



# County Courts Act 1984

## 1984 CHAPTER 28

### PART V

#### ENFORCEMENT OF JUDGMENTS AND ORDERS

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

- C1** Pt. V (ss. 85-111) applied (1.1.2007) by [Gambling Act 2005 \(c. 19\)](#), ss. **149(2)**, 358(1) (with ss. 352, 354); S.I. 2006/3272, [art. 2\(1\)](#), Sch. 1 (with Sch. 4)

#### *Execution against goods*

#### **85 Execution of judgments or orders for payment of money.**

- (1) Any sum of money payable under a judgment or order of a county court may be recovered, in case of default or failure of payment, forthwith or at the time or times and in the manner thereby directed, by execution against the goods of the party against whom the judgment or order was obtained.
- (2) The registrar, on the application of the party prosecuting any such judgment or order, shall issue a warrant of execution in the nature of a writ of fieri facias whereby the registrar shall be empowered to levy or cause to be levied by distress and sale of the goods, wherever they may be found within the district of the court, the money payable under the judgment or order and the costs of the execution.
- (3) The precise time of the making of the application to the registrar to issue such a warrant shall be entered by him in the record prescribed for the purpose under section 12 and on the warrant.
- (4) It shall be the duty of every constable within his jurisdiction to assist in the execution of every such warrant.

*Status: Point in time view as at 01/02/1991.*

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## 86 Execution of orders for payment by instalments.

- (1) Where the court has made an order for payment of any sum of money by instalments, execution on the order shall not be issued until after default in payment of some instalment according to the order.
- (2) County court rules may prescribe the cases in which execution is to issue if there is any such default and limit the amounts for which and the times at which execution may issue.
- (3) Except so far as may be otherwise provided by county court rules made for those purposes, execution or successive executions may issue if there is any such default for the whole of the said sum of money and costs then remaining unpaid or for such part as the court may order either at the time of the original order or at any subsequent time; but except so far as may be otherwise provided by such rules, no execution shall issue unless at the time when it issues the whole or some part of an instalment which has already become due remains unpaid.

### Modifications etc. (not altering text)

C2 S. 86 restricted (1.9.1993) by S.I. 1993/2073, art.6.

## 87 Execution to be superseded on payment.

- (1) In or upon every warrant of execution issued from a county court against the goods of any person, the registrar shall cause to be inserted or indorsed the total amount to be levied, inclusive of the fee for issuing the warrant but exclusive of the fees for its execution.
- (2) If the person against whom the execution is issued, before the actual sale of the goods, pays or causes to be paid or tendered to the registrar of the court from which the warrant is issued, or to the bailiff holding the warrant, the amount inserted in, or indorsed upon, the warrant under subsection (1), or such part as the person entitled agrees to accept in full satisfaction, together with the amount stated by the officer of the court to whom the payment or tender is made to be the amount of the fees for the execution of the warrant, the execution shall be superseded, and the goods shall be discharged and set at liberty.

### Modifications etc. (not altering text)

C3 S. 87 applied (1.9.1993) by S.I. 1993/2073, art.4(1).

## 88 Power to stay execution.

If at any time it appears to the satisfaction of the court that any party to any proceedings is unable from any cause to pay any sum recovered against him (whether by way of satisfaction of the claim or counterclaim in the proceedings or by way of costs or otherwise), or any instalment of such a sum, the court may, in its discretion, stay any execution issued in the proceedings for such time and on such terms as the court thinks fit, and so from time to time until it appears that the cause of inability has ceased.

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

C4 S. 88 restricted (1.9.1993) by S.I. 1993/2073, art.8.

*Seizure and custody of goods etc.*

**89 Goods which may be seized.**

(1) Every bailiff or officer executing any warrant of execution issued from a county court against the goods of any person may by virtue of it seize—

[<sup>F1</sup>(a) any of the goods of that person, except the wearing apparel and bedding of that person or his family, and the tools and implements of his trade, to the prescribed value, which shall to that extent be protected from seizure; and]

[<sup>F1</sup>(a) any of that person's goods except—

(i) such tools, books, vehicles and other items of equipment as are necessary to that person for use personally by him in his employment, business or vocation;

(ii) such clothing, bedding, furniture, household equipment and provisions as are necessary for satisfying the basic domestic needs of that person and his family;]

(b) any money, banknotes, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to that person.

