

# PRACTICE DIRECTION – THIRD PARTY DEBT ORDERS

## THIS PRACTICE DIRECTION SUPPLEMENTS PART 72

### Application notice – rule 72.3

- 1.1 An application for a third party debt order must be made by filing an application notice in Practice Form N349.
- 1.2 The application notice must contain the following information –
  - (1) the name and address of the judgment debtor;
  - (2) details of the judgment or order sought to be enforced;
  - (3) the amount of money remaining due under the judgment or order;
  - (4) if the judgment debt is payable by instalments, the amount of any instalments which have fallen due and remain unpaid;
  - (5) the name and address of the third party;
  - (6) if the third party is a bank or building society –
    - (a) its name and the address of the branch at which the judgment debtor’s account is believed to be held; and
    - (b) the account number;or, if the judgment creditor does not know all or part of this information, that fact;
  - (7) confirmation that to the best of the judgment creditor’s knowledge or belief the third party –
    - (a) is within the jurisdiction; and
    - (b) owes money to or holds money to the credit of the judgment debtor;
  - (8) if the judgment creditor knows or believes that any person other than the judgment debtor has any claim to the money owed by the third party –
    - (a) his name and (if known) his address; and
    - (b) such information as is known to the judgment creditor about his claim;
  - (9) details of any other applications for third party debt orders issued by the judgment creditor in respect of the same judgment debt; and
  - (10) the sources or grounds of the judgment creditor’s knowledge or belief of the matters referred to in (7), (8) and (9).

- 1.3 The court will not grant speculative applications for third party debt orders, and will only make an interim third party debt order against a bank or building society if the judgment creditor's application notice contains evidence to substantiate his belief that the judgment debtor has an account with the bank or building society in question.

### Interim third party debt order – rule 72.4

2. An interim third party debt order will specify the amount of money which the third party must retain (rule 72.4(3)). This will include, in respect of the judgment creditor's fixed costs of the application, the amount which would be allowed to the judgment creditor under rule 45.6 if the whole balance of the judgment debt were recovered.

### Interim orders relating to bank or building society accounts – rule 72.6(1)–(3)

- 3.1 A bank or building society served with an interim third party debt order is only required by rule 72.6, unless the order states otherwise –
  - (1) to retain money in accounts held solely by the judgment debtor (or, if there are joint judgment debtors, accounts held jointly by them or solely by either or any of them); and
  - (2) to search for and disclose information about such accounts.
- 3.2 The bank or building society is not required, for example, to retain money in, or disclose information about –
  - (1) accounts in the joint names of the judgment debtor and another person; or
  - (2) if the interim order has been made against a firm, accounts in the names of individual members of that firm.

### Transfer

4. The court may, on an application by a judgment debtor who wishes to oppose an application for a third party debt order, transfer it to the court for the district where the judgment debtor resides or carries on business, or to another court.

### Applications for hardship payment orders – rule 72.7

- 5.1 The court will treat an application for a hardship payment order as being made –
  - (1) in the proceedings in which the interim third party debt order was made; and
  - (2) under the same claim number, regardless of where the judgment debtor makes the application.

- 5.2 An application for a hardship payment order will be dealt with by the court to which it is made.
- (Rule 72.7(2) provides that an application may be made –
- in High Court proceedings, in the Royal Courts of Justice or to any district registry; and
  - in county court proceedings, to any county court.)
- 5.3 If the application is made to a different court from that dealing with the application for a third party debt order –
- (1) the application for a third party debt order will not be transferred; but
  - (2) the court dealing with that application will send copies of –
    - (a) the application notice; and
    - (b) the interim third party debt order
 to the court hearing the application for a hardship payment order
- 5.4 Rule 72.7(3) requires an application for a hardship payment order to be served on the judgment creditor at least 2 days before the court is to deal with the application, unless the court orders otherwise. In cases of exceptional urgency the judgment debtor may apply for a hardship payment order without notice to the judgment creditor and a judge will decide whether to –
- (1) deal with the application without it being served on the judgment creditor; or
  - (2) direct it to be served.
- 5.5 If the judge decides to deal with the application without it being served on the judgment creditor, where possible he will normally –
- (1) direct that the judgment creditor be informed of the application; and
  - (2) give him the opportunity to make representations, by telephone, fax or other appropriate method of communication.
- 5.6 The evidence filed by a judgment debtor in support of an application for a hardship payment order should include documentary evidence, for example (if appropriate) bank statements, wage slips and mortgage statements, to prove his financial position and need for the payment.

### Final orders relating to building society accounts

6. A final third party debt order will not require a payment which would reduce to less than £1 the amount in a judgment debtor's account with a building society or credit union.