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STATUTORY INSTRUMENTS

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**1981 No. 226**

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

**PART V**

**ENFORCEMENT ORDERS**

Enforcement against land

**Restrictions on enforcement of money judgments against land**

**45.** A money judgment shall be enforceable against land only in accordance with Articles 46 to 52.

**Order charging land**

**46.**—(1) The Office may by order (in this Order referred to as an order charging land) impose on any such land or estate in land of the debtor as may be specified in the order a charge for securing the payment of the amount recoverable on foot of the judgment or so much thereof as may be so specified.

(2) An order charging land may be made either absolutely or subject to such conditions as to notifying the debtor or as to the time when the charge is to become enforceable, or as to such other matters, as may be specified in the order.

(3) An order charging registered land shall not have effect until the charge thereby imposed or, where Article 48<sup>F1</sup> or paragraph 4 of Part IV of Schedule 2 to the Land Registration Act (Northern Ireland) 1970] applies, a notice of the order is registered by or on behalf of the creditor in the Land Registry, and<sup>F1</sup> subject to Part IV of that Schedule 2] an order charging unregistered land shall not have effect until the order is registered by or on behalf of the creditor in the Registry of Deeds.

**F1** 1992 NI 7

**Duration of order charging land**

**47.** An order charging land and any charge imposed thereby or any notice relating to any such order shall cease to have effect on the expiration of 12 years from the date of the judgment.

**Registration of notice of order charging registered land**

**48.**—(1) An order charging any estate of a debtor in registered land of which the debtor is not the registered owner shall not be registered in the Land Registry, but the creditor may cause notice of the order to be so registered.

(2) So long as such a notice as is referred to in paragraph (1) subsists on the appropriate register, the debtor or any person claiming under him shall not be registered as owner of the land unless the

charge has been satisfied or has ceased to have effect or is entered on that register as a burden; and the entry relating to such notice shall state the restrictive effect thereof.

### **Effect of order charging land**

49. Subject to Articles 46(3), 47, 48 and 52, an order charging any land shall have the like effect as a charge on that land created by the debtor in favour of the creditor.

### **Registration of charge against land**

50.—(1) Unless and until Land Registry rules otherwise provide, a person seeking to register a charge imposed by an order charging registered land shall lodge in the Land Registry, together with such other documents as may be required by law, one certified copy or, where the debtor is a company, three certified copies of the order charging that land.

(2) Unless and until regulations made by the Department of Finance under the Registration of Deeds Acts otherwise provide, a person seeking to register an order charging unregistered land shall lodge in the Registry of Deeds two or, where the debtor is a company, four copies of that order of which one, or, where the debtor is a company, three, shall be certified copies; and for the purposes of the Registration of Deeds Act (Northern Ireland) 1970 the certified copy (or one of the certified copies) of the order shall be treated as the document to be registered and the uncertified copy shall, subject to section 12 of that Act and any regulations made thereunder (type of paper, etc., to be used for registration purposes), be treated for those purposes as the memorial of that document.

### **Charges in respect of rates**

51.—(1) Notwithstanding anything contained in this Order or any other statutory provision, a charge under Article 46 shall, if it is founded on a judgment in respect of rates payable in respect of the land which is the subject of the charge, have priority over all other charges and incumbrances whatever affecting that land except—

- (a) Crown rents, quit rents and rent charges in lieu of tithes; and
  - (b) any (or any other) charge or incumbrance whatsoever securing money due to the Crown.
- (2) In this Article “rates” includes regional rate and district rate.

