

# SCHEDULE 2 CCR ORDER 25

## ENFORCEMENT OF JUDGMENTS AND ORDERS: GENERAL

### Rule 1 Judgment creditor and debtor

In this order and Orders 26 to 29 ‘judgment creditor’ means the person who has obtained or is entitled to enforce a judgment or order and ‘debtor’ means the person against whom it was given or made.

### Rule 6 Description of parties

Where the name or address of the judgment creditor or the debtor as given in the request for the issue of a warrant of execution or delivery, judgment summons or warrant of committal differs from his name or address in the judgment or order sought to be enforced and the judgment creditor satisfies the court officer that the name or address as given in the request is applicable to the person concerned, the judgment creditor or the debtor, as the case may be, shall be described in the warrant or judgment summons as ‘C.D. of [name and address as given in the request] suing [or sued] as A.D. of [name and address in the judgment or order]’.

### Rule 7 Recording and giving information as to warrants and orders

- (1) Subject to paragraph (1A), every district judge by whom a warrant or order is issued or received for execution shall from time to time state in the records of his court what has been done in the execution of the warrant or order.
- (1A) Where a warrant of execution issued by a court(‘the home court’) is sent to another court for execution(‘the foreign court’), paragraph (1) shall not apply to the district judge of the home court, but when such a warrant is returned to the home court under paragraph (7), the court officer of the home court shall state in the records of his court what has been done in the execution of the warrant or order.
- (2) If the warrant or order has not been executed within one month from the date of its issue or receipt by him, the court officer of the court responsible for its execution shall, at the end of that month and every subsequent month during which the warrant remains outstanding, send notice of the reason for non-execution to the judgment creditor and, if the warrant or order was received from another court, to that court.
- (3) The district judge responsible for executing a warrant or order shall give such information respecting it as may reasonably be required by the judgment creditor and, if the warrant or order was received by him from another court, by the district judge of that court.
- (4) Where money is received in pursuance of a warrant of execution or committal sent by one court to another court, the foreign court shall, subject to paragraph (5) and to section 346 of Insolvency Act 1986<sup>1</sup> and section 326 of the Companies Act 1948<sup>2</sup>, send the money to the

<sup>1</sup> 1986 c.45.

<sup>2</sup> 1948 c.38.

judgment creditor in the manner prescribed by the Court Funds Rules 1987<sup>1</sup> and, where the money is received in pursuance of a warrant of committal, make a return to the home court.

- (5) Where interpleader proceedings are pending, the court shall not proceed in accordance with paragraph (4) until the interpleader proceedings are determined and the district judge shall then make a return showing how the money is to be disposed of and, if any money is payable to the judgment creditor, the court shall proceed in accordance with paragraph(4).
- (6) Where a warrant of committal has been received from another court, the foreign court shall, on the execution of the warrant, send notice thereof to the home court.
- (7) Where a warrant of execution has been received from another court, either –
  - (a) on the execution of the warrant; or
  - (b) if the warrant is not executed –
    - (i) on the making of a final return to the warrant; or
    - (ii) on suspension of the warrant under rule 8 (suspension of judgment or execution) or Order 26, rule 10 (withdrawal and suspension of warrant at creditor's request), the foreign court shall return the warrant to the home court.

### **Rule 8 Suspension of judgment or execution**

- (1) The power of the court to suspend or stay a judgment or order or to stay execution of any warrant may be exercised by the district judge or, in the case of the power to stay execution of a warrant of execution and in accordance with the provisions of this rule, by the court officer.
- (2) An application by the debtor to stay execution of a warrant of execution shall be in the appropriate form stating the proposed terms, the grounds on which it is made and including a signed statement of the debtor's means.
- (3) Where the debtor makes an application under paragraph (2), the court shall –
  - (a) send the judgment creditor a copy of the debtor's application (and statement of means); and
  - (b) require the creditor to notify the court in writing, within 14 days of service of notification upon him, giving his reasons for any objection he may have to the granting of the application.
- (4) If the judgment creditor does not notify the court of any objection within the time stated, the court officer may make an order suspending the warrant on terms of payment.
- (5) Upon receipt of a notice by the judgment creditor under paragraph (3)(b), the court officer may, if the judgment creditor objects only to the terms offered, determine the date and rate of payment and make an order suspending the warrant on terms of payment.
- (6) Any party affected by an order made under paragraph(5) may, within 14 days of service of the order on him and giving his reasons, apply on notice for the order to be reconsidered and the court shall fix a day for the hearing of the application before the district judge and give to the judgment creditor and the debtor not less than 8 days' notice of the day so fixed.
- (7) On hearing an application under paragraph (6), the district judge may confirm the order or set it aside and make such new order as he thinks fit and the order so made shall be entered in the records of the court.
- (8) Where the judgment creditor states in his notice under paragraph (3)(b) that he wishes the bailiff to proceed to execute the warrant, the court shall fix a day for a hearing before the

---

<sup>1</sup> S.I. 1987/821, as amended by S.I. 1988/817, 1990/518, 1991/227 and 1997/177.

district judge of the debtor's application and give to the judgment creditor and to the debtor not less than 2 days' notice of the day so fixed.

