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2015 CHAPTER 9

PART 3

PROSECUTORIAL FINES

PROSPECTIVE

Non-payment of prosecutorial fine

Failure to pay prosecutorial fine

22.—(1) This section applies if—

(a) a prosecutorial fine notice is issued to a person under section 18; and

(b) by the end of the period allowed for payment, the fine has not been paid in accordance with this Part.

(2) The enhanced sum may be registered under section 24 for enforcement against that person as a fine.

(3) The fines clerk must notify the Director of Public Prosecutions for Northern Ireland that the prosecutorial fine has not been paid.

(4) Except in a case falling within subsection (5) or (7), the enhanced sum is a sum equal to one and a half times the amount of the prosecutorial fine.

(5) Where—

(a) the offence to which the prosecutorial fine notice issued under section 18(2) relates is an offence under Article 3(1) of the Criminal Damage (Northern Ireland) Order 1977; and

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(b) in calculating the prosecutorial fine an amount has been included under section 19(2)(c),

the enhanced sum is the amount specified in subsection (6).

(6) That amount is the aggregate of—

(a) one and a half times the amount determined by the Public Prosecutor under section 19(2)(a);

(b) one and a half times the amount mentioned in section 19(2)(b); and

(c) the amount determined by the Public Prosecutor under section 19(2)(c).

(7) Where—

(a) the offences to which a prosecutorial fine notice issued under section 18(3) relates includes one or more offences under Article 3(1) of the Criminal Damage (Northern Ireland) Order 1977; and

(b) in calculating the prosecutorial fine an amount has been included under section 19(4)(c),

the enhanced sum is the amount specified in subsection (8).

(8) That amount is the aggregate of—

(a) one and a half times the amount determined by the Public Prosecutor under section 19(4)(a);

(b) one and a half times the amount mentioned in section 19(4)(b); and

(c) the amount determined by the Public Prosecutor under section 19(4)(c).

Registration certificates

23.—(1) This section and section 24 apply where by virtue of section 22 an enhanced sum may be registered under section 24 for enforcement against any person as a fine.

(2) In this section and section 24—

(a) that sum is referred to as a "sum payable in default", and

(b) the person against whom that sum may be so registered is referred to as the "defaulter".

(3) The Director of Public Prosecutions for Northern Ireland—

(a) may in respect of any sum payable in default issue a certificate (a "registration certificate") stating that the sum is registrable under section 24 for enforcement against the defaulter as a fine; and

(b) must cause any certificate so issued to be sent to the fines clerk.

(4) A registration certificate must—

(a) give particulars of the offence or offences to which the prosecutorial fine notice relates; and

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(b) state the name and last known address of the defaulter and the amount of the sum payable in default.

Registration of sum payable in default

24.—(1) Where the fines clerk receives a registration certificate in respect of any sum payable in default, the clerk must register that sum for enforcement as a fine by entering it in the Order Book of a court of summary jurisdiction.

(2) On registering any sum under this section for enforcement as a fine, the fines clerk must give to the defaulter notice of registration—

(a) specifying the amount of that sum and requiring payment of it by such date, not less than **[**[F1]28 days**]** from the date of registration, as may be specified in the notice; and

(b) giving the information with respect to the offence included in the registration certificate by virtue of section 23(4)(a).

(3) On the registration of any sum in the Order Book of a court of summary jurisdiction by virtue of this section, any statutory provision referring (in whatever terms) to a fine imposed or a sum adjudged to be paid by a conviction of such a court shall, subject to regulations made under subsection (4), have effect in the case in question as if the sum so registered were a fine imposed by that court on the conviction of the defaulter on the date of the registration.

[[F2](3A) The fines clerk must refer the case to a district judge (magistrates' courts) for the judge to consider whether to make a collection order; and the order may be made without a court hearing.

(3B) Where a collection order is made in that case, the date specified in the order as the date by which the sum due must be paid must, unless the court directs otherwise, be the same as the date specified in the notice of registration under subsection (2)(a).**]**

(4) The Department may make such regulations with respect to the enforcement of payment of sums registered under this section as it considers appropriate.

(5) Regulations under subsection (4) may in particular—

(a) modify the provisions of the Magistrates' Courts (Northern Ireland) Order 1981 relating to the satisfaction and enforcement of sums adjudged to be paid by a conviction, as they have effect by virtue of subsection (3) in relation to sums registered under this section; and

(b) make such incidental, supplemental or consequential provision (including provision to modify a statutory provision) as appears to the Department to be expedient.

