

Version
as at 1 July 2014



District Courts (Civil Enforcement) Amendment Rules 2013

(SR 2013/411)

District Courts (Civil Enforcement) Amendment Rules 2013: revoked, on 1 July 2014, pursuant to rule 22.1 of the District Courts Rules 2014 (LI 2014/179).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 30th day of September 2013

Present:

His Excellency the Governor-General in Council

Pursuant to section 122 of the District Courts Act 1947, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and with the concurrence of the Chief District Court Judge and at least 2 members of the Rules Committee established under section 51B of the Judicature Act 1908 (of whom at least 1 was a District Court Judge), makes the following rules.

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Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

These rules are administered by the Ministry of Justice.

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Rules

1 Title

These rules are the District Courts (Civil Enforcement) Amendment Rules 2013.

2 Commencement

These rules come into force on the same date as the date appointed under section 2(2) of the District Courts Amendment Act 2011 for the coming into force of the rest of that Act.

3 Principal rules

These rules amend the District Courts Rules 2009 (the **principal rules**).

4 Rule 1.8 amended (Interpretation)

In rule 1.8, insert in its appropriate alphabetical order:

approved form, in relation to any matter, means a form approved for the purpose of the matter under the Act by the chief executive of the Ministry of Justice

5 Rule 1.24 amended (General requirements)

(1) In rule 1.24.2, replace “forms 2 to 6CCA” with “forms set out in Schedule 1”.

(2) After rule 1.24.2, insert:

1.24.2A If, by these rules, any form is directed or authorised to be used, any variations may be made to the form as the circumstances of any particular case may require, and any information may be added as is required for identification or other official purposes.

(3) After rule 1.24.8, insert:

1.24.9 Nothing in rule 1.24.7 or 1.24.8 applies to a document to which any provision of Part 15 of these rules or Part 6 of the Act applies.

6 Rule 12.11 amended (Certificate of judgment or order)

In rule 12.11.1, delete “or 69”.

7 Rule 12.13 amended (Further proceedings after issue of certificate)

(1) In rule 12.13.1, delete “or 69”.

(2) Revoke rules 12.13.2 and 12.13.3.

8 Part 15 replaced

Replace Part 15 with:

Part 15 Enforcement

Enforcement generally

15.1 Payment in reduction of amount

A person liable to pay money under a judgment or an order may at any time pay money into court to reduce the amount payable by that person.

Compare: SR 1992/109 r 564; SR 2009/257 r 15.1

15.2 Sale of personal property

15.2.1 Personal property that is to be sold under a direction in a judgment or order may be sold by public auction or private contract as the Judge directs.

15.2.2 The Registrar must, if the Judge directs, supervise any sale, detention, or preservation of personal property that has been directed to be sold by public auction or to be detained or preserved.

15.2.3 The Registrar must, unless the Judge directs otherwise, ensure that personal property that has been directed to be sold by private contract is sold in accordance with the Judge's directions.

15.2.4 This rule does not apply to enforcement issued under section 79(1)(a) of the Act.

Compare: SR 1992/109 r 565; SR 2009/257 r 15.2

15.3 Examination of any party

If any difficulty arises in relation to the enforcement of a judgment or order for relief other than the payment of money, the Judge or Registrar may, on the application of an interested party, make an order for the attendance and examination of any party or otherwise as the Judge or Registrar thinks fit in the interests of justice.

Compare: SR 1992/109 r 566; SR 2009/257 r 15.3

15.4 Application by judgment creditor of partner

15.4.1 An application by a separate judgment creditor of a partner for any order under section 26 of the Partnership Act 1908 must be made to the court on notice.

15.4.2 The notice and any order made on the application must be served on—

- (a) the judgment debtor; and
- (b) the partners of the judgment debtor who are in New Zealand.

Compare: SR 1992/109 r 567(1); SR 2009/257 r 15.4

15.5 Application by partner of judgment debtor

15.5.1 An application by a partner of a judgment debtor under section 26 of the Partnership Act 1908 must be made to the court on notice.

15.5.2 The notice must be served on—

- (a) the judgment creditor; and
- (b) the judgment debtor; and
- (c) the partners of the judgment debtor who do not agree with the application and are in New Zealand.

Compare: SR 1992/109 r 567(2); SR 2009/257 r 15.5

15.6 Change of parties after judgment

15.6.1 This rule applies if any change has taken place after judgment by death, assignment, or otherwise—

- (a) in the parties entitled to a judgment or an order; or
- (b) in the parties liable under a judgment or an order.

15.6.2 When this rule applies, the party claiming to be entitled to enforce the judgment or order may apply without notice to the court or a Registrar for leave to issue the necessary process.

15.6.3 The court or a Registrar may,—

- (a) if satisfied that the party applying is entitled to issue the process, make an order to that effect; or
- (b) if not so satisfied, order that any issue or question necessary to determine the rights of the parties be tried and determined in a manner that the court or Registrar thinks fit.

15.6.4 Despite anything in rule 3.1, the hearing of any issue or question referred to in rule 15.6.3(b) must be started in the court in which the order was made, unless the court or a Registrar otherwise orders.

15.6.5 Any order made under rule 15.6.3 must be in form 40 and be served on the persons affected.

15.6.6 No process may issue from an order made under rule 15.6.3 until 5 working days have expired after the date of service, unless the court or a Registrar gives leave.

15.6.7 A party claiming to be entitled, by reason of one and the same change, to enforce more than 1 judgment or order may—

- (a) make 1 application in which all the judgments or orders are specified in a schedule; and
- (b) set out, in the notice of any order made on the application, only that part of the order affecting the person to be served notice.

Compare: SR 1992/109 r 568; SR 2009/257 r 15.6

15.7 Change of name, etc, of party after judgment

If the name, address, or occupation of any party to a judgment or an order differs from that specified in any application for any process for the enforcement of a judgment or an order,—

- (a) the applicant must satisfy the Registrar that the amended name, address, or occupation applies to that party; and
- (b) both names, addresses, or occupations, as the case may require, must be specified in the process applied for.

Compare: SR 1992/109 r 569; SR 2009/257 r 15.7

15.8 Application to Registrar for suspension of judgment, etc

15.8.1 A person who wishes to apply to the court to suspend or stay any judgment, order, enforcement, or order of committal may apply to a Registrar in the absence of the Judge.

15.8.2 The Registrar may suspend or stay the judgment, order, enforcement, or order of committal until an application can be made to the Judge.

Compare: SR 1992/109 r 570; SR 2009/257 r 15.8

15.9 Stay of judgment, etc

15.9.1 An order to suspend or stay any judgment, order, enforcement, order of committal, or order for the discharge of a person under the Act must be in form 41.

15.9.2 A warrant must be recalled if—

- (a) an order suspending or staying a judgment, order, or enforcement has been made; and
- (b) enforcement has been issued.

15.9.3 Even if a warrant is recalled, a Judge may—

- (a) order the person named in the warrant to pay the costs of the warrant and any fees or expenses incurred by the bailiff before the recall of the warrant; and
- (b) authorise the bailiff to sell part of the goods seized sufficient to pay for the costs, fees, and expenses referred to in paragraph (a), and the expenses of the sale; and
- (c) give leave to reissue the warrant.

Compare: SR 1992/109 r 571(1), (2); SR 2009/257 r 15.9

15.10 Discharge of person under section 98 of Act

15.10.1 This rule applies if an order has been made under section 98 of the Act for the discharge of any person arrested or confined in prison under section 79(2) or (4) of the Act.

15.10.2 The Registrar of the court must send a copy of the order to the prison manager or bailiff who has custody of the person.

15.10.3 The prison manager or bailiff must, on receipt of the copy of the order, promptly discharge the person in custody.

15.10.4 If the terms of a discharge referred to in rule 15.10.1 include liability to rearrest if the terms are not complied with,—

- (a) the party entitled to the benefit of the judgment or order may, if the terms are not complied with, apply to the court on notice; and
- (b) the court may order the person to be rearrested and imprisoned for that part of the term of imprisonment that remains unserved at the time of that person's discharge.

15.10.5 If an order is made under rule 15.10.4(b), an order must be issued and delivered to the bailiff authorising—

- (a) the bailiff to rearrest the person; and

- (b) the prison manager to receive and detain that person for the remainder of the term of imprisonment or until that person is sooner discharged in due course of law.

Compare: SR 1992/109 r 571(3); SR 2009/257 r 15.10

15.11 Receipt to be attached to warrant

15.11.1 When money is paid on a warrant under an enforcement process, the bailiff or constable must promptly complete and sign a receipt and hand it to the defendant or the person paying the money.

15.11.2 The bailiff or constable must pay to a Registrar the money that he or she collected under the warrant.

15.11.3 If money is not received, the constable or bailiff must endorse that fact on the warrant.

Compare: SR 1992/109 r 573; SR 2009/257 r 15.12

15.12 Bailiff to enforce warrants, etc

The bailiff must—

- (a) keep and maintain, in an appropriate form, a record of all warrants, writs, and other processes that the bailiff has received for enforcement or service; and
- (b) include in the record the date that each process was received; and
- (c) include in the record—
- (i) the date of enforcement or service of each warrant, writ, or other process; and
 - (ii) either—
 - (A) a brief description of the outcome of the enforcement or service; or
 - (B) if the warrant, writ, or other process was not enforced or served during the time it was in force, the reason for its non-enforcement or non-service.

Compare: SR 1992/109 r 574; SR 2009/257 r 15.13

15.13 New order for payment of unsatisfied judgment

15.13.1 If there is an unsatisfied judgment or order,—

- (a) a party entitled to enforce it may apply to a court for an order that the amount due and unpaid be paid—
- (i) by instalments; or
 - (ii) if already payable by instalments, by the same or smaller instalments; and
- (b) the court may make an order on the application accordingly.

15.13.2 If it appears to the court that a person liable under a judgment or an order for the payment of a sum of money is unable to pay it in 1 sum, the court may, on application by the person liable,—

- (a) order that the unpaid amount be paid by instalments;
- (b) vary any order made under paragraph (a).

15.13.3 If it appears to the court that a person liable under any order for payment by instalments is able to pay the sum ordered to be paid in 1 sum or by larger or earlier instalments than those ordered, the court may, on application by the person entitled to enforce the order,—

- (a) order that the unpaid amount be paid in 1 sum or by larger or earlier instalments; and
- (b) vary any order made under paragraph (a).

15.13.4 All applications under this rule must be made on notice in form 42.

Compare: SR 1992/109 r 576; SR 2009/257 r 15.15

15.14 Application for civil enforcement process

15.14.1 This rule applies to any application for a civil enforcement process to which this Part or Part 6 of the Act applies.

15.14.2 The application must be in a form approved in accordance with the Act (if any) or prescribed by these rules.

15.14.3 If 2 or more judgment debtors are liable under the same judgment or order,—

- (a) a separate application may be filed in respect of each debtor concerned; and
- (b) a separate application must be filed in respect of each debtor whom the judgment creditor wishes to be subject to the civil enforcement process; and
- (c) fees must be paid and costs allowed in respect of each application.

15.14.4 A judgment creditor is not required to state in an application relating to a judgment debtor that is a body corporate the name of a particular officer who is to appear at any hearing relating to the application.

Compare: SR 2009/257 r 15.17(2), (3)

Assessment of judgment debtors

15.15 Hearing in different court or place

15.15.1 This rule applies if—

- (a) a financial assessment hearing or a hearing under section 84D of the Act is to be held; and
- (b) the judgment debtor resides or carries on business 35 km or more from the court—

- (i) from which the request to the judgment debtor under section 84C of the Act is made by the court or a Registrar; or
- (ii) in which an application relating to the judgment debtor is filed under section 84E of the Act.

15.15.2 The court or a Registrar may order that the hearing be held before the court nearest, or at a place near, to where the judgment debtor resides or carries on business.

15.15.3 A Registrar must appoint a date and time for the hearing and arrange for service of the notice of hearing in accordance with section 108A of the Act.

Compare: SR 2009/257 r 15.18(1), (2)(b)

15.16 Non-appearance of judgment creditor or witness at assessment hearing

15.16.1 Whether or not a judgment creditor appears at the financial assessment hearing under section 84EB of the Act, the court or a Registrar may, unless rule 15.16.2 applies, make any order or give any direction under section 84EC of the Act.

15.16.2 The court or a Registrar may adjourn the assessment hearing if it appears to the court or Registrar that the assessment hearing cannot fairly proceed owing to the absence of either the judgment creditor or a witness.

15.16.3 An adjournment under rule 15.16.2—

- (a) is subject to the payment of costs and travel expenses as the court or Registrar thinks fit in the interests of justice; and
- (b) must always be to a fixed date.

Compare: SR 1992/109 r 580; SR 2009/257 r 15.19

15.17 Record of assessment hearing

15.17.1 The court or a Registrar must keep a record of—

- (a) the date and time of each hearing held under section 84D or 84EB of the Act; and
- (b) the terms of anything done by the court or a Registrar under section 84EC of the Act.

15.17.2 A copy of the record under rule 15.17.1 must be provided to every party to the proceeding.

Compare: SR 1992/109 r 581; SR 2009/257 r 15.20

15.18 Warrant of arrest

A warrant to arrest a judgment debtor issued under section 84EA of the Act must be in form 46.

Compare: SR 1992/109 r 582; SR 2009/257 r 15.21

15.19 Review of Registrar's decision

A person applying under section 84N of the Act for a review of an order or a direction made by a Registrar must—

- (a) make the notice of application in form 47; and
- (b) specify in the application the grounds on which it is made in sufficient detail to fully advise the court and other parties of the issues involved.

Compare: SR 1992/109 r 583; SR 2009/257 r 15.22

Contempt of enforcement proceedings

15.20 Contempt of enforcement proceedings

15.20.1 An application under section 84O(3) of the Act for contempt of enforcement proceedings must—

- (a) be in form 48; and
- (b) specify the grounds on which it is made in sufficient detail to fully advise the court and other parties of the issues involved; and
- (c) be authenticated by the judgment creditor or the judgment creditor's solicitor or an agent authorised in writing by the judgment creditor to authenticate the application.

