



Charging Orders Act 1979

1979 CHAPTER 53

Charging orders

1 Charging orders.

- (1) Where, under a judgment or order of the High Court [^{F1}or the family court] or [^{F2}the county court] , a person (the “debtor”) is required to pay a sum of money to another person (the “creditor”) then, for the purpose of enforcing that judgment or order, the appropriate court may make an order in accordance with the provisions of this Act imposing on any such property of the debtor as may be specified in the order a charge for securing the payment of any money due or to become due under the judgment or order.
- (2) The appropriate court is—
- (a) in a case where the property to be charged is a fund in court, the court in which that fund is lodged;
 - (b) in a case where paragraph (a) above does not apply and the order to be enforced is a maintenance order of the High Court [^{F3}or an order for costs made in family proceedings in the High Court], the High Court or [^{F4}the family] court;
 - [^{F5}(ba) in a case where paragraph (a) does not apply and the order to be enforced is an order of the family court, the family court;]
 - (c) in a case where [^{F6}none of paragraphs (a), (b) and (ba)] above applies and the judgment or order to be enforced is a judgment or order of the High Court for a sum exceeding £2,000, the High Court [^{F7}or [^{F8}the county court]]; and
 - (d) in any other case, [^{F8}the county court].
- In this section [^{F9}“county court limit” means the county court limit for the time being specified in an Order in Council under [^{F10}section 145 of the County Courts Act 1984] as the county court limit for the purposes of this section and]“maintenance order” has the same meaning as in section 2(a) of the ^{M1}Attachment of Earnings Act 1971.
- (3) An order under subsection (1) above is referred to in this Act as a “charging order”.

Changes to legislation: There are currently no known outstanding effects for the Charging Orders Act 1979, Section 1. (See end of Document for details)

- (4) Where a person applies to the High Court for a charging order to enforce more than one judgment or order, that court shall be the appropriate court in relation to the application if it would be the appropriate court, apart from this subsection, on an application relating to one or more of the judgments or orders concerned.
- (5) In deciding whether to make a charging order the court shall consider all the circumstances of the case and, in particular, any evidence before it as to—
- (a) the personal circumstances of the debtor, and
 - (b) whether any other creditor of the debtor would be likely to be unduly prejudiced by the making of the order.
- [^{F11}(6) Subsections (7) and (8) apply where, under a judgment or order of the High Court [^{F12}or the family court] or [^{F13}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).]
- [^{F14}(9) In this section “family proceedings” means proceedings in the Family Division of the High Court which are business assigned, by or under section 61 of (and Schedule 1 to) the Senior Courts Act 1981, to that Division of the High Court and no other.]

Annotations:

Amendments (Textual)

- F1** Words in s. 1(1) 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)
- F2** Words in s. 1(1) 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. 1(2)(b) inserted (22.4.2014) by [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, **15**
- F4** Words in s. 1(2)(b) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 38(3)**; [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F5** S. 1(2)(ba) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 38(4)**; [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F6** Words in s. 1(2)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 10 para. 38(5)**; [S.I. 2014/954](#), art. 2(d) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F7** Words inserted by [Administration of Justice Act 1982 \(c. 53, SIF 34\)](#), s. **34(3)**
- F8** Words in s. 1(2)(c)(d) 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)
- F9** Words inserted by [Administration of Justice Act 1982 \(c. 53, SIF 34\)](#), s. 37, **Sch. 3 Pt. II para. 6**
- F10** Words substituted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(1), **Sch. 2 para. 71**
- F11** S. 1(6)-(8) inserted (1.10.2012) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), **ss. 93(2)(6)**, 148; [S.I. 2012/1312](#), art. 3

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- F12** Words in s. 1(6) 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)
- F13** Words in s. 1(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)
- F14** S. 1(9) inserted (22.4.2014) by [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) Order 2014 \(S.I. 2014/605\)](#), arts. 1, **16**

Modifications etc. (not altering text)

- C1** S. 1: definition of "charging order" applied (5.4.1993) by [Child Support Act 1991 \(c. 48, SIF 20\)](#), s. **36(2)**, (with s. 9(2)); [S.I. 1992/2644](#), art. 2
- C2** S. 1(2) amended by [Administration of Justice Act 1982 \(c. 53, SIF 34\)](#), s. 37, Sch. 3 Pt. II paras. 2, **3(b)**

Marginal Citations

- M1** 1971 c. 32.

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