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How to enforce a court decision

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1 What does 'enforcement' mean in civil and commercial matters?

Enforcement is court-sanctioned action taken to compel judgment debtors to comply with the orders of the court.

Under the legal system of England and Wales the choice of enforcement method lies entirely with the judgment creditor.

When choosing which method to use a creditor must consider whether:

he/she is likely to get their money and court fee from the defendant;

the defendant owes other people money or has other county court judgments;

the defendant owns any goods or assets which can be taken and sold at auction;

the defendant is working;

the defendant has other earnings, such as income from investments;

the defendant has a bank, building society or other account;

the defendant owns property (a house); or

anyone else owes the defendant money.

Information on the different types of enforcement measures follows. A judgment creditor should choose the one which is most likely to get him/her the money owed.

A court cannot guarantee that the judgment creditor will get his/her money back, and a court fee is payable for any action taken. Although the court will add the fee to the money the defendant already owes, the court cannot return what the creditor has paid if he/she does not get the money from the defendant.

More information can be found in a leaflet on enforcement procedures.

General information for a creditor can be found in the guide Make a Court Claim for Money.

General information for a debtor can be found in the following guides:

County court judgments for debt

Respond to a court claim for money

Make a Court Claim for Money

The different types of enforcement methods are:

Taking control of goods (formerly known as Distraint/execution)

The seizure of goods for possible eventual removal and sale at auction to cover the costs of a judgment debt.

To obtain enforcement by taking control of goods it is necessary to apply to the court for a warrant of control. A warrant will only help if the defendant has:

enough goods at the address given by the judgment creditor which could be sold at auction to raise money; or

all the money claimed for on the warrant (to stop goods being sold).

Before the court can issue a warrant, the defendant must have:

failed to pay the amount he or she has been ordered to pay; or

fallen behind with at least one of his or her payments.

Bailiffs cannot always remove and sell the defendant's goods. For example, they cannot remove essential household items and tradesman's tools or goods subject to hire purchase or rental agreements. The bailiff will not take the defendant's goods if they are not worth enough to pay the warrant after the costs of taking and selling the goods. Goods sold at auction often raise only a fraction of their original value. In addition the defendant's goods may also already have been seized by bailiffs acting under another warrant.

More information on warrants of control can be found on the website of the Ministry of Justice.

Attachment of earnings orders

Under this method of enforcement, an order is obtained whereby a fixed sum is deducted from the judgment debtor's wages or salary regularly on the day they are paid and is forwarded directly to the judgment creditor.

The defendant must be employed by someone before an attachment of earnings order can be issued. An order cannot be made if the defendant is unemployed or self-employed. Also, the court may not be able to make an order, or may only make an order to pay it back in small instalments, if the defendant's living expenses are greater than what is earned.

More information on attachment of earnings orders can be found on the website of the Ministry of Justice.

Charging orders - including orders for sale and stop orders

A charging order prevents the defendant from selling his or her assets (such as property, land or investments) without paying what is owed to the judgment creditor. The judgment creditor is paid either from the proceeds of the sale when the judgment creditor sells the property or from the proceeds of the estate when the judgment debtor dies. This process can also involve two further types of court order. First there is the order for sale, where the court can force the sale of the items of immovable property under a charging order. Secondly, there is a stop order, which prevents a judgment debtor from disposing of items of immovable property to avoid charging order proceedings being taken against him.

More information on charging orders can found on the website of the Ministry of Justice.

Third party debt orders (formerly known as garnishee proceedings)

Under this method of enforcement, an order is obtained whereby the judgment debtor's bank accounts are frozen on order of the court. An amount to cover the judgment debt is then automatically transferred to the judgment creditor in satisfaction of the debt. If there are insufficient funds in the bank accounts to cover the debt then such funds as are available are used to repay at least some of the amount owed.

More information on third party debt orders can be found on the website of the Ministry of Justice.
A video provides further information.