15.20.2 An application that is authenticated by an agent must be filed with an authority in form 50.

15.20.3 The following documents must be served personally on the judgment debtor not less than 3 working days before the date of the hearing:

- (a) a copy of the application; and
- (b) a summons in form 51 requiring the attendance of the judgment debtor at the hearing of the application.

15.20.4 An order for community work issued under section 84O(3) of the Act must be in form 52.

15.20.5 A warrant to arrest a judgment debtor issued under section 84OB(1) of the Act must be in form 53.

Compare: SR 1992/109 r 584; SR 2009/257 r 15.23(1), (3), (5)–(7)

15.21 Hearing of contempt of enforcement proceedings if judgment debtor outside court district

If the judgment debtor resides or carries on business 35 km or more from the court in which the application for an order that the judgment debtor do community work is made, the court or a Registrar may direct that the hearing take place before the court nearest to where the judgment debtor resides or carries on business.

Compare: SR 1992/109 r 585; SR 2009/257 r 15.24(1)

*Fees, costs, and expenses***15.22 Certain fees, costs, and expenses incurred by judgment creditor may be recovered**

A judgment creditor may, unless the court or a Registrar otherwise directs, recover from a judgment debtor—

- (a) the fees relating to the civil enforcement process against the judgment debtor paid by the judgment creditor in accordance with the regulations that prescribe the fees; and
- (b) costs relating to that process in accordance with Schedule 3; and
- (c) an amount for expenses incurred for service of documents, if 1 or more documents relating to that process have been served by or on behalf of the judgment creditor, which amount must not exceed the amount prescribed by regulations made under the Act for service by a bailiff.

*Charging orders***15.23 Interpretation**

In rules 15.24 to 15.46, unless the context otherwise requires,—

charging order means an order under section 96A of the Act

judgment creditor means a person who has obtained a judgment or an order for the payment of money.

Compare: SR 2009/257 r 15.25

15.24 Application for charging order

15.24.1 A judgment creditor may apply without notice to the court or a Registrar for a charging order.

15.24.2 The application must—

- (a) be in form 54; and
- (b) be accompanied by an affidavit in form 55; and
- (c) describe the property for which the charging order is sought in sufficient detail so as to identify it.

15.24.3 Section 96A(1A) of the Act specifies which kinds of property may be subject to a charging order.

Compare: SR 1992/109 r 586; SR 2009/257 r 15.26

15.25 Filing of application for charging order

15.25.1 An application for a charging order must not be filed until 48 hours have expired from the time the judgment was entered, or the order was made, unless a Judge gives leave for immediate enforcement.

15.25.2 The Registrar must note on the application and on the charging order the precise time that the application for the charging order was made.

15.25.3 The judgment creditor must prepare and file with the application a draft order and a copy for every person the draft order is intended to affect.

15.25.4 The Registrar must notify the judgment creditor, as soon as practicable after the application has been heard, of the outcome of the hearing.

Compare: SR 1992/109 r 587; SR 2009/257 r 15.27(2)–(5)

15.26 Value of property exceeding \$200,000

An application for a charging order may be filed, and a charging order may be made, even if the property to which the application or charging order relates has a value exceeding \$200,000.

Compare: SR 1992/109 r 588; SR 2009/257 r 15.28

15.27 Charging order where amount involved small

If the amount involved is so small that the making of a charging order is vexatious or worthless, the court or a Registrar may—

- (a) refuse the application for a charging order; or
- (b) if the charging order has been made (whether as of right or on application), discharge the charging order.

Compare: SR 1992/109 r 589; SR 2009/257 r 15.29

15.28 Form of charging order

A charging order must be in form 56, 57, or 58, as appropriate.

Compare: SR 1992/109 r 590; SR 2009/257 r 15.30

15.29 Application for relief by persons prejudicially affected

15.29.1 A person alleging that he or she is prejudicially affected by a charging order may, at any time, apply to the court for relief.

15.29.2 The court may—

- (a) vary or discharge the order; or
- (b) cancel the registration or modify the effect of registration of any order affecting land.

15.29.3 The powers of the court under this rule are in addition to its powers under rules 3.48.6 and 12.15.

Compare: SR 1992/109 r 591; SR 2009/257 r 15.31

15.30 Claim of third person on property charged

15.30.1 If it is alleged that land or other property affected by a charging order belongs to a third person, or that a third person has a claim on it by way of lien, charge, or otherwise,—

- (a) the Registrar must issue a summons in form 59 together with a copy of it; and
- (b) the summons must be served on the third person a reasonable time before the day fixed for the hearing.

15.30.2 If the third person does not appear at the hearing of the matter, the court, on proof of service, may make any order that it thinks fit in the interests of justice.

15.30.3 The third person may, on giving 24 hours' notice of his or her intention to do so, also attend—

- (a) the application to make a final charging order; or
- (b) any application to set aside or vary the charging order.

15.30.4 Despite rule 15.30.3, the Judge may give the third person leave to attend without giving 24 hours' notice.

Compare: SR 1992/109 r 592; SR 2009/257 r 15.32

15.31 Apportionment when more than 1 charging order

15.31.1 A person against whom more than 1 charging order is made, or who claims to be affected by more than 1 charging order, may apply to the court for an order under rule 15.31.2.

15.31.2 The court may determine how much or what part of the property affected by the charging order is for the separate use of each party who has obtained a charging order.

Compare: SR 1992/109 r 593; SR 2009/257 r 15.33

15.32 Charging order final in first instance

If the property sought to be charged is an estate, right, title, or interest in possession, remainder, reversion, or expectancy, and whether vested or contingent, in any land held by the judgment debtor in that judgment debtor's own name, the charging order is final in the first instance.

Compare: SR 1992/109 r 594; SR 2009/257 r 15.34

15.33 Registration of charging order under Land Transfer Act 1952

15.33.1 A charging order made under rule 15.32 in respect of land under the Land Transfer Act 1952 must be registered against the certificate of title to the land under that Act.

15.33.2 The charging order—

- (a) must—
 - (i) contain a description of the land affected sufficient to identify that land; or
 - (ii) refer to a certificate of title or other instrument containing such a description; and

- (b) must have drawn on it, or annexed to it, a plan of the land showing its extent, boundaries, and relative position, unless the land is—
 - (i) the whole of the land comprised in a certificate or certificates of title; or
 - (ii) shown separately on a plan deposited under the provisions of the Land Transfer Act 1952.

15.33.3 The judgment creditor must deposit a duplicate of the charging order with the Registrar-General of Land unless the Registrar-General has dispensed with the production of duplicate instruments in accordance with the Land Transfer Act 1952.

Compare: SR 1992/109 r 595; SR 2009/257 r 15.35

15.34 Registration of charging order under Deeds Registration Act 1908

15.34.1 A charging order made under rule 15.32 in respect of land that is not under the Land Transfer Act 1952 must be registered with the Registrar-General of Land.

15.34.2 The charging order—

- (a) must contain a description of the land affected, or refer to the Crown grant or other instrument, sufficient to identify that land; and
- (b) must have drawn on it, or annexed to it, a plan of the land showing its extent, boundaries, and relative position.

Compare: SR 1992/109 r 596; SR 2009/257 r 15.36

15.35 Lodging of charging order under Mining Act 1971

15.35.1 A charging order made under rule 15.32 in respect of a mining privilege within the meaning of the Mining Act 1971 must be registered by lodging it with the Registrar-General of Land.

15.35.2 The charging order—

- (a) must either—
 - (i) contain a description of the land affected sufficient to identify that land; or
 - (ii) refer to a document granting or issuing the mining privilege, or any other instrument by which the mining privilege was acquired, containing such a description; and
- (b) must have drawn on it, or annexed to it, a plan of the land showing its extent, boundaries, and relative position, unless the land affected—
 - (i) comprises the whole of the land to which the mining privilege relates; or
 - (ii) is shown separately on a plan deposited under the Mining Act 1971.

15.35.3 When the charging order is lodged, a copy of it must be deposited with the chief executive of the department responsible for the administration of the Mining Act 1971.

15.35.4 The Registrar-General of Land is not required to inquire whether rule 15.35.3 has been complied with.

Compare: SR 1992/109 r 597; SR 2009/257 r 15.37

15.36 Sale before registration of charging order

15.36.1 An unregistered charging order has no effect against a purchaser for valuable consideration.

15.36.2 Rule 15.36.1 applies even if—

- (a) the sale order may have been actually delivered for enforcement at the time of purchase; and
- (b) the purchaser may have had actual or constructive notice of the delivery of the sale order for enforcement.

Compare: SR 1992/109 r 598; SR 2009/257 r 15.38

15.37 Discharge of land or mining privilege from charging order

The land or mining privilege subject to a charging order is discharged from the charging order on registration with the Registrar-General of Land of—

- (a) a memorandum of satisfaction of the judgment in the proceeding in which the charging order has been issued, or other sufficient evidence of satisfaction; or
- (b) an order of the court to the effect that the land or mining privilege is discharged from the charging order; or
- (c) the consent of the person who registered the charging order to the discharge of the land or mining privilege from the charging order.

Compare: SR 1992/109 r 599; SR 2009/257 r 15.39

15.38 Charging order expires after 2 years

15.38.1 A charging order expires 2 years after the date of the charging order unless, before the expiry of that period,—

- (a) the charging order is extended under rule 15.38.2; or
- (b) the charging order has led to a sale order and a person registers any of the following in relation to the land or mining privilege under that sale order:
 - (i) an instrument of transfer:
 - (ii) a deed of conveyance:
 - (iii) an assignment.

15.38.2 The court or a Registrar may, if the court or Registrar thinks fit in the interests of justice, extend the 2-year period in any case by any period the court or Registrar considers necessary.

15.38.3 A charging order that has expired ceases to bind the land or mining privilege affected and is treated as having been discharged.

Compare: SR 1992/109 r 600; SR 2009/257 r 15.40

15.39 Property other than land that may be charged

Section 96A(1A) of the Act specifies which kinds of property other than land may be subject to a charging order.

Compare: SR 1992/109 r 601; SR 2009/257 r 15.41

15.40 Interim charging order

15.40.1 A charging order under rule 15.39—

- (a) is a limited charging order until sufficient cause is shown to the contrary; and
- (b) is called an **interim charging order** in this rule and rules 15.41 to 15.44.

15.40.2 An interim charging order must be served on the person it is intended to affect.

15.40.3 If an interim charging order is intended to affect an estate, a right, or an interest in land held under or because of any trust,—

- (a) that interim charging order may also be registered against the land; or
- (b) a caveat may be entered in respect of the interim charging order.

Compare: SR 1992/109 r 602; SR 2009/257 r 15.42

15.41 Effect of interim charging order

15.41.1 A person served with an interim charging order must refrain from—

- (a) making, agreeing to, or allowing any conveyance, transfer, assignment, or disposition of any estate, right, or interest, or of any share in a partnership or company, of the judgment debtor; or
- (b) paying over any income, interest, dividends, bonus, profits, or other money due or accruing due to the judgment debtor.

15.41.2 However, rule 15.41.1 does not prevent a person from doing any of those things in accordance with these rules or with the leave of the court or a Registrar.

Compare: SR 1992/109 r 603; SR 2009/257 r 15.43

15.42 Liability for breach of interim charging order

15.42.1 The court may order a person who breaches rule 15.41 to pay the judgment creditor—

- (a) the amount of money paid, or the value of the property disposed of, in breach of that rule; or
- (b) a sufficient part of the money paid to satisfy the judgment or order that the judgment creditor has obtained in the proceeding.

15.42.2 An order made under rule 15.42.1 may be in addition to, or in place of, any penalty that may be imposed under any other rule.

Compare: SR 1992/109 r 604; SR 2009/257 r 15.44

15.43 Money may be paid into court

A person served with an interim charging order may pay into court any money to abide the order of the court.

Compare: SR 1992/109 r 605; SR 2009/257 r 15.45

15.44 Application to make interim charging order final

15.44.1 The judgment creditor may, at any time after obtaining the interim charging order, apply to the court to have the interim charging order made final.

15.44.2 The application must be made on notice and must be in form 60.

15.44.3 The court or a Registrar may make orders and give directions for the disposal of money paid into court under rule 15.43 as the court or Registrar thinks fit in the interests of justice.

Compare: SR 1992/606 r 606; SR 2009/257 r 15.46

Miscellaneous provisions relating to charging orders

15.45 Costs of charging orders

The judgment creditor may, unless the court or a Registrar otherwise directs, recover from the judgment debtor against whom a charging order has been made the fees, costs, and expenses incurred in respect of, and incidental to, the making of the charging order.

Compare: SR 1992/109 r 607; SR 2009/257 r 15.47

15.46 Removal of final charging order to High Court

15.46.1 A judgment creditor who has obtained a final charging order may apply to a Registrar of the District Court for the removal of that charging order to the High Court in order that the charging order may be enforced in the same way as if it had been issued by the High Court.

15.46.2 On removal of the charging order, the High Court must determine any matter raised relating to the charging order in the same way as if the charging order had been issued by the High Court.

Compare: SR 1992/109 r 608; SR 2009/257 r 15.48

Warrants to seize property

15.47 Application for warrant to seize property

15.47.1 A judgment creditor who wants a warrant to seize property issued must file an application in form 61.

15.47.2 The application must not be filed until 48 hours after judgment has been given, or the order made, unless the Judge gives leave for immediate enforcement.

15.47.3 The Registrar must record the precise time at which the application is made to issue the warrant.

Compare: SR 1992/109 r 609; SR 2009/257 r 15.49

15.48 Order of priority

If more than 1 warrant to seize property is issued against the same person, the warrants must be executed in the order of the times recorded under rule 15.47.3.

Compare: SR 1992/109 r 610; SR 2009/257 r 15.50

15.49 Issue, duration, and renewal

15.49.1 A warrant to seize property—

- (a) must be issued by a Registrar in an approved form:
- (b) may be addressed to any bailiff or constable.

15.49.2 An unenforced warrant to seize property—

- (a) expires 1 year after the date of issue unless it is renewed; and
- (b) may be renewed for 1 year, by leave of the court or a Registrar, before the warrant expires; and
- (c) may be renewed more than once.