(2) Any reference to the goods of an execution debtor in this Part of this Act includes a reference to anything else of his that may lawfully be seized in execution.

[<sup>F2</sup>(3) The prescribed value for the purposes of subsection (1) shall be the same as that prescribed for the purposes of section 8 of the <sup>M1</sup>Small Debts Act 1845, by order of the Lord Chancellor under section 37(2) of the <sup>M2</sup>Administration of Justice Act 1956.]

**Textual Amendments**

F1 S. 89(1)(a) commencing “any of that person's goods except” substituted (1.7.1991) for s. 89(1)(a) commencing “any of the goods” by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 15(2)

F2 S. 89(3) repealed (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20

**Marginal Citations**

M1 1845 c. 127.

M2 1956 c. 46.

**90 Custody of goods seized.**

Goods seized in execution under process of a county court shall, until sale,—

(a) be deposited by the bailiff in some fit place; or

(b) remain in the custody of a fit person approved by the registrar to be put in possession by the bailiff; or

(c) be safeguarded in such other manner as the registrar directs.

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

C5 S. 90 restricted (1.9.1993) by S.I. 1993/2073, art.10.

**91 Disposal of bills of exchange, etc., seized.**

The registrar shall hold any bills of exchange, promissory notes, bonds, specialties or other securities for money seized in execution under process of a county court as security for the amount directed to be levied by the execution, or for so much of that amount as has not been otherwise levied or raised, for the benefit of the plaintiff, and the plaintiff may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum secured or made payable thereby, when the time of payment arrives.

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

C6 S. 91 restricted (1.9.1993) by S.I. 1993/2073, art.10.

**92 Penalty for rescuing goods seized.**

- (1) If any person rescues or attempts to rescue any goods seized in execution under process of a county court, he shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding one month or to a fine of an amount not exceeding level 4 on the standard scale, or both; or
  - (b) on an order made by the judge in that behalf, to be committed for a specified period not exceeding one month to . . . <sup>F3</sup>prison . . . <sup>F3</sup>or to a fine of an amount not exceeding level 4 on the standard scale or to be so committed and to such a fine.

and a bailiff of the court may take the offender into custody, with or without warrant, and bring him before the judge.

- (2) The judge may at any time revoke an order committing a person to prison under this section and, if he is already in custody, order his discharge.

**Textual Amendments**

F3 Words repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), Sch. 1 Pt. I

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

C7 S. 92 restricted (1.9.1993) by S.I. 1993/2073, art.10.

*Sale of goods seized*

**93 Period to elapse before sale.**

No goods seized in execution under process of a county court shall be sold for the purpose of satisfying the warrant of execution until the expiration of a period of at least 5 days next following the day on which the goods have been so seized unless—

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- (a) the goods are of a perishable nature; or
- (b) the person whose goods have been seized so requests in writing.

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

**C8** S. 93 applied (1.9.1993) by S.I. 1993/2073, art.4(1).

**94 Goods not to be sold except by brokers or appraisers.**

No goods seized in execution under process of a county court shall be sold for the purpose of satisfying the warrant of execution except by one of the brokers or appraisers appointed under this Part of this Act.

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

**C9** S. 94 restricted (1.9.1993) by S.I. 1993/2073, art.12.

**95 Appointment of brokers, appraisers etc.**

- (1) The registrar may from time to time as he thinks fit appoint such number of persons for keeping possession, and such number of brokers and appraisers for the purpose of selling or valuing any goods seized in execution under process of the court, as appears to him to be necessary.
- (2) The registrar may direct security to be taken from any broker, appraiser or other person so appointed for such sum and in such manner as he thinks fit for the faithful performance of his duties without injury or oppression.
- (3) The judge or registrar may dismiss any broker, appraiser or other person so appointed.
- (4) There shall be payable to brokers and appraisers so appointed in respect of their duties, out of the produce of goods distrained or sold, such fees as may be prescribed by the fees orders.

