

**2016 No. 234 (L. 3)**

**SENIOR COURTS OF ENGLAND AND WALES**

**COUNTY COURT, ENGLAND AND WALES**

**The Civil Procedure (Amendment) Rules 2016**

*Made* - - - - 23rd February 2016

*Laid before Parliament* 25th February 2016

*Coming into force in accordance with rule 2*

The Civil Procedure Rule Committee, having power under section 2 of the Civil Procedure Act 1997(a) to make rules of court under section 1 of that Act and after consulting in accordance with section 2(6)(a) of the Civil Procedure Act 1997, and having power under sections 14(4) and 17(3) of the Attachment of Earnings Act 1971(b), makes the following Rules.

**Citation, commencement and interpretation**

1. These Rules may be cited as the Civil Procedure (Amendment) Rules 2016.
2. Subject to rules 23 to 26, these Rules come into force on 6th April 2016.
3. In these Rules—
  - (a) a reference to a Part or rule by number alone means the Part or rule so numbered in the Civil Procedure Rules 1998(c);
  - (b) a reference to an Order by number and pre-fixed “RSC” means the RSC Order so numbered in Schedule 1 to those Rules; and
  - (c) a reference to an Order by number and pre-fixed “CCR” means the CCR Order so numbered in Schedule 2 to those Rules.

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(a) 1997 c. 12. Section 2(1) was substituted by the Constitutional Reform Act 2005 (c.4), section 15 and Schedule 4, Part 1. Section 1(3) was substituted by section 82(1) of the Courts Act 2003 (c. 39) and further amended by the Constitutional Reform Act 2005, sections 15 and 146 and Schedule 4, Part 1, paragraphs 261 and 262 and Schedule 18, paragraph 2. Section 1(1) was amended by the Crime and Courts Act 2013 (c. 22), section 17(5) and Schedule 9, Part 3, paragraph 67(a).

(b) 1971 c. 32. Section 14(4) was amended by S.I. 2006/1737, articles 34, 41 and there are amendments not yet in force (see the Tribunals, Courts and Enforcement Act 2007, section 91, Schedule 15, Part 1, paragraph 1, and Part 2, paragraph 13). Section 17(3) was amended by the Magistrates’ Courts Act 1980 (c. 43), section 154 and Schedule 7, paragraph 99 and the Access to Justice Act 1999, section 90 and Schedule 13, paragraphs 64 and 67, S.I. 2006/1737, articles 34 and 43 and the Crime and Courts Act 2013 section 17(5), Schedule 9, Part 2, paragraph 25(1) & (3). There are also amendments to section 17(3) not yet in force (see the Tribunals, Courts and Enforcement Act 2007, section 91 and Schedule 15, Part 1, paragraph 1, and Part 2, paragraphs 17 and 18).

(c) S.I. 1998/3132, to which there are relevant amendments in S.I. 2001/2792, 2008/3327, 2009/3390, 2013/262, 2013/1695, 2014/407, 2014/867, to which there is a relevant amendment in S.I. 2014/1233, and 2015/1569.

### **Amendments to Part 3**

**4.** In the table of contents to Part 3, in the entry for rule 3.13, after “exchanging budgets”, insert “and budget discussion reports”; and

**5.** In rule 3.12(1), for subparagraph (c), substitute—

- “(c) where in proceedings commenced on or after 6th April 2016 a claim is made by or on behalf of a person under the age of 18 (a child) (and on a child reaching majority this exception will continue to apply unless the court otherwise orders); or
- (d) where the proceeding are the subject of fixed costs or scale costs; or
- (e) the court otherwise orders.”.

**6.** In rule 3.13—

- (a) in the heading to that rule, after “exchanging budgets”, insert “and budget discussion reports”; and
- (b) for rule 3.13, substitute—

“**3.13.**—(1) Unless the court otherwise orders, all parties except litigants in person must file and exchange budgets—

- (a) where the stated value of the claim on the claim form is less than £50,000, with their directions questionnaires; or
- (b) in any other case, not later than 21 days before the first case management conference.