15.49.3 The Registrar must keep a note of every renewal.

15.49.4 A warrant that has been renewed has effect and takes priority according to the time of its original issue.

Compare: SR 1992/109 r 611; SR 2009/257 r 15.51

15.50 Enforcement against firm

15.50.1 Enforcement in the case of a judgment or an order against a firm may issue—

- (a) against any property of the partnership:
- (b) against any person who has admitted in the proceeding that he or she was a partner when the cause of action arose, or who has been found liable as a partner:

- (c) against any person who was individually served with the summons as a partner or a person sought to be made liable if—
 - (i) judgment was entered against the person on a summary judgment application where the person failed to serve a response or to file and serve a statement of defence; or
 - (ii) the person failed to appear at the hearing (if any).

15.50.2 A party who has obtained a judgment or an order, and who claims to be entitled to issue enforcement against any other person as a partner, may apply to the court for leave to do so, and the following provisions apply:

- (a) the party must give the alleged partner at least 3 working days' notice of the application:
- (b) the notice must be served on the alleged partner personally:
- (c) on the hearing of the application, the court may, if liability is not disputed, give leave to issue enforcement:
- (d) if liability is disputed, the court may order the issue of liability to be heard in any manner it thinks fit and may give all necessary directions for that purpose.

15.50.3 A judgment against a firm must not render liable, release, or otherwise affect any partner who was out of New Zealand when the summons was issued, unless that partner has been individually served with the summons.

15.50.4 Rule 15.50.3 does not apply to a judgment against the property of the partnership.

Compare: SR 1992/109 r 612; SR 2009/257 r 15.52

15.51 Concurrent warrants to seize property

15.51.1 Warrants to seize property may be issued concurrently for enforcement in 1 or more courts.

15.51.2 The costs of more than 1 warrant to seize property must not be allowed except by order of the court or a Registrar.

Compare: SR 1992/109 r 613; SR 2009/257 r 15.53

15.52 Costs of warrants to seize property

The costs of warrants to seize property, whether enforced, unenforced, or unproductive, must be allowed against the enforcement debtor unless—

- (a) the court or a Registrar otherwise orders; or
- (b) these rules provide otherwise.

Compare: SR 1992/109 r 614; SR 2009/257 r 15.54

15.53 Holding over enforcement and withdrawing from possession

15.53.1 At any time before enforcement, the enforcement creditor may require the bailiff to return the warrant to seize property to the court.

15.53.2 If the enforcement creditor requests the bailiff to withdraw from possession,—

- (a) the enforcement creditor is, unless rule 15.53.4 applies, treated as having abandoned the enforcement; and
- (b) the bailiff must record that the warrant was withdrawn by request of the enforcement creditor.

15.53.3 If the request to withdraw is made in consequence of a claim under rule 15.89 to the seized goods, the enforcement is treated as having been abandoned only in respect of the goods claimed.

15.53.4 The bailiff must record that the warrant was suspended by request of the enforcement creditor, if the enforcement creditor—

- (a) requests the bailiff to withdraw from possession; and
- (b) at the same time, authorises the bailiff to re-enter by filing an authority in form 63 authenticated by the enforcement debtor.

Compare: SR 1992/109 r 615; SR 2009/257 r 15.55

15.54 Reissue of warrant to seize property

15.54.1 A warrant to seize property that has been returned or suspended under rule 15.53 may not be reissued until after the enforcement creditor applies to a Registrar to reissue the warrant.

15.54.2 If an application is made to reissue a warrant,—

- (a) the Registrar must record the date and the precise time of the application; and
- (b) for the purposes of rules 15.47.3 and 15.48, the reissued warrant is treated as having been applied for at the time so recorded.

15.54.3 Nothing in this rule—

- (a) prejudices any right of the enforcement creditor to apply for a fresh warrant; or
- (b) authorises the reissue of a warrant that has been withdrawn, has expired, or has been superseded by the issue of a fresh warrant.

Compare: SR 1992/109 r 615; SR 2009/257 r 15.56

15.55 Possession fees

A possession fee is not payable if an enforcement is paid out at the time of seizure; but a possession fee is payable if the bailiff, out of necessity, has to place a person in possession of the goods even though enforcement is paid out on the same day.

Compare: SR 1992/109 r 616; SR 2009/257 r 15.57

15.56 Bailiff to make inventory

15.56.1 If goods are seized in enforcement, the bailiff or a Registrar must provide to the enforcement debtor—

- (a) a sufficient inventory of the goods seized; and
- (b) notice, in form 64, of the time at which, and place where, the goods will be sold.

15.56.2 The inventory and notice must—

- (a) be given or sent in any of the ways specified in section 108A(1)(a) to (c) of the Act; or
- (b) be left at the place where the goods were seized or sent by post addressed to the enforcement debtor at that place.

15.56.3 The inventory must be given or sent at the time, or immediately after, the goods are seized.

15.56.4 The notice must be given or sent at least 24 hours before the time fixed for the sale.

Compare: SR 1992/109 r 617; SR 2009/257 r 15.58

15.57 Accounts of sale

If goods are sold under an enforcement, the bailiff must, at the request of the enforcement debtor, provide the enforcement debtor with a detailed account of the sale and the application of the proceeds.

Compare: SR 1992/109 r 618; SR 2009/257 r 15.59

15.58 Bailiff to furnish statements to Registrar

15.58.1 The bailiff must deliver to a Registrar immediately after seizure an inventory of all cheques, bills of exchange, promissory notes, bonds, and other securities for money seized or taken by the bailiff under a warrant to seize property.

15.58.2 When returning a warrant after enforcement, the bailiff must also provide—

- (a) a copy of the inventory of the goods signed by the bailiff; and
- (b) if the goods have been sold,—
 - (i) a statement setting out opposite each article the price realised at the sale; and
 - (ii) a balance sheet in respect of the proceeds of the warrant and expenses in form 65.

15.58.3 If, after a diligent search, the bailiff cannot find any goods to seize, the bailiff must report in form 66 the outcome of the search.

15.58.4 The Registrar must—

- (a) require that the bailiff provide to the Registrar the various statements, reports, and balance sheets required by these rules, accompanied by vouchers for all disbursements; and

- (b) examine those documents.

15.58.5 A warrant returned in accordance with rule 15.58.2 or 15.58.3 may not be enforced except under rule 15.59.

Compare: SR 1992/109 r 619(1)–(5); SR 2009/257 r 15.60

15.59 Court may order enforcement on returned warrant to seize property

15.59.1 After a warrant is returned in accordance with rule 15.58, the court may order that the warrant be enforced against any goods referred to or specified in the order, if satisfied that—

- (a) there are reasonable grounds to believe that the enforcement debtor or any person on behalf of the enforcement debtor has control or possession of goods that could have been seized under the warrant; and
- (b) no bankruptcy petition based on the enforcement or on the return has been filed.

15.59.2 If an order is made under rule 15.59.1, the warrant—

- (a) continues in force for the purposes of the order; and
- (b) has the same duration and the same priority in respect of enforcement as it had under these rules when it was originally issued.

15.59.3 Rule 15.59.1 does not apply to any warrant that would have expired under rule 15.49.

Compare: SR 1992/109 r 619(6); SR 2009/257 r 15.61

15.60 Application for private sale

15.60.1 At least 48 hours' notice must be given on any application under section 89 of the Act for an order that a sale under a warrant to seize property may be made other than by public auction.

15.60.2 Notice must be served on the bailiff and on all other parties having an interest in the enforcement.

15.60.3 The court or a Registrar may direct that the costs of any party attending be paid by any other party, or otherwise as the court or Registrar thinks fit in the interests of justice.

Compare: SR 1992/109 r 620; SR 2009/257 r 15.62

Delivery of chattels

15.61 Warrant for recovery of chattels

15.61.1 A plaintiff who has obtained a judgment or an order for the delivery of specific chattels may apply to a Registrar in form 61A.

15.61.2 On receiving the application, the Registrar may issue a warrant in form 68 to the bailiff requiring that the bailiff demand and seize the specific chattels (if they can be found) and deliver them to the plaintiff.

Compare: SR 1992/109 r 622; SR 2009/257 r 15.64

15.62 Warrant of committal

Any application for a warrant of committal to enforce a judgment or an order for the delivery of specific chattels must be made and dealt with in accordance with rules 15.66 and 15.67.

Compare: SR 1992/109 r 623; SR 2009/257 r 15.65

15.63 Warrant to seize property for value of chattels and for damages, etc

15.63.1 A plaintiff may apply to the court on notice to fix the value of chattels if the court has not fixed the value at the hearing.

15.63.2 If possession of chattels has not been obtained under a warrant issued under rule 15.61, a Registrar may, once the value of the chattels has been fixed, issue a warrant to seize property in an approved form, to recover—

- (a) the value fixed for the chattels; and
- (b) any costs and damages awarded at the hearing for detention (unless separate enforcement has been issued).

15.63.3 Rule 15.63.2 does not prejudice the right of the plaintiff to obtain enforcement, concurrently or at any earlier or later time, for the plaintiff's costs of suit and any damages awarded to the plaintiff for the detention of the chattels.

Compare: SR 1992/109 r 624; SR 2009/257 r 15.66

15.64 Where possession ordered to be taken until security given

15.64.1 The bailiff must make an inventory and appraisal of goods that the bailiff has taken possession of under any warrant that—

- (a) directs the bailiff to take possession of the goods until security is given by some party for the safe keeping of the goods, or for the payment of their value in default of safe keeping; but
- (b) does not specify the amount of security.

15.64.2 The amount that the bailiff may receive as a deposit under rule 15.64.3 is—

- (a) the amount of the appraisal; or
- (b) the amount approved by a Registrar as sufficient security for—
 - (i) the safe keeping of the goods; and
 - (ii) delivering possession of the goods on request.

15.64.3 On receiving the deposit, the bailiff must relinquish possession of the goods on the condition that the goods must be redelivered to the bailiff on request or held to abide the order of the court.

Compare: SR 1992/109 r 625; SR 2009/257 r 15.67

Recovery of land

15.65 Warrant to recover land

15.65.1 A plaintiff or judgment creditor who has obtained a judgment or an order for the recovery of land may apply to a Registrar in form 61B for a warrant to recover the land.

15.65.2 The Registrar may issue a warrant in form 70 for the recovery of land after the expiry of the day on which the defendant is required, by the judgment, to give possession of the land.

15.65.3 An amount due under a judgment given in the proceeding for rent, mesne profits, damages, or costs may be recovered under a warrant in form 70 or by a warrant to seize property.

Compare: SR 2009/257 rr 15.68, 15.69

Warrant of committal

15.66 Judgment or order enforceable by committal

15.66.1 This rule applies to a judgment or an order that is—

- (a) enforceable by committal; and
- (b) made for the benefit of one party (the **applicant**) against another party (the **respondent**); and
- (c) in the nature of an injunction.

15.66.2 The Registrar must issue a copy of the judgment or order endorsed with a notice in form 71—

- (a) at the time the judgment or order is drawn up; or
- (b) in any other case, at the request of the applicant.

15.66.3 The endorsed copy of the judgment or order must be served on the respondent in the manner required under rule 3.44.2 (personal service).

Compare: SR 1992/109 r 628(1); SR 2009/257 r 15.70

15.67 Application for warrant of committal

15.67.1 If the respondent fails to obey the judgment or order referred to in rule 15.66,—

- (a) a Registrar, at the request of the applicant, must issue a notice in form 72 not less than 2 working days after the date of service of the endorsed copy of the judgment or order, unless the Judge gives leave for the notice to be issued sooner; and
- (b) the notice must be served on the respondent in the manner required under rule 3.44.2 (personal service).

15.67.2 On the day named in the notice, the Judge may order a warrant of committal to be issued if satisfied that—

- (a) the respondent has failed to obey the judgment or order; and
- (b) if the respondent does not appear, the endorsed copy of the judgment or order and the notice have been served on the respondent.

15.67.3 The order for the issue of the warrant must be in form 73, and the warrant, which must be signed by the Registrar, must be in form 74.

15.67.4 A copy of the order must be served on the respondent either before or at the time the warrant is executed, unless the Judge otherwise orders.

Compare: SR 1992/109 r 628(2)–(4); SR 2009/257 r 15.71

15.68 Discharge of person in custody

15.68.1 A person in custody under a warrant who wishes to apply for discharge must—

- (a) file an affidavit specifying the grounds on which he or she applies for discharge; and
- (b) not less than 24 hours before the application is made, serve on the party (if any) at whose instance the warrant of committal was issued a copy of the affidavit and a notice of his or her intention to make the application.

15.68.2 If the order of committal directs that the application for discharge must be made to the Judge, it may be made at any place appointed by the Judge.

15.68.3 If the order of committal does not direct that the application must be made to the Judge, it may be made to a Registrar.

15.68.4 The order for discharge must be in form 75.

Compare: SR 1992/109 r 629; SR 2009/257 r 15.72

15.69 Release on bail pending hearing of application for discharge from custody

15.69.1 A person intending to apply for discharge from custody under rule 15.68.1 may, at the time the affidavit under rule 15.68.1(a) is filed, apply to the Judge to be released on bail pending the hearing of the application for discharge from custody.

15.69.2 An application under rule 15.69.1 must be served on the party (if any) at whose instance the warrant of committal was issued at the same time as the affidavit under rule 15.68.1(a) is served.

15.69.3 The order for release on bail under this rule may be made subject to any conditions that the Judge may impose.

Compare: SR 1992/109 r 630; SR 2009/257 r 15.73

Garnishee proceedings

15.70 Interpretation

In rules 15.71 to 15.88, unless the context otherwise requires,—

judgment creditor means a person who has obtained a judgment or an order for the payment of money

judgment debtor means the person against whom a judgment or an order for the payment of money has been made

sub-debtor means a person against whom a garnishee order is made or sought in respect of any debt owing from the sub-debtor to the judgment debtor.

Compare: SR 1992/109 r 631; SR 2009/257 r 15.74

15.71 Garnishee proceeding

A judgment creditor may take a garnishee proceeding in accordance with rules 15.72 to 15.88.

Compare: SR 1992/109 r 631; SR 2009/257 r 15.75

15.72 Where debt exceeds \$200,000

A garnishee proceeding may be taken even if the amount of debt owing or accruing from the sub-debtor to the judgment debtor exceeds \$200,000.

