
STATUTORY RULES OF NORTHERN IRELAND

1996 No. 322

The Family Proceedings Rules (Northern Ireland) 1996

Part VIII

Charging orders, stop orders etc

Order imposing charge on securities

8.11.—(1) The court may for the purpose of enforcing a matrimonial order by order impose on any interest to which the judgment debtor is beneficially entitled in such of the securities to which this rule applies as may be specified in the order a charge for securing payment of the amount due under the order and interest thereon.

(2) Any such order shall in the first instance be an order to show cause, specifying the time and place for further consideration of the matter and imposing the charge until that time in any event.

(3) The securities to which this rule applies are—

- (a) any Government stock, and any stock of any company registered under the Companies (Northern Ireland) Order 1986⁽¹⁾ including any such stock standing in the name of the Accountant General, and
- (b) any dividend of or interest payable on such stock.

Application for order under rule 8.13

8.12. An application for an order under rule 8.13 must be made ex parte supported by an affidavit—

- (a) identifying the order to be enforced, stating the amount unpaid under it at the date of the application and showing that the applicant is entitled to enforce the order;
- (b) specifying the securities on the judgment debtor's interest in which it is sought to impose a charge and stating in whose name they stand;
- (c) stating that to the best of the information and belief of the deponent the judgment debtor is beneficially entitled to an interest in the securities in question, describing that interest and stating the sources of the deponent's information or the ground for his belief.

Service of notice of order to show cause

8.13.—(1) Unless the court otherwise directs, a copy of the order under rule 8.11 to show cause must, at least 7 days before the time appointed thereby for the further consideration of the matter, be served on the judgment debtor, and, if he does not attend on such consideration, proof of service must be given.

(2) Notice of the making of the order to show cause, with a copy of that order, must as soon as practicable after the making of the order be served—

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- (a) where the order relates to Government stock, on the principal office in Belfast of the Bank of Ireland,
- (b) where the order relates to other stock, on the company concerned,
- (c) where the order relates to stock standing in the name of the Accountant General, on the proper officer of the Court Funds Office.

Effect of order to show cause

8.14.—(1) No disposition by the judgment debtor of his interest in any securities to which an order under rule 8.11 to show cause relates which is made after the making of that order shall, so long as that order remains in force, be valid as against the judgment creditor.

(2) Until such order is discharged or made absolute, the Bank of Ireland or, as the case may be, a company shall not permit any transfer of any such stock as is specified in the order or pay to any person any dividend thereof or interest payable thereon, except with the authority of the court.

(3) If, after the notice of the making of such order is served on the Bank of Ireland or a company, the Bank or company permits any transfer or makes any payment prohibited by paragraph (2), it shall be liable to pay the judgment creditor the value of the stock transferred or, as the case may be, the amount of the payment made or, if that value or amount is more than sufficient to satisfy the judgment or order to which such order relates, so much thereof as is sufficient to satisfy it.

Making and effect of charging order absolute

8.15.—(1) On the further consideration of the matter the court shall, unless it appears that there is sufficient cause to the contrary, make the order absolute with or without modifications.

(2) Where on the further consideration of the matter it appears to the court that the order should not be made absolute, it shall discharge the order.

(3) A charge imposed by an order under rule 8.11 made absolute under this rule shall have the same effect, and the judgment creditor in whose favour it is made shall, subject to paragraph (4), have the same remedies for enforcing it, as if it were a valid charge effectively made by the judgment debtor.

(4) No proceedings to enforce a charge imposed by an order made absolute under this rule shall be taken until after the expiration of 6 months from the date of the order to show cause.

Discharge, etc of charging order

8.16. The court, on the application of the judgment debtor or any other person interested in the securities to which an order under rule 8.11 relates, may at any time whether before or after the order is made absolute, discharge or vary the order on such terms (if any) as to costs as it thinks just.

Money in court: charging order

8.17.—(1) The court may for the purpose of enforcing a matrimonial order by order impose on any interest to which the judgment debtor is beneficially entitled in any money in court identified in the order a charge for securing payment of the amount due under the order and interest thereon.

(2) Any such order shall in the first instance be an order to show cause, specifying the time and place for the further consideration of the matter and imposing the charge until that time in any event.

(3) Rules 8.12 and 8.13 shall, with the necessary modifications, apply in relation to an application for an order under this rule and to the order as they apply in relation to an application for an order under rule 8.11 and to such order.