Bankruptcy proceedings

If the amount owed is at least £5,000 a judgment creditor can also apply to make the defendant bankrupt. These proceedings can be brought in both the county court and the High Court. This can be expensive however.

Orders to obtain information (formerly known as oral examinations)

Although not in itself an enforcement method, this procedure allows for judgment debtors to be questioned for information regarding their assets, to enable the judgment creditor to make a more informed choice as to the enforcement method they would wish to use.
More information on orders to obtain information can be found on the website of the Ministry of Justice.

2 Which authority or authorities are competent for enforcement?

The High Court, county court or magistrates court are competent for enforcement in England and Wales. The High Court and county court will produce judgments and the magistrates courts will issue liability orders to local authorities.

3 What are the conditions under which an enforceable title or decision may be issued?

3.1 The procedure

It is possible to enforce both judicial and non-judicial decisions. It is not always necessary to apply for a court order authorising the enforcement. Taking control of goods proceedings can be undertaken for unpaid rent, taxes, customs and excise duties and parking fines without the need for prior judicial consent.
Both the county court and the High Court are competent for ordering enforcement in cases where they have granted judgment. It should be noted, however, that a county court bailiff cannot enforce any amount over £5000 (unless enforcing an agreement regulated under the Consumer Credit Act 1974 which can only be enforced in the county court). County court judgments for more than £5000 must be transferred to the High Court for execution by an Enforcement Officer. Enforcement Officers in the High Court cannot enforce judgments for amounts less than £600.
There is a procedure whereby judgment creditors can choose to transfer county court judgments between £600 and £5000 to the High Court for enforcement by way of execution. It should also be noted that there is no attachment of earnings procedure in the High Court; a matter has to be referred to a county court for this method of enforcement to be used.
If a claim was issued using Money Claim Online a request for a warrant of execution can also be requested online.

The status, roles, responsibilities and powers of enforcement agents

High Court Enforcement Officers (formerly Sheriffs) - Since 1 April 2004, High Court Enforcement Officers have carried out enforcement of High Court writs. These are enforcement professionals who are appointed by the Lord Chancellor to carry out enforcement within certain postal districts. They have to meet numerous criteria before being considered suitable for appointment, covering such issues as qualifications, financial probity, membership of a professional association, and commitments to diversity and a suitable conduct and discipline procedure. High Court Enforcement Officers can enforce county court money judgments where the amount it is sought to enforce exceeds £600 and the creditor chooses to transfer the debt to the High Court for execution.
County court bailiffs, who are employees of Her Majesty's Courts and Tribunals Service and therefore civil servants, deal with enforcement of judgments and /or orders made and registered in the county courts. They enforce warrants of control, repossess land with warrants of possession and recover goods under warrants for return of goods. In addition, county court bailiffs carry out other duties, including personal service of documents and warrants of committal.
Certificated enforcement agents are private enforcement agents authorised by a Judge sitting in the county court. They deal with the seizing of a tenant's goods by a landlord to secure payment of rent arrears without the intervention of the court. Under a number of other Acts certificated enforcement agents are also permitted to enforce other specific debts such as council tax, non-domestic rates etc.
Magistrates' Courts: Civilian enforcement officers are responsible for enforcing magistrates' court orders. They can seize and sell goods to recover the amount owed under a fine or community penalty notice. They can also execute warrants of arrest, committal, detention and control issued by a magistrates' court under any one of a range of statutes, including those covering the enforcement of fines and community penalties. Some magistrates' courts may opt to contract enforcement work out to certified enforcement agents.

Use of lawyers or other legal professionals

There is no obligation upon the creditor to make their application for enforcement through a lawyer or any other legal professional.
Enforcement procedures can be complicated, though, especially in the High Court. Creditors may want to get advice, therefore, from a solicitor, law centre or Citizens Advice before commencing an enforcement procedure.