(2) In the event that a party files and exchanges a budget under paragraph (1), all other parties, not being litigants in person, must file an agreed budget discussion report no later than 7 days before the first case management conference.”.

**7.** In rule 3.18, in the words in parenthesis immediately after subparagraph (b), for “rule 44.3(2)(a) and rule 44.3(5)”, substitute “rules 44.3(2)(a) and 44.3(5)”.

### **Amendments to Part 44**

**8.** In rule 44.5(1), for “Subject to paragraphs (2) to (4)”, substitute “Subject to paragraphs (2) and (3)”.

### **Amendments to Part 45**

**9.** In rule 45.8, in Table 5—

- (a) in the entry for making a final charging order, for “73.8(2)(a)”, substitute “73.10(7)(a) or 73.10A(3)(a)”; and
- (b) in the entry for where an application for an attachment of earnings order is made and costs are allowed, for “CCR Order 27 rule 9”, substitute “rule 89.10”.

### **Amendments to Part 47**

**10.** In rule 47.6, in paragraph (2), for “and the bill” substitute “, the bill and, if a costs management order has been made, the breakdown”.

### **Amendments to Part 66**

**11.** In rule 66.6(1)—

- (a) in subparagraph (a), for “83 and 84” substitute “83, 84 and 89”.
- (b) in subparagraph (c), for “Orders 27 and”, substitute “Order”.

### **Amendments to Part 70**

**12.** In rule 70.1, in the words in parentheses following subparagraph (1), for “83, and 84, and Schedule 2 CCR Orders 27 and 28” substitute “83, 84 and 89, and Schedule 2 CCR Order 28”.

**13.** In rule 70.5—

- (a) in paragraph (2A), for “83, and 84, and Schedule 2 CCR Orders 27 and 28”, substitute “83, 84 and 89, and Schedule 2 CCR Order 28”; and
- (b) in paragraph (4)(b), after “unless”, insert “an enactment, rule or practice direction provides otherwise or”.

### **Amendments to Part 73**

**14.** For rules 73.1 to 73.10, substitute rules 73.1 to 73.10C as set out in Schedule 1 to these Rules.

**15.** In the Table of Contents for Part 73, for the entries for rules 73.1 to 73.10, substitute—

Scope of this Part and interpretation	Rule 73.1
Section I Charging Orders	
Scope of this Section	Rule 73.2
Application for charging order	Rule 73.3
Interim charging order – County Court Money Claims Centre	Rule 73.4
Review of a decision made by a court officer	Rule 73.5
Interim charging order – venues other than the County Court Money Claims Centre	Rule 73.6
Service of interim order	Rule 73.7
Effect of interim order in relation to securities	Rule 73.8
Effect of interim charging order in relation to funds in court	Rule 73.9
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	Rule 73.10
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)	Rule 73.10A
Discharge or variation of order	Rule 73.10B
Enforcement of charging order by sale	Rule 73.10C

**16.** In rule 73.12(3)(b)(ii), for “73.5(1)(d)”, substitute “73.7(7)(f)”.

**17.** In rule 73.17, in the words in parenthesis following subparagraph (1), for “73.8(3)” substitute “73.10(8) or 73.10A(4)”.

### **Amendments to Part 75**

**18.** For rule 75.6(d), substitute—

“(d) Part 89.”.

**19.** In rule 75.10, for “Parts 71, 72 or 73 or CCR Order 27”, substitute “Parts 71, 72, 73 or 89”.

### **Insertion of new Part 89**

**20.** After Part 88, insert new Part 89 as set out in Schedule 2 to these Rules.

## **RSC Order 115**

21. In RSC Order 115 rule 4(4), for “73.5(1)(c) to (e)” substitute “73.7(7)(e) to (g)”.

## **CCR Order 27 – Attachment of Earnings**

22. Omit CCR Order 27 – Attachment of Earnings.

## **Transitional provisions**

23. The amendments made by rules 4 and 6 apply to proceedings commenced on or after 6<sup>th</sup> April 2016.

24. The amendments made by rules 9(a), 14 to 17 and 21 apply to applications for charging orders made on or after the 6th April 2016.

