notice; and
- (b) must be made to the court for the district where the person against whom the award was made resides or carries on business, unless the court otherwise orders.

(5) The application notice must—

- (a) be in the form; and
- (b) contain the information

required by the relevant practice direction.

(6) A copy of the award must be filed with the application notice.

(7) The application may be dealt with by a court officer without a hearing.

(8) An application to the High Court to register a decision of a Value Added Tax Tribunal for enforcement must be made in accordance with the relevant practice direction.

Effect of setting aside judgment or order

70.6 If a judgment or order is set aside, any enforcement of the judgment or order shall cease to have effect unless the court otherwise orders.

(a) 1982 c. 27.
(b) 1982 c. 37.

PART 71

ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTORS

Contents of this Part

Scope of this Part	Rule 71.1
Order to attend court	Rule 71.2
Service of order	Rule 71.3
Travelling expenses	Rule 71.4
Judgment creditor's affidavit	Rule 71.5
Conduct of the hearing	Rule 71.6
Adjournment of the hearing	Rule 71.7
Failure to comply with order	Rule 71.8

Scope of this Part

71.1 This Part contains rules which provide for a judgment debtor to be required to attend court to provide information, for the purpose of enabling a judgment creditor to enforce a judgment or order against him.

Order to attend court

- 71.2**—(1) A judgment creditor may apply for an order requiring—
- (a) a judgment debtor; or
 - (b) if a judgment debtor is a company or other corporation, an officer of that body,
- to attend court to provide information about—
- (i) the judgment debtor's means; or
 - (ii) any other matter about which information is needed to enforce a judgment or order.
- (2) An application under paragraph (1)—
- (a) may be made without notice; and
 - (b) (i) must be issued in the court which made the judgment or order which it is sought to enforce, except that
 - (ii) if the proceedings have since been transferred to a different court, it must be issued in that court.
- (3) The application notice must—
- (a) be in the form; and
 - (b) contain the information
- required by the relevant practice direction.
- (4) An application under paragraph (1) may be dealt with by a court officer without a hearing.
- (5) If the application notice complies with paragraph (3), an order to attend court will be issued in the terms of paragraph (6).
- (6) A person served with an order issued under this rule must—
- (a) attend court at the time and place specified in the order;
 - (b) when he does so, produce at court documents in his control which are described in the order; and
 - (c) answer on oath such questions as the court may require.
- (7) An order under this rule will contain a notice in the following terms—
- “You must obey this order. If you do not, you may be sent to prison for contempt of court.”.

Service of order

- 71.3**—(1) An order to attend court must, unless the court otherwise orders, be served personally on the person ordered to attend court not less than 14 days before the hearing.
- (2) If the order is to be served by the judgment creditor, he must inform the court not less than 7 days before the date of the hearing if he has been unable to serve it.

Travelling expenses

71.4—(1) A person ordered to attend court may, within 7 days of being served with the order, ask the judgment creditor to pay him a sum reasonably sufficient to cover his travelling expenses to and from court.

(2) The judgment creditor must pay such a sum if requested.

Judgment creditor's affidavit

71.5—(1) The judgment creditor must file an affidavit^(GL) or affidavits—

- (a) by the person who served the order (unless it was served by the court) giving details of how and when it was served;
- (b) stating either that—
 - (i) the person ordered to attend court has not requested payment of his travelling expenses; or
 - (ii) the judgment creditor has paid a sum in accordance with such a request; and
- (c) stating how much of the judgment debt remains unpaid.

(2) The judgment creditor must either—

- (a) file the affidavit^(GL) or affidavits not less than 2 days before the hearing; or
- (b) produce it or them at the hearing.

Conduct of the hearing

71.6—(1) The person ordered to attend court will be questioned on oath.

(2) The questioning will be carried out by a court officer unless the court has ordered that the hearing shall be before a judge.

(3) The judgment creditor or his representative—

- (a) may attend and ask questions where the questioning takes place before a court officer; and
- (b) must attend and conduct the questioning if the hearing is before a judge.

Adjournment of the hearing

71.7 If the hearing is adjourned, the court will give directions as to the manner in which notice of the new hearing is to be served on the judgment debtor.

