
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART XI

MISCELLANEOUS AND SUPPLEMENTARY

Effect of imprisonment under Article 107 or 115

125. Imprisonment under Article 107 or 115 shall not operate as a satisfaction or extinguishment of any debt, demand or cause of action, or deprive any person of any right to make an application under this Order, or, where he has so applied (whether before or after such imprisonment), affect the right of the Office to perform its functions under this Order in respect of the application.

Amount recoverable on foot of a judgment

126. Subject to the provisions of this Order, in the enforcement of a judgment there shall be recoverable from the person against whom the judgment has been obtained—

- (a) any expenses incurred by the Office wholly in relation to the enforcement of the judgment;
- (b) the costs of enforcement reasonably incurred by the person who has obtained the judgment;
- (c) any interest due and payable by virtue of Article 127; and
- (d) all sums of money due and payable under the judgment;

and any sums recovered from the person against whom the judgment has been obtained shall be applied in the order set out in the foregoing paragraphs.

Interest

127.—(1) A money judgment under which a sum exceeding £200 or such other amount as may be prescribed by rules is due and payable (not being a judgment for a penal sum for securing principal and interest) shall, subject to any contrary provision in the judgment, carry such interest at such rate as may be prescribed by rules of court from the date on which the judgment was given until the date of the application under Article 22 or 23(1) or until payment of the amount due on foot of the judgment, whichever first occurs.

(2) An order charging land under Article 46 and a charging order on funds, stock or shares under Article 58 may provide for the payment of interest on any sum secured by the order at such rate and in respect of such period as may be prescribed by rules of court.

(3) The Office shall not be obliged to recover interest unless—

- (a) the interest is payable on a money judgment and the creditor specifically requests its recovery by the Office; or
- (b) the interest is payable on a sum secured by a charging order on funds, stock or shares which requires the payment of dividends or interest to the Office.

Set-off of cross judgments

128.—(1) Where a person has obtained a judgment against another person and that other person has obtained a judgment against him, either may apply to the Office for leave to set off any sums payable under the several judgments.

(2) Upon any such application the set-off may be allowed in accordance with the practice for the time being in force in the High Court.

Disposal of moneys recovered from debtor, etc.

129.—(1) Save as otherwise provided by this Order or by rules, all moneys recovered by the Office under this Order as a result of the enforcement of a money judgment shall, after deduction of any expenses due to the Office in respect of such enforcement, be paid to the creditor in satisfaction of the whole or part of the amount recoverable on foot of the judgment.

(2) The Office shall make such returns and render such accounts to the creditor as shall be fixed by rules of all moneys recovered as a result of the enforcement of the money judgment.

(3) Any moneys recovered by the Office as a result of the enforcement of a money judgment which are in excess of the sum required to satisfy the amount recoverable on foot of the judgment shall be paid to the debtor or other person entitled thereto, unless the Office has directed that any such excess be applied in or towards the satisfaction of any other money judgment against that debtor in respect of which an application for enforcement has been made.

Entry of satisfaction

130. Where the Office is satisfied that the amount recoverable on foot of a judgment has been paid or otherwise satisfied, an entry of satisfaction shall be made in the register of judgments.

Certificate of satisfaction

131. Where an order charging land or a charging order on funds, stock or shares has been made, the Office shall, on application made after satisfaction has been entered in the register of judgments pursuant to Article 130, issue a certificate of satisfaction.

Vacating of certain charges

132.—(1) The lodgment in the Registry of Deeds or, subject to Land Registry Rules, in the Land Registry, as the case may require, of a certified copy (or, where the owner of the land is a company, two certified copies) of the certificate of satisfaction shall be effective to cancel the charge imposed by an order charging land or to cancel the notice of such an order.

(2) The lodgment with the registrar of Government funds or stock, or with the local authority, public undertaking or public company, as the case may require, of a certified copy of the certificate of satisfaction shall be sufficient authority for vacating a charge on funds, stock or shares under Article 58.

Functions of police

133.—(1) A constable shall, at the written request of the Office,—

- (a) render to the Office all reasonable assistance in discovering any person against whom the Office is seeking to enforce a judgment;
- (b) give protection to any enforcement officer in the performance of his functions under this Order; and

(c) render such other assistance in connection with the enforcement of any enforcement order or custody warrant as may be necessary to enable the Office to perform its functions under this Order in respect of any such order or warrant.

(2) All orders of committal (other than orders of the High Court under Article 107) and warrants of arrest under this Order shall be executed by a constable.