Compare: SR 1992/109 r 632; SR 2009/257 r 15.76

15.73 Starting proceeding

15.73.1 A garnishee proceeding is started by the judgment creditor filing an affidavit in form 76.

15.73.2 On the filing of the affidavit, the Registrar must issue a garnishee summons to the sub-debtor in form 77 and a notice to the judgment debtor in form 78.

Compare: SR 1992/109 r 633; SR 2009/257 r 15.77

15.74 Service and effect of service

15.74.1 At least 15 working days before the day of the hearing,—

- (a) the summons must be served on the sub-debtor personally; and
- (b) the notice must be served on the judgment debtor personally.

15.74.2 When it is served on the sub-debtor, the summons binds in the hands of the sub-debtor as much of the debt owing or accruing from the sub-debtor to the judgment creditor as will satisfy—

- (a) the debt due under the judgment or order; and
- (b) the costs entered on the summons.

Compare: SR 1992/109 r 634; SR 2009/257 r 15.78

15.75 Statement to be filed by sub-debtor in respect of deposit or other accounts

15.75.1 This rule applies if—

- (a) the debt alleged to be due from the sub-debtor comprises a sum that—
 - (i) stands to the credit of the judgment debtor with the sub-debtor; and

- (ii) is on deposit with the sub-debtor or is held by the sub-debtor in a current or other account (for example, a deposit account); and
- (b) it is a condition of the deposit or account that a deposit book, receipt for money paid, or other like document must be produced before any money is withdrawn.

15.75.2 When this rule applies, the sub-debtor must, as soon as practicable after being served with the summons, and at least 3 working days before the date of hearing,—

- (a) file a statement in form 79 in the court office; and
- (b) serve that statement on the judgment creditor and the judgment debtor.

Compare: SR 1992/109 r 635; SR 2009/257 r 15.79

15.76 Payment into court by sub-debtor

15.76.1 The sub-debtor may, at any time before the day of the hearing, pay into court—

- (a) the amount admitted to be due from the sub-debtor to the judgment debtor; or
- (b) if the amount admitted is more than sufficient to satisfy the amount due under the judgment or order and the costs entered on the summons, a sum sufficient to satisfy that amount and those costs.

15.76.2 The sub-debtor is treated as having been discharged from the proceeding if—

- (a) the amount admitted to be due from the sub-debtor to the judgment debtor is less than the amount claimed to be owing under the summons; and
- (b) the judgment creditor files in the court and serves on the judgment debtor and sub-debtor a notice that the judgment creditor accepts the amount.

Compare: SR 1992/109 r 636; SR 2009/257 r 15.80

15.77 Payment out of court of money paid by sub-debtor

15.77.1 Money paid into court by the sub-debtor may be paid out to the judgment creditor before the day of hearing by a Registrar on production of the written consent of the judgment debtor.

15.77.2 In the absence of the judgment debtor's written consent, the court may, on the day of the hearing, after hearing the judgment creditor and the judgment debtor, if they appear, make any order in the proceedings, including an order for costs, that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 637; SR 2009/257 r 15.81

15.78 Garnishee order where sub-debtor does not pay into court or appear

15.78.1 The court may make an order under rule 15.78.2 if—

- (a) the sub-debtor does not, before the day of the hearing, pay into court—
 - (i) the amount admitted to be due from the sub-debtor to the judgment debtor or an amount sufficient to satisfy that part of the judgment or order that is unsatisfied; and
 - (ii) the costs entered on the garnishee summons; and
- (b) the sub-debtor does not, on the day of the hearing, appear and dispute the debt alleged to be due from the sub-debtor to the judgment debtor; and
- (c) the judgment debtor does not appear on the day of the hearing and show cause to the contrary.

15.78.2 If rule 15.78.1 applies, the court may order the sub-debtor to pay the judgment creditor—

- (a) the amount due from the sub-debtor to the judgment debtor or an amount sufficient to satisfy the judgment or order against the judgment debtor; and
- (b) costs.

15.78.3 A garnishee order made under this rule—

- (a) must be entered in the court records;
- (b) may be enforced as a judgment of the court.

Compare: SR 1992/109 r 638; SR 2009/257 r 15.82

15.79 Order in other cases

15.79.1 A sub-debtor who wishes to dispute liability must, within 5 working days after the service of the summons on the sub-debtor inclusive of the day of service,—

- (a) file, without fee, in the court office a notice in form 80; and
- (b) serve a copy of the notice on the judgment creditor and the judgment debtor.

15.79.2 If notice has been given to the judgment creditor under rule 15.79.1 or the amount paid into court under rule 15.76 is not accepted, the court may, after hearing the judgment creditor, the sub-debtor, and the judgment debtor, or any of them that appear, make an order referred to in rule 15.79.3.

15.79.3 The court may—

- (a) determine the liability of the sub-debtor, and make any order as to the payment to the judgment creditor of any sum found to be due from the sub-debtor to the judgment debtor, and costs, that it thinks fit in the interests of justice; or
- (b) order that any issue necessary for determining the question of the liability of the sub-debtor be tried in a manner that the court thinks fit, and direct which of the persons interested, including any third person

referred to in rule 15.80, is to be the plaintiff and which is to be the defendant; or

- (c) order that the judgment creditor be at liberty to sue the sub-debtor for—
 - (i) the amount alleged to be due by the sub-debtor to the judgment debtor, if the amount alleged is less than the judgment debt; or
 - (ii) the amount of the judgment debt with costs of suit, if the amount alleged to be due by the sub-debtor or to the judgment creditor is greater than the judgment debt.

15.79.4 An order for payment made under this rule may be enforced as a judgment of the court.

15.79.5 No order may be made under this rule if the sub-debtor disputes the debt and the debt claimed exceeds \$200,000.

15.79.6 At any time before the hearing, the sub-debtor may apply to the court for an order that—

- (a) the garnishee proceeding be transferred, under Part 3, to a court in which it could have been started if it were a proceeding brought against the sub-debtor by the judgment debtor to recover the debt; or
- (b) the garnishee proceeding be referred to a Registrar for inquiry and report under rules 3.75 and 3.76.

15.79.7 The court may make any order in respect of an application under rule 15.79.6 that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 639; SR 2009/257 r 15.83

15.80 Where debt stated to belong to third party

15.80.1 If it is suggested in a garnishee proceeding that the debt belongs to or is claimed by a third person, or that a third person has or claims to have a lien or charge on it, the court may order the third person to appear and state the nature and particulars of his or her claim to the debt.

15.80.2 After hearing the third person, if that third person appears, the court may—

- (a) bar the claim of the third person; or
- (b) order an issue to be heard between the third person and the judgment creditor; or
- (c) make any other order, including an order for costs, that it thinks fit in the interests of justice.

Compare: SR 1992/109 r 640; SR 2009/257 r 15.84

15.81 Garnishee orders in respect of deposit and other accounts

15.81.1 This rule applies if—

- (a) a garnishee order is sought in respect of a sum that—

- (i) stands to the credit of the judgment debtor with the sub-debtor (for example, a bank or savings bank); and
- (ii) is on deposit with the sub-debtor or held by the sub-debtor in a current or other account (for example, a deposit account); and
- (b) it is a condition of the deposit or account that a document must be produced before any money is withdrawn.

15.81.2 If it appears to the court that any document must be produced, the court may, by order in form 81, require any person (including the judgment debtor) who has possession or knows the whereabouts of the document to—

- (a) deliver it to the court within 5 working days after the date of service of the order on that person or within any other time that the court specifies in the order; or
- (b) disclose its whereabouts to the court within that time.

15.81.3 The judgment creditor may apply without notice for an order under rule 15.81.2.

15.81.4 A person against whom an order is made under rule 15.81.2 must, within 5 working days after the date of service of the order,—

- (a) file in court an affidavit in form 82; and
- (b) serve a copy of the affidavit on the judgment creditor.

15.81.5 The Registrar, subject to any directions of the court, must—

- (a) produce to the sub-debtor any document delivered to the court under rule 15.81.2; and
- (b) retain the document until the garnishee proceeding is disposed of, unless the sub-debtor pays into court the full amount in respect of which an order is sought.

Compare: SR 1992/109 r 641; SR 2009/257 r 15.85

15.82 Discharge of sub-debtor as against judgment debtor

15.82.1 Payment made by or enforcement levied on the sub-debtor under a garnishee proceeding is a valid discharge to the sub-debtor (to the amount paid or levied), as against the judgment debtor, even if the proceeding is later set aside or the judgment or order is reversed.

15.82.2 However, rule 15.82.1 does not apply to the payment or enforcement of costs ordered to be paid by the sub-debtor personally.

Compare: SR 1992/109 r 642; SR 2009/257 r 15.86

15.83 Court may refuse order

15.83.1 The court may hear evidence about the circumstances of the judgment debtor.

15.83.2 If it appears to the court that the judgment debtor reasonably requires all or part of the money sought to be attached for the maintenance and support of the judgment debtor and his or her family, the court may—

- (a) refuse to make a garnishee order; and
- (b) make an order as to the disposal of any money paid.

15.83.3 The court may refuse to make a garnishee order if, in its opinion, the amount to be recovered or the debt sought to be attached is too small.

Compare: SR 1992/109 r 643; SR 2009/257 r 15.87

15.84 Where money due by sub-debtor under judgment or order

15.84.1 This rule applies to any amount due from the sub-debtor to the judgment debtor under a judgment or an order obtained by the judgment debtor against the sub-debtor.

15.84.2 The sub-debtor, unless the court otherwise orders, is not liable to pay the judgment creditor the amount due from the sub-debtor to the judgment debtor by any larger instalments than those that the sub-debtor is liable to pay to the judgment debtor under the judgment or order.

15.84.3 The Registrar must enter in the court records relating to the judgment or order a note of—

- (a) the amounts paid or ordered to be paid by the sub-debtor in the garnishee proceeding, other than costs ordered to be paid by the sub-debtor personally;
- (b) any costs that the sub-debtor may, by order of the court, deduct from the amount due from the sub-debtor to the judgment debtor.

Compare: SR 1992/109 r 644; SR 2009/257 r 15.88

15.85 Money in court

15.85.1 If money is standing to the credit of the judgment debtor in any court, the judgment creditor—

- (a) cannot take a garnishee proceeding in respect of that money; but
- (b) may apply to the court on notice for an order that the money, or the amount of it necessary to satisfy the judgment debt and costs, be paid to the judgment creditor.

15.85.2 On receipt of notice of the application, the Registrar must retain the money in court until the application has been heard.

15.85.3 On the hearing of the application, the court—

- (a) may make any order as to the money in court that it thinks fit in the interests of justice; and
- (b) must have regard to the matters mentioned in rule 15.83.

15.85.4 A note of the order must be made in the court records relating to the money standing to the credit of the judgment debtor.

Compare: SR 1992/109 r 645; SR 2009/257 r 15.89

15.86 Debts owing by firm

Rules 15.72 to 15.88 apply to debts owing by or accruing from a firm carrying on business in New Zealand, although 1 or more members of the firm may be resident outside New Zealand.

Compare: SR 1992/109 r 646; SR 2009/257 r 15.90

15.87 Costs

15.87.1 The court may award costs to any sub-debtor attending under rules 15.72 to 15.88, or attending to give evidence under rules 3.24 to 3.30.

15.87.2 If, within a reasonable time, the judgment creditor fails to give notice under rule 15.76.2(b), the court may award the sub-debtor the costs incurred by the sub-debtor at the hearing.

15.87.3 The court may also award costs to a judgment debtor attending to give evidence in a garnishee proceeding—

- (a) if the proceeding is abandoned by the judgment creditor; or
- (b) for any other reason that the court thinks sufficient.

15.87.4 No fee is payable in respect of any order of the court for the payment out of court of any money paid into court in any garnishee proceeding.

15.87.5 Any costs allowed to the judgment creditor that are not ordered to be paid by the sub-debtor personally, unless it is otherwise ordered, are to be retained by the judgment creditor out of money recovered by the judgment creditor in the garnishee proceeding, in priority to the amount due under the judgment or order.

Compare: SR 1992/109 r 647; SR 2009/257 r 15.91

15.88 Garnishee proceeding against the Crown

In the case of a garnishee proceeding against the Crown as a sub-debtor, rules 15.72 to 15.87 apply with the following modifications:

- (a) rules 15.72 to 15.87 do not apply to any debt that is excepted by the proviso to section 26 of the Crown Proceedings Act 1950;
- (b) the affidavit required under rule 15.73 must be filed, and must give, in addition to the particulars prescribed by form 76, particulars of—
 - (i) the circumstances in which it is alleged that the liability of the Crown has arisen; and
 - (ii) the government department or officer of the Crown concerned;
- (c) the garnishee summons to be served on the sub-debtor under rule 15.74 must be served on the Crown, together with a copy of the affidavit filed

in support of the summons, not less than 35 working days before the day of the hearing:

- (d) the time within which the sub-debtor must, under rule 15.79.1, file a notice to dispute the debt claimed is 30 working days;
- (e) rules 15.78.3(b) and 15.79.4 have effect subject to section 24 of the Crown Proceedings Act 1950.

Compare: SR 1992/109 r 648; SR 2009/257 r 15.92

Third party claim process relating to enforcement

15.89 Notice of claim

15.89.1 Any claim under section 93 of the Act to or in respect of the goods seized in enforcement must—

- (a) be in form 83; and
- (b) be provided to a bailiff or to the court holding the seized property.

15.89.2 The bailiff must lodge the claim in a court.

Compare: SR 1992/109 r 649; SR 2009/257 r 15.93

15.90 Notice to enforcement creditor

On receipt of the claim, the Registrar must notify the enforcement creditor in form 84.

Compare: SR 1992/109 r 650; SR 2009/257 r 15.94

15.91 Appraisement

15.91.1 If the value of any goods claimed is disputed, the Registrar may,—

- (a) at the request of the claimant, appoint a person to fix by appraisement the value of the goods; and
- (b) fix the remuneration to be paid for the appraisement.

