
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART III

JURISDICTION OF ENFORCEMENT OF JUDGMENTS OFFICE

General jurisdiction of Office

11. Subject to the provisions of this Order, the jurisdiction relating to the enforcement of judgments which immediately before 15th February 1971 was exercised by any court, and which, by virtue of section 8 of the Judgments (Enforcement) Act (Northern Ireland) 1969, became vested in the Office, shall continue to be vested in the Office.

Limitations on jurisdiction of Office

12. Nothing in this Order enables the Office—

- (a) to make or enforce any order of sequestration or any order of committal; or
- (b) to perform any functions relating to the enforcement of judgments which were, immediately before 15th February 1971, performed by the Admiralty Marshal.

Power of Office to make orders, etc.

13. Without prejudice to the generality of Article 11 and to any powers conferred by this Order but subject to Article 12, the Office may—

- (a) make enforcement orders;
- (b) issue custody warrants;
- (c) issue processes for the attendance and examination—
 - (i) of debtors as to their means; and
 - (ii) of any other persons appearing to the Office to be in possession of any information relevant to the means of debtors;
- (d) conduct the examinations referred to in paragraph (c);
- (e) receive moneys in respect of payments of the whole or parts of amounts recoverable on foot of judgments;
- (f) subject to any other statutory provision, stay enforcement of any judgment, whether before or after an application has been made under Article 22 or Article 23(1) and either absolutely or on such terms and conditions as it may consider proper;
- (g) set aside, discharge or vary, either of its own motion or upon the application of a party to the proceedings or of any other person affected—
 - (i) any enforcement order; or
 - (ii) any custody warrant issued by it or any seizure made pursuant to an authorisation given under Article 43; or

- (iii) subject to Article 21, any certificate of unenforceability; or
- (iv) any notice or direction issued or given by it; or
- (v) any order under Article 136(2)(a) dismissing an application for enforcement of a judgment or any order under Article 136(2)(b) or Article 137(2)(b) declaring that a priority attaching to such an application is forfeited; or
- (vi) any administration order;
- (h) issue notices of unenforceability and grant certificates of unenforceability;
- (i) dismiss an application under Article 22 or 23.

Stay of enforcement in cases of insolvency

14.—(1) Without prejudice to Articles 80 to 87 (administration orders) the power conferred by Article 13(f) shall include power to stay enforcement on the ground that, having regard to the liabilities of the debtor (in addition to the amount recoverable on foot of the judgment), the property of the debtor ought in the opinion of the Office to be administered for the benefit of all his creditors.

(2) Subject to paragraph (3), an order staying enforcement on the ground mentioned in paragraph (1) shall cease to have effect on the expiration of a period of six weeks from the date of the order.

(3) The Office may by order extend the period for which such an order staying enforcement has effect if it considers there is a reasonable likelihood that, within the extended period,—

- (a) where the debtor is an individual—
 - Head (i) rep. by 1989 NI 19*
 - (ii) he will enter into an arrangement with his creditors generally, or
 - (iii) a petition to the court to adjudge him bankrupt will be presented by or against him, or
- (b) where the debtor is a company—
 - (i) an application will be made to the court for an order under^[F1] section 896 of the Companies Act 2006] summoning a meeting of the company's creditors to consider a proposed compromise or arrangement with them, or
 - (ii) a petition for the winding-up of the company will be presented to the court, or
 - (iii) a resolution for the voluntary winding-up of the company will be passed ^[F2] or
 - (iv) an application will be made to the court for a special administration order under Article 42 of the Water and Sewerage Services (Northern Ireland) Order 2006.]
 - ^[F3](iv) the directors of the company will make a proposal to the company and its creditors for a voluntary arrangement under Part II of the Insolvency (Northern Ireland) Order 1989, or
 - (v) an application will be made to the court for an administration order under Part III of that Order of 1989, or]
 - ^[F4](vi) an application will be made to the court for a postal administration order under Part 4 of the Postal Services Act 2011.]

F1 Words in art. 14(3)(b)(i) substituted (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b), **Sch. 1 para. 53(3)** (with arts. 6, 11, 12)

F2 Art. 14(3)(b)(iv) and preceding word inserted (1.4.2007) by virtue of [Water and Sewerage Services \(Northern Ireland\) Order 2006 \(S.I. 2006/3336 \(N.I. 21\)\)](#), arts. 1(2), 308(1), **Sch. 12 para. 17(2)** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

F3 1989 NI 19

F4 Art. 14(3)(b)(vi) added (6.4.2017) by The Judgments Enforcement (Northern Ireland) (Amendment) Order 2017 (S.I. 2017/389), arts. 1, 2

Effect of orders made by Office

15. Any order of the Office shall have the like force and effect as an order of the High Court.

Methods of enforcement by Office

16.—(1) Subject to the provisions of this Order, the Office may enforce a judgment by all or any of the following methods—

