
STATUTORY INSTRUMENTS

2014 No. 667

The Family Procedure (Amendment No. 2) Rules 2014

Amendments to the Family Procedure Rules 2010

37. Omit rule 33.19 and insert in its place—

“Application of CCR Order 27: enforcement of a judgment debt

33.19.—(1) Order 27 of the CCR applies to proceedings under this Part for the enforcement of a judgment debt with the following modifications.

(2) In Order 27 rule 3—

- (a) in paragraph (1), for “County Court hearing centre” there is substituted “Designated Family Court for the Designated Family Judge area”;
- (b) in paragraph (2), for “County Court hearing centre in” there is substituted “Designated Family Court for the Designated Family Judge area within”;
- (c) in paragraph (3)—
 - (i) for “County Court hearing centre” there is substituted “Designated Family Court for the Designated Family Judge area”;
 - (ii) for the words from “at another” to the end there is substituted “within another Designated Family Judge area, the application shall be made to the Designated Family Court for that other Designated Family Judge area.”; and
- (d) paragraph (4) is omitted.

(3) In Order 27 rule 7—

- (a) in paragraph (3), for “District Judge” in each place where it occurs there is substituted “court”;
- (b) in paragraph (4)—
 - (i) for “District Judge who” there is substituted “court which”; and
 - (ii) for “if the District Judge” there is substituted “if it”;
- (c) in paragraph (5)—
 - (i) for “District Judge does” there is substituted “court does”; and
 - (ii) for “they” there is substituted “it”; and
- (d) in paragraph (7), for “District Judge” in each place where it occurs there is substituted “court”.

(4) In Order 27 rule 10—

- (a) in paragraph (2), for “District Judge” there is substituted “court”; and
- (b) in paragraph (3)—
 - (i) the words “or a magistrates’ court” and “or, as the case may be, the magistrates’ court” are omitted; and
 - (ii) for “County Court” there is substituted “family court”.

(5) In Order 27 rule 11, for “District Judge” there is substituted “court”.

(6) In Order 27 rule 14, for paragraphs (1) and (2) there is substituted—

“(1) Where the question of making a consolidated attachment order falls to be considered in a Designated Family Judge area which is not the area in which an attachment of earnings order has been made to secure the payment of a judgment debt by the debtor, the family court sitting in the last-mentioned area shall, at the request of the family court sitting in the first-mentioned area, transfer to that court the matter in which the attachment of earnings order was made.

(2) Without prejudice to paragraph (1), if in the opinion of the family court sitting in a Designated Family Judge area in which an attachment of earnings order has been made the matter could more conveniently proceed in another Designated Family Judge area (whether by reason of the debtor having become resident in that other Designated Family Judge area or otherwise), the court may order the matter to be transferred to that other area.”

(7) In Order 27 rule 16, in paragraph (10, for “the County Court, the District Judge” there is substituted “the family court, the court”.

(8) In Order 27 rule 19, in paragraph (3D), for “District Judge who” there is substituted “court which”.

Application of CCR Order 27: enforcement of a maintenance order

33.19A.—(1) Order 27 of the CCR applies to proceedings under this Part for the enforcement of a maintenance order as it applies to proceedings for the enforcement of a judgment debt, subject to the following provisions of this rule—

- (a) paragraphs (2) and (3) in relation to failure by a debtor under a maintenance order to attend court and the application of section 23 of the Attachment of Earnings Act 1971⁽¹⁾; and
- (b) paragraphs (4) to (11) in relation to applications for an attachment of earnings order to secure payments under a maintenance order, the making of such attachment of earnings orders and their discharge.

(2) An order under section 23(1) of the Attachment of Earnings Act 1971 for the attendance of the debtor at an adjourned hearing for an attachment of earnings order to secure payments under a maintenance order must—

- (a) be served on the debtor personally not less than 5 days before the day fixed for the adjourned hearing; and
- (b) direct that any payments made thereafter must be paid into the court and not direct to the judgment creditor.

(3) An application by a debtor for the revocation of an order committing the debtor to prison and (if already in custody) for discharge under section 23(7) of the Attachment of Earnings Act 1971 must—

- (a) be made to court in writing without notice to any other party, stating the reasons for the debtor’s failure to attend the court or refusal to be sworn or to give evidence (as the case may be) and containing an undertaking by the debtor to attend the court or to be sworn or to give evidence when next required to do so; and
- (b) if the debtor has already been lodged in prison, be attested by the governor of the prison (or any other officer of the prison not below the rank of principal officer), and in any other case be made in a witness statement or affidavit,

(1) 1971 c. 32. Section 23 is amended by the Crime and Courts Act 2013 (c.22), paragraph 33 Schedule 10.

and before dealing with the application the court may, if it thinks fit, cause notice to be given to the judgment creditor that the application has been made and of a date and time when the judgment creditor may attend and be heard.

(4) An application for an attachment of earnings order to secure payments under a maintenance order must be made to the Designated Family Judge area within which the order was made.

(5) Any application under section 32 of the 1973 Act for permission to enforce the payment of arrears which became due more than 12 months before the application for an attachment of earnings order must be made in the application for the attachment of earnings order.

(6) Notice of the application, together with a form of reply in the appropriate form, must be served on the debtor in the manner set out in rule 6.23 and—

- (a) service of the notice must be effected not less than 21 days before the hearing, but may be effected at any time before the hearing on the applicant satisfying the court by witness statement or affidavit that the respondent is about to move from the address for service; and
- (b) rule 5(2A) of CCR Order 27 does not apply.

(7) An application by the debtor for an attachment of earnings order to secure payments under a maintenance order may be made on the making of the maintenance order or of an order varying the maintenance order, and rules 4 and 5 of CCR Order 27 do not apply in such a case.

(8) Rule 7 of CCR Order 27 has effect as if for paragraphs (1) to (8) of that rule there were substituted the following paragraph—

“(1) An application for an attachment of earnings order to secure payments under a maintenance order shall be heard in private.”

(9) Where an attachment of earnings order made by the High Court designates the court officer of the family court as the collecting officer, that officer shall, on receipt of a certified copy of the order from the court officer of the High Court, send to the person to whom the order is directed a notice as to the mode of payment.

(10) Where an attachment of earnings order made by the family court to secure payments under a maintenance order ceases to have effect and—

- (a) the related maintenance order was made by that court; or
- (b) the related maintenance order was an order of the High Court and—
 - (i) the court officer of the family court has received notice of the cessation from the court officer of the High Court; or
 - (ii) a committal order has been made in the family court for the enforcement of the related maintenance order,

the court officer of the family court shall give notice of the cessation to the person to whom the attachment of earnings order was directed.

(11) Rule 13 of CCR Order 27 has effect as if for paragraphs (4) to (7) there were substituted the following paragraph—

“(4) Where the family court has made an attachment of earnings order and it appears to the court that the related maintenance order has ceased to have effect (whether by virtue of the terms of the maintenance order or under section 238 of the 1973 Act or otherwise), the court may discharge or vary the attachment of earnings order.””

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
