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STATUTORY INSTRUMENTS

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**1981 No. 1675**

**The Magistrates' Courts (Northern Ireland) Order 1981**

**PART IX**

**SATISFACTION AND ENFORCEMENT OF ORDERS**

*Orders for the payment of sums made in proceedings upon complaint otherwise than on conviction*

**Enforcement of orders for periodical payment of money**

**98.**—(1) Where an order to which this Article applies is made by a court of summary jurisdiction directing the periodical payment of money and default is made in such payment or part of it or in payment of any costs awarded on the making of such order, a resident magistrate or other justice of the peace may upon complaint made to him at any time after the expiration of fourteen days from the date of such default and before the expiration of three years from that date—

- (a) issue a summons for the appearance of the person by whom such payments are to be made before a court of summary jurisdiction <sup>F1</sup>...; or
- (b) by warrant cause such person to be brought before a resident magistrate <sup>F2</sup>....

<sup>F3</sup>(1A) The power in paragraph (1) is exercisable at any time after the expiration of 14 days, and before the expiration of 3 years, from the date of default, or the expiration of any longer limitation period under the law of the State of origin in relation to a maintenance order which falls to be enforced by a court of summary jurisdiction [<sup>F4</sup>by virtue of

<sup>F5</sup>(a) .....]

<sup>F6</sup>(b) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007; or

(c) Part 1 of the Civil Jurisdiction and Judgments Act 1982.]

(2) A warrant shall not be issued under paragraph (1) unless the complaint is in writing and substantiated on oath.

(3) Where a person has been taken into custody in pursuance of a warrant issued under paragraph (1) for the purpose of causing him to be brought before a resident magistrate he shall, if it will not be practicable to bring him before a resident magistrate within twenty-four hours after he was so taken into custody, be brought, as soon as practicable, before a justice of the peace who may, if he thinks fit, discharge such person upon his entering into a recognizance for a reasonable amount to appear before a resident magistrate at the time and place named in the recognizance; but where such person is not so discharged the justice of the peace shall commit him to prison and direct that he shall be brought before a resident magistrate as soon as practicable thereafter and in any case not later than eight days from the date of such commitment.

(4) Without prejudice to paragraph (5), upon the appearance of a person summoned before a court of summary jurisdiction or on proof that the summons was duly served on him, the court, or where

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a person is brought before a resident magistrate pursuant to a warrant issued under paragraph (1), the resident magistrate—

- (a) may by order direct that any sum appearing to be due by reason of such default, together with the costs attending the issue and service of the summons, or the warrant, apprehension and bringing up of such person, as the case may be, and the making of the order and all reasonable charges of the distress shall be recovered by distress; and, in addition;
- (b) may order that such person be detained and kept in custody, or, if he is not present that he be arrested and kept in custody until the day appointed for the return of the warrant of distress (not being later than a period of eight days commencing with the day after than on which the warrant is issued) unless he enters into a recognizance to the satisfaction of the court or magistrate for his appearance before the court or magistrate on that day.

(5) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4), the court or residence magistrate may—

- (a) instead of making an order under sub-paragraph (a) of that paragraph make an order committing the person to prison until the sum and costs in question are paid; or
- (b) as well as making an order under that sub-paragraph make an order committing him to prison in default of sufficient distress until so much of the sum and costs as is not defrayed by the distress, and all reasonable charges of the distress, are paid;

and may issue a warrant to enforce the order of commitment.

(6) For the purpose of this Article—

- (a) where it appears on the return to a warrant of distress that the money and goods of the person are insufficient to satisfy the sum and costs in question together with the costs of levying the sum, the court or resident magistrate may issue a warrant of commitment;
- (b) where the court or resident magistrate has issued a warrant of commitment in the first instance in default of payment of the sum and costs in question and it is found impossible to execute the warrant, a warrant of distress may be issued.

(7) The court or a resident magistrate<sup>[F7]</sup> shall not] make an order of commitment under paragraph (5), or issue a warrant of commitment under paragraph (6)(a), unless it or he is satisfied that the default<sup>[F7]</sup> is due] to the wilful refusal or culpable neglect of the person who is liable to pay the sum and costs in question and the charges of distress, if any<sup>[F7]</sup> and without prejudice to the preceding provisions of this paragraph, the court shall not make such an order or issue such a warrant—

- (a) in a case where the court has power to do so, if it is of the opinion that it is appropriate—
  - (i) to make an attachment of earnings order; or
  - (ii) to order that payments under the order be made by any method of payment falling within Article 85(7); or
- (b) where the sum in question comprises only interest which that person has been ordered to pay under Article 86A(1).]

(8) The term for which a person is committed to prison on any occasion by an order under paragraph (5), or a warrant issued under paragraph (6)(a), in default of payment of a sum (including any costs and charges) shall not exceed the period mentioned in Schedule 3 in relation to that sum and, in any event, shall not exceed six weeks.

<sup>[F7]</sup>(8A) The commitment to prison of a person under paragraph (5) or (6)(a) shall not operate to discharge him from liability to pay the sum in respect of which the order or commitment was made or the warrant of commitment was issued; but where a person has been imprisoned under an order of commitment made in respect of his failure to pay any sum, then, notwithstanding anything in this Order, no such order shall be made in respect of that sum or any part of it.]

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[<sup>F7</sup>(8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under sub-paragraphs (a) to (d) of Article 85(3).

(8C) Paragraphs (5), (6) and (8) of Article 85 shall apply for the purposes of paragraph (8) as they apply for the purposes of that Article.