15.91.2 The claimant must pay into court the remuneration fixed by the Registrar, which must be paid to the appraiser.

15.91.3 The Registrar may revoke the appointment of any appraiser and appoint another person in the appraiser's place.

15.91.4 The remuneration fixed for the appraiser may, if the court so orders, be costs in the third party claim process.

Compare: SR 1992/109 r 651; SR 2009/257 r 15.95

15.92 Admission of claim

15.92.1 If the enforcement creditor notifies the Registrar in form 85 that the enforcement creditor admits the title of the claimant, or requests that the bailiff withdraw from possession,—

- (a) the Registrar must notify the bailiff immediately; and

- (b) the proceeding is stayed; and
- (c) the enforcement creditor is not liable to the bailiff for any possession fees or expenses incurred after the bailiff was notified by the Registrar.

15.92.2 The Judge may, on application by the bailiff on not less than 1 working day's notification to the enforcement creditor, order the enforcement creditor to pay any fees or expenses for which the enforcement creditor is liable.

Compare: SR 1992/109 r 652; SR 2009/257 r 15.96

15.93 Order protecting bailiff

15.93.1 If the enforcement creditor notifies the Registrar in accordance with rule 15.92.1, the bailiff—

- (a) must withdraw from possession; and
- (b) may apply to the Judge, on not less than 1 working day's notification to the claimant, for an order protecting the bailiff from any action in respect of the seizure and possession of the goods.

15.93.2 On the hearing of the application under rule 15.93.1(b), the Judge may make any order he or she thinks fit in the interests of justice.

Compare: SR 1992/109 r 653; SR 2009/257 r 15.97

15.94 Starting proceeding

15.94.1 If the enforcement creditor does not give notification in accordance with rule 15.92.1, the Registrar must, at the request of the bailiff,—

- (a) fix a day for the hearing; and
- (b) serve summonses in any of forms 86 to 89 (that apply to the case) on the enforcement creditor and the claimant.

15.94.2 Rule 15.94.1 does not apply if the claimant has withdrawn his or her claim.

Compare: SR 1992/109 r 654; SR 2009/257 r 15.98

15.95 Service

A summons under rule 15.94 must be served not less than 7 working days before the day of the hearing.

Compare: SR 1992/109 r 656; SR 2009/257 r 15.99(1)

15.96 Security for costs where claimant does not reside in New Zealand

15.96.1 If it appears that the claimant does not reside in New Zealand, the enforcement creditor may apply to the Judge on not less than 1 working day's notification for an order directing the claimant to give security for costs.

15.96.2 A claimant who fails to comply with an order under rule 15.96.1 is not entitled to be heard in support of his or her claim, unless the Judge otherwise orders.

Compare: SR 1992/109 r 657; SR 2009/257 r 15.100

15.97 Particulars and grounds of claim to be lodged

15.97.1 The claimant must serve on the enforcement creditor, and file in the office of the court dealing with the third party claim, particulars of any goods alleged to be the claimant's property and of the grounds for his or her claim to the goods.

15.97.2 The claimant must serve and file the particulars—

- (a) within 3 working days after the service of the summons on the claimant inclusive of the day of service; or
- (b) if the time for service has been shortened, then within such reasonable time before the day of the hearing as the time of service allows.

15.97.3 The claimant must include in the particulars a statement of his or her full name, address, and occupation.

Compare: SR 1992/109 r 658; SR 2009/257 r 15.101

15.98 Withdrawal or admission

15.98.1 This rule applies if, before the day of the hearing,—

- (a) the claimant serves on the enforcement creditor and files in the office of the court dealing with the third party claim a notice that the claimant withdraws his or her claim; or
- (b) the enforcement creditor serves on the claimant and files in the office of that court an admission of the title of the claimant.

15.98.2 When this rule applies,—

- (a) the goods seized, or the proceeds of the sale, or the money paid into court, as the case may be, must be dealt with as if the claim had not been made or the enforcement had been withdrawn; and
- (b) the Judge may make any order for costs, fees, charges, and expenses that he or she thinks fit in the interests of justice.

Compare: SR 1992/109 r 659; SR 2009/257 r 15.102

15.99 Claim for damages by claimant

If, in the third party claim process, a claimant claims damages from the enforcement creditor or from the bailiff in respect of the seizure of the goods, the claimant must state, in the particulars of his or her claim to the goods,—

- (a) the amount claimed for damages; and
- (b) the grounds on which those damages are claimed.

Compare: SR 1992/109 r 660; SR 2009/257 r 15.103

15.100 Claim for damages by enforcement creditor

If, in the third party claim process, the enforcement creditor claims damages against the bailiff arising out of the enforcement, the enforcement creditor must, within the time limited by rule 15.97.2,—

- (a) give the bailiff notice of his or her claim, stating the grounds and amount of the claim; and
- (b) file the notice in the office of the court dealing with the third party claim.

Compare: SR 1992/109 r 661; SR 2009/257 r 15.104

15.101 Payment into court where damages claimed

If, in the third party claim process, the claimant claims damages from the bailiff or from the enforcement creditor, or the enforcement creditor claims damages from the bailiff,—

- (a) the person from whom damages are claimed may pay money into court to satisfy that claim; and
- (b) the payment must be made in the same manner and has the same effect as if the person claiming damages were the plaintiff in a proceeding and the person from whom damages are claimed were the defendant.

Compare: SR 1992/109 r 662; SR 2009/257 r 15.105

Writs of arrest

15.102 Application for writ

15.102.1 An application for a writ of arrest and an affidavit in support of it must be in form 90.

15.102.2 The applicant must deposit a sum that the Judge or a Registrar thinks reasonable to cover the costs and expenses of arrest.

15.102.3 The costs and expenses of arrest are costs in the proceeding.

Compare: SR 1992/109 r 663; SR 2009/257 r 15.106

15.103 Form of writ and procedure

15.103.1 A writ of arrest must be in form 91, and may be addressed to any bailiff or constable.

15.103.2 The bailiff or constable must, on executing the writ, deliver to the defendant a notice, signed by the Judge or a Registrar, in form 92.

15.103.3 If the defendant gives bail for his or her attendance at the hearing, it may be by bond in form 93.

15.103.4 In default of bail being given, the warrant of remand may be in form 94.

15.103.5 If the defendant consents to a summary hearing, the consent may be in form 95.

Compare: SR 1992/109 r 664; SR 2009/257 r 15.107

*Proceedings by and against executors and administrators***15.104 Costs where executor sues and fails**

If the plaintiff in a proceeding is an executor or administrator and the plaintiff fails, any costs awarded to the defendant must, unless the court otherwise orders, be levied on the goods of the plaintiff.

Compare: SR 1992/109 r 665; SR 2009/257 r 15.108

15.105 Judgment and enforcement against executor or administrator

15.105.1 If the court gives judgment against an executor or administrator sued in his or her capacity as an executor or administrator, the judgment must record that it is given against the defendant in that capacity.

15.105.2 Enforcement on the judgment is, subject to this rule, limited to assets of the estate of the deceased in the hands of the executor or administrator.

15.105.3 If the executor or administrator satisfies the court that he or she has no assets, or insufficient assets, in his or her hands to satisfy the claim, the court may give judgment that the amount, or as the case may require, the balance of the amount, be levied on the assets of the estate that, from then on, come into the hands of the executor or administrator.

15.105.4 If the executor or administrator unnecessarily denies the claim or unsuccessfully alleges that he or she has no assets, then, in addition to the other remedies available, the court may order that the amount awarded for costs be levied against the executor or administrator personally.

Compare: SR 1992/109 r 666; SR 2009/257 r 15.109

15.106 Assets after judgment

15.106.1 If judgment has been given under rule 15.105.3,—

- (a) the plaintiff may apply to the court on notice for an order in respect of the assets in question; and
- (b) the court may make an order in form 96 if it appears that, since judgment, any assets of the estate have come into the hands of the executor or administrator.

15.106.2 A copy of the order must be served on the executor or administrator.

Compare: SR 1992/109 r 667; SR 2009/257 r 15.110

*Miscellaneous provisions relating to transmission and authentication of documents, etc***15.107 How documents may be sent**

The following provisions apply for the purposes of this Part and Part 6 of the Act:

- (a) a requirement to send or provide a document is met if the document is delivered, left, or sent in any of the ways specified in section 108A(1)(a) to (c) of the Act:
- (b) a requirement to make or keep a record of anything may be kept or made by electronic means:
- (c) a document or notification may be sent, given, provided, or made by electronic means if the recipient has provided a compatible address for service for the purposes of receiving the document or notification by electronic means.

15.108 Authentication of documents

15.108.1 A document filed in a court must be authenticated by the person responsible for its content.

15.108.2 A document issued or sent by a court that is not sealed must be authenticated by a judicial officer or by an officer of the court who is authorised to do.

15.108.3 A person responsible for the content of a document authenticates the document by—

- (a) signing and dating the document; or
- (b) any means that adequately identifies that person and the date of authentication.

15.108.4 A warrant may be authenticated in the manner provided in rule 15.108.3 or by a Registrar entering the particulars of the warrant into a computer system accessible to a constable or a bailiff.

Compare: SR 2012/415 r 2.2

9 Schedule 1 amended

- (1) In Schedule 1, form 37, replace “66/69*” with “66”.
- (2) In Schedule 1, replace forms 46, 47, 48, 51, 52, 53, 61, 63, 64, 65, 66, 68, 70, 83, 84, 85, 86, 87, 88, and 89 with the forms 46, 47, 48, 51, 52, 53, 61, 61A, 61B, 63, 64, 65, 66, 68, 70, 83, 84, 85, 86, 87, 88, and 89 set out in Schedule 1.
- (3) In Schedule 1, revoke forms 43, 44, 45, 49, 62, 67, 69, and 97.
- (4) In Schedule 1, in the form 42 heading, replace “15.15.4” with “15.13.4”.
- (5) In Schedule 1, in the form 50 heading, replace “15.23.3” with “15.20.2”.
- (6) In Schedule 1, in the form 54 heading, replace “15.26.2” with “15.24.2”.
- (7) In Schedule 1, in the form 55 heading, replace “15.26.2” with “15.24.2”.
- (8) In Schedule 1, in the form 56 heading, replace “15.30” with “15.28”.
- (9) In Schedule 1, in the form 57 heading, replace “15.30” with “15.28”.
- (10) In Schedule 1, in the form 58 heading, replace “15.30” with “15.28”.
- (11) In Schedule 1, in the form 59 heading, replace “15.32.1” with “15.30.1”.

- (12) In Schedule 1, in the form 60 heading, replace “15.46.2” with “15.44.2”.
- (13) In Schedule 1, in the form 71 heading, replace “15.70.2” with “15.66.2”.
- (14) In Schedule 1, in the form 72 heading, replace “15.71.1” with “15.67.1”.
- (15) In Schedule 1, in the form 73 heading, replace “15.71.3” with “15.67.3”.
- (16) In Schedule 1, in the form 74 heading, replace “15.71.3” with “15.67.3”.
- (17) In Schedule 1, in the form 75 heading, replace “15.72.4” with “15.68.4”.
- (18) In Schedule 1, in the form 76 heading, replace “15.77.1” with “15.73.1”.
- (19) In Schedule 1, in the form 77 heading, replace “15.77.2” with “15.73.2”.
- (20) In Schedule 1, in the form 78 heading, replace “15.77.2” with “15.73.2”.
- (21) In Schedule 1, in the form 79 heading, replace “15.79.2” with “15.75.2”.
- (22) In Schedule 1, in the form 80 heading, replace “15.83.1” with “15.79.1”.
- (23) In Schedule 1, in the form 81 heading, replace “15.85.2” with “15.81.2”.
- (24) In Schedule 1, in the form 82 heading, replace “15.85.4” with “15.81.4”.
- (25) In Schedule 1, in the form 90 heading, replace “15.106.1” with “15.102.1”.
- (26) In Schedule 1, in the form 91 heading, replace “15.107.1” with “15.103.1”.
- (27) In Schedule 1, in the form 92 heading, replace “15.107.2” with “15.103.2”.
- (28) In Schedule 1, in the form 93 heading, replace “15.107.3” with “15.103.3”.
- (29) In Schedule 1, in the form 94 heading, replace “15.107.4” with “15.103.4”.
- (30) In Schedule 1, in the form 95 heading, replace “15.107.5” with “15.103.5”.
- (31) In Schedule 1, in the form 96 heading, replace “15.110.1” with “15.106.1”.

10 Schedule 3 amended

- (1) In Schedule 3, replace item 9.10 with:

9.10	Preparing and filing interlocutory application (excluding summary judgment application and application to vary, discharge, or suspend attachment order) and supporting affidavits	0.25	0.4	1.0
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- (2) In Schedule 3, replace items 19.2 to 19.8 with:

19.2	Application for financial assessment hearing	0.1	0.1	0.1
19.3	Each attendance at financial assessment hearing (if the judgment debtor attends)	0.1	0.1	0.1
19.4	Application for arrest warrant if debtor fails to appear at financial assessment hearing or contempt of enforcement proceedings hearing	0.1	0.1	0.1
19.5	Application for contempt of enforcement proceedings	0.2	0.2	0.2

19.6	Each attendance at contempt of enforcement proceedings hearing (if the judgment debtor attends)	0.1	0.1	0.1
19.7	Application for attachment order under section 84G(1)(c) of Act (excluding application to vary, discharge, or suspend attachment order and filing agreed attachment order in accordance with section 79(5C) of Act)	0.1	0.1	0.1
19.7 A	Application to vary, discharge, or suspend attachment order	0.1	0.1	0.1
19.7 B	Agreeing terms of attachment order and filing agreed attachment order in accordance with section 79(5C) of Act	0.05	0.05	0.05
19.8	Application for warrant of enforcement: recovery of chattels/seizure of property/recovery of land	0.2	0.2	0.2
(3) In Schedule 3, replace item 19.12 with:				
19.12	Third party claim proceedings (including service)	0.4	0.4	0.4
(4) After item 19.13 in Schedule 3, insert:				
19A	Completion of financial statement under section 84A of Act	0.1	0.1	0.1
19B	Application for assessment of financial means under section 84C of Act	0.1	0.1	0.1

Schedule New forms

r 9(2)

Form 46

Warrant to arrest judgment debtor: assessment hearing

r 15.18

Court reference number:

Court enforcement number:

Agent reference number:

This warrant to arrest relates to the court case—

between [*Full name(s)*] (judgment creditor(s))and [*Full name(s)*] (judgment debtor(s))**To** a bailiff or constable

This warrant authorises you to arrest the judgment debtor (or relevant officer where the judgment debtor is a body corporate) unless the amount of \$[*Enforcement total*] is paid in full.