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

**C10** S. 95 restricted (1.9.1993) by S.I. 1993/2073, art.12.

**96 Power to appoint bailiffs to act as brokers and appraisers.**

- (1) The judge may appoint in writing any bailiff of the court to act as a broker or appraiser for the purpose of selling or valuing any goods seized in execution under process of the court.
- (2) A bailiff so appointed may, without other licence in that behalf, perform all the duties which brokers or appraisers appointed under section 95 may perform under this Act.

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

**C11** Ss. 96-99 applied (1.9.1993) by S.I. 1993/2073, art. 4(1).

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## 97 Sales under executions to be public unless otherwise ordered.

- (1) Where any goods are to be sold under execution for a sum exceeding £20 (including legal incidental expenses), the sale shall, unless the court form which the warrant of execution issued otherwise orders, be made by public auction and not by bill of sale or private contract, and shall be publicly advertised by the registrar on, and during 3 days next preceding, the day of sale.
- (2) Where any goods are seized in execution and the registrar has notice of another execution or other executions, the court shall not consider an application for leave to sell privately until the prescribed notice has been given to the other execution creditor or creditors, who may appear before the court and be heard upon the application.

### Modifications etc. (not altering text)

C12 Ss. 96-99 applied (1.9.1993) by S.I. 1993/2073, art.4(1).

## <sup>F4</sup>98 Protection of registrar selling goods under execution without notice of claim by third party.

- (1) Where any goods in the possession of an execution debtor at the time of seizure by a registrar or other officer charged with the enforcement of a warrant or other process of execution issued from a county court are sold by that registrar or other officer without any claims having been made to them—
  - (a) the purchaser of the goods so sold shall acquire a good title to those goods; and
  - (b) no person shall be entitled to recover against the registrar or other officer, or anyone lawfully acting under his authority,—
    - (i) for any sale of the goods, or
    - (ii) for paying over the proceeds prior to the receipt of a claim to the goods,
 unless it is proved that the person from whom recovery is sought had notice, or might by making reasonable inquiry have ascertained, that the goods were not the property of the execution debtor.
- (2) Nothing in this section shall affect the right of any claimant, who may prove that at the time of sale he had a title to any goods so seized and sold, to any remedy to which he may be entitled against any person other than the registrar or other officer.

[<sup>F5</sup>(3) The provisions of this section have effect subject to those of sections 183, 184 and 346 of the Insolvency Act 1986]

### Textual Amendments

F4 Ss. 96-99 applied (1.9.1993) by S.I. 1993/2073, art.4(1).

F5 S. 98(3) substituted by Insolvency Act 1986 (c. 45, SIF 66), s. 439(2), Sch. 14

### *Claims in respect of goods seized*

## 99 Effect of warrants of execution.

- (1) Subject—

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- (a) to subsection (2); and
  - (b) to section 103(2),
- a warrant of execution against goods issued from a county court shall bind the property in the goods of the execution debtor as from the time at which application for the warrant was made to the registrar of the county court.
- (2) Such a warrant shall not prejudice the title to any goods of the execution debtor acquired by a person in good faith and for valuable consideration unless he had at the time when he acquired his title—
- (a) notice that an application for the issue of a warrant of execution against the goods of the execution debtor had been made to the registrar of a county court and that the warrant issued on the application either—
    - (i) remained unexecuted in the hands of the registrar of the court from which it was issued; or
    - (ii) had been sent for execution to, and received by, the registrar of another county court, and remained unexecuted in the hands of the registrar of that court; or
  - (b) notice that a writ of fieri facias or other writ of execution by virtue of which the goods of the execution debtor might be seized or attached had been delivered to and remained unexecuted in the hands of the sheriff.
- (3) It shall be the duty of the registrar (without fee) on application for a warrant of execution being made to him to endorse on its back the hour, day, month and year when he received the application.
- (4) For the purposes of this section—
- (a) “property” means the general property in goods, and not merely a special property;
  - (b) “sheriff” includes any officer charged with the enforcement of a writ of execution; and
  - (c) a thing shall be treated as done in good faith if it is in fact done honestly whether it is done negligently or not.

