

PRACTICE DIRECTION 70

ENFORCEMENT OF JUDGMENTS AND ORDERS

This Practice Direction supplements Part 70

Methods of enforcing money judgments – rule 70.2

- 1.1** A judgment creditor may enforce a judgment or order for the payment of money by any of the following methods:
- (1) a writ of fieri facias or warrant of execution (see RSC Orders 46 and 47 and CCR Order 26);
 - (2) a third party debt order (see Part 72);
 - (3) a charging order, stop order or stop notice (see Part 73);
 - (4) in a county court, an attachment of earnings order (see CCR Order 27);
 - (5) the appointment of a receiver (see Part 69).
- 1.2** In addition the court may make the following orders against a judgment debtor –
- (1) an order of committal, but only if permitted by –
 - (a) a rule; and
 - (b) the Debtors Acts 1869 and 1878
(See RSC Order 45 rule 5 and CCR Order 28. Practice Direction RSC 52 and CCR 29 applies to an application for committal of a judgment debtor); and
 - (2) in the High Court, a writ of sequestration, but only if permitted by RSC Order 45 rule 5.
- 1.3** The enforcement of a judgment or order may be affected by –
- (1) the enactments relating to insolvency; and
 - (2) county court administration orders.

Transfer of county court proceedings to another county court for enforcement – rule 70.3

- 2.1** If a judgment creditor is required by a rule or practice direction to enforce a judgment or order of one county court in a different county court, he must first make a request in writing to the court in which the case is proceeding to transfer the proceedings to that other court.
- 2.2** On receipt of such a request, a court officer will transfer the proceedings to the other court unless a judge orders otherwise.
- 2.3** The court will give notice of the transfer to all the parties.
- 2.4** When the proceedings have been transferred, the parties must take any further steps in the proceedings in the court to which they have been transferred, unless a rule or practice direction provides otherwise.

(Part 52 and Practice Direction 52 provide to which court or judge an appeal against the judgment or order, or an application for permission to appeal, must be made.)

Enforcement of High Court judgment or order in a county court – rule 70.3

- 3.1** If a judgment creditor wishes to enforce a High Court judgment or order in a county court, he must file the following documents in the county court with his application notice or request for enforcement –
- (1) a copy of the judgment or order;
 - (2) a certificate verifying the amount due under the judgment or order;
 - (3) if a writ of execution has previously been issued in the High Court to enforce the judgment or order, a copy of the relevant enforcement officer's return to the writ; and
 - (4) a copy of the order transferring the proceedings to the county court.
- 3.2** In this paragraph and paragraph 7 –
- (1) 'enforcement officer' means an individual who is authorised to act as an enforcement officer under the Courts Act 2003; and
 - (2) 'relevant enforcement officer' means –
 - (a) in relation to a writ of execution which is directed to a single enforcement officer, that officer;
 - (b) in relation to a writ of execution which is directed to two or more enforcement officers, the officer to whom the writ is allocated.

Enforcement of decisions of bodies other than the High Court and county courts and compromises enforceable by enactment

- 4.1** The information referred to in rule 70.5(2A) must –
- (a) be included in practice form N322B or, where paragraph 4.1A applies, in the practice form required by paragraph 4.1A(2);
 - (b) specify the statutory provision under which enforcement or the recovery of a sum of money is sought;
 - (c) state the name and address of the person against whom enforcement or recovery is sought;
 - (d) where the decision or compromise requires that person to pay a sum of money, state the amount which remains unpaid; and
 - (e) confirm that, where a sum of money is being recovered pursuant to a compromise, the compromise is not a conditional compromise.
- 4.1A**
- (1) This paragraph applies where –
 - (a) either –
 - (i) the decision to be enforced is a decision of an employment tribunal in England and Wales; or
 - (ii) the application is for the recovery of a compromise sum under section 19A(3) of the Employment Tribunals Act 1996; and
 - (b) the party seeking to enforce the decision wishes to enforce by way of a writ of *fiери facias*
 - (2) The practice form which is to be used is –
 - (a) where paragraph (1)(a)(i) applies, practice form N471;
 - (b) where paragraph (1)(a)(ii) applies, practice form N471A.
- 4.2** An application under rule 70.5(3) for an order to enforce a decision or compromise must be made by filing an application notice in practice form N322A.
- 4.3** The application notice must state –
- (a) the name and address of the person against whom the order is sought;
 - (b) how much remains unpaid or what obligation remains to be performed; and

- (c) where the application relates to a conditional compromise, details of what under the compromise the applicant is required to do and has done under the compromise in addition to discontinuing or not starting proceedings.

4.4 Where –

- (a) the application relates to a conditional compromise; and
- (b) the application notice is served by the applicant on the respondent, the applicant must file a certificate of service with the court within 7 days of service of the application notice.

Registration of decisions in the High Court for enforcement – rule 70.5(8)

- 5.1** An application to the High Court under an enactment to register a decision for enforcement must be made in writing to the head clerk of the Action Department at the Royal Courts of Justice, Strand, London WC2A 2LL.
- 5.2** The application must –
- (1) specify the statutory provision under which the application is made;
 - (2) state the name and address of the person against whom it is sought to enforce the decision;
 - (3) if the decision requires that person to pay a sum of money, state the amount which remains unpaid.

Interest on judgment debts

- 6.** If a judgment creditor is claiming interest on a judgment debt, he must include in his application or request to issue enforcement proceedings in relation to that judgment details of –
- (1) the amount of interest claimed and the sum on which it is claimed;
 - (2) the dates from and to which interest has accrued; and
 - (3) the rate of interest which has been applied and, where more than one rate of interest has been applied, the relevant dates and rates.

(Interest may be claimed on High Court judgment debts under section 17 of the Judgments Act 1838. The County Courts (Interest on Judgment Debts) Order 1991 specifies when interest may be claimed on county court judgment debts.)

Enforcing a judgment or order against a partnership

- 6A.1** A judgment or order made against a partnership may be enforced against any property of the partnership within the jurisdiction.
- 6A.2** Subject to paragraph 6A.3, a judgment or order made against a partnership may be enforced against any person who is not a limited partner and who –
- (1) acknowledged service of the claim form as a partner;
 - (2) having been served as a partner with the claim form, failed to acknowledge service of it;
 - (3) admitted in his statement of case that he is or was a partner at a material time; or
 - (4) was found by the court to have been a partner at a material time.
- 6A.3** A judgment or order made against a partnership may not be enforced against a limited partner or a member of the partnership who was ordinarily resident outside the jurisdiction when the claim form was issued unless that partner or member –
- (1) acknowledged service of the claim form as a partner;
 - (2) was served within the jurisdiction with the claim form as a partner; or

- (3) was served out of the jurisdiction with the claim form, as a partner, with the permission of the court given under Section IV of Part 6.
- 6A.4** A judgment creditor wishing to enforce a judgment or order against a person in circumstances not set out in paragraphs 6A.2 or 6A.3 must apply to the court for permission to enforce the judgment or order.

Payment of debt after issue of enforcement proceedings

- 7.1** If a judgment debt or part of it is paid –
- (1) after the judgment creditor has issued any application or request to enforce it; but
 - (2) before –
 - (a) any writ or warrant has been executed; or
 - (b) in any other case, the date fixed for the hearing of the application;
- the judgment creditor must, unless paragraph 7.2 applies, immediately notify the court in writing.
- 7.2** If a judgment debt or part of it is paid after the judgment creditor has applied to the High Court for a writ of execution, paragraph 7.1 does not apply, and the judgment creditor must instead immediately notify the relevant enforcement officer in writing.