25. The amendments made by rules 9(b), 11, 12, 13(a), 18, 19, 20 and 22 apply to applications for attachment of earnings orders made on or after the 6th April 2016.

26. The amendment made by rule 13(b) applies to applications for charging orders or attachment of earnings orders made on or after 6th April 2016.

*The Right Honourable Lord Dyson, MR  
Michael Briggs, LJ  
Mr Justice Birrs  
Mr Justice Coulson  
Master Roberts  
His Honour Judge Martin McKenna  
District Judge Michael Hovington  
District Judge Christopher Lethem  
Edward Pepperall QC  
Richard Viney  
Andrew Underwood  
Kate Wellington*

I allow these Rules  
Signed by authority of the Lord Chancellor

23rd February 2016

*Edward Faulks*  
Minister of State  
Ministry of Justice

**“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(a);
- (b) “the 1992 Regulations” means the Council Tax (Administration and Enforcement) Regulations 1992(b);
- (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(c)) 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(d); or
- (b) regulation 50 of the 1992 Regulations(e).

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(a) 1979 c. 53.

(b) S.I. 1992/613.

(c) 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).

(d) 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.

(e) 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.

### **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<sup>(a)</sup>;
- (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<sup>(b)</sup>;
- (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
- (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.

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(a) 1979 c. 53.

(b) 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).

### **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.

(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.

(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.”

## “PART 89

## ATTACHMENT OF EARNINGS

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## SECTION 1 - GENERAL

**Interpretation****89.1.** In this Part—

- (a) “the 1971 Act” means the Attachment of Earnings Act 1971(a) and unless the context otherwise requires or this Part otherwise provides, expressions used in that Act have the same meanings as in that Act;

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(a) 1971 c. 32.

- (b) “creditor” means the person who has obtained or is entitled to enforce a judgment or order;
- (c) “debtor” means the person against whom a judgment or order was given or made;
- (d) “debtor’s employer” means any person appearing to be the debtor’s employer;
- (e) “debtor’s home court” means the County Court hearing centre for the district in which the debtor resides or carries on business.

**Search of court records**

**89.2.** If requested to do so by any person having a judgment or order against a debtor, the court officer must –

- (a) cause a search to be made in the court records to determine whether there is an attachment of earnings order in force in relation to that debtor; and  
issue a certificate of the result of the search.

SECTION 2 – APPLICATIONS FOR ATTACHMENT OF EARNINGS ORDERS

**Where to make applications**

**89.3.** An application to the County Court for an attachment of earnings order must be made to the County Court Money Claims Centre.

**Mode of applying**

**89.4.—(1)** An application for an attachment of earnings order must include a certificate of the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid.

(2) Where an attachment of earnings order is sought to enforce an order of a magistrates’ court, the applicant must also file with the application—

- (a) a certified copy of the order; and
- (b) a witness statement verifying the amount due under the order or, if payments under the order are required to be made to the designated officer for the magistrates’ court, a certificate by that designated officer to the same effect.

**Service and reply**

**89.5.—(1)** Notice of the application together with Form N56 (“the reply form”), must be served on the debtor by the court.

(2) The notice of application must include an instruction to the debtor to complete and file the reply form within 8 days after service, and that instruction constitutes a requirement under section 14(4) of the 1971 Act(a).

(3) Within 8 days after service of the documents listed in paragraph (1), the debtor must file a completed reply form.

(4) On receipt of a reply from the debtor, the court officer must send a copy of the reply to the creditor.

(5) No proceedings may be brought for an alleged offence under section 23(2)(c) or (f) of the 1971 Act(b) in relation to the requirement to reply, unless—

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(a) 1971 c. 32. There are amendments to section 14(4) in S.I. 2006/1737, articles 34 and 41(1) & (4). There are further amendments to subsection (4) that are not yet in force (see the Tribunals, Courts and Enforcement Act 2007, sections 91 and 148(5) and Schedule 15, Part 1, paragraph 1, and Part 2, paragraph (13)).