(6) In subsection (5) “modify” includes the making of additions, omissions, exceptions and amendments.

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Textual Amendments

F1 Words in s. 24(2)(a) substituted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), **Sch. 2 para. 8(1)**; S.R. 2018/99, art. 2(c) (but this amendment cannot take effect until the commencement of 2015 c. 9 (NI), s. 24)

F2 S. 24(3A)(3B) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), **Sch. 2 para. 8(2)**; S.R. 2018/99, art. 2(c) (but this amendment cannot take effect until the commencement of 2015 c. 9 (NI), s. 24)

Challenge to notice of registration

25.—(1) This section applies where—

(a) a person who has received notice of the registration of a sum under section 24 for enforcement against that person as a fine makes a statutory declaration to the effect mentioned in subsection (2), and

(b) that declaration is, within 21 days of the date on which the person making it received notice of the registration, served on the fines clerk.

(2) The statutory declaration must state that the person making the declaration was not the person to whom the relevant prosecutorial fine notice was issued.

(3) In any case within subsection (2) the relevant prosecutorial fine notice, the registration and any proceedings taken before the declaration was served for enforcing payment of the sum registered shall be void.

(4) References in this section to the relevant prosecutorial fine notice are to the prosecutorial fine notice relating to the prosecutorial fine concerned.

(5) Subsection (6) applies where, on the application of a person who has received notice of the registration of a sum under section 24 for enforcement against that person as a fine, it appears to a court of summary jurisdiction that it was not reasonable to expect that person to serve, within 21 days of the date on which that person received the notice, a statutory declaration to the effect mentioned in subsection (2).

(6) The court may accept service of such a declaration by that person after that period has expired; and a statutory declaration so accepted shall be taken to have been served as required by subsection (1).

(7) In this section references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum **[**[F3](including the making of a collection order)**]** .

(8) For the purposes of this section, a person shall be taken to receive notice of the registration of a sum under section 24 for enforcement against that person

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as a fine when that person receives notice either of the registration as such or of any proceedings for enforcing payment of the sum registered.

(9) Nothing in this section is to be read as prejudicing any rights a person may otherwise have by virtue of the invalidity of any action purportedly taken under this Part which is not in fact authorised by this Part in the circumstances of the case.

(10) Accordingly, references in this section to the registration of any sum or to any other action taken under this Part are not to be read as implying that the registration or action was validly made or taken in accordance with that provision.

Textual Amendments

F3 Words in s. 25(7) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), **Sch. 2 para. 8(3)**; S.R. 2018/99, art. 2(c) (but this amendment cannot take effect until the commencement of 2015 c. 9 (NI), s. 25)

Setting aside of sum enforceable under section 24

26.—(1) A court of summary jurisdiction may, in the interests of justice, set aside a sum enforceable as a fine as a result of section 24.

(2) Where a court sets aside such a sum—

(a) the notice under section 17(1) or (2), the prosecutorial fine notice concerned, the registration and any proceedings taken for enforcing payment of the fine shall be void; but

(b) no further action is to be taken in respect of the alleged offence or offences that gave rise to the notice under section 17(1) or (2) and the prosecutorial fine notice concerned.

(3) In this section references to proceedings for enforcing payment of the sum registered are references to any process issued or other proceedings taken for or in connection with enforcing payment of that sum **[**[F4](including the making of a collection order)**]** .

Textual Amendments

F4 Words in s. 26(3) inserted (1.6.2018) by Justice Act (Northern Ireland) 2016 (c. 21), s. 61(2), **Sch. 2 para. 8(4)**; S.R. 2018/99, art. 2(c) (but this amendment cannot take effect until the commencement of s. 26)

Status:
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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(2)(2A) substituted for s. 13(2) by 2022 c. 4 (N.I.) s. 4(5)
- s. 13(4)(5) added by 2022 c. 4 (N.I.) s. 4(6)
- s. 13A inserted by 2022 c. 4 (N.I.) s. 4(7)
- s. 13A inserted by 2022 c. 4 (N.I.) s. 4(7)
- Sch. 2 para. 8(1) Sch. 2 para. 8 renumbered as Sch. 2 para. 8(1) by 2022 c. 4 (N.I.) s. 4(9)(f)(i)
- Sch. 2 para. 8(2) inserted by 2022 c. 4 (N.I.) s. 4(9)(f)(iii)
- Sch. 2 para. 8(1) words substituted by 2022 c. 4 (N.I.) s. 4(9)(f)(ii)