



Tribunals, Courts and Enforcement Act 2007

2007 CHAPTER 15

PART 4

ENFORCEMENT OF JUDGMENTS AND ORDERS

Charging orders

93 Payment by instalments: making and enforcing charging orders

- (1) Subsections (2), (3) and (4) make amendments to the Charging Orders Act 1979 (c. 53).
- (2) In section 1 (charging orders), after subsection (5) insert—
 - “(6) Subsections (7) and (8) apply where, under a judgment or order of the High Court or [^{F1}the county court], a debtor is required to pay a sum of money by instalments.
 - (7) The fact that there has been no default in payment of the instalments does not prevent a charging order from being made in respect of that sum.
 - (8) But if there has been no default, the court must take that into account when considering the circumstances of the case under subsection (5).”
- (3) In section 3 (provisions supplementing sections 1 and 2), after subsection (4) insert—
 - “(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 or [^{F2}the county court] (an “instalments order”), and
 - (b) a charge has been imposed by a charging order in respect of that sum.

Changes to legislation: Tribunals, Courts and Enforcement Act 2007, Cross Heading: Charging orders is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (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.
- (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.”
- (4) In section 6(2) (meaning of references to judgment or order of High Court or county court), for “section 1” substitute “ sections 1 and 3 ”.
- (5) In section 313(4) of the Insolvency Act 1986 (c. 45) (charge on bankrupt's home: certain provisions of section 3 of Charging Orders Act 1979 to apply), for the words before “section 3” substitute “ Subsection (1), (2), (4), (5) and (6) of ”.
- (6) This section does not apply in a case where a judgment or order of the High Court or [^{F3}the county court] under which a debtor is required to pay a sum of money by instalments was made, or applied for, before the coming into force of this section.

Textual Amendments

- F1** Words in s. 93(2) 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)
- F2** Words in s. 93(3) 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)
- F3** Words in s. 93(6) 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)

Commencement Information

- I1** S. 93 in force at 1.10.2012 by [S.I. 2012/1312, art. 3](#)

94 Charging orders: power to set financial thresholds

In the Charging Orders Act 1979 (c. 53), after section 3 there is inserted—

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“3A Power to set financial thresholds

- (1) The Lord Chancellor may by regulations provide that a charge may not be imposed by a charging order for securing the payment of money of an amount below that determined in accordance with the regulations.
- (2) The Lord Chancellor may by regulations provide that a charge imposed by a charging order may not be enforced by way of order for sale to recover money of an amount below that determined in accordance with the regulations.
- (3) Regulations under this section may—
 - (a) make different provision for different cases;
 - (b) include such transitional provision as the Lord Chancellor thinks fit.
- (4) The power to make regulations under this section is exercisable by statutory instrument.
- (5) The Lord Chancellor may not make the first regulations under subsection (1) or (2) unless (in each case) a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing any subsequent regulations under those subsections is subject to annulment in pursuance of a resolution of either House of Parliament.”

Commencement Information

12 S. 94 in force at 17.5.2012 by [S.I. 2012/1312](#), [art. 2](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(8)(bza) inserted by [2022 c. 36 s. 23\(2\)](#)
- s. 13(8)(bzb) inserted by [2022 c. 36 s. 24\(9\)](#)
- s. 16(3)(a) word inserted by [2015 c. 2 s. 85\(3\)\(a\)](#)
- s. 16(3)(b) and word inserted by [2015 c. 2 s. 85\(3\)\(b\)](#)
- s. 16(3A)(3B) inserted by [2015 c. 2 s. 85\(4\)](#)
- s. 22(6) inserted by [2022 c. 35 Sch. 4 para. 4\(2\)](#)
- s. 23(8) inserted by [2022 c. 35 Sch. 4 para. 4\(3\)](#)
- s. 25A inserted by [2022 c. 36 s. 80\(1\)](#)
- s. 29(3A) inserted by [2022 c. 36 s. 81\(6\)](#)
- Sch. 5 para. 11A and cross-heading inserted by [2022 c. 36 s. 80\(2\)](#)
- Sch. 7 para. 6(1)(e) words substituted by [2013 c. 22 Sch. 14 para. 13\(2\)](#) (Sch. 7 was already repealed when this amendment came into force)
- Sch. 7 para. 6(4)(b) words substituted by [2013 c. 22 Sch. 14 para. 13\(2\)](#) (Sch. 7 was already repealed when this amendment came into force)