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

**C13** Ss. 96-99 applied (1.9.1993) by S.I. 1993/2073, art.4(1).

**100 Sale of goods to which claim is made.**

- (1) Where a claim is made to or in respect of any goods seized in execution under process of a county court, the claimant may—
- (a) deposit with the bailiff either—
    - (i) the amount of the value of the goods claimed; or
    - (ii) the sum which the bailiff is allowed to charge as costs for keeping possession of the goods until the decision of the judge can be obtained on the claim; or
  - (b) give the bailiff in the prescribed manner security for the value of the goods claimed.

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- (2) For the purpose of this section, the amount of the value of the goods claimed shall, in case of dispute, be fixed by appraisal, and where that amount is deposited it shall be paid by the bailiff into court to abide the decision of the judge upon the claim.
- (3) Subject to subsection (4), in default of the claimant's complying with this section, the bailiff shall sell the goods as if no such claim had been made, and shall pay into court the proceeds of the sale to abide the decision of the judge.
- (4) The goods shall not be sold if the registrar decides that, in all the circumstances, the decision of the judge on the claim made to or in respect of them ought to be awaited.

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

C14 S. 100 restricted (1.9.1993) by S.I. 1993/2073, art.16.

**101 Interpleader by registrar.**

- (1) If a claim is made to or in respect of any goods seized in execution under process of a county court, or in respect of the proceeds or value of any such goods, the registrar may, as well before as after any action brought against him, issue a summons calling before the court the party at whose instance the process issued and the party making the claim.
- (2) Upon the issue of the summons, any action brought in any county court or other court in respect of the claim or of any damage arising out of the execution of the warrant shall be stayed.
- (3) On the hearing of the summons, the judge shall adjudicate upon the claim, and shall also adjudicate between the parties or either of them and the registrar upon any claim to damages arising or capable of arising out of the execution of the warrant by the registrar, and shall make such order in respect of any such claim and the costs of the proceedings as he thinks fit.

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

C15 S. 101 applied (1.9.1993) by S.I. 1993/2073, art.4(1).

**102 Claims for rent where goods seized in execution.**

- (1) Section 1 of the <sup>M3</sup>Landlord and Tenant Act 1709 shall not apply to goods seized in execution under process of a county court, but the following provisions of this section shall apply in substitution.
- (2) The landlord of any tenement in which any goods are seized may claim the rent of the tenement in arrear at the date of the seizure, at any time within the 5 days next following that date, or before the removal of the goods, by delivering to the bailiff or officer making the levy a claim in writing, signed by himself or his agent, stating—
  - (a) the amount of rent claimed to be in arrear; and
  - (b) the period in respect of which the rent is due.



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- (3) Where such a claim is made, the bailiff or officer making the levy shall in addition distrain for the rent so claimed and the cost of the distress, and shall not, within 5 days next after the distress, sell any part of the goods seized, unless—
  - (a) the goods are of a perishable nature; or
  - (b) the person whose goods have been seized so requests in writing.
- (4) The bailiff shall afterwards sell under the execution and distress such of the goods as will satisfy—
  - (a) first, the costs of and incidental to the sale;
  - (b) next, the claim of the landlord not exceeding—
    - (i) in a case where the tenement is let by the week, 4 weeks' rent;
    - (ii) in a case where the tenement is let for any other term less than a year, the rent of two terms of payment;
    - (iii) in any other case, one year's rent; and
  - (c) lastly, the amount for which the warrant of execution issued.
- (5) If any replevin is made of the goods seized, the bailiff shall nevertheless sell such portion of them as will satisfy the costs of and incidental to the sale under the execution and the amount for which the warrant of execution issued.
- (6) In any event the surplus of the sale, if any, and the residue of the goods shall be returned to the execution debtor.
- (7) The fees of the registrar and broker for keeping possession, appraisalment and sale under any such distress shall be the same as would have been payable if the distress had been an execution of the court, and no other fees shall be demanded or taken in respect thereof.