Scale of costs for enforcement

There are different court fees for each of the methods of enforcement. As mentioned above, although the court will add the fee to the money the defendant already owes, the court cannot return what the creditor has paid if he/she does not get the money from the defendant. The current fees for enforcement methods can be found on the website of the Ministry of Justice.

3.2 The main conditions

As mentioned above, in England and Wales the choice of enforcement method to be used is wholly within the hands of the judgment creditor. Responsible creditors who have obtained a valid judgment through the courts and have still not been paid are entitled to enforce that judgment by the most appropriate means available to them. Therefore, as long as a valid judgment is in place and a proper application is made, the court is obliged to follow the creditor's wishes and use the method of enforcement of the creditor's choosing.

4 Object and nature of enforcement measures

4.1 What types of assets can be subject to enforcement?

Enforcement action may be taken against the following assets:
Bank accounts by use of the third party debt (or garnishee) order procedure.
Tangible movable property by use of taking control of goods.
Registered means of transport by use of taking control of goods.
Immovable property by use of the charging order procedure.
Salaries or wages by use of the attachment of earnings procedure.
The enforcement officer can only take goods which belong to the defendant or are jointly owned. The following list of goods are exempt
(a) items or equipment (for example, tools, books, telephones, computer equipment and vehicles) which are necessary for use personally by the debtor in the debtor's employment, business, trade, profession, study or education, except that in any case the aggregate value of the items or equipment to which this exemption is applied shall not exceed £1350;
(b) such clothing, bedding, furniture, household equipment, items and provisions as are reasonably required to satisfy the basic domestic needs of the debtor and every member of the debtor's household, including (but not restricted to) —

(i) a cooker or microwave;
(ii) a refrigerator;
(iii) a washing machine;
(iv) a dining table large enough, and sufficient dining chairs, to seat the debtor and every member of the debtor's household;
(v) beds and bedding sufficient for the debtor and every member of the debtor's household;
(vi) one landline telephone, or if there is no landline telephone at the premises, a mobile or internet telephone which may be used by the debtor or a member of the debtor's household;
(vii) any item or equipment reasonably required for—
the medical care of the debtor or any member of the debtor's household;
safety in the dwelling-house; or
the security of the dwelling-house (for example, an alarm system) or security in the dwelling-house;
(viii) sufficient lamps or stoves, or other appliance designed to provide lighting or heating facilities, to satisfy the basic heating and lighting needs of the debtor's household; and
(ix) any item or equipment reasonably required for the care of—
a person under the age of 18;
a disabled person; or
an older person;
(c) assistance dogs (including guide dogs, hearing dogs and dogs for disabled persons), sheep dogs, guard dogs or domestic pets;
(d) a vehicle on which a valid disabled person's badge is displayed because it is used for, or in relation to which there are reasonable grounds for believing that it is used for, the carriage of a disabled person;
(e) a vehicle (whether in public ownership or not) which is being used for, or in relation to which there are reasonable grounds for believing that it is used for, police, fire or ambulance purposes; and
(f) a vehicle displaying a valid British Medical Association badge or other health emergency badge because it is being used for, or in relation to which there are reasonable grounds for believing that it is used for, health emergency purposes.
Any goods which the enforcement officer takes must be likely to fetch money at auction. Enforcement officers will not remove goods if they think that they will not fetch enough to pay something towards the warrant after the cost of removing and selling them at auction have been paid.
For attachment of earnings orders the court will take into account how much the defendant needs to live on for food, rent or mortgage and essentials and to pay regular bills, such as electricity. This is called the 'protected earnings rate'. If the defendant earns more than the protected earnings rate, an order will be made.
For third party debt orders a judgment debtor who is prevented from withdrawing money from his or her account with a bank or building society and claims that he or she or his or her family is suffering hardship in meeting ordinary living expenses as a result, may apply to a court for a hardship payment order which allows one or more payments to be made to specific individuals.