(b) There are amendments to section 23(2)(c) & (f) that are not yet in force (see the Tribunals, Courts and Enforcement Act 2007, sections 91 and 148(5) and Schedule 15, Part 1, paragraph 1, and Part 2, paragraphs 19 and 22).

- (a) the notice of application and reply form have been served personally on the debtor; or
  - (b) the court is satisfied that the notice and reply form came to the debtor's knowledge in sufficient time for the debtor to comply with the requirement; and
  - (c) by the end of the time for filing the reply, the debtor has not paid to the creditor the money remaining due under the judgment or order.
- (6) If the debtor pays the money remaining due under the judgment or order, the creditor must inform the court officer that the payment has been made.

**Notice to debtor's employer**

**89.6.**—(1) Without prejudice to the power conferred by section 14(1) of the 1971 Act<sup>(a)</sup>, the court officer may at any stage of the proceedings, send to the debtor's employer a notice requesting them to give to the court a statement of the debtor's earnings.

- (2) The statement of debtor's earnings must—
  - (a) state the debtor's earnings;
  - (b) state the debtor's anticipated earnings;
  - (c) include such particulars as requested in the notice from the court; and
  - (d) be given to the court within such period as is specified in the notice.

**Attachment of earnings order**

**89.7.**—(1) If the court officer—

- (a) receives the debtor's reply form; and
- (b) has sufficient information to make an attachment of earnings order,

the court officer may make such an order.

(2) The court must send a copy of any attachment of earnings order made to the parties and to the debtor's employer.

(3) Where an order is made under paragraph (1), the creditor or the debtor may, within 14 days of service of the order and giving reasons, apply on notice for the order to be re-considered.

(4) Following receipt of an application in accordance with paragraph (3), the court officer must transfer the application to the debtor's home court for the hearing of the application.

(5) The creditor and the debtor must be given not less than 2 days' notice of any hearing fixed pursuant to paragraph (4).

(6) On hearing an application under paragraph (3), the District Judge may confirm the order or set it aside and make such new order as the District Judge thinks fit.

(7) Where an order is not made under paragraph (1), the court officer must refer the application to the District Judge who may—

- (a) determine the application without a hearing; or
- (b) transfer the application to the debtor's home court for hearing.

(8) The creditor and the debtor must be given not less than 8 days' notice of any hearing fixed pursuant to paragraph (7)(b).

(9) Where an order is made under paragraph (7)(a), the creditor or the debtor may, within 14 days of service of the order and giving reasons, apply on notice for the order to be re-considered.

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(a) There are amendments to section 14(1) in S.I. 2006/1737, articles 34 and 41(1) & (2). There are further amendments to subsection (1) that are not yet in force (see the Tribunals, Courts and Enforcement Act 2007, sections 91 and 148(5) and Schedule 15, Part 1, paragraph 1, and Part 2, paragraph 9).

(10) Following receipt of a notice in accordance with paragraph (9), the court officer must transfer the application to the debtor's home court for hearing.

(11) The creditor and the debtor must be given not less than 2 days' notice of any hearing fixed pursuant to paragraph (10).

(12) On hearing an application under paragraph (10), the District Judge may confirm the order or set it aside and make such new order as the District Judge thinks fit.

(13) If the creditor does not appear at the hearing of the application under paragraph (7)(b) the court may proceed to hear the application and to make an order in the creditor's absence if—

- (a) the court has received a witness statement from the creditor; or
- (b) the creditor requests the court in writing to proceed in any event.

(14) No attachment of earnings order may be made to secure the payment of a judgment debt if—

- (a) the debt is of less than £50; or
- (b) the amount remaining payable under a judgment is less than £50.

### **Failure by debtor**

**89.8.**—(1) In this rule, “statement of means” means a statement given under section 14(1) of the 1971 Act.

(2) If the debtor has failed to comply with rule 89.5(3) or to make payment to the creditor, the court officer may issue an order under section 14(1) of the 1971 Act which must, in addition to meeting the requirements of rule 89.16(1), direct that any payments made thereafter must be paid into the court and not direct to the creditor.

(3) If the person served with an order made under paragraph (2) fails—

- (a) to obey the order;
- (b) to file a statement of means; or
- (c) to make payment,

the court officer must transfer the application to the debtor's home court.

