



Challenging the application of statutory interest on County Court Judgments below £5000 being enforced by a High Court Writ

A judgment debt for less than £5000 should not attract statutory interest where a creditor has enforced this by way of a High Court writ.

[Article 2](#) of The County Court (Interest on Judgment Debts) Order 1991 confirms that statutory interest is applied to 'relevant judgments'. Relevant judgments are defined within [Article 1](#) as 'a judgment or order of a county court for the payment of a sum of money of not less than £5,000'.

Please note Consumer Credit Act regulated debts cannot be enforced in the High Court (HC) and by virtue of Article 2(3), also cannot attract statutory interest.

It has become apparent that High Court Enforcement Officers (HCEO) are asserting that statutory interest can be charged on enforced CCJs below £5000, as if it were a High Court Judgment (HCJ) pursuant to [section 42](#) of the County Courts Act 1984 (CCA 1984).

We are of the opinion that this section will not apply in these situations because this provision refers only to where proceedings are transferred under s42 CCA 1984. In general, an application under s42 is made on an N244 and is for landlords to transfer proceedings on county court possession claims.

An application to transfer a CCJ in order to obtain a High Court writ is not made under s42 CCA 1984, but is governed by the procedure under [CPR 40.14A](#).

The application to obtain a HC writ involves obtaining a certificate of judgment and is made on form [N293A](#). At the bottom of the form's first page you will see:

"This judgment or order has been sent to the High Court for enforcement by (Writ of Control) (Writ of Possession against trespassers) only.

The county court claim has not been transferred to the High Court. Applications for other methods of enforcement or ancillary applications must be made to the County Court hearing centre in which the judgment or order was made, unless the case has since been transferred to a different court, in which case it must be made to that court."

This confirms that the original proceedings haven't been transferred and the order has been sent to the High Court for the purpose of enforcement by High Court writ only.

Furthermore, CPR 40.14A paragraph (4) makes the clear distinction that the creditor must state either that they are intending to enforce the judgment by execution against goods or they have made an application to transfer proceedings under s.42:

'4) Where the certificate is required for the purpose of enforcing the judgment or order in the High Court, the applicant must also either—

(a) state that—

(i) it is intended to enforce the judgment or order by execution against goods; or

(ii) the judgment or order to be enforced is an order for possession of land made in a possession claim against trespassers; or

(b) confirm that an application has been made for an order under [section 42](#) of the County Courts Act 1984 (transfer to High Court by order of the County Court) and attach a copy of the application to the request for a certificate.'

This distinction shows that applying for a writ of control and transferring enforcement proceedings under s42 are two separate processes. Both still require a certificate of judgment.

[The Queen's Bench Guide](#) provides commentary on the process to transfer a CCJ to the High Court for enforcement purposes. Under section 23.4.9 'Transfer of county court judgments for enforcement in the High Court', it states:

"23.4.9.4

The grant of the certificate will act as an order to transfer the proceedings to the High Court: see rule 83.19(2). Interest, if payable under S.74 of the County Courts Act 1984 and under the County Courts (Interest on Judgment Debts) Order 1991, will run from the date of the judgment or order until payment."

This paragraph clarifies that obtaining the certificate of judgment, using form N293A, grants the transfer for enforcement by writ of control. It also highlights that interest on the CCJ is only payable where this would be allowed under the relevant legislation.

The detailed guide to the process of transferring a CCJ to the High Court for enforcement does not mention s42 at any point.

Our conclusion is that statutory interest should not be applied to CCJs sent to the High Court for enforcement. However, this issue remains untested in the courts.

Next steps

If you have identified that statutory interest has been/is being applied, your client has the following options:

Make a complaint

Your client could make a formal complaint and depending on the client's situation, it may be appropriate to send this complaint to both the HCEO and the claimant.

If the claimant is an individual, you may have difficulty resolving the issue as there is unlikely to be an option to escalate the complaint.

However, if the claimant is an organisation such as a water company or the local authority, you may be best starting your complaint with the claimant and escalating this to an appropriate regulatory body or ombudsman.

The claimant should be reminded that that ultimately they are responsible, and accountable, for the enforcement agents acting on their behalf, as per paragraph 7 of [The National Standards: Taking Control of Goods](#). They should not refuse to deal with the complaint where HCEOs are recovering the debt.

Requesting a certificate of satisfaction

Where the claimant refuses to remove the interest and the client has already paid the full amount owed under the judgment they could apply for a certificate of satisfaction. The client could also do this if they can make a lump sum payment to repay the judgment.

The application is made on an N443 and costs £15. The creditor then has the opportunity to either accept the judgment has been satisfied and the court will award the certificate or, reject that the judgment has been satisfied and a hearing will be held. At the hearing, your client will be able to present their case and the judge will make a decision.

If the creditor does not respond within 30 days the certificate of satisfaction will be granted automatically.

If your client would like to pursue this option, please contact us and we will be able to assist with pleadings if appropriate.

It should be noted that any enforcement agent fees lawfully charged will still be recoverable from the client even if they have repaid the judgment in full, as the enforcement power was still exercisable. This is pursuant to [Regulation 17\(2\)](#) of Taking Control of Goods (Fees) Regulations 2014. See Spotlight piece ['Fees outstanding from where creditor is paid directly'](#) from our June 2018 ebulletin.