

SCHEDULE 1

Rule 14

“Scope of this Part and interpretation

73.1.—(1) This Part contains rules which provide for a judgment creditor to enforce a judgment by obtaining—

- (a) a charging order (Section I);
- (b) a stop order (Section II); or
- (c) a stop notice (Section III),

over or against the judgment debtor’s interest in an asset.

(2) In this Part—

- (a) “the 1979 Act” means the Charging Orders Act 1979(1);
- (b) “the 1992 Regulations” means the Council Tax (Administration and Enforcement) Regulations 1992(2);
- (c) “judgment debtor’s home court” means—
 - (i) if the application for a charging order is proceeding in the County Court—
 - (aa) in the case of an application under the 1992 Regulations, the County Court hearing centre for the district in which the relevant dwelling (as defined in regulation 50(3)(b) of those Regulations(3)) is situated; or
 - (bb) in other cases, the County Court hearing centre for the district in which the judgment debtor resides or carries on business; or
 - (ii) if the application for a charging order is proceeding in the High Court, the district registry for the district in which the judgment debtor resides or carries on business or, where there is no such district registry, the Royal Courts of Justice;
- (d) “funds in court” includes securities held in court;
- (e) “interim charging order” means an interim charging order made in accordance with rule 73.4(5), 73.4(6) or 73.6(3);
- (f) “securities” means securities of any of the kinds specified in section 2(2)(b) of the 1979 Act.

SECTION I. CHARGING ORDERS

Scope of this Section

73.2. This Section applies to an application by a judgment creditor for a charging order under—

- (a) section 1 of the 1979 Act(4); or

(1) 1979 c. 53.

(2) S.I. 1992/613.

(3) S.I. 1992/613. Amendments to paragraph 3 were made by S.I. 2004/785, regulations 2 and 7(b) and S.I. 2004/927, regulations 2 and 7(b).

(4) 1979 c.53. There are amendments to section 1 of the Charging Orders Act 1979 in the Administration of Justice Act 1982 (c. 53), sections 34(3) and 37 and Schedule 3, Part II, paragraphs 2, 3(b)(iv) and 6, the County Courts Act 1984 (c. 28) section 148(1) and Schedule 2, Part V, paragraph 71, the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 93(1) & (2), the Crime and Courts Act 2013 (c. 22), section 17 and Schedule 9, Part 3, paragraph 52(1)(b) & (2) and Schedule 10, Part 2, paragraph 38 and SI 2014/605, articles 14, 15 and 16.

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- (b) regulation 50 of the 1992 Regulations⁽⁵⁾.

Application for charging order

73.3.—(1) An application for a charging order may be made without notice.

(2) Where an application for a charging order is to be made to the County Court, it must be made to the County Court Money Claims Centre, unless the application is for a charging order over an interest in a fund in court.

(3) An application to the County Court for a charging order over an interest in a fund in court must be made to the County Court hearing centre where the order or judgment was made.

(Section 1 of the 1979 Act sets out when applications are to be made to the County Court and when they are to be made to the Family Court or the High Court.)

(4) Subject to paragraphs (2) and (3), a judgment creditor may apply for a single charging order in respect of more than one judgment or order against the same judgment debtor.

(5) The application notice must—

- (a) be in the form and contain the information required by Practice Direction 73; and
- (b) be verified by a statement of truth.

Interim charging order – County Court Money Claims Centre

73.4.—(1) This rule applies where an application for a charging order is made to the County Court Money Claims Centre.

(2) The application for a charging order will initially be dealt with without a hearing.

(3) Where—

- (a) the application is only for a charging order on the judgment debtor’s interest in land; and
- (b) none of the exceptions listed in paragraph (4) apply,

the application may initially be dealt with by a court officer.

(4) The exceptions referred to are—

- (a) an application under section 2(1)(b)(i) of the 1979 Act⁽⁶⁾;
- (b) an application for a charging order on the interest of a partner in the partnership property under section 23 of the Partnership Act 1890⁽⁷⁾;
- (c) where an instalment order has been made before 1 October 2012;
- (d) where the court officer otherwise considers that the application should be dealt with by a judge.

(5) The court officer may make an interim charging order imposing a charge over the judgment debtor’s interest in the asset to which the application relates.

(6) The judge may make an interim charging order—

- (a) imposing a charge over the judgment debtor’s interest in the asset to which the application relates; and

⁽⁵⁾ *S.I. 1992/613*. There are amendments to regulation 50 in *S.I. 2004/785*, regulations 2 and 7 and *S.I. 2004/927*, regulations 2 and 7.