On [Date], a summons was issued for [Name of judgment debtor] to attend a hearing to be questioned about the judgment debtor's financial means to pay the judgment debt.

Subsequent to the issue of the summons:

Select one of the following.

- The summons could not be served on the judgment debtor.
or
- The summons was served within the prescribed service period but the judgment debtor did not attend.
or
- The court hearing was adjourned to a new date but the judgment debtor did not attend.

You must bring the judgment debtor (or relevant officer) before a Judge or Registrar as soon as possible for a hearing to occur or be continued.

If this is not practical, a bailiff or Police employee can issue a notice of bail.

Issued by: [Name], Registrar/Deputy Registrar*

*Select one.

Date:

Execute this warrant on: [Name of judgment debtor or relevant officer], [Debtor's date of birth if known]

Address of debtor:

Phone number of debtor:

Note

The **prescribed service period** refers to where a summons must be served on a judgment debtor at least 3 working days before the date of the hearing to which the summons relates. A shorter service period can be agreed by the parties.

Form 47
Notice of application for review of Registrar's decision

r 15.19

Court reference number:

Court enforcement number:

Agent reference number:

This notice relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

To a Registrar of a District Court; and

To [*Name of party(parties) to be served*]

This document notifies you that:

The applicant, [*Name of applicant*], will apply to a District Court on [*Date to be filled in by a Registrar*] for a review of an order/a direction* of the Registrar in this proceeding.

The order/direction* to be reviewed is: [*Provide details of the Registrar's decision that you want to review, for example, attachment order*].

*Select one.

The grounds on which the application is made are as follows: [*Provide details of the grounds for reviewing the Registrar's decision. Sufficient detail should be provided here to fully inform the court of the issues involved. For example, what issues – legal or otherwise – are involved, and state your reasons for dissatisfaction with the Registrar's decision*].

Your name:

Signature:

Date:

This application is filed by [*Name*]

The applicant's address for service is: [*Address, phone number, email*]

Indicate the applicant's role in the Registrar's decision that is being reviewed.

- The applicant is the judgment creditor. (The judgment creditor is the person money is owed to.)
- The applicant is the judgment debtor. (The judgment debtor is the person who owes the money.)
- Other [*Specify*]

Form 48
Application for contempt of enforcement proceedings

r 15.20.1

Section A: information required to process your application

You must complete all the steps in this section.

Step 1: Provide the court reference number this application relates to.

Court reference number:

You must attach a copy of the court order or judgment if you have not already given the court a copy.

Select one of the following.

- I have attached a copy.
- I have already given the court a copy.

**Step 2: Provide the details of the judgment creditor making this application.
(The judgment creditor is the person money is owed to.)**

Full name:

Organisation name (if applicable):

Office held by authorised officer making application:

Postal address:

Street address (if different):

Email:

Phone: [*Home, mobile, business*]

Indicate your preferred contact address.

- my email address (above)
- my postal address (above)
- my lawyer's address (see step 8)
- my debt recovery company's address (see step 9)

Step 3: Provide the details of the judgment debtor. (The judgment debtor is the person who owes the money).

Full name of person or organisation:

Person's date of birth (if known):

Do you have a current address and contact details for the judgment debtor?

- **Yes.** I have written them in the table below.
- **No.** But I have made a confidential address request and the Ministry of Justice has advised that it is holding current address information.

If you do not have a current address for the judgment debtor, you can make a confidential address request to the Ministry of Justice or another government agency before filing your application. Refer to the Ministry of Justice website [insert website address]. Only complete this form when the Ministry of Justice has advised you that it is holding current address information

Street address:

Email:

Phone: [Home, mobile, business]

Step 4: Provide details about how the summons will be served on the judgment debtor.

Select one of the following.

I will arrange service of the summons.

or

I want the court bailiff to serve the summons.

If you have indicated that you want the court bailiff to serve the summons, you must pay the service fee of \$[Insert amount] with your application.

Step 5: Provide details about why you think the judgment debtor has the means to pay the debt but is refusing to do so.

Use a separate sheet if required.

Step 6: Provide details about the enforcement action that has been considered or tried.

List the enforcement action considered or taken in this matter	Explain why the enforcement action was either inappropriate or unsuccessful
--	---

Step 7: Provide the details of the judgment debt and any enforcement costs you want to claim.

You can claim some of your costs from trying to enforce the judgment or court order. Enter the costs you want to claim in the table below.

Debt	(\$)
Amount of judgment debt	
Less amount already paid	
Sub-total	

Interest you want to claim (for debts over \$3000)

Interest on the remaining debt

Sub-total

Enforcement costs you want to claim

Fee for filing application

Requesting service by a bailiff \$[Insert amount]

Lawyer costs for this application
Costs of previous enforcement action
Sub-total
Total amount owed

Section B: extra information to assist the application process

Only complete the steps in section B that are relevant to your application. If you do not need to complete either of the steps in section B, go to section C.

Step 8: Provide the details of the lawyer representing you.

Only complete this step if a lawyer is representing you.

Name of law firm:

Name of lawyer:

Postal address:

Email:

Phone:

Step 9: Provide the details of the debt recovery company.

Only complete this step if a debt recovery company is collecting the debt for you.

Company name:

Postal address:

Email:

Phone:

Debt recovery company reference number:

Section C: date and signature

This section must be completed by the judgment creditor from step 2 or the judgment creditor's lawyer from step 8.

Your name:

Signature:

Date:

Select one of the following.

- I am the judgment creditor.
- I am the judgment creditor's lawyer.

Form 51

Summons to hearing: contempt of enforcement proceedings

r 15.20.3

Court reference number:

Court enforcement number:

Agent reference number:

This summons relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

To [*Name of judgment debtor*], judgment debtor

This summons orders you to attend a contempt of enforcement proceedings hearing about a judgment debt for \$[*Amount*].

The judgment creditor has filed an application saying that you have the means to pay the judgment debt but are refusing to do so and that all other enforcement methods have been considered or tried and were either inappropriate or unsuccessful.

A copy of the application setting out the judgment creditor's reasons for the application is attached to this summons.

When and where the hearing will be held

Date and time:

Place:

If you do not attend the hearing, a warrant may be issued for your arrest.

Issued by: [*Name*], Registrar/Deputy Registrar*

*Select one.

Date:

Serve this summons on: [*Name of judgment debtor*], [*Debtor's date of birth if known*]

Address of debtor:

Phone number of debtor:

Information for the judgment debtor

Why have I been served with a summons to attend a contempt of enforcement proceedings hearing?

You are the judgment debtor in a civil court proceeding. A court or tribunal ordered you to pay the judgment creditor but you have not paid this debt.

The judgment creditor has filed an application saying that you have the means to pay the debt but are refusing to do so and that all other methods of enforcement have been considered or tried and were inappropriate or unsuccessful.

How much do I owe the judgment creditor?

You owe the money ordered by the court or tribunal, plus the enforcement costs that the judgment creditor is entitled to claim. The attached application sets out the total amount being claimed by the judgment creditor.

What will happen at the contempt of enforcement proceedings hearing?

The hearing will be held before a District Court Judge. The Judge can order that you do community work (or make any other enforcement order or direction) if he or she is satisfied beyond reasonable doubt that—

- you have sufficient means to pay the judgment debt but are refusing to do so; and
- all other methods of enforcement have been considered or tried and were inappropriate or unsuccessful.

You may be asked questions about your income and expenditure, your assets and liabilities, and generally about your means for paying the debt.

You should bring to the hearing any information that may help the Judge decide if you are able to pay.

Can the hearing be cancelled?

The hearing will be cancelled if you pay the debt in full before the hearing date. Payment of the debt can be made to the judgment creditor directly, or to the court. District Court offices are open from 9 am to 5 pm on Mondays to Fridays.

If payment is made in full to the judgment creditor, please ensure the Collections Unit at the District Court is notified so the hearing can be cancelled.

Is legal advice available before the hearing?

You may want to seek legal advice before the hearing. If you decide to seek legal advice, you should do it as soon as possible. You may be eligible for free legal advice through your local Community Law Centre. A list of Community Law Centres is available online at <http://www.communitylaw.org.nz>.

Can I have legal representation at the hearing?

You can ask a lawyer to represent you at the hearing. If you want a lawyer to represent you, you need to organise one before the hearing. You are entitled to apply for Criminal legal aid if you cannot afford to pay for a lawyer. As the judgment debtor, you are still required to attend the hearing yourself.

Form 52
Order for community work: contempt of enforcement

r 15.20.4

Court reference number:

Court enforcement number:

Agent reference number:

This order relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

To [*Name of judgment debtor*], judgment debtor

You are ordered to do [*Number*] hours' community work for contempt of enforcement, for the following reasons:

- (1) A court has ordered you to pay \$[*Amount*] to the judgment creditor and this debt remains unpaid. The total amount outstanding is now \$[*Amount*], including costs.
- (2) The court is satisfied that—
 - you are able to pay the debt but refuse to do so; and
 - all available steps to enforce the debt have been considered or tried but were either inappropriate or unsuccessful.

The date on which the sentence is imposed is [*Date*].

You must report in person to a probation officer in the probation area closest to you as soon as possible, and **not later than 72 hours after the date on which the sentence is imposed**.

This order for community work does not cancel, or affect your liability to pay, the debt and associated costs.

Issued by: [*Name*], Registrar/Deputy Registrar*

*Select one.

Date:

Serve this order on: [*Name of judgment debtor*], [*Debtor's date of birth if known*]

Date judgment debtor served with order:

Signature of judgment debtor acknowledging receipt of order:

Date copy of order sent to Department of Corrections:

Information for judgment debtor about an order for community work

What time frames apply to completing a sentence of community work?

In accordance with section 58(1) and (2) of the Sentencing Act 2002,—

- if the court imposes an order of community work of **100 hours or less**, those hours must be served within 6 months of the date that it commences.
- if the court imposes an order of community work of **more than 100 hours**, you must serve at **least 100 hours** in every 6-month period from the date on which the sentence commences until the number of hours imposed under the sentence have been served.

In accordance with section 64(3) of the Sentencing Act 2002, no period of community work may be longer than 10 hours, nor will you be required to do more than 40 hours of community work per week.

Who do I report to about doing community work?

In accordance with section 59 of the Sentencing Act 2002, you must report in person to a probation officer in the probation area closest to you—

- as soon as practicable, and **not later than 72 hours after the sentence is imposed**; and
- as directed by a probation officer at any other time during the sentence for the purpose of monitoring the sentence.

In accordance with sections 61 and 64(1) of the Sentencing Act 2002, you must do the community work under the sentence at the place(s) and the time(s) notified to you by the probation officer.

Who do I notify if I change my address?

In accordance with section 60 of the Sentencing Act 2002, if you move to a new residential address you must, within 72 hours, notify a probation officer of your new residential address.

What happens if I do not complete the community work hours?

Failure to comply with the terms of this sentence, without reasonable excuse, may result in you being charged under section 71 of the Sentencing Act 2002 with an offence punishable by a maximum of 3 months' imprisonment or a fine up to \$1000.

Am I still required to do community work if I pay the debt?

If the debt is paid in full **before** you start your sentence of community work, you will not be required to start the community work hours.

If the debt is paid in full once you have **commenced** your community work hours, you will not be required to complete the community work hours.

Who do I pay the debt to?

Payment of the debt can be made to the judgment creditor directly, or to the court. District Court offices are open from 9 am to 5 pm on Mondays to Fridays.

If payment is made in full to the judgment creditor, please ensure the Collections Unit at the District Court is notified so the order for community work can be discharged and the Department of Corrections informed.

Form 53

Warrant to arrest judgment debtor: contempt of enforcement proceedings

r 15.20.5

Court reference number:

Court enforcement number:

Agent reference number:

This warrant to arrest relates to the court case—
between [*Full name(s)*] (judgment creditor(s))
and [*Full name(s)*] (judgment debtor(s))

To a bailiff or constable

This warrant authorises you to arrest the judgment debtor unless the amount of \$ [*Enforcement total*] is paid in full.

On [*Date*], a summons was issued for [*Name of judgment debtor*] to attend a hearing for contempt of enforcement proceedings. A copy of the application for contempt of enforcement proceedings was attached to the summons.

Subsequent to the issue of the summons:

Select one of the following.

- The summons could not be served on the judgment debtor.
- or***
- The summons was served within the prescribed service period but the judgment debtor did not attend.

You must bring the judgment debtor before a Judge or Registrar as soon as possible for a hearing to occur.

If this is not practical, a Bailiff or Police employee can issue a notice of bail.

Issued by: [*Name*], Registrar/Deputy Registrar*

*Select one.

Date:

Execute this warrant on: [*Name of judgment debtor*], [*Debtor's date of birth if known*]

Address of debtor:

Phone number of debtor:

Note:

The **prescribed service period** refers to where a summons must be served on a judgment debtor at least 3 working days before the date of the hearing to which the summons relates. A shorter service period can be agreed by the parties.

Form 61
Application for warrant to seize property

r 15.47.1

Section A: information required to process your application

You must complete all the steps in this section.

Step 1: Provide the court reference number this application relates to.

Court reference number:

You must attach a copy of the court order or judgment if you have not already given the court a copy.

Select one of the following.

- I have attached a copy.
- I have already given the court a copy.

**Step 2: Provide the details of the judgment creditor making this application.
(The judgment creditor is the person money is owed to.)**

Full name:

Organisation name (if applicable):

Office held by authorised officer making application:

Postal address:

Street address (if different):

Email:

Phone: [*Home, mobile, business*]

Indicate your preferred contact address.

- my email address (above)
- my postal address (above)
- my lawyer's address (see step 5)
- my debt recovery company's address (see step 6)

Step 3: Provide the details of the judgment debtor. (The judgment debtor is the person who owes the money).

Full name of person or organisation:

Person's date of birth (if known):

Do you have a current address and contact details for the judgment debtor?

Yes. I have written them in the table below.

No. But I have made a confidential address request and the Ministry of Justice has advised that it is holding current address information.

If you do not have a current address for the judgment debtor, you can make a confidential address request to the Ministry of Justice or another government agency before filing your application. Refer to the Ministry of Justice website [insert website address]. Only complete this form when the Ministry of Justice has advised you that it is holding current address information.

