

## SCHEDULE 1

### RSC ORDER 50

#### CHARGING ORDERS, STOP ORDERS, ETC.

##### **Order imposing a charge on a beneficial interest**

**Rule 1.**—(1) The power to make a charging order under section 1 of the Charging Orders Act 1979(1) (referred to in this Order as “the Act”) shall be exercisable by the Court.

(2) An application by a judgment creditor for a charging order in respect of a judgment debtor’s beneficial interest must be in accordance with CPR Part 23, but the application notice need not be served on the judgment debtor, and any order made on such an application shall in the first instance be an order, made in Form No. 75 in the relevant Practice Direction, to show cause, specifying the time and place for further consideration of the matter and imposing the charge in any event until that time.

(3) The application shall be supported by a witness statement or affidavit—

- (a) identifying the judgment or order to be enforced and stating the amount unpaid at the date of the application;
- (b) stating the name of the judgment debtor and of any creditor of his whom the applicant can identify;
- (c) giving full particulars of the subject matter of the intended charge, including, in the case of securities other than securities in Court, the full title of the securities, their amount and the name in which they stand and, in the case of funds in Court, the number of the account; and
- (d) verifying that the interest to be charged is owned beneficially by the judgment debtor.

(4) Unless the Court otherwise directs, a witness statement or affidavit for the purposes of this rule may contain statements of information or belief with the sources and grounds thereof.

(5) An application may be made for a single charging order in respect of more than one judgment or order against the debtor.

##### **Service of notice of order to show cause**

**Rule 2.**—(1) On the making of an order to show cause, notice of the order shall, unless the Court otherwise directs, be served as follows—

- (a) a copy of the order, together with a copy of the witness statement or affidavit in support, shall be served on the judgment debtor;
- (b) where the order relates to securities other than securities in Court, copies of the order shall also be served—
  - (i) in the case of government stock for which the Bank of England keeps the Register, on the Bank of England;
  - (ii) in the case of government stock to which (i) does not apply, on the keeper of the register;
  - (iii) in the case of stock of any body incorporated within England and Wales, on that body, or, where the register is kept by the Bank of England, on the Bank of England;

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(1) 1979 c. 53; section 1 was amended by the Administration of Justice Act 1982 (c. 53) sections 34(3), 37, schedule 3, Part II, paragraphs 2, 3, 6; and by the County Courts Act 1984 (c. 28), section 148(1), schedule 2, Part V.

*Status: This is the original version (as it was originally made).*

- (iv) in the case of stock of any body incorporated outside England and Wales or of any state or territory outside the United Kingdom, being stock registered in a register kept in England and Wales, on the keeper of the register;
  - (v) in the case of units of any unit trust in respect of which a register of the unit holders is kept in England and Wales, on the keeper of the register;
  - (c) where the order relates to a fund in Court, a copy of the order shall be served on the Accountant General at the Court Funds Office; and
  - (d) where the order relates to an interest under a trust, copies of the order shall be served on such of the trustees as the Court may direct.
- (2) Without prejudice to the provisions of paragraph (1), the Court may, on making the order to show cause, direct the service of copies of the order, and of the witness statement or affidavit in support, on any other creditor of the judgment debtor or on any other interested person as may be appropriate in the circumstances.
- (3) Documents to be served under this rule must be served at least seven days before the time appointed for the further consideration of the matter.

#### **Order made on further considerations**

- Rule 3.**—(1) On the further consideration of the matter the Court shall either make the order absolute, with or without modifications, or discharge it.
- (2) Where the order is made absolute, it shall be made in Form No. 76 in the relevant practice direction, and where it is discharged, the provisions of rule 7, regarding the service of copies of the order of discharge, shall apply.

#### **Order imposing a charge on an interest held by a trustee**

- Rule 4.**—(1) Save as provided by this rule, the provisions of rules 1, 2 and 3 shall apply to an order charging an interest held by a trustee as they apply to an order charging the judgment debtor's beneficial interest.
- (2) Instead of verifying the judgment debtor's beneficial ownership of the interest to be charged, the witness statement or affidavit required by rule 1 (3) shall state the ground on which the application is based and shall verify the material facts.
- (3) On making the order to show cause, the Court shall give directions for copies of the order, and of the witness statement or affidavit in support, to be served on such of the trustees and beneficiaries, if any, as may be appropriate.
- (4) Rules 5, 6 and 7 shall apply to an order charging an interest held by a trustee as they apply to an order charging the judgment debtor's beneficial interest, except that, where the order is made under sub—section (ii) or (iii) of section 2 (1)(b) of the Act references in those rules to “the judgment debtor” shall be references to the trustee.
- (5) Forms No. 75 and 76 in the relevant Practice Direction shall be modified so as to indicate that the interest to be charged is held by the debtor as trustee or, as the case may be, that it is held by a trustee (to be named in the order) on trust for the debtor beneficially.