Failure to comply with order

71.8—(1) If a person against whom an order has been made under rule 71.2—

- (a) fails to attend court;
- (b) refuses at the hearing to take the oath or to answer any question; or
- (c) otherwise fails to comply with the order,

the court will refer the matter to a High Court judge or circuit judge.

(2) That judge may, subject to paragraphs (3) and (4), make a committal order against the person.

(3) A committal order for failing to attend court may not be made unless the judgment creditor has complied with rules 71.4 and 71.5.

(4) If a committal order is made, the judge will direct that—

- (a) the order shall be suspended provided that the person—
 - (i) attends court at a time and place specified in the order; and
 - (ii) complies with all the terms of that order and the original order; and
- (b) if the person fails to attend court at that time and place, he shall be brought before a judge to consider whether the committal order should be discharged.

PART 72

THIRD PARTY DEBT ORDERS

Contents of this Part

Scope of this Part and interpretation	Rule 72.1
Third party debt order	Rule 72.2
Application for third party debt order	Rule 72.3
Interim third party debt order	Rule 72.4
Service of interim order	Rule 72.5
Obligations of third parties served with interim order	Rule 72.6
Arrangements for debtors in hardship	Rule 72.7
Further consideration of the application	Rule 72.8
Effect of final third party debt order	Rule 72.9
Money in court	Rule 72.10
Costs	Rule 72.11

Scope of this Part and interpretation

72.1—(1) This Part contains rules which provide for a judgment creditor to obtain an order for the payment to him of money which a third party who is within the jurisdiction owes to the judgment debtor.

(2) In this Part, “bank or building society” includes any person carrying on a business which is a deposit-taking business for the purposes of the Banking Act 1987(a).

Third party debt order

72.2—(1) Upon the application of a judgment creditor, the court may make an order (a “final third party debt order”) requiring a third party to pay to the judgment creditor—

- (a) the amount of any debt due or accruing due to the judgment debtor from the third party; or
- (b) so much of that debt as is sufficient to satisfy the judgment debt and the judgment creditor’s costs of the application.

(2) The court will not make an order under paragraph 1 without first making an order (an “interim third party debt order”) as provided by rule 72.4(2).

(3) In deciding whether money standing to the credit of the judgment debtor in an account to which section 40 of the Supreme Court Act 1981(b) or section 108 of the County Courts Act 1984(c) relates may be made the subject of a third party debt order, any condition applying to the account that a receipt for money deposited in the account must be produced before any money is withdrawn will be disregarded.

(Section 40(3) of the Supreme Court Act 1981 and section 108(3) of the County Courts Act 1984 contain a list of other conditions applying to accounts that will also be disregarded.)

Application for third party debt order

72.3—(1) An application for a third party debt order—

- (a) may be made without notice; and
- (b) (i) must be issued in the court which made the judgment or order which it is sought to enforce; except that
- (ii) if the proceedings have since been transferred to a different court, it must be issued in that court.

(2) The application notice must—

- (a) (i) be in the form; and
- (ii) contain the information required by the relevant practice direction; and
- (b) be verified by a statement of truth.

(a) 1987 c. 22.
 (b) 1981 c. 54.
 (c) 1984 c. 28.

Interim third party debt order

72.4—(1) An application for a third party debt order will initially be dealt with by a judge without a hearing.

- (2) The judge may make an interim third party debt order—
 - (a) fixing a hearing to consider whether to make a final third party debt order; and
 - (b) directing that until that hearing the third party must not make any payment which reduces the amount he owes the judgment debtor to less than the amount specified in the order.
- (3) An interim third party debt order will specify the amount of money which the third party must retain, which will be the total of—
 - (a) the amount of money remaining due to the judgment creditor under the judgment or order; and
 - (b) an amount for the judgment creditor's fixed costs of the application, as specified in the relevant practice direction.
- (4) An interim third party debt order becomes binding on a third party when it is served on him.
- (5) The date of the hearing to consider the application shall be not less than 28 days after the interim third party debt order is made.