(3) Every constable shall, in order to give effect to any sequestration order under Article 111(1) or Article 113, render all reasonable assistance to put the sequestrator into possession of the property of the person against whom the order was made.

Liability for official acts and omissions

134.—(1) Neither the Crown nor any member of the Office shall be liable to be sued in any court for anything done or omitted to be done in good faith by the Office or that member in the performance or purported performance of its or his functions under this Order unless—

- (a) as respects the liability of the Crown, the Office or some such member thereof wilfully or negligently; or
- (b) as respects the liability of any such member, that member wilfully;

failed to comply with the provisions of this Order.

(2) A constable shall not be liable to be sued in any court for anything done by him in the performance or purported performance of his functions under Article 133 by reason only of an irregularity in the request, order or warrant under which he was acting or purporting to act.

Liability of persons applying for enforcement

135.—(1) Save as provided in Article 53(2) and Article 119(2) and (3), and subject to paragraphs (2) and (3), a person applying for enforcement of a judgment under this Order shall not be liable for anything done or omitted to be done by the Office or any member thereof or by any constable in the performance or purported performance of any function conferred by this Order or by rules unless that thing was done or omitted to be done as a result of any information given by the person applying for enforcement which—

- (a) that person knew to be incorrect; or
- (b) was incorrect and was given by that person recklessly or maliciously.

(2) It shall be the duty of a person applying for the enforcement of a judgment under this Order to inform the Office forthwith if, before the application for enforcement is disposed of, he receives or is paid any moneys for or on account of the amount recoverable on foot of the judgment.

(3) Failure to comply with paragraph (2) shall render the person liable in damages at the suit of the debtor, and the Office may dismiss the application for enforcement without prejudice to the person's right to make a fresh application.

Power of Office to require attendance of creditor

136.—(1) Where it appears to the Office that the attendance of the creditor is necessary or expedient for the proper disposal of an application for enforcement of a money judgment, the Office may, by notice in writing, require the creditor to attend before it on such date and at such time (not being earlier than seven days from the date of the notice) as may be specified in the notice.

(2) If the creditor fails, without reasonable excuse, to attend in pursuance of a notice under paragraph (1), the Office may make an order—

- (a) dismissing the creditor's application for enforcement, or
- (b) declaring that any existing priority attaching to the application is forfeited.

(3) Where the creditor is a body corporate any reference in this Article to the creditor's attendance shall be construed as a reference to the attendance of a person authorised by the body to act in the matter on its behalf.

Dilatory creditors

137.—(1) This Article applies where applications have been received from two or more creditors for the enforcement of separate money judgments against the same debtor and it appears to the Office that the creditor (“the first creditor”) whose application has first priority as between both or all of them is not pursuing with proper diligence the remedies available to him under this Order.

(2) The Office may—

- (a) make an order requiring the first creditor to show cause why an order should not be made depriving his application of its priority; and
- (b) if the creditor fails to show such cause, make an order declaring that any existing priority attaching to the application is forfeited.

Postponement of priority of application of dilatory, etc., creditor

138.—(1) Where, under Article 136 or 137, the Office makes an order declaring that any existing priority attaching to an application is forfeited—

- (a) the application shall stand postponed to all other applications made on or before the date of the order in respect of judgments against the same debtor; and
- (b) a note that it is so postponed shall be entered in the register of judgments.

(2) In Articles 136 and 137 and this Article any reference to priority is to priority by virtue of Article 24(3).

Execution of documents in name of debtor

139.—(1) Where the debtor or his trustee is required by any order made under this Order to execute any document and the debtor or trustee—

- (a) refuses or neglects to comply with the order; or
- (b) cannot be found; or
- (c) is for some reasonable cause unable to execute the document;

the Office may order some other person to execute that document in the name of the debtor or, as the case may be, his trustee, and such execution shall be as valid and effectual as if done by the debtor or, as the case may be, his trustee.

(2) In this Article “trustee” means a person holding property of a debtor in any fiduciary capacity.

Appeals

140.—(1) Any party aggrieved by any order of the Office under any provision of this Order mentioned in the following Table may appeal therefrom to the High Court.

TABLE

<i>Article</i>	<i>General subject matter</i>
44	Interpleader.
53(1)	Order for delivery of possession of land.

55(3)	Question as to ownership of goods.
56(2)	Claim that possession of land has been wrongly delivered.
57	Order for delivery of goods.
68(2)	Claim of right superior to order appointing receiver.
73(1)	Attachment of earnings order.
136(2)	Dismissal of application for enforcement or forfeiture of priority.
137(2)(b)	Forfeiture of creditor's priority.

