

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?

www.courts.im

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

Phone: +44 (0) 1624 685265 Fax: +44 (0) 1624 685236
E-mail: court.house@courts.im

Last updated 11th September 2009



ISLE OF MAN
COURTS OF JUSTICE

I have received a charging order, what is it? **HCG17**
Defendant guidance in the Small Claims Procedure

I have received a charging order, what is it?

www.courts.im

What is a charging order?

A charging order is an order of the court placing a 'charge' over or against your 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.

Why have I received an interim charging order?

The order which has been made is an interim charging order. You have received it because the judgment creditor has told the court that you have failed to:

- pay the amount of the judgment when it was due; or
- pay one or more instalments due under the terms of the judgment.

Can I oppose the interim charging order?

You may oppose the making of a final order. You have been notified of the time and place of a hearing at which the court will consider whether to make a final order confirming the charge on the asset. To oppose the making of a final order you must file in the Court Office a witness statement giving your reasons for doing so not less than 7 days before the hearing date and send a copy to the judgment creditor. You will be expected to attend the hearing.

What happens at the hearing?

The judge will consider the 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).

Please remember that this and other leaflets can only provide you with a general idea of what is likely to happen. The leaflets cannot explain everything about court rules, costs and procedures which may affect different claims in different ways. Court staff can provide you with information, tell you about court forms and procedures, but they *cannot* give you legal advice or answer questions like will the claimant win the case? what evidence do I need? You should seek legal advice from an advocate. A list of Manx advocates is available through the Isle of Man Law Society.