

BRIGHT & SONS

Solicitors

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Enforcement of County Court Judgments – Part 1



If a debtor does not pay you after you have obtained judgment you may want to consider your method of enforcement. Set out below is an overview of methods available to you.

Charging Order

If the debtor owns property you can apply to the court to register a charge at the Land Registry against the debtor's property to show that you have an interest in the sale proceeds of the property. This forewarns any person intending to buy the debtor's property. If there are any other Charges registered before you on the Land Register then those Charges will be paid first before your Charge. For example, if there is a mortgage registered against the debtor's property then that mortgage will be repaid first from the proceeds of sale. Once you have registered a Charge against the debtor's property then you can apply to the court to Order that the property is sold so that your Charge can be paid as soon as possible, however this is only realistic where the home occupied is demonstrably larger than the family living there reasonably needs, or the court can attach conditions, for example, if there are young children living at the property who might be made homeless. The court may attach a condition that the property is not sold until the youngest child reaches 18. If an order is made that the property is to be sold the net proceeds of sale (after deduction of sales costs) will have to be paid to the court.

Warrant of Execution

This is a request for the court Bailiff to enter the debtor's home or business premises to seize the debtor's personal belongings to sell and pay off the debt. Bailiffs cannot seize any of the debtor's essential living items such as bedding, clothing, pots and pans, furniture, household equipment, tools of a trade etc. and they cannot seize any

goods belonging to someone other than the debtor. No Hearing is necessary, the court Bailiff will go to the debtor's address and can accept payment from the debtor or remove the debtor's goods. They may ask the debtor to sign an agreement that he or she will not remove or dispose of their goods until he or she has paid the debt they owe you.

We will shortly publish Part 2 which covers: Attachment of Earnings; a Third Party Debt Order and an Order for the Debtor to Attend Court for Questioning.

Subsequent publications will cover Insolvency Proceedings and other types of Orders available.

For further information about the costs associated with these methods and their suitability to enforce your judgment please contact Leanne Allcock-Mead at our Maldon office at leanne.allcock-mead@brights.eu.com or telephone 01621 852323.

For further information about the services we offer please visit our website at:

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Enforcement of County Court Judgments – Part 2



Order for Debtor to Attend Court for Questioning

The debtor is told to come to court to provide the court with details of his or her Income, Assets and Savings. We can then decide from this information whether they are able to repay the debt, or whether another form of enforcement will prove successful. You do not have to be present or represented, but you can be if you wish, we can also include on the application details of any specific questions you would like the court to ask the debtor. The court officer will take notes of what the debtor says and will send you details if you were not at court. If the debtor refuses to answer any questions or produce documents you can apply to the court for an Order that he must do so. This is called a Penal Notice. If the debtor still fails to obey the Order they will be in Contempt of Court and if the Order has a Penal Notice attached you can apply to the court to commit the debtor to prison for breach of the Order. If the debtor does not attend court then the court has to fix a new date to give him/her the opportunity to attend. If the debtor asks that you pay their travel expenses for attending court you must pay these not less than 7 days before the Hearing. We must then file a Certificate at court to say either that the debtor has not requested any money or that you have paid it.

Third Party Debt Order

If the debtor is owed money by a third party (such as a credit balance in a bank account) then you can get an order that the third party pays that money direct to you. The court will grant you a temporary order which you must serve on the third party. A hearing date will then be fixed when the third party can attend and make objections about the order. If the third party is a bank or building society etc, where the debtor holds an account, payment of the debt must not leave less than a certain

amount in their account. The debtor can apply to the court for a higher level of funds to be left in the account but they will need to demonstrate that they would otherwise suffer hardship.

Attachment of Earnings

You can use this method of enforcement as long as the debt is not less than £50. If the debtor is working you can apply for an Order that the debtor's Employer deducts a certain amount from the debtor's wages each week or month in order to pay the debt.

The court will consider the details supplied and contact the debtor's employer asking them for information about what the Debtor is paid. Alternatively the court will write to the debtor if he is self employed asking him to give details of his earnings. The court will then look at the information received and assess the level of deduction to be made. The debtor is entitled to have part of their earnings protected against deductions. The Judge will decide how much this will be and also decide the amount to be deducted and how often.

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