



# Charging Orders Act 1979

## 1979 CHAPTER 53

### *Charging orders*

#### **3 Provisions supplementing sections 1 and 2.**

- (1) A charging order may be made either absolutely or subject to conditions as to notifying the debtor or as to the time when the charge is to become enforceable, or as to other matters.
- (2) The <sup>M1</sup>Land Charges Act 1972 and the [<sup>F1</sup>Land Registration Act 2002] shall apply in relation to charging orders as they apply in relation to other orders or writs issued or made for the purpose of enforcing judgments.
- (3) <sup>F2</sup>.....
- (4) Subject to the provisions of this Act, a charge imposed by a charging order shall have the like effect and shall be enforceable in the same courts and in the same manner as an equitable charge created by the debtor by writing under his hand.

[<sup>F3</sup>(4A) Subsections (4C) to (4E) apply where—

- (a) a debtor is required to pay a sum of money in instalments under a judgment or order of the High Court [<sup>F4</sup>or the family court] or [<sup>F5</sup>the county court] (an “instalments order”), and
- (b) a charge has been imposed by a charging order in respect of that sum.

(4B) In subsections (4C) to (4E) references to the enforcement of a charge are to the making of an order for the enforcement of the charge.

(4C) The charge may not be enforced unless there has been default in payment of an instalment under the instalments order.

(4D) Rules of court may—

- (a) provide that, if there has been default in payment of an instalment, the charge may be enforced only in prescribed cases, and
- (b) limit the amounts for which, and the times at which, the charge may be enforced.

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*Changes to legislation: There are currently no known outstanding effects for the Charging Orders Act 1979, Section 3. (See end of Document for details)*

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- (4E) Except so far as otherwise provided by rules of court under subsection (4D)—
- (a) the charge may be enforced, if there has been default in payment of an instalment, for the whole of the sum of money secured by the charge and the costs then remaining unpaid, or for such part as the court may order, but
  - (b) the charge may not be enforced unless, at the time of enforcement, the whole or part of an instalment which has become due under the instalments order remains unpaid.]
- (5) The court by which a charging order was made may at any time, on the application of the debtor or of any person interested in any property to which the order relates, make an order discharging or varying the charging order.
- (6) Where a charging order has been protected by an entry registered under the Land Charges Act 1972 or the [F1Land Registration Act 2002], an order under subsection (5) above discharging the charging order may direct that the entry be cancelled.
- (7) The Lord Chancellor may by order made by statutory instrument amend section 2(2) of this Act by adding to, or removing from, the kinds of asset for the time being referred to there, any asset of a kind which in his opinion ought to be so added or removed.
- (8) Any order under subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** Words in s. 3(2)(6) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 133, 136(2), [Sch. 11 para. 15](#) (with s. 129); [S.I. 2003/1725](#), [art. 2\(1\)](#)
- F2** S. 3(3) repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 135, 136(2), [Sch. 13](#) (with s. 129, [Sch. 12 para. 1](#)); [Sch. 11 para. 15](#) (with s. 129); [S.I. 2003/1725](#), [art. 2\(1\)](#)
- F3** S. 3(4A)-(4E) inserted (1.10.2012) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), [ss. 93\(3\)\(6\)](#), 148; [S.I. 2012/1312](#), [art. 3](#)
- F4** Words in s. 3(4A)(a) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 38\(2\)](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** Words in s. 3(4A)(a) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### Modifications etc. (not altering text)

- C1** S. 3(1)(2)(4)(6) extended by [Insolvency Act 1986 \(c. 45, SIF 66\)](#), [s. 313\(4\)\(5\)](#) ([s. 313\(5\)](#)) of the amending Act inserted (1.4.2004) by [2002 c. 40](#), ss. 261(2)(c), 279 (with s. 249(6)); [S.I. 2003/2093](#), [art. 2\(2\)](#), [Sch. 2](#)

#### Marginal Citations

- M1** 1972 c. 61.

**Changes to legislation:**

There are currently no known outstanding effects for the Charging Orders Act 1979, Section 3.