

Enforcement of Money Judgments

If your opponent fails to pay you what he has been ordered to pay, you will need to take enforcement action. This leaflet explains what enforcement action is available to you and is designed to assist you in deciding what enforcement action is most appropriate for your circumstances.

Execution

This process allows the High Court Enforcement Officer (HCEO) or the County Court Bailiff to seize and sell the judgment debtor's goods to the value of the debt and the costs of enforcement.

If the judgment debt is less than £600, it must be enforced by the county court bailiff. If the judgment debt is £5,000 or more it must be enforced in the High Court (unless the proceedings relate to a claim under the Consumer Credit Act 1974). For judgments between £600 and £5,000 you can choose whether to issue execution through the county court or the High Court.

The HCEO/bailiff cannot force entry to any premises and cannot seize the following: goods on hire-purchase; equipment that is absolutely necessary for the debtor to continue his business; items necessary for satisfying basic domestic needs of the debtor and his family e.g. clothes; and money.

When levying execution, the judgment debtor may propose instalment payments. If you accept the judgment debtor's proposal, the HCEO/bailiff may be prepared to collect those instalments for you.

Charging Order

A charging order is a way of securing the judgment debt against the property (land or shares) of the judgment debtor. To obtain the money under the charge you will need to wait until the property is sold or enforce the charging order by obtaining an order for sale. When the property is sold, any prior charges e.g. a mortgage, will be paid in priority to the charging order. If there are sufficient funds available, the secured debt will be paid prior to the debtor receiving any of the proceeds of sale.

Third Party Debt Orders

If you are aware of the judgment debtor's bank account details, you can seek to obtain a third party debt order (TPDO) against the account. One of the most common TPDO's is against the debtor's bank or building society, however, an application will only be successful if the debtor's bank account is in credit.

The process is in two parts. If the court is satisfied that an order is appropriate, it will make an interim order specifying the amount of money the third party should retain. The effect of an interim TPDO is to freeze the account to the value under the order.

The interim TPDO and supporting documents must be served on the third party and the debtor. If the third party is a bank or building society it must be served at both the registered office address and the branch where the account is held.

A final order will not be made until after a hearing. If a final TPDO is granted, the third party will pay to you the amount under the order.

Attachment of Earnings Order

If you know that the debtor is employed and who employs him, you can apply for an attachment of earnings order (AEO). An AEO compels a debtor's employer to deduct regular amounts from the debtor's earnings and pay them to the Centralised Attachment of Earnings Payment System who will forward payments to you. An AEO can only be obtained if the debtor is employed. You cannot obtain an AEO if the debtor is unemployed or self employed.

Insolvency

If the judgment debt is £750 or more you may petition for the debtor's bankruptcy (or a winding up order if the debtor is a company).

Although this is not strictly a method of enforcement, the threat of insolvency may persuade the debtor to pay the debt (if he has the ability to pay). The first stage of the process is to serve on the debtor a statutory demand in the prescribed form. If the debtor does not pay the debt in full after 21 days, you will be entitled to petition for the debtor's bankruptcy/insolvency.

You cannot petition for the debtors insolvency if you are secured creditor e.g. if you have a charging order in your favour.

Investigating the judgment debtor's means

If you do not know what enforcement procedure would be most appropriate because do not know what assets the judgment debtor has, you can apply to the court for an order to obtain information from the judgment debtor.

The order is obtained by filing an application notice with the court. Once obtained, the order must be served personally on the judgment debtor. The examination is usually undertaken by a court officer and the judgment debtor will be asked to fill in a sheet answering standard questions relating to his means. If the judgment debtor fails to attend the court for questioning he may be sent to prison for contempt of court.

What if I do not know the whereabouts of the judgment debtor?

Provided you can supply us with some information about the judgment debtor e.g. last known address; date of birth; telephone number; national insurance number; car registration etc, we can employ the services of a tracing agent to try to locate the judgment debtor's current address.

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