(2) Any party aggrieved by the Office's refusal of leave under Article 84(1) or (2) (restriction on bankruptcy petition or other remedy in respect of debt scheduled to administration order) may appeal therefrom to the High Court.

(3) Any party aggrieved by an order or decision of the Office (other than such orders as are referred to in paragraph (1)) may appeal therefrom on a question of law to the Court of Appeal.

(4) The decision of the High Court under paragraph (1) or (2), or of the Court of Appeal under paragraph (3), shall be final and conclusive.

Judgment Enforcement Rules

141.—(1) The Lord Chancellor may make rules, to be known as “Judgment Enforcement Rules”, for the purpose of regulating the exercise of the jurisdiction conferred on the Office by this Order or on the Master by the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 and generally for carrying this Order and that Act into effect.

(2) Without prejudice to the generality of paragraph (1), rules may—

- (a) provide for regulating and prescribing the procedure and practice to be followed in proceedings before the Office, including the manner in which, the time within which and the conditions on which any proceedings may or are to be taken;
- (b) provide for regulating any matters relating to the costs of proceedings before the Office;
- (c) subject to Article 70(1), provide for the cases in which money paid for or on account of the amount recoverable on foot of a judgment must be paid to the Office or to the creditor, or may be paid to either of them;
- (d) make provision as to proceedings by the Crown;
- (e) prescribe or fix anything which under this Order may or is to be so prescribed or fixed;
- (f) amend or repeal any statutory provision passed before 15th February 1971 so far as may be necessary or expedient in consequence of provisions made by the rules.

(3) Rules shall be subject to [F¹negative resolution].

(4) Rules which may involve an increase in expenditure out of public funds shall not be made except with the concurrence of the Treasury; but the validity of any rule so made shall not, in any proceedings in any court or in the Office, be called in question either by the court, the Office or any party to the proceedings on the ground only that the Treasury did not concur or are not expressed to have concurred in the making of the rule.

F1 Words in art. 141(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 128** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Modifications etc. (not altering text)

C1 Art. 141(4): functions of Treasury or Minister for the Civil Service transferred to Department of Finance and Personnel (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(4)(d)** (with arts. 15(6), 28-31); S.I. 2010/977, **art. 1(2)**

Financial provision

142. All expenses of and incidental to the operation of this Order shall be defrayed out of moneys provided by [^{F2}the Assembly].

F2 Words in art. 142 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 129** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Provisions as to distress

143.—(1) Notwithstanding anything contained in any other statutory provision, a person shall not distrain on any property for the enforcement of any recognizance or bond, or for rent (including rent-charge) in arrear, or for tithes.

(2) Paragraph (1) shall not affect the relationship of landlord and tenant save in so far as that paragraph restricts the remedy of distress.

Property in custody of Office exempt from distress

144. Any property which is or is deemed to be in the custody and possession of the Office under this Order shall not, so long as it is in such custody and possession, be liable to seizure by way of distress under any other statutory provision or by virtue of the common law, except with the consent in writing of the Office.

Preservation of certain rights of re-entry

145. Where any lease or contract of tenancy contains a provision conferring on the landlord a right of re-entry exercisable in default of recovery of arrears of rent by means of distress, that provision shall, subject to any relief which may be provided by or under any other statutory provision or by any rule of law or equity, be construed as if it conferred a right of re-entry when—

- (a) the rent reserved by the lease or contract is in arrear for any period specified therein as the period after which rent in arrear may be recovered by means of distress; or
- (b) if no such period is so specified, whenever the rent so reserved is in arrear for the space of 30 days after it became due and payable.

Application to the Crown

146. Without prejudice to any Order in Council made under section 53 of the Crown Proceedings Act 1947 (extension of that Act to Northern Ireland), Articles 3, 73 to 79 and 97 to 105 and Schedule 1 to bind the Crown to the extent necessary to enable the enforcement of the duties imposed on chief officers by virtue of Articles 75 and 101.

Amendments, transitional and saving provisions, etc., and repeals

Para.(1), with Schedule 2, effects amendments

(2) Without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 , the transitional and saving provisions, and the provisions for the construction of certain expressions, specified in Schedule 3 shall have effect for the purposes of this Order.

Para.(3), with Schedule 4, effects repeals

Changes to legislation:

There are currently no known outstanding effects for the Judgments Enforcement (Northern Ireland) Order 1981, PART XI.