

Choose the method that is most likely to get you your money. If the defendant is unemployed or self-employed, you would be wasting your time with an attachment of earnings order, but if the defendant has money in a bank account an arrestment order might be suitable.

The court staff will NOT be able to tell you which method of enforcement to choose. It is up to you to decide which method is the most likely to get you your money. If you have questions regarding enforcing your judgment it is recommended you seek legal advice.

What can I do if I have no information about the defendant's finances?

If the defendant admitted the claim and made an offer to pay before the judgment was made, you will already know a little about the defendant's financial situation. You may be able to find out more by asking the coroner of the area where you live to apply for an order from the court for the defendant to attend before him to provide him with information about the defendant's financial situation. You should contact your local coroner's office for further information.

For more information on enforcement refer to leaflet **HCG09**—Enforcement.

Other leaflets in the series:-

For the claimant

HCG01—What is a small claim?

HCG02—How to make a small claim

HCG03—No reply to my claim

HCG04—The defendant admits my claim, I claimed a fixed amount

HCG05—The defendant admits my claim, I did not claim a fixed amount

HCG06—The defendant disputes all or part of my claim

HCG07—I am coming to a court hearing, what do I need to know?

HCG08—I have a judgment but the defendant has not paid

HCG09—How do I apply for execution?

HCG10—How do I apply for an attachment of earnings order?

HCG11—How do I apply for a charging order?

HCG12—How do I apply for an arrestment order?

For the defendant

HCG13—A claim has been made against me, what should I do?

HCG14—Defending a claim

HCG15—Paying my judgment

HCG16—I cannot pay my judgment, what can I do?

HCG17—I have received a charging order, what is it?

HCG18—I am coming to a court hearing, what do I need to know?


HCG19—Registered judgments, what does this mean?

Deemsters Walk, Bucks Road, Douglas, Isle of Man. IM1 3AR

Phone: +44 (0) 1624 685265 Fax: +44 (0) 1624 685236

E-mail: court.house@courts.im

Last updated 11th September 2009



ISLE OF MAN
COURTS OF JUSTICE

I have a judgment but the defendant has not paid.

HCG08

Claimant guidance in the Small Claims Procedure

I have a judgment but the defendant has not paid.

www.courts.im

This leaflet will help you decide what to do if the court has decided that someone must pay you an amount of money and you have not received a payment.

How can I get my money after judgment?

You can try and get your money (called 'enforcing your judgment') by asking the court for any of the following:

- execution;
- the appointment of a Receiver;
- an arrestment order;
- an attachment of earnings order; or
- a charging order.

You may use any method of enforcement and you can use more than one method either at the same time or one after the other. However before you decide how to continue you should consider whether:

- you are likely to get your money and court fee from the defendant;
- the defendant owes other people money or has other 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.

Please note that it is the coroner that will deal with enforcement of the judgment on your behalf.

How do I find out if the defendant has any other judgments?

You can search the Judgments Register, at the Court Office/public counter to check if the defendant has any outstanding or previous judgments.

You can also search Trust Online (www.trustonline.org.uk). Trust Online is a statutory public register run on behalf of the Ministry of Justice by Registry Trust Ltd, access to which is open to all. Registry Trust keeps separate public registers for money judgments in Scotland, Republic of Ireland, Northern Ireland, Jersey and Isle of Man.

What is execution?

Execution is an enforceable order giving authority for the money to be claimed. Execution enables a judgment given in favour of a party, usually the claimant, to be enforced by that party and therefore gives the coroner the power to visit the defendants home or business to:

- collect the money you are owed or;
- see whether the defendant has goods or land to the value of the money owed to you.

If the defendant does not have the money the coroner will look at his belongings and decide whether he has anything that can be sold at an auction to clear the debt.

What is the appointment of a Receiver?

The Receiver is a neutral person (often a professional trustee) appointed by a judge to take charge of the property of the judgment debtor and realise assets and available monies so realised to satisfy payment of the judgment debt.

What is an attachment of earnings order?

An attachment of earnings order is sent to the defendant's employer. It tells the employer to take an amount from the defendant's earnings each pay day and send it to the coroner of your sheading (area). The money is then sent to you.

The defendant must be employed by someone before you can issue an attachment of earnings order. 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.

What is an arrestment order?

An arrestment order is issued by the court, upon application by you, the judgment creditor, or the coroner of the relevant sheading with your consent, against a third party, e.g. a bank, to seize money in their keeping. The order will require the third party to pay to you:-

- the amount of any debt due or accruing due to the judgment debtor from the third party; or
- so much of that debt as is sufficient to satisfy the judgment debt and your costs of the application.

What is a charging order?

A charging order is an order of the court placing a 'charge' over or against the defendant's interest in an asset such as stocks and shares or an interest under a trust. The order gives the judgment creditor rights similar to those of a mortgagee over the asset. A charge on an asset means that, if the asset is sold, the amount of the charge must be paid out of the proceeds of sale. Also, you can apply to the court for an order that the asset be sold, or for an order enabling the amount of the charge to be paid out of any income from the asset. A charging order does NOT force an asset to be sold.

Which method should I choose?

As you can see, each way of enforcing your judgment is aimed at a different aspect of the defendant's assets. That is:

- goods owned (execution);
- wages or salary (attachment of earnings order);
- monies in a bank (arrestment order); and
- gaining a right over certain assets of the defendant (charging order)