(8D) Paragraphs (8B) and (8C) shall not have effect in relation to an order which is not a qualifying maintenance order (within the meaning of Article 85).]

(9) Where a person is committed to prison under this Article for failure to pay a sum due under an order to which this Article applies, then, unless the court or resident magistrate who commits him otherwise directs, no arrears shall accrue under the order while he is in custody.

(10) Where on an application to enforce the payment of any sum due under an order for periodical payment to which this Article applies, no order of commitment is made, the application may be renewed at any time on the ground that the circumstances of the person from whom the payment is due have changed.

(11) This Article shall apply to the following orders for the periodical payment of money—

(a) maintenance orders made outside the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under the Maintenance Orders (Facilities for Enforcement) Act 1920 or confirmed by such a court under that Act;

(b) maintenance orders made outside the United Kingdom and registered in a court of summary jurisdiction in [<sup>F8</sup>Northern Ireland under

(i)] Part I of the Maintenance Orders (Reciprocal Enforcement) [<sup>F9</sup>Act 1972,

(ii)] [<sup>F10</sup>Part I of the Civil Jurisdiction and Judgments][<sup>F11</sup>Act 1982,

(iii)] [<sup>F12</sup>Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters [<sup>F13</sup>, as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters];][<sup>F14</sup>or

(iv) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007;]

<sup>F15</sup>(bb) .....

(c) affiliation orders under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 whether as originally enacted or as applied or extended by or for the purposes of any other enactment;

(d) maintenance orders made in another part of the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under Part II of the Maintenance Orders Act 1950[<sup>F10</sup> or under section 36 of the Civil Jurisdiction and Judgments Act 1982];

(e) orders registered in a court of summary jurisdiction under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966<sup>F16</sup>;

(f) contribution orders under Part X of the Children and Young Persons Act (Northern Ireland) 1968;

[<sup>F17</sup>(ff) orders registered in a court of summary jurisdiction under Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972;]

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- (g) orders under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (h) orders under Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977<sup>[F18]</sup> or section 101 of the Social Security Administration (Northern Ireland) Act 1992];
- (i) orders for the periodical payment of money under the Domestic Proceedings (Northern Ireland) Order 1980<sup>[F19]</sup> or Schedule 16 to the Civil Partnership Act 2004].

<sup>[F17]</sup>(j) contribution orders under Article 41(2) of the Children (Northern Ireland) Order 1995,]

<sup>[F20]</sup>(k) section 113 of the Immigration and Asylum Act 1999.]

<sup>[F7]</sup>so, however, that in the case of orders mentioned in sub-paragraph<sup>[F17]</sup> (a), (b), (d) or (ff)], this Article shall apply subject to any modifications specified in the statutory provision mentioned in that sub-paragraph.]

(12) The provisions of this Article shall have effect in lieu of any other provision for the enforcement before a court of summary jurisdiction of orders to which this Article applies.

<sup>[F21]</sup>(13) Paragraph (12) is subject to—

<sup>[F22]</sup>(a) .....

(b) Council Regulation (EC) No 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.]

<sup>[F23]</sup>(c) the Convention on the International Recovery of Child Support and other forms of Family Maintenance done at The Hague on 23rd November 2007; and

(d) Part 1 of the Civil Jurisdiction and Judgments Act 1982.]

**F1** Words in art. 98(1)(a) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(21)(a), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F2** Words in art. 98(1)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(21)(b), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F3** Art. 98(1A) inserted (18.6.2011) by Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 9, **Sch. 7 para. 20(8)**

**F4** Words in art. 98(1A) substituted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(a)(i)**

**F5** Art. 98(1A)(a) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 10(5)(a)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)

**F6** Words in art. 98(1A) substituted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(a)(ii)**

**F7** 1993 NI 6

**F8** Words in art. 98(11)(b) substituted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(b)(i)**

**F9** Words in art. 98(11)(b) substituted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(b)(ii)**

**F10** 1982 c. 27

**F11** Words in art. 98(11)(b) substituted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(b)(iii)**

**F12** SI 2001/3929

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- F13** Words in art. 98(11)(b) inserted (1.7.2007) by Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/1655), reg. 5, **Sch. para. 25**
- F14** Art. 98(11)(b)(iv) and preceding word inserted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(b)(iv)**
- F15** Art. 98(11)(bb) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 10(5)(b)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F16** 1966 c. 35 (NI)
- F17** 1995 NI 2
- F18** 1992 c. 9
- F19** 2004 c. 33
- F20** 1999 c. 33
- F21** Art. 98(13) inserted (18.6.2011) by Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 9, **Sch. 7 para. 20(10)**
- F22** Art. 98(13)(a) omitted (31.12.2020) by virtue of The Jurisdiction and Judgments (Family) (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/519), reg. 1(1), **Sch. para. 10(5)(c)** (with reg. 8) (as amended by S.I. 2020/1574, regs. 1, 5(2)); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Art. 98(13)(c)(d) inserted (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 4 para. 2(5)(c)(ii)**

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**Modifications etc. (not altering text)**

- C1** Art. 98 applied (with modifications) (18.6.2011) by Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), reg. 3, **Sch. 1 para. 4(7)**, **Sch. 1 para. 6(8)**
- C2** Art. 98 applied (with modifications) (1.8.2014) by The International Recovery of Maintenance (Hague Convention 2007 etc.) Regulations (Northern Ireland) 2012 (S.R. 2012/413), reg. 1(1), **Sch. 1 para. 2(8)**

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#### **Changes and effects yet to be applied to :**

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

#### **Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

**Whole provisions yet to be inserted into this Order (including any effects on those provisions):**

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)