(4) Upon receipt of an application transferred under paragraph (3), the court officer must issue a notice calling on the debtor to show good reason why they should not be imprisoned.

(5) Any notice under paragraph (4) must be served on the debtor personally not less than 5 days before the hearing.

### **Suspended committal order**

**89.9.**—(1) If the debtor fails to attend at an adjourned hearing of an application for an attachment of earnings order and a committal order is made, the court making the committal order may also order that its execution will be suspended for such period or on such terms or conditions as it may specify.

(2) Unless the court otherwise directs, the creditor must serve on the debtor a copy of any order made under paragraph (1).

(3) Where a committal order is suspended under paragraph (1) and the debtor fails to attend at the time and place specified in the committal order, a certificate to that effect given by the court officer is sufficient authority for the issue of a warrant of committal.

(4) If execution of a committal order is suspended under paragraph (1), the debtor may apply for a further suspension.

(5) The debtor may apply for a further suspension by attending at, or writing to, the court office and explaining why they have been unable to comply with the terms of the original suspension.

(6) If the debtor applies for a further suspension in accordance with paragraph (5), the court must—

- (a) fix a date for the hearing of the application by the judge; and
- (b) give the debtor and creditor at least 3 days' notice of the hearing.

(7) The District Judge may suspend execution of the committal order pending the hearing of the application under paragraph (5).

### **Costs**

**89.10.**—(1) Where costs are allowed to the creditor on an application for an attachment of earnings order, there may be allowed—

- (a) a charge of a legal representative for attending the hearing and, if the court so directs, for serving the application; and
- (b) the court fee on the issue of the application.

(2) For the purpose of paragraph (1)(a) a legal representative who has prepared on behalf of the creditor a witness statement or request under rule 89.7(13) is treated as having attended the hearing.

(3) The costs may be fixed and allowed without detailed assessment under Part 47.

### **Contents and service of order**

**89.11.**—(1) An attachment of earnings order must contain such of the following information about the debtor as is known to the court—

- (a) the debtor's full name and address;
- (b) the debtor's place of work; and
- (c) the nature of the debtor's work and the debtor's works number, if any,

and that information will be the prescribed particulars for the purposes of section 6(3) of the 1971 Act(a).

(2) An attachment of earnings order and any order varying or discharging such an order must be served on the parties and the debtor's employer.

(3) Where—

- (a) the order is directed to a corporation; and
- (b) that corporation has requested that the court serve on the corporation documents relating to the debtor or to the class of persons to whom they belong at a particular address,

service may be effected on the corporation at that address, if the District Judge thinks fit.

(4) Where an attachment of earnings order is made to enforce a judgment or order of the High Court or a magistrates' court, a copy of the attachment of earnings order and of any order discharging it must be sent by the court officer of the County Court to the court officer of the High Court, or, as the case may be, the designated officer for the magistrates' court.

### **Application to determine whether particular payments are earnings**

**89.12.**—(1) An application to the court under section 16 of the Act of 1971 to determine whether payments to the debtor of a particular class or description are earnings for the purpose of an attachment of earnings order must be made to the debtor's home court.

(2) Upon receipt of an application under paragraph (1), the court officer must—

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(a) 1971 c. 32.

- (a) fix a date and time for the hearing of the application; and
- (b) give notice of the hearing to the persons mentioned in section 16(2)(a), (b) and (c) of the 1971 Act(a).

**Notice of order having ceased to have effect**

**89.13.** Where an attachment of earnings order ceases to have effect under section 8(4) of the 1971 Act, the court officer of the court or centre in which the matter is proceeding must give notice to the person to whom the order was directed that the order has ceased to have effect.

**Variation and discharge by court of own initiative**

**89.14.—**(1) Subject to paragraph (11), the powers conferred by section 9(1) of the 1971 Act(b) may be exercised by the court of its own initiative in the circumstances mentioned in the following paragraphs.

(2) Where it appears to the court that a person served with an attachment of earnings order directed to that person does not have the debtor in their employment, the court may discharge the order.