- (9) Subject to any directions given by the district judge, where a warrant of execution has been suspended, it may be re-issued on the judgment creditor's filing a request showing that any condition subject to which the warrant was suspended has not been complied with.
- (10) Where an order is made by the district judge suspending a warrant of execution, the debtor may be ordered to pay the costs of the warrant and any fees or expenses incurred before its suspension and the order may authorise the sale of a sufficient portion of any goods seized to cover such costs, fees and expenses and the expenses of sale.

## **Rule 9 Enforcement of judgment or order against firm**

- (1) Subject to paragraph (2), a judgment or order against a firm may be enforced against –
  - (a) any property of the firm;
  - (b) any person who admitted in the proceedings that he was a partner or was adjudged to be a partner;
  - (c) any person who was served as a partner with the claim form if –
    - (i) judgment was entered under CPR Part 12, in default of defence or under CPR Part 14 on admission; or
    - (iii) the person so served did not appear at the trial or hearing of the proceedings.
- (2) A judgment or order may not be enforced under paragraph (1) against a member of the firm who was out of England and Wales when the claim form was issued unless he –
  - (a) was served within England and Wales with the claim form as a partner; or
  - (b) was, with the permission of the court under CPR rule 6.20 served out of England and Wales with the claim form as a partner,and, except as provided by paragraph (1)(a) and by the foregoing provisions of this paragraph, a judgment or order obtained against a firm shall not render liable, release or otherwise affect a member of the firm who was out of England and Wales when the claim form was issued.
- (3) A judgment creditor who claims to be entitled to enforce a judgment or order against any other person as a partner may apply to the court for permission to do so by filing an application notice in accordance with CPR Part 23.
- (4) An application notice under paragraph (3) shall be served on the alleged partner, not less than three days before the hearing of the application, in the manner set out in CPR rule 6.2 and on the hearing of the application, if the alleged partner does not dispute his liability, the court may, subject to paragraph(2), give permission to enforce the judgment or order against him and, if he disputes liability, the court may order that the question of his liability be tried and determined in such a manner as the court thinks fit.
- (5) The foregoing provisions of this rule shall not apply where it is desired to enforce in a county court a judgment or order of the High Court, or a judgment, order, decree or award of any court or arbitrator which is or has become enforceable as if it were a judgment or order of the High Court, and in any such case the provisions of the RSC relating to the enforcement of a judgment or order against a firm shall apply.

## **Rule 10 Enforcing judgment between a firm and its members**

- (1) Execution to enforce a judgment or order given or made in –
  - (a) proceedings by or against a firm, in the name of the firm against or by a member of the firm;or

- (b) proceedings by a firm in the name of the firm against a firm in the name of the firm where those firms have one or more members in common, shall not issue without the permission of the court.
- (2) On an application for permission the court may give such directions, including directions as to the taking of accounts and the making of inquiries, as may be just.

### **Rule 13 Transfer to High Court for enforcement**

- (1) Where the judgment creditor makes a request for a certificate of judgment under Order 22, rule 8(1) for the purpose of enforcing the judgment or order in the High Court –
  - (a) by execution against goods; or
  - (b) where the judgement or order to be enforced is an order for possession of land made in a possession claim against trespassers, the grant of a certificate by the court shall take effect as an order to transfer the proceedings to the High Court and the transfer shall have effect on the grant of that certificate.
- (2) On the transfer of proceedings in accordance with paragraph (1), the court shall give notice to the debtor or the person against whom the possession order was made that the proceedings have been transferred and shall make an entry of that fact in the records of his court.
- (3) In a case where a request for a certificate of judgment is made under Order 22, rule 8(1) for the purpose of enforcing a judgment or order in the High Court and –
  - (a) an application for a variation in the date or rate of payment of money due under a judgment or order;
  - (b) an application under either CPR rule 39.3(3) or CPR rule 13.4;
  - (c) a request for an administration order; or
  - (d) an application for a stay of execution under section 88 of the Act, is pending, the request for the certificate shall not be dealt with until those proceedings are determined.