

## SCHEDULE 2

### CCR ORDER 30

#### GARNISHEE PROCEEDINGS

##### **Attachment of debt due to judgment debtor**

**Rule 1.**—(1) Where a person (in this Order called “the judgment creditor”) has obtained in a county court a judgment or order for the payment of a sum of money amounting in value to at least £50 by some other person (“the judgment debtor”) and any person within England and Wales (“the garnishee”) is indebted to the judgment debtor, that court may, subject to the provisions of this Order and of any enactment, order the garnishee to pay the judgment creditor the amount of any debt due or accruing due from the garnishee to the judgment debtor or so much thereof as is sufficient to satisfy the judgment or order against the judgment debtor and the costs of the garnishee proceedings.

(2) An order under this rule shall in the first instance be an order to show cause, specifying the place and time for the further consideration of the matter (in this Order called “the return day”) and in the meantime attaching the debt due or accruing due from the garnishee or so much of it as is sufficient for the purpose aforesaid.

(3) Among the conditions mentioned in section 108 (3) of the Act (which enables any sum standing to the credit of a person in certain types of account to be attached notwithstanding that certain conditions applicable to the account in question have not been satisfied) there shall be included any condition that a receipt for money deposited in the account must be produced before any money is withdrawn.

(5) An order under this rule shall not require a payment which would reduce below £1 the amount standing in the name of the judgment debtor in an account with a building society or a credit union.

##### **Application for order**

**Rule 2** An application for an order under rule 1 may be made without notice being served on any other party by filing a witness statement or affidavit—

- (a) stating the name and last known address of the judgment debtor;
- (b) identifying the judgment or order to be enforced and stating the amount of such judgment or order;
- (c) stating that, to the best of the information or belief of the witness, the garnishee (giving his name and address) is indebted to the judgment debtor;
- (d) where the garnishee is a deposit-taking institution having more than one place of business, giving the name and address of the branch at which the judgment debtor’s account is believed to be held and the number of that account or, if it be the case, that all or part of this information is unknown to the witness; and
- (e) certifying the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid.

##### **Preparation, service and effect of order to show cause**

**Rule 3.**—(1) An order under rule 1 to show cause shall be drawn up by the court with sufficient copies for service under this rule.

(2) Unless otherwise directed, a copy of the order shall be served—

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- (a) on the garnishee in the manner required for the notice of the day of hearing in accordance with Order 3, rule 6 at least 15 days before the return day;
- (b) on the judgment debtor in accordance with CPR Part 6 at least 7 days after a copy has been served on the garnishee and at least 7 days before the return day,

and as from such service on the garnishee the order shall bind in his hands any debt due or accruing due from the garnishee to the judgment debtor, or so much thereof as is sufficient to satisfy the judgment or order obtained by the judgment creditor against the judgment debtor, and the costs entered on the order to show cause.

#### **Notice by deposit-taking institution denying indebtedness**

**Rule 5** Where the garnishee being a deposit-taking institution alleges that it does not hold any money to the credit of the judgment debtor, the garnishee may, at any time before the return day, give notice to that effect to the court and to the judgment creditor and thereupon, subject to rule 8 the proceedings against the garnishee shall be stayed.

#### **Order where no notice given etc.**

**Rule 7.**—(1) Where the garnishee—

- (a) does not give notice under rule 5; and
- (b) does not on the return day appear or dispute the debt due or claimed to be due from him to the judgment debtor,

then, if the judgment debtor does not appear or show cause to the contrary, the court may, if it thinks fit, make an order absolute under rule 1 against the garnishee.

(2) An order absolute under rule 1 may be enforced in the same manner as any other order for the payment of money.

#### **Directions where dispute as to notice under rule 5**

**Rule 8** Where the garnishee in a notice given under rule 5 makes an allegation which the judgment creditor disputes, the court shall on the return day give directions for the determination of the question at issue.

#### **Determination of liability in other cases**

**Rule 9** Where in a case in which no notice has been given under rule 5 the garnishee on the return day disputes liability to pay the debt due or claimed to be due from him to the judgment debtor, the court may summarily determine the question at issue or order that any question necessary for determining the liability of the garnishee be tried in any manner in which any question or issue in proceedings may be tried.

#### **Transfer of proceedings**

**Rule 10** A garnishee who does not reside or carry on business within the district of the court in which the garnishee proceedings have been commenced and who desires to dispute liability for the debt due or claimed to be due from him to the judgment debtor may apply without notice being served on any other party in writing to that court for an order transferring the proceedings in which the judgment or order sought to be enforced was obtained to the court for the district in which the garnishee resides or carries on business, and the court applied to may, if it thinks fit, grant the application after considering any representations which it may give the judgment creditor and the judgment debtor an opportunity of making.

### **Discharge of garnishee**

**Rule 11** Any payment made by a garnishee in compliance with an order absolute in garnishee proceedings, and any execution levied against him in pursuance of such an order, shall be a valid discharge of his liability to the judgment debtor to the extent of the amount paid or levied (otherwise than in respect of any costs ordered to be paid by the garnishee personally), notwithstanding that the garnishee proceedings are subsequently set aside or the judgment or order from which they arise is reversed.

### **Money in court**

**Rule 12.**—(1) Where money is standing to the credit of the judgment debtor in any county court, the judgment creditor shall not be entitled to take garnishee proceedings in respect of the money but may apply to the court on notice for an order that the money or so much of it as is sufficient to satisfy the judgment or order sought to be enforced and the costs of the application be paid to the judgment creditor.

(2) On receipt of notice of an application under paragraph (1) the court officer shall retain the money in court until the application has been determined.

(3) The court hearing an application under paragraph (1) may make such order with respect to the money in court as it thinks just.

### **Costs of judgment creditor**

**Rule 13** Any costs allowed to the judgment creditor on an application for an order under rule 1 or 12 which in the former case are not ordered to be paid by the garnishee personally shall, unless the court otherwise directs be retained by the judgment creditor out of the money recovered by him under the order in priority to the amount due under the judgment or order obtained by him against the judgment debtor.

### **Attachment of debt owed by firm**

**Rule 14.**—(1) An order may be made under rule 1 in relation to a debt due or accruing due from a firm carrying on business within England and Wales, notwithstanding that one or more members of the firm may be resident out of England and Wales.

(2) An order to show cause under rule 1 relating to such a debt shall be served on a member of the firm within England and Wales or on some other person having the control or management of the partnership business.

### **Powers of district judge**

**Rule 15** The powers conferred on the court by any provision of this Order may be exercised by the judge or district judge.