

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

Other leaflets in the series:-

For the claimant

HCG01—What is a small claim?

HCG02—How to make a small claim

HCG03—No reply to my claim

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

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

HCG06—The defendant disputes all or part of my claim

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

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

HCG09—How do I apply for execution?

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

HCG11—How do I apply for a charging order?

HCG12—How do I apply for an arrestment order?

For the defendant

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

HCG14—Defending a claim

HCG15—Paying my judgment

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

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

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


HCG19—Registered judgments, what does this mean?

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

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

E-mail: court.house@courts.im

Last updated 11th September 2009



ISLE OF MAN
COURTS OF JUSTICE

How do I apply for a charging order? HCG11
Claimant guidance in the Small Claims Procedure

How do I apply for a charging order?

www.courts.im

This leaflet provides very general information for judgment creditors seeking to recover money by way of a charging order. You should refer to the Rules (Part 12, Chapter 5) for full information on charging orders. You should also read the section **HCG08**—I have a judgment but the defendant has not paid.

What is a charging order?

A charging order is an order of the court placing a 'charge' over or against the defendant's interest in an asset such as stocks and shares or an interest under a trust. The order gives the judgment creditor rights similar to those of a mortgagee over the asset.

How does it work?

A charge on an asset means that, if the asset is sold, the amount of the charge must be paid out of the proceeds of sale. A charging order does NOT force an asset to be sold. Afterwards, you can apply to the court for an order that the asset be sold, or for an order enabling the amount of the charge to be paid out of any income from the asset.

When can I apply for a charging order?

You can ask the court for a charging order at any time after you have obtained judgment.

How do I apply for a charging order?

You must complete form **HC21** – Application for Charging Order. This form is available for download at www.courts.im or from the Public Counter.

Will I have to pay a fee?

You may have to pay a court fee. Court staff will be able to tell you how much you have to pay. Please note that the fee might increase each year.

What will the court do with my application for a charging order?

Court staff will refer your application to a judge. The judge may make an interim charging order if satisfied with the information you have provided. The interim charging order, the application notice and any other documents filed in support of the application will be sent to you.

The interim charging order will include the date and the time of a hearing at which the judge will decide whether or not to make a final charging order.

What should I do when I receive the interim charging order?

You should arrange that the interim charging order, the application notice and any other documents filed in support of it, not less than 21 days before the hearing, are served on the following persons:-

- the judgment debtor;
- any other creditors that the court directs;
- if the order relates to interest under a trust, on such of the trustees as the court directs;;
- if the interest charged is in securities other than securities held in court then:-
 - the Treasury, in the case of government stock;
 - in the case of stock of any body incorporated in the Island, that body;
 - in the case of stock of any body incorporated outside the Island, which is registered in a register kept in the Island, the keeper of the register; or
 - in the case of units in a unit trust for which a register of the unit holders is kept in the Island, the keeper of that register

You must either:-

- file a certificate of service not less than 2 days before the hearing; or
- produce a certificate of service at the hearing.

What happens if the judgment debtor objects to the making of a final charging order?

If the judgment debtor, or any person served with the interim charging order, objects to the court making a final charging order, he/she must file written evidence stating the grounds of the objection not less than 7 days before the hearing.

What will happen at the hearing?

The judge will consider your application, all evidence and whether any objections have been made. The judge may then:

- make a final charging order confirming the charge shall continue with or without modification;
- discharge the interim charging order and dismiss the application¹;
- deal with any issues in dispute between the parties; or
- give directions for a trial (directions tell you what you must do to prepare for that trial).

¹If the application is dismissed you will not be able to recover the fee you paid to issue it and you may have to pay the costs of the party who raised the objection.