⁽⁶⁾ *1979 c. 53*.

⁽⁷⁾ *1890 c. 39*. Section 23 has been amended by the Crime and Courts Act 2013 (c.22), section 17(5) and Schedule 9, Part 3, paragraph 118, and there are relevant repeals in the Courts Act 1971(c. 23), section 56(4) and Schedule 11, Part II and the Statute Law (Repeals) Act 1998 (c. 43).

- (b) if the judge considers it appropriate at that stage, transferring the application to the judgment debtor's home court for the fixing of a hearing to consider whether to make a final charging order as provided by rule 73.10A(3)(a).

(7) Where a matter has been transferred under paragraph (6), the court must serve notice of the hearing on the judgment creditor and all persons served with the interim charging order under rule 73.7.

Review of a decision made by a court officer

73.5.—(1) A party may request that a decision by a court officer be reconsidered by a District Judge.

(2) A request for reconsideration must be filed within 14 days after the party is served with notice of the decision.

(3) Reconsideration will take place without a hearing.

Interim charging order – venues other than the County Court Money Claims Centre

73.6.—(1) This rule applies where an application for a charging order is made other than to the County Court Money Claims Centre.

(2) An application for a charging order will initially be dealt with by a judge without a hearing.

(3) The judge may make an interim charging order—

- (a) imposing a charge over the judgment debtor's interest in the asset to which the application relates; and
- (b) fixing a hearing to consider whether to make a final charging order as provided by rule 73.10A(3)(a).

Service of interim order

73.7.—(1) Where the interim charging order has been made at the County Court Money Claims Centre and has not been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must be served by the judgment creditor on the persons listed in paragraph (7) within 21 days of the date of the interim charging order.

(2) Where paragraph (1) applies, the judgment creditor must file a certificate of service in relation to each person served together with a statement of the amount due under the judgement or order including any costs and interest, within 28 days of the date of the interim charging order.

(3) Any application for an extension of time for service or filing specified in paragraph (1) or (2)—

- (a) must be made to the County Court Money Claims Centre; and
- (b) will be dealt with without a hearing.

(4) Where paragraph (1) applies, if the judgment creditor—

- (a) fails to comply with paragraph (1) or (2); and
- (b) does not apply for an extension of time within the period specified by paragraph (1) or (2) as appropriate,

the matter must be referred to a judge to consider whether to dismiss the application and discharge the interim charging order.

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(5) Where the interim charging order has been made at a court other than the County Court Money Claims Centre, or where the matter has been transferred out of that Centre under rule 73.4(6) for a hearing, copies of the interim charging order, the application notice and any documents filed in support of it must, not less than 21 days before the hearing, be served by the judgment creditor on the persons listed in paragraph (7).

(6) Where paragraph (5) applies, the judgment creditor must either—

- (a) file a certificate of service in relation to each person served not less than 2 days before the hearing; or
- (b) produce a certificate of service at the hearing.

(7) The persons to be served in accordance with paragraph (1) or (5) are—

- (a) the judgment debtor;
- (b) if the order relates to an interest in land, any co-owner;
- (c) the judgment debtor's spouse or civil partner (if known);
- (d) such other creditors as are identified in the application notice or as the court directs;
- (e) if the order relates to an interest under a trust, on such of the trustees as the court directs;
- (f) if the interest charged is in securities other than securities held in court, then—
 - (i) in the case of stock for which the Bank of England keeps the register, the Bank of England;
 - (ii) in the case of government stock to which subparagraph (f)(i) does not apply, the keeper of the register;
 - (iii) in the case of stock of any body incorporated within England and Wales, that body;
 - (iv) in the case of stock of any body incorporated outside England and Wales or of any state or territory outside the United Kingdom, which is registered in a register kept in England and Wales, the keeper of that 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, the keeper of that register; and
- (g) if the interest charged is in funds in court, the Accountant General at the Court Funds Office.

Effect of interim order in relation to securities

73.8.—(1) If a judgment debtor disposes of their interest in any securities while they are subject to an interim charging order which has been served on them, that disposition will not, so long as that order remains in force, be valid as against the judgment creditor.

(2) A person served under rule 73.7(7)(f) with an interim charging order relating to securities must not, unless the court gives permission—

- (a) permit any transfer of any of the securities; or
- (b) pay any dividend, interest or redemption payment relating to them.

(3) If a person acts in breach of paragraph (2), that person will be liable to pay to the judgment creditor—

- (a) the value of the securities transferred or the amount of the payment made (as the case may be); or
- (b) if less, the amount necessary to satisfy the debt in relation to which the interim charging order was made.

