
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART IX

SATISFACTION AND ENFORCEMENT OF ORDERS

Other matters in relation to enforcement of orders

Application of sums found upon defaulter

110.—(1) Where a person has been adjudged to pay a sum by a conviction of a magistrates' court or in proceedings under Article 98, the court may order him to be searched.

(2) Subject to paragraph (3), any money found on such person on apprehension, or on such search as aforesaid, or on his being taken to prison or other place of detention in default of payment of the sum, may, unless the court otherwise directs, be applied towards payment of the sum and the balance, if any, shall be returned to him.

(3) The money found on such person shall not be so applied if the court is satisfied that the money does not belong to him or that such application of the money would be more injurious to his family than his detention.

Release from custody and reduction of period of imprisonment on payment

111.—(1) Where imprisonment has been imposed on any person by the conviction or order of a magistrates' court in default of payment of any sum or for want of sufficient distress to satisfy such sum, then, on the payment of the sum to a person authorised to receive it, together with the costs and charges, if any, of the commitment and distress, the order shall cease to have effect; and if the person has been committed to custody he shall be released unless he is in custody for some other cause.

(2) Where, after a period of imprisonment has been imposed on any person in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, payment of part of the sum is made to a person authorised to receive it, the period of imprisonment shall, subject to paragraph (3), be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears to so much of the said sum, and the costs of any distress levied to satisfy that sum, as was due at the time the period of imprisonment was imposed.

(3) In calculating the reduction required under paragraph (2) any fraction of a day shall be left out of account.

Enforcement of orders other than for the payment of money

112.—(1) Where power is conferred under any enactment upon a magistrates' court to require any person to do or to abstain from doing anything other than the payment of money and no mode is provided for the exercise of such power, the court may, subject to the provisions of this Order, exercise such power by order.

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(2) The court may annex to any order requiring any person to do or abstain from doing anything other than the payment of money any condition as to time or mode of action and may by order on complaint suspend or rescind such order on any undertaking being given or upon the condition being performed.

(3) Where a person fails to comply with an order such as is mentioned in paragraph (2) by either failing to do, within the time specified in the order or (if no time is so specified) forthwith, the thing he is required to do or, as the case may be, doing the thing he is required to abstain from doing and the enactment under which the order was made prescribes no punishment for such failure, a resident magistrate or other justice of the peace may upon complaint made to him at any time—

- (a) issue a summons for the appearance of the person by whom that thing is required to be done or not done before a court of summary jurisdiction ^{F1} ...; or
- (b) by warrant cause such person to be brought before a resident magistrate ^{F2}

(4) A warrant shall not be issued under paragraph (3) unless the complaint is in writing and substantiated on oath.

(5) Where a person has been taken into custody in pursuance of a warrant issued under paragraph (3) 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.

(6) Upon the appearance of a person summoned before a court of summary jurisdiction under paragraph (3) or on proof that the summons was duly served on him the court or, where a person is brought before a resident magistrate pursuant to a warrant issued under that paragraph, the resident magistrate—

- (a) may order that person to pay a sum not exceeding £50 for every day during which he fails to comply with the order or a sum not exceeding^{F3} £5000; or
- (b) may commit him to prison for a fixed period not exceeding two months or until he either complies with the order or satisfies a court of summary jurisdiction that he intends to comply with it (and the court may issue a warrant to enforce the order of commitment);

but a person who is ordered to pay a sum for every day during which he fails to comply with the order or who is committed to prison until he complies or satisfactorily indicates his intention to comply with the order shall not by virtue of this Article be ordered to pay more than £1,000 or be committed for more than two months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of this Article in relation to any subsequent failure to comply with the order).

^{F4}(7)

(8) Payment of any sum ordered to be paid under paragraph (7) shall be enforceable in the same manner as payment of a sum adjudged to be paid by a conviction.

F1	Words in art. 112(3)(a) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(23)(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. 112(3)(b) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(23)(b), Sch. 9 Pt. 1 (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
F3	1994 NI 15

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F4 Art. 112(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(23)(c), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Review of commitment under Article 112

113.—(1) A person imprisoned under a warrant of commitment issued under Article 112 who is not detained otherwise than under that Article may make an application in the prescribed manner requesting that the warrant be cancelled and stating the grounds of the application.

(2) An application under paragraph (1) shall be made to a resident magistrate who shall, after considering the statements contained in the application,—

- (a) if he is of opinion that the application should be further considered, refer it to the court; or
- (b) if he is not of that opinion, refuse the application.

(3) When an application is referred to the court under paragraph (2), the clerk of the court shall serve on the person in charge of the place in which the applicant is detained and the person in whose favour the order which is being enforced under Article 112 was made notice of the time and place appointed for the consideration of the application by the court and shall also serve on the second-mentioned person a copy of the application.

(4) On considering an application referred to it under paragraph (2)(a) the court may—

- (a) refuse the application; or
- (b) if the applicant satisfies the court that he has complied with the order in question or intends to comply with it, order that the warrant shall cease to have effect when the person in charge of the place in which the applicant is detained is served by the clerk of the court with a copy of the order.

