
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART X

OFFENCES, PROSECUTIONS AND CIVIL LIABILITY

Offences in relation to attachment of earnings orders

122.—(1) Subject to paragraphs (4) and (5), a person commits an offence if—

- (a) being required by Article 74(1), 76(3), 100(1) or 102(2) to comply with an attachment of earnings order, he fails to do so; or
- (b) being required by Article 74(2) or 100(2) to give a notice for the purposes of that paragraph, he fails to give it, or fails to give it within the period required by that paragraph; or
- (c) he fails to comply with a direction under Article 77(1) or (2) or 103(1) or (2); or
- (d) he fails to comply with Article 78 or 104; or
- (e) he gives a notice for the purposes of Article 74(2) or 100(2), or a notification for the purposes of Article 78 or 104, which he knows to be false in a material particular, or recklessly gives such a notice or notification which is false in a material particular; or
- (f) in purported compliance with Article 74(2) or (4)(*b*) or 100(2) or (5)(*b*), or with a direction under Article 77(1) or (2) or 103(1) or (2), he makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular.

(2) Where a person commits an offence under paragraph (1)—

- (a) he shall in any case on summary conviction be liable to a fine not exceeding^[F1] level 3 on the standard scale; or
- (b) if the offence is committed in relation to proceedings in, or to an attachment of earnings order made by, the High Court or a county court, he may be ordered by a judge of the High Court or, as the case may be, a county court judge to pay a fine not exceeding^[F2] £2,000, or, where the offence is committed under paragraph (1)(*c*) or (*d*) by the debtor, or under paragraph (1)(*e*) or (*f*) by the debtor or any other person, to be imprisoned for not more than 14 days.

(3) Where a person who has been convicted under paragraph (2), or on whom a fine or a sentence of imprisonment has been imposed under that paragraph otherwise than following such a conviction, commits a second or subsequent offence under the same provision of paragraph (1) in relation to the same provision of this Order (and in the case of an offence under paragraph (1)(*a*) in relation to the same attachment of earnings order) paragraph (2)(*a*) and (*b*) shall have effect as if the reference therein (in each case) to £100 were to^[F2] £2,000.

(4) It shall be a defence—

- (a) for a person charged with an offence under paragraph (1)(*a*) to prove that he took all reasonable steps to comply with the attachment of earnings order in question;

(b) for a person charged with an offence under paragraph (1)(b) to prove that he did not know, and could not reasonably be expected to know,—

(i) that the debtor was not in his employment, or (as the case may be)

(ii) that the debtor had ceased to be in his employment,

and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.

(5) It shall also be a defence for a person charged with an offence under paragraph (1)(b) of failing to give notice that the debtor had ceased to be in his employment to prove that he had had reasonable cause to believe that the Office, or, as the case may be, the court, had knowledge of the cesser.

(6) Where a person is convicted of or dealt with for an offence under paragraph (1)(a) the court or judge may order him to pay to the Office or, as the case requires, the creditor any sums deducted by that person from the debtor's earnings and not already so paid.

(7) Where under this Article a person is ordered by a judge of the High Court or a county court judge to be imprisoned, the judge may at any time revoke the order and, if the person is already in custody, order his discharge.

(8) Any fine imposed under paragraph (2)(b) and any sums ordered by a judge of the High Court or a county court judge to be paid under paragraph (6) shall be recoverable in the same way as a fine imposed by the High Court or a county court in exercise of its jurisdiction to punish for contempt of court; and any sum ordered by a court of summary jurisdiction to be paid under paragraph (6) shall be recoverable as a sum adjudged to be paid on a conviction by that court.

(9) For the purposes of any statutory provision conferring a right of appeal from an order made in the exercise of jurisdiction to punish for contempt of court, an order made by a county court judge under paragraph (2)(b) shall be deemed to be an order made by a county court in the exercise of such a jurisdiction.

(10) In this Article references to proceedings in a court are to proceedings in which that court has power to make an attachment of earnings order or has made such an order, and references to a debtor or creditor include references to, respectively, the person liable to make payments under a maintenance order (within the meaning of Article 97) or the person entitled to those payments.

F1 [1984 NI 3](#)

F2 SR 1984/253

Changes to legislation:

There are currently no known outstanding effects for the Judgments Enforcement (Northern Ireland) Order 1981, Section 122.