(3) Where an attachment of earnings order which has lapsed under section 9(4) of the 1971 Act(c) is again directed to a person who appears to the court to have the debtor in their employment, the court may make such consequential variations in the order as it thinks fit.

(4) Paragraph (5) applies where—

- (a) the court makes an attachment of earnings order (“the first order”); and
- (b) the court makes or is notified of the making of another attachment of earnings order (“the second order”)—
  - (i) which is against the same debtor; and
  - (ii) which is not to secure the payment of a judgment debt or payments under an administration order.

(5) The court may discharge or vary the first order, having regard to the priority accorded to the second order by paragraph 8 of Schedule 3 of the 1971 Act(d).

(6) Paragraph (7) applies where the court makes an attachment of earnings order and then makes—

- (a) an administration order; or
- (b) an order under section 4(1)(b) of the 1971 Act(e).

(7) The court may—

- (a) discharge the attachment of earnings order; or
- (b) if it exercised the power conferred by section 5(3) of the 1971 Act(f), vary the order as it thinks fit.

(8) On making a consolidated attachment order the court may discharge any earlier attachment of earnings order made to secure the payment of a judgment debt by the same debtor.

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(a) Section 16(2) was amended by the Crime and Courts Act 2013, section 17(6) and Schedule 10, Part 2, paragraphs 20 and 29.

(b) Section 9(1) was amended by S.I. 2006/1737, articles 34 and 40.

(c) Section 9(4) was amended by S.I. 2006/1737, articles 34 and 40.

(d) 1971 c. 32.

(e) Section 4(1) was amended by the Crime and Courts Act 2013, section 17(5) and Schedule 9, Part 2, paragraph 25(1) & (3)(a) and the Insolvency Act 1976 (c. 60), section 13(2).

(f) Section 5(3) was amended by the Crime and Courts Act 2013, section 17(5) and Schedule 9, Part 2, paragraphs 25(1) & (3)(a). There are further amendments that are not yet in force (see the Tribunals, Courts and Enforcement Act 2007, section 91 and Schedule 15, Part 1, paragraph 1, and Part 2, paragraph 8).



(9) Where it appears to the court that a bankruptcy order has been made against a person in respect of whom an attachment of earnings order is in force to secure the payment of a judgment debt, the court may discharge the attachment of earnings order.

(10) Where an attachment of earnings order has been made to secure the payment of a judgment debt and the court grants permission to issue execution for the recovery of the debt, the court may discharge the order.

(11) Before varying or discharging an attachment of earnings order of its own initiative under this rule, the court must, unless it thinks it unnecessary in the circumstances to do so, give the debtor and the person on whose application the order was made an opportunity of being heard on the question whether the order should be varied or discharged, and for that purpose the court officer may transfer the application to the debtor's home court.

(12) Upon transfer of the application under paragraph (11) the court officer must give the debtor and the person on whose application the order was made notice of the date, time and place fixed for the hearing.

### **Transfer of attachment order**

**89.15.**—(1) This rule applies where the question of making a consolidated attachment order is being considered at one County Court hearing centre, but the relevant attachment of earnings order was originally made at another County Court hearing centre, or was made at the County Court Money Claims Centre.

(2) The court officer may transfer the attachment proceedings in which the attachment of earnings order was made to the County Court hearing centre where the question of making a consolidated attachment order is being considered.

(3) Without prejudice to paragraph (2), the Judge or District Judge may transfer the attachment proceedings to a different County Court hearing centre if that judge considered that the attachment proceedings could more conveniently proceed at that different centre.

### **Exercise of power to obtain statement of earnings etc.**

**89.16.**—(1) An order under section 14(1) of the 1971 Act(a) must—

- (a) be indorsed with or incorporate a notice warning the person to whom it is directed of the consequences of disobedience to the order; and
- (b) be served on them personally.

(2) Rule 81.36(b) applies, with the necessary modifications, in relation to any penalty for failure to comply with an order under the section 14(1) of the 1971 Act as it applies in relation to a fine under section 55 of the County Courts Act 1981(c).