Service of interim order

72.5—(1) Copies of an interim third party debt order, the application notice and any documents filed in support of it must be served—

- (a) on the third party, not less than 21 days before the date fixed for the hearing; and
- (b) on the judgment debtor not less than—
 - (i) 7 days after a copy has been served on the third party; and
 - (ii) 7 days before the date fixed for the hearing.
- (2) If the judgment creditor serves the order, he must either—
 - (a) file a certificate of service not less than 2 days before the hearing; or
 - (b) produce a certificate of service at the hearing.

Obligations of third parties served with interim order

72.6—(1) A bank or building society served with an interim third party debt order must carry out a search to identify all accounts held with it by the judgment debtor.

(2) The bank or building society must disclose to the court and the creditor within 7 days of being served with the order, in respect of each account held by the judgment debtor—

- (a) the number of the account;
- (b) whether the account is in credit; and
- (c) if the account is in credit—
 - (i) whether the balance of the account is sufficient to cover the amount specified in the order; and
 - (ii) the amount of the balance at the date it was served with the order, if it is less than the amount specified in the order.

- (3) If—
 - (a) the judgment debtor does not hold an account with the bank or building society; or
 - (b) the bank or building society is unable to comply with the order for any other reason (for example, because it has more than one account holder whose details match the information contained in the order, and cannot identify which account the order applies to),

the bank or building society must inform the court and the judgment creditor of that fact within 7 days of being served with the order.

(4) Any third party other than a bank or building society served with an interim third party debt order must notify the court and the judgment creditor in writing within 7 days of being served with the order, if he claims—

- (a) not to owe any money to the judgment debtor; or
- (b) to owe less than the amount specified in the order.

Arrangements for debtors in hardship

72.7—(1) If—

- (a) a judgment debtor is an individual;
- (b) he is prevented from withdrawing money from his account with a bank or building society as a result of an interim third party debt order; and

(c) he or his family is suffering hardship in meeting ordinary living expenses as a result, the court may, on an application by the judgment debtor, make an order permitting the bank or building society to make a payment or payments out of the account (“a hardship payment order”).

- (2) An application for a hardship payment order may be made—
 - (a) in High Court proceedings, at the Royal Courts of Justice or to any district registry; and
 - (b) in county court proceedings, to any county court.
- (3) A judgment debtor may only apply to one court for a hardship payment order.
- (4) An application notice seeking a hardship payment order must—
 - (a) include detailed evidence explaining why the judgment debtor needs a payment of the amount requested; and
 - (b) be verified by a statement of truth.
- (5) Unless the court orders otherwise, the application notice—
 - (a) must be served on the judgment creditor at least 2 days before the hearing; but
 - (b) does not need to be served on the third party.
- (6) A hardship payment order may—
 - (a) permit the third party to make one or more payments out of the account; and
 - (b) specify to whom the payments may be made.

Further consideration of the application

72.8—(1) If the judgment debtor or the third party objects to the court making a final third party debt order, he must file and serve written evidence stating the grounds for his objections.

(2) If the judgment debtor or the third party knows or believes that a person other than the judgment debtor has any claim to the money specified in the interim order, he must file and serve written evidence stating his knowledge of that matter.

- (3) If—
 - (a) the third party has given notice under rule 72.6 that he does not owe any money to the judgment debtor, or that the amount which he owes is less than the amount specified in the interim order; and
 - (b) the judgment creditor wishes to dispute this,

the judgment creditor must file and serve written evidence setting out the grounds on which he disputes the third party’s case.

(4) Written evidence under paragraphs (1), (2) or (3) must be filed and served on each other party as soon as possible, and in any event not less than 3 days before the hearing.

(5) If the court is notified that some person other than the judgment debtor may have a claim to the money specified in the interim order, it will serve on that person notice of the application and the hearing.

- (6) At the hearing the court may—
 - (a) make a final third party debt order;
 - (b) discharge the interim third party debt 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 has a claim to the money specified in the interim order; or
 - (d) direct a trial of any such issues, and if necessary give directions.

Effect of final third party order

72.9—(1) A final third party debt order shall be enforceable as an order to pay money.

- (2) If—
 - (a) the third party pays money to the judgment creditor in compliance with a third party debt order; or
 - (b) the order is enforced against him,

the third party shall, to the extent of the amount paid by him or realised by enforcement against him, be discharged from his debt to the judgment debtor.