Street address:

Email:

Phone: [Home, mobile, business]

Step 4: Provide the details of the judgment debt and any enforcement costs you want to claim.

You can claim some of your costs from trying to enforce the judgment or court order. Enter the costs you want to claim in the table below.

Debt	(\$)
Amount of judgment debt	
Less amount already paid	
Sub-total	

Interest you want to claim (for debts over \$3000)

Interest on the remaining debt

Sub-total

Enforcement costs you want to claim

Fee for filing application

Lawyer costs for this application

Costs of previous enforcement action

Sub-total

Total amount owed

Section B: extra information to assist the application process

Only complete the steps in section B that are relevant to your application. If you do not need to complete any of the steps in section B, go straight to section C.

Step 5: Provide the details of the lawyer representing you.

Only complete this step if a lawyer is representing you.

Name of law firm:

Name of lawyer:

Postal address:

Email:

Phone:

Step 6: Provide the details of the debt recovery company.

Only complete this step if a debt recovery company is collecting the debt for you.

Company name:

Postal address:

Email:

Phone:

Debt recovery company reference number:

Section C: date and signature

This section must be completed by the judgment creditor from step 2 or the judgment creditor's lawyer from step 5.

Your name:

Signature:

Date:

Select one of the following.

- I am the judgment creditor.
- I am the judgment creditor's lawyer.

Office use only

Application filed: [Date, time]

Form 61A
Application for warrant to recover chattels

r 15.61.1

Section A: information required to process your application

You must complete all the steps in this section.

Step 1: Provide the court reference number this application relates to.

Court reference number:

You must attach a copy of the court order or judgment if you have not already given the court a copy.

Select one of the following.

- I have attached a copy.
- I have already given the court a copy.

Step 2: Provide the details of the plaintiff making this application.

Full name:

Organisation name (if applicable):

Office held by authorised officer making application:

Postal address:

Street address (if different):

Email:

Phone: [*Home, mobile, business*]

Indicate your preferred contact address.

- my email address (above)
- my postal address (above)
- my lawyer's address (see step 5)
- my debt recovery company's address (see step 6)

Step 3: Provide the details of the defendant.

Full name of person or organisation:

Person's date of birth (if known):

Do you have a current address and contact details for the defendant?

Yes. I have written them in the table below.

No. But I have made a confidential address request and the Ministry of Justice has advised that it is holding current address information.

If you do not have a current address for the defendant, you can make a confidential address request to the Ministry of Justice or another government agency before filing

your application. Refer to the Ministry of Justice website [insert website address]. Only complete this form when the Ministry of Justice has advised you that it is holding current address information.

Street address:

Email address:

Phone: [*Home, mobile, business*]

Step 4: Provide the details of the chattels to be recovered.

The chattels recovered by the bailiff can only be returned to the plaintiff who obtained the judgment or court order.

Description of chattels to be recovered	Location of chattels (if different from address given in step 3)
---	--

Section B: extra information to assist the application process

Only complete the steps in section B that are relevant to your application. If you do not need to complete any of the steps in section B, go straight to section C.

Step 5: Provide the details of the lawyer representing you.

Only complete this step if a lawyer is representing you.

Name of law firm:

Name of lawyer:

Postal address:

Email:

Phone:

Step 6: Provide the details of the debt recovery company.

Only complete this step if a debt recovery company is managing the enforcement process for you.

Company name:

Postal address:

Email:

Phone:

Debt recovery company reference number:

Section C: date and signature

This section must be completed by the plaintiff from step 2 or the plaintiff's lawyer from step 5.

Your name:

Signature:

Date:

Select one of the following.

- I am the plaintiff.
- I am the plaintiff's lawyer.

Office use only

Application filed [*Date, time*]

Form 61B
Application for warrant to recover land

r 15.65.1

Section A: information required to process your application

You must complete all the steps in this section.

Step 1: Provide the court reference number this application relates to.

Court reference number:

You must attach a copy of the court order or judgment if you have not already given the court a copy.

Select one of the following.

- I have attached a copy.
- I have already given the court a copy.

Step 2: Provide the details of the plaintiff making this application.

Full name:

Organisation name (if applicable):

Office held by authorised officer making application:

Postal address:

Street address (if different):

Email:

Phone: [*Home, mobile, business*]

Indicate your preferred contact address.

- my email address (above)
- my postal address (above)
- my lawyer's address (see step 8)
- my debt recovery company's address (see step 9)

Step 3: Provide the details of the defendant.

Full name of person or organisation:

Person's date of birth (if known):

Address:

Email:

Phone: [*Home, mobile, business*].

Step 4: Provide the legal description of the land to be recovered.

The land described here must match the description in the judgment or court order.

Legal description of the land (from the certificate of title) Street address of the land to be recovered

Step 5: Provide the date from the judgment or court order that you were given possession of the land.

Date:

Step 6: Provide information about whether money is owed under the judgment or court order and/or whether you are claiming costs or not.

Select one of the following.

- This application is only made to recover land. I am not claiming costs. *Go to section B.*

or

- This application is made to enforce a judgment or court order for the recovery of land that includes money owed **and** a claim for costs. I want the bailiff to seize and sell property of the defendant to satisfy the debt. *Complete step 7.*

Step 7: Provide the details of the judgment debt and any enforcement costs you want to claim.

You can claim some of your costs from trying to enforce the judgment or court order. Enter the costs you want to claim in the table below.

Debt	(\$)
Amount of judgment debt	
Less amount already paid	
Sub-total	

Interest you want to claim (for debts over \$3000)

Interest on the remaining debt

Sub-total

Enforcement costs you want to claim

Fee for filing application

Lawyer costs for this application

Costs of previous enforcement action

Sub-total

Total amount owed

Section B: extra information to assist the application process

Only complete the steps in section B that are relevant to your application. If you do not need to complete any of the steps in section B, go straight to section C.

Step 8: Provide the details of the lawyer representing you.

Only complete this step if a lawyer is representing you.

Name of law firm:

Name of lawyer:

Postal address:

Email:

Phone:

Step 9: Provide the details of the debt recovery company.

Only complete this step if a debt recovery company is managing the enforcement process for you.

Company name:

Postal address:

Email:

Phone:

Debt recovery company reference number:

Section C: Date and signature

This section must be completed by the plaintiff from step 2 or the plaintiff's lawyer from step 8.

Your name:

Signature:

Date:

Select one of the following.

- I am the plaintiff.
- I am the plaintiff's lawyer.

Office use only

Application filed: [Date, time]

Form 63

Notice to bailiff: suspend enforcement and authority to re-enter

r 15.53.4

Court reference number:

Court enforcement number:

Agent reference number:

This notice to bailiff relates to the court case—
between [*Full name(s)*] (judgment creditor(s))
and [*Full name(s)*] (judgment debtor(s))

To the bailiff

This document notifies you that—

Section A*(To be completed by the judgment creditor)*

I want to suspend enforcement. Please withdraw from possession of property seized in the enforcement of this proceeding.

The judgment debtor and I have agreed that you can re-enter at any time while the enforcement remains unsatisfied.

Your name:

Signature:

Date:

Section B*(To be completed by the judgment debtor)*

The judgment creditor has asked that you withdraw from possession of my property seized in the enforcement of this proceeding.

I authorise you to re-enter and take possession of the same, or any other, property at any time while the enforcement remains unsatisfied.

Your name:

Signature:

Date:

Form 64
Notice of sale of seized property

15.56.1

Court reference number:

Court enforcement number:

Agent reference number:

This notice relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

To [*Name of judgment debtor*], judgment debtor

This document notifies you of when and where property seized in the enforcement of this proceeding will be sold.

The sale can only be stopped if the debt of \$[*Enforcement total*], including enforcement costs and the further costs of seizure for the warrant to seize property, is paid in full to a District Court before the sale date.

When and where the sale will be held

Date and time:

Place:

Property that will be sold

[*List the property to be sold.*]

Issued by: [*Name*], *Bailiff/Registrar/Deputy Registrar

*Select one.

Date:

Notice *sent/given to judgment debtor at: [*Address*]

*Select one.

Form 65
Balance sheet: warrant to seize property

r 15.58.2

Court reference number:

Court enforcement number:

Agent reference number:

This balance sheet relates to the court case—
between [*Full name(s)*] (judgment creditor(s))
and [*Full name(s)*] (judgment debtor(s))

To a Registrar of a District Court

The following proceeds and expenses have been recorded from the sale of property seized under a warrant to seize property.

Particulars	Reference	Amount (\$)
Gross proceeds of sale of seized property		
Less costs of seizure paid by bailiff		
Amount payable to judgment creditor		
Balance payable to judgment debtor		

Issued by: [*Name*] bailiff

Date:

Form 66

Report on warrant to seize property: insufficient property

r 15.58.3

Court reference number:

Court enforcement number:

Agent reference number:

This report relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

To a Registrar of a District Court

I certify that I have made a diligent search for property of the judgment debtor and I cannot find sufficient property to collect the debt mentioned in the warrant to seize property.

[*Provide the details on which this report is made.*]

Issued by: [*Name*] bailiff

Date:

Form 68
Warrant for recovery of chattels

r 15.61.2

Court reference number:

Court enforcement number:

Agent reference number:

This warrant for recovery of chattels relates to the court case—
between [*Full name(s)*] (plaintiff)
and [*Full name(s)*] (defendant)

To a bailiff or constable

This warrant authorises you to demand the return of chattels wrongfully detained by the defendant, and to seize the chattels if you are able to locate them.

On [*Judgment date*], the [*Location*] District Court ordered [*Name of defendant*] to deliver specific chattels to [*Name of plaintiff*] of [*Plaintiff's address*]

[*Name of defendant*] has not complied with the judgment or court order.

The details of the chattels to be recovered are:

Description of chattels to be recovered	Location of chattels
---	----------------------

A return must be completed for this warrant.

Issued by: [*Name*], Registrar/Deputy Registrar*

*Select one.

Date:

Notes

Address of defendant:

Phone number of defendant:

Defendant's date of birth (if known):

Form 70
Warrant for recovery of land

r 15.65.2

Court reference number:

Court enforcement number:

Agent reference number:

Defendant's/judgment debtor's date of birth:

This warrant for recovery of land relates to the court case—:

between [Full name(s)] (plaintiff/judgment creditor)

and [Full name(s)] (defendant/judgment debtor)

To a Bailiff or Constable

1 This warrant authorises you to immediately enter the land located at [Address], by force if necessary, between the hours of 9 am and 4 pm and to give possession of the land to the plaintiff/judgment creditor.

2 On [Judgment date], the [Location] District Court ordered [Name of defendant/judgment debtor] to give the plaintiff/judgment creditor possession of the land on or before [Possession date].

3 *Omit this paragraph if no order for rent, mesne profits, damages, or costs is made.* The [Location] District Court also ordered [Name of defendant/judgment debtor] to pay the plaintiff/judgment creditor the amount of \$[Judgment amount] for rent, mesne profits, damages, costs*.

*Select as appropriate.

4 [Name of defendant/judgment debtor] has not complied with the judgment or court order.

5 *Omit this paragraph if only possession of the land is being sought.* This warrant authorises you to collect from [Name of defendant/judgment debtor] the sum of \$[Enforcement total] and the further costs of seizure for this warrant by taking any of the following actions:

- You can seize and sell property of the defendant/judgment debtor (excluding their necessary tools of trade to a value not exceeding \$500, and excluding their household furniture and clothing up to \$2000).
- You can seize and remove any money, bank notes, securities for money, bills of exchange, promissory notes, or bonds of the defendant/judgment debtor.

6 Any money received is to be paid immediately to the Registrar of a District Court, and a return completed for this warrant.

Issued by: [*Name*], Registrar/Deputy Registrar*

*Select one.

Date:

Application was made to the Registrar of a court for the issue of this warrant at [*Application time*] on [*Application date*] by [*Applicant*].

Notes

Omit these notes if only possession of the land is being sought. The breakdown of the total amount owed by the defendant/judgment debtor is:

(**\$**)

Amount of judgment debt

Less amount already paid

Interest on the remaining debt

Fee for filing application

Lawyer costs for this application

Costs of previous enforcement action

Total amount owed

Where a person is placed in possession of seized property, the bailiff is entitled to demand and collect the cost of keeping possession of the property according to scale.

The property will not be sold until at least the eighth day after it is seized, unless the property is likely to perish or the defendant/judgment debtor requests in writing that it is sold prior.

Form 83
Third party claim

r 15.89.1

Section A: information required to process your application

You must complete all the steps in this section.

Step 1: Provide the details of the court case this application relates to.

Court reference number (if known):

Judgment debtor's name:

Judgment creditor's name (if known):

Step 2: Provide the details of the person making this application.

Full name:

Organisation name (if applicable):

Office held by authorised officer making application:

Postal address:

Street address (if different):

Email:

Phone: [*Home, mobile, business*]

Indicate your preferred contact address.

- my email address (above):
- my postal address (above):
- my lawyer's address (see step 6):

Step 3: Provide details about the type of third party claim.

The claim is made in respect of:

Select one of the following.

- Property seized under an enforcement in this court case.
- Proceeds from the sale of property seized under an enforcement in this court case.
- The value of the property seized under an enforcement in this court case.

Step 4: Provide details about your claim.

List the property that you are claiming

Grounds for your claim

Step 5: Provide details about whether you want to suspend the sale of seized property (where the property has not been sold).

Select one of the following.

- No, I do not want to suspend the sale of seized property. *Go to section B.*
- Yes, I have already deposited money with a bailiff or court or provided security to suspend the sale of seized property. *Please provide details.*

Date the money was deposited with a bailiff or court	Amount paid or security provided	Name of bailiff/court staff or name of court
---	---	---

Section B: extra information to assist the application process

If you do not need to complete the step in section B, go straight to section C.

Step 6: Provide the details of the lawyer representing you.

Only complete this step if a lawyer is representing you.

Name of law firm:

Name of lawyer:

Postal address:

Email:

Phone:

Section C: date and signature

This section must be completed by the applicant from step 2 or the applicant's lawyer from step 6.

Your name:

Signature:

Date:

Select one of the following.

- I am the applicant.
- I am the applicant's lawyer.

