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STATUTORY INSTRUMENTS

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**1981 No. 1687**

**The County Court Rules 1981**

**ORDER 25**

**ENFORCEMENT OF JUDGMENTS AND ORDERS: GENERAL**

**Judgment creditor and debtor**

1. In this Order and Orders 26 to 29 “judgment creditor” means the person who has obtained or is entitled to enforce a judgment or order and “debtor” means the person against whom it was given or made.

**Transfer of proceedings for enforcement**

2.—(1) Where, with a view to enforcing a judgment or order obtained by him in a county court, a judgment creditor desires to apply for—

- (a) the oral examination of the debtor,
- (b) a charging order under section 1 of the Charging Orders Act 1979,
- (c) an attachment of earnings order, or
- (d) the issue of a judgment summons,

and the application is required by any provision of these rules to be made to another county court, the judgment creditor shall make a request in writing to the registrar of the court in which the judgment or order was obtained for the transfer of the action or matter to the other court.

(2) On receipt of a request under paragraph (1) the registrar shall make an order transferring the action or matter to the other court and the proper officer shall—

- (a) make an entry of the transfer in the records of his court; and
- (b) send to the proper officer of the court to which the action or matter has been transferred a certificate of the judgment or order, stating the purpose for which it has been issued, and, if requested by that officer, all the documents in his custody relating to the action or matter.

(3) When the action or matter has been transferred to the other court—

- (a) the proper officer of that court shall give notice of the transfer to the judgment creditor and the debtor,
- (b) payments under the judgment or order shall be made into that court, and
- (c) subject to sub-paragraph (d), any subsequent proceedings in the action or matter shall be taken in that court, but
- (d) any application or appeal under Order 37 shall be made to the court in which the judgment or order was obtained.

(4) If the judgment creditor desires to make a subsequent application for any of the remedies mentioned in paragraph (1)(a) to (d) and the application is required to be made to another court,

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he may make a request under paragraph (1) to the court to which the action or matter has been transferred and paragraphs (2) and (3) shall apply with the necessary modifications.

### **Oral examination of debtor**

3.—(1) Where a person has obtained a judgment or order in a county court for the payment of money, the appropriate court may, on an application made ex parte by the judgment creditor, order the debtor or, if the debtor is a body corporate, an officer thereof to attend before the registrar or such other officer of the court not below the rank of higher executive officer as the court may appoint and be orally examined as to the debtor's means of satisfying the judgment or order, and may also order the person to be examined to produce at the time and place appointed for the examination any books or documents in his possession relevant to the debtor's means.

(2) The appropriate court for the purposes of paragraph (1) shall be the court for the district in which the person to be examined (or, if there are more such persons than one, any of them) resides or carries on business.

(3) The order shall be served in the same manner as a default summons.

(4) If the person to be examined fails to attend at the time and place fixed for the examination, the court may adjourn the examination and make a further order for his attendance.

(5) Nothing in Order 29, rule 1(2) to (7) shall apply to an order made under paragraph (4), but Order 27, rule 8, and Order 28, rule 4(2), shall apply, with the necessary modifications, as they apply to orders made under section 23(1) of the Attachment of Earnings Act 1971 and section 144(1) of the County Courts Act 1959 respectively.

(6) Order 20, rule 13, shall apply with the necessary modifications, to an examination under this rule as it applies to an examination under that rule.

(7) Nothing in this rule shall be construed as preventing the court, before deciding whether to make an order under paragraph (1), from giving the person to be examined an opportunity of making a statement in writing or an affidavit as to the debtor's means.

### **Examination of debtor under judgment not for money**

4. Where any difficulty arises in or in connection with the enforcement of any judgment or order for some relief other than the payment of money, the court may make an order under rule 3 for the attendance of the debtor and for his examination on such questions as may be specified in the order, and that rule shall apply accordingly with the necessary modifications.

### **Production of plaintiff note**

5. On filing—

- (a) a request for a warrant of execution, delivery or possession,
- (b) a request for a judgment summons or warrant of committal,
- (c) an application for a garnishee order under Order 30, rule 1, or
- (d) an application for a charging order,

the judgment creditor shall, if the judgment or order sought to be enforced is a judgment or order of a county court, produce the plaintiff note or originating process unless otherwise directed.

### **Description of parties**

6. Where the name or address of the judgment creditor or the debtor as given in the request for the issue of a warrant of execution or delivery, judgment summons or warrant of committal differs from his name or address in the judgment or order sought to be enforced and the judgment creditor

satisfies the proper officer that the name or address as given in the request is applicable to the person concerned, the judgment creditor or the debtor, as the case may be, shall be described in the warrant or judgment summons as “C.D. of [*name and address as given in the request*] suing [*or sued*] as A.D. of [*name and address in the judgment or order*]”.

### **Recording and giving information as to warrants and orders**

7.—(1) Every registrar by whom a warrant or order is issued or received for execution shall from time to time state in the records of his court what has been done in the execution of the warrant or order.

(2) If the warrant or order has not been executed within one month from the date of its issue or receipt by him, the proper officer of the court responsible for its execution shall, at the end of that month and every subsequent month during which the warrant remains outstanding, send notice of the reason for non-execution to the judgment creditor and, if the warrant or order was received from another court, to the proper officer of that court.

