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STATUTORY INSTRUMENTS

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**2014 No. 407**

**The Civil Procedure (Amendment) Rules 2014**

**Amendments to the Civil Procedure Rules 1998**

**16.** In Part 40—

(a) in the table of contents to this Part—

(i) after the entry for rule 40.8, insert—

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“Stay of execution and other relief	Rule 40.8A”;
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(ii) after the entry for rule 40.9, insert—

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“County Court judgments and orders – Rule 40.9A” variation of payment
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(iii) after the entry for rule 40.13, insert—

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“County Court set-off of cross-judgments	Rule 40.13A”;	and
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(iv) after the entry for rule 40.14, insert—

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“County Court certificate of judgment	Rule 40.14A
Order of appeal court	Rule 40.14B”;

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(b) after rule 40.8, insert—

**“Stay of execution and other relief**

**40.8A.** Without prejudice to rule 83.7(1), a party against whom a judgment has been given or an order made may apply to the court for—

- (a) a stay of execution of the judgment or order; or
- (b) other relief,

on the ground of matters which have occurred since the date of the judgment or order, and the court may by order grant such relief, and on such terms, as it thinks just.”;

(c) after rule 40.9, insert—

**“County Court judgments and orders - variation of payment**

**40.9A.**—(1) In this rule—

- (a) “creditor” means the person entitled to the benefit of a judgment or order;
- (b) “debtor” means the person liable to make the payment under the judgment or order; and

- (c) “debtor’s home court” means the court, or County Court hearing centre, serving the address of the debtor.
- (2) Where a judgment or order has been given or made in the County Court for the payment of money, the creditor or, as the case may be, the debtor may apply in accordance with this rule for a variation in the date or rate of payment.
- (3) The creditor may apply in writing, without notice being served on any other party, for an order that the money—
- (a) if payable in one sum, be paid—
    - (i) at a later date than that by which it is due; or
    - (ii) by instalments; or
  - (b) if already payable by instalments, be paid by the same or smaller instalments, and the court officer may make an order accordingly, subject to paragraph (4).
- (4) If no payment has been made under the judgment or order for 6 years before the date of the application, the court officer must refer the application to the District Judge.
- (5) The creditor may apply to the District Judge in writing and on notice for an order that the money—
- (a) if payable in one sum, be paid at an earlier date than that by which it is due; or
  - (b) if payable by instalments, be paid in one sum or by larger instalments.
- (6) Any application under paragraph (5) must state the proposed terms and the grounds on which it is made.
- (7) Where an application is made under paragraph (5)—
- (a) the proceedings will be automatically transferred to the debtor’s home court if the judgment or order was not given or made in that court; and
  - (b) the court officer will fix a day for the hearing of the application before the District Judge and give to the creditor and the debtor not less than 8 days’ notice of the day so fixed.
- (8) The debtor may apply for an order that the money—
- (a) if payable in one sum, be paid at a later date than that by which it is due or by instalments; or
  - (b) if already payable by instalments, be paid by smaller instalments.
- (9) Any application under paragraph (8) must—
- (a) be in the appropriate form;
  - (b) state the proposed terms;
  - (c) state the grounds on which it is made; and
  - (d) include a signed statement of the debtor’s means.
- (10) Where an application is made under paragraph (8), the court officer will—
- (a) send the creditor a copy of the debtor’s application and statement of means; and
  - (b) require the creditor to notify the court in writing, within 14 days of service of notification, giving reasons for any objection the creditor may have to the granting of the application.
- (11) If the creditor does not notify the court of any objection within the time stated, the court officer will make an order in the terms applied for.

(12) Upon receipt of a notice from the creditor under paragraph (10), the court officer may determine the date and rate of payment and make an order accordingly.

(13) Any party affected by an order made under paragraph (12) may, within 14 days of service of the order and giving reasons, apply on notice for the order to be re-considered and, where such an application is made—

- (a) the proceedings will be automatically transferred to the debtor’s home court if the judgment or order was not given or made in that court; and
- (b) the court officer shall fix a day for the hearing of the application before the District Judge and give to the creditor and the debtor not less than 8 days’ notice of the day so fixed.