Form 84
Notice of third party claim

r 15.90

Court reference number:

Court enforcement number:

Agent reference number:

This notice relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

To [*Name of judgment creditor*], judgment creditor

This document notifies you that [*Name of third party*], a third party, has filed a claim to property seized in the enforcement of this proceeding.

A copy of the third party claim is attached to this notice.

You can give notice to a Registrar that you admit the title of [*Name of third party*] to the property, or ask a Registrar to direct a bailiff/constable* to withdraw from possession. You will not be liable for any possession fees or expenses incurred after the bailiff/constable* is notified.

*Select one.

If you do not accept the third party claim, a hearing will be scheduled before a District Court Judge, who will make a decision about the third party claim.

The third party claim is being managed by the [*Location*] District Court

All enquiries and correspondence should be made to the Collections Unit, [*Generic Email Address*], [*Phone*], [*Postal address*].

Issued by: [*Name*], Registrar/DeputyRegistrar*

*Select one.

Date:

Form 85
Notice to Registrar: response to third party claim

r 15.92.1

Court reference number:

Court enforcement number:

Agent reference number:

This notice relates to the court case—

between [*Full name(s)*] (judgment creditor(s))and [*Full name(s)*] (judgment debtor(s))**To a Registrar of a District Court**

This document notifies you that:

Select one of the following.

- I accept [*Name of third party*]'s claim to ownership of the following seized property:
- I want the bailiff to withdraw from possession of the following seized property:

List here the seized property being referred to:

I understand that the enforcement will be treated as having been abandoned.

I understand that I will not be liable for any possession fees or expenses incurred in the enforcement of this proceeding, after the bailiff is notified.

Your name:

Signature:

Date:

Select one of the following.

- I am the judgment creditor.
- I am the judgment creditor's lawyer.

Office use onlyApplication received by [*Name of Registrar*]

Date bailiff notified:

Form 86

Summons to judgment creditor: third party claim hearing

r 15.94

Court reference number:

Court enforcement number:

Agent reference number:

This summons relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

and [*Full name(s)*] (Third Party)

To [*Name of judgment creditor*], judgment creditor

This summons orders you to attend a third party claim hearing about *property seized in the enforcement of this proceeding/*the proceeds from the sale of property seized in the enforcement of this proceeding/*the value of the property seized in the enforcement of this proceeding.

*Select one.

The hearing will be held before a District Court Judge, who will make a decision about the third party claim.

When and where the hearing will be held

Date and time:

Place:

Issued by: [*Name*] Registrar/Deputy Registrar*

*Select one.

Date:

Give or send this summons to: [*Name of judgment creditor*]

Address of creditor:

Phone number of creditor:

Information for the judgment creditor

Why have I been served with a summons to attend a third party claim hearing?

You are the judgment creditor in a civil court proceeding. A court or tribunal ordered the judgment debtor to pay you but they have not paid this debt.

You filed in court an application for a warrant to seize property to enforce this debt. A bailiff has seized property from the judgment debtor.

A third party has now filed a claim saying that they own or have an interest in the property that was seized by the bailiff.

You have not advised the court that you admit the third party's claim to the property.

A hearing is now required before a Judge to make a decision about the third party claim.

How will I find out more about the third party claim?

The third party is required to serve you with details of the property that they are claiming, and any further grounds for their claim, prior to the hearing.

Is legal advice available before the hearing?

You may want to seek legal advice before the hearing. If you decide to seek legal advice, you should do it as soon as possible. You may be eligible for free legal advice through your local Community Law Centre. A list of Community Law Centres is available online at <http://www.communitylaw.org.nz>.

Can I have legal representation at the hearing?

You can ask a lawyer to represent you at the hearing. If you want a lawyer to represent you, you need to organise one before the hearing.

Form 87
Summons to third party: third party claim hearing

r 15.94

Court reference number:

Court enforcement number:

Agent reference number:

This summons relates to the court case—

between [*Full name(s)*] (judgment creditor(s))

and [*Full name(s)*] (judgment debtor(s))

and [*Full name(s)*] (Third Party)

To [*Name of third party*], Third Party

This summons orders you to attend a third party claim hearing about *property seized in the enforcement of this proceeding/*the proceeds from the sale of property seized in the enforcement of this proceeding/*the value of the property seized in the enforcement of this proceeding.

*Select one.

The hearing will be held before a District Court Judge, who will make a decision about your claim.

When and where the hearing will be held

Date and time:

Place:

What you must do

You must complete the following actions within 3 working days± of being served with this summons:

- 1 File in the [*Location*] District Court the particulars of your claim. This document must contain:
 - Details of the property that you are claiming, and any further grounds for your claim.
 - Your full name, address, and occupation.
- 2 Provide a copy of the particulars of your claim to [*Name of judgment creditor*], the judgment creditor, at [*Address*].

±Or if the time for service has been shortened, then within such reasonable time before the day of the hearing as the time for service allows.

If you do not provide the particulars of your claim to the court and the judgment creditor, your claim may not be heard by the Judge.

Issued by: *[Name]* Registrar/Deputy Registrar*

*Select one.

Date:

Give or send this summons to: *[Name of third party]*

[Address of third party]

[Phone number of third party]

Information for the third party

Why have I been served with a summons to attend a third party claim hearing?

A court or tribunal ordered the judgment debtor to pay the judgment creditor but the debt has not been paid.

The judgment creditor has filed in a court an application for a warrant to seize property to enforce this debt. A bailiff has seized property from the judgment debtor.

You are the third party. You have filed a claim in court saying that you own or have an interest in the property that was seized by a bailiff from the judgment debtor.

The judgment creditor does not admit your claim to the property.

A hearing is now required before a Judge to make a decision about your claim.

What form should I use to file and serve the particulars of my claim?

There is no prescribed form that you must use. It is up to you to decide on the format and content of the particulars of your claim as long as it includes the following:

- Details of the property that you are claiming, and your grounds for making the claim to this property.
- Your full name, address, and occupation.

Please file your particulars of claim with the *[Location]* District Court and provide a copy to the judgment creditor within 3 working days± of being served with this summons.

Please remember to include the court reference number, *[Reference number]*, on the particulars of your claim so that the court can match it to the correct court file.

What happens if I fail to establish my claim?

The property will be sold and the proceeds of sale paid out*/the proceeds of sale will be paid out*/the value will be paid out* according to the requirements of the process.

*Select one.

Is legal advice available before the hearing?

You may want to seek legal advice before the hearing. If you decide to seek legal advice, you should do it as soon as possible. You may be eligible for free legal advice

through your local Community Law Centre. A list of Community Law Centres is available online at <http://www.communitylaw.org.nz>.

Can I have legal representation at the hearing?

You can ask a lawyer to represent you at the hearing. If you want a lawyer to represent you, you need to organise one before the hearing.

Form 88

Summons to judgment creditor and bailiff: third party claim hearing involving damages

r 15.94

Court reference number:

Court enforcement number:

Agent reference number:

This summons relates to the court case—

between [*Full name(s)*] (judgment creditor(s))and [*Full name(s)*] (judgment debtor(s))

and

between [*Full name(s)*] (third party)and [*Full name of judgment creditor*] and [*Full name*] (a bailiff of a District Court)/[*specify other*]* (Respondent(s))

*Select one.

To [*Name of judgment creditor*], judgment creditor; and**To** [*Name of bailiff/other*], bailiff/other*

*Select one.

This summons orders you to attend a third party claim hearing about *property seized in the enforcement of this proceeding/*the proceeds from the sale of property seized in the enforcement of this proceeding/*the value of the property seized in the enforcement of this proceeding.

*Select one.

The third party has also made a claim for damages against you (and from the bailiff of a court) for \$[*Damages*], arising out of the enforcement of this proceeding.

The hearing will be held before a District Court Judge, who will make a decision about the third party claim.

When and where the hearing will be held

Date and time:

Place:

Issued by: [*Name*], Registrar/Deputy Registrar*

*Select one.

Date:

Give or send this summons to: [*Name of judgment creditor*]

[*Address of creditor*]

[*Phone number of creditor*]

Information for the judgment creditor

Why have I been served with a summons to attend a third party claim hearing?

You are the judgment creditor in a civil court proceeding. A court or tribunal ordered the judgment debtor to pay you but they have not paid this debt.

You filed in court an application for a warrant to seize property to enforce this debt. A bailiff has seized property from the judgment debtor.

A third party has now filed a claim saying that they own or have an interest in the property that was seized by the bailiff.

You have not advised the court that you admit the third party's claim to the property.

The third party has also made a claim for damages against you (and from the bailiff of a court) arising out of the enforcement of this proceeding.

A hearing is now required before a District Court Judge to make a decision about the third party claim and the claim for damages.

Is legal advice available before the hearing?

You may want to seek legal advice before the hearing. If you decide to seek legal advice, you should do it as soon as possible. You may be eligible for free legal advice through your local Community Law Centre. A list of Community Law Centres is available online at <http://www.communitylaw.org.nz>.

Can I have legal representation at the hearing?

You can ask a lawyer to represent you at the hearing. If you want a lawyer to represent you, you need to organise one before the hearing.

Form 89

Summons to third party: Third party claim hearing involving damages

r 15.94

Court reference number:

Court enforcement number:

Agent reference number:

This summons relates to the court case—

between [*Full name(s)*] (judgment creditor(s))and [*Full name(s)*] (judgment debtor(s))and [*Full name(s)*] (third party)**To** [*Name of third party*], third party

This summons orders you to attend a third party claim hearing about *property seized in the enforcement of this proceeding/*the proceeds from the sale of property seized in the enforcement of this proceeding/*the value of the property seized in the enforcement of this proceeding.

*Select one.

You have also made a claim for damages against the *judgment creditor/*bailiff for \$ [*Damages*], arising out of the enforcement of this proceeding.

*Select one.

The hearing will be held before a District Court Judge, who will make a decision about your claim.

When and where the hearing will be held

Date and time:

Place:

Issued by: [*Name*] Registrar/Deputy Registrar*

*Select one.

Date:

Give or send this summons to: [*Name of third party*][*Address of third party*][*Phone number of third party*]

Information for the third party

Why have I been served with a summons to attend a third party claim hearing?

A court or tribunal ordered the judgment debtor to pay the judgment creditor but the debt has not been paid.

The judgment creditor has filed in court an application for a warrant to seize property to enforce this debt. A bailiff has actioned the warrant and seized property from the judgment debtor.

You are the third party. You have filed a claim in court saying that you own or have an interest in the property that was seized by a bailiff from the judgment debtor.

The judgment creditor does not admit your claim to the property.

You have also made a claim for damages against the *judgment creditor/*bailiff arising out of the enforcement of this proceeding.

*Select one.

A hearing is now required before a Judge to make a decision about your claim.

What happens if I fail to establish my claim?

The property will be sold and the proceeds of sale paid out*/the proceeds of sale will be paid out*/the value will be paid out* according to the requirements of the process.

*Select one.

Is legal advice available before the hearing?

You may want to seek legal advice before the hearing. If you decide to seek legal advice, you should do it as soon as possible. You may be eligible for free legal advice through your local Community Law Centre. A list of Community Law Centres is available online at www.communitylaw.org.nz.

Can I have legal representation at the hearing?

You can ask a lawyer to represent you at the hearing. If you want a lawyer to represent you, you need to organise one before the hearing.

Rebecca Kitteridge,
Clerk of the Executive Council.

Explanatory note

This note is not part of the rules, but is intended to indicate their general effect.

These rules, which come into force on the day on which the District Courts Amendment Act 2011 comes fully into force, amend the District Courts Rules 2009 (the **principal rules**) in order to align those rules with changes made to the civil enforcement provisions of the District Courts Act 1947 by the District Courts Amendment

Act 2011. This is achieved principally by replacing the existing Part 15 of the principal rules.

Terminology changes include—

- an order for examination is renamed as a financial assessment summons;
- an examination is renamed as a financial assessment hearing;
- a distress warrant is renamed as a warrant to seize property;
- the bailiff interpleader is renamed as the third party claim process.

New Part 15 of the principal rules reflects the provisions in the District Courts Amendment Act 2011 that authorise—

- Registrars, Deputy Registrars, bailiffs, and deputy bailiffs to exercise their powers on behalf of any District Court and in any court area;
- financial assessment and all other civil enforcement proceedings to be filed and dealt with in any District Court.

Requirements for enforcement documents to be filed at the home court and for documents to be transferred between the home court and the execution court are removed. Hearings may be held at a place near to where the debtor resides or works. However, third party claims are still required to be dealt with at the court holding the seized property.

Amendments in respect of electronic service are expressly authorised by *new section 122(3)(ib)* of the Districts Courts Act 1947 (inserted by section 40 of the District Courts Amendment Act 2011). This authorises rules to be made to enable documents to be sent in electronic form under *new section 108A(1)(c)* of the Districts Courts Act 1947 (inserted by section 38 of District Courts Amendment Act 2011). *New Part 15* of the principal rules will—

- enable the inventory of seized property to be sent to the enforcement debtor by electronic means;
- replace paper-based terms such as “hand” with technology-neutral terms such as “send” and “provide”;
- replace all requirements for enforcement documents to be paper-based or signed documents with a requirement for documents to be authenticated;
- exclude civil enforcement documents from the formatting, signing, and sealing requirements set out in rules 1.25 to 1.38 of the principal rules. This will enable the electronic transmission of the documents between courts and externally. Unsigned documents that are filed electronically will have to be authenticated.

New Part 15 recognises that some forms will be approved forms authorised under the District Courts Act 1947. There will continue to be prescribed forms as well, and these are updated where necessary by these rules.

The time allocations in Schedule 3 of the principal rules for some existing enforcement steps, such as applications for attachment orders, have been adjusted to reflect

the new simpler processes provided by the District Courts Amendment Act 2011 and allocations have been established for the new enforcement steps.

Issued under the authority of the Legislation Act 2019.
Date of notification in *Gazette*: 3 October 2013.

Notes

1 *General*

This is a consolidation of the District Courts (Civil Enforcement) Amendment Rules 2013 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 *Legal status*

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 *Editorial and format changes*

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 *Amendments incorporated in this consolidation*

District Courts Rules 2014 (LI 2014/179): rule 22.1