(3) The registrar responsible for executing a warrant or order shall give such information respecting it as may reasonably be required by the judgment creditor and, if the warrant or order was received by him from another court, by the registrar of that court.

(4) Where money is received in pursuance of a warrant of execution or committal sent by one court to another court, the proper officer of the foreign court shall, subject to paragraph (5) and to section 41 of the Bankruptcy Act 1914 and section 326 of the Companies Act 1948, forthwith send the money, accompanied by a return, to the proper officer of the home court in the manner prescribed by the County Court Funds Rules.

(5) Where interpleader proceedings are pending, the proper officer shall not proceed in accordance with paragraph (4) until the interpleader proceedings are determined and the registrar shall then make a return showing how the money is to be disposed of and, if any money is payable to the judgment creditor, the proper officer shall proceed in accordance with paragraph (4).

(6) Where a warrant of committal has been received from another court, the proper officer of the foreign court shall, on the execution of the warrant, send notice thereof to the proper officer of the home court.

### **Suspension of judgment or execution**

8.—(1) Any power of the court to suspend or stay a judgment or order or to stay execution of any warrant may be exercised by the registrar.

(2) Where an order is made suspending a warrant of execution—

(a) the court may order the debtor to pay the costs of the warrant and any fees or expenses incurred by the registrar before its suspension and may authorise the registrar to sell a sufficient portion of any goods seized to cover such costs, fees and expenses and the expenses of sale, and

(b) subject to any directions given by the court, the warrant may be re-issued on the judgment creditor's filing a request in writing showing that any condition subject to which the warrant was suspended has not been complied with.

### **Enforcement of judgment or order against firm**

9.—(1) Subject to paragraph (2), a judgment or order against a firm may be enforced against—

(a) any property of the firm,

(b) any person who admitted in the action or matter that he was a partner or was adjudged to be a partner,

- (c) any person who was served as a partner with the originating process if—
- (i) the proceeding is a default action and judgment was entered under Order 9, rule 6, in default of defence or on admission, or
  - (ii) the person so served did not appear on a pre-trial review and judgment was entered or given under Order 17, rule 7 or 8, or
  - (iii) the person so served did not appear at the trial or hearing of the action or matter.

(2) A judgment or order may not be enforced under paragraph (1) against a member of the firm who was out of England and Wales when the originating process was issued unless he—

- (a) was served within England and Wales with the originating process as a partner, or
- (b) was, with the leave of the court under Order 8, rule 2, served out of England and Wales with the originating process as a partner,

and, except as provided by paragraph (1)(a) and by the foregoing provisions of this paragraph, a judgment or order obtained against a firm shall not render liable, release or otherwise affect a member of the firm who was out of England and Wales when the originating process was issued.

(3) A judgment creditor who claims to be entitled to enforce a judgment or order against any other person as a partner may apply to the court for leave to do so.

(4) Notice of any application under paragraph (3) shall be served on the alleged partner, not less than three days before the hearing of the application, in the manner prescribed by Order 7, rule 10, for a fixed date summons, and on the hearing of the application, if the alleged partner does not dispute his liability, the court may, subject to paragraph (2), give leave to enforce the judgment or order against him and, if he disputes liability, the court may order that the question of his liability be tried and determined in such a manner as the court thinks fit.

(5) The foregoing provisions of this rule shall not apply where it is desired to enforce in a county court a judgment or order of the High Court, or a judgment, order, decree or award of any court or arbitrator which is or has become enforceable as if it were a judgment or order of the High Court, and in any such case the provisions of the R.S.C. relating to the enforcement of a judgment or order against a firm shall apply.

### **Enforcing judgment between a firm and its members**

**10.**—(1) Execution to enforce a judgment or order given or made in—

- (a) proceedings by or against a firm in the name of the firm against or by a member of the firm, or
- (b) proceedings by a firm in the name of the firm against a firm in the name of the firm where those firms have one or more members in common,

shall not issue without the leave of the court.

(2) On an application for leave the court may give such directions, including directions as to the taking of accounts and the making of inquiries, as may be just.

### **Enforcement of High Court judgment**

**11.** A judgment creditor who desires to enforce by warrant of execution, attachment of earnings or judgment summons a judgment or order of the High Court, or a judgment, order, decree or award of any court or arbitrator which is or has become enforceable as if it were a judgment or order of the High Court, shall file with his request for the warrant or judgment summons or his application for an attachment of earnings order, as the case may be,—

- (a) an office copy of the judgment or order or, in the case of a judgment, order, decree or award of a court other than the High Court or an arbitrator, such evidence of the judgment,

order, decree or award and of its enforceability as a judgment of the High Court as the registrar may require;

- (b) an affidavit verifying the amount due under the judgment, order, decree or award, and
- (c) where a writ of execution has been issued to enforce it, a copy of the sheriff's return to the writ.

### **Enforcement of award of tribunal**

**12.**—(1) Where by any Act or statutory instrument other than these rules a sum of money is, if the county court so orders, recoverable as if payable under an order of that court, an application for such an order shall be made ex parte by filing an affidavit verifying the amount remaining due to the applicant and by producing any award, order or agreement under which the sum is payable, or a duplicate thereof, and filing a copy.

(2) Unless otherwise provided, the application shall be made to the court for the district in which the person by whom the sum is payable resides or carries on business.

(3) The application may be heard and determined by the registrar.