### **Order charging land to confer power of sale, etc.**

52.—(1) Subject to the provisions of this Article and of Article 93, the owner of a charge under Article 46 shall, subject to the terms of the order, have, for the purpose of enforcing his charge, the powers of sale of a mortgagee under a mortgage by deed, within the meaning of the Conveyancing Acts 1881 to 1911, where the principal sum under the mortgage has become due and the power of sale has become exercisable; and, without prejudice to those powers,—

- (a) he shall have the power to convey by deed the estate of the debtor in the land freed from all estates in the land inferior to the charge, but subject to all estates in the land having priority to the charge; and
  - (b) subject as aforesaid and to paragraph (3), he may, for the purposes of sale, apply to the High Court or, subject to Article 12 of the County Courts (Northern Ireland) Order 1980, to the F<sup>2</sup>... county court for possession of the land or any part thereof; and on such application the court may order possession of the land or that part thereof to be delivered to the applicant;
- and section 21(2) of the Conveyancing and Law of Property Act 1881 and section 5(1) of the Conveyancing Act 1911 shall have effect for the protection of the purchaser of any such land as aforesaid.

(2) Where the owner of such a charge on registered land has exercised his power of sale under this Article, the charge and any estate in the land inferior thereto shall upon registration of the purchaser be discharged.

(3) Except with the leave of the High Court or, subject to Article 12 of the County Courts (Northern Ireland) Order 1980, the <sup>F3</sup>... county court, this Article shall not confer any power of sale on the owner of a charge of which notice has been registered under Article 48(1).

(4) Nothing in this Article shall operate so as to discharge any entry on any register in the Land Registry relating to a right conferred or defined by regulations under section 4 of the Turbary (Ireland) Act 1891 or under section 21 of the Irish Land Act 1903 as extended by section 26 of the Northern Ireland Land Act 1925 (which relate to turbary).

**F2** Word in art. 52(1) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 84\(4\), Sch. 9 Pt. 1](#) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

**F3** Word in art. 52(3) repealed (31.10.2016) by [Justice Act \(Northern Ireland\) 2015 \(c. 9\), s. 106\(2\), Sch. 1 para. 84\(4\), Sch. 9 Pt. 1](#) (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)

### Order for delivery of possession of land

**53.**—(1) Where under a judgment any person is entitled to the possession of any land, the Office may make an order for delivery of possession of that land to that person.

(2) An order for delivery of possession of land shall be executed by the Office, in the presence of the person entitled to possession or his agent and at his peril, delivering to that person or his agent possession of the land (as indicated to the Office by that person or his agent) in accordance with the judgment.

### Notice of eviction; removal of goods to place of safety; notice to [<sup>F4</sup>Health and Social Care trust]

**54.**—(1) For the purpose of delivering vacant possession of land, the Office shall, upon giving to every person in occupation or possession of the land or any part thereof such notice as may be prescribed by rules, evict all persons in occupation or possession of the land and shall remove the goods of all such persons to a place of safety.

(2) Before proceeding to eviction from land which contains a building or structure used as a dwelling, the Office shall give to [<sup>F5</sup>the Health and Social Care trust] for the area in which the land is situated notice of not less than seven days or such longer period as may be prescribed by rules.

**F4** Words in art. 54(2) heading substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 63\(b\)](#); S.R. 2022/102, art. 2(b)

**F5** Words in art. 54(2) substituted (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\), s. 8\(1\)\(b\), Sch. 1 para. 63\(a\)](#); S.R. 2022/102, art. 2(b)

### Release of goods removed

**55.**—(1) The owner of any goods removed under Article 54(1) shall, subject to any other enforcement order, be entitled to have the goods released to him by the Office upon payment by him to the Office of the cost of their removal and storage.

(2) If the owner of any goods removed to a place of safety under Article 54(1) fails to claim and remove his goods from that place within one month from the date of their removal to that place, the Office may, after giving to the person appearing to be entitled to the goods not less than seven days' notice in writing of his intention so to do, sell the goods and, after deducting from the proceeds of

sale the cost of removal and storage, shall, subject to any other enforcement order, pay any balance to that person.

(3) Any question arising under this Article as to the ownership of goods shall be determined by an order made by the Office.

#### **Wrongful delivery of possession of land**

**56.**—(1) Any person who claims that possession of land has been wrongly delivered under an order for delivery of possession may apply to the Office claiming possession of the land.

(2) Any claim under paragraph (1) shall be determined by an order made by the Office, or, if the Office thinks fit, be referred for hearing and determination by the High Court.

**Changes to legislation:**

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