Effect of interim order in relation to funds in court

73.9. If a judgment debtor disposes of their interest in funds in court while they are subject to an interim charging order which has been served on them and on the Accountant General in accordance with rule 73.7(7), that disposition will not, so long as that order remains in force, be valid as against the judgment creditor.

Further consideration of the application where interim charging order was made at the County Court Money Claims Centre and has not been transferred under rule 73.4(6) for a hearing

73.10.—(1) This rule applies where the interim charging order was made at the County Court Money Claims Centre and the matter has not been transferred under rule 73.4(6) for a hearing.

(2) If any person objects to the court making a final charging order, that person must—

- (a) file; and
- (b) serve on the judgment creditor,

written evidence stating the grounds of objection, not later than 28 days after service on that person of the application notice and interim order.

(3) If any person files evidence stating grounds of objection to the making of a final charging order, the court must, in accordance with paragraph (4), transfer the application for hearing to the judgment debtor's home court.

(4) Following receipt by the court of one or more objections, the matter must be transferred under paragraph (3)—

- (a) once all persons served under rule 73.7 with a copy of the interim charging order have filed and served an objection; or
- (b) upon expiry of the period allowed under paragraph (2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order,

whichever is the earlier.

(5) Where a matter has been transferred under paragraph (3), the court must serve notice of the hearing on the judgment creditor and all persons served under rule 73.7 with the interim charging order.

(6) Unless the application has been transferred under paragraph (3) for a hearing, the application will be considered by a judge upon expiry of the period allowed under paragraph (2) for the filing and service of any objection by the last person served under rule 73.7 with a copy of the interim charging order.

(7) When considering the application (either at a hearing following a transfer under paragraph (3) or under paragraph (6)), the court may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order continues, with or without modification;
- (b) discharge the interim charging order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the court making a final charging order;
- (d) direct a trial of any such issues, and if necessary give directions; or
- (e) make such other order as the court considers appropriate.

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(8) If the court makes a final charging order which charges securities, the order must include a stop notice unless the court otherwise orders.

(Section III of this Part contains provisions about stop notices.)

(9) Any order made must be served by the court on all the persons on whom the interim charging order was required to be served.

Further consideration of the application where interim charging order was made other than at the County Court Money Claims Centre, or has been transferred out of that Centre under rule 73.4(6)

73.10A.—(1) This rule applies where an interim charging order was made other than at the County Court Money Claims Centre or has been transferred out of that Centre under rule 73.4(6).

(2) If any person objects to the court making a final charging order, that person must—

- (a) file; and
- (b) serve on the judgment creditor,

written evidence stating the grounds of objection, not less than 7 days before the hearing.

(3) At the hearing the court may—

- (a) make a final charging order confirming that the charge imposed by the interim charging order continues, with or without modification;
- (b) discharge the interim charging order and dismiss the application;
- (c) decide any issues in dispute between the parties, or between any of the parties and any other person who objects to the court making a final charging order;
- (d) direct a trial of any such issues, and if necessary give directions; or
- (e) make such other order as the court considers appropriate.

(4) If the court makes a final charging order which charges securities other than securities held in court, the order must include a stop notice unless the court otherwise orders.

(Section III of this Part contains provisions about stop notices.)

(5) Any order made at the hearing must be served by the court on all the persons on whom the interim charging order was required to be served.

Discharge or variation of order

73.10B.—(1) Where the final charging order was made without a hearing under rule 73.10(7) any application to discharge or vary a charging order must be made to the County Court Money Claims Centre.

(2) Upon the filing of an application to discharge or vary a charging order at the County Court Money Claims Centre, the application must be transferred for a hearing to the judgment debtor's home court.

(3) Where the final charging order was made at a hearing, any application to discharge or vary a charging order must be made to the court which made the charging order.

(4) The court may direct that—

- (a) any interested person be joined as a party to such an application; or
- (b) the application be served on any such person.

(5) An order discharging or varying a charging order must be served on all the persons on whom the charging order was required to be served.

Enforcement of charging order by sale

73.10C.—(1) Subject to the provisions of any enactment, the court may, upon a claim by a person who has obtained a charging order over an interest in property, order the sale of the property to enforce the charging order.

(2) Where the charging order was made at the County Court Money Claims Centre a claim for an order for sale under this rule must be made to the judgment debtor's home court.

(3) Subject to paragraph (2) a claim for an order for sale under this rule should be made to the court which made the charging order, unless that court does not have jurisdiction to make an order for sale.

(4) The claimant must use the Part 8 procedure.

(5) A copy of the charging order must be filed with the claim form.”