#### **Effect of order in relation to securities out of Court**

- Rule 5.**—(1) No disposition by the judgment debtor of his interest in any securities to which an order to show cause relates made after the making of that order shall, so long as that order remains in force, be valid as against the judgment creditor.

(2) Until such order is discharged or made absolute, the Bank of England (or other person or body served in accordance with rule 2 (1)(b)), shall not permit any transfer of any of the securities specified in the order, or pay any dividend, interest or redemption payment in relation thereto, except with the authority of the Court, and, if it does so, shall be liable to pay the judgment creditor the value of the securities transferred or, as the case may be, the amount of the payment made or, if that value or amount is more than sufficient to satisfy the judgment or order to which such order relates, so much thereof as is sufficient to satisfy it.

(3) If the Court makes the order absolute, a copy of the order, including a stop notice as provided in Form No. 76 in the relevant Practice Direction, shall be served on the Bank of England, or on such other person or body specified in rule 2 (1)(b) as may be appropriate and, save as provided in rule 7 (5), rules 11 to 14 shall apply to such a notice as they apply to a stop notice made and served under rule 11.

(4) This rule does not apply to orders in respect of securities in Court.

#### **Effect of order in relation to funds in Court**

**Rule 6.**—(1) Where an order to show cause has been made in relation to funds in Court (including securities in Court) and a copy thereof has been served on the Accountant General in accordance with rule 2, no disposition by the judgment debtor of any interest to which the order relates, made after the making of that order, shall, so long as the order remains in force, be valid as against the judgment creditor.

(2) If the Court makes the order absolute, a copy of the order shall be served on the Accountant General at the Court Funds Office.

#### **Discharge, etc., of charging order**

**Rule 7.**—(1) Subject to paragraph (2), on the application of the judgment debtor or any other person interested in the subject matter of the charge, the Court may, at any time, whether before or after the order is made absolute, discharge or vary the order on such terms (if any) as to costs or otherwise as it thinks just.

(2) Where an application is made for the discharge of a charging order in respect of the judgment debtor's land on the ground that the judgment debt has been satisfied, the applicant shall state in his application, and the Court shall specify in its order, the title number of the land in the case of registered land, and the entry number of any relevant land charge in the case of unregistered land.

(3) The application notice seeking the discharge or variation of the order shall be served on such interested parties as the Court may direct.

(4) Where an order is made for the discharge or variation of a charging order in respect of funds in Court, a copy thereof shall be served on the Accountant General at the Court Funds Office.

(5) Where an order is made for the discharge or variation of a charging order in respect of securities other than securities in Court, a copy thereof shall be served on the Bank of England or on such other person or body specified in rule 2 (1)(b) as may be appropriate, and the service thereof shall discharge, or, as the case may be, vary, any stop notice in respect of such securities which may be in force pursuant to the original order.

#### **Jurisdiction of Master, etc., to grant injunction**

**Rule 9** A master and the Admiralty Registrar and a district judge of the Family Division shall have power to grant an injunction if, and only so far as, it is ancillary or incidental to an order under rule 1, 3 or 4 and an application for an injunction under this rule may be joined with the application for the order under rule 1, 3 or 4 to which it relates.

### **Enforcement of charging order by sale**

**Rule 9A.**—(1) Proceedings for the enforcement of a charging order by sale of the property charged must be begun by a claim form issued out of Chancery Chambers or out of one of the Chancery District Registries.

(2) The provisions of Order 88 shall apply to all such proceedings.

### **Funds in Court: stop order**

**Rule 10.**—(1) The Court, on the application of any person—

- (a) who has a mortgage or charge on the interest of any person in funds in Court; or
- (b) to whom that interest has been assigned; or
- (c) who is a judgment creditor of the person entitled to that interest, may make an order prohibiting the transfer, sale, delivery out, payment or other dealing with such funds, or any part thereof, or the income thereon, without notice to the applicant.