(5) Where the court makes an order under paragraph (4)(b) it may—

- (a) fix a term of imprisonment in respect of any continued or future failure to comply with the order in relation to which the warrant was issued, being a term not exceeding so much of the term of the previous warrant as remained to be served at the date of the order; and
- (b) postpone the issue of the warrant for the commitment of the applicant for that term until such time and on such conditions, if any, as the court thinks just.

(6) Where under paragraph (3) notice of the time and place appointed for the consideration of the application by the court is served by post on the person in whose favour the order which is being enforced under Article 112 was made—

- (a) the notice shall be deemed to have been served on him notwithstanding that it is returned as undelivered or is for any other reason not received by that person; and
- (b) if that person does not appear at that time and place, the court may proceed with the consideration of the application in his absence.

(7) In this Article “the court” means a court of summary jurisdiction ^{F5}

(8) This Article does not prejudice section 44 of the Judicature (Northern Ireland) Act 1978 (appeal to Court of Appeal from order or decision of a magistrates' court under Article 112).

F5 Words in art. 113(7) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(24), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

Issue, postponement and stay of execution of warrants

114.—(1) Subject to this Order or any other enactment, where a magistrates' court makes an order upon conviction which is to have immediate effect it shall issue the proper warrant for executing the

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order forthwith or, if for any reason and subject to any enactment, the order is not to have immediate effect the court may postpone the issue or stay the execution of the warrant.

(2) A magistrates' court may postpone the issue of any other warrant or stay the execution of it until such time and on such conditions as it thinks just^{F6}; but a lay magistrate sitting out of petty sessions may postpone the issue of a warrant, or stay the execution of it, only if it was issued by him or another lay magistrate.]

F6 2002 c. 26

Modifications etc. (not altering text)

- C1** Art. 114(2) applied (31.10.2007) by [Sea Fishing \(Restriction on Days at Sea\) Order \(Northern Ireland\) 2007 \(S.R. 2007/407\)](#), **art. 17(2)**
- C2** Art. 114(2) applied (31.12.2008) by [Sea Fishing \(Marking and Identification of Passive Fishing Gear and Beam Trawls\) Order \(Northern Ireland\) 2008 \(S.R. 2008/484\)](#), **art. 5(3)**

Duties of Constabulary and others with respect to warrants

115.—(1) The provisions of any enactments regulating the duties of the Royal Ulster Constabulary with respect to warrants and the execution of warrants shall apply in relation to warrants issued under this Order to members of the Royal Ulster Constabulary.

(2) Without prejudice to paragraph (1), where for any reason the person to whom a warrant is addressed is unable to execute it within the time fixed by the warrant (or if no time has been so fixed, within a reasonable time), he shall return the warrant to the resident magistrate or other justice of the peace who issued it or who made the conviction or order upon which it was issued together with a certificate in the prescribed form of the reasons why the warrant has not been executed.

(3) The resident magistrate or other justice of the peace by whom a warrant has been issued or who made the conviction or order upon which it was issued may examine on oath the person to whom a warrant has been addressed concerning the reasons why it has not been executed and may re-issue the warrant or may issue any other warrant for the same purpose.

(4) Without prejudice to Articles 156 and 158, where the resident magistrate or other justice of the peace who issued the warrant or made the conviction or order upon which it was issued is unable to exercise his functions under paragraph (3) by reason of his having died, ceased to hold office or become disqualified for holding office, or is for any other reason unable to perform the functions of his office, his functions under that paragraph shall be exercisable by any resident magistrate.

Issue, postponement or stay of execution of decrees in debt and ejectment proceedings

116. Unless the court for any special reason otherwise orders, a decree in debt or ejectment proceedings shall not issue until after the expiration of fourteen days from the order under which it was issued, but the court may, subject to any terms it may see fit to impose, postpone the issue of a decree for such further period or periods as it thinks fit so, however, that (except as provided by Article 117) the court shall not postpone for more than four weeks the issue of a decree in ejectment proceedings for possession of premises which are required for the purposes of the execution of the statutory powers and duties of a local or other public authority.

Postponement of issue of warrants or decrees until appeal determined

117.—(1) Subject to paragraph (2) where a person has given notice of appeal to the county court or has applied for a case to be stated for the opinion of the Court of Appeal and where he is required to enter into a recognizance under Article 149 he has entered into that recognizance, a decree or warrant for the purpose of enforcing the order shall not be issued until—

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- (a) the order has been affirmed, amended or varied on appeal; or
 - (b) it appears to the court that the appellant has failed to perform the conditions of a recognizance entered into under Article 149; or
 - (c) the appellant has abandoned the appeal in accordance with Article 150.
- (2) Nothing in this Article shall apply to a person sentenced to imprisonment or other form of detention in custody or prejudice the operation of any enactment which expressly authorises or directs the levy of any sum notwithstanding the appeal or of Article 148 respecting persons in custody.

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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](#)