(14) On hearing an application under paragraph (13), the District Judge may confirm the order or set it aside and make such new order as the District Judge thinks fit and the order so made will be entered in the records of the court.

(15) Any order made under any of the foregoing paragraphs may be varied from time to time by a subsequent order made under any of those paragraphs.”;

(d) after rule 40.13, insert—

**“County Court set-off of cross-judgments**

**40.13A.**—(1) This rule applies to applications under section 72 of the County Courts Act 1984<sup>(1)</sup> for permission to set off any sums, including costs, payable under several judgments or orders each of which was obtained in the County Court.

(2) Where the judgments or orders have been obtained in the same County Court hearing centre, the application—

- (a) may be made to that hearing centre on the day when the last judgment or order is obtained, if both parties are present; and
- (b) in any other case must be made on notice.

(3) Where the judgments or orders have been obtained in different County Court hearing centres, the application may be made to any of them on notice.

(4) The District Judge located at the hearing centre to which the application is made will—

- (a) forthwith stay execution on any judgment or order to which the application relates; and
- (b) notify any hearing centre that made the relevant judgments or orders of the stay.

(5) Where execution has been stayed under paragraph (4), any money paid into court under the judgment or order will be retained until the application has been disposed of and the court has directed how any money paid into court is to be dealt with.

(6) Paragraphs (7) and (8) apply where an order is made by the High Court giving permission to set off sums payable under several judgments and orders obtained respectively in the High Court and the County Court.

(7) The High Court will send to the County Court a copy of the order giving permission, and the County Court will deal with any money paid into court in accordance with that order.

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(1) 1984 c.28. Section 72 is amended by the Crime and Courts Act 2013 (c.22), section 17(5), and Schedule 9, Part 1, paragraph 10(1)(b).

(8) The court officer of the County Court will enter satisfaction in the County Court records for any sums ordered to be set off, and execution or other process for the enforcement of any judgment or order not wholly satisfied will issue only for the balance remaining payable.”; and

(e) after rule 40.14, insert—

**“County Court certificate of judgment**

**40.14A.**—(1) Any person who wishes to have a certificate of any judgment or order given or made in a claim in the County Court (“the applicant”) may make a request in writing to the court.

(2) If the applicant is a party to the claim, the request must state whether the certificate—

- (a) is required for the purpose of taking proceedings on the judgment or order in another court;
- (b) is required for the purpose of enforcing the judgment or order in the High Court; or
- (c) is for the purpose of evidence only.

(3) If the applicant is not a party to the claim, the request must state—

- (a) the purpose for which the certificate is required;
- (b) the capacity in which the person asks for the certificate; and
- (c) any other facts showing that the certificate may properly be granted.

(4) Where the certificate is required for the purpose of enforcing the judgment or order in the High Court, the applicant must also either—

- (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
- (b) confirm that an application has been made for an order under section 42 of the County Courts Act 1984(2) (transfer to High Court by order of the County Court) and attach a copy of the application to the request for a certificate.

(5) Where the applicant making the request is not a party to the claim, the request will be referred to the District Judge, who may refer it to the judge.

(6) Without prejudice to paragraph (5), for the purposes of section 12(2) of the County Courts Act 1984(3) a certificate under this rule may be signed by a court officer.

**Order of appeal court**

**40.14B.** Where the Court of Appeal or High Court has heard and determined an appeal from the County Court, the party entitled to the benefit of the order of the appeal court must deposit the order or an office copy of it in the office of the relevant hearing centre of the County Court.”.

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(2) 1984 c.28. Section 42 was substituted by the Courts and Legal Services Act 1990 (c.41), section 2(3), and is amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 1, paragraph 10(1)(b).

(3) Section 12(2) was amended by the Courts and Legal Services Act 1990 (c.41), section 125 and Schedule 18, paragraph 42, and is further amended by the Crime and Courts Act 2013 (c.22) section 17(5) and Schedule 9, Part 1, paragraphs 1, 7(1) and (3).

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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