(2) An application for an order under this rule must, if there are existing proceedings, be made in accordance with CPR Part 23 by filing an application notice relating to the funds in Court, or, if there are no such proceedings, by a claim.

(3) The application notice or claim form must be served on every person whose interest may be affected by the order applied for and on the Accountant-General but shall not be served on any other person.

(4) Without prejudice to the Court's powers and discretion as to costs, the Court may order the applicant for an order under this rule to pay the costs of any party to the proceedings relating to the funds in question, or of any person interested in those funds, occasioned by the application.

### **Securities not in Court: stop notice**

**Rule 11.**—(1) Any person claiming to be beneficially entitled to an interest in any securities of the kinds set out in section 2 (2)(b) of the Act, other than securities in Court, who wishes to be notified of any proposed transfer or payment of those securities may avail himself of the provisions of this rule.

(2) A person claiming to be so entitled must file in Chancery Chambers or in a District Registry—

- (a) a witness statement or affidavit identifying the securities in question and describing his interest therein by reference to the document under which it arises; and
- (b) a notice in Form No. 80 in the relevant Practice Direction (a stop notice) signed by the witness who made the witness statement or affidavit, and annexed to it, addressed to the Bank of England or, as the case may be, the body, state, territory or unit trust concerned, and must serve an office copy of the witness statement or affidavit, and a copy of the notice sealed with the seal of Chancery Chambers or the District Registry, on the Bank or other person or body, as provided in rule 2 (1)(b).

(3) There must be indorsed on the witness statement or affidavit filed under this rule a note stating the address to which any such notice as is referred to in rule 12 is to be sent and, subject to paragraph (4), that address shall for the purpose of that rule be the address for service of the person on whose behalf the witness statement or affidavit is filed.

(4) A person on whose behalf a witness statement or affidavit under this rule is filed may change his address for service for the purpose of rule 12 by serving on the Bank of England, or other person or body, a notice to that effect, and, as from the date of service of such a notice the address stated therein shall for the purpose of that rule be the address for service of that person.

### **Effect of stop notice**

**Rule 12** Where a stop notice has been served in accordance with rule 11, then, so long as the stop notice is in force, the Bank of England or other person or body on which it is served shall not register a transfer of the securities or take any other step restrained by the stop notice until 14 days after sending notice thereof, by ordinary first class post, to the person on whose behalf the stop notice was filed, but shall not by reason only of that notice refuse to register a transfer, or to take any other step, after the expiry of that period.

### **Amendment of stop notice**

**Rule 13** If any securities are incorrectly described in a stop notice which has been filed and of which a sealed copy has been served in accordance with rule 11, an amended stop notice may be filed and served in accordance with the same procedure and shall take effect as a stop notice on the day on which the sealed copy of the amended notice is served.

### **Withdrawal etc. of stop notice**

**Rule 14.**—(1) The person on whose behalf a stop notice was filed may withdraw it by serving a request for its withdrawal on the Bank of England or other person or body on whom the notice was served.

(2) Such request must be signed by the person on whose behalf the notice was filed and his signature must be witnessed by a practising solicitor.

(3) The Court, on the application of any person claiming to be beneficially entitled to an interest in the securities to which a stop notice relates, may by order discharge the notice.

(4) An application for an order under paragraph (3) must be made in the Chancery Division by a claim form, and the claim form must be served on the person on whose behalf a stop notice was filed.

### **Order prohibiting transfer, etc. of securities**

**Rule 15.**—(1) The Court, on the application of any person claiming to be beneficially entitled to an interest in any securities of the kinds set out in section 2 (2)(b) of the Act may by order prohibit the Bank of England or other person or body concerned from registering any transfer of the securities or taking any other step to which section 5 (5) of the Act applies. The order shall specify the securities to which the prohibition relates, the name in which they stand and the steps which may not be taken, and shall state whether the prohibition applies to the securities only or to the dividends or interest as well.

(2) An application for an order under this rule must be made by claim form or if made in existing proceedings in accordance with CPR Part 23 in the Chancery Division.

(3) The Court, on the application of any person claiming to be entitled to an interest in any securities to which an order under this rule relates, may vary or discharge the order on such terms (if any) as to costs or otherwise as it thinks fit.