(3) Paragraph (2) applies even if the third party debt order, or the original judgment or order against the judgment debtor, is later set aside.

Money in court

72.10—(1) If money is standing to the credit of the judgment debtor in court—

- (a) the judgment creditor may not apply for a third party debt order in respect of that money; but

- (b) he may apply for an order that the money in court, or so much of it as is sufficient to satisfy the judgment or order and the costs of the application, be paid to him.
- (2) An application notice seeking an order under this rule must be served on—
 - (a) the judgment debtor; and
 - (b) the Accountant General at the Court Funds Office.
- (3) If an application notice has been issued under this rule, the money in court must not be paid out until the application has been disposed of.

Costs

- 72.11** If the judgment creditor is awarded costs on an application for an order under rule 72.2 or 72.10—
- (a) he shall, unless the court otherwise directs, retain those costs out of the money recovered by him under the order; and
 - (b) the costs shall be deemed to be paid first out of the money he recovers, in priority to the judgment debt.

PART 73

CHARGING ORDERS, STOP ORDERS AND STOP NOTICES

Contents of this Part

Scope of this Part and interpretation	Rule 73.1
SECTION I—CHARGING ORDERS	
Scope of this Section	Rule 73.2
Application for charging order	Rule 73.3
Interim charging order	Rule 73.4
Service of interim order	Rule 73.5
Effect of interim order in relation to securities	Rule 73.6
Effect of interim order in relation to funds in court	Rule 73.7
Further consideration of the application	Rule 73.8
Discharge or variation of order	Rule 73.9
Enforcement of charging order by sale	Rule 73.10
SECTION II—STOP ORDERS	
Interpretation	Rule 73.11
Application for stop order	Rule 73.12
Stop order relating to funds in court	Rule 73.13
Stop order relating to securities	Rule 73.14
Discharge or variation of order	Rule 73.15
SECTION III—STOP NOTICES	
General	Rule 73.16
Request for stop notice	Rule 73.17
Effect of stop notice	Rule 73.18
Amendment of stop notice	Rule 73.19
Withdrawal of stop notice	Rule 73.20
Discharge or variation of stop notice	Rule 73.21

Scope of this Part and interpretation

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(a);
- (b) “the 1992 Regulations” means the Council Tax (Administration & Enforcement) Regulations 1992(b);
- (c) “funds in court” includes securities held in court;
- (d) “securities” means securities of any of the kinds specified in section 2(2)(b) of the 1979 Act.

(a) 1979 c. 53.

(b) S.I. 1992/613.

SECTION 1—CHARGING ORDERS

Scope of this Section

- 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

- 73.3**—(1) An application for a charging order may be made without notice.
- (2) An application for a charging order must be issued in the court which made the judgment or order which it is sought to enforce, unless—
- (a) the proceedings have since been transferred to a different court, in which case the application must be issued in that court;
 - (b) the application is made under the 1992 Regulations, in which case it must be issued in the county court for the district in which the relevant dwelling (as defined in regulation 50(3)(b) of those Regulations) is situated;
 - (c) the application is for a charging order over an interest in a fund in court, in which case it must be issued in the court in which the claim relating to that fund is or was proceeding; or
 - (d) the application is to enforce a judgment or order of the High Court and it is required by section 1(2) of the 1979 Act to be made to a county court.
- (3) Subject to paragraph (2), a judgment creditor may apply for a single charging order in respect of more than one judgment or order against the same debtor.
- (4) The application notice must—
- (a) (i) be in the form; and
 - (ii) contain the information, required by the relevant practice direction; and
 - (b) be verified by a statement of truth.

Interim charging order

- 73.4**—(1) An application for a charging order will initially be dealt with by a judge without a hearing.
- (2) The judge may make an order (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 73.8(2)(a).

Service of interim order

- 73.5**—(1) 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 on the following persons—
- (a) the judgment debtor;
 - (b) such other creditors as the court directs;
 - (c) if the order relates to an interest under a trust, on such of the trustees as the court directs;
 - (d) 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 (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
 - (e) if the interest charged is in funds in court, the Accountant General at the Court Funds Office.
- (2) If the judgment creditor serves the order, he must either—
- (a) file a certificate of service not less than 2 days before the hearing; or
 - (b) produce a certificate of service at the hearing.