### **Offences**

**89.17.**—(1) Paragraph (2) applies where—

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(a) 1971 c.32. There are amendments to section 14(1) in SI 2006/1737, articles 34 and 41(1) & (2). There are further amendments to subsection (1) that are not yet in force (see the Tribunals, Courts and Enforcement Act 2007, sections 91 and 148(5) and Schedule 15, Part 1, paragraph 1, and Part 2, paragraph 9).

(b) S.I. 1998/3132. Rule 81.36 was inserted by SI 2012/2208, rules 2 and 16 and the Schedule.

(c) CCA 1984 (c. 28). Section 55(1) was amended by the Civil Procedure Act 1997, section 10 and Schedule 2, paragraph 2(2) and the Crime and Courts Act 2013, section 17(5) and Schedule 9, Part 1, paragraphs 1 and 10. Section 55(2): was amended by the Criminal Justice Act 1991, sections 17(3) and 101(1) and Schedule 4, Part I and Schedule 12, paragraph 6. Section 55(3) was amended by the Civil Procedure Act 1997, section 10 and Schedule 2, paragraph 2(2) and by the Crime and Courts Act 2013, section 17(5) and Schedule 9, Part 1, paragraphs 1 and 10(1)(b). Section 55(4) was amended by the Crime and Courts Act 2013, section 17(5), and Schedule 9, Part 1, paragraphs 1 and 10. Section 55(4A) was inserted by the Courts and Legal Services Act 1990, section 74(5), and then repealed by the Crime and Courts Act 2013, section 17(5) and Schedule 9, Part 1, paragraphs 1 and 10(12)(d).

- (a) it is alleged that a person has committed any offence mentioned in section 23(2)(a), (b), (d), (e) or (f) of the Act of 1971(a) in relation to proceedings in, or to an attachment of earnings order made by, the County Court; and
  - (b) the alleged offender is not being proceeded against summarily.
- (2) The District Judge may issue a notice to the alleged offender to show cause why that alleged offender should not be punished for the alleged offence.
- (3) The notice must be served on the alleged offender personally not less than 14 days before the hearing.
- (4) Rules 81.37 and 81.38(b) apply, with the necessary modifications, to proceedings for an offence under section 23(2) of the Act of 1971 as they apply to proceedings for offences under the County Courts Act 1984.

### SECTION 3 - CONSOLIDATED ATTACHMENT ORDERS

#### **Cases in which consolidated attachment order may be made**

**89.18.** Subject to the provisions of rules 89.19 to 89.21, the court may make a consolidated attachment order where—

- (a) two or more attachment of earnings orders are in force to secure the payment of judgment debts by the same debtor; or
- (b) on an application for an attachment of earnings order to secure the payment of a judgment debt, or for a consolidated attachment order to secure the payment of two or more judgment debts, it appears to the court that an attachment of earnings order is already in force to secure the payment of a judgment debt by the same debtor.

#### **Application for consolidated attachment order**

**89.19.—**(1) In this rule, “a party affected by the application” means—

- (a) where the application is made by the debtor, the creditor in the proceedings in which the application is made and any other creditor who has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor;
  - (b) where the application is made by the creditor, the debtor and every person who, to the knowledge of the applicant, has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor.
- (2) An application for a consolidated attachment order may be made—
- (a) by the debtor in respect of whom the order is sought; or
  - (b) by any person who has obtained or is entitled to apply for an attachment of earnings order to secure the payment of a judgment debt by that debtor.
- (3) An application under paragraph (2) may be made in the proceedings in which any attachment of earnings order is in force and rules 89.3, 89.4 and 89.5 do not apply.
- (4) Where an attachment of earnings order has been made—
- (a) at the County Court Money Claims Centre an application under paragraph (2) must be made to the debtor’s home court;
  - (b) at a County Court hearing centre, an application under paragraph (2) must be made to that hearing centre.
- (5) An application under paragraph (2)(b) must—

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(a) 1971 c.32. In relation to section 23(2)(f), there are amendments that are yet to come into force (see the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 91 and Schedule 15, Part 1, paragraph 1, and Part 2, paragraphs 19 and 22(b)).

