

SENIOR MASTER PRACTICE NOTE 14 DECEMBER 2015
TRANSFERS FOR ENFORCEMENT TO THE HIGH
COURT

Form N293A (Combined Certificate for Judgment and request for Writ of Control or Writ of Possession) (<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/n293aeng.pdf>) is used when a Judgment Creditor with a County Court Judgment of £600 or more, or in receipt of a Possession Order against Trespassers, wishes to transfer the claim to the High Court for enforcement, so that they can instruct a High Court Enforcement Officer, ("HCEO") (rather than the County Court Bailiffs) to enforce the Judgment either by a Writ of Control or a Writ of Possession.

The procedure to be adopted, (unless the Judgment Creditor/Party with the benefit of a Possession Order asks the County Court District Judge for an 'Order for Transfer' under S.42 of the County Courts Act 1984 when Judgment is given), is to use Form N293A. This is submitted to the County Court (and now that there is a single County Court in theory this can be done by any County Court Office), with Part 1 of the form completed by the Judgment Creditor's Legal Representative. Part 2 is then completed by a Court Officer. The HCEO then completes Part 3, and takes the completed and certified N293A to the Central Office or a District Registry of the High Court and obtains a Writ of Control and/or a Writ of Possession.

In the last 12 months, instead of the Claimant making an application under S.42 at the hearing, or submitting Form N293A, a number of HCEOs have been making applications on a regular basis to the Practice Master in Queens Bench Division (QBD) under S.41 of the County Courts Act 1984 to transfer the County Court Claim for enforcement to the High Court. The HCEOs have informed the Masters that that County Court Officers are refusing to certify Form 293As, without explanation. We have also been told that when applications are made under S.42, some County Courts can take some 6-8 weeks to deal with them, and in the case of Possession Orders this means a significant loss of rental income to the Judgment Creditors. Thus it is much more efficient for Judgment Creditors/Parties with the benefit of a Possession Order, to enforce through a HCEO rather than via County Court Bailiffs, so the HCEOs have no alternative but to make applications under S41, where they can get an immediate Order and issue a Writ of Control/Possession straight away.

The QB Practice Masters have been dealing with such applications, and making S41 orders. However, as the County Court file and log for the case is not available to the QB Masters, in a number of cases their orders have conflicted with orders made by Judges in the County Court. This has caused considerable problems in some cases.

Accordingly, after consultation with the Deputy Head of Civil Justice, the President of the Queen's Bench Division, and the appropriate policy officials of the Ministry of Justice and of HM Courts & Tribunal Services, I have determined that the QB Masters will not make Orders for Transfer for Enforcement under S.41 unless on notice, and therefore all applications for transfer of County Court Orders and Judgments for Enforcement should be made either by an application under S.42 to the District Judge making the order, or, if for a Writ of Control or of Possession in a claim against Trespassers, by lodging a properly completed Form N293A at a County Court Office.

Barbara Fontaine
The Senior Master
14December 2015