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# SCHEDULE 1 RSC ORDER 17

## INTERPLEADER

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### **Rule 1 Entitlement to relief by way of interpleader**

- (1) Where –
  - (a) a person is under a liability in respect of a debt or in respect of any money, goods or chattels and he is, or expects to be, sued for or in respect of that debt or money or those goods or chattels by two or more persons making adverse claims thereto; or
  - (b) claim is made to any money, goods or chattels taken or intended to be taken by a sheriff in execution under any process, or to the proceeds or value of any such goods or chattels, by a person other than the person against whom the process is issued, the person under liability as mentioned in sub-paragraph (a) or (subject to rule 2) the sheriff, may apply to the court for relief by way of interpleader.
- (2) References in this Order to a sheriff shall be construed as including references to–
  - (a) an individual authorised to act as an enforcement officer under the Courts Act 2003<sup>1</sup>; and
  - (b) any other officer charged with the execution of process by or under the authority of the High Court.

### **Rule 2 Claim to goods, etc., taken in execution**

- (1) Any person making a claim to or in respect of any money, goods or chattels taken or intended to be taken in execution under process of the court, or to the proceeds or value of any such goods or chattels, must give notice of his claim to the sheriff charged with the execution of the process and must include in his notice a statement of his address, and that address shall be his address for service.
- (2) On receipt of a claim made under this rule the sheriff must forthwith give notice thereof to the execution creditor and the execution creditor must, within seven days after receiving the notice, give notice to the sheriff informing him whether he admits or disputes the claim. An execution creditor who gives notice in accordance with this paragraph admitting a claim shall only be liable to the sheriff for any fees and expenses incurred by the sheriff before receipt of that notice.
- (3) Where –
  - (a) the sheriff receives a notice from an execution creditor under paragraph (2) disputing a claim, or the execution creditor fails, within the period mentioned in that paragraph, to give the required notice; and
  - (b) the claim made under this rule is not withdrawn, the sheriff may apply to the court for relief under this order.
- (4) A sheriff who receives a notice from an execution creditor under paragraph (2) admitting a claim made under this rule shall withdraw from possession of the money, goods or chattels claimed and may apply to the court for relief under this order of the following kind, that is to

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<sup>1</sup> 2003 c.39.

say, an order restraining the bringing of a claim against him for or in respect of his having taken possession of that money or those goods or chattels.

## **Rule 2A Claim in respect of goods protected from seizure**

- (1) Where a judgment debtor whose goods have been seized, or are intended to be seized, by a sheriff under a writ of execution claims that such goods are not liable to execution by virtue of section 138(3A) of the Act<sup>1</sup>, he must within 5 days of the seizure give notice in writing to the sheriff identifying all those goods in respect of which he makes such a claim and the grounds of such claim in respect of each item.
- (2) Upon receipt of a notice of claim under paragraph(1), the sheriff must forthwith give notice thereof to the execution creditor and to any person who has made a claim to, or in respect of, the goods under rule 2(1) and the execution creditor and any person who has made claim must, within 7 days of receipt of such notice, inform the sheriff in writing whether he admits or disputes the judgment debtor's claim in respect of each item.
- (3) The sheriff shall withdraw from possession of any goods in respect of which the judgment debtor's claim is admitted or if the execution creditor or any person claiming under rule 2(1) fails to notify him in accordance with paragraph (2) and the sheriff shall so inform the parties in writing.
- (4) Where the sheriff receives notice from—
  - (a) the execution creditor; or
  - (b) any such person to whom notice was given under paragraph (2), that the claim or any part thereof is disputed, he must forthwith seek the directions of the court and may include therein an application for an order restraining the bringing of any claim against him for, or in respect of, his having seized any of those goods or his having failed so to do.
- (5) The sheriff's application for directions under paragraph (4) shall be made by an application in accordance with CPR Part 23 and, on the hearing of the application, the court may –
  - (a) determine the judgment debtor's claim summarily; or
  - (b) give such directions for the determination of any issue raised by such claim as may be just.
- (6) A Master and a district judge of a district registry shall have power to make an order of the kind referred to in paragraph(4) and the reference to Master shall be construed in accordance with rule 4.

## **Rule 3 Mode of application**

- (1) An application for relief under this order must be made by claim form unless made in an existing claim, in which case it must be made by accordance with CPR Part 23.
- (2) Where the applicant is a sheriff who has withdrawn from possession of money, goods or chattels taken in execution and who is applying for relief under rule 2(4) the claim form must be served on any person who made a claim under that rule to or in respect of that money or those goods or chattels, and that person may attend the hearing of the application.
- (4) Subject to paragraph (5) a claim form or application notice under this rule must be supported by evidence that the applicant –
  - (a) claims no interest in the subject-matter in dispute other than for charges or costs;
  - (b) does not collude with any of the claimants to that subject-matter; and

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<sup>1</sup> Section 138 was amended by the Administration of Justice Act 1985 (c.61), sections 55 and 67(2); and by the Courts and Legal Services Act 1990 (c.41), section 125(2), Schedule 17, paragraph 17.