4.2 What are the effects of enforcement measures?

For both debtors and third parties, the failure to comply with the requirements of court orders leads them open to sanctions for contempt. The penalties that can be imposed for contempt include "purging contempt" (that is an apology to the judge in open court), fines, and in the most serious cases imprisonment for up to 14 days.
Banks have certain obligations regarding disclosing information and attaching bank accounts. When a bank receives a third party debt order imposed upon one of its customers, the bank does not have to reveal how much money is held in the account. It can state that there is no money in the account, that there are insufficient funds to meet the whole amount but can pay some of it, or that there are sufficient funds to meet the whole amount requested. There are very strict data protection issues that govern what information other than this the bank can provide.

4.3 What is the validity of such measures?

All orders state the length of time that is being given to provide relevant information or to comply with the court order, and also state the maximum penalties that may be imposed for failing to comply with a court order.

5 Is there a possibility of appeal against the decision granting such a measure?

The court based enforcement methods (charging orders, attachment of earnings orders and third party debt orders) all involve a two-stage process. The interim stage of the process is purely a paper based judicial function, and the judgment debtor has no input to the process at this stage. However, for attachment of earnings orders and third party debt orders to progress to the final stage, there has to be a hearing to which the judgment debtor will be invited to attend where he will be able to give any reasons as to why the planned method of enforcement should not proceed. The 'final' hearing will be held at the same court as the original application for that method of enforcement was lodged (unless specifically requested otherwise). The date of the hearing will be notified to all parties well in advance, and in all cases there is a fixed minimum amount of time that must elapse between the 'interim' stage, notification of the 'final' hearing, and the 'final' hearing itself, to enable the debtor (and any relevant, directly involved third party e.g. the bank in a third party debt order case) time to prepare their case. If the date of the 'final' hearing is inconvenient for the parties, they may be able to get it postponed to a more mutually convenient date. Should this happen, the interim order will remain in place, but the order cannot be made 'final' until that hearing has been held.
For charging orders, an interim order must be served on the debtor by the creditor and unless the debtor objects the interim order is made final without the need for a hearing, unless the judge rules that a hearing is necessary. The debtor has to reply to the court within 10 days of the date of service of the hearing. If the debtor does object to the interim order, or the judge transfers the matter, the case is transferred to the original court that the judgment was made at and a hearing date will be fixed. Both creditor and debtor will attend the hearing.
There is no appeal against the decision once the court has made its order. In appropriate circumstances appeals or requests to set aside can only be made on the original judgment that gave the creditor the authority to request enforcement in the first place. Only if the judgment is successfully challenged by appeal or is set aside can the enforcement process be revoked by a court. If a challenge to the judgment is lodged after a court has authorised a creditor's request for enforcement a warrant may be suspended on application to the court. Bailiffs may not take away goods but they must continue to levy on them (that is list those that could later be seized and taken away for sale).
Provided that a creditor has made a correct application for enforcement to a court, that court cannot refuse to authorise the method of enforcement chosen by the creditor. There is, therefore, no need for the creditor to have a means of appeal against the decision granting a measure.

6 Are there any limitations on enforcement, in particular related to debtor protection or time limits?

A warrant or writ of control is time limited. The warrant and writ are valid for 12 months and can be extended for a further 12 months by an order of the court.

In the taking control of goods procedure a debtor must be given 7 clear days notice of enforcement to give him or her the opportunity to pay the debt and costs before the enforcement officer can take control of goods. This period can be reduced by an order of the court if there is evidence that the debtor will move assets to avoid enforcement.
An enforcement officer may not take control of goods before 6:00 or after 21:00 where the debtor is an individual.
An enforcement officer may not enter premises to take control of goods where a child or vulnerable person (whether more than one or a combination of both) is the only person present in the premises in which the goods are located.
Where the debtor is a vulnerable person the fee or fees due for the enforcement stage of taking control of goods are not recoverable unless the enforcement officer has, before proceeding to remove goods, given the debtor an adequate opportunity to get assistance and advice.

Related links

Ministry of Justice
Civil Enforcement Association
High Court Enforcement Officers Association

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