
SCHEDULE 1 RSC ORDER 47

WRITS OF FIERI FACIAS

Rule 1 Power to stay execution by writ of fieri facias

- (1) Where a judgment is given or an order made for the payment by any person of money, and the court is satisfied, on an application made at the time of the judgment or order, or at any time thereafter, by the judgment debtor or other party liable to execution –
 - (a) that there are special circumstances which render it inexpedient to enforce the judgment or order; or
 - (b) that the applicant is unable from any cause to pay the money,then, notwithstanding anything in rule 2 or 3, the court may by order stay the execution of the judgment or order by writ of fieri facias either absolutely or for such period and subject to such conditions as the court thinks fit.
- (2) An application under this rule, if not made at the time the judgment is given or order made, must be made in accordance with CPR Part 23 and may be so made notwithstanding that the party liable to execution did not acknowledge service of the claim form or serve a defence or take any previous part in the proceedings.
- (3) The grounds on which an application under this rule is made must be set out in the application notice and be supported by a witness statement or affidavit made by or on behalf of the applicant substantiating the said grounds and, in particular, where such application is made on the grounds of the applicant's inability to pay, disclosing his income, the nature and value of any property of his and the amount of any other liabilities of his.
- (4) The application notice and a copy of the supporting witness statement or affidavit must, not less than 4 clear days before the hearing, be served on the party entitled to enforce the judgment or order.
- (5) An order staying execution under this rule may be varied or revoked by a subsequent order.

Rule 3 Separate writs to enforce payment of costs, etc.

- (1) Where only the payment of money, together with costs to be assessed in accordance with CPR Part 47 (detailed costs assessment), is adjudged or ordered, then, if when the money becomes payable under the judgment or order the costs have not been assessed, the party entitled to enforce that judgment or order may issue a writ of fieri facias to enforce payment of the sum (other than for costs) adjudged or ordered and, not less than 8 days after the issue of that writ, he may issue a second writ to enforce payment of the assessed costs.
- (2) A party entitled to enforce a judgment or order for the delivery of possession of any property (other than money) may, if he so elects, issue a separate writ of fieri facias to enforce payment of any damages or costs awarded to him by that judgment or order.

Rule 4 No expenses of execution in certain cases

Where a judgment or order is for less than £600 and does not entitle the claimant to costs against the person against whom the writ of fieri facias to enforce the judgment or order is

issued, the writ may not authorise the sheriff or enforcement officer to whom it is directed to levy any fees, poundage or other costs of execution.

Rule 5 Writ of fieri facias de bonis ecclesiasticis, etc.

- (1) Where it appears upon the return of any writ of fieri facias that the person against whom the writ was issued has no goods or chattels in the county of the sheriffs to whom the writ was directed or the district of the relevant enforcement officer but that he is the incumbent of a benefice named in the return, then, after the writ and return have been filed, the party by whom the writ of fieri facias was issued may issue a writ of fieri facias de bonis ecclesiasticis or a writ of sequestrari de bonis ecclesiasticis directed to the bishop of the diocese within which that benefice is.
- (2) Any such writ must be delivered to the bishop to be executed by him.
- (3) Only such fees for the execution of any such writ shall be taken by or allowed to the bishop or any diocesan officer as are for the time being authorised by or under any enactment, including any measure of the General Synod.

Rule 6 Order for sale otherwise than by auction

- (1) An order of the court under paragraph 10 of Schedule 7 to the Courts Act 2003 that a sale of goods seized under an execution may be made otherwise than by public auction may be made on the application of –
 - (a) the person at whose instance the writ of execution under which the sale is to be made was issued;
 - (b) the person against whom that writ was issued (in this rule referred to as ‘the judgment debtor’);
 - (c) if the writ was directed to a sheriff, that sheriff; and
 - (d) if the writ was directed to one or more enforcement officers, the relevant enforcement officer.
- (2) Such an application must be made in accordance with CPR Part 23 and the application notice must contain a short statement of the grounds of the application.
- (3) Where the applicant for an order under this rule is not the sheriff or enforcement officer, the sheriff or enforcement officer must, on the demand of the applicant, send to the applicant a list stating –
 - (a) whether he has notice of the issue of another writ or writs of execution against the goods of the judgment debtor; and
 - (b) so far as is known to him, the name and address of every creditor who has obtained the issue of another such writ of execution, and where the sheriff or enforcement officer is the applicant, he must prepare such a list.
- (4) Not less than 4 clear days before the hearing the applicant must serve the application notice on each of the other persons by whom the application might have been made and on every person named in the list under paragraph (3).
- (5) Service of the application notice on a person named in the list under paragraph (3) is notice to him for the purpose of paragraph 10(3) of Schedule 7 to the Courts Act 2003.

(Paragraph 10(3) provides that if the person who seized the goods has notice of another execution or other executions, the court must not consider an application for leave to sell privately until the notice prescribed by Civil Procedure Rules has been given to the other execution creditor or creditors)

- (6) The applicant must produce the list under paragraph (3) to the court on the hearing of the application.
- (7) Every person on whom the application notice was served may attend and be heard on the hearing of the application.