[<sup>F6</sup>(8) Nothing in this section affects section 346 of the Insolvency Act 1986]

#### Textual Amendments

**F6** S. 102(8) substituted by *Insolvency Act 1986 (c. 45, SIF 66)*, s. 439(2), **Sch. 14**

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

**C16** S. 102 restricted by *Insolvency Act 1986 (c. 45, SIF 66)*, s. 347(6)(a)(7)(8)

**C17** S. 102 applied (1.9.1993) by *S.I. 1993/2073*, **art.4(1)**.

#### Marginal Citations

**M3** 1709 c. 18.

### *Execution out of jurisdiction of court*

#### **103 Execution out of jurisdiction of court.**

- (1) Where a warrant of execution has been issued from a county court (hereafter in this section referred to as a “home court”) against the goods of any person and the goods are out of the jurisdiction of that court, the registrar of that court may send the warrant of execution to the registrar of any other county court within the jurisdiction of which the goods are or are believed to be, with a warrant endorsed on it or annexed to it requiring execution of the original warrant.

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- (2) The original warrant shall bind the property in goods of the execution debtor which are within the jurisdiction of the court to which it is sent as from the time when it is received by the registrar of that court.
- (3) It shall be the duty of the registrar of the court to which the warrant is sent (without fee) on receipt of the warrant to endorse on its back the hour, day, month and year when he received it.
- (4) On the receipt of the warrant, the registrar of the other county court shall act in all respects as if the original warrant of execution had been issued by the court of which he is registrar and shall within the prescribed time—
  - (a) report to the registrar of the home court what he has done in the execution of the warrant; and
  - (b) pay over all moneys received in pursuance of the warrant.
- (5) Where a warrant of execution is sent by the registrar of a home court to the registrar of another court for execution under this section, that other court shall have the same power as the home court of staying the execution under section 88 as respects any goods within the jurisdiction of that other court.
- [<sup>F7</sup>(6) County court rules may make provision for the suspension of any judgment or order, on terms, in connection with any warrant issued with respect of any instalment payable under the judgment or order.]

#### Textual Amendments

**F7** S. 103(6) added by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para. 16**

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

**C18** S. 103 restricted (1.9.1993) by S.I. 1993/2073, **art.16**.

### 104 Information as to writs and warrants of execution.

- (1) A sheriff shall on demand inform the registrar of a county court, by writing signed by any clerk in the office of the under-sheriff, of the precise time of the delivery to him of a writ against the goods of any person issued from the High Court, and a bailiff of a county court shall on demand show his warrant to any sheriff's officer.
- (2) Any writing purporting to be signed as mentioned in subsection (1) and the endorsement on any such warrant shall respectively be sufficient justification to any registrar or sheriff acting on it.

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

**C19** S. 104 applied (1.9.1993) by S.I. 1993/2073, **art.4(1)**.

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*Execution in county court of judgments and orders of,  
or enforceable as judgments and orders of, High Court*

**105 Execution in county court of judgments and orders of High Court.**

- (1) A judgment or order of the High Court for the payment of money to a person, and any judgment, order, decree or award (however called) of any court or arbitrator (including any foreign court or foreign arbitrator) being a judgment, order, decree or award for the payment of money to a person which is or has become enforceable (whether wholly or to a limited extent) as if it were a judgment or order of the High Court shall be enforceable in the county court as if it were a judgment of that court.
- (2) Where an application is made to the High Court—
  - (a) for the attachment of a debt not exceeding the county court limit to answer a judgment or order; or
  - (b) for leave to issue execution for a debt not exceeding the county court limit against a person as being a member of a firm against which a judgment or order has been obtained,the High Court may make an order either—
  - (i) transferring the matter to; or
  - (ii) directing that any issue necessary for determining the matter shall be tried in, such county court to be named in the order as the court may deem the most convenient to the parties.
- (3) Where an order is made under subsection (2) directing an issue to be tried in a county court, the order shall define the issue to be tried, and any party may lodge or cause to be lodged the order, together with the affidavits (if any) filed in the matter, and such other documents (if any) as the High Court may direct, with the registrar of the county court named in the order.
- (4) On the documents being lodged the issue shall, subject to county court rules, be tried in the county court so named, and after the issue has been tried the judge shall certify the result of the trial and send the certificate to the High Court together with the documents and any report which he may think fit to make as to costs or otherwise.