(4) Notice of the making of an order under this rule to show cause, with a copy of that order, must as soon as practicable after the making of the order, be served on the proper officer of the Court Funds Office.

(5) Rules 8.14(1), 8.15(1) and (2) and 8.16 shall, with the necessary modifications, apply in relation to an order under this rule as they apply in relation to an order under rule 112.

Jurisdiction of Master to grant injunction or appoint receiver to enforce charge

8.18. The Master shall have power to grant an injunction if, and only so far as, it is ancillary or incidental to an order under rule 8.11 or 8.17, and an application for an injunction under this rule may be joined with the application for the order under rule 8.11 or 8.17 to which it relates.

Funds in court: stop order

8.19.—(1) The court, on the application of the judgment creditor may without notice to the applicant make an order prohibiting the transfer, sale, delivery out or payment of, or other dealing with, funds in court or any part thereof or the income thereon in which the judgment debtor has an interest.

(2) An application for an order under this rule must be made by summons in the cause or matter relating to the funds in court.

(3) The summons must be served on every person whose interest may be affected by the order applied for and on the proper officer of the Court Funds Office but shall not be served on any other person.

(4) Without prejudice to the court's powers and discretion as to costs, the court may order the applicant for an order under this rule to pay the costs of any party to the cause or matter relating to the funds in question, or of any person interested in those funds, occasioned by the application.

Securities not in court: stop notice

8.20.—(1) A judgment creditor claiming to be beneficially entitled to an interest in any securities to which rule 8.11 applies, other than securities in court, who wishes to be notified of any proposed transfer or payment of those securities may avail himself of the provisions of this rule.

(2) A person claiming to be so entitled must file in the court office,

(a) an affidavit identifying the securities in question and describing his interest therein by reference to the document under which it arises, and

(b) a notice in Form M23, signed by the deponent to the affidavit, and annexed to it, addressed to the Bank of Ireland or, as the case may be, the company concerned

and must serve an office copy of the affidavit and a copy of the notice sealed with the seal of the court on the Bank of that company.

(3) There must be indorsed on the affidavit filed under this rule a notice stating the address to which any such notice as is referred to in rule 8.21(1) is to be sent and, subject to paragraph (4), that address shall for the purpose of that rule be the address for service of the person on whose behalf the affidavit is filed.

(4) A person on whose behalf an affidavit under this rule is filed may change his address for service for the purpose of rule 8.21 by serving on the Bank of Ireland or, as the case may be, the company concerned, a notice to that effect, and as from the date of service of such a notice the address stating thereon shall for the purpose of that rule be the address for service of that person.

Effect of stop notice

8.21.—(1) Where a notice under rule 8.20 has been served on the Bank of Ireland or a company, then, so long as the notice is in force, the Bank or company shall not register a transfer of any stock or make a payment of any dividend or interest, being a transfer or payment restrained by the notice, without serving on the person on whose behalf the notice was filed at his address for service a notice informing him of the request for such transfer or payment.

(2) Where the Bank of Ireland or a company receives a request for such a transfer or payment as is mentioned in paragraph (1) made by or on behalf of the holder of the securities to which the notice under rule 8.20 relates, the Bank or company shall not by reason only of that notice refuse to register the transfer or make the payment for longer than 8 days after receipt of the request except under the authority of an order of the court.

Amendment of stop notice

8.22. If any securities are incorrectly described in a notice filed under rule 8.20, the person on whose behalf the notice was filed may file in the Matrimonial Office or county court office an amended notice and serve on the Bank of Ireland or, as the case may be, the company concerned a copy of that notice sealed with the appropriate seal and where he does so the notice under rule 8.20 shall be deemed to have been served on the Bank or company on the day on which the copy of the amended notice was served on it.

Withdrawal, etc of stop notice

8.23.—(1) The person on whose behalf a notice under rule 8.20 was filed may withdraw it by serving a request for its withdrawal on the Bank of Ireland or, as the case may be, the company on whom the notice was served.

(2) Such request must be signed by the person on whose behalf the notice was filed and his signature must be witnessed by a practising solicitor.

(3) The court, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a notice under rule 8.20 relates, may by order discharge the notice.

(4) An application for an order under paragraph (3) must be made by summons, and the summons must be served on the person on whose behalf the notice under rule 8.20 was filed.