- (c) is willing to pay or transfer that subject-matter into court or to dispose of it as the court may direct.
- (5) Where the applicant is a sheriff, he shall not provide such evidence as is referred to in paragraph (4) unless directed by the court to do so.
- (6) Any person who makes a claim under rule 2 and who is served with a claim form under this rule shall within 14 days serve on the execution creditor and the sheriff a witness statement or affidavit specifying any money and describing any goods and chattels claimed and setting out the grounds upon which such claim is based.
- (7) Where the applicant is a sheriff a claim form under this rule must give notice of the requirement in paragraph (6).

#### **Rule 4 To whom Sheriff may apply for relief**

An application to the court for relief under this order may, if the applicant is a sheriff, be made –

- (a) where the claim in question is proceeding in the Royal Courts of Justice, to a Master or, if the execution to which the application relates has been or is to be levied in the district of a District Registry, either to a Master or to the district judge of that Registry;
- (b) where the claim in question is proceeding in a District Registry, to the district judge of that Registry or, if such execution has been or is to be levied in the district of some other District Registry or outside the district of any District Registry, either to the said district judge or to the district judge of that other registry or to a Master as the case may be.

Where the claim in question is proceeding in the Admiralty Court or the Family Division, references in this rule to a Master shall be construed as references to the Admiralty Registrar or to a Registrar of that Division.

#### **Rule 5 Powers of Court hearing claim**

- (1) Where on the hearing of a claim under this order all the persons by whom adverse claims to the subject-matter in dispute (hereafter in this Order referred to as ‘the interpleader claimants’) appear, the court may order –
  - (a) that any interpleader claimant be made a defendant in any claim pending with respect to the subject-matter in dispute in substitution for or in addition to the applicant for relief under this order; or
  - (b) that an issue between the interpleader claimants be stated and tried and may direct which of the interpleader claimants is to be claimant and which defendant.
- (2) Where –
  - (a) the applicant under this order is a sheriff;
  - (b) all the interpleader claimants consent or any of them so requests; or
  - (c) the question at issue between the interpleader claimants is a question of law and the facts are not in dispute,
 the court may summarily determine the question at issue between the interpleader claimants and make an order accordingly on such terms as may be just.
- (3) Where an interpleader claimant, having been duly served with a claim form under this order, does not appear at the hearing or, having appeared, fails or refuses to comply with an order made in the proceedings, the court may make an order declaring the interpleader claimant, and all persons claiming under him, for ever barred from prosecuting his claim against the

applicant for such relief and all persons claiming under him, but such an order shall not affect the rights of the interpleader claimants as between themselves.

#### **Rule 6 Power to order sale of goods taken in execution**

Where an application for relief under this order is made by a sheriff who has taken possession of any goods or chattels in execution under any process, and an interpleader claimant alleges that he is entitled, under a bill of sale or otherwise, to the goods or chattels by way of security for debt, the court may order those goods or chattels or any part thereof to be sold and may direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

#### **Rule 7 Power to stay proceedings**

Where a defendant to a claim applies for relief under this Order in the claim, the court may by order stay all further proceedings in the claim.

#### **Rule 8 Other powers**

- (1) Subject to the foregoing rules of this Order, the court may in or for the purposes of any interpleader proceedings make such order as to costs or any other matter as it thinks just.
- (2) Where the interpleader claimant fails to appear at the hearing, the Court may direct that the sheriff's and execution creditor's costs shall be assessed by a master or, where the hearing was heard in a district registry, by a district judge of that registry and the following CPR rules shall apply –
  - (a) 44.4 (basis of assessment);
  - (b) 44.5 (factors to be taken into account in deciding the amount of costs);
  - (c) 48.4 (limitations on court's power to award costs in favour of trustee or personal representative); and
  - (d) 48.6 (litigants in person).
- (3) Where the claim in question is proceeding in the Admiralty Court or the Family Division, references in this rule to a Master shall be construed as references to the Admiralty Register or to a Registrar of that Division.

#### **Rule 9 One order in several proceedings**

Where the Court considers it necessary or expedient to make an order in any interpleader proceedings in several proceedings pending in several Divisions, or before different judges of the same Division, the court may make such an order; and the order shall be entitled in all those causes or matters and shall be binding on all the parties to them.

#### **Rule 10 Disclosure**

CPR Parts 31 and 18 shall, with the necessary modifications, apply in relation to an interpleader issue as they apply in relation to any other proceedings.

#### **Rule 11 Trial of interpleader issue**

- (1) CPR Part 39 shall, with the necessary modifications, apply to the trial of an interpleader issue as it applies to the trial of a claim.
- (2) The court by whom an interpleader issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the interpleader proceedings.