*Enforcement in High Court of judgments and orders of county courts*

**106 Transfer of judgments and orders to High Court.**

- (1) If—
  - (a) a judgment or order for the payment of a sum of money has been given or made by a county court; and
  - (b) an amount in respect of that sum exceeding the amount for the time being specified for the purposes of this section by an order under subsection (3) has become recoverable by execution,the judgment or order may, subject to rules of court, be transferred to the High Court.
- (2) A judgment or order transferred to the High Court under subsection (1) may be enforced in the High Court as if it were a judgment or order of that court and shall be treated as a judgment or order of the High Court for all purposes except—

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- (a) that powers to set aside, correct, vary or quash a judgment or order of a county court shall continue to be exercisable in relation to it and powers to set aside, correct, vary or quash a judgment or order of the High Court shall not be exercisable; and
  - (b) that enactments relating to appeals from a judgment or order of a county court shall continue to apply to it and enactments relating to appeals from a judgment or order of the High Court shall not apply.
- (3) The Lord Chancellor may by order specify an amount for the purposes of subsection (1); and any such order may specify different amounts for different descriptions of judgment or order.
- (4) An order under subsection (3) shall be made by statutory instrument and shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### *Receivers and attachment of debts*

#### **107 Receivers.**

- (1) The power of the county court to appoint a receiver by way of equitable execution shall operate in relation to all legal estates and interests in land.
- (2) The said power may be exercised in relation to an estate or interest in land whether or not a charge has been imposed on that land under section 1 of the <sup>M4</sup>Charging Orders Act 1979 for the purpose of enforcing the judgment, decree, order or award in question, and the said power shall be in addition to and not in derogation of any power of any court to appoint a receiver in proceedings for enforcing such a charge.
- (3) Where an order under section 1 of the Charging Orders Act 1979 imposing a charge for the purpose of enforcing a judgment, decree, order or award has been registered under section 6 of the <sup>M5</sup>Land Charges Act 1972, subsection (4) of that section (which provides that, amongst other things, an order appointing a receiver and any proceedings pursuant to the order or in obedience to it, shall be void against a purchaser unless the order is for the time being registered under that section) shall not apply to an order appointing a receiver made either in proceedings for enforcing the charge or by way of equitable execution of the judgment, decree, order or award or, as the case may be, of so much of it as requires payment of moneys secured by the charge.

#### **Marginal Citations**

**M4** 1979 c. 53.

**M5** 1972 c. 61.

#### **108 Attachment of debts.**

- (1) Subject to any order for the time being in force under subsection (4), this section applies to the following accounts, namely—
- (a) any deposit account with a bank or other deposit-taking institution; and
  - (b) any withdrawable share account with any deposit-taking institution.
- (2) In determining whether, for the purposes of the jurisdiction of the county court to attach debts for the purpose of satisfying judgments or orders for the payment of

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money, a sum standing to the credit of a person in an account to which this section applies is a sum due or accruing to that person and, as such, attachable in accordance with county court rules, any condition mentioned in subsection (3) which applies to the account shall be disregarded.

- (3) Those conditions are—
- (a) any condition that notice is required before any money or share is withdrawn;
  - (b) any condition that a personal application must be made before any money or share is withdrawn;
  - (c) any condition that a deposit book or share-account book must be produced before any money or share is withdrawn; or
  - (d) any other prescribed condition.
- (4) The Lord Chancellor may by order make such provision as he think fit, by way of amendment of this section or otherwise, for all or any of the following purposes, namely—
- (a) including in, or excluding from, the accounts to which this section applies accounts of any description specified in the order;
  - (b) excluding from the accounts to which this section applies all accounts with any particular deposit-taking institution so specified or with any deposit-taking institution of a description so specified.
- (5) An order under subsection (4) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

