

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^(GL) 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^(GL) 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.