- (a) an instalment order under Article 30;
- (b) an order of seizure under Article 31 or an authorisation given under Article 43;
- (c) an order charging land under Article 46;
- (d) an order for delivery of possession of land under Article 53;
- (e) an order for the delivery of goods under Article 57;
- (f) a charging order on funds, stock or shares under Article 58;
- (g) the disposal of funds, stock or shares by the Chief Enforcement Officer under Article 60 following an order vesting them in him under that Article;
- (h) a debenture order under Article 61;
- (i) a stop order under Article 62;
- (j) a restraining order under Article 66;
- (k) a partnership order;
- (l) an order appointing a receiver under Article 67;
- (m) an attachment of debts order under Article 69;
- (n) an order for payment by a garnishee under Article 70;
- (o) an attachment of earnings order under Article 73.

(2) The method of enforcement of a money judgment shall be in the discretion of the Office and an applicant for enforcement may not require the use of any particular method.

(3) Without prejudice to any liability for the payment of stamp duty on any document executed to give effect to any such order as is specified in paragraph (1), stamp duty shall not be payable on any such order.

Limitation on enforcement

17.—(1) An application under Article 22 or 23 shall not be accepted by the Office—

- (a) in respect of a judgment—
 - (i) which may be enforced only by leave of a court, without leave of that court;
 - (ii) enforcement of which has been stayed or postponed, so long as the stay or postponement remains in force; or
- (b) without the leave of the Office, after the expiration of six years from the date on which the judgment became enforceable; or
- (c) after the expiration of 12 years from the date on which the judgment became enforceable; or
- (d) in such other circumstances as may be prescribed by rules.

(2) An application under Article 22 shall not be proceeded with where it is withdrawn by the creditor.

(3) Subject to paragraph (1), the creditor may, notwithstanding such withdrawal, make a fresh application under Article 22 if he thinks fit so to do.

(4) A judgment against a firm shall not be enforced otherwise than against property of the firm except by leave of the court, and, upon such leave being granted, may be enforced against the person or persons named in the grant of leave as if the judgment had been given against him or them personally.

(5) A judgment against a person in a name or style other than his own shall not be enforced without leave of the court, and, upon such leave being granted, may be enforced against the person named in the grant of leave as if the judgment had been given against him personally.

(6) In paragraphs (4) and (5) “the court” ^{F5} means— .

- (a) where the judgment was given by a county court, any county court,
- (b) where the judgment was given by a court of summary jurisdiction, any court of summary jurisdiction,
- (c) in any other case, the court by which the judgment was given.]

<p>F5 Words in art. 17(6) substituted (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 84(3) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k) (with art. 3)</p>
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Notice of unenforceability

18. Where it appears to the Office that a money judgment for the enforcement of which an application has been made under the succeeding provisions of this Order cannot be enforced within a reasonable time by any enforcement order, the Office shall issue to the creditor and to the debtor a notice of unenforceability; or where it appears to the office that such a judgment can be partially enforced, the judgment shall be enforced to the extent that appears to the Office to be reasonably practicable and a notice of unenforceability shall be issued for the balance remaining due.

Certificate of unenforceability

19. Where the Office has issued a notice of unenforceability it shall give the debtor and the creditor to whom the notice has been issued an opportunity of being heard as to why a certificate of unenforceability should not be granted; and if, after giving the debtor and the creditor such an opportunity, the Office is satisfied that the money judgment in respect of which the notice of unenforceability has been issued cannot within a reasonable time be enforced, or that it is not reasonably practicable to enforce it further within such a time, the Office shall forthwith—

- (a) grant a certificate of unenforceability in respect of that judgment or in respect of so much of it as cannot reasonably be enforced; and
- (b) publish notice of the grant of that certificate in such manner as may be prescribed by rules;

but if not so satisfied shall refuse to grant a certificate.

Effect of certificate of unenforceability

20. Where a certificate of unenforceability is granted in respect of a money judgment against a debtor—

- (a) no further action shall be taken by the Office in relation to—

- (i) the application for enforcement of that judgment, or
 - (ii) any application for enforcement of any other money judgment against that debtor, where the application bears a serial number later than that of the application mentioned in head (i); and
- (b) no further application under Article 22 or 23(1) in relation to that debtor shall be accepted by the Office without the leave of the Chief Enforcement Officer;
- unless the certificate is set aside under Article 13(g)(iii).

Setting aside of certificate of unenforceability

21.—(1) A certificate of unenforceability may be set aside only on an application of a creditor who is entitled to enforce a judgment on an application mentioned in Article 20(*a*) or (*b*) showing that the debtor has or is about to have assets or income in relation to which, having regard to the priority attaching by virtue of Article 24 to any other application for enforcement, an enforcement order can, or might be able to, be made for the enforcement of the judgment which is the subject of that creditor's application.

(2) An application under paragraph (1) must be made within 12 years from the date on which the certificate of unenforceability was granted and may be made during the last six years of that period only by leave of the Office.

Changes to legislation:

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