## **109 Administrative and clerical expenses of garnishees.**

- [<sup>F8</sup>(1) Where an order nisi made in the exercise of the jurisdiction mentioned in subsection (2) of the preceding section is served on any deposit-taking institution, the institution may, subject to the provisions of this section, deduct from the relevant debt or debts an amount not exceeding the prescribed sum towards the administrative and clerical expenses of the institution in complying with the order; and the right of an institution to make a deduction under this subsection shall be exercisable as from the time the order nisi is served on it.
- (1A) In subsection (1) “the relevant debt or debts”, in relation to an order nisi served on any such institution as is mentioned in that subsection, means the amount, as at the time the order is served on the institution, of the debt or debts of which the whole or a part is expressed to be attached by the order.
- (1B) A deduction may be made under subsection (1) in a case where the amount referred to in subsection (1A) is insufficient to cover both the amount of the deduction and the amount of the judgment debt and costs in respect of which the attachment was made, notwithstanding that the benefit of the attachment to the creditor is reduced as a result of the deduction.]
- (2) [<sup>F9</sup>An amount may not in pursuance of subsection (1)] be deducted or, as the case may be, retained in a case where by virtue of [<sup>F10</sup>section [<sup>F11</sup>346 of the <sup>M6</sup>Insolvency Act 1986]] or section 325 of the <sup>M7</sup>Companies Act 1948 or otherwise, the creditor is not entitled to retain the benefit of the attachment.
- (3) In this section “prescribed” means prescribed by an order made by the Lord Chancellor.

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- (4) An order under this section—
- (a) may make different provision for different cases; . . . <sup>F12</sup>
  - (b) without prejudice to the generality of paragraph (a) may prescribe sums differing according to the amount due under the judgment or order to be satisfied.
  - <sup>F13</sup>(c) may provide for this section not to apply to deposit-taking institutions of any prescribed description.]
- (5) Any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F8** S. 109(1),(1A),(1B) substituted for subsection (1) by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 52(2), 65(9), **Sch. 9 para. 11(2)**
- F9** Words substituted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 52(3), 69(5), **Sch. 9 para. 11(2)**
- F10** Words substituted by virtue of Insolvency Act 1985 (c. 65, SIF 66), s. 235, Sch. 8 para. 38(4), **Sch. 9 para. 11(2)**
- F11** Words substituted by virtue of Insolvency Act 1986 (c. 45, SIF 66), s. 439(2), **Sch. 14**
- F12** Word repealed by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 52(4), 67(2), 69(5), Sch. 8 Pt. II, **Sch. 9 para. 11(2)**
- F13** S. 109(4)(c) inserted by Administration of Justice Act 1985 (c. 61, SIF 34), ss. 52(4), 69(5), **Sch. 9 para. 11(2)**

#### Marginal Citations

- M6** 1986 c. 45 (66)
- M7** 1948 c. 38.

### *Miscellaneous provisions as to enforcement of judgments and orders*

#### **110 Penalty for non-attendance on judgment summons.**

- (1) If a debtor summoned to attend a county court by a judgment summons fails to attend on the day and at the time fixed for any hearing of the summons, the judge may adjourn or further adjourn the summons to a specified time on a specified day and order the debtor to attend at that time on that day.
- (2) If—
- (a) a debtor, having been ordered under subsection (1) to attend at a specified time on a specified day, fails to do so; or
  - (b) a debtor who attends for the hearing of a judgment summons refuses to be sworn or to give evidence;
- the judge may make an order committing him to prison for a period not exceeding 14 days in respect of the failure or refusal.
- (3) In any case where the judge has power to make an order of committal under subsection (2) for failure to attend, he may in lieu of or in addition to making that order, order the debtor to be arrested and brought before the court either forthwith or at such time as the judge may direct.

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- (4) A debtor shall not be committed to prison under subsection (2) for having failed to attend as required by an order under subsection (1) unless there was paid to him at the time of the service of the judgment summons, or paid or tendered to him at the time of the service of the order, such sum in respect of his expenses as may be prescribed for the purposes of this section.
- (5) The judge may at any time revoke an order committing a person to prison under this section and, if he is already in custody, order his discharge.

#### **111 Provisions as to warrants of possession.**

- (1) For the purpose of executing a warrant to give possession of any premises, it shall not be necessary to remove any goods from those premises.
- (2) The duration of any warrant of possession issued by a county court to enforce a judgment or order for the recovery of land or for the delivery of possession of land shall be such as may be fixed by or in accordance with county court rules.

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