(b) S.I. 1998/3132. Rule 81.37 was inserted by SI 2012/2208, rules 2 and 16 and the Schedule, and was amended by S.I. 2014/867, rule 15. Rule 81.38 was inserted by SI 2012/2208, rules 2 and 16 and the Schedule.

- (a) include a certificate as to the amount of money remaining due under the judgment or order and that the whole or part of any instalment due remains unpaid; and
  - (b) be supported by a statement of truth.
- (6) Where an application for a consolidated attachment order is made, the court officer must—
- (a) notify any party who may be affected by the application of its terms; and
  - (b) require them to notify the court in writing, within 14 days of service of notification upon them, giving their reasons for any objection they may have to the granting of the application.
- (7) If notice of any objection is not given within the time stated, the court officer must make a consolidated attachment order.
- (8) If any party objects to the making of a consolidated attachment order, the court officer must refer the application to the District Judge who may grant the application after considering the objection made and the reasons given.
- (9) A person to whom two or more attachment of earnings orders are directed to secure the payment of judgment debts by the same debtor may request the court in writing to make a consolidated attachment order to secure the payment of those debts.
- (10) On receipt by the court of a request under paragraph (9), paragraphs (1) and (6) to (8) apply, with the necessary modifications, as if the request were an application by the creditor.

**Making of consolidated attachment order by court of its own initiative**

**89.20.** Where—

- (a) an application is made for an attachment of earnings order to secure the payment of a judgment debt by a debtor in respect of whom an attachment of earnings order is already in force to secure the payment of another judgment debt; and
- (b) no application is made for a consolidated attachment order,

the court officer may make such an order of that officer’s own initiative after giving all persons concerned an opportunity of submitting written objections.

**Extension of consolidated attachment order**

**89.21.**—(1) This rule applies where—

- (a) a consolidated attachment order is in force to secure the payment of two or more judgment debts (“the original debts”); and
- (b) a further judgment debt (“the additional debt”) is owed by the same debtor.

(2) The creditor of the additional debt may apply for the consolidated attachment order to be extended so as to secure the payment of the additional debt as well as the original debts.

(3) If the application to extend the consolidated attachment order is granted, the court may—

- (a) vary the order accordingly; or
- (b) discharge the order and make a new consolidated attachment order to secure payment of all the judgment debts.

(4) An application under this rule must be made to the court that made the consolidated attachment order and is treated for the purposes of rules 89.19 and 89.20 as an application for a consolidated attachment order.

### **Payments under consolidated attachment order**

**89.22.**—(1) If a court officer receives payment in compliance with a consolidated attachment order, the court officer must—

- (a) first deduct any court fees due in respect of proceedings for or arising out of the order that are permitted to be deducted; and
- (b) then divide the remainder of the payment to satisfy the relevant judgments falling within the ambit of the consolidated attachment order, in proportion with the amounts payable under each judgment.

(2) For the purpose of satisfying those relevant judgments, dividends may from time to time be declared and distributed among the creditors so entitled.”

### **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules amend the Civil Procedure Rules 1998 (CPR) (SI 1998/3132), by—

- making amendments to the costs management provisions in Section II of Part 3 and, in particular, excluding claims relating to children from those provisions;
- correcting a typographical error in rule 44.5;
- making amendments to rule 47.6 to ensure information is provided to the court in the required form when assessing costs under rule 3.18;
- replacing Section I of Part 73 in relation to charging orders, for the centralisation of the processing of certain charging orders at the County Court Money Claims Centre, and for court officers at that Centre to deal with applications for charging orders in certain circumstances;
- making amendments to rules 45.8, 70.5(4)(b), 73.12, 73.17, and RSC Order 115, rule 4, consequential on the changes in relation to charging orders;
- inserting new Part 89, Attachment of Earnings, to replace CCR Order 27 and to enable the centralisation of attachment of earnings orders applications at the County Court Money Claims Centre;
- making amendments to rules 45.8, 66.6, 70.1, 70.5(2A) and (4)(b), 75.6(d) and 75.10, and omitting CCR Order 27, consequential on the introduction of new Part 89.