Effect of interim order in relation to securities

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

(2) A person served under rule 73.5(1)(d) 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), he 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

73.7 If a judgment debtor disposes of his interest in funds in court while they are subject to an interim charging order which has been served on him and on the Accountant General in accordance with rule 73.5(1), that disposition shall not, so long as that order remains in force, be valid as against the judgment creditor.

Further consideration of the application

73.8—(1) If any person objects to the court making a final charging order, he must—

- (a) file; and
- (b) serve on the applicant;

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

(2) At the hearing the court may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order shall continue, 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; or
- (d) direct a trial of any such issues, and if necessary give directions.

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

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

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

Discharge or variation of order

73.9—(1) Any application to discharge or vary a charging order must be made to the court which made the charging order.

(Section 3(5) of the 1979 Act and regulation 51(4) of the 1992 Regulations provide that the court may at any time, on the application of the debtor, or of any person interested in any property to which the order relates, or (where the 1992 Regulations apply) of the authority, make an order discharging or varying the charging order.)

(2) The court may direct that—

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

(3) 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

73.10—(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) 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.

(A claim under this rule is a proceeding for the enforcement of a charge, and section 23(c) of the County Courts Act 1984(a) provides the extent of the county court's jurisdiction to hear and determine such proceedings.)

- (3) The claimant must use the Part 8 procedure.
- (4) A copy of the charging order must be filed with the claim form.
- (5) The claimant's written evidence must include the information required by the relevant practice direction.

SECTION II—STOP ORDERS

Interpretation

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

- 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 73.5(1)(d), if the application relates to securities other than securities held in court.

Stop order relating to funds in court

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

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.

(a) 1984 c. 28.

Variation or discharge of order

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.

SECTION III—STOP NOTICES

General

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

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 a county court, under rule 73.8(3).)

- (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 the relevant practice direction.)

(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.

Effect of stop notice

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

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

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

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.

SCHEDULE 5

Rule 25

Order	Extent of revocation
RSC Order 45	Rules 1(1), 1(2), 1(3), 9, 10, 13 and 14
RSC Order 48	The whole Order
RSC Order 49	The whole Order
RSC Order 50	The whole Order
RSC Order 88	Rule 5A
CCR Order 25	Rules 2, 3, 4, 5, 5A, 11 and 12
CCR Order 30	The whole Order
CCR Order 31	The whole Order
CCR Order 37	Rule 8(3)

EXPLANATORY NOTE

(This note is not part of the Rules)

The Civil Procedure Rules 1998 include, in Schedules 1 and 2 respectively, rules from the former Rules of the Supreme Court 1965 and the County Court Rules 1981 which still apply to claims. The primary purpose of these amending Rules is to replace some of the provisions of the earlier rules relating to the enforcement of judgments and orders with new Parts 70 to 73 of the Civil Procedure Rules 1998. The new Part 70 contains general rules about enforcement. The new Parts 71 to 73 will provide new procedures governing, respectively, orders to obtain information from judgment debtors (known as oral examinations under the earlier rules), third party debt orders (known as garnishee orders under the earlier rules), and charging orders, stop orders and stop notices. The previous rules are revoked and there are many consequential amendments.

The new Parts inserted into the Civil Procedure Rules 1998 by these amending Rules are numbered Parts 70 to 73, leaving unused for the time being Part numbers 58 to 69. These Part numbers will be allocated to other new rules which are currently under consideration by the Civil Procedure Rule Committee.

Additionally a new rule is made authorising practice directions to be made which modify or disapply any provisions of the Civil Procedure Rules 1998 during the operation of pilot schemes for assessing the use of new practices and procedures in connection with proceedings.

The opportunity has also been taken to make a number of minor amendments to the rules currently in force, including amendments to CCR Order 49, rule 6B consequential on the coming into force of the remaining provisions of section 155 of the Housing Act 1996 (arrest and remand).

£3.50

© Crown copyright 2001

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E1459 8/2001 648369 19585

ISBN 0-11-029816-0



9 780110 298160