

# Rules of the High Court (Amendment) Rules 2007

## The Rules of the High Court (Cap 4A)

### Order 17 - INTERPLEADER

Remarks:

Adaptation amendments retroactively made - see 25 of 1998 s. 2

### Remarks

#### **1. Entitlement to relief by way of interpleader (O. 17, r. 1)**

(1) Where-

- (a) a person is under a liability in respect of a debt or in respect of any money, goods or chattels and he is, or expects to be, sued for or in respect of that debt or money or those goods or chattels by two or more persons making adverse claims thereto, or
- (b) claim is made to any money, goods or chattels taken or intended to be taken by a bailiff in execution under any process, or to the proceeds or value of any such goods or chattels, by a person other than the person against whom the process is issued,

the person under liability as mentioned in sub-paragraph (a), or (subject to rule 2) the bailiff, may apply to the Court for relief by way of interpleader.

(2) References in this Order to a bailiff shall be construed as including references to any other officer charged with the execution of process by or under the authority of the Court of First Instance.

(25 of 1998 s. 2)

#### **2. Claim to goods, etc., taken in execution (O. 17, r. 2)**

(1) Any person making a claim to or in respect of any money, goods or chattels taken or intended to be taken in execution under process of the Court, or to the proceeds or value of any such goods or chattels, must give notice of his claim to the bailiff charged with the execution of the process and must include in his notice a statement of his address, and that address shall be his address for service.

(2) On receipt of a claim made under this rule the bailiff must forthwith give notice thereof to the execution creditor and the execution creditor must, within 7 days after receiving the notice, give notice to the bailiff informing him whether he admits or disputes the claim.

An execution creditor who gives notice in accordance with this paragraph admitting a claim shall only be liable to the bailiff for any fees and expenses incurred by the bailiff before receipt of that notice.

(3) Where-

- (a) the bailiff receives a notice from an execution creditor under paragraph

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(2) disputing a claim, or the execution creditor fails, within the period mentioned in that paragraph, to give the required notice, and

(b) the claim made under this rule is not withdrawn,

the bailiff may apply to the Court for relief under this Order.

(4) A bailiff who receives a notice from an execution creditor under paragraph (2) admitting a claim made under this rule shall withdraw from possession of the money, goods or chattels claimed and may apply to the Court for relief under this Order of the following kind, that is to say, an order restraining the bringing of an action against him for or in respect of his having taken possession of that money or those goods or chattels.

### 3. Mode of application (O. 17, r. 3)

(1) An application for relief under this Order ~~must be made~~ **may be made** by originating summons unless made in a pending action, in which case it ~~must be made~~ **may be made** by summons in the action.

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(2) Where the applicant is a bailiff who has withdrawn from possession of money, goods or chattels taken in execution and who is applying for relief under rule 2(4), the summons must be served on any person who made a claim under that rule to or in respect of that money or those goods or chattels, and that person may attend the hearing of the application.

(3) An originating summons under this rule shall be in Form No. 10 in Appendix A.

(4) Subject to paragraph (5), a summons under this rule must be supported by evidence that the applicant-

- (a) claims no interest in the subject-matter in dispute other than for charges or costs,
- (b) does not collude with any of the claimants to that subject- matter, and
- (c) is willing to pay or transfer that subject-matter into court or to dispose of it as the Court may direct.

(5) Where the applicant is a bailiff, he shall not provide such evidence as is referred to in paragraph (4) unless directed by the Court to do so.

(6) Any person who makes a claim under rule 2 and who is served with a summons under this rule shall within 14 days serve on the execution creditor and the bailiff an affidavit specifying any money and describing any goods and chattels claimed and setting out the grounds upon which such claim is based.

(7) Where the applicant is a bailiff a summons under this rule must give notice of the requirement in paragraph (6).

**Remarks****5. Powers of Court hearing summons (O. 17, r. 5)**

- (1) Where on the hearing of a summons under this Order all the persons by whom adverse claims to the subject-matter in dispute (hereafter in this Order referred to as "the claimants") appear, the Court may order-
- (a) that any claimant be made a defendant in any action pending with respect to the subject-matter in dispute in substitution for or in addition to the applicant for relief under this Order, or
  - (b) that an issue between the claimants be stated and tried and may direct which of the claimants is to be plaintiff and which defendant.
- (2) Where-
- (a) the applicant on a summons under this Order is a bailiff, or
  - (b) all the claimants consent or any of them so requests, or
  - (c) the question at issue between the claimants is a question of law and the facts are not in dispute,
- the Court may summarily determine the question at issue between the claimants and make an order accordingly on such terms as may be just.
- (3) Where a claimant, having been duly served with a summons for relief under this Order, does not appear on the hearing of the summons or, having appeared, fails or refuses to comply with an order made in the proceedings, the Court may make an order declaring the claimant, and all persons claiming under him, for ever barred from prosecuting his claim against the applicant for such relief and all persons claiming under him, but such an order shall not affect the rights of the claimants as between themselves.

**6. Power to order sale of goods taken in execution (O. 17, r. 6)**

Where an application for relief under this Order is made by a bailiff who has taken possession of any goods or chattels in execution under any process, and a claimant alleges that he is entitled, under a bill of sale or otherwise, to the goods or chattels by way of security for debt, the Court may order those goods or chattels or any part thereof to be sold and may direct that the proceeds of sale be applied in such manner and on such terms as may be just and as may be specified in the order.

**7. Power to stay proceedings (O. 17, r. 7)**

Where a defendant to an action applies for relief under this Order in the action, the Court may by order stay all further proceedings in the action.

**8. Other powers (O. 17, r. 8)**

Subject to the foregoing rules of this Order, the Court may in or for the purposes of any interpleader proceedings make such order as to costs or any other matter as it thinks just.

**Remarks****9. One order in several causes or matters (O. 17, r. 9)**

Where the Court considers it necessary or expedient to make an order in any interpleader proceedings in several causes or matters pending before the Court, the Court may make such an order; and the order shall be entitled in all those causes or matters and shall be binding on all the parties to them.

**10. Discovery (O. 17, r. 10)**

Orders 24 and 26 shall, with the necessary modifications, apply in relation to an interpleader issue as they apply in relation to any other cause or matter.

**11. Trial of interpleader issue (O. 17, r. 11)**

(1) Order 35 shall, with the necessary modifications, apply to the trial of an interpleader issue as it applies to the trial of an action.

(2) The Court by whom an interpleader issue is tried may give such judgment or make such order as finally to dispose of all questions arising in the interpleader proceedings.

(Enacted 1988)