

# PART 71

## ORDERS TO OBTAIN INFORMATION FROM JUDGMENT DEBTORS

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### SCOPE OF THIS PART

- 71.1 This Part contains rules which provide for a judgment debtor to be required to attend court to provide information, for the purpose of enabling a judgment creditor to enforce a judgment or order against him.

### ORDER TO ATTEND COURT

- 71.2 (1) A judgment creditor may apply for an order requiring –
- (a) a judgment debtor; or
  - (b) if a judgment debtor is a company or other corporation, an officer of that body,
- to attend court to provide information about –
- (i) the judgment debtor's means; or
  - (ii) any other matter about which information is needed to enforce a judgment or order.
- (2) An application under paragraph (1) –
- (a) may be made without notice; and

- (b) (i) must be issued in the court which made the judgment or order which it is sought to enforce, except that
  - (ii) if the proceedings have since been transferred to a different court, it must be issued in that court.
- (3) The application notice must –
  - (a) be in the form; and
  - (b) contain the information required by the relevant practice direction.
- (4) An application under paragraph (1) may be dealt with by a court officer without a hearing.
- (5) If the application notice complies with paragraph (3), an order to attend court will be issued in the terms of paragraph (6).
- (6) A person served with an order issued under this rule must –
  - (a) attend court at the time and place specified in the order;
  - (b) when he does so, produce at court documents in his control which are described in the order; and
  - (c) answer on oath such questions as the court may require.
- (7) An order under this rule will contain a notice in the following terms –  
 “You must obey this order. If you do not, you may be sent to prison for contempt of court.”.

## SERVICE OF ORDER

71.3

- (1) An order to attend court must, unless the court otherwise orders, be served personally on the person ordered to attend court not less than 14 days before the hearing.
- (2) If the order is to be served by the judgment creditor, he must inform the court not less than 7 days before the date of the hearing if he has been unable to serve it.

## TRAVELLING EXPENSES

71.4

- (1) A person ordered to attend court may, within 7 days of being served with the order, ask the judgment creditor to pay him a sum reasonably sufficient to cover his travelling expenses to and from court.
- (2) The judgment creditor must pay such a sum if requested.

## JUDGMENT CREDITOR'S AFFIDAVIT

71.5

- (1) The judgment creditor must file an affidavit<sup>(GL)</sup> or affidavits –
  - (a) by the person who served the order (unless it was served by the court) giving details of how and when it was served;
  - (b) stating either that –

- (i) the person ordered to attend court has not requested payment of his travelling expenses; or
  - (ii) the judgment creditor has paid a sum in accordance with such a request; and
- (c) stating how much of the judgment debt remains unpaid.
- (2) The judgment creditor must either –
- (a) file the affidavit<sup>(GL)</sup> or affidavits not less than 2 days before the hearing; or
  - (b) produce it or them at the hearing.

### CONDUCT OF THE HEARING

- 71.6 |
- (1) The person ordered to attend court will be questioned on oath.
  - (2) The questioning will be carried out by a court officer unless the court has ordered that the hearing shall be before a judge.
  - (3) The judgment creditor or his representative –
    - (a) may attend and ask questions where the questioning takes place before a court officer; and
    - (b) must attend and conduct the questioning if the hearing is before a judge.

### ADJOURNMENT OF THE HEARING

- 71.7 |
- If the hearing is adjourned, the court will give directions as to the manner in which notice of the new hearing is to be served on the judgment debtor.

### FAILURE TO COMPLY WITH ORDER

- 71.8 |
- (1) If a person against whom an order has been made under rule 71.2 –
    - (a) fails to attend court;
    - (b) refuses at the hearing to take the oath or to answer any question; or
    - (c) otherwise fails to comply with the order,
 the court will refer the matter to a High Court judge or circuit judge.
  - (2) That judge may, subject to paragraphs (3) and (4), make a committal order against the person.
  - (3) A committal order for failing to attend court may not be made unless the judgment creditor has complied with rules 71.4 and 71.5.
  - (4) If a committal order is made, the judge will direct that –
    - (a) the order shall be suspended provided that the person –
      - (i) attends court at a time and place specified in the order; and

- (ii) complies with all the terms of that order and the original order;  
and
- (b) if the person fails to comply with any term on which the committal order is suspended, he shall be brought before a judge to consider whether the committal order should be discharged.