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STATUTORY INSTRUMENTS

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**1981 No. 226**

**Judgments Enforcement (Northern Ireland) Order 1981**

**PART IV N.I.**

**COMMENCEMENT OF ENFORCEMENT**

Applications

**Application for enforcement N.I.**

**22.** Subject to Article 17(1), any person entitled to enforce a judgment may on payment of the appropriate fee apply to the Office for enforcement of that judgment.

**Preliminary application for custody warrant and report N.I.**

**23.—(1)** Where the outstanding balance of all moneys due and payable under the judgment exceeds<sup>F1</sup> £3,000] or such other amount as may be fixed by rules, the creditor may, in the first instance, upon payment of the appropriate fee apply to the Office for—

- (a) the issue of a custody warrant; and
- (b) a report as to the means of the debtor following—
  - (i) a requirement for information under Article 26, or
  - (ii) an examination under Article 27 or 28.

(2) If the creditor to whom the report referred to in paragraph (1)( b) is delivered fails to apply for enforcement of the judgment in accordance with the provisions of Article 22 within 10 days or such longer period as the Office may allow after such delivery, the Office shall forthwith discharge the custody warrant, and thereupon the application under paragraph (1) shall cease to have effect.

**F1** SR 1993/334

**Priority of applications N.I.**

**24.—(1)** When the Office accepts an application under Article 22 or Article 23(1), it shall assign to that application a serial number.

(2) Where a creditor who has made an application under Article 23(1) makes, in accordance with Article 23(2), an application under Article 22 for the enforcement of the same judgment, the last-mentioned application shall be assigned the same serial number as the application under Article 23(1).

(3) Where applications are made in respect of more than one money judgment against the same debtor, the enforcement of such judgments shall, subject to paragraph (4), be effected so that a pending application bearing an earlier serial number is dealt with in priority to any such application bearing a later serial number.

(4) Nothing in paragraph (3) shall—

- (a) prejudice Articles 80 to 87 (administration orders); or
- (b) prevent an enforcement order being made on a pending application bearing a later serial number, if by virtue of Article 138(1)( a) the priority of a pending application bearing an earlier serial number is postponed to that of the pending application bearing the later serial number.

#### Custody of goods

#### **Taking custody of goods under a money judgment** **N.I.**

**25.**—(1) A custody warrant shall be issued by the Office forthwith after an application has been duly made—

- (a) under Article 22 for the enforcement of a money judgment, where no custody warrant is in force under Article 23 in respect of the same judgment against the same debtor;
- (b) under Article 23(1);

and the Office shall cause the warrant to be served on the debtor.

(2) On the service of a custody warrant, all goods (save as may be specified in the warrant or exempted by rules)—

- (a) upon all premises occupied by the debtor;
- (b) in any other place, being goods under the sole control of the debtor or under the joint control of the debtor and his spouse<sup>[F2]</sup> or civil partner] or any of his dependants;

shall, as from the service of the warrant, be deemed to be in the custody and possession of the Office.

(3) Without prejudice to paragraph (2), when an enforcement officer serves a custody warrant on a debtor he may—

- (a) serve also a list of specific goods which are liable to be seized under an order of seizure; and
- (b) label or otherwise identify those goods as a safeguard against their disposal.

(4) Upon payment by or on behalf of the debtor of the amount recoverable on foot of the judgment or in discharge of the custody warrant, the custody and possession of the goods of the debtor by the Office pursuant to the warrant shall terminate.

<b>F2</b> 2004 c. 33
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#### Examination of debtor and witnesses

#### **Examination of debtor following service of custody warrant** **N.I.**

**26.** The debtor shall after service of a custody warrant give to the enforcement officer such information as to the means of the debtor as that officer may require.

#### **Examination of debtor as to his means** **N.I.**

**27.**—(1) A debtor other than a company may be summoned by the Office—

- (a) to attend in person, at a time and place specified in the summons, for examination by the Office as to his means; and
- (b) to produce all books, documents and things in his possession or under his control relating to his means.

(2) Where—

- (a) without reasonable excuse—
    - (i) a debtor does not attend in pursuance of a summons under paragraph (1), or
    - (ii) a debtor does not answer, or answer satisfactorily, any question as to his means put to him by an enforcement officer under Article 26 and his default is certified by the enforcement officer; or
  - (b) the Office has reason to suspect—
    - (i) that a debtor is evading service of such a summons, or
    - (ii) that he will attempt to evade such service, if a summons is issued, or that he will not attend in pursuance of such a summons, if served;
- the Office may make an order—
- (A) for the attendance of the debtor in person, at a time and place specified in the order, for examination by the Office as to his means and for the production by him of all books, documents and things in his possession or under his control relating to his means; and
  - (B) for the issue by the Office of a warrant for his arrest in the event of his failing to attend in pursuance of the order.

#### **Examination of third parties as to means, etc., of debtor** **N.I.**

**28.**—(1) Where a debtor is a company, any person who is a director, officer or servant of the company may be summoned by the Office—

- (a) to attend in person, at a time and place specified in the summons, for examination by the Office as to the assets or liabilities of the company; and
- (b) to produce all books, documents and things in his possession or under his control relating to those assets and liabilities.

(2) Where—

- (a) it appears to the Office that any person is or may be able to give information as to the means of a debtor other than a company or, as the case may be, the assets or liabilities of a debtor company or firm; and
- (b) that person without lawful excuse refuses or neglects to provide such information within a reasonable time after being required in writing by the Office to do so;

that person may be summoned by the Office—

- (i) to attend in person, at a time and place specified in the summons, for examination by the Office as to those means or assets and liabilities; and
- (ii) to produce all books, documents and things in his possession or under his control relating to those means or assets and liabilities.

(3) Where without reasonable excuse a person does not attend in pursuance of a summons under paragraph (1) or (2), the Office may make an order directing him to attend in person for examination by the Office as mentioned in paragraph (1)(a) or (2)(i) (whichever is applicable) and to produce the books, documents and things mentioned in, respectively, paragraph (1)(b) or (2)(ii).

(4) If it appears to the Office that a person—

- (a) is evading service of a summons under paragraph (1) or (2) or an order under paragraph (3); or
- (b) without reasonable excuse has not attended before the Office in pursuance of an order under paragraph (3),

the Office may, on application in writing by or on behalf of the creditor, issue a warrant for that person's arrest.

**Provisions consequent on execution of warrant of arrest** **N.I.**

**29.**—(1) Upon the execution of a warrant of arrest issued in pursuance of an order under Article 27(2)(B) or of such a warrant issued under Article 28(4), the debtor or other person shall, subject to paragraph (2), be brought before the Office and shall there be examined on oath as to the matters mentioned in Article 27(2)(A) or, as the case requires, Article 28(1) or (2).

(2) Where a person has been taken into custody in pursuance of such a warrant as is referred to in paragraph (1) he shall, if it is not practicable to bring him before the Office within 24 hours after he was so taken into custody, be brought as soon as practicable before a justice of the peace who may—

- (a) discharge him upon his entering into a recognizance in a reasonable amount to appear before the Office at the time and place named in the recognizance; or
- (b) where he refuses to enter into such a recognizance, commit him to prison and direct that he be brought as soon as practicable thereafter and, in any event, not later than eight days from the date of such committal before the Office, there to be examined on oath as to the matters referred to in